

JRPP No.	Item No. 2010STH015
DA No.	DA-2010/693
Proposal	Demolition, remediation, earthworks and clearing, environment protection works, a 290 lot residential subdivision, infrastructure provision, landscaping works and land dedication to Council.
Property	Part Lot 60 DP 1063539 (proposed lots 1 and 2 of SC-2011/1) and Lot 160 DP 1054648 Bong Bong Road West Dapto.
Applicant	Stockland Development Pty Ltd.
Number of Submissions	3
Recommendation	Approval with Conditions
Responsible Team	City Wide Team

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to Joint Regional Planning Panel pursuant to clause 13B (1) (f) of State Environmental Planning Policy (Major Development) 2005 as the proposal involves the subdivision of land into more than 250 lots.

Proposal

The proposal represents the first substantial residential subdivision development within Stages 1 and 2 of The West Dapto Release Area and involves demolition, remediation, earthworks and clearing, environment protection works, a 290 lot residential subdivision, infrastructure provision, landscaping works and land dedication to Council.

Permissibility

The proposed development site is 38.850 hectares in area and differentially zoned:

R2 – Low Density Residential - 31.305 hectares to be utilised for the 290 lot residential subdivision.

E2 - Environmental Conservation - 4.0 hectares to be utilised for environmental protection works and dedicated to Council as a Public Reserve.

RU2 – Rural Landscape - 3.545 hectares to be utilised for environmental protection works and dedicated to Council.

Pursuant to Wollongong Local Environmental Plan (West Dapto) 2010. The proposal is categorised as a subdivision of land with environmental protection works and considered permissible in the respective land use zones with development consent.

Consultation

Details of the proposal were referred to the NSW Roads and Traffic Authority for development in or adjacent to road corridors, the NSW Rural Fire Service for development in a bushfire hazard prone location and the NSW Department of Environment Climate Change and Water (Department of Primary Industries) for development adjacent a watercourse.

Relevant internal divisions of Council were also consulted in the assessment process.

In each instance above the required concurrence or conditionally satisfactory comments and conditions were received.

Exhibition

The proposal was notified in accordance with Appendix 1 of Wollongong Development Control Plan 2009 – Public Notification and Advertising Procedures as Integrated Development received three (3) submissions which are discussed at section 3.9 of this report.

Main Issues

The main issues identified during assessment relate to the timing of the West Dapto Urban Release Area infrastructure provision program to support the proposal i.e. flood free access, public transport and traffic impacts along Bong Bong Road and the treatment of the western interface of the subdivision so as to mitigate any future amenity impacts from the adjoining future commercial development site – Bong Bong Town Centre and the separate Voluntary Planning Agreement processes between the applicant and Council regarding local development contributions as well as the applicant and the NSW Department of Planning (Department of Planning and Infrastructure) incorporating the operatives of the Special Infrastructure Contribution -Illawarra (West Lake Illawarra) - not yet adopted, via a satisfactory arrangements certification by the Director General with regard to contributions for the provision of *designated State public infrastructure*.

Conclusion

The NSW Growth Centres Commission review and the Illawarra Regional Strategy seek to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The Strategy set a dwelling target for the Wollongong Local Government Area of 38,000 new dwellings. West Dapto was identified as a new release area and the Strategy also identified that West Dapto will be the priority new release area for the region and will deliver approximately 19,000 new dwellings over the next 30 to 40 years.

Guiding the implementation of the development structure of the West Dapto Release Area, the West Dapto Master Plan seeks to achieve a vision for a series of integrated highly accessible communities, linked by public transport and designed to encourage sustainable transport mode shifts. Local centres and places will provide for shopping, services and jobs in an area that observes the natural and cultural heritage and that results in high quality suburbs.

This development proposal for a 290 lot residential subdivision and environmental protection works represents the first major urban land release of the West Dapto Release Area Stages 1 and 2.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the *Environmental Planning and Assessment Act 1979*, the provisions of Wollongong Local Environmental Plan (West Dapto) 2010 and Wollongong Development Control Plan 2009 and is considered not to be in conflict with any of the provisions contained therein.

RECOMMENDATION

It is recommended that Development Application DA-2010/693 be approved pursuant to Section 80 of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent contained within Attachment 12 to this report.

1. APPLICATION OVERVIEW

1.1 PROPOSAL

The development proposal for demolition, remediation, earthworks and clearing, environment protection works, 290 lot residential subdivision, infrastructure provision, landscaping works and land dedication to Council is considered Integrated Development pursuant to the NSW Rural Fire Service- *Planning for Bushfire Protection 2000*, but not to the NSW Department of Environment Climate Change and Water (Department of Primary Industries) - *Water Management Act 2000* as advised by letter on 7 July 2010.

1.2 BACKGROUND

The current land tenure arrangement for the proposal as indicated by Attachment 10 is influenced by development application DA-2010/388 (approved 27 July 2010) for the subdivision of Lot 60 DP 1063539 into two lots with land areas of 32.75 hectares and 3.545 hectares which was assessed under the provisions of cl.13 WLEP 1990 and a SEPP 1 Objection (concurrence granted by the Director General). The purpose of the two lot subdivision was to enable the excision of the portion of the landholding which was zoned Zone No 1 (Non-Urban Zone) (future R2 Low Density Residential - WLEP West Dapto 2010) from the portion of the land zoned No 7(b) - Environmental Protection Conservation Zone (future RU2 Rural Landscape - WLEP West Dapto 2010) to facilitate future residential subdivision thereby mitigating potentially anomalous impacts from clause 4.1 (minimum subdivision lot size) from WLEP West Dapto 2010.

The subsequent Subdivision Certificate SC-2011/1 was issued by Council on 18 January 2011 and registration advice from the NSW Land and Property Management Authority is pending. The approved subdivision plan is presented in Attachment 10.

1.3 SITE DESCRIPTION

The site is located at Bong Bong Road West Dapto and the title reference is:

Lot 601 DP 1054648 - 10.375 hectares.

Lot 60 DP 1063539 – 36.298 hectares - (proposed lots 1 and 2 of SC-2011/1).

It should be noted that not all of Lot 60 DP 1063539 (proposed lots 1 - 32.75 ha. and 2 – 3.545 ha. of DA-2010/388 and SC-2011/1) is being developed as part of this application - land north of Bong Bong Road (portion of proposed lot 1 - 7.823 ha.) other than for acceptance of a drainage line associated with stormwater runoff from a portion only of the site development works and a portion only of the Bong Bong Road reconstruction works. Consequently a portion of the subdivision development site proper is referred to as Part Lot 60 in the application description.

The total land area being developed as part of this application is 38.850 hectares comprising of:

R2 – Low Density Residential - 31.305 hectares to be utilised for the 290 lot residential subdivision.

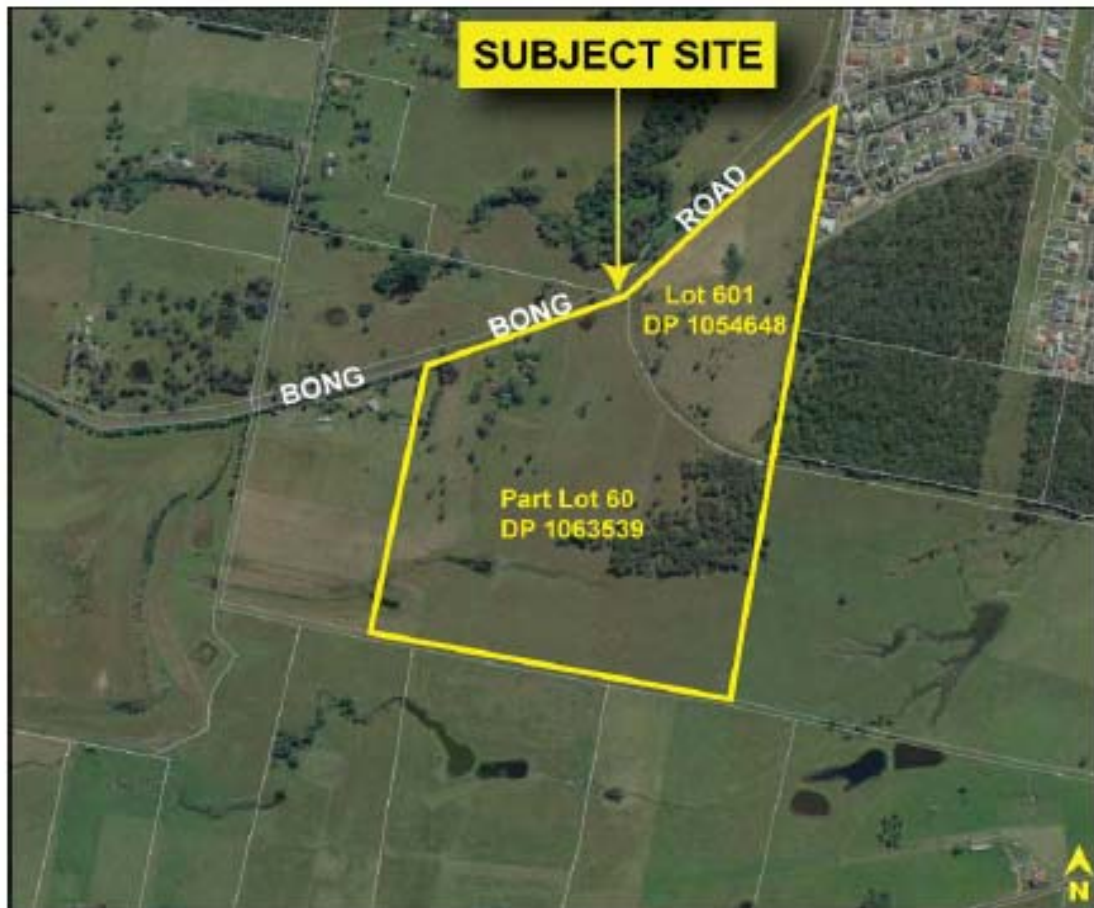
E2 - Environmental Conservation - 4.0 hectares to be utilised for environmental protection works and dedicated to Council as Public Reserve

RU2 – Rural Landscape - 3.545 hectares to be utilised for environmental protection works and dedicated to Council.

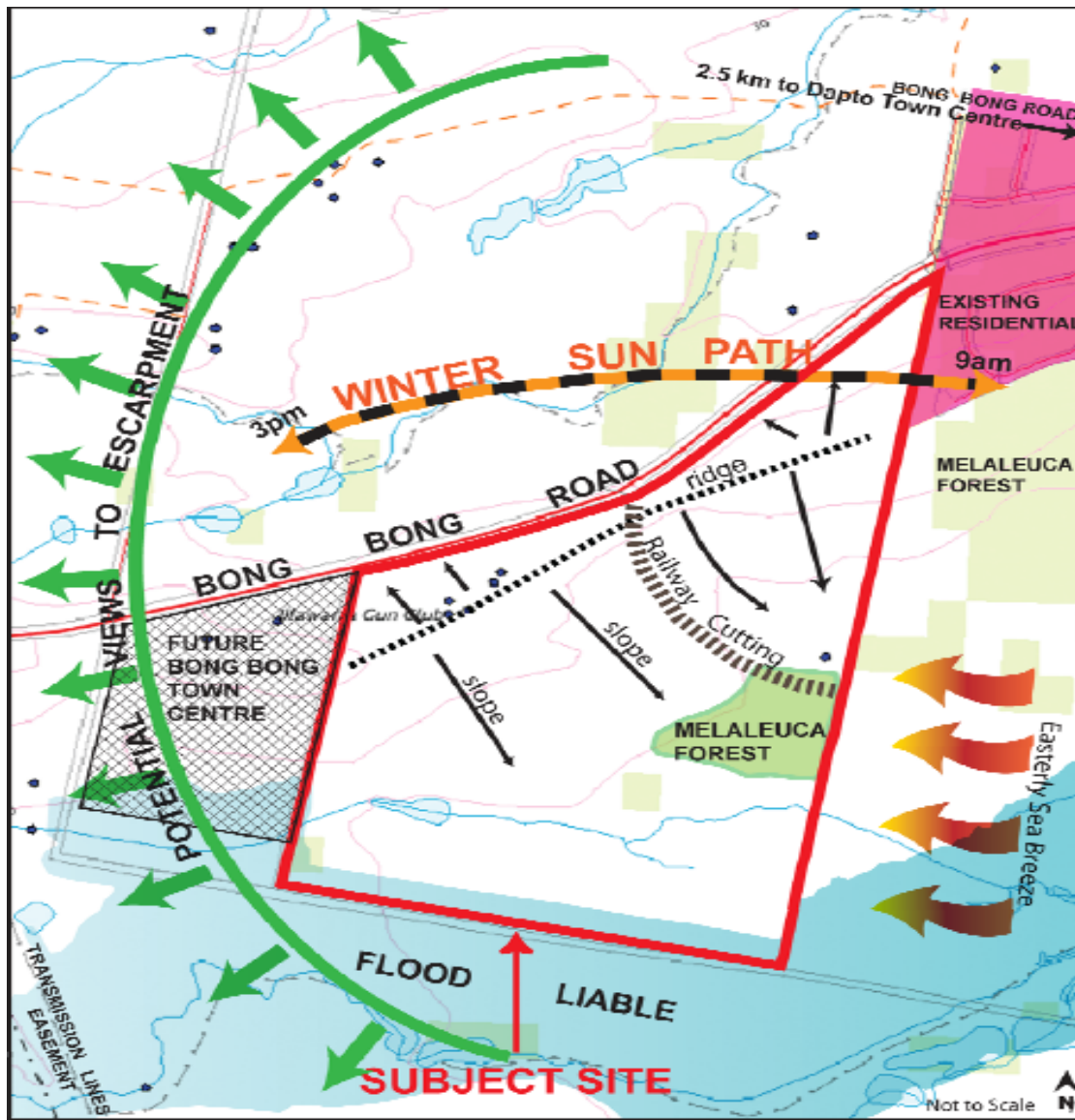
Site constraints

Council records list the site as being affected by the following constraints:

- Potentially contaminated land
- Flooding hazard
- Bushfire hazard
- Heritage – both European and Aboriginal
- Endangered Ecological Community – Illawarra Grassy Woodland (portion of E2 Environmental Conservation zoned land to be dedicated to Council)



Historically the site was utilised for rural purposes ('Melrose' dairy), it contains a woodland area adjacent the eastern boundary, an intermittent watercourse, an historic railway line cutting and levee and slopes from the northwest to the south east as depicted in the following Site Analysis diagram.



Earthworks and Clearing

The proposed subdivision involves clearing of approximately 0.26ha of remnant bushland vegetation. Several isolated paddock trees, some of which contain hollows require removal, elsewhere isolated specimens have been incorporated into the road reserves and local park. In addition, a drainage line running through the study area is to be filled and diverted to the south as part of stormwater management for the subdivision. Engineering of the drainage through the site will incorporate a series of 'dry system' water quality swales and an extreme rainfall event diversion swale adjacent the southern boundary and a series of bio-retention ponds along the eastern boundary and within the main vegetation remnant with associated swale drains taking water off the site to the east to mimic a natural regime through the Melaleuca forest.

Subdivision Form and Staging

The applicant proposes to subdivide the site into 290 allotments ranging in size from 450m² to 4,620m². Twenty seven (26) of these constitute "super lots" which are intended to be the subject of future DAs for multi dwelling housing. 202 lots (70%) are proposed to range in size from 450m² to 649m² and 62 lots (21%) are proposed to range in size from 650m² to 999m².

The concept plan presented at Attachment 11 proposes that the subdivision will be delivered in 11 stages commencing in the north of the site and finishing along the western boundary interface with the future Bong Bong Town Centre site. The staging strategy largely reflects the ability of the site to be serviced efficiently and the desire to delay development of the western part of the site adjoining the future town centre until a further detailed master planning of the town centre site is carried out in order to ensure an integrated and optimal design response.

Council has received a separate development application DA-2011/255 for Stage 1 of the development – a 32 lot Exhibition Home Village, Sales office/Information Centre, car parking, landscaping and an entry feature which is under assessment. The display village is expected to be a time restricted development of approximately five (5) years after which the constructed exhibition homes will revert to a residential use, the temporary car park and sales office locations will revert to residential allotments.

1.4 CONSULTATION

1.4.1. INTERNAL CONSULTATION

Subdivision

Referred in relation to lot and road layouts, earthworks, staging of works/Voluntary Planning Agreement and infrastructure maintenance matters. Returned advice - satisfactory subject to conditions.

Stormwater

Referred in relation to flooding and drainage, water sensitive urban design and earthworks matters. Returned advice - satisfactory subject to conditions with an advisory notation:

"...The most recent WCMS and associated plans received 13 April 2011 indicates that in the post developed state there are some localised offsite flood depth increases (southeast of the site) of up to 0.12m in the 100 year event. The author of the report advises that this relatively small increase is non-detrimental considering that at this location it is already within the floodplain and also being within farm land having no existing dwellings or other structures.

The impacts noted above have been assessed against DCP2009, LEP2010 and the NSW Floodplain Development Manual and considered to be acceptable on the basis that these flood level increases are not detrimental to the adjoining properties and does not result in the loss of development potential of the affected lots. Therefore the above conditions have been imposed to address the potential stormwater and flood impacts.

Note this approach was discussed with Council's legal Counsel (JR) and Senior Floodplain management Engineer (PG)...."

Landscaping

Referred in relation to tree removal and retention, subdivision landscape concepts and ecological matters. Returned advice - satisfactory subject to conditions.

Traffic

Referred in relation to lot and road layouts, West Dapto Access Strategy and road network matters in conjunction with the NSW RTA and the Voluntary Planning Agreement matters. Returned advice - satisfactory subject to conditions.

Works and Services

Referred in relation to lot and road layouts, West Dapto Initial Access Strategy and road network matters in conjunction with the NSW RTA, infrastructure maintenance and the Voluntary Planning Agreement matters. Returned advice - satisfactory subject to conditions.

Heritage

Referred in relation to European and Aboriginal Heritage matters. Returned advice - satisfactory subject to conditions.

Environment

Referred in relation to tree removal and retention, ecological, water sensitive urban design and earthworks, and land contamination matters. Returned advice - satisfactory subject to conditions.

Recreation

Referred in relation to active and passive recreation area and infrastructure maintenance matters. Returned advice - satisfactory subject to conditions.

Property

Referred in relation to acceptance of the stormwater swale discharge method within a “paper road” under Council’s control and for works within the road reserve. Returned advice - satisfactory subject to conditions.

Land use Planning

Referred in relation to the proposed Voluntary Planning Agreement matters. Returned advice - satisfactory subject to conditions.

Safe Communities Access Team (SCAT)

Referred in relation to Crime Prevention Through Environmental Design (CPTED) matters. Returned advice - satisfactory subject to conditions

1.4.2. EXTERNAL CONSULTATION CONSIDERATIONS

General

The proposed development requires other approvals, consents, licences, permits and permissions from various Government departments, pursuant to legislation other than the EP&A Act. In some cases, these requirements have triggered the Integrated Development provisions of Part 4 Division 5 of the EP&A Act to enable the approvals, licenses and permits to be sought concurrently with the subject DA.

NSW Rural Fire Service (RFS)

Rural Fires Act 1997 (RFA)

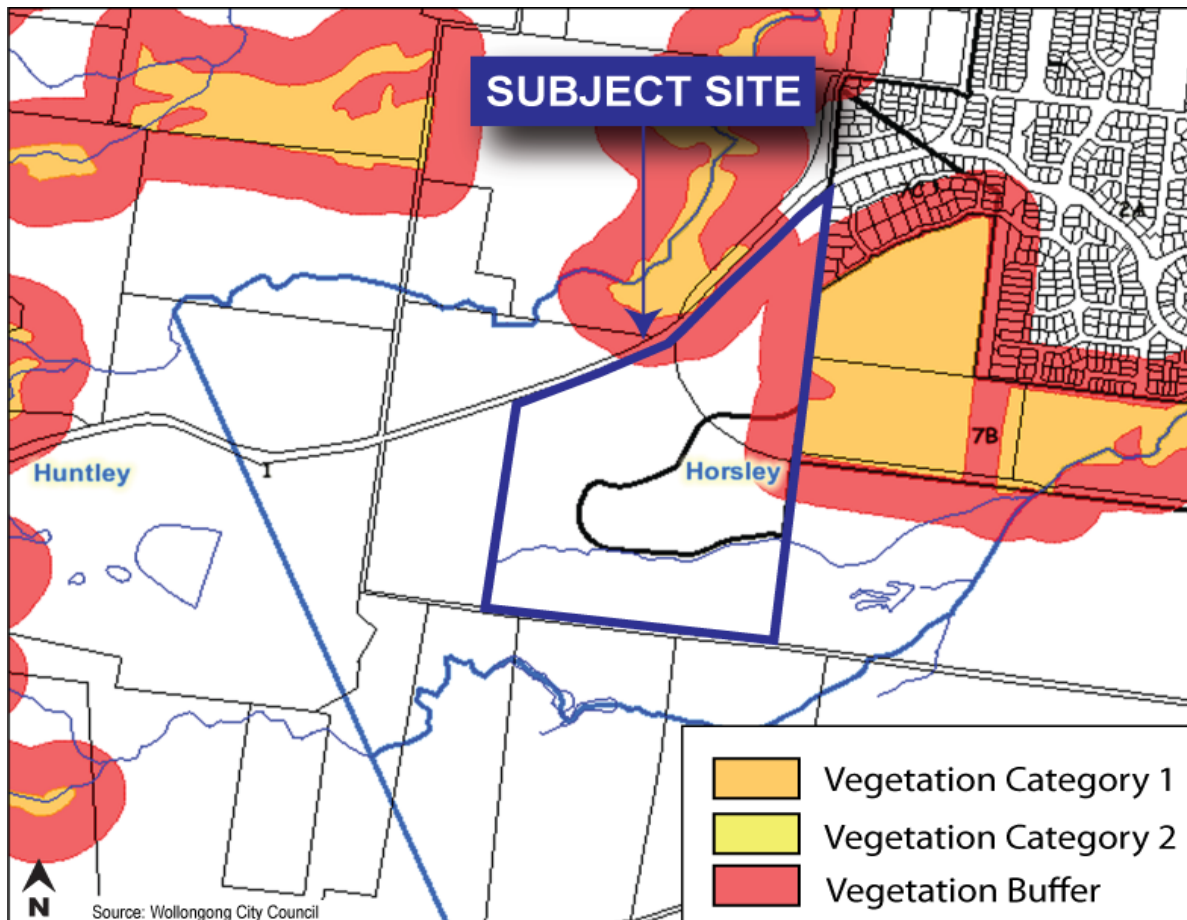
Section 100B of the RFA, in conjunction with section 79BA of the EP&A Act, requires a bushfire safety authority to be issued by the Commissioner of the NSW RFS, for subdivision of bushfire prone land that could lawfully be used for residential or rural residential purposes or for a special fire protection purpose. The requirement for a bushfire safety authority triggers the integrated approval provisions of the EP&A Act.

A bushfire safety authority authorises development to the extent that it complies with standards regarding setbacks, provision of water supply and other matters considered by the Commissioner to be necessary to protect persons, property or the environment from danger that may arise from a bushfire.

A bushfire safety authority is therefore required under Section 79BA of the EP&A Act, and the proposed subdivision is integrated development for the purposes of Section 91 of the EP&A Act.

Conditionally satisfactory referral advice from NSW RFS was received by Council on 28 June 2010 - copy at Attachment 8, in relation to the issuing of General Terms of Approval via a section 100 B Authorisation under the *Rural Fires Act 1997*. The requested conditions which have been included in the draft conditions of consent at Attachment 12.

The subject site is identified as Bush Fire Prone Land under Wollongong City Council’s Bush Fire Prone Land Map.



NSW Roads and Traffic Authority (RTA)

Roads Act 1993

Section 91(1) of the EP&A Act provides that development is integrated development if it requires consent under section 138(1) of the *Roads Act 1993* to:

- “(a) erect a structure or carry out a work in, on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road”.

Bong Bong Road is a public road and the proposal includes works to the road. However, section 91(3) of the EP&A Act provides that:

“development is not integrated development in respect of the consent required under section 138 of the Roads Act 1993 if, in order for the development to be carried out, it requires the development consent of a council and the approval of the same council.”

As the development proposed to be carried out requires the development consent of Council and Council is the relevant approval authority for Bong Bong Road for the purposes of the *Roads Act 1993*, the proposed works do not trigger the integrated development provisions of the EP&A Act in this instance.

Referral advice from the NSW RTA was received by Council on 7 October 2010 - copy at Attachment 4, in relation to Division 17 Subdivision 2 *Development in or adjacent to road corridors and road reservations* of the SEPP indicated that road network service and transport infrastructure impacts and provision is a consideration of the West Dapto Release Area Strategy and subject to satisfactory arrangements as

advised by the Director General via a Voluntary Planning Agreement or Special Infrastructure Contribution and that the proposal could not be determined until such time as the Director General had certified these matters. Roads internal to the site and the upgrading of Bong Bong Road were identified as Council matters to consider as such no specific NSW RTA conditions were identified to be incorporated into any consent granted.

NSW Department of Environment and Climate Change and Water (DECCW) (Department of Premier and Cabinet)

Water Management Act 2000 (WMA) (Department of Primary Industries)

The object of the WMA is the “sustainable and integrated management of the State's water for the benefit of both present and future generations”. The WMA includes many provisions which were previously under the *Rivers and Foreshores Improvement Act 1948* (RFIA) prior to its repeal, including those provisions regarding licences and approvals.

Part 3 of Chapter 3 of the WMA relates to Approvals and section 91(2) requires a controlled activity approval for works at a specified location in, on or under waterfront land. The requirement for an approval of this nature triggers the integrated approval provisions of the EP&A Act. Controlled activity and waterfront land are defined by the WMA as follows:

“controlled activity means:

- (a) the erection of a building or the carrying out of a work (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
- (b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or
- (c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or
- (d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

waterfront land means:

- (a) the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, or
- (a1) the bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, or
- (a2) the bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, or
- (b) if the regulations so provide, the bed of the coastal waters of the State, and any land lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the coastal waters, where the prescribed distance is 40 metres or (if the regulations prescribe a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance. Land that falls into 2 or more of the categories referred to in paragraphs (a), (a1) and (a2) may be waterfront land by virtue of any of the paragraphs relevant to that land.”

Therefore any development activities within 40m of a river or water course require referral to the Department of Environment Climate Change and Water (DECCW) and generally require buffers in line with the Guidelines for Controlled Activities - Riparian Corridors.

There is one drainage line within the subject site that is classified as a first order stream generally requiring a 10m Core Riparian Zone from the top of bank and an additional 10m Vegetated Buffer depending on merit related issues. Any development within 40m of this watercourse requires referral to DECCW.

Referral advice from DECCW was received by Council on 7 July 2010 – copy at Attachment 5. The Office of Water indicated that there is no requirement for a Controlled Activity Approval under the *Water Management Act 2000*-- with regard to this proposal as it is not considered as waterfront land.

National Parks & Wildlife Act 1974 (Aboriginal Heritage Section) (Department of Premier and Cabinet)

One registered Aboriginal archaeological site known as WDRA_AX-74 (AHIMS #52-2- 3277) has been identified on the subject site. The coordinates as recorded in the Australian Heritage Information JRPP (Southern Region) Business Paper – Item 1 – 6 May 2011 – 2010STH015

Management Solutions database place the archaeological site just outside of the subject site, however work undertaken by consultants AHMS on behalf of the applicant has established that the archaeological site is actually located within the subject site at approximately the south-western corner of the site.

AHMS have noted in their report that the Aboriginal archaeological site will be impacted by the proposed development. Consultants AHMS also note that as it is a suspected low-density artefact scatter without a clear site definition, further investigation is required prior to its destruction. AHMS have recommended in their report that an Aboriginal Heritage Impact Permit (AHIP) under *Sections 87 and 90 of the National Parks and Wildlife Act 1974* should be sought in order to salvage the archaeological deposits in this area if required prior to development taking place.

The applicant has subsequently and separately applied for and received the *Sections 87 and 90 AHIP* – a copy of which is presented at Attachment 7.

NSW Department of Planning (DoP) (Department of Planning and Infrastructure)

Environmental Planning and Assessment Act 1979- Section 93

Advice from DoP dated 24 March 2011 and received by Council indicated satisfactory arrangements certification by the Director General with regard to contributions for the provision of *designated State public infrastructure* in relation to the proposal. A copy of the advice and Certification is presented at Attachment 3.

Heritage Act 1977 (Heritage Branch) (Department of Premier and Cabinet)

The archaeological heritage assessment carried out by consultants AHMS found that the proposed works of the subdivision are likely to impact upon the remains of the former Illawarra Harbour and Land.

Corporation (IH&LC) Railway and the remains of a former group of ancillary buildings. The alignment of the railway is included as a heritage item (No. 61069) in Wollongong Local Environmental Plan (West Dapto) 2010.

Both Council's consent and either a *Section 140 Excavation Permit* or a *Section 139(4) Exception Notification*, issued in accordance with the provisions of the *Heritage Act 1977* are required to be obtained before the commencement of works that may affect the remains of the items of heritage significance.

The applicant has subsequently and separately applied for and received the *Section 140 Excavation Permit* – a copy of which is presented at Attachment 6.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

SECTION 79C ASSESSMENT

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

- (i) *any environmental planning instrument, and*
- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) *any development control plan, and*
- (iiia) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates, (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *be suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are addressed below.

2.2 SECTION 79C 1(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.2.1. STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005

The development proposal has been referred to Joint Regional Planning Panel pursuant to clause 13B (1) (f) of the SEPP as the proposal involves the subdivision of land into more than 250 lots.

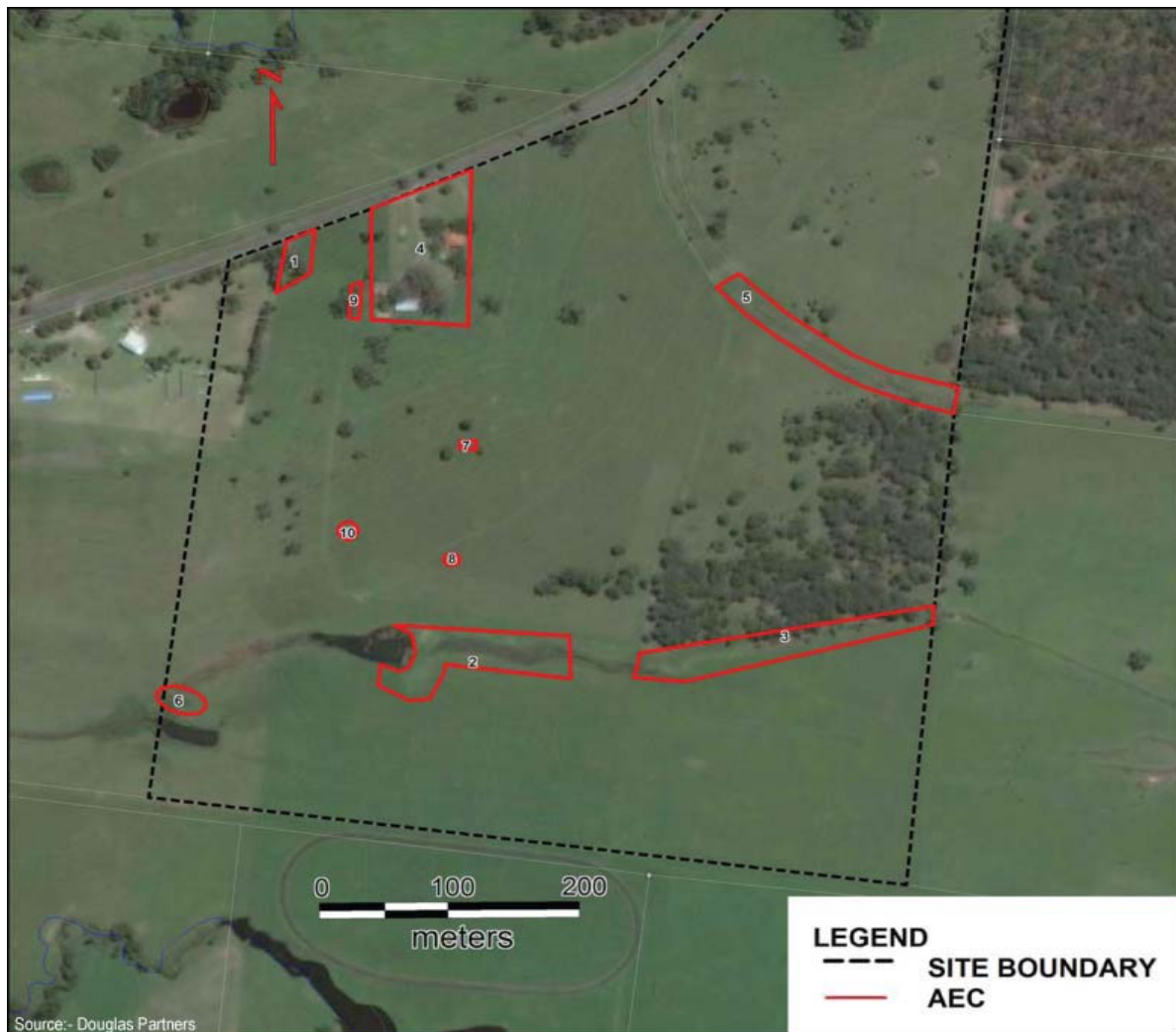
2.2.2. STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

In accordance with SEPP 55 the consent authority must consider whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable for the proposed use, or will be suitable for the proposed use following remediation. If the land requires remediation the consent authority must also be satisfied that the land will be appropriately remediated.

In accordance with clause 7(3) of SEPP 55, a preliminary investigation was undertaken by consultants Douglas Partners.

The consultants prepared a Phase 1 Contamination Assessment Report carrying out a site history investigation which included a review of the findings of earlier investigations, a review of historic aerial photographs and title deeds, a search of Council records and DECCW records. The process identified 16 potential areas of environmental concern (PAECs). This was supplemented with a site inspection to further identify PAECs and confirm the presence of actual areas of environmental concern (AECs). From the site inspection, a total of 10 AECs were identified as presented in diagram 3 anticipating that remedial work would be required to make the site suitable for residential use.

Based on the findings of their assessment the consultants have recommended that a Phase 2 Contamination Assessment be undertaken with a view to further assess the level of contamination at the site. The scope of the Phase 2 assessment would include extensive subsurface investigation in the AECs to delineate the extent of contamination and background sampling across the site.



The consultants recommended that the Phase 2 investigation be undertaken prior to issuing of a construction certificate and anticipate that remedial work and subsequent validation will be required to make the site suitable for residential use.

The site also contains a heritage item listed in WLEP 2010 (West Dapto) (the former tramway alignment) as well as an Endangered Ecological Community. In accordance with clause 9 of SEPP 55, any necessary remediation work would therefore be classified as Category 1 Remediation Work which requires consent. Council's Environment section have reviewed the submission documentation and propose by way of draft conditions at Attachment 12 to require the Phase 2 report – and further that remediation works on site be validated by a NSW DECCW accredited site auditor prior to proceeding with subdivision civil works.

2.2.3. STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Subdivision 2 of Division 17 of the Infrastructure SEPP relates to development in or adjacent to road corridors and road reservations.

Clause 104 (Traffic Generating Development) of the Infrastructure SEPP details the circumstances in which the RTA must be given written notice of an application as well as the matters that must be taken into consideration by the consent authority before determining an application. Clause 104 applies to the development types listed in the table at Schedule 3 of the SEPP. The proposed subdivision includes 290

lots and the opening of public roads which is a development type listed in Column 2 of the table in Schedule 3.

A Traffic Impact Assessment report has been carried out by consultants Cardno Eppell Olsen for this development proposal.

Referral advice received by Council from the RTA on 7 October 2010 - copy at Attachment 4 indicated that road network service and transport infrastructure impacts and provision is a consideration of the West Dapto Release Area Strategy and subject to satisfactory arrangements as advised by the Director General via a Voluntary Planning Agreement or Special Infrastructure Contribution the proposal could not be determined until such time as the Director General had certified these matters. Roads internal to the site and the upgrading of Bong Bong Road were identified as Council matters to consider as such no specific conditions were given to be incorporated into any consent granted.

2.2.3 STATE ENVIRONMENTAL PLANNING POLICY NO 44 – KOALA HABITAT PROTECTION

The SEPP applies to Wollongong Local Government Area and applies to land that has an area of more than 1 hectare, or land including adjoining land in the same ownership that has an area of more than 1 hectare.

Potential Koala Habitat is defined in the SEPP as areas of native vegetation where the tree species listed under Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

The subject site contains potential koala habitat, although the site has not been found to be core koala habitat. Flora and fauna consultants have established that at *Eucalyptus tereticornis* comprises at least 15% of the total number of trees in the vegetations communities identified on the site. Therefore the site qualifies as *potential koala habitat* under the SEPP. However, field work from the applicant's ecological consultant has established that the site is not considered to support a resident koala population and therefore does not qualify as *core koala habitat*.

Council's Environment/Ecology section have reviewed the submission documentation and propose by way of draft conditions at Attachment 12 to require any relocation of species within trees or hollows of trees to be removed to be undertaken in accordance with NSW DECCW requirements and guidelines.

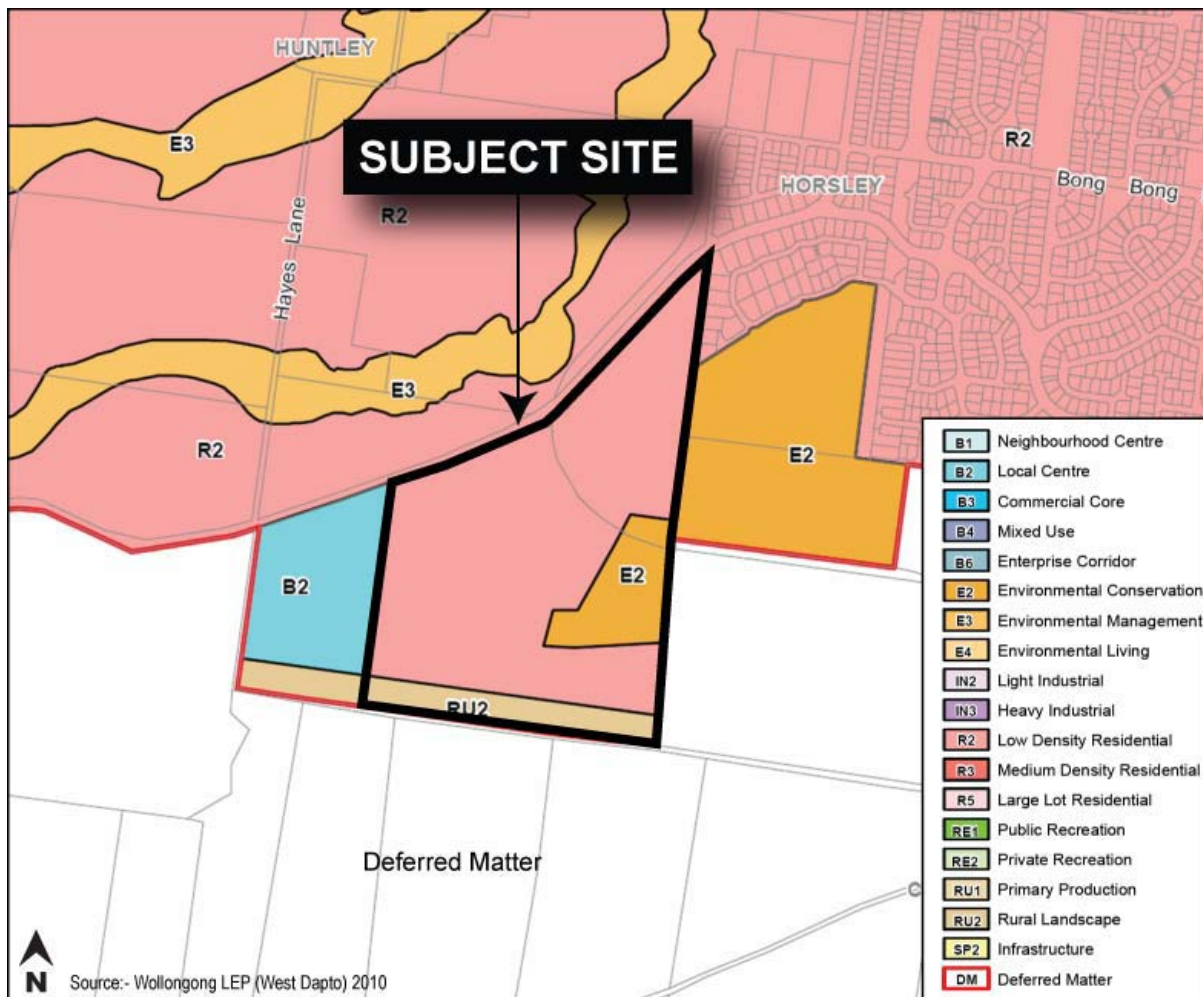
2.2.4 ILLAWARRA REGIONAL ENVIRONMENTAL PLAN NO. 1 (ILLAWARRA REP)

The provisions of Illawarra REP are now a deemed SEPP. Under clause 1.9 of the Wollongong Local Environmental Plan (West Dapto) 2010, the provisions of the deemed SEPP do not apply to this development proposal.

2.2.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN (WEST DAPTO) 2010

2.1 & 2.2 Land Use Zones and Zoning of Land

The applicable land use zones under this plan as relates to the subject site are: R2 – Low Density Residential, E2 - Environmental Conservation and RU2 – Rural Landscape.



2.3 Zone Objectives and Land Use Table

Pursuant to WLEP (West Dapto) 2010, the proposal falls within the meaning of a subdivision of land. The proposed residential subdivision is contained wholly within land zoned R2 Low Density. The subdivision is designed for future residential housing. A range of housing types are permissible within the R2 zone. Other elements of the subdivision including roads and the local park are also land uses permissible with consent in the R2 zone. The proposed residential lots and roads do not extend into the E2 or RU2 zones of the subject site.

Environmental protection works are proposed in both the E2 and RU2 zones. Environmental protection works are permitted with consent in both the E2 and RU2 zones and are defined in WLEP (West Dapto) 2010 as:

environmental protection works

means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

The water quality treatment measures proposed in both the E2 and RU2 zones are considered to be works that will protect land from environmental degradation and as such they are considered to fall within the above definition of environmental protection works. The water quality treatment measures are likely to consist of a combination of diversion channels, scour protection, groundwater recharging, natural swales and infiltration areas.

2.6 Subdivision

Pursuant to clause 2.6 development consent is required for subdivision. With regard to the E2 zoned land to be dedicated to Council, it is noted that pursuant to Clause 2.6(2) (e), consent is not required for subdivision for the purpose of creating a public reserve.

2.6AA Demolition requires consent

The demolition of a building or work may be carried out only with consent. The proposal seeks consent for the demolition of existing structures on the land.

4.1 Minimum subdivision lot size

The minimum lot size of 449m² applies to the R2 zoned land and that part of the site proposed to be subdivided. The Staging Plan indicates that all the proposed residential lots are greater than 449m² and comply with the minimum lot size. The minimum lot size of 39.99ha applies to the E2 and RU2 zoned parts of the subject site. The land zoned E2 Environmental Conservation has an existing area of 4ha and the land zoned RU2 Rural Landscape has an existing site area of 3.545ha. The zoning map has therefore created E2 and RU2 zoned parcels that are less than the applicable minimum lot size. The total area of the overall subject site is 38.85ha and therefore the entire parcel is below the minimum lot size nominated for the E2 and RU2 zoned land. The proposed residential subdivision does not extend into the E2 and RU2 zoned parts of the site. It is the applicant's intention to dedicate the RU2 and E2 zoned land to Council in due course as reserves and in this regard it is noted that pursuant to Clause 2.6(2) (e), consent is not required for subdivision for the purpose of creating a public reserve.

A separate DA (DA-2010/388) was submitted to Council for assessment in March 2010 under the provisions of Wollongong LEP 1990 (which has now been repealed) prior to gazettal of WLEP (West Dapto) 2010. The DA sought development consent to subdivide Lot 60 DP 1063539 into two allotments by relying on the provisions of State Environmental Planning Policy No. 1 (SEPP 1) to modify the applicable minimum lot size. It was necessary to lodge the DA under the provisions of Wollongong LEP 1990 so that SEPP 1 could be relied upon to vary the development standard because SEPP 1 does not apply to DAs lodged under the provisions of WLEP (West Dapto) 2010. Lot 1 in this subdivision proposal reflects what is now the R2 and E2 zoned parts of the site and Lot 2 reflects what is now the RU2 zoned part of the site. The primary purpose of excising the RU2 zoned part of the site from the R2 zoned part of the site was to ensure that non-compliance with the minimum lot size applicable to the RU2 zoned land would not become an issue that could ultimately prevent Council from considering the proposed 290 lot residential subdivision.

Council granted conditional consent to DA-2010/388 on 27 July 2010 the subsequent Subdivision Certificate SC-2011/1 was issued by Council on 18 January 2011. Registration advice from the NSW LPMA is pending; however, Council has proposed a draft condition at Attachment 12 requiring evidence of the land registration prior to the issuing of the Engineering Construction Certificate for Stage 1 works.

4.2 Rural subdivision

This clause is not considered applicable to the current development proposal.

4.2A Erection of dwelling houses on land in certain rural and environmental protection zones

This clause is not considered applicable to the current development proposal.

4.2B No strata plan or community title subdivisions in certain rural and environment protection zones

This clause is not considered applicable to the current development proposal.

4.5 Calculation of floor space ratio and site area

This clause is not considered applicable to the current development proposal.

Part 5 Miscellaneous provisions

5.9 Preservation of trees or vegetation

The main area of vegetation on the subject site is the stand of Melaleucas located midway along the eastern side of the site. There are some scattered paddock trees located elsewhere on the subject site, some of which contain hollows as identified by the submitted Tree Survey and supported by both the submitted Arborist and Ecological reports.

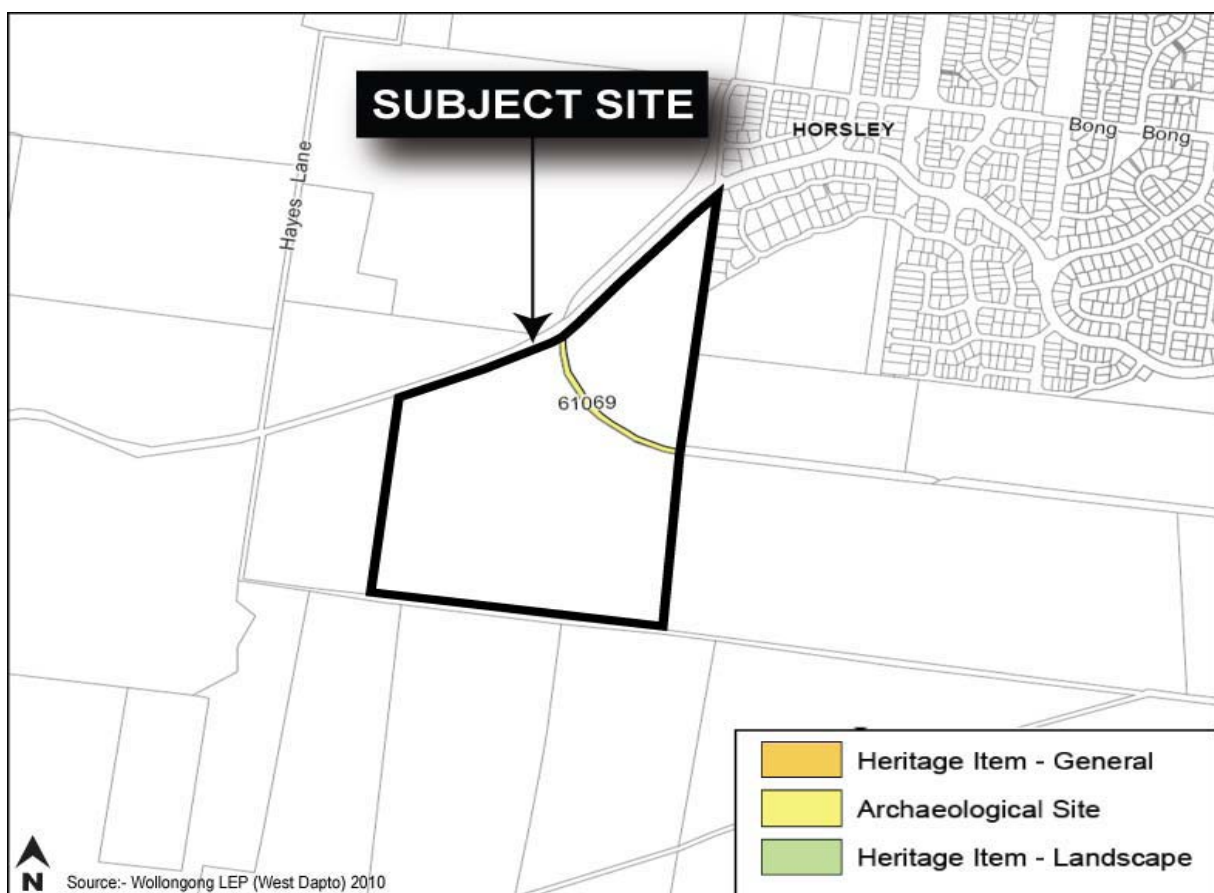
The Melaleucas are largely contained within the E2 Environmental Conservation zone which is to be retained. Elsewhere on the site, trees will be required to be removed to accommodate the proposed subdivision. Three stands of trees are to be retained including a two clusters to be contained within the proposed local parks and another avenue of trees located along the eastern boundary.

In accordance with clause 5.9(3), the development proposal seeks consent for the removal of the remaining trees not shown to be retained on the subdivision plan.

5.10 Heritage conservation.

The Heritage Map under the WLEP (West Dapto) 2010 identifies that there is an archaeological site on the subject site. Schedule 5 of the WLEP (West Dapto) 2010 describes the archaeological site as being a former 'tramway' alignment. A Non Indigenous Heritage Assessment report formed part of the application submission.

In addition the application submission contained an Aboriginal & Historical Archaeological & Cultural Heritage Assessment Report.



The proposed subdivision will have impacts on the former tramway (railway) alignment through the redevelopment of land in the location of the alignment. Sections of the former tramway alignment are proposed to be retained where it meets Bong Bong Road and within the northern part of the land zoned E2 Environmental Conservation to be retained and dedicated to Council as a Public Reserve.

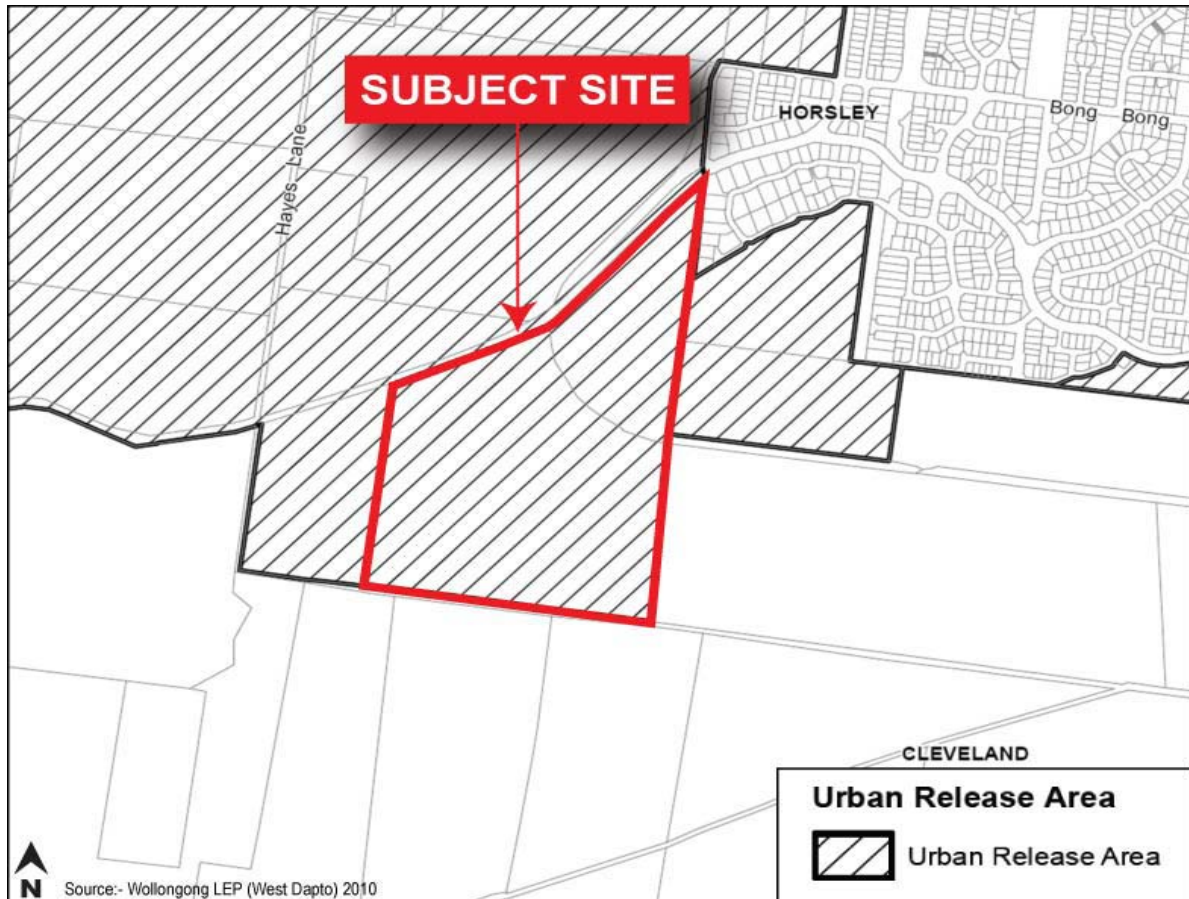
Separately evidence has been forwarded to Council regarding the applicant being granted an Aboriginal Heritage Impact Permit (AHIP) and variation under *Sections 87 and 90 of the National Parks and Wildlife Act 1974* for salvage and a *Section 140 Excavation Permit* under the provisions of the *Heritage Act 1977*.

Council has also received an Archival Photographic Recording (placed in the reference library) of three items in advance of the proposed development.

- Former alignment of part of Bong Bong Road (Lot 601 DP 1054648);
- Former dairy and associated structures on the property known as Melrose (Lot 60 DP 1063539) and
- Former alignment of part of the Illawarra Harbour and Land Corporation Railway (Lot 601 DP 1054648).

Part 6 Urban release areas

Pursuant to WLEP (West Dapto) 2010 the subject site is within an urban release area.



6.1 Arrangements for designated State public infrastructure

(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

The quantum payable in relation to the subdivision proposal under a State Infrastructure Contribution levy or the public infrastructure works that will be delivered under such a program has been achieved via a Voluntary Planning Agreement (VPA) between the applicant (Stockland) and the NSW Department of Planning.

(2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

Advice received by Council dated 24 March 2010 from The Director General of the NSW Department of Planning certifies that 'satisfactory arrangements' have been made to contribute to the provision of *designated State public infrastructure* in relation Development Application 2010/693 for the subdivision of Lot 601 DP 1054648 and Lot 60 DP 1063539, Bong Bong Road Horsley.

The certification also qualified that 'For the purposes of clause 6.1 (3) of the LEP, the lot shown highlighted yellow on the attached plan is identified as a residue lot and, accordingly, this certificate does not apply in relation to it.' The land being referred to is the residue portion of Lot 60 DP 1063539 that is situated on the northern side of Bong Bong Road.

A copy of the Director General's advice is presented at Attachment 3.

6.2 Development control plan

This clause requires that development consent must not be granted for development on land in an urban release area unless a development control plan (DCP) that provides for the matters specified in subclause (3) has been prepared for the land. Wollongong DCP 2009 has been prepared and was adopted by Council on 3 March 2010 and includes Chapter (D16) which relates specifically to the West Dapto Release Area. Chapter D16 containing a required Neighbourhood Plan for land in the vicinity of the subject development proposal was publicly exhibited between 21 December 2009 and 12 February 2010 and finally adopted by Council on 14 December 2010 . The DCP provides for the matters specified in subclause 6.2(3) and therefore subclause 6.2(2) does not prevent development consent from being granted to this development proposal.

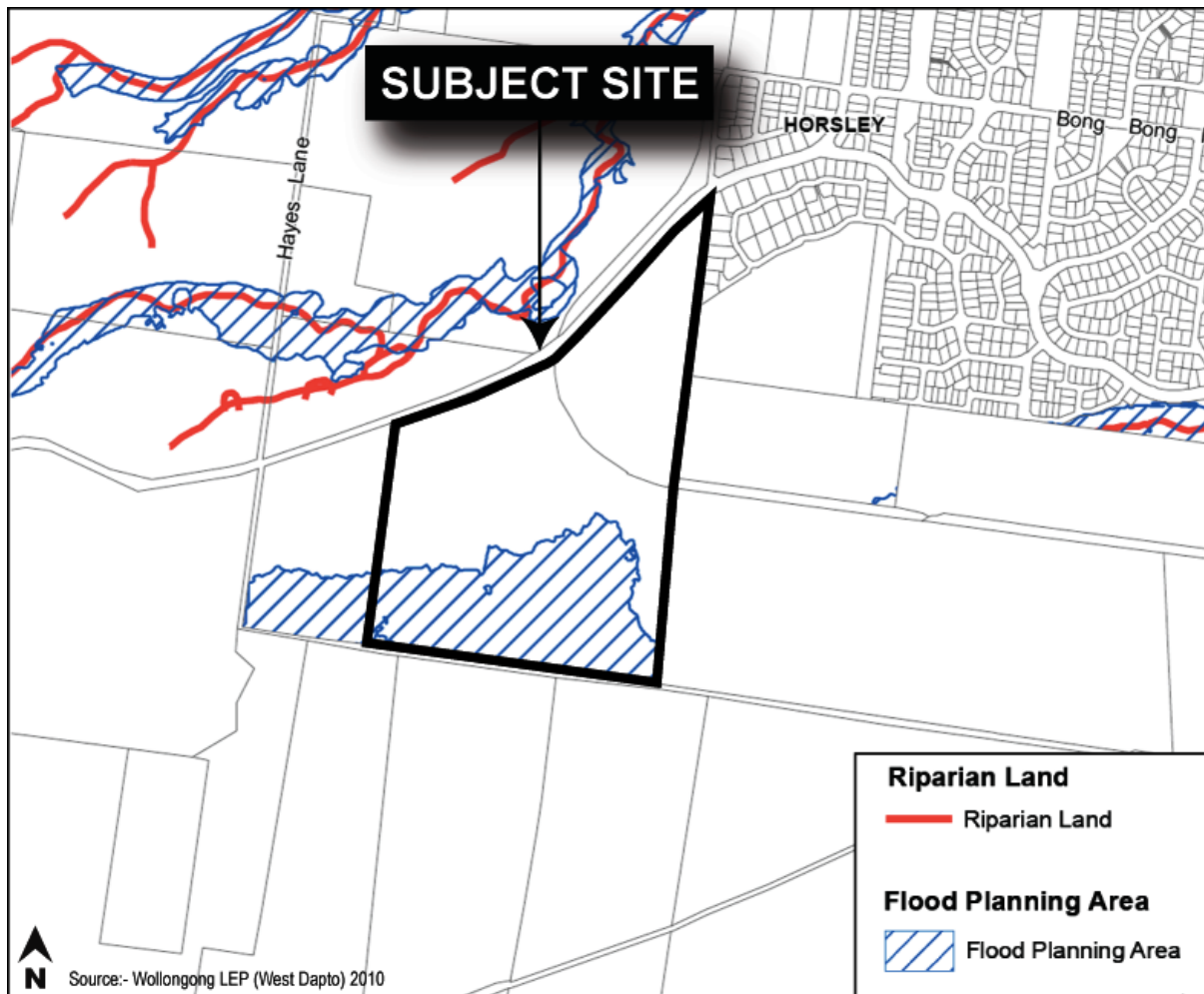
Part 7 Additional local provisions

7.1 Acid sulfate soils

There are no mapped areas of acid sulfate soils affecting the subject property.

7.2 Flood planning area

The southern part of the subject site is within a flood planning area pursuant to WLEP (West Dapto) 2010.



Clause 7.2(3) provides that development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied in relation to all of the following matters:

- (a) all habitable floor levels of the development will be above the flood planning level,
- (b) the development will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,
- (c) the development will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
- (d) the development will not affect evacuation from the land,
- (e) the development will not significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses,
- (f) the development will not result in unsustainable social and economic costs to the community as a consequence of flooding,
- (g) if located in a floodway area—the development will not be incompatible with the flow conveyance function of, or increase a flood hazard in, the floodway area

Consultants Cardno Forbes Rigby have prepared a Water Cycle Management Study addressing the requirements of clause 7.2(3) establishing that the key flooding aspects of the proposal are:

- A flood mitigation channel has been created along the southern boundary of the proposed development. This ensures all lots are above the probable maximum flood (PMF);
- Regrading of the floodplain has been achieved without significant flooding impacts on any land holdings;
- Regrading of the floodplain has been proposed wholly in accordance with the findings of the Growth Centres Commission Report;

- The modelling undertaken has been strictly in accordance with local and state government guidelines and policies, and the Mullet & Brooks Creeks Floodplain Risk Management Study and Plan (2008); and
- The impacts of climate change can be readily mitigated and the proposed development can be safely evacuated if required.

Clause 7.5 – Earthworks

Subclause (2) (b) provides that development consent is required for earthworks, unless the work is ancillary to other development for which development consent is required or has been given.

The subject proposal includes earthworks to facilitate the proposed subdivision and the matters required to be addressed in subclause (3) and the stated objectives in clause 7.5 in relation to the impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land have been considered and addressed throughout this report.

Clause 7.5 – Riparian Lands

No part of the subject subdivision or environmental protection works development site is within a riparian land area pursuant to WLEP (West Dapto) 2010. It should be noted that the portion of the subject development site that is North of Bong Bong Road is not being developed as part of this application other than for acceptance of a drainage line associated with a portion of the site development works and road reconstruction.

Clause 7.10 – Public utility infrastructure

Subclause (2) provides that development consent must not be granted for development on land unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

Consultants Cardno Forbes Rigby have prepared a Servicing Investigation report which examines the existing services and infrastructure works or augmentation necessary to service the proposed subdivision.

2.3 SECTION 79C 1(A)(II) ANY PROPOSED INSTRUMENT

This section is not considered applicable to the current development proposal.

2.4 SECTION 79C 1(A)(III) ANY DEVELOPMENT CONTROL PLAN

Wollongong Development Control Plan (WDCP 2009)

WDCP 2009 was adopted by Council on 15 December 2009 and came into force on 3 March 2010 subsequent to when Wollongong Local Environmental Plan 2009 was made by the Minister for Planning and formally notified on the NSW Government website on 26 February 2010.

The general development controls for West Dapto are contained in the generic parts of WDCP 2009 and the specific controls as relates to the subject development proposal are incorporated as Chapter D16 – West Dapto Release Area.

At the time of lodgement of DA-2010/693 (7 June 2010) Chapter D16 was only an exhibited draft being endorsed by Council on 15 December 2009, subsequently re-drafted and re-exhibited before being finally adopted by Council until 14 December 2010.

This fact is significant to the subject proposal as relates to road layouts as the exhibited draft did not contain the wider road reserve cross sections that the finally adopted Chapter D16 did, causing the applicant to rely on the narrower adopted (at the time of lodgement) Chapter B2 Residential Subdivision cross sections of WDCP 2009 to inform the final subdivision spatial layout and road reserve designs.

The savings provision within WDCP 2009 states that:

This plan does not apply to any Development Application which was lodged with Council but not finally determined before the commencement of this plan. Any application lodged before the commencement of this plan will be assessed in accordance with any previous development control plan, technical policy or other Council policy which applied to the site at the time of application lodgement.

By interpretation therefore the final road reserve layouts of Chapter D16 - West Dapto Release Area had not commenced at the time of lodgement of the application.

Chapter D16 - West Dapto Release Area

This chapter contains:

- Introductory information about the future development of West Dapto;
- The Master Plan for the West Dapto Release Area;
- An impact assessment framework covering heritage, flora and fauna, views and vistas, contamination water management, riparian corridors, landscaping, open space and recreation, school and community facilities, bushfire protection, crime prevention, servicing, subdivision layout, the road system, soil erosion and sedimentation, drainage and access requirements;
- A Neighbourhood Plan 1 for the Bong Bong East and North locality (incorporating land owned by Stockland and the Vinta Group) to guide development at a precinct level; and
- A Bong Bong Road Town Centre Conceptual Layout Plan.

The table below provides an assessment of the proposed subdivision against the relevant provisions of Wollongong DCP 2009 Chapters B2 Residential subdivision and D16 West Dapto Release Area and demonstrates that the development is generally consistent with the intent and standards of the applicable controls.

CHAPTER B2 – RESIDENTIAL SUBDIVISION

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
<u>5 Topography & natural landform</u> <u>6 Subdivision layout – aspect & solar access orientation</u>	<p>The subdivision layout and road pattern has been designed having regard for the topography and environmental attributes of the site to achieve an optimal urban design.</p> <p>The subdivision has been designed in such a way as to achieve:</p> <ul style="list-style-type: none"> • a legible and rational urban structure; • an urban layout that responds to topography and other natural site constraints; • a landscaped precinct that responds to aspect, existing trees and other site opportunities; • a super lot structure that delivers housing diversity and affordable choice; and • an urban layout that represents an appropriate response to existing and future adjacent land uses. 	Yes
<u>7 Minimum allotment size requirements</u>	<p>The proposed lots within the subdivision comply with the applicable minimum lot size, being 449m².</p> <p>The proposed subdivision includes 27 super lots which are intended to accommodate future multi dwelling housing.</p>	Yes
<u>8 Lot width & depth requirements</u>	<p>The proposed lots within the subdivision comply with the applicable minimum lot width (12m and 15m) and depth (25m) requirements. The application submission did include a lot orientation</p>	Yes

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	and frontage/depth compliance table.	
9 <u>Battle-axe allotments</u>	Battle-axe allotments are not provided for within the subdivision design layout	n/a
10 <u>Building envelopes</u>	Each proposed allotment has capability for an indicative building envelope measuring 10m (width) x 15m (depth). A cut and fill strategy has been proposed to modify the levels across the site and manage flood impacts. The subdivision layout has been designed having regard for environmental constraints to provide appropriate building platforms within each of the lots for future dwelling houses.	Yes
11 <u>Subdivision Staging</u>	A subdivision staging plan has been prepared for the release of allotments in 11 distinct stages.	Yes
12 <u>Super lots for future integrated and/or medium density housing</u>	27 super lots have been included in the subdivision and will be the subject of future DAs. It is intended that these lots will accommodate multi dwelling housing. The super lots are highlighted on the Staging Plan at Attachment 11.	Yes
13 <u>Cut and fill land reshaping</u>	Chapter D16 West Dapto Release Area notes that this clause does not apply to master planning of land and precinct subdivision applications.	n/a
14 <u>Public reserves</u>	A local park with active and passive recreation space is proposed near the entrance to the subdivision. The park is proposed to be dedicated to Council. Detailed commentary supporting the size, location and provision of the proposed local park has been provided in a letter of advice prepared by Elton Consulting That part of the site zoned E2 is intended to be dedicated to Council as public reserve and the protection of this remnant vegetation will preserve the current connectivity provided on the site where it connects with the adjacent Purrungully Woodland.	Yes Justification Provided
15 <u>Pedestrian and cycleway networks</u>	A map showing the pedestrian and cycle connections throughout the site and the surrounding area was included in the submitted Traffic Impact Assessment report. The proposed cycle network shown in the Wollongong City Bike Plan extends to the western boundary of the Horsley development. The cycle routes associated with the subject proposal will link into the proposed Horsley cycle network, providing direct connections to Dapto and the surrounding area. In addition, the West Dapto Master Plan identifies the riparian corridors as potential cycle	Yes

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	<p>routes, however these should be considered in addition to on-street facilities so that the cycle routes cater for both commuter and leisure cyclists.</p> <p>All roads within the development site will be designed with adequate provision for pedestrian movements, with crossing points at all intersections. Likely key pedestrian desire lines within the development site have been identified. The main desire lines will be towards the future Bong Bong Town Centre retail facilities as well as to proposed bus stops.</p>	
16 <u>Acoustic fencing</u>	Not considered as applicable.	n/a
17 <u>Street tree planting</u>	A landscape concept plan showing indicative street tree planting has been prepared.	Yes
18 <u>Entry statements</u>	<p>The applicant has indicated that the urban design intent is to create an entry statement centred around contemporary interpretation of the region's industrial heritage.</p> <p>A conceptual plan of the entry precinct (drawing reference LC03) has been prepared by consultants Taylor Brammer. The entry statement is focussed around the northern end of the central vehicular spine and incorporates a footpath which extends from Bong Bong Road in a southerly direction and connects up with the sculptural arbor which leads into the local park.</p>	Yes
19 <u>Road connectivity, permeability and legibility</u>	The proposed road pattern has been designed to link in with the wider existing and proposed road network throughout West Dapto, to promote internal connectivity between the residential precinct and the adjoining future Bong Bong Town Centre site and to provide future access to the open space areas.	Yes
20 <u>Road network – road hierarchy</u>	<p>The road network has been designed to comply with Council's controls. Detailed information is contained within the submitted Traffic Impact Assessment report prepared by a specialist consultant. The road hierarchy proposed to be adopted will promote legibility and way finding throughout the subdivision.</p> <p>The final road layouts have been the subject of a negotiated outcome with Council given comments in section 2.4 above and are a compilation of Chapter B2 and D16 controls as relate to road reserve width, pavement width and pedestrian and cyclist services provision therein.</p>	Yes

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
21 <u>Road design</u>	<p>The proposed roads have been designed to comply with Council's carriageway and verge width requirements as negotiated and detailed at Clause 20 above.</p> <p>Typical street sections for the proposed roads (collector, edge and local) have been provided with the application submission.</p>	Yes
22 <u>Requirements for new roads, drainage and infrastructure construction</u>	All lots within the proposed subdivision will have access to a public road. The application submission identified all necessary roads, drainage and infrastructure works to be provided by the developer and designed in accordance with the DCP.	Yes
23 <u>Requirement for upgrading of poorly constructed or unformed public road</u>	<p>Stockland have proposed to improve the standard of Bong Bong Road in line with the requirements of a collector road. Civil Engineering Works – Concept Design consist of pavement, drainage, line marking, footpath and landscaping works.</p> <p>Also included is the construction of a new roundabout at the intersection of Bong Bong Road and the major access point to the development.</p>	Yes
24 <u>Bus routes</u>	<p>There are currently no bus routes serving Bong Bong Road past the intersection with Shone Avenue. The existing routes 31 and 33 both terminate on Fairwater Drive and begin on Shone Avenue. These routes could be extended to serve the proposed subdivision and town centre, with the possibility of relocating the route terminus to the town centre.</p> <p>The submitted Traffic Impact Assessment report shows indicative bus stop locations within the subdivision, providing public transport coverage for both the proposed subdivision and the future town centre.</p> <p>With the additional residential and retail trips generated by the proposed subdivision and future town centre there may be sufficient demand to warrant increasing the service frequency on routes 31 and 33, which would in turn encourage more people to use the bus service to then transfer to rail services at Dapto for longer distance trips.</p>	Yes
25 <u>Residential cul-de-sacs and turning heads</u>	There are no cul-de-sacs proposed within the subdivision road layout.	n/a
26 <u>Roundabouts</u>	<p>The subdivision/road layout design includes provision for roundabouts within this development.</p> <p>Detailed design will be need to be carried out in</p>	Yes

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	accordance with AUSTROADS Guide to Traffic Engineering Practice – PART 6 for the roundabouts and presented at the Construction Certificate stage. The design of the roundabout will also take into consideration the needs of pedestrians and cyclists.	
27 <u>Road junction spacing</u>	The proposed design of the road network is in accordance with the requirements of the DCP in terms of road junction spacing to ensure road junctions are properly designed to minimise any potential traffic management or traffic safety issues.	Yes
28 <u>Traffic calming devices</u>	The subdivision consists generally of short road lengths other than the main north-south collector road, which is broken up by roundabouts along its length which will assist in discouraging high traffic speeds. On this basis it is considered that physical traffic calming devices are not required.	Yes
29 <u>Traffic controls devices and signs</u>	Traffic control devices, signs and pavement markings will be provided throughout this development in accordance with the requirements of Australian Standard AS1742.1 – 13 Manual of Uniform Traffic Control Devices and the NSW Roads and Traffic Authority's Interim Guide to Signs and Markings. The details will be included on the detailed design plans at Construction Certificate stage.	Yes
30 <u>Splay corners</u>	Splay corners have been provided on all lots at intersections throughout the subdivision. A minimum 4.25m splay corner has been provided.	Yes
31 <u>Street lighting</u>	This matter can be addressed as a condition of consent for details to be provided at Construction Certificate stage.	To be conditioned for
32 <u>Restricted access to arterial or sub arterial roads</u>	Council's Traffic section have denied direct access to Bong Bong Road from individual properties within proposed Stage 2 of the development. Stockland also propose a Restriction as to User under section 88B of the Conveyancing Act 1919 for these lots to account for this requirement.	To be conditioned for
33 <u>NSW Fire brigade access</u> 34 <u>Bush fire protection</u>	As noted earlier in this report, the subdivision proposal constitutes integrated development for which conditional authorisation under section. 100B of the Rural Fires Act 1997 has been granted. The subdivision has been designed to comply with the Planning for Bushfire Protection Guidelines and is supported by a bushfire protection assessment report.	Yes
35 <u>Stormwater drainage (including</u>	Consultants Cardno Forbes Rigby have prepared a	Yes

<i>Controls/ objectives</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
<u>water sensitive urban design infrastructure</u>	Water Cycle Management Study addressing the requirements of key flooding and drainage aspects of the proposal.	
36 <u>Riparian land management</u>	No part of the subject development site for subdivision and environmental protection works is within a riparian land area pursuant to WLEP (West Dapto) 2010.m It should be noted that the portion of the subject development site that is North of Bong Bong Road is not being developed as part of this application other than for acceptance of a drainage line associated with a portion of the site development works and road reconstruction.	n/a
37 <u>Servicing arrangements</u>	Consultants Cardno Forbes Rigby have prepared a Servicing Investigation report which examines the existing services and infrastructure works or augmentation necessary to service the proposed subdivision.	Yes
38 <u>Monetary contributions towards the provision of public services and amenities</u>	<p>The quantum payable in relation to the subdivision proposal under a State Infrastructure Contribution levy or the public infrastructure works that will be delivered under such a program has been achieved via a Voluntary Planning Agreement (VPA) between the applicant (Stockland) and the State Government.</p> <p>Advice received by Council on 30 March 2010 from The Director General of the NSW Department of Planning dated 24 March 2010 certifies that 'satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to Development Application DA-2010/693.</p> <p>Stockland has also elected to enter into a Voluntary Planning Agreement (VPA) with Council for this development proposal. The VPA relates to land on Bong Bong Road, Horsley and details monetary contributions for local infrastructure provision to service the development specifically and the West Dapto Land Release Area generally in lieu of, but consistent with the West Dapto Release Area Section 94 Development Contributions Plan (2010).</p>	Yes
39 <u>Road Naming</u>	To be completed with subdivision certificate application.	To be conditioned for
40 <u>Street numbering</u>	To be completed with individual dwellings applications.	n/a

LOCALITY BASED DCP – CHAPTER D16 WEST DAPTO RELEASE AREA

At the time of lodgement of the application this chapter had not been adopted by Council and was only an exhibited draft. The final form of the chapter differs in content and structure from the exhibited draft. The applicant in their submission has only responded to the exhibited draft and it should be noted that the savings provision of the WDCP 2009 cl 1.8 applies in this instance. Nonetheless in the interests of completeness and for comparative purposes the responses below are presented based on the adopted (14/12/2010) Chapter D16 format – any variations to the stated controls should be considered as having reduced determinative weight.

<i>Control/ objective</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
4.1 <u>West Dapto Master Plan</u>	The development proposal does observe the objectives of the West Dapto Master Plan with regard to the stated future urban structure and the protection and rehabilitation of conservation areas and remnant vegetation.	Yes
4.2 <u>Staging</u>	The development proposal is within stages 1 & 2 of the West Dapto Urban Release Area	Yes
5.0 5.1 5.2 <u>Neighbourhood Plans</u>	A neighbourhood plan incorporating the subject site (titled “Neighbourhood Plan 1 -Bong Bong East & North”) has been adopted by Council and included in Chapter D16. The plan was prepared for Council by Stockland and has been endorsed by the Vinta Group - property owner of the proposed Bong Bong Town Centre site adjacent.	Yes
5.3 <u>Matters to be addressed in Development Applications</u>	The development proposal submission did address all required matters for subdivision including supplementary specialist consultants reports and reference to other applicable chapters of the WDCP 2009.	Yes
5.4 <u>Adopted Neighbourhood Plans</u>	A neighbourhood plan incorporating the subject site (titled “Neighbourhood Plan 1 -Bong Bong East & North”) has been adopted by Council and included in Chapter D16. The plan was prepared for Council by Stockland and has been endorsed by the Vinta Group - property owner of the proposed Bong Bong Town Centre site adjacent.	Yes
6.1 <u>Town Centres</u>	Council has adopted a Bong Bong Town Centre Conceptual Layout plan which is incorporated into Chapter D16 and is located adjacent to the proposed development site. Both the Bong Bong Town Centre Conceptual Layout plan and the Neighbourhood Plan 1 -Bong Bong East & North Neighbourhood Plan 1 are consistent with each other as relates to this development proposal.	Yes
6.3 <u>General Development controls</u>	This section of the DCP chapter cross references other relevant chapters of the WDCP 2009 to be addressed in any application submission. These various chapters as they relate to the	Yes

<i>Control/ objective</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	development proposal are discussed in further detail below by reference to the specific chapter.	
6.3.1 <u>Flora and Fauna</u>	<p>The subject site does contain an Endangered Ecological Community (EEC) - Melaleuca Forest and this is separately zoned E2 Environmental Conservation. The zoning site area of approximately 4 ha. Is to be dedicated to Council as Public Reserve. Elsewhere on the site are scattered remnant paddock trees and vegetation that has been nominated for removal.</p> <p>The application submission separately addressed WDCP 2009 Chapters E17 – Preservation and Management of Trees and Vegetation and E18 – Threatened Species by way of specialist Ecological and Arborists consultants reports for flora and fauna matters as well as a Water Cycle Management study and design details to ensure the preservation of flows through the EEC area.</p>	Yes
6.3.3 <u>Views and Vistas</u>	<p>The subject site contains two different visual quality zones: Zone A Landscape Management which incorporates some residential zoned land as well as the E2 Environmental Conservation zone and EEC – this area of 4 ha. Is to be dedicated to Council as Public Reserve and as such will remain an area of high visual resource.</p> <p>The second zone – Zone B Landscape Management applies to the balance of the site for development and within this zone the moderate concern for visual resource must be balanced against the land use zoning for residential development.</p> <p>Given the prevailing topography the vistas from Bong Bong Road toward the south are reasonably maintained by open space provision in the area of the former tramway cutting (heritage item) and the subdivision layout with the main north south collector road reserve spine toward the western extent of the site. Views/ vistas toward the escarpment are maintained along Bong Bong Road.</p> <p>Primary street plantings are proposed and development controls within the Zone A portion of the site that enables residential development will have a height limit of 2 storeys only (in some areas 1 storey only –adjacent Bong Bong Road) and site coverage maximum of 50%.</p>	Yes
6.3.4 <u>Water Management</u>	<p>A portion of the site is flood hazard affected.</p> <p>The application submission separately addressed</p>	Yes

<i>Control/ objective</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	<p>WDCP 2009 Chapters E13 Floodplain Management and E14 – Stormwater Management via specialist Water Cycle Management Study consultants reports.</p> <p>Additionally the application submission has addressed Chapter E15- Water Sensitive Urban Design via MUSIC modelling via the specialist Water Cycle Management Study consultants reports.</p>	
6.3.5 <u>Riparian Corridors</u>	No part of the subject development site for subdivision and environmental protection works is within a riparian land area pursuant to WLEP (West Dapto) 2010. It should be noted that the portion of the subject development site that is North of Bong Bong Road is not being developed as part of this application other than for acceptance of a drainage line associated with a portion of the site development works and road reconstruction.	Yes
6.3.6 <u>Open Space and Recreation</u>	The local park is proposed to have an area of 6,363m2 approx and will accommodate both active and passive open spaces areas including BBQ and picnic facilities, a playground and lawn. Whilst the park is less than the 1-2 ha required by the DCP the applicant has made submission justifying the size proposed and drawing attention to the E2 Environmental Conservation zone and EEC - this area of 4 ha. is to be dedicated to council as Public Reserve which could be considered as a passive recreation area as it adjoins the mapped Purrungully Woodland –West Dapto Release area Recreational Facilities.	Yes
6.3.7 <u>Acid Sulfate Soils</u>	There are no mapped areas of acid sulfate soils affecting the subject property.	n/a
6.3.8 <u>Services</u>	The application submission included a specialist consultants Servicing Investigation report which examined the existing services and infrastructure works or augmentation necessary to service the proposed subdivision.	Yes
6.3.9 <u>Subdivision Layout</u>	<p>A range of lots sizes are proposed to maximise the product mix that will ultimately be delivered across the site.</p> <p>The proposed subdivision layout has been designed to facilitate park fronted lots around both the reserve and the local park and the subdivision layout optimises pedestrian, bicycle and vehicular links to maximise connectivity with the surrounding area, particularly the adjoining</p>	Yes

<i>Control/ objective</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	<p>town centre site.</p> <p>The proposed lots within the subdivision comply with the applicable minimum lot width(12m and 15m) and depth (25m) requirements as relates to solar orientation.</p> <p>The proposed 290 lot subdivision and the incorporation of multi dwelling housing super lots will achieve a housing density in the order of 13-15 dwellings per hectare.</p> <p>Council's proposed road network has been utilised as a base for the subdivision design so that it accommodates and connects with the existing and proposed road network and the proposed cycleway network of the West Dapto Release Area.</p>	
6.3.10 <u>Road Network</u>	<p>The application submission included a specialist consultants Traffic Impact Assessment and includes a traffic analysis and road structure plan that has been designed in accordance with the West Dapto Release Area Proposed Road Network, Cycleway, Road Types, Flood Access Routes and Proposed Road Widening Maps of WDCP Chapter D16.</p> <p>It needs to be recognised that at the time of lodgement of DA-2010/693 (7 June 2010) Chapter D16 was only an exhibited draft - being endorsed by Council on 15 December 2009 and not finally adopted by Council until 14 December 2010.</p> <p>This fact is significant to the subject proposal as relates to road cross section layouts as the exhibited draft did not contain the wider road reserve cross sections that the finally adopted Chapter D16 did, causing the applicant to rely on the narrower adopted (at the time of lodgement) Chapter B2 Residential Subdivision road cross sections of WDCP 2009 to inform the final subdivision spatial layout and design.</p> <p>The final road layouts have been the subject of a negotiated outcome with Council given comments in section 2.4 above and are a compilation of Chapter B2 and D16 controls as relate to road reserve width and services provision therein.</p> <p>The submitted Traffic Impact Assessment report also refers to indicative bus stop locations within the subdivision, providing public transport coverage for both the proposed subdivision and</p>	Yes

<i>Control/ objective</i>	<i>Comment</i>	<i>Reasonable Compliance</i>
	the future town centre. With the additional residential and retail trips generated by the proposed subdivision and future town centre there may be sufficient demand to warrant increasing the service frequency on routes 31 and 33, which would in turn encourage more people to use the bus service to then transfer to rail services at Dapto for longer distance trips.	
6.3.11 <u>Areas under Easement</u>	There are no known areas under easement affecting the subject property.	n/a
6.3.12 <u>Schools and Community facilities</u>	There are no known areas identified within West Dapto Release Area Education Facilities map for Schools and Community facilities affecting the subject property.	n/a
6.3.13 <u>Employment Area</u>	There are no known areas identified within this section affecting the subject property.	n/a

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site apart from footway design gradients and kerb ramps, design details of which are conditioned for at Attachment 12 prior to the issue of the Engineering Construction Certificate.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The development proposal has addressed this chapter with the submission being considered by Council's SCAT officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

The development proposal has addressed this chapter with the Traffic Impact Assessment submission being considered by Council's Traffic officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E4: DEVELOPMENT NEAR RAILWAY CORRIDORS AND MAJOR (BUSY) ROADS

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site.

CHAPTER E5: BASIX

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site.

CHAPTER E6: LANDSCAPING

The development proposal has addressed this chapter with the landscape concept plan submission being considered by Council's Landscape officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E7: WASTE MANAGEMENT

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site apart from waste management servicing provision for the final form of development as relates to road designs and civil construction waste which are conditioned for at Attachment 12.

CHAPTER E8: ONSITE SEWAGE MANAGEMENT SYSTEMS

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site.

CHAPTER E9: HOARDINGS AND CRANES

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site apart from general WorkCover requirements which are conditioned for at Attachment 12.

CHAPTER E10 ABORIGINAL HERITAGE

The development proposal has addressed this chapter with the Aboriginal Cultural Heritage report submission being considered by Council's Heritage officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E11 HERITAGE CONSERVATION

The development proposal has addressed this chapter with the European Heritage and Non-Indigenous Archaeological Assessment report submissions being considered by Council's Heritage officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E12: GEOTECHNICAL ASSESSMENT

This chapter has been considered, however, there are no matters impacted by or upon the development proposal or subject site apart from a lot classification report required upon completion of civil works and prior to the issue of the Subdivision Certificate which are conditioned for at Attachment 12.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The development proposal has addressed this chapter with the Water Cycle Management Study submission being considered by Council's Design officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E14 STORMWATER MANAGEMENT

The development proposal has addressed this chapter with the Water Cycle Management Study submission being considered by Council's Design officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E15 WATER SENSITIVE URBAN DESIGN

The development proposal has addressed this chapter with the Water Cycle Management Study and MUSIC modelling submissions being considered by Council's Environmental and Design officers with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E16 BUSHFIRE MANAGEMENT

The development proposal has addressed this chapter with the Bushfire Protection Assessment Report submission being considered by the NSW Rural Fire Service as Integrated Development and a conditional 100B authorisation being issued and incorporated into the proposed conditions of consent as at Attachment 12.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

The development has addressed this chapter with the Arborist Report and Landscape Concept plans submission being considered by Council's Landscape officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E18 THREATENED SPECIES

The development has addressed this chapter with the Flora and Fauna Impact Assessment report submission being considered by Council's Environmental and Ecological officers with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

The development has addressed this chapter with the Concept Civil Engineering Drawings (cut and fill) submission being considered by Council's Geotechnical, Design, Environmental and Landscape officer's with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

The development has addressed this chapter with the Phase 1 Contamination Assessment submission being considered by Council's Environment officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

The development has addressed this chapter with the Waste Management Plan submission being considered by Council's Environment officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

The development has addressed this chapter with the Concept Civil Engineering Drawings (site management) submission being considered Council's Environmental officer with referral advice and proposed conditions of consent as at Attachment 12.

CHAPTER E23: RIPARIAN LAND MANAGEMENT

The development has addressed this chapter with the submission being considered by DECCW and Council's Environmental and Ecological officers with referral advice and proposed conditions of consent as at Attachment 12.

2.4.2. WEST DAPTO RELEASE AREA SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN (2010)

Stockland has elected to enter into a Voluntary Planning Agreement (VPA) with council for this development proposal. Execution of the Agreement excludes s.94 and s.94A of the EP&A Act from applying to the proposed development.

2.5 SECTION 79C 1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F

Stockland has elected to enter into a Voluntary Planning Agreement (VPA) with Council for this development proposal. The VPA relates to land on Bong Bong Road, Horsley and details monetary contributions for local infrastructure provision to service the development specifically and the West Dapto Land Release Area generally. A copy of Council's Counsel's advice with regard to the status of the agreement and proposed condition of consent is provided for at Attachment 9.

The Department of Planning has developed a Special Infrastructure Contribution (SIC) that covers the West Dapto Release Area known as Illawarra (West Lake Illawarra) Special Infrastructure Contribution (Plan). The draft Plan was exhibited between 21 January 2011 & 25 March 2011 and is yet to be adopted by the State.

Stockland have negotiated a Planning Agreement with regard to their contribution obligations for State infrastructure with the NSW Department of Planning. The process was commenced prior to the exhibition of the SIC to avoid any potential delay in achieving satisfactory arrangements for the development of their property (the subject of this application). The draft Planning Agreement was exhibited between 14 February and 1 March 2011.

On 3 March 2011 the Minister for Planning executed the Planning Agreement with Stockland Development Pty Ltd under section 93F of the EP&A Act to collect contributions for funding designated State Infrastructure. The negotiated monetary contribution is inline with the adopted Illawarra (West Lake Illawarra) SIC.

Advice received by Council on 30 March 2010 from The Director General of the NSW Department of Planning dated 24 March 2010 certifies that 'satisfactory arrangements have been made to contribute to the provision of *designated State public infrastructure* in relation to the lots proposed in Development Application 2010/693 for the subdivision of Lot 601 DP 1054648 and Lot 60 DP 1063539, Bong Bong Road Horsley. A copy of the advice and Certification is provided for at Attachment 3.

2.6 SECTION 79C 1(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

(1) *For the purposes of section 79C (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*

(a) *in the case of a development application for the carrying out of development:*

(i) *in a local government area referred to in the Table to this clause, and*

(ii) *on land to which the Government Coastal Policy applies,*

the provisions of that Policy,

(b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

The development proposal involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures applies. Conditions have been proposed at Attachment 12 to account for demolition works will be attached to the consent in this regard.

The site is not located on land to which the Government Coastal Policy applies.

93 Fire safety and other considerations

- (1) *This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.*
 - (2) *In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.*
 - (3) *Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.*
- Note. The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.*
- (4) *Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).*
 - (5) *The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

This section has been considered and is not applicable to the development proposal.

2.7 SECTION 79C 1(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The development proposal is to take place on appropriately zoned land and is permissible with consent.

Access, Transport and Traffic:

Referrals were undertaken to the NSW RTA Southern Region Development Committee and Council's Traffic section for comment. Conditionally satisfactory referral advice was received.

Council has adopted the West Dapto Initial Access Strategy to service the development of Stages 1 and 2 of the West Dapto Release Area. This strategy includes the following:

- Upgrades to Bong Bong Road at Dapto Town Centre to improve traffic capacity
- The provision of a link between Fairwater Drive in Horsley and Cleveland Road.
- The upgrade of Cleveland Road between the Princes Highway and the Fairwater Drive extension.
- The upgrade of West Dapto Road and the Shone Avenue bridge.

The above upgrades will be funded in part by a \$26.05 million interest free loan from the State Government (granted under the Local Infrastructure Program which is required to be re-paid over a 10 year period) and in part by Section 94 contributions. Funds from the State Government loan will accelerate the infrastructure delivery implementation detailed in the West Dapto Initial Access Strategy. The traffic modelling undertaken and submitted as part of the development proposal confirms that Council's Initial Access Strategy will alleviate existing issues and enable development of the subject site and surrounding area resulting in an improvement to the conditions currently being experienced.

The Traffic Impact Assessment submission being considered by Council's Traffic officer with referral advice and proposed conditions of consent as at Attachment 12.

Public Domain:

The application was notified in accordance with Council "Development Assessment and Compliance Notification Policy" as Integrated Development and a copy placed in the Dapto Library (Ribbonwood Centre). Three (3) submissions were received which are discussed in section 3.11 below.

Utilities:

An infrastructure servicing investigation report has been prepared as part of the development proposal submission. Investigations presented indicate that the development is capable of being serviced with water, sewer, electricity, gas, telecommunications and transport access, either via the proposed infrastructure upgrades being planned by the various authorities, or via upgrades to the existing system should the development staging occur ahead of area-wide infrastructure provisioning.

Conditions are proposed at Attachment 12 concerning evidence of public utility servicing prior to the issue any Engineering Construction Certificate.

Heritage:

The European Heritage and Non-Indigenous Archaeological Assessment report submissions have been considered by Council's Heritage officer with referral advice and proposed conditions of consent as at Attachment 12.

Separately evidence has been forwarded to Council regarding the applicant being granted an Aboriginal Heritage Impact Permit (AHIP) and variation under *Sections 87 and 90 of the National Parks and Wildlife Act 1974* for salvage and a *Section 140 Excavation Permit* under the provisions of the *Heritage Act 1977*. Copies provided at Attachments 6 and 7.

Council has also received an Archival Photographic Recording (placed in the reference library) of three items in advance of the proposed development.

- Former alignment of part of Bong Bong Road (Lot 601 DP 1054648);
- Former dairy and associated structures on the property known as Melrose (Lot 60 DP 1063539) and
- Former alignment of part of the Illawarra Harbour and Land Corporation Railway (Lot 601 DP 1054648).

Other land resources:

The development proposal is considered to contribute to orderly development of the wider West Dapto Release Area and is not envisaged to impact upon any valuable land resources.

Water:

There is a need for additional and upgraded stormwater and flood management facilities throughout the various catchments in the West Dapto Release Area generally to facilitate and cater for future development. Council has determined that via Neighbourhood Plans detention and water quality facilities shall be provided for within each development precinct.

The Water Cycle Management Study and MUSIC modelling submissions have been considered by Council's Environmental and Design officers with referral advice and proposed conditions of consent as at Attachment 12.

Soils:

There are several areas of environmental concern with regard to possible contamination within the development site that require further investigation and potential remediation and validation prior to a residential land use.

There are no mapped areas of acid sulfate soils within the development site.

The Phase 1 Contamination Assessment submission has been considered by Council's Environment officer with referral advice and proposed conditions of consent as at Attachment 12.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

The development site does contain an Endangered Ecological Community (EEC) - Melaleuca Forest and this is separately zoned E2 Environmental Conservation. This area comprising of 4 ha. is to be dedicated to Council as Public Reserve. Elsewhere on the site are scattered paddock trees and remnant vegetation, some containing hollows that have been identified by tree survey and nominated for removal.

The Flora and Fauna Impact Assessment report, Arborist Report and Landscape Concept plans submissions have been considered by Council's Landscape, Environmental and Ecological officers with referral advice and proposed conditions of consent as at Attachment 12.

Waste:

The Waste Management Plan submission has been considered by Council's Environment officer with referral advice and proposed conditions of consent as at Attachment 12.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

Proposed conditions of consent as at Attachment 12 are designed so that amenity nuisances be minimised during any construction, demolition, or works.

Natural hazards:

There are natural hazards affecting the development site that could impact the proposal. Council records list the site as flood and bushfire hazard affected.

The Water Cycle Management Study and MUSIC modelling submissions have been considered by Council's Environmental and Design officers with referral advice and proposed conditions of consent as at Attachment 12.

In response to the submitted Bushfire Impact Assessment report conditionally satisfactory referral advice from the NSW Rural Fire Service has been received by Council on 28 June 2010 - copy at Attachment 8, in relation to the issuing of General Terms of Approval via a section 100 B Authorisation under the *Rural Fires Act 1997*. The requested conditions which have been included in the draft conditions of consent at Attachment 12.

Technological hazards:

There are technological hazards affecting the site that could impact the proposal. Council records list the site as potentially contaminated land affected.

There are several areas of environmental concern within the development site that require further investigation and potential remediation and validation prior to a residential land use. The Phase 1 Contamination Assessment submission has been considered by Council's Environment officer with referral advice and proposed conditions of consent as at Attachment 12.

Safety, Security and Crime Prevention:

Assessment of the application considered opportunities for criminal and/or antisocial behaviour with the submission being considered by Council's SCAT officer with referral advice and proposed conditions of consent as at Attachment 12.

Social Impact:

The proposal is not expected to create any negative social impact. The development proposal includes the provision of a local park near the main vehicular entry point. The local park has an area of 6,363m² and will accommodate active and passive open space including BBQ and picnic facilities, childrens play equipment and a lawn area.

Pedestrian and cycleway requirements have been provided for within the subdivision design that link in to the existing West Dapto / Horsley network and potential future bus routes and bus stops identified.

Economic Impact:

The proposal is not expected to create any negative economic impact. The proposed subdivision is intended to provide new housing opportunities within the Illawarra region to both the first home buyer market (young couples and families) as well as people wishing to upgrade (families, empty nesters and retirees). A mix of dwelling product and land size will ensure the precinct is attractive to a broad cross section of the community who will presumably avail themselves of local service and goods providers.

Site Design and Internal Design:

The application does not result in any departures from development standards or unreasonable departures from Council's development control plans as relates to residential subdivision layout and design.

Construction:

Conditions proposed at Attachment 12 include provision for mitigating amenity impacts to adjacent residents and the natural environment from construction activities by way of noise, dust, runoff and hours of operation.

A condition will be attached to any consent granted that the WorkCover authority be contacted for any demolition or use of any crane, hoist, plant or scaffolding. All construction is to comply with the Building Code of Australia and/or Australian standards.

Cumulative Impacts:

The proposal is not expected to result in any adverse cumulative impacts that should not have been already considered in the land rezoning process which preceded the current development proposal.

2.8 SECTION 79C 1(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regards to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments that have not been considered as part of the assessment process.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal that have not been considered as part of the assessment process.

2.9 SECTION 79C 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. Three submissions were received and the main issues identified are discussed below.

One central issue identified related to the timing of West Dapto Release Area infrastructure provision program to support the proposal i.e. flood free access, public transport and traffic impacts along Bong Bong Road.

To this extent guiding the implementation of the development structure of the West Dapto Release Area is the West Dapto Master Plan which incorporates strategies for flood free access, public transport and road and cycleway network upgrades. Further, advice received by Council on 30 March 2010 from The Director General of the NSW Department of Planning dated 24 March 2010 certifies that ‘satisfactory arrangements have been made to contribute to the provision of *designated State public infrastructure* in relation to the lots proposed in Development Application 2010/693 for the subdivision of Lot 601 DP 1054648 and Lot 60 DP 1063539, Bong Bong Road Horsley.

The treatment of the western interface of the subdivision so as to mitigate any future amenity impacts from the adjoining future proposed commercial development site – Bong Bong Town Centre was also raised as the main concern from that property owner – The Vinta Group who also identified an interest in flooding impacts, future servicing, developer contributions and public transport infrastructure matters. Several meetings between the applicant and the Vinta Group failed to reach a resolution regarding the road reserve width and the request for a ‘green buffer’ adjacent the western boundary of Stockland’s land. Other identified matters are considered as part of Council’s assessment process.

In the absence of any further structure layout plan by the Vinta Group for the development of the Bong Bong Town Centre site and with the knowledge that the subdivision layout proposed is consistent with the Neighbourhood Plan 1 developed in consultation with the Vinta Group as adopted by Council and incorporated into Chapter D16 of the WDCP 2009 it is considered that it is reasonable to enable the subdivision as proposed to progress with each property owner being responsible for the construction of a half road width along the common boundary and that should the Vinta Group in the future desire a greater road width for the purposes of servicing their development and a ‘green buffer’, then they should provide for the same within their own property. It is understood that both land owners will need to continue a dialogue into the future regarding development matters that may influence each others land holdings.

The final matter raised via submission related to the provision of adequate pedestrian and bicycle network facilities within the subdivision and to the existing network in Horsley generally to promote sustainable transport mode shifts.

The cycle routes associated with the subject proposal will link into the existing Horsley cycle network, providing direct connections to Dapto and the surrounding area. In addition, the West Dapto Master plan identifies the riparian corridors as potential cycle routes, however these should be considered in addition to on-street facilities so that the cycle routes cater for both commuter and leisure cyclists.

The proposed Bong Bong Road infrastructure upgrade does account for pedestrian and shared pathways to link to the existing Horsley network.

All roads within the development site will be designed with adequate provision for pedestrian and shared path movements, with crossing points at all intersections. Likely key pedestrian desire lines within the development site have been identified. The main desire lines will be towards the Bong Bong Town Centre retail facilities as well as to the bus stops.

Submissions from public authorities

Not considered as applicable as no submissions were received that have not been already reported on.

2.10 SECTION 79C 1(E) THE PUBLIC INTEREST

The application is not expected to have any negative impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3. CONCLUSION

The NSW Growth Centres Commission review and the Illawarra Regional Strategy seek to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The Strategy set a dwelling target for the Wollongong Local Government Area of 38,000 new dwellings. West Dapto was identified as a new release area and the Strategy also identified that West Dapto will be the priority new release area for the region and will deliver approximately 19,000 new dwellings over the next 30 to 40 years.

Guiding the implementation of the development structure of the West Dapto Release Area, the West Dapto Master Plan seeks to achieve a vision for a series of integrated highly accessible communities, linked by public transport and designed to encourage sustainable transport mode shifts. Local centres and places will provide for shopping, services and jobs in an area that observes the natural and cultural heritage and that results in high quality suburbs.

This development proposal for a 290 lot residential subdivision and environmental protection works represents the first major urban land release of the West Dapto Release Area Stages 1 and 2.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the *Environmental Planning and Assessment Act 1979*, the provisions of Wollongong Local Environmental Plan (West Dapto) 2010 and Wollongong Development Control Plan 2009 and is considered not to be in conflict with any of the provisions contained therein.

4. RECOMMENDATION

It is recommended that Development Application DA-2010/693 be approved pursuant to Section 80 of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent contained within Attachment 12 to this report.

Attachments

1. Aerial Photograph of development site.
2. WLEP (West Dapto) 2010 Zoning Map.
3. NSW Department of Planning advice and 'Satisfactory Arrangements' Certification.
4. NSW RTA comments.
5. NSW DECCW Office of Water advice.
6. NSW Heritage Council Section 140 Excavation Permit.
7. NSW DECCW Sections 87 & 90 Aboriginal Heritage Impact Permit.
8. NSW RFS Section 100 B Bush Fire Safety Authority.
9. Voluntary Planning Agreement - Counsel advice.
10. NSW LPMA Registration copy of Subdivision associated with SC-2011/1.
11. Plans.
12. Draft Conditions.

