



Chief Executive Officer
City of Albany
PO Box 484
ALBANY WA 6331

Your Ref:
Our Ref: CMS16318
Enquiries: Gerard O'Brien, 6145 0800
Email: Gerard.O'Brien@epa.wa.gov.au

Dear Sir/Madam

**DECISION UNDER SECTION 48A(1)(a)
*Environmental Protection Act 1986***

SCHEME: City of Albany - Local Planning Scheme 1 - Amendment 22
LOCATION: Lot 1 Jason Road Lot 476 Sibbald Road and Lot 1001 Lower King Road Bayonet Head
RESPONSIBLE AUTHORITY: City of Albany
DECISION: Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (No Appeals)

Thank you for referring the above proposed scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and provides the attached advice and recommendations.

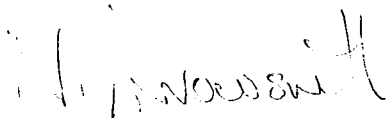
Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Naomi Arrowsmith', written in a cursive style.

Naomi Arrowsmith
Director
Strategic Policy and Planning Division

Delegate of the Chairman of the Environmental Protection Authority
Under Notice of Delegation No. 33 published 17 December 2013

13 March 2017

Encl. Scheme Advice and Recommendations
Ministerial Statement 942

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

City of Albany Local Planning Scheme No. 1 Amendment 22

Location: Bayonet Head, Albany

Determination: Scheme Not Assessed – Advice Given (no appeals)

Determination Published: 13 March 2017

Summary

The City of Albany proposes to rezone approximately 22 hectares (ha) from 'General Agriculture' to 'Future Urban' zone, and 48 hectares of 'General Agriculture' zoned land to an 'Environmental Conservation' reserve, in Bayonet Head. The amendment area covers 71.5 ha.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act, providing the following advice is implemented.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and Vegetation;
- Terrestrial Fauna; and
- Inland Waters Environmental Quality.

2. Advice regarding Environmental Factors

The EPA has examined the City of Albany's referral documentation and conducted investigations, and has decided not to assess the amendment. The following advice is provided:

Amendment 22 is within the area assessed by the EPA as a strategic proposal in Report 1447 *Bayonet Head Plan for Development*.

The *Bayonet Head Plan for Development* was assessed as a strategic proposal so that the EPA could consider the environmental impacts over the whole area ensuring that the key environmental values could be identified, retained and managed in one proposal.

The EPA considered that in order for future residential developments to occur within the strategic proposal area the retention of a consolidated area of 58.84 ha is to be reserved as a 'Conservation Area' and 4.75 ha as a 'Foreshore Reserve' to protect the

key environmental values. The Minister for Environment subsequently issued Ministerial Statement 942 (MS 942) regarding the implementation of future 'derived' proposals including conditions for the future creation and management of the 'Conservation Area' and 'Foreshore Reserve'.

The EPA supports the modification of the amendment report which now clarifies the details in MS 942 regarding 'derived proposals'. All residential development will either require a referral to the EPA requesting it to be declared a 'derived proposal' or as a proposal under s38 of the EP Act for consideration on its own merits, separate from the strategic proposal.

The EPA supports the creation of the 'Environmental Conservation Reserve' within the City of Albany planning scheme through Amendment 22. The EPA notes that Amendment 22 does not reserve all of the land shown in MS 942 as 'Conservation Area' and 'Foreshore Reserve' which is not consistent with aim of the strategic proposal.

The EPA's preference is that all land within the Strategic Proposal area is zoned consistent with the Strategic Proposal. Therefore, the EPA expects the City of Albany to initiate a future amendment which zones and reserves all remaining land within the Bayonet Head Strategic Proposal area as set out in MS 942 as a priority.

THIS DOCUMENT

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Published on: 9 August 2013

Statement No. 942

**STATEMENT THAT A FUTURE PROPOSAL(S)
IDENTIFIED IN A STRATEGIC PROPOSAL MAY BE IMPLEMENTED
(Sections 40B and 45 of the *Environmental Protection Act 1986*)**

Strategic Proposal: Plan for the future urban development and conservation of Lots 37, 38 and Part Lot 39 Elizabeth Street, Lots 2, 3, and 286 Alison Parade, Lot 1000, 1001 and Part Lot 42 Lower King Road, Part Lot 1 Yatana Road, Location 476 Sibbald Road and Lot 0 Bayonet Head, within the Bayonet Head Outline Development Plan Area (as defined in City of Albany Town Planning Scheme No. 3).

Proponents: Lowe Pty Ltd, Housing Authority, MB and EM Cameron, K Slee, M Greer and City of Albany

Proponent Address: c/o Heath Development Company
PO Box 381 Cottesloe WA 6911

Assessment Number: 1758

Report of the Environmental Protection Authority: Report 1447

Pursuant to sections 40B and 45 of the *Environmental Protection Act 1986* (the Act), it has been agreed that in the event of a declaration by the EPA pursuant to section 39B of the Act that it is a derived proposal, a proposal to do one or more of the Developments or Changes in Land Use listed in Column 1 of Table 1 in this Statement and which was identified in the Strategic Proposal to which Report 1447 relates, may be implemented. Upon declaration that the proposal is a derived proposal, subject to the Minister for Environment's identification of relevant conditions under section 45A(3) of the Act, the implementation of the proposal shall be subject to the following conditions and procedures and Schedule 2 details definitions of terms and phrases used in the implementation conditions and procedures:

1 Development, Activities, Operations or Changes in Land Use shall not exceed limits/extents in Table 1

1-1 Proposals referred to the EPA and declared to be derived proposals containing one or more of the Developments or Change in Land Use listed in Column 1 of Table 1 of Schedule 1, shall not exceed the Description of Limits/Extent, relevant to the Developments or Change in Land Use, provided for in Column 2 of Table 1 of Schedule 1.

Note: More than one proponent may implement the proposal identified in Table 1 of Schedule 1.

2 Contact Details

- 2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within 28 days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

3 Time Limit for Proposal Implementation

- 3-1 The proponent shall not commence implementation of the proposal after the expiration of 10 years from the date of issue of the Section 45A Notice, and any commencement, within this 10 year period, must be substantial.
- 3-2 Any commencement of implementation of the proposal, within 10 years from the date of date of issue of the Section 45A Notice, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of 10 years from the date of this statement.

4 Compliance Reporting

- 4-1 The proponent shall prepare and submit a compliance assessment plan to the satisfaction of the CEO at least 6 months prior to the first compliance report required by condition 4-6 or prior to the commencement of future proposals, whichever is sooner.
- 4-2 The proponent shall implement and maintain to the satisfaction of the CEO the compliance assessment plan required by condition 4-1. The compliance assessment plan shall indicate:
- (1) the frequency of compliance reporting;
 - (2) the approach and timing of compliance assessments;
 - (3) the retention of compliance assessments;
 - (4) the reporting of potential non-compliances and corrective actions taken;
 - (5) the table of contents of compliance reports; and
 - (6) the public availability of compliance reports.
- 4-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 4-1.
- 4-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 4-1 and shall make those reports available when requested by the CEO.
- 4-5 The proponent shall advise the CEO of any potential non-compliance as soon as practicable.
- 4-6 The proponent shall submit a compliance assessment report annually from the date of issue of the Section 45A Notice addressing the previous twelve month period or other period as agreed by the CEO. The compliance assessment report shall:

- (1) be endorsed by the proponents' Managing Director or a person, approved in writing by the Office of the EPA, delegated to sign on the Managing Director's behalf;
- (2) include a statement as to whether the proponent has complied with the conditions;
- (3) identify all potential non-compliances and describe corrective and preventative actions taken;
- (4) be made publicly available in accordance with the compliance assessment plan; and
- (5) indicate any proposed changes to the compliance assessment plan required by condition 4-1.

5 Public Availability of Data, Plans, Programs and Surveys

5-1 Subject to condition 5-2, within a reasonable time period approved by the CEO from the date of issue of the Section 45A Notice and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)) relevant to the assessment of this proposal and implementation of this proposal.

5-2 If any of the data referred to in condition 5-1 contains particulars of:

- (1) a secret formula or process;
- (2) confidential commercially sensitive information; or
- (3) the location of threatened species or other important environmental assets that may be threatened if their location was published,

the proponent may submit a request for approval from the CEO to not make this data publicly available. In making such a request the proponent shall provide the CEO with an explanation and reasons why that data should not be made publicly available.

5-3 The proponent is to make all plans approved under these conditions, and all programs and surveys which meet the requirements of these conditions, to be made available to the public in a manner approved by the CEO.

6 Subdivision and Development for Residential and Urban Bushland Conservation

6-1 Any outline development plan or plan of subdivision must demonstrate how it will:

- (1) relate to:
 - a. existing subdivision and development;
 - b. the Conservation Area and Foreshore Reserve identified in Figure 1 of this Statement; and
- (2) implement the management plans and strategies required by conditions 7-3, 8-2, 9-1 and 10-1.

7 Conservation Area

- 7-1 Any outline development plan, plan of subdivision or development shall ensure that the Conservation Area is subdivided solely as an area for conservation for the protection of key environmental values.
- 7-2 The Conservation Area shall not be divided by any sealed access road for use by vehicles, and shall remain a consolidated area of 58.84 hectares as delineated in Figure 1 of Schedule 1.
- 7-3 Prior to any ground disturbing activities the proponent shall submit a Conservation Area Management Plan to the CEO for approval.
- 7-4 The Conservation Area Management Plan shall address:
- (1) fencing, access and signage;
 - (2) rehabilitation and revegetation;
 - (3) weed control;
 - (4) fire management;
 - (5) dieback management and monitoring;
 - (6) completion criteria for handover to a management authority/authorities; and
 - (7) a Conservation Area Monitoring Program to provide data about the long-term viability of the Conservation Area.
- 7-5 Upon request of the CEO the proponent shall review the Conservation Area Management Plan, required pursuant to condition 7-3, to the satisfaction of the CEO.
- 7-6 The proponent shall implement the approved Conservation Area Management Plan for 10 years from the date of onsite works or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-7 In the compliance assessment report required by condition 4-6 the proponent shall also report on work carried out under the approved Conservation Area Management Plan during the report period.
- 7-8 The Conservation Area Monitoring Program required pursuant to condition 7-4(7) shall target the following:
- (1) statutory listed flora and fauna species under State and Commonwealth legislation;
 - (2) Department of Parks and Wildlife (DPaW) listed Priority flora and fauna species; and
 - (3) *Banksia coccinea* Shrubland / *Eucalyptus staeri* / Sheoak Woodland Priority Ecological Community.
- 7-9 The proponent shall implement the approved Conservation Area Monitoring Program for 10 years from the date of onsite works or until such time as the Conservation Area is ceded to a management authority/authorities approved by the CEO, whichever is sooner.
- 7-10 Upon conclusion of implementation of the approved Conservation Area Monitoring Program as per condition 7-9, the proponent shall provide the data from monitoring

and a written report to the CEO on the findings of the Conservation Area Monitoring Program specifically addressing the extent to which the environmental values of the Conservation Area have been maintained, and conclusions regarding the long term viability of an area of this size.

8 Foreshore Reserve

- 8-1 Any outline development plan or plan of subdivision shall ensure that the Foreshore Reserve is subdivided solely as a foreshore reserve for the protection of key environmental values and some community use.
- 8-2 Prior to any ground disturbing activities the proponent shall submit a Foreshore Management Plan to the CEO for approval.
- 8-3 The Foreshore Management Plan shall address:
- (1) fencing, access and signage;
 - (2) rehabilitation and weed management;
 - (3) erosion control and water management;
 - (4) fire management;
 - (5) treatment of foreshore and development interface; and
 - (6) disease management (dieback).
- 8-4 Upon request of the CEO the proponent shall review the approved Foreshore Management Plan to the satisfaction of the CEO.
- 8-5 The proponent shall implement the approved Foreshore Management Plan for 10 years from the date of onsite works adjacent to the Foreshore Reserve or until such time as the land is ceded to a management authority/authorities approved by the CEO, whichever is sooner.

9 Construction Management Plan

- 9-1 Prior to ground disturbing activities the proponent shall prepare a Construction Management Plan to ensure that the adverse impacts from urban construction and associated activities do not unnecessarily threaten conservation values of the Conservation Area and prevent impacts outside of the Conservation Area.
- 9-2 The Construction Management Plan shall address:
- (1) vegetation clearing protocols (including retrieval of hollows and rehabilitation);
 - (2) fauna management during clearing of native vegetation, including the translocation of Western Ringtail Possums (*Pseudocheirus occidentalis*) to a suitable habitat;
 - (3) dieback hygiene and management;
 - (4) weed control and management;
 - (5) indigenous heritage issues.
- 9-3 Upon request of the CEO the proponent shall review the approved Construction Management Plan to the satisfaction of the CEO and with advice from DPaW.

9-4 The proponent shall implement the approved Construction Management Plan until such time as the CEO agrees implementation may cease.

10 Acid Sulfate Soils Management Plan

10-1 Prior to any ground disturbing activities within the Acid Sulfate Soils Risk Boundary mapped in Figure 2 of Schedule 1, the proponent shall prepare an Acid Sulfate Soils Management Plan.

10-2 The Acid Sulfate Soils Management Plan shall address:

- (1) testing of soils and groundwater to determine treatment regimes and management; and
- (2) the requirements of the Acid Sulfate Soil Guidelines Series *Identification and Investigation of Acid Sulfate Soils and Acidic Landscapes* (2009) and *Treatment and Management of Soils and Water in Acid Sulfate Soil Landscapes* (2011), or any approved update of these guidelines.

10-3 Upon request of the CEO the proponent shall review the approved Acid Sulfate Soils Management Plan to the satisfaction of the CEO.

10-4 The proponent shall implement the approved Acid Sulfate Soils Management Plan until such time as the CEO agrees implementation may cease.

[Signed 9 August 2013]

Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

Table 1: Summary of Key Proposal Characteristics

Development /Change of Land Use	Description of and limits/extent
Subdivision and development proposals for residential purposes.	Within the development area identified in Figure 1, including: (1) public open spaces areas for the purposes of active recreation; and (2) the provision of public infrastructure directly related to the subdivision and development proposals for residential purposes.
Subdivision/reservation/vesting for nature conservation.	63.59 hectares within the area identified in Figure 1 comprised of areas labelled "Conservation Area" and "Foreshore Reserve."

Figures

Figure 1: Conservation Area and Foreshore Reserve Boundary.

Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area

Co-ordinates

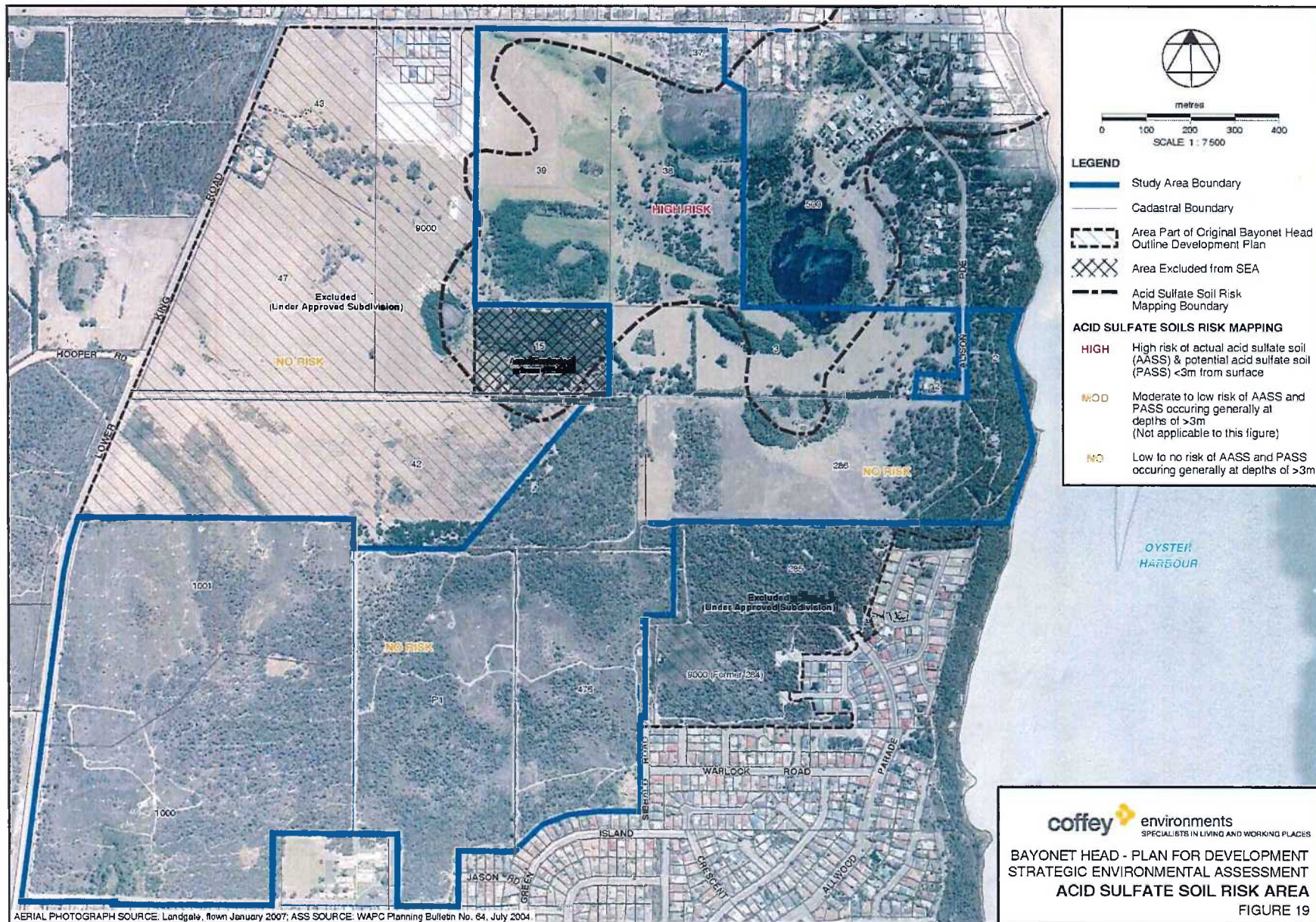
Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Figure 1: Conservation Area and Foreshore Reserve Boundary



Figure 2: Acid Sulfate Soils Risk Mapping within the SEA Area.



Co-ordinates defining the *Conservation Area* and *Foreshore Reserve* dataset are prescribed below, noting that the correct recreation of the boundary requires the sequential connection of the co-ordinates as per its co-ordinate number.

All co-ordinates are listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geodetic Datum of Australia 1994 (GDA94).

Co-ordinate List 1: Conservation Area (58.84 hectares)

Co-ordinate No.	Easting	Northing
1	585184.12	6129700.53
2	585383.89	6129699.49
3	585660.03	6129743.38
4	585658.94	6129550.96
5	585383.65	6129552.47
6	585383.32	6129353.34
7	585348.64	6129314.85
8	584946.27	6129314.85
9	584926.27	6129314.85
10	584526.71	6129314.85
11	584492.01	6129078.72
12	584209.05	6129078.72
13	584232.45	6129256.81
14	584282.88	6129640.58
15	584290.01	6129674.49
16	584297.14	6129708.41
17	584315.02	6129764.54
18	584318.09	6129771.77
19	584928.94	6129768.17
20	584938.95	6129768.11
21	584938.55	6129701.81
22	584948.55	6129701.76
23	585184.12	6129700.53

Co-ordinate List 2: Foreshore Reserve (4.75 hectares)

Co-ordinate No.	Easting	Northing
1	586425.06	6130244.46
2	586446.61	6130244.26
3	586420.12	6130177.27
4	586450.62	6130043.11
5	586473.59	6129942.35
6	586413.88	6129759.09
7	586353.72	6129759.44
8	586350.46	6129759.46
9	586331.51	6129759.57
10	586246.80	6129760.07
11	586317.71	6129817.58
12	586356.47	6129849.02
13	586362.86	6129866.33
14	586387.58	6129927.18
15	586391.96	6129942.50
16	586384.45	6129959.55
17	586307.52	6129968.52
18	586307.12	6129990.05
19	586308.80	6130004.18
20	586309.23	6130017.27
21	586355.97	6130017.53
22	586378.99	6130027.73
23	586381.15	6130039.14
24	586383.47	6130054.18
25	586370.38	6130071.43
26	586362.38	6130083.33
27	586351.23	6130106.08
28	586342.91	6130141.53
29	586342.74	6130178.16
30	586348.16	6130208.02
31	586361.49	6130245.03
32	586425.06	6130244.46

END OF CO-ORDINATE LISTINGS

Schedule 2

Term or Phrase	Definition
Approved Acid Sulfate Soils Management Plan	The Acid Sulfate Soils Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 10-2. The DER will be consulted in the CEO's determination process
Approved Conservation Area Management Plan	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4. DPaW will be consulted in the CEO's determination process.
Approved Conservation Area Monitoring Program	The Conservation Area Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 7-4(7).
Approved Construction Management Plan	The Construction Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 9-2. DPaW will be consulted in the CEO's determination process.
Approved Foreshore Management Plan	The Foreshore Management Plan for which the proponent has received written notification from the CEO that it meets the requirements of condition 8-3. DPaW will be consulted in the CEO's determination process.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or his delegate.
Conservation Area	The 58.84 hectare area depicted as the "Conservation Area" in Figure 1 of Schedule 1.
DER	Department of Environment Regulation
DPaW	Department of Parks and Wildlife
EPA	Environmental Protection Authority
Foreshore Reserve	The 4.75 hectare area depicted as the "Foreshore Reserve" in Figure 1 of Schedule 1.
Section 45A Notice	Means the notice issued by the Minister under section 45A of the <i>Environmental Protection Act 1986</i>
The Act	<i>Environmental Protection Act 1986</i>

Notes

The following notes are provided for information and do not form a part of the implementation conditions of the Statement:

- The proponent for the time being nominated by the Minister for Environment under section 38(6) of the Act is responsible for the implementation of the proposal unless and until that nomination has been revoked and another person is nominated.
- If the person nominated by the Minister, ceases to have responsibility for the proposal, that person is required to provide written notice to the EPA of its intention to relinquish responsibility for the proposal and the name of the person to whom responsibility for the proposal will pass or has passed. The Minister for Environment may revoke a nomination made under section 38(6) of the Act and nominate another person.
- To initiate a change of proponent, the nominated proponent and proposed proponent are required to complete and submit *Post Assessment Form 1 – Application to Change Nominated Proponent*.
- The General Manager of the Office of the EPA was the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the Act at the time the Statement was signed by the Minister for Environment.

