

A Concise Overview of the Steel River Project



For marketing enquiries contact:

John Parnham, Ray White Commercial Newcastle
Telephone: + 61 2 4974 3011
Mobile: + 61 0 411 474 430

Domaine Steel River Pty Ltd

Suite 1, 265 Wharf Road
Newcastle NSW 2300
Telephone: + 61 2 4915 2600
Email: alan_norton@mirvac.com.au
Website: www.steelriver.com.au
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Disclaimer:

This brochure is only what it claims to be; a concise overview of the concept, provisions, approval process and design and construction guidelines of the Steel River Project estate. Its purpose is to give prospective purchasers a general understanding of the Steel River Project, and the benefits to be gained from purchasing land within the estate. Whilst every effort has been made to accurately reflect the provisions discussed, this document should not be relied on as being definitive.

For the complete and final position on each issue discussed, reference should be made to the Contract of Sale, the Development Deed, the Zone 4(c) in NCC LEP 2003, the Strategic Impact Assessment Study; and the Community Management Statement.

1.0 Overview of Terms and Conditions

1.1 Overview

Situated less than 10 kilometres from Newcastle's central CBD, the Steel River Project is located in the heart of the Newcastle industrial area and comprises approximately 104 hectares.

The original land owner was BHP who remediated the site to an approved RAP between 1997 and 2000. BHP then sold the site to Steel River Pty Ltd who developed and marketed the site until July 2005 at which time the remainder (some 57.3 hectares) was purchased by Domaine Property Funds Limited, now Mirvac Domaine Property Funds Limited (**Mirvac Domaine**). Mirvac Domaine is committed to the vision for Steel River to become a leading centre for industry in the lower Hunter Region.



Steel River Project in March 2007

1.2 Zoning

The land is zoned 4(c) Steel River zone, under Newcastle Local Environmental Plan 2003 (LEP). See website www.ncc.nsw.gov.au/council/plans/development/lep2003

Details of the activities which are permitted with and without development consent under this zoning are found in the LEP, but in summary the zone is aimed at:

- a) facilitating employment generating industrial, research, service or storage activities; and
- b) allowing commercial, retail or other development where it is ancillary to and compliments and enhances the primary employment objective.

Associated with the zone is a unique Strategic Impact Assessment Study (**SIAS**) which is essentially an environmental impact study before the event. This defines environmental entitlements, design guidelines and social objectives for the estate.

Development applications (**DAs**) complying with the LEP and SIAS are normally dealt with under delegated authority by Newcastle City Council (**NCC**) planning officers. A special provision exists that where the DA is supported by a report prepared by an independent assessor, called a “Qualified Person”, the proposal can be approved in 28 days from DA lodgement.

However, the additional cost of this provision is usually only justified where the proposal has complex environmental implications such as for Designated Developments under Environmental Planning & Assessment Regulations 2000 Schedule 3. Further, the NSW Government has issued a regulation that provides a mechanism for the de-designation of scheduled developments on the Steel River estate that comply with the findings of the SIAS. This regulation is called the Environmental Planning and Assessment Amendment (Steel River Project) Regulation 1998. See section 1.4.8 for further information.

1.3 Site History

Until the end of the mid 1950s, what now is the Steel River estate consisted of a river bank, a shallow channel called Platt’s Channel, a low mud flat called Spit Island, and on what is now the south east hill area, there was an orphanage run by the Roman Catholic Church.

Following an exchange of land with the NSW Government that led to the establishment of Newcastle University, BHP was granted ownership of the area except the orphanage site, and began filling the channel with steel making by-products; mostly steel making slags and coal washery reject. A little later BHP also acquired the orphanage site and used the buildings for overflow office accommodation until the early 1990s.

Planning for the closure of BHP’s Newcastle steel making operations in 1999 confirmed that this land was surplus to BHP’s operations and identified a need for a new industrial initiative in Newcastle.

With the collaboration of the community, City, State and Federal Governments, this land became the Steel River Project.

In parallel, comprehensive studies of the environmental aspects of the site led to the development and approval of a Remediation Action Plan/Environmental Impact Statement (**RAP/EIS**) to ensure the site is suitable for industrial development. This plan adopted the proven “cap and contain” strategy. As such there is no risk to human health provided the integrity of the remediation strategy is maintained.

Site remediation and initial infrastructure development was completed at the end of 2000.

A comprehensive Remediation Validation report on the Steel River Site was prepared for BHP Billiton (**BHPB**) by URS and accepted by NCC in December 2004. This public document concluded “in accordance with RAP/EIS, the site is suitable for industrial development, provided that the developments are conducted in accordance with Site Development Guidelines.”

For marketing purposes these guidelines were renamed “Construction Guidelines” and copies are included with all contracts of sale.

As at May 2008, construction of Stage 8 is complete and planning for the balance of the estate has commenced. The site plan on this website shows the planned final layout.

1.4 Nature of Contamination

The site has been filled over some 30 years with waste products from the steel making process, mostly steel making slags and coal washery reject material. Because much of this material does not occur naturally and has been introduced to the site, the site falls under the definition of a “Contaminated Site”.

The fill materials used are similar to those typically found under any of the reclaimed industrial land along the southern bank of the south arm of the Hunter River. The only minor area of concern was isolated low level concentrations of Poly Aromatic Hydrocarbons (**PAHs**) arising from tar – a coke ovens by-product also used on road surfaces.

According to expert opinion, if left undisturbed, the contaminated material at Steel River is not a threat to human health. The approved and implemented remediation strategy is to contain these contaminants where they are, and cap them so there is an impervious layer separating the underlying fill/contaminants from the surface.

1.5 The Steel River Product

Development of the land on the individual lots which comprise the Steel River industrial estate is subject to an integrated planning and legal structure designed to deliver an optimum product and to ensure the integrity of the remediation strategy. The elements of the Steel River product follow.

1.5.1 Protection from Contamination Liability

BHP, the original owner of the site, accepts in perpetuity, any contamination liability arising out of its activities on the site or materials it has deposited on the site that result in an investigation order or clean up order from the Environmental Protection Authority (**EPA**). Appropriate documentation to this effect accompanies all sale contracts in the form of the Development Deed.

To assist Steel River owners and occupiers in maintaining this protection, Construction Guidelines are included in the Development Deed to assist in preserving the integrity of the remediation strategy.

Should an owner carry out development which penetrates the cap, for example to excavate a pit to house production equipment, and if contaminated material is encountered, there are containment areas for any such contaminated spoil that might arise and the Construction Guidelines provide advice on how to restore the cap. However, to date there has not been any such instances.

1.5.2 Certification Process

To provide documentary evidence that the RAP/EIS has not been compromised a certification process proposed by BHPB has been adopted by NCC. The four levels are summarized as follows:

- Certificate A is essentially for all of Steel River and confirms that the capping and regrading of the site were completed in general accordance with the requirements of the RAP/EIS.

- Certificate B is similar but lot specific. It contains a description of the status of the remediated surface and specifies what is known about subsurface conditions to aid in the environmental management procedures during development. The Certificate B states that the subject lot as remediated is suitable for certain types of development.

Certificate B is prepared as a condition of Council's subdivision approval and copies of both Certificates A and b are provided by the developer to the purchaser as soon as they are available.

- Certificate C is commissioned by the owner as part of the supporting documentation for a DA. It is issued after a review of the proposed development. Essentially it needs to say the development as planned will not compromise the objectives of the RAP/EIS. A required supporting document is a Site Management Plan (**SMP**) that relates to the Construction Guidelines and defines how any contamination beneath the remedial surface (if encountered) will be managed plus record collection requirements and exception management controls.
- Certificate D is also the owner's responsibility and required by NCC before an Occupancy Certificate is issued. It needs to state that the construction has been carried out in accordance with the controls identified in the SMP and any specific consent conditions.

1.5.3 Charge

Should an owner decide to sell their land at some future time, the position on liability for breach of the Construction Guidelines is protected by a caveat against the title to the land (**charge**). The purpose of the charge is to give the developer a caveatable interest in the lot being purchased. The caveat is a prompt so that on any future re-sale of the lot, the new owner enters into a similar deed with BHPB and the developer. It is not a financial charge.

1.5.4 Flexible Lot Sizes

Steel River can accommodate a variety of lot sizes ranging from 4,000 square metres up to about 5 hectares. It is anticipated most will fall between 4,000 square metres and 3 hectares. Mirvac can also arrange for developments to be leased to a tenant.

Your Steel River contact person will discuss your needs and endeavour to provide you with your optimum lot size and purchase arrangement.

1.5.5 Services

As would be expected in a planned industrial estate, electrical power, potable water, sewage and telecommunications are available to each lot and natural gas is available in the estate and can be connected by arrangement with Agility, the network owner. Provision has been made for fibre optics with the installation of a rim station and future connection on demand.

1.5.6 Environmental Envelope

The LEP refers to a defined environmental envelope, consisting of quantitative and qualitative standards and objectives to guide developments on the estate. Collectively, these criteria define the total impact the estate will have on the local environment. These have been documented in the SIAS and given the force of law as an LEP.

The environmental envelope relates to the areas of:

- Environmental management
- Air quality
- Water quality
- Noise emissions
- Energy management
- Waste Management
- Socio-economic and cultural objectives
- Development guidelines, and
- Hazards and risk management

1.5.7 Community Title

The estate has been subdivided under the community titles legislation. This legislation was created to facilitate the level of development sophistication required for this type of estate. The Community Association was constituted on registration of the community plan. All land owners in the estate are members of the Community Association with voting rights proportional to their land area.

The Community Association has the responsibility for overseeing, monitoring and administering the Environmental Envelope. For example:

- An air monitoring station is maintained and operated under contract by the Community Association to monitor air emissions from the estate;
- Periodic noise monitoring is conducted to monitor noise generation and to validate computer projections.

A levy on owners funds the administrative costs of the Community Association.

To enable the Developer to continue to progress the development of the estate, owners are required to give the Developer their voting rights at meetings of the Community Association when dealing with certain restricted matters relating to the development of the estate. These restricted matters become less as stages are completed and fall away totally when the estate is fully developed.

1.5.8 Environmental Entitlements Granted with Land Purchase

The concept of environmental entitlements has been introduced to describe the level of air emissions and noise emissions permitted from each lot in the estate. Air emissions are apportioned on an area basis. Noise on the basis of the sound power levels which will not exceed the set standard at the external monitoring points. This is a complex logarithmic relationship and requires calculation by a specialist consultant.

An Environmental Entitlements Certificate setting out these entitlements is issued to each lot owner on completion of their contract to purchase a lot in the estate.

The Community Association is ultimately the custodian of the Environmental Envelope for Steel River estate. The sum of the environmental entitlements for each of the lots in the estate must not exceed the environmental entitlements permitted by the LEP. For this reason records of each allocation and noise compliance are held by the Developer and ultimately the Community Association's Managing Agent.

The Community Management Statement contains procedures under which a development application for development of a lot must be supported by certification from the Community Association detailing the air emission and sound power entitlements for that lot. The estate developer will arrange this statement on request.

Additionally the SIAS requires Council to seek the view of the Community Association as to whether the development complies with the Environmental Envelope. The Association's response will be based on its knowledge of the project and a review of DA submission including the statement of Environmental Effects. It would be normal to expect that close collaboration between purchaser and developer in the period leading to the contract of sale and development application preparation will enable this support to be forthcoming.

1.5.9 28 Day Approval Process

The 28 Day Approval Process is a major break through in the approval process for any such complex developments because proponents can design their development to comply with pre-approved environmental outcomes and avoid having to incur the costs, time and process of a full Environmental Impact Statement.

28 Day Approval Process

Where a development complies in all relevant respects with the Environment Envelope, it is regarded as being a complying development.

The consent authority for Steel River is NCC. NCC has resolved that complying developments, including designated developments, may be dealt with under delegation within 28 days of lodgement of an application where accompanied by a report from a Qualified Person certifying compliance with the SIAS and environmental entitlements.

However, the additional cost of this provision is usually only justified where the proposal has complex environmental implications such as for Designated Developments under Environmental Planning & Assessment Regulations 2000 Schedule 3.

Where an application is for a relatively simple development and the 28 Day Approval Process is not used, the approval process defaults to the provisions of the Act but the application is still handled under delegation. The approval period depends on the work load and Council staff, but three to four months can be taken as a guide.

1.5.10 Designated Developments

Developments designated under Schedule 3 in the Environmental Planning and Assessment Act 1979 Regulation may be de-designated when built on the Steel River estate. Because the SIAS is effectively an Environmental Impact Statement, and prepared to the same rigor, the NSW Government has made provision under the regulation to de-designate any Schedule 3 development that in the opinion of the Director of the Department of Urban Affairs and Planning, complies with the findings of the SIAS. This regulation is called the Environmental Planning and Assessment Amendment (Steel River Project) Regulation 1998. Under this concession, approvals are assessed under delegation by NCC. Approvals can normally be provided in 28 days.

To receive this concession, applications must follow the process outlined in Section 10.2.2 of the SIAS and be supported by a Qualified Person's report certifying that proposed development complies with the requirements of the SIAS.

1.5.11 EPA Licences

Industries identified in Schedule 1 of the Protection of the Environment Operations Act 1997, may be required to obtain environment protection licences from the EPA before they commence operation. It is expected the emission limits in these licences will be consistent with:

- The Protection of the Environment Operations Regulations applicable at the time of approval, and
- The ambient air quality and noise standards identified in the SIAS.

The EPA has indicated that, subject to the constraints of the law, licence conditions will be consistent with the environmental entitlements allocated to each lot in the estate.

1.5.12 Qualified Person

The LEP provides that the consent authority should grant consent to the development if it is satisfied that a study prepared for the applicant by a Qualified Person demonstrates that:

- (a) the development is consistent with the objectives of Zone No. 4(c);
- (b) the development complies with the environmental envelope; and
- (c) the environmental effects of any aspect of the development relating to air quality, noise emissions or water quality that have not been addressed in the SIAS, meet relevant standards determined by the Environmental Protection Authority.

A Qualified Person is one:

- a) who holds qualifications in a relevant field, and
- b) who has been registered with the consent authority for the relevant purpose.

In addition to qualifications, the consent authority also looks for experience and an appropriate level of insurance cover for professional indemnity.

Whilst the Qualified Person is retained by the applicant to evaluate their proposal, the Community Association relies on this person to ensure that entitlements are not exceeded and the Environmental Envelope is not compromised.

Council relies on the independence and experience of the Qualified Person to maintain the integrity of the 28 Day Approval Process.

1.5.13 The Approval Process

Whilst simple, the process is “new” and “different”. As part of its service, Mirvac Domaine provides support in helping clients understand the LEP and SIAS and gaining the maximum benefit from this new approval process.

From the perspective of an applicant, the advantage of the process is the early advice of the environmental outcomes to be achieved, the collaborative involvement and pre-commitment of relevant agencies, and the initiation of the process to de-designate the development if needed. Providing the development application follows the procedures prescribed for the estate, development approval should be forthcoming.

The level of investigation involved in the Qualified Person's report will depend on the complexity and impact of the proposed development. Fundamentally, the Qualified Person must answer the questions raised in the Development Assessment Chart (section 10 in the SIAS). To do so for a "simple development" may be no more than the equivalent to the work involved in a "Statement of Environmental Effects". However, for more complex developments involving for example emissions and heavy industry, the Qualified Person's report must be backed by expert opinion and analysis, so that the Qualified Person can competently and honestly answer the matters raised.

2.0 Design Guidelines

The Steel River LEP imposes design guidelines on all developments within the estate. These should be considered as being flexible development standards, rather than absolute requirements. The thrust of having design guidelines is to:

- Ensure a development of a consistently high standard, which protects and enhances the investment of businesses within the Steel River Project;
- Be an aid to those responsible for an individual project development within the site;
- Promote quality design;
- Achieve a consistent style, character and quality of product; and
- Assist in the achievement of a safe, secure and enjoyable work environment.

The Steel River Community Association may support or oppose the design outcome of a project, as is its democratic right, but it is not an approval body. The approval body for all developments and associated design with the Steel River estate is NCC.

Specific guidelines for the estate and individual lots on the estate are found in section 8.9.2 of the SIAS. Following is a summary of lot provisions:

- Allotment size and configuration: 3,000 square metre minimum.
- Lot layout: visual aspects, e.g. loading, storage and external work areas located at the rear of buildings.
- Lot coverage: total ground floor area not to exceed 70 per cent of the lot area.
- Floor space ratio: 1.5:1 maximum.
- Set backs: general minimum 10 metres at street front and no less than 6 metres at side and rear boundaries.
- Building form: to provide buildings that have a strong theme or design concept through the element of form that can carry a palette of materials in an articulated fashion.
- Building height: to create a harmonious streetscape and visual environment. Generally street frontages should be more than 6.5 metres in height up to 12 metres. Greater than 12 metres is permitted when "well set back".
- Building address: clearly defined and articulated.
- Storage and work areas: out of sight.
- Building materials: innovative and contemporary, energy efficient and low maintenance.
- Building colour schemes: Consistent with a coordinated and harmonious appearance.
- Energy efficient building designs: encouraged.
- Landscape development: consistent overall landscape treatment.
- Flora and fauna protection: use of native plants to improve habitat value, especially for birds.

- Fencing and screening: to ensure fencing and screen walls contribute to the amenity of the estate and meet the individual operational requirements of industries.
- Lighting: a coordinated approach that provides safety but is not distracting.
- Pedestrian and cycle access: a Community Association responsibility.
- Signage: coordinated signage.

3.0 Eco-Industrial Concept

Steel River is zoned 4(c) (Eco-Industrial zone). The term industrial ecology, and the associated term eco-industrial, describes the symbiotic interrelationships that can occur within and between the components of industrial complexes. An industrial complex modelled on natural systems will have a similar flow of resources, materials and energy where ultimately waste as an end-product pollutant ceases to exist. Simply put: one organisation's waste becomes another's raw material.

This concept needs to evolve over time, be regionally focused and have a firm economic basis.

The criteria for a successful industrial ecology environment are developing within the lower Hunter region with NCC taking a leading role in promoting a Resource Recovery Network.

The Steel River estate has been planned to accommodate this industrial ecology philosophy. Most importantly, an easement on the title for each lot benefiting all other lots, allows for pipelines connecting waste generators and resource users, to be laid across each lot in the minimum 5 metre setback at the front of each lot. This is expected to be of particular attraction to environmentally conscious organisations seeking to establish in close proximity to their by-product users or raw material generators.