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Bushfire Protection Assessment

Gillieston Public School redevelopment and new public preschool

School Infrastructure NSW (SINSW) on behalf of the NSW
Department of Education (DoE)

DOCUMENT TRACKING

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LIMITATIONS

The bushfire protection measures recommended in this report do not completely remove the risk to life and property, and they do not guarantee that a activity will not be impacted by a bushfire event. This is substantially due to the degree of vegetation management, the unpredictable nature and behaviour of fire, and extreme weather conditions.

Acknowledgements

This document has been prepared by Eco Logical Australia Pty Ltd with assistance from Johnstaff.

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Template 2.8.1

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Abbreviations

Abbreviation	Description
APZ	Asset protection zone
BAL	Bushfire Attack Level
BFPL	bush fire prone land
COLA	Covered Outdoor Learning Areas
DoE	NSW Department of Education
ELA	Eco Logical Australia Pty Ltd
FDI	Fire Danger Index
GIS	Geographic information system
IPA	Inner Protection Area
km	Kilometres
LGA	Local Government Area
m	metres
PBP	‘Planning for Bush Fire Protection 2019’ and ‘Appendix B of Addendum to Planning for Bush Fire Protection 2022’
REF	Review of Environmental Factors
RFS	NSW Rural Fire Service
SFPP	Special fire protection purpose
SINSW	School Infrastructure NSW

1. Introduction

1.1 Activity

The Gillieston Public School has been identified by the NSW Department of Education (DoE) as requiring redevelopment. The proposed Gillieston Public School redevelopment and new public preschool is driven by service need including increase in expected student enrolments and the removal of demountable structures and replacement with permanent teaching spaces. The existing heritage building will be retained.

The Gillieston Public School redevelopment and new public preschool comprises the following activity:

- Demolition and removal of existing temporary structures.
- Site preparation activity, including demolition, earthworks, tree removal.
- Construction of new:
 - 32 permanent general learning spaces and 3 support teaching spaces
 - Administration and staff hubs
 - Hall, canteen and library
 - Out of school hours care
 - Public preschool (standalone building for 60 places)
 - Covered Outdoor Learning Areas (COLAs)
 - Outdoor play areas, including games courts and yarning circle
 - New at-grade car parking
 - Extension of the existing drop-off / pick-up area and new bus bay
 - Realignment of the existing fencing
 - Associated stormwater infrastructure upgrades
 - Associated landscaping
 - Associated pedestrian and road upgrade activity

A site plan of the proposed activity is shown in Figure 1.

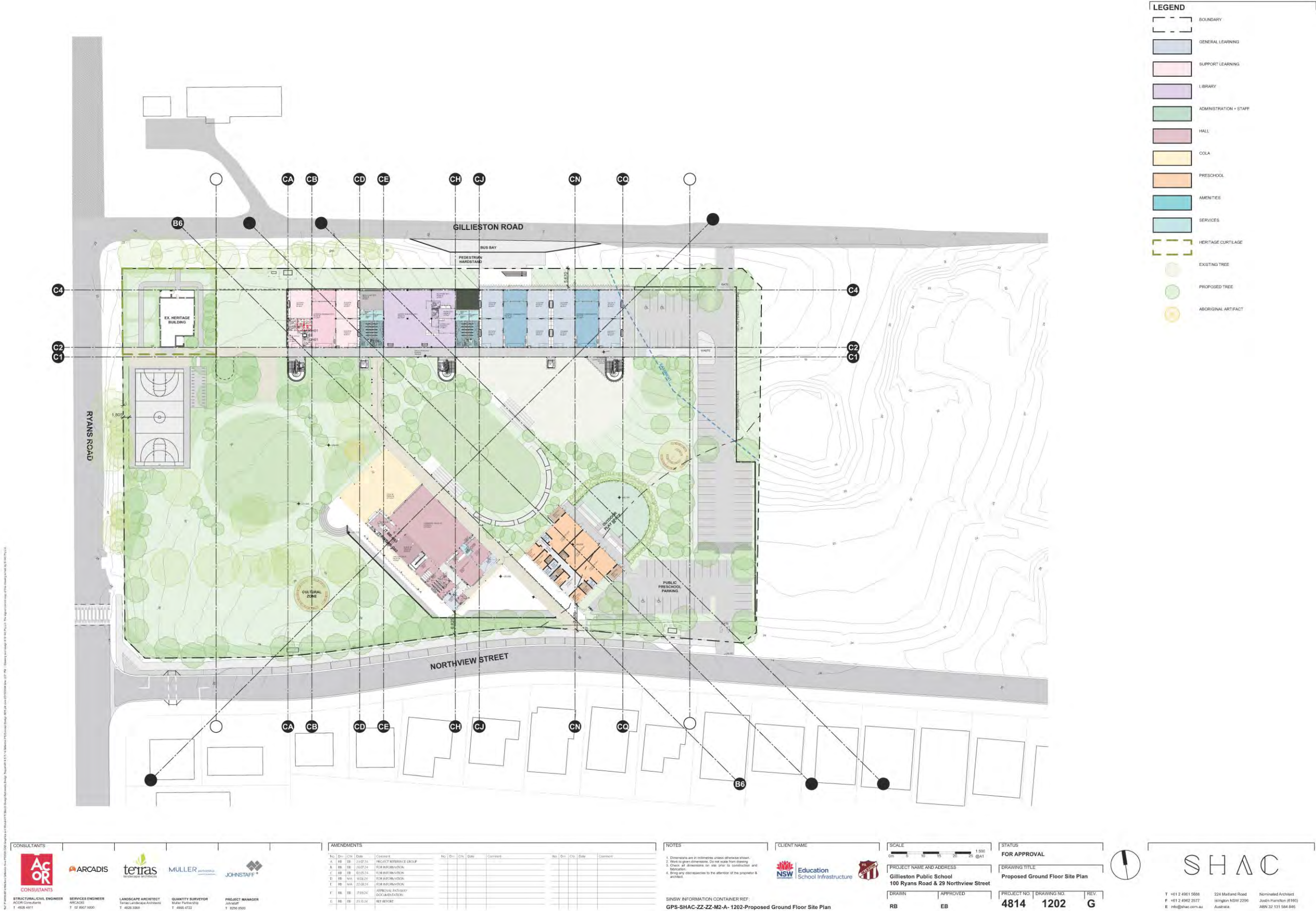


Figure 1: Site Plan (Source: SHAC)

2. Background

2.1 Introduction

This Bushfire Protection Assessment has been prepared by Eco Logical Australia Pty Ltd (ELA) on behalf of School Infrastructure NSW (SINSW) (the **Proponent**) to assess the potential environmental impacts that could arise from the activity of the Gillieston Public School at 100 Ryans Road, Gillieston Heights (Lot 51 DP1162489) and 19 Northview Street, Gillieston Heights (Lot 2 DP1308605) (the **Site**).

This report has been prepared to assess the proposed activity against *Planning for Bush Fire Protection* (RFS 2019), specifically Chapter 6 and *Appendix B of Addendum to Planning for Bush Fire Protection* (RFS 2022), collectively referred to as 'PBP'.

This report accompanies a Review of Environment Factors (REF) that seeks approval for the Gillieston Public School.

2.2 Significant of Environmental Impacts

Based on the identification of potential impacts and an assessment of the nature and extent of the impacts of the proposed activity, it is determined that all potential impacts can be appropriately mitigated to ensure that there is minimal impact on the locality, community and/or the environment.

2.3 Site Description

The Site is identified as 100 Ryans Road and 19 Northview Street, Gillieston Heights, legally described as Lot 51 DP 1162489 and Lot 2 DP 1308605.

The Site is located within the Maitland Local Government Area (LGA) and is zoned RU2 Rural Landscape and R1 General Residential zone under the provisions of the Maitland Local Environmental Plan 2011 (MLEP 2011).

Existing attributes of the subject site are noted as follows:

- The subject site exhibits an area of approximately 23,385 m² and is located in the suburb of Gillieston Heights;
- The subject site has a frontage to Ryans Road to the east, Gillieston Road to the north, and Northview Street to the south;
- In its existing state, the subject site comprises the existing Gillieston Public School. Existing school buildings are primarily located in the west portion of the subject site with a large area of open space situated in the eastern portion. There are limited permanent structures located on the subject site with thirteen (13) existing demountable classrooms currently occupying the subject site. Permanent buildings consist of the Main Administration Building, Original Brick Cottage, Library and GLS building located in the centre of the subject site; and
- Carparking is provided from Gillieston Road for staff. Pedestrian access is available via this main entrance from Gillieston Road and via a separate pedestrian-only access gates on Northview Street and Ryans Road.

The existing site context is shown in Figure 2 and Figure 3 below.

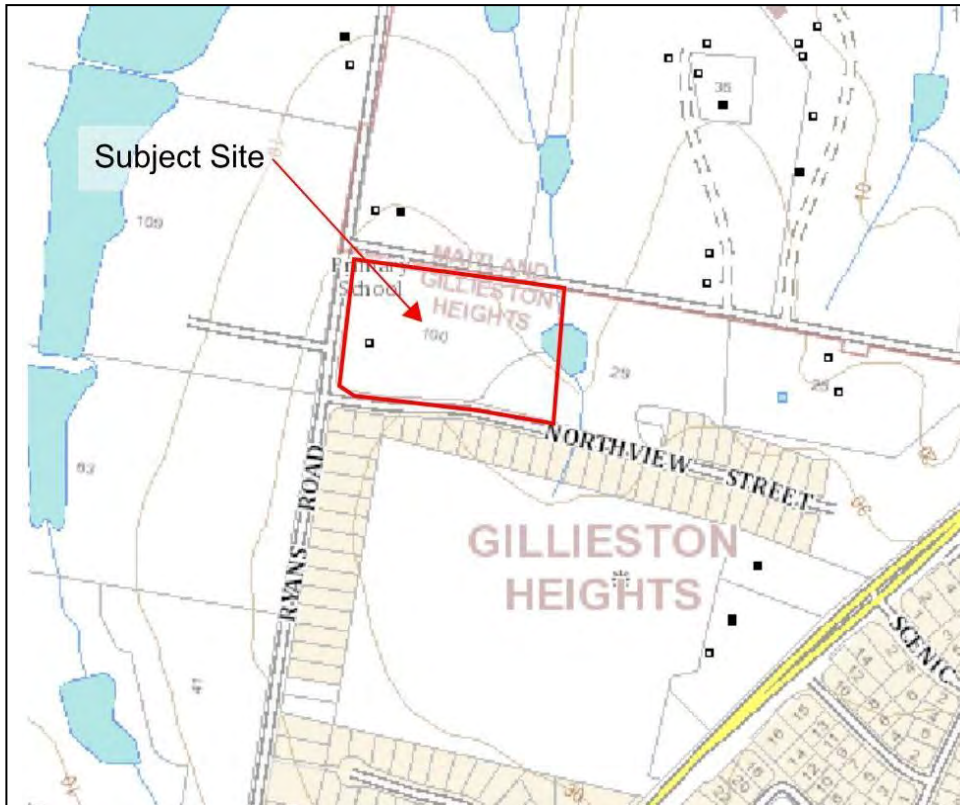


Figure 2: Cadastral Map (Source: NSW Spatial Viewer 2024)

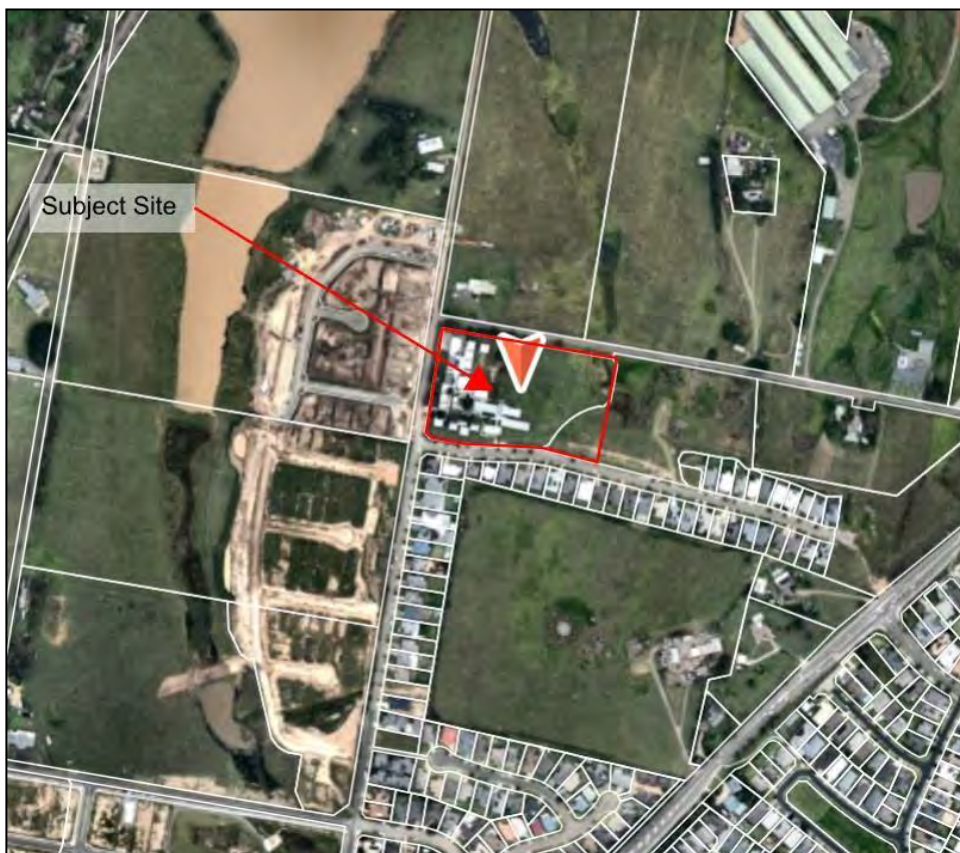


Figure 3: Site Aerial Map (Source: Nearmap 2024)

2.4 Bush Fire Prone Land (BFPL) Status

The proposed activity is located on land partially mapped as bush fire prone land (BFPL) as shown in Figure 4. Upon further assessment, it is identified that the BFPL map is outdated and does not reflect current activity and subsequent removal of bushfire prone vegetation. Further to this, mitigation measures to be implemented as part of this activity further reduce the extent of surrounding BFPL. This is detailed further in Section 5 and a revised BFPL map is shown in Figure 6.

2.5 Assessment Process

Being a special fire protection purpose (SFPP) development on BFPL, the activity was assessed in accordance with PBP. This report also responds to the Agency Advice issued by NSW Rural Fire Service (RFS) (dated 5 July 2024; Appendix C) and demonstrates that the activity, together with the recommendations within this report address the relevant specifications and requirements set out in Chapter 6 and the associated Addendum to PBP.

This assessment is based on the following information sources:

- Background documentation provided by Johnstaff;
- Information contained within the site plan from SHAC (Project No. 4814, Drawing 1202, Rev F, dated 17 September 2024 [Figure 1]);
- Geographic information system (GIS) analysis including online spatial resources (i.e. Google Earth, SIX Maps, Nearmap and the NSW Government Planning Portal); and
- Site inspection 27 November 2022.

Table 1 identifies the bushfire protection measures assessed and whether an acceptable or performance solution is being proposed.

Table 1: Summary of Bush Fire Protection Measures assessed

Bushfire Protection Measure	Acceptable Solution	Performance Solution	Report Section
Asset Protection Zones	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.1
Landscaping	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.2
Construction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.3
Access	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.4
Water supply	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.5
Electricity services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.6
Gas services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.7
Emergency management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.8

2.6 Significant Environmental Features

An assessment of significant environmental features, threatened species, populations or ecological communities under the *Biodiversity Conservation Act 2016* that may potentially be affected by the proposed bushfire protection measures has not been undertaken in this report as it is covered by other aspects of the planning approval process.

The impact footprint of the bushfire protection measures (e.g. Asset Protection Zone [APZ]) is identified within this report and therefore capable of being assessed by a suitably qualified person. DoE is the determining authority for this activity; they will assess more thoroughly any potential environmental issues.

2.7 Aboriginal Cultural Heritage

An assessment of any Aboriginal cultural heritage objects (within the meaning of the *National Parks and Wildlife Act 1974*) that may potentially be affected by the proposed bushfire protection measures has not been undertaken in this report as it is covered by other parts of the Review of Environmental Factors (REF) approval process.

The impact footprint of the bushfire protection measures (e.g. APZ) is identified within this report and therefore capable of being assessed by a suitably qualified person. DoE is the determining authority for this activity; they will assess more thoroughly any potential environmental issues.

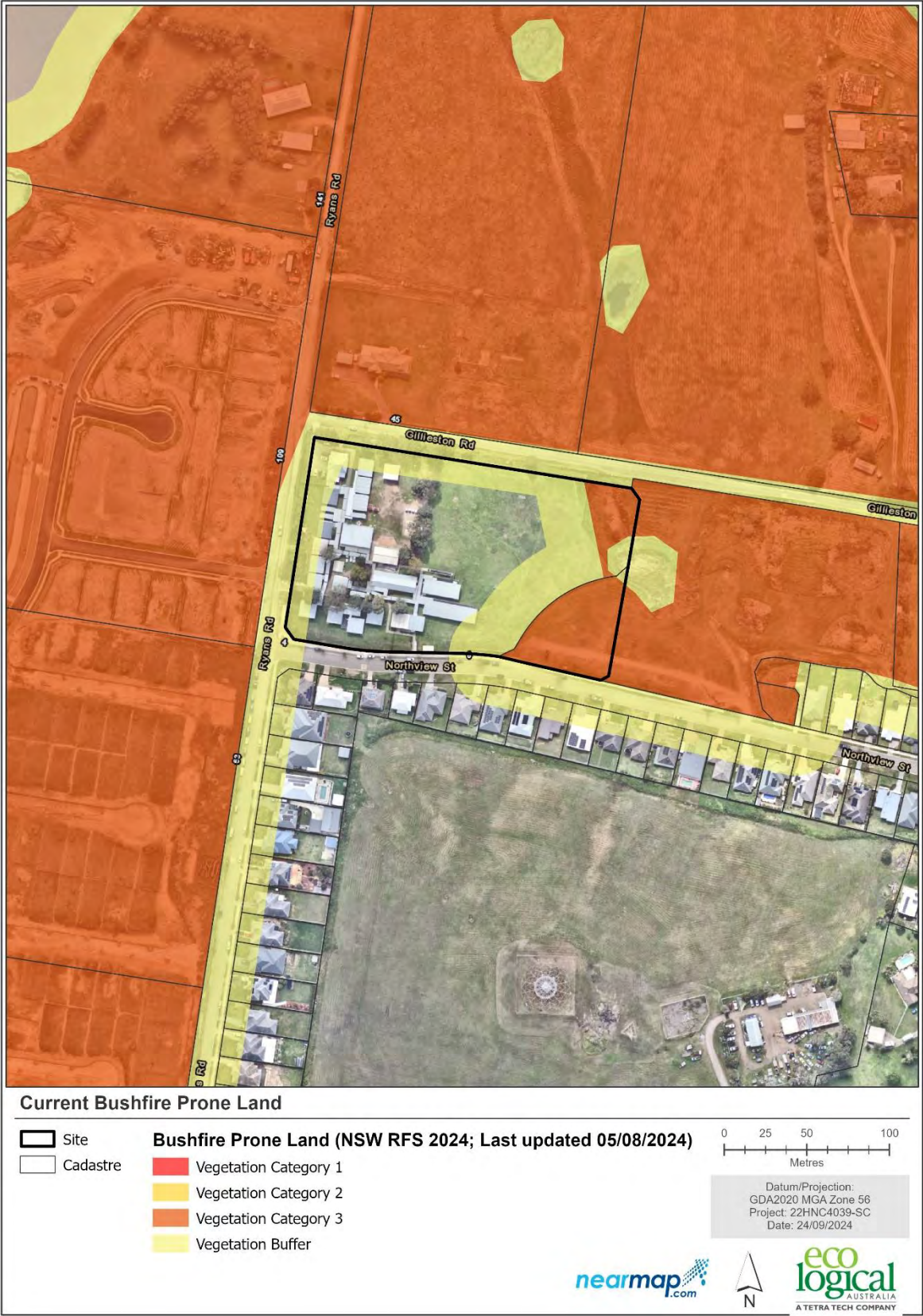


Figure 4: Bush Fire Prone Land (BFPL) (Source: RFS 2024a)

3. Bushfire Hazard Assessment

3.1 Process

The site assessment methodology from Appendix 1 of PBP has been used in this assessment to determine the required APZ and construction requirements.

Figure 5 and Table 2 show the effective slope and predominant vegetation representing the highest bushfire threat potentially posed to the activity from various directions.

The subject land is in the Maitland City Council LGA which has a Fire Danger Index (FDI) of 100.

In accordance with the grassland assessment process (A1.3) in Appendix 1 of PBP, where a 50 m APZ can be provided there is no further requirements however, a full assessment of the activity against PBP (Chapter 6 and Appendix B of the Addendum) has been undertaken in response to agency advice (Appendix C) and detailed in Section 4.

3.2 Vegetation Assessment

In accordance with PBP, the predominant vegetation has been assessed for a distance of at least 140 m from the site in all directions.

The predominant vegetation has been determined from Nearmap Imagery (2024) and verified from site inspection.

3.3 Slope Assessment

In accordance with PBP, the slope that would most significantly influence fire behaviour is determined over a distance of 100 m from the boundary of the proposed activity under the classified vegetation.

The effective slope has been determined from 2 m contour data.

3.4 Summary of Assessment

As shown in Figure 5, the bushfire prone vegetation identified within 140 m of the subject land is within the rural holdings to the north/north-east and east. Although there is strong evidence of ongoing agricultural management practices (i.e. grazing) across this land, it is conservatively assessed as a 'grassland' hazard (Photos in Appendix B). The effective slope ranges from '>0-5 degrees downslope' (north to north-east) to 'all upslopes and flat land' (east).

In all other directions there are managed lands in form of existing residential development (north and south), land cleared for residential development (west) and lands managed by Hunter Water (south).

The grassland vegetation to the north/north-east and east (ID Nos. 1, 2, 3 and 4 on Figure 5), is temporary in nature with subdivision development applications submitted but not yet determined or land subdivided for residential use but not yet developed. To ensure these areas will be managed until such time as future activity removes this temporary hazard, the DoE will implement temporary management arrangements as detailed in Section 4.1.

Following implementation of these measures there will be no grassland hazard within 100 m of the site or wooded vegetation within 140 m, with the nearest Category 1 vegetation approximately 2.5 km to the north-west.

The bushfire hazard assessment is summarised in Table 2 below.

Table 2: Bushfire hazard assessment and APZ requirements

Direction from site	Slope	Vegetation	SFPP APZ	Proposed APZ	Comment
North	>0-5 degrees downslope	Grassland	40 m	≥100 m	Land compulsory acquired by DoE. Temporary APZ provided within public road infrastructure and land subject to future development (refer Section 4.1).
North-east	>0-5 degrees downslope	Grassland	40 m	≥100 m	Temporary APZ provided within land subject to future development (DA 2019-278). Temporary APZ to be secured under Deed of Agreement to Grant Easement (refer Section 4.1).
East	All upslopes and flat land	Grassland	36 m	≥100 m	Temporary APZ provided within land subject to future development (DA 2019-278). Temporary APZ to be secured under Deed of Agreement to Grant Easement (refer Section 4.1).
All other directions	Managed land for greater than 100 m				

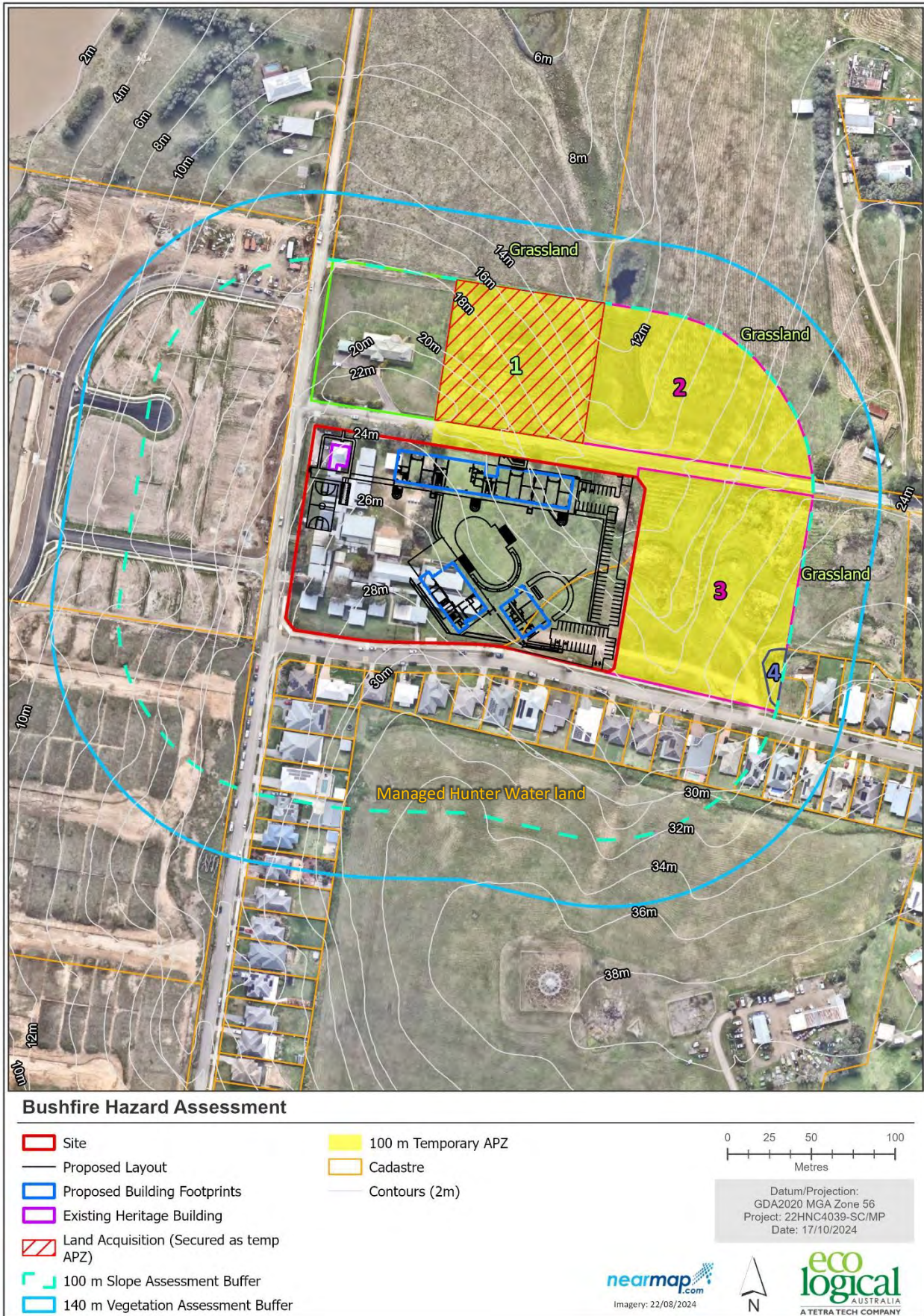


Figure 5: Bushfire hazard assessment (Source: ELA)

4. Bushfire Protection Measures

In undertaking this assessment, it should be noted the site is considered low risk based on the following mitigating factors:

1. The updated BFPL (being undertaken under a separate application, refer Section 5) will remove the BFPL mapping from the entire site;
2. There will be no grassland hazard within 100 m of the site;
3. There will be no wooded bushfire hazard within 140 m of the site;
4. The nearest Category 1 vegetation is approximately 2.5 km to the north-west; and
5. A1.3 of PBP stipulates the assessment process for grassland vegetation formation and clearly identifies that where a 50 m APZ is provided, there are no further requirements. This is not the Grassland Deeming Provisions located in 7.9 of PBP.

Based on the above, BPM are not applicable as the site will not be bushfire prone land and the APZ to be implemented far exceeds (more than double) those required for SFPP in grassland however, APZ and landscaping measures have been considered.

The following section demonstrates how the activity conforms or deviates from the specifications set out in Chapter 6 of PBP and Addendum to PBP in accordance with the Agency Advice issued by RFS (Appendix C).

4.1 Asset Protection Zones

Table 2 shows the dimensions of the required APZ and where relevant, information on how the APZ is to be provided is included. The footprint of the APZ is also shown on Figure 5.

As discussed in Section 3.4, given the uncertainty of when activity will occur on the lands to the north/north-east and east, the DoE will implement the temporary management arrangements outlined in Table 3 below. The draft 88b Instrument and Deposited Plan are provided in Appendix G.

Table 3: Proposed temporary vegetation management arrangements

ID No.	Sector	Address	DA	Hazard Assessment/Mitigation
1	North	56 Gillieston Road, Maitland 2/-/DP997874	DA 2021-2961	Compulsory land acquisition (refer Appendix D). Land to be managed as a temporary APZ 100 m from site boundary.
2	North/North-east	40 Gillieston Road, Maitland 1/-/DP986279	DA 2019-278	Land to be managed as a temporary APZ 100 m from site boundary. Temporary APZ to be secured under Deed of Agreement to Grant Easement (Appendix E).
3	East	19 Northview Street, Gillieston Heights 1/-/DP1308605	DA 2019-278	Land to be managed as a temporary APZ 85-100 m from site boundary. Temporary APZ to be secured under Deed of Agreement to Grant Easement (Appendix F).
4	East	31-33 Northview Street, Gillieston Heights	N/A	Land subject to future residential development, to be managed as a temporary

ID No.	Sector	Address	DA	Hazard Assessment/Mitigation
		2020-2021/-/1240320		APZ variable 4-11 m from western boundary of lot. Temporary APZ to be secured under Deed of Agreement to Grant Easement (Appendix F).

The lands will be managed to Inner Protection Area (IPA) specifications in accordance with Appendix 4 of PBP in perpetuity or until such time as the land is developed and the temporary hazard removed.

The compliance of the proposed APZ with Section 6.8.1 of PBP is documented in Table 4.

Table 4: APZ requirements and compliance (adapted from Table 6.8a of PBP)

Performance Criteria	Acceptable Solutions	Compliance Notes
The intent may be achieved where:		
Radiant heat levels of greater than 10kW/m ² (calculated at 1200K) will not experienced on any part of the building	The building is provided with an APZ in accordance with Table A1.12.1 in Appendix 1 of PBP.	Activity exceeds Acceptable Solution The available APZ exceeds 100 m, more than double that required under PBP (worst case 55 m). The minimum APZ is shown in Table 2 and Figure 5.
APZ maintenance is practical, soil stability is not compromised and the potential for crown fires is minimised.	The APZ is located on lands with a slope less than 18 degrees.	Complies APZ is not located on slopes greater than 18°.
APZs are managed and maintained to prevent the spread of fire to the building.	The APZ is managed in accordance with the requirements of Appendix 4 of PBP;	To comply APZ to be managed in accordance with PBP. Fuel management specifications provided in Appendix A.
	APZs are wholly within the boundaries of the development site; and	Satisfies Performance Criteria APZ located within public road infrastructure, lands acquired/owned by DoE and lands secured under Deed of Agreement to Grant Easement (refer Table 3).
The APZ is provided in perpetuity.	Other structures located within the APZ need to be located further than 6 m from the refuge building.	Not applicable No refuge buildings proposed.

4.2 Landscaping

The compliance of the proposed landscaping with Section 6.8.1 of PBP is documented in Table 5.

Table 5: Landscaping requirements and compliance (adopted from Table 6.8a of PBP)

Performance Criteria	Acceptable Solutions	Compliance Notes
The intent may be achieved where:		

Performance Criteria	Acceptable Solutions	Compliance Notes
Landscaping is managed to minimise flame contact and radiant heat to buildings, and the potential for wind-driven embers to cause ignitions.	Landscaping is in accordance with Appendix 4 of PBP; and	To Comply and/or Satisfying Performance Criteria Landscaping is to be designed to achieve bushfire design principles either by achieving acceptable solutions or addressing performance criteria.
	Fencing is constructed in accordance with Section 7.6 of PBP.	To comply Fencing to be constructed in accordance with Section 7.6 of PBP (see Section 4.3.1 for further details).

4.3 Construction Standards

The compliance of construction with Table 2 of Appendix B of Addendum to PBP (Appendix B) is documented in Table 6.

Table 6: Construction requirements and compliance (adopted from Table 2 of Addendum to PBP)

Performance Criteria	Acceptable Solutions	Compliance Notes
The intent may be achieved where:		
The proposed building can withstand bush fire attack in the form of wind, embers, radiant heat and flame contact.	A construction level of BAL-19 or greater under AS 3959 and Section 7.5 of PBP is applied.	Not applicable BPM is not provided based on the following: <ol style="list-style-type: none"> 1. The updated BFPL (being undertaken under a separate application, refer Section 5) will remove the BFPL mapping from the entire site; 2. There will be no grassland hazard within 100 m of the site; 3. There will be no wooded bushfire hazard within 140 m of the site; 4. The nearest Category 1 vegetation is approximately 2.5 km to the north-west; and 5. NSW RFS clearly states in PBP that it understands that grassland has a different risk profile than other vegetation types and “embers produced by grass fires are smaller and fewer in number than those produced from forest fires.” In consideration of this PBP notes under the grassland assessment provisions of A1.3 that no measures are required if a 50 m APZ is provided. In this case an APZ double this requirement has been provided for.

4.3.1 Fences and Gates

To comply with Section 7.6 of PBP, all fencing and gates are to be constructed of hardwood or non-combustible material. Where fencing is within 6 m of a building, they should be made of non-combustible material only.

It is recommended all fencing within 6 m of buildings is made of non-combustible material.

4.4 Access

The activity does not include construction of any public road infrastructure and is bound the existing public road network of Gillieston Road (north), Northview Street (south) and Ryans Road (west), as shown in Figure 1 and Figure 5.

The design meets the PBP performance criteria under Table 3 of Appendix B of Addendum. The PBP performance criteria for SFPP Class 9 access requirements is:

Firefighting vehicles are provided with safe, all-weather access to structures and hazard vegetation.

The following design features of the proposed activity are considered adequate to meet this performance criteria:

Firefighting vehicles are provided with safe, all-weather access to structures:

1. Structures along the northern, western and southern perimeter of the site will be accessible from the established public road infrastructure to north, south and west;
2. Internal vehicular access (carparking) along the eastern boundary provides access to the preschool building and eastern elevation of the school building to the north. The carparking provides 5.5 m wide aisles meeting minimum requirement for PBP non-perimeter roads; and
3. Additionally, safe pedestrian access/egress for firefighting and emergency personnel during operations is provided by the pathway network throughout the site (1.5 to 4 m wide non-combustible pathways) connecting all buildings to each other, the internal carparking and the public road network to the north (Gillieston Road), south (Northview Street) and west (Ryans Road) as shown in Figure 6.

Other site attributes:

1. To ensure a safe operational environment for firefighting personnel, the landscaping within the site will be designed and managed in accordance with PBP specifications as identified in Table 5.
2. The external (within the site) fire hydrants will be provided in accordance with AS2419:2021 (SA 2021) requirements. The hydrant booster is located to the south-west corner of the site (Figure 7) adjacent a hardstand area suitable for emergency services (Northview Street).

Firefighting vehicles are provided with safe, all-weather access to hazard vegetation:

1. The bushfire hazard to the north/north-east does not abut the proposed activity as such, firefighting vehicles will not need to enter the activity to access the bushfire hazard and will use the existing public road infrastructure (Gillieston Road).
2. The internal carparking within the east of the site (Figure 1) provides a defensible space along the eastern perimeter with direct access to the bushfire hazard provided by Gillieston Road (north) and Northview Street (south).

3. The established public road infrastructure traverses a grassland hazard only and therefore, unlikely to be cut in the event of bushfire.

A summary of the compliance assessment with PBP can be found in Table 7 below.

Table 7: SFPP Class 9 access requirements (adapted from Table 3 of Addendum to PBP)

Performance Criteria	Acceptable Solutions	Compliance notes
The intent may be achieved where:		
Firefighting vehicles are provided with safe, all-weather access to structures and hazard vegetation.	Vehicular access must be capable of providing continuous access for emergency vehicles to enable travel in a forward direction from a public road around the entire building; and	Achieves Performance Criteria Although not applicable, the design meets the performance criteria as detailed above.
	Must have a minimum unobstructed width of 6 m with no part of its furthest boundary more than 18 m from the building and in no part of the 6 m width be built upon or used for any purpose other than vehicular or pedestrian movement; and	Achieves Performance Criteria As above.
	Must provide reasonable pedestrian access from the vehicular access to the building; and	Complies <ul style="list-style-type: none"> Pedestrian access network (1.5-4 m wide) provided throughout the site (see Figure 6) connecting buildings to internal carparking (east) and established public road network to the north, south and west.
	Must have a load bearing capacity and unobstructed height to permit the operation and passage of fire fighting vehicles; and	Achieves Performance Criteria Although not applicable, the design meets the performance criteria as detailed above.
	Must be wholly within the allotment except that a public road complying with above may serve as the vehicular access or part thereof.	Achieves Performance Criteria As above.

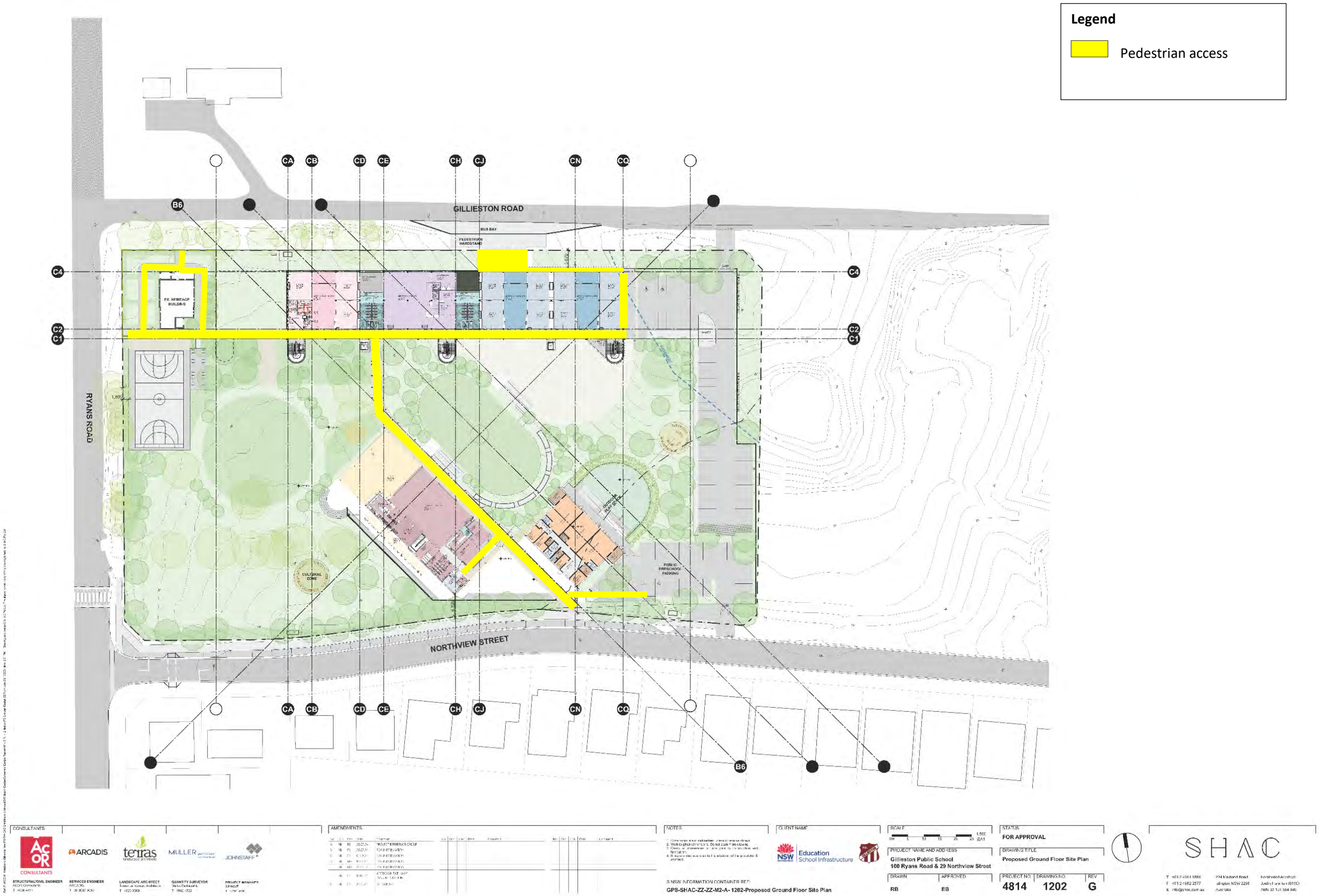


Figure 6: Pedestrian Access (Source: SHAC and ELA)

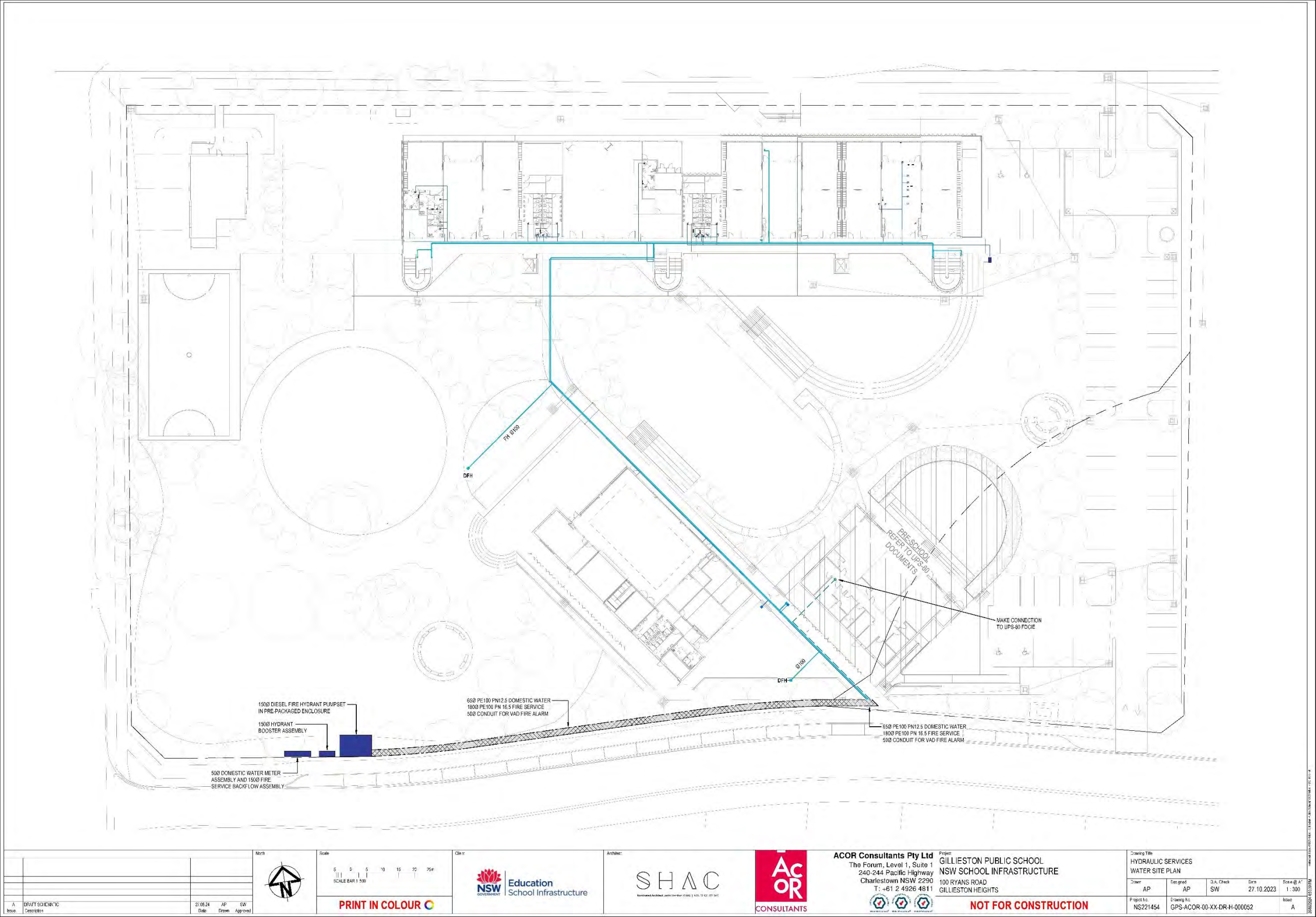


Figure 7: Hydrant Booster Location (Source: ACOR Consultants Pty Ltd)

4.5 Water Supplies

The compliance of the proposed water supply with Table 4 of Appendix B of Addendum to PBP is documented in Table 8.

Table 8: Water supply requirements (adapted from Table 4 of Addendum to PBP)

Performance Criteria	Acceptable Solution	Compliance Notes
An adequate water supply for firefighting purposes is installed and maintained.	Reticulated water is to be provided to the development, where available; and	Complies Activity serviced by a reticulated water supply.
	<p>Water for firefighting purposes must be made available and consist of:</p> <ul style="list-style-type: none"> • A fire hydrant system installed in accordance with AS2419.1; or • Where no reticulated water is available, a static water supply consisting of tanks, swimming pools, dams or the like, or a combination of these, together with suitable pumps, hoses and fittings, determined in consultation with NSW RFS that; • is capable of providing the required flow rate for a period of not less than 4 hours; or • has a volume of 10,000 litres for each occupied building. 	To comply Fire hydrants will be provided in accordance with AS2419:2021 (Figure 7).

4.6 Electricity Services

The compliance of the proposed supply of electricity services with Section 6.8.3 of PBP is documented in Table 9.

Table 9: Assessment of requirements for the supply of electricity services (adapted from Table 6.8c of PBP)

Performance Criteria	Acceptable Solution	Compliance Notes
Location of electricity services limits the possibility of ignition of surrounding bush land or the fabric of buildings.	Where practicable, electrical transmission lines are underground;	Complies Electricity services to the site are located underground.
	<p>Where overhead, electrical transmission lines are proposed as follows:</p> <ul style="list-style-type: none"> • Lines are installed with short pole spacing (30 m), unless crossing gullies, gorges or riparian areas; and • No part of a tree is closer to a power line than the distance set out in ISSC3 Guide for the Management of Vegetation in the Vicinity of Electricity Assets (ISSC3 2016). 	Not applicable

4.7 Gas Services

The compliance of the proposed supply of gas services (reticulated or bottle gas) with Section 6.8.3 of PBP is shown in Table 10.

Table 10: Assessment of requirements for the supply of gas services (adapted from Table 6.8c of PBP)

Performance Criteria	Acceptable Solution	Compliance Notes
Location and design of gas services will not lead to ignition of surrounding bushland or the fabric of buildings.	<ul style="list-style-type: none"> Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 – The Storage and handling of LP gas, the requirements of relevant authorities, and metal piping is used; All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 m and shielded on the hazard side; Connections to and from gas cylinders are metal; Polymer-sheathed flexible gas supply lines are not used; and Above-ground gas service pipes are metal, including and up to any outlets. 	<p>To comply (if installed)</p> <p>If installed, reticulated or bottled gas will be required to be installed and maintained in accordance with requirements of relevant authorities i.e. AS/NZS 1596:2014 – The Storage and handling of LP gas.</p>

4.8 Emergency and Evacuation Planning

The school will need to comply with current DoE emergency management policy and requirements including preparation /update of the existing Emergency Management Plan and Bushfire and Grassfire Response Plan as required.

5. Revised Bush Fire Prone Land Mapping

As per Section 2.4, the current BFPL map (Figure 4) does not reflect the approved activity of surrounding land and subsequent removal or management of bushfire prone vegetation as identified in Section 3.4. Furthermore, the vegetation management to be implemented as part of this activity (detailed in Section 4.1) further reduces the extent of surrounding BFPL as such, an update to the BFPL (ELA 2024b) is being undertaken under a separate application in accordance with the RFS document *Guide for Bush Fire Prone Land Mapping* (RFS 2015) and also considered the draft release of the *Guide for Bush Fire Prone Land Mapping* (RFS 2024b). The BFPL mapping update is presented in Figure 8 and includes the following changes:

- Removal of Vegetation Category 3 to the west of the site that has been cleared for residential development (subdivision currently under construction) as per section 7.1.2 of the *Guideline for Bush Fire Prone Land Mapping* (RFS 2015).
- Refinement of Vegetation Category 3 over land to the north (Lot 2/-/997874) to reflect land currently developed and managed as per section 7.1.2 of the *Guideline for Bush Fire Prone Land Mapping* (RFS 2015).
- Refinement of Vegetation Category 3 to the north (Lot 2/-/997874), north-east (Lot 1/-/986279) and east (Lot 1/-/1308605 and Lots 2020-2021/-/1240320) to reflect land to be managed by DoE through either compulsory land acquisition or Deed of Agreement to Grant Easement (refer Section 4.1) as per section 7.1.2 of the *Guideline for Bush Fire Prone Land Mapping* (RFS 2015).

The methodology within the draft release of the *Guide for Bush Fire Prone Land Mapping* (RFS 2024b) will not result in any changes to the above assessment.

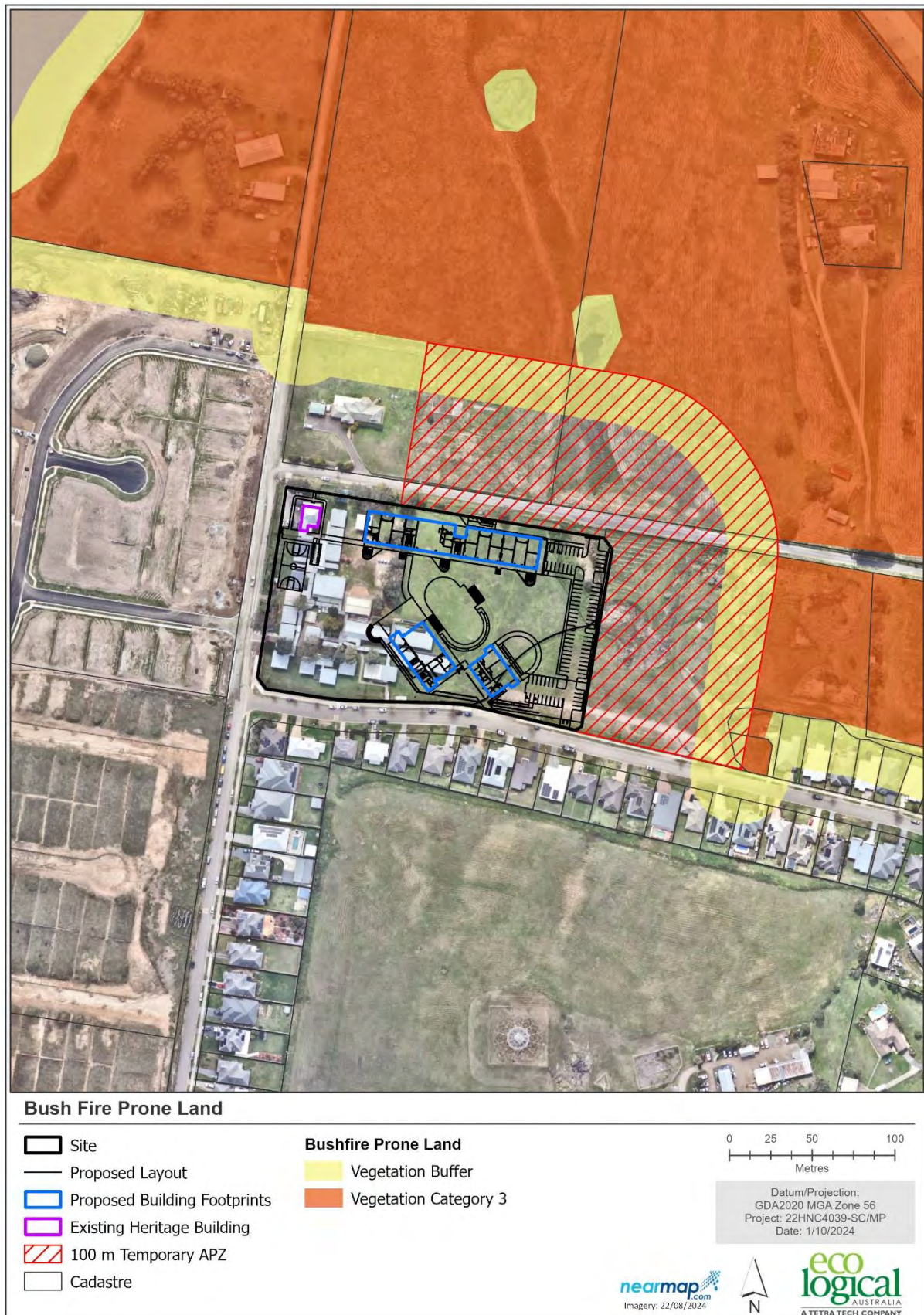


Figure 8: Updated Bush Fire Prone Land (BFPL) map (Source: ELA)

6. Conclusion

The proposed activity has been assessed against the specifications and requirements of PBP, as outlined in Table 11 below.

Table 11: Development Bushfire Protection Solutions and Recommendations

Bushfire Protection Measures	Recommendations	Acceptable Solution	Performance Solution	Report Section
Asset Protection Zones	APZ dimensions are detailed in Table 2 and shown in Figure 5. Identified APZ to be maintained to the specifications detailed in Appendix A in perpetuity or until such time as the land is developed and the bushfire hazard is removed.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.1
Landscaping	Landscaping within the site to be designed to achieve bushfire design principles either by achieving acceptable solutions or addressing performance criteria.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.2
Construction	Not bushfire specific construction standards applicable for the buildings based on mitigating factors detailed in Section 4 i.e. land will not be mapped BFPL, no grassland hazard within 100 m or wooded bushfire hazard within 140 m, and nearest Category 1 vegetation is approximately 2.5 km to north-west. Fences within 6 m of the buildings shall be of non-combustible material.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.3
Access	No new public roads proposed. No BPM are proposed or required as design features meet PBP performance criteria.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4.4
Water supply	Fire hydrants shall be provided in accordance with AS2419:2021.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.5
Electricity service	Electricity supply located underground.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.6
Gas service	Gas services (if installed) are to be installed and maintained in accordance with AS/NZS 1596:2014 (SA 2014).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.7
Emergency Management	Activity to meet DoE emergency management policy and requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4.8

7. Mitigation Measures

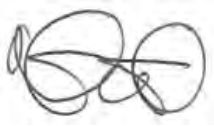
Table 12 below details the proposed bushfire mitigation measures required at design, construction and operation stages.

Table 12: Proposed Bushfire Mitigation Measures

Project Stage: Design (D) Construction (C) Operation (O)	Bushfire Protection Measure	Mitigation Response	Relevant Section of Report
D / C / O	APZ	Prior to construction, DoE must ensure the identified APZ (Table 2 and shown in Figure 4) is maintained to the specifications detailed in Appendix A. During operation, DoE must ensure APZ are managed in perpetuity or until such time as the land is developed and bushfire hazard removed.	4.1
D / O	Landscaping	Prior to occupation, DoE to ensure landscaping within the site is designed to achieve bushfire design principles either by achieving PBP acceptable solutions or addressing performance criteria	4.2
D / C / O	Construction Standards	No bushfire specific construction required for buildings. At commencement of construction and during operation, DoE to ensure fences within 6 m of the buildings shall be of non-combustible material.	4.3
NA	Access	No response required as provided by existing public road network and internal carparking.	4.4
D / C / O	Water Supplies	Prior to construction, DoE to ensure fire hydrants are provided in accordance with AS2419:2021.	4.5
NA	Electricity Services	No response required as electricity supply located underground.	4.6
D / C / O	Gas Services	Prior to construction, DoE to ensure gas services (if installed) are installed and maintained in accordance with AS/NZS 1596:2014.	4.7
O	Emergency Management	Prior to operation, DoE to prepare an emergency management plan meeting DoE emergency management policy and requirements.	4.8

8. Recommendations

It is recommended that the proposed activity be approved based on the recommendations in Table 11.



Natalie South
Bushfire Consultant
FPAA BPAD Accredited Practitioner No. BPAD41212-L2



Bruce Horkings
Principal Bushfire Consultant and Technical Lead
FPAA BPAD Accredited Practitioner No. BPAD29962-L3



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Appendix A - Asset Protection Zone Standards

The following management specifications apply to the identified APZ in Figure 5 and future landscaping within the site and is to be maintained in perpetuity. The maintenance requirements must be undertaken on an annual basis (as a minimum) and prior to the commencement of the bushfire season.

Further details on APZ implementation and management can be found on the NSW RFS website (<https://www.rfs.nsw.gov.au/resources/publications>).

Table 13: APZ management specifications

Vegetation Strata	Inner Protection Area (IPA)
Trees	<ul style="list-style-type: none"> • Tree canopy cover should be less than 15% at maturity; • Trees (at maturity) should not touch or overhang the building; • Lower limbs should be removed up to a height of 2m above ground; • Canopies should be separated by 2 to 5m; and • Preference should be given to smooth barked and evergreen trees.
Shrubs	<ul style="list-style-type: none"> • Create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided; • Shrubs should not be located under trees; • Shrubs should not form more than 10% ground cover; and • Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
Grass	<ul style="list-style-type: none"> • Should be kept mown (as a guide grass should be kept to no more than 100mm in height); and • Leaves and vegetation debris should be removed.

Appendix B – Photographs

Photo 1: Unmanaged grassland north (ID No. 1)



Photo 2: Unmanaged grassland north-east (ID No. 2)

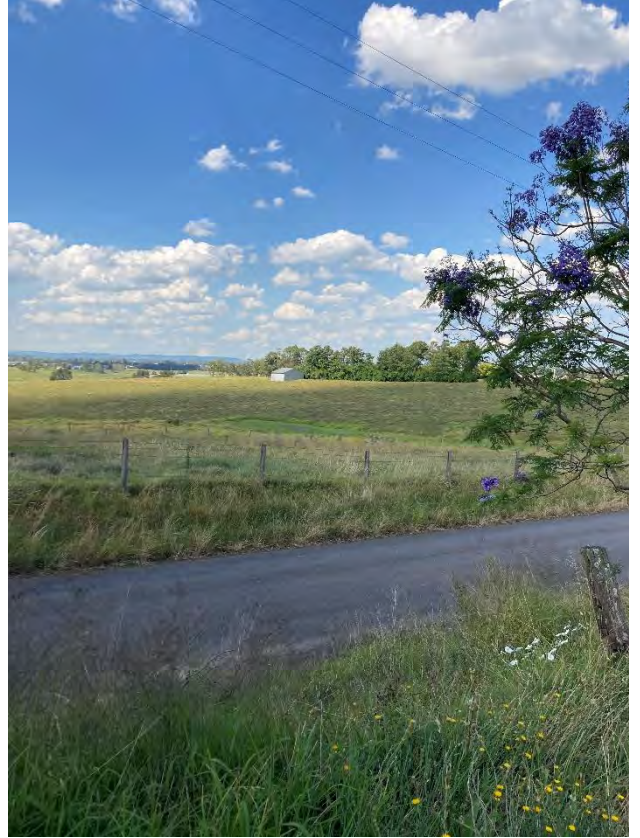


Photo 3: Unmanaged grassland to east (ID No. 3)



Appendix C – RFS Agency Advice



RFS



Department of Planning, Housing & Infrastructure (Parramatta)
Locked Bag 5022,
PARRAMATTA NSW 2124
Australia

Your reference: SSD-72239725
Our reference: DA20240627002621-SEARS-1

ATTENTION: Ingrid Zhu

Date: Friday 5 July 2024

Dear Sir/Madam,

Development Application

State Significant – SEARS – Educational Establishment

**Gillieston Public School Redevelopment 100 Ryans Rd and Part 29 Northview St Gillieston Heights NSW 2321,
51//DP1162489, 213//DP1186997**

I refer to your correspondence regarding the above proposal which was received by the NSW Rural Fire Service on 24/06/2024.

As the site is mapped as Bush Fire Prone Land (BFPL), a Bush Fire Assessment Report of the extent to which the proposed development conforms with or deviates from the specifications set out in Chapter 6 of *Planning for Bush Fire Protection 2019* and the additional requirements of the *Addendum, November 2022, to Planning for Bush Fire Protection 2019* is to be provided. This shall include classification of the vegetation on and surrounding the development (out to a distance of 140 metres from the boundaries of the property) and an assessment of the slope of the land on and surrounding the development (out to a distance of 100 metres).

For any queries regarding this correspondence, please contact Elaine Chandler on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese

**Supervisor Development Assessment & Plan
Built & Natural Environment**

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

Appendix D – DoE Acquisition Notice



2 October 2024

RE: Acquisition of Easement for Asset Protection Zone burdening Part Lot 2 DP 997874 and benefiting Lot 51 DP 1162489 known as Gillieston Public School

I refer to the creation of the above easement (refer to Attachment A) and confirm that the NSW Department of Education has been in negotiations with the owners to acquire it.

The Department now intends to serve the Proposed Acquisition Notice which will formally commence the compulsory acquisition process of the easement in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. It is expected that the acquisition process will be completed by February 2025.

Should you require any further information or have any queries regarding the process, please do not hesitate to contact Chris Willsher at christopher.willsher@det.nsw.edu.au.

Yours faithfully,

A handwritten signature in black ink that reads "Anthony Zantiotis".

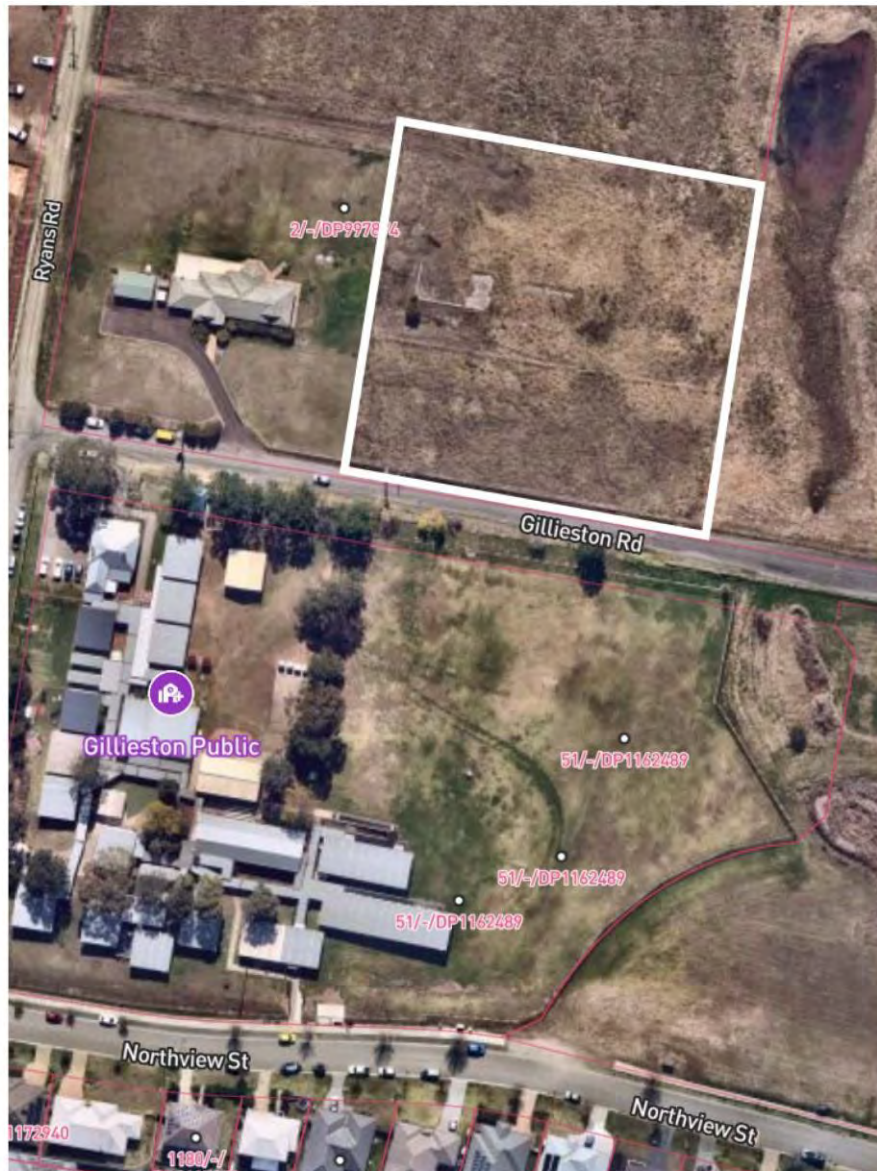
Anthony Zantiotis
Acting Director, Property
Department of Education



NSW Department of Education
Level 8, 8 Central Avenue, Eveleigh NSW 2015
GPO Box 33 Sydney NSW 2001 T 02 9273 9200 www.schoolinfrastructure.nsw.gov.au



Attachment A – Easement being acquired as outlined in white



NSW Department of Education
Level 8, 8 Central Avenue, Eveleigh NSW 2015
GPO Box 33 Sydney NSW 2001 T 02 9273 9200 www.schoolinfrastructure.nsw.gov.au

Appendix E – Deed of Agreement to Grant Easement over 40 Gillieston Road, Maitland (ID#2)



Dated 06/08/2024

Deed of Agreement to Grant Easement

UPG 281 Pty Limited (ABN 12 651 702 788)

Minister for Education and Early Learning on behalf of the Department of Education (ABN 40 300 173 822)

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This Deed of Agreement to Grant Easement is dated

Parties:

Grantor

UPG 281 Pty Limited (ABN 12 651 702 788) of 137 Gilba Road, Girraween NSW 2145

Grantee

Minister for Education and Early Learning on behalf of the Department of Education (ABN 40 300 173 822) of 105 Phillip Street, Parramatta NSW 2150

Introduction:

- A** The Grantor is the owner of the Burdened Land.
- B** The Grantee is the owner of the Benefited Land.
- C** The Grantor has agreed to grant the Easement to the Grantee in consideration for payment of the Payment Sum on the terms and conditions in this Deed.

It is agreed:

1. Definitions

1.1 Definitions

In this Deed the following terms will have the following meanings:

Benefited Land means the land described in Item 1.

Burdened Land means the land described in Item 2.

Business Day means a day which is not a weekend or a Public Holiday.

Costs include fees, costs, charges and expenses including those incurred in connection with advisers, experts and consultants and including legal costs, all on a full indemnity basis.

Confidential Information means all information disclosed under this Deed including operational information, financial information and other sensitive information which a party regards as confidential.

Deed means this Deed of Agreement to Grant Easement including any attachments.

Draft Easement Documents means the draft Easement site plan and section 88B instrument at Schedule 2.

Easement means an Easement for access and works burdening the Burdened Land and benefiting the Benefited Land in accordance with the Draft Easement Documents.

Easement Site means that part of the Burdened Land delineated in the Draft Easement Documents on the attached plan in Schedule 2.



Grantee Works means all works required on the Easement Site to maintain the Easement Site in order to comply with NSW Rural Fire Service requirements as expressed in *Planning for Bush Fire Protection (PBP) 2019*.

GST Law has the same meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

LRS means NSW Land Registry Services.

Payment Sum means \$1.00 AUD (exclusive of GST).

Personnel of a person includes that person's employee, agent, officer, contractor, volunteer or any invitee.

Public Holiday means a public holiday in New South Wales.

Registered Easement Documents means the Draft Easement Documents completed as provided in this Deed and registered at the LRS.

Security Deposit means an amount equivalent to the amount specified in Item 4.

Valuer means an independent valuer having not less than 5 years' experience in valuing easements.

2. Interpretation

2.1 Interpretation

In this Deed:

- (a) month means calendar month;
- (b) 'includes' is not a word of limitation;
- (c) references to the Grantor and Grantee include their administrators, trustees, successors, permitted assigns and their Personnel;
- (d) if more than one person is named as Grantee, then they are jointly and severally liable;
- (e) a reference to a person includes a corporation, where applicable;
- (f) if a notice is required it must be in writing;
- (g) words importing the singular or plural include the plural and singular number respectively and words importing a gender include any person;
- (h) words and expressions which are not defined in this Deed, but have a defined meaning in the GST Law, have the same meaning in this Deed as they do in the GST Law;
- (i) a reference to any legislation includes any legislation in substitution for that legislation;
- (j) a reference to the Grantor includes a reference to any substitute body or iteration of the Minister for Education and Early Learning; and
- (k) where there is any inconsistency between these terms and conditions and the Special Conditions, the Special Conditions will prevail to the extent of any inconsistency.

3. Grant of Easement

3.1 Grant of Easement

- (a) The Grantor agrees to grant to the Grantee the Easement on satisfaction of clause 3.2 and clause 4.
- (b) The Grantee must ensure the Easement Site is not damaged and must at its cost ensure the Easement Site remains well maintained and in a state of good repair with all clippings and prunings removed from the Easement Site and disposed of after each Grantee Works access.

3.2 Preparation and execution of Easement Documents by Grantee

- (a) Within twenty (20) Business Days after the date of this Deed the Grantee will execute the Easement Documents which must be in registrable form and deliver them to the Grantor for execution; and
- (b) within twenty (20) Business Days of receipt the Grantor will execute and return the Draft Easement Documents to the Grantee.

3.3 Execution of Easement Documents by Grantor

This clause 3.3 intentionally deleted

4. Payment

The Grantee will pay the Payment Sum (if demanded) by way of electronic funds transfer into the Grantor's nominated bank account within 10 Business Days of receipt of a Tax Invoice.

5. Appointment of Valuer

Not applicable

6. Costs and Duty

6.1 Preparation Fee

The Grantor and Grantee will each bear their respective costs incurred in relation to preparation, negotiation and execution of this Deed, the non-binding terms sheet and performing their respective obligations under this Deed.

6.2 Registration Fees

- (a) The Grantee will bear all fees incurred for preparation and registration of the Easement (including any Easement plan, s88B and LRS requisition fees or other documents required to facilitate registration), PEXA and legal fees.

6.3 Duty

The Grantee must pay when due any duty payable under the Duties Act 1997 (NSW) on this Deed and the Easement.

6.4 Default

The Grantee must pay all Costs of the Grantor, including legal costs and disbursements of the Grantor, arising out of any default by the Grantee under this Deed.

7. GST

7.1 Consideration exclusive of GST

Unless otherwise expressly stated in this Deed, amounts, prices or other sums payable or consideration to be provided under or in accordance with this Deed are expressed as GST-exclusive amounts.

7.2 Payment of GST

If a party makes a taxable supply under or in connection with this Deed, the recipient must pay to the supplier at the same time, and in addition to the GST-exclusive consideration, an amount equal to the GST payable on that supply.

7.3 Tax invoice

The supplier must, as a precondition to the payment of an amount under clause 7.2, give the other party a tax invoice.

7.4 Adjustments

If an adjustment event occurs in connection with a taxable supply made under this Deed, the supplier must give the recipient an adjustment note in accordance with the GST Law and the amount payable by the recipient under clause 7.2 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the circumstances require.

7.5 Reimbursements

If this Deed requires one party to pay for, reimburse or contribute to any expense or outgoings incurred or loss suffered by the other party, the amount required to be paid, reimbursed or contributed by the first party will be reduced by the amount of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense.

8. Disposal of Land

8.1 Disposal of Land

Either party must not sell, transfer or assign its interest in the Burdened Land or Benefited Land (as the case may be) or any part thereof unless and until:

- (a) the Easement has been registered at LRS; or
- (b) that party procures that the transferee or assignee enters into a deed with the other party on substantially the same terms and conditions as this Deed. The costs of the deed will be borne by the party selling, transferring or assigning its interest.
- (c) For the avoidance of doubt, party means the party's executors, administrators, successors and permitted assigns

9. Dispute resolution

9.1 Confer before any proceedings

- (a) Subject to clause 9.1(b):
 - (i) the Grantee may not commence or progress legal proceedings against the Grantor in relation to any clause in this Deed unless it has first complied with clause 9.2; and
 - (ii) the Grantor has the right but not the obligation to take the steps set out in clause 9.2 before it commences or progresses legal proceedings against the Grantee in relation to any clause in this Deed.
- (b) Nothing in this clause 9 prevents a party seeking injunctive relief against the other party.

9.2 Method of conferring

If a dispute concerning this Deed arises:

- (a) a party may give to the other a written notice of the dispute;
- (b) within 15 Business Days after the service of a notice of the dispute, a nominated representative of the Grantee and the Director, Property, School Infrastructure NSW (or another nominated representative of the Grantor) must meet in good faith to resolve the dispute or agree on methods of doing so;
- (c) if the dispute is not resolved under 9.2(b), the dispute is to be referred to the Resolution Institute for mediation;
- (d) the mediation must be conducted in accordance with the Resolution Institute's Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the Costs involved; and
- (e) if the dispute is not settled within 30 Business Days after the appointment of a mediator, or if no mediator is appointed within 30 Business Days of the referral of the dispute to mediation, the parties may thereafter pursue any other procedure available at Law for the resolution of the dispute.

10. Notices

10.1 In writing

All formal notices under this Deed must be in writing and must be served on a party as provided in this clause 10.

10.2 Served on Grantor

All notices served on the Grantor must be:

- (a) sent to the address and emailed to the email address specified in Item 6; and
- (b) signed by an authorised officer of the Grantee or by a lawyer acting for the Grantee.

10.3 Served on Grantee

All notices served on the Grantee must be:

- (a) sent to the address and emailed to the email address specified in Item 5; and
- (b) signed by an authorised representative of the Grantor or by a lawyer acting for the Grantor.

10.4 Timing of Service

A Notice is delivered, served or otherwise given if:

- (a) hand delivered, on the date of delivery;
- (b) sent by email and the sending party's electronic equipment reports that the email has been sent:
 - (i) before 5 pm on a Business Day, on that Day;
 - (ii) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (iii) on a day that it is not a Business Day, on the next Business Day after it is sent,
 and the sender does not receive a delivery failure notice; or
- (c) sent by registered prepaid mail within Australia, on the date that is 2 Business Days after the date of posting; or
- (d) sent by prepaid Express Post International (or overseas equivalent) airmail between countries, on the date that is 10 Business Days after the date of posting.

10.5 Change of contact details

Each party must notify the other party of a change of address or email address for service of notices or change of person to receive notices.

11. Security Deposit

Not used

12. Confidentiality

12.1 Confidential

Each party must keep the other party's Confidential Information confidential and not use it other than for the purpose of performing this Deed. Confidential Information does not include information which:

- (a) is lawfully in the public domain prior to its disclosure to a receiving party by another person;
- (b) enters the public domain otherwise than as a result of an unauthorised disclosure;
- (c) is or becomes available to the receiving party from a third person lawfully in possession of it who has the lawful power to disclose the information to the receiving party on a non-confidential basis; or



- (d) was known by the receiving party before disclosure to it.

12.2 Safeguard other's information

Each party must establish and maintain the protections needed to safeguard the other party's Confidential Information from unauthorised use or access. Each party must notify the other party immediately on becoming aware of any suspected or actual unauthorised use or disclosure of the other party's Confidential Information.

12.3 Grantor may disclose

- (a) The Grantor may publish and use information relating to the Easement for the purpose of tendering or contracting for future services for the Burdened Land.
- (b) Despite clause 12.1, the Grantor may disclose any Confidential Information to the Office of the Minister for Education and Early Learning (**Minister's Office**) to the extent it is required to do so by the Minister's Office.
- (c) The Grantor may be required to disclose the contents of this deed pursuant to a request under the *Government Information (Public Access) Act 2009* (**GIPA Request**). The Grantor does not need to consult with the Grantee in relation to any GIPA Requests.

12.4 Disclosure to advisors etc.

A party may disclose the other party's Confidential Information to any of its Personnel and professional advisers to the extent necessary to enable it to perform this Deed. Except in the case of a disclosure of Confidential Information by the Grantor to the Minister's Office, a party who makes such a disclosure must first ensure that the person is bound by confidentiality obligations no less restrictive than the party's obligations in this Deed.

12.5 Disclosure required by Law

A party may disclose the other party's Confidential Information to the extent it is required by any applicable laws.

13. Publicity

13.1 Public communications

- (a) The Grantee must not, and must ensure that its Personnel do not, disclose, distribute or otherwise communicate any information, media release, material or publicity about this Deed, their relationship and dealing with the Grantor or otherwise refer to the Grantor (including use its logos) without the Grantor's prior approval.
- (b) Nothing limits any public communications which the Grantor may make in connection with this Deed. The Grantor will use its reasonable efforts to consult with the Grantee before making any public communications.

13.2 Media engagement

The Grantee must not, and must ensure that its Personnel do not, engage with the media about this Deed without the Grantor's prior approval.

13.3 Disclosures required by Law

If the Grantee is required by laws or a regulatory body to make a public announcement in connection with this Deed, it must first consult with the Grantor and comply with the Grantor's reasonable requirements.

14. General

14.1 Caveat

The Grantee is not permitted to lodge a caveat on the title of the Burdened Land.

14.2 Insolvency or incapacity

- (a) Without limiting or restricting any rights or remedies which would have been available to a party to this Deed at law or in equity or if this clause 14.2 had not been included in this Deed, it is agreed that if the Grantee is a company and:
 - (i) resolves to go into liquidation;
 - (ii) has a petition for its winding up presented;
 - (iii) enters into any scheme or arrangement with its creditors under the *Corporations Act 2001* (Cth), or
 - (iv) has a receiver, administrator or official manager appointed to it,
 then the Grantee is in default of an essential term of this Deed.
- (b) If the Grantee being a natural person (or if the purchaser consists of 2 or more natural persons, any of those persons):
 - (i) dies; or
 - (ii) is so intellectually, physically or psychologically disabled as to be, in the opinion of the vendor, unable to complete this contract on, or prior to the date for completion,
 then the Grantee is in default of an essential term of this Deed.

14.3 Construction

Neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

14.4 No fetter on the Grantor's powers

This Deed does not restrict or otherwise affect the Grantor's unfettered discretion to exercise its statutory powers.

14.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this Deed,



expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

14.6 Variation

This Deed must not be varied except by a later written document executed by all parties.

14.7 Governing Law and jurisdiction

- (a) The laws applicable in New South Wales govern this Deed.
- (b) The parties submit to the exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

14.8 Entire agreement

This Deed is the entire agreement and understanding between the parties and supersedes any prior agreement or understanding between the parties.

14.9 Further assurances

Each party must promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in this Deed.

14.10 Electronic signing

This Deed:

- (a) may be exchanged and dated electronically;
- (b) may be signed by one or more parties electronically;
- (c) can be executed in counterparts; and
- (d) constitutes an original document even if held in an electronic format.

14.11 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

14.12 Preservation of existing rights

The expiration or termination of this Deed for any reason will be without prejudice to any rights which either party may have accrued before termination.

Schedule 1 – Reference Schedule

Item 1	Benefitted Land	Folio Identifier Lot 51 in Deposited Plan 1162489 being known as corner Gillieston Road and Ryan Road, Gillieston Heights NSW 2321	
Item 2	Burdened Land	Folio Identifier Lot 1 in Deposited Plan 986279 being known as 40 Gillieston Road, Maitland NSW 2320	
Item 3	Not Used		
Item 4	Security Deposit	Not applicable	
Item 5	Notices on the Grantee:	Name/Position	Director, Property, School Infrastructure (NSW)
		Address for Service:	GPO Box 33, Sydney NSW 2001
		Telephone Number:	02 9273 9200
		Email Address:	property@det.nsw.edu.au
Item 6	Notices on the Grantor:	Name/Position	Paul Solomon, Development Director - Infrastructure
		Address for Service:	137 Gilba Road, Girraween NSW 2145
		Telephone Number:	0414 154 842
		Email Address:	paul.solomon@bathla.com.au

Schedule 2 – Draft Easement Site Plan and s88B instrument



INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B CONVEYANCING ACT 1919.

(Sheet 1 of 7 sheets)

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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Full name and address

Of the lot benefitted

Minister for Education and Early Learning
(ABN 40 300 173 822) NSW Department of Education
105 Phillip Street Parramatta NSW 2150

Full name and address of the owner of the land burdened	UPG 281 Pty Limited (ABN 12 651 702 788) of 137 Gilba Road, Girraween NSW 2145
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Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
[insert]	Easement for Asset Protection Zone	Lot 1 in Deposited Plan 986279	Lot 51 in Deposited Plan 1162489

.....
Attesting Witness

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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Part 2 (Terms)

1. Definitions and interpretation

1.1 Definitions

In this instrument, unless the context clearly indicates otherwise:

Authorised Persons means every person authorised by the Owner of the Benefited lot for the purposes of the easement, including but not limited to invitees of the Owner of the Benefited lot.

Authority means any government or any governmental, semi-governmental, administrative, municipal, licensing, health or judicial body, department, commission, authority, tribunal, agency or entity.

Costs include fees, costs, charges and expenses including those incurred in connection with advisers, experts and consultants and including legal costs, all on a full indemnity basis.

Laws means statutes, rules, regulations, proclamations, ordinances, by-laws present or future or applicable codes of practice or Australian Standards.

Occupier means:

- (a) a lessee;
- (b) a licensee; or
- (c) other person, not being an Owner, lessee or licensee that is in lawful occupation.

Owner means:

- (a) a person registered or entitled to be registered as proprietor;
- (b) a mortgagee in possession; or
- (c) a covenant chargee in possession.

Works includes works as set out in Clause A4.1.1 of Appendix 4 of the NSW Rural Fire Service Planning for Bush Fire Protection (PBP) 2019.

1.2 References to certain terms

In this instrument unless the context indicates otherwise:

- (a) words implying a person imply a natural person, company, statutory corporation, partnership, the Crown, an owners corporation and any other organisation or type of legal entity;
- (b) **including** is not a word of limitation;
- (c) the words **at any time** mean at any time and from time to time;

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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- (d) a reference to a right or obligation of a person is a reference to a right or obligation of that person under this instrument;
- (e) a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (f) a reference to a natural person includes their personal representatives, successors, and permitted assigns;
- (g) a reference to a corporation includes its successors and permitted assigns;
- (h) a reference to a document is a reference to a document of any kind, including a plan;
- (i) where this instrument refers to a body or authority which no longer exists, unless otherwise prescribed by law, there is taken to be substituted a body or authority having substantially the same objects as the named body or authority;
- (j) a reference to legislation or a legislative provision includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (k) a reference to a time is to that time in New South Wales;
- (l) if a period of time is specified to start from a certain day or the day of an act or event, the period is to be calculated exclusive of that day;
- (m) a requirement to do any thing includes a requirement to cause that thing to be done;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) the singular includes the plural and vice-versa;
- (p) words importing one gender include all other genders; and
- (q) a reference to a **Burdened lot** or a **Benefited lot** includes, where the context permits, any improvements on such a lot.
- (r) Any notice, demand, approval, request, application or communication under this instrument must be in writing.

2. Terms of Easement for Asset Protection Zone firstly referred to in the plan:

- 2.1 For the purposes of this easement: Asset protection zone has the meaning given to that term within *Planning for Bushfire Protection 2019* (or equivalent

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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where this document is superseded) produced by the NSW Rural Fire Service.

2.2 The registered proprietor of the lot hereby benefited by this easement must, in accordance with section 3.2, Chapter 6 and Appendix 4 the Rural Fire Service's *Planning for Bushfire Protection 2019*, and the Rural Fire Service's Standard for Asset Protection Zones (or equivalent where these documents are superseded and hereafter referred to as the Standards):

- (a) establish an asset protection zone within the area shown "Y" on the plan annexed hereto (Easement Site) prior to commencement of any building works within the lot benefitted by this easement; and
- (b) maintain the Easement Site area shown "Y") in accordance with the Standards in perpetuity (subject to the terms of this easement).
- (c) For completeness, as at the date of this instrument, the requirements include but are not limited to:

(i) **Trees**

- (A) tree canopy cover should be less than 15% at maturity;
- (B) trees at maturity should not touch or overhang any building;
- (C) lower limbs should be removed up to a height of 2m above the ground;
- (D) tree canopies should be separated by 2 to 5m; and
- (E) preference should be given to smooth barked and evergreen trees.

(ii) **Shrubs**

- (A) create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
- (B) shrubs should not be located under trees;
- (C) shrubs should not form more than 10% ground cover; and
- (D) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.

(iii) **Grass**

- (A) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- (B) leaves and vegetation debris should be removed.

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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- 2.3** The registered proprietor of the lot hereby burdened gives full and free right for the registered proprietor and any contractors or employees or invitees of the registered proprietor of the lot benefitted to access and traverse the Easement Site for the purpose of maintenance of the asset protection zone within the Easement Site in accordance with the Standards.
- 2.4** In so doing, the registered proprietors of the lot benefitted and any of its contractors or employees or invitees may take anything onto the Easement Site reasonably necessary for undertaking works for the purpose allowed in 2.2(b) above.
- 2.5** The registered proprietor of the lot benefitted will:
- (a) be responsible for the clearing and maintenance of the area and will need to ensure that the condition of the land burdened is equivalent or better than the condition at the date this easement is granted;
 - (b) ensure the Easement Site is not damaged and must at its cost ensure the Easement Site remains well maintained and in a state of good repair with all clippings and prunings removed from the Easement Site and disposed of after each access
 - (c) consult with the registered proprietor of the lot burdened prior to undertaking any works on the Easement Site;
 - (d) not undertake any works on the Easement Site without first agreeing on suitable dates and times with the Department of Education (or the owner of the lot burdened), to ensure minimal disruption to any proximate school (or its successors);
 - (e) indemnify the registered proprietor of the burdened lot and agree to be liable for any injuries, deaths or claims to any persons which were caused by its invitees, agents, contractors or employees on the Easement Site or the burdened lot generally; and
 - (f) ensure that it has all appropriate and necessary insurance policies in place such as but not limited to Public and Products Liability and Workers Compensation insurance prior to entering or undertaking any works on the burdened land. The Public and Products Liability must be for an amount of not less than \$20,000,000 arising out of any one single accident or event.
- 2.6** The owner of the lot benefitted acknowledges that the owner of the lot burdened may sell, develop or subdivide the lot burdened.

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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2.7 In the event that the owner of the lot burdened develops, subdivides or sells all or part of the lot burdened, the owner of the lot benefited:

- (a) will sign any document which is required to remove or alter the easement from the title of the lot burdened, (including to transfer the benefit of the easement as directed by the owner of the lot burdened) and acknowledges the owner of the lot burdened may commence construction works prior to the owner of the lot benefitted executing the necessary documents;
- (b) will sign any document required by the owner of the lot burdened to affect any property transaction within 20 business days; and
- (c) will do so at no cost to the owners of the lot burdened.

The parties agree that for the purpose of determining that the requirement for the asset protection zone is reduced or no longer necessary (as referred to in **Y** above), the owner of the lot benefited will seek and obtain the written approval of the RFS confirming this.

Plan: DP	Plan of Asset Protection Zone Within Lot 1 DP 986279
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Execution page

EXECUTED by Minister for Education and Early Learning by its authorised delegate pursuant to sections 119 and 125 of the <i>Education Act 1990</i> (NSW), without incurring any personal liability and without notice of revocation of such delegation		
..... Signature of witness	 Signature of delegate
..... Name of Witness	 Name of delegate
..... Address of Witness		Executive Director, School Infrastructure NSW Position of delegate

Executed by UPG 281 Pty Limited ABN 12 651 702 788 in accordance with section 127 of the Corporations Act:		
..... Signature of Director	 Signature of Director/Secretary
..... Name of Director	 Name of Director/Secretary

Schedule 3 – Special Conditions

Not used

Execution page

Grantee

I certify that I am an eligible witness and that an authorised delegate of the **Minister for Education and Early Learning on behalf of the Department of Education ABN 40 300 173 822** signed this dealing in my presence.

Elizabeth.Marinilli@det.nsw.edu.au

Digitally signed by Elizabeth.Marinilli@det.nsw.edu.au
Date: 2024.08.06 12:23:14 +10'00'

Signature of witness

Elizabeth Marinilli

Name of Witness

GPO Box 33, Sydney, NSW 2001

Address of Witness

Certified by the authorised delegate named below, without incurring any personal liability and without notice of revocation

Taka Bodiam

Digitally signed by Taka Bodiam
Date: 2024.08.06 12:23:22 +10'00'

Signature of delegate

Taka Bodiam


Name of delegate

Relieving Executive Director

Position of delegate

Grantor

SIGNED, SEALED AND DELIVERED by **UPG 281 Pty Limited** ABN 12 651 702 788 in accordance with section 127 of the *Corporations Act 2001* (Cth)

DocuSigned by:


BEC6D377C387ADA

Signature of Director

Bhart Bhushan

Name of Director

Signature of Director/Secretary

Name of Director/Secretary

DATE OF SIGNING: 06/08/2024

Appendix F – Deed of Agreement to Grant Easement over 29-33 Northview Street, Gillieston Heights (ID#3 and #4)



Dated 06/08/2024

Deed of Agreement to Grant Easement

UPG 400 Pty Limited (ABN 85 659 722 559)

Minister for Education and Early Learning on behalf of the Department of Education (ABN 40 300 173 822)

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This Deed of Agreement to Grant Easement is dated

Parties:

Grantor

UPG 400 Pty Limited (ABN 85 659 722 559) of 137 Gilba Road, Girraween NSW 2145

Grantee

Minister for Education and Early Learning on behalf of the Department of Education (ABN 40 300 173 822) of 105 Phillip Street, Parramatta NSW 2150

Introduction:

- A** The Grantor is the owner of the Burdened Land.
- B** The Grantee is the owner of the Benefited Land.
- C** The Grantor has agreed to grant the Easement to the Grantee in consideration for payment of the Payment Sum on the terms and conditions in this Deed.

It is agreed:

1. Definitions

1.1 Definitions

In this Deed the following terms will have the following meanings:

Benefited Land means the land described in Item 1.

Burdened Land means the land described in Item 2.

Business Day means a day which is not a weekend or a Public Holiday.

Costs include fees, costs, charges and expenses including those incurred in connection with advisers, experts and consultants and including legal costs, all on a full indemnity basis.

Confidential Information means all information disclosed under this Deed including operational information, financial information and other sensitive information which a party regards as confidential.

Deed means this Deed of Agreement to Grant Easement including any attachments.

Draft Easement Documents means the draft Easement site plan and section 88B instrument at Schedule 2.

Easement means an Easement for access and works burdening the Burdened Land and benefiting the Benefited Land in accordance with the Draft Easement Documents.

Easement Site means that part of the Burdened Land delineated in the Draft Easement Documents on the attached plan in Schedule 2.



Grantee Works means all works required on the Easement Site to maintain the Easement Site in order to comply with NSW Rural Fire Service requirements as expressed in *Planning for Bush Fire Protection (PBP) 2019*.

GST Law has the same meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

LRS means NSW Land Registry Services.

Payment Sum means \$1.00 AUD (exclusive of GST).

Personnel of a person includes that person's employee, agent, officer, contractor, volunteer or any invitee.

Public Holiday means a public holiday in New South Wales.

Registered Easement Documents means the Draft Easement Documents completed as provided in this Deed and registered at the LRS.

Security Deposit means an amount equivalent to the amount specified in Item 4.

Valuer means an independent valuer having not less than 5 years' experience in valuing easements.

2. Interpretation

2.1 Interpretation

In this Deed:

- (a) month means calendar month;
- (b) 'includes' is not a word of limitation;
- (c) references to the Grantor and Grantee include their administrators, trustees, successors, permitted assigns and their Personnel;
- (d) if more than one person is named as Grantee, then they are jointly and severally liable;
- (e) a reference to a person includes a corporation, where applicable;
- (f) if a notice is required it must be in writing;
- (g) words importing the singular or plural include the plural and singular number respectively and words importing a gender include any person;
- (h) words and expressions which are not defined in this Deed, but have a defined meaning in the GST Law, have the same meaning in this Deed as they do in the GST Law;
- (i) a reference to any legislation includes any legislation in substitution for that legislation;
- (j) a reference to the Grantor includes a reference to any substitute body or iteration of the Minister for Education and Early Learning; and
- (k) where there is any inconsistency between these terms and conditions and the Special Conditions, the Special Conditions will prevail to the extent of any inconsistency.

3. Grant of Easement

3.1 Grant of Easement

- (a) The Grantor agrees to grant to the Grantee the Easement on satisfaction of clause 3.2 and clause 4.
- (b) The Grantee must ensure the Easement Site is not damaged and must at its cost ensure the Easement Site remains well maintained and in a state of good repair with all clippings and prunings removed from the Easement Site and disposed of after each Grantee Works access.

3.2 Preparation and execution of Easement Documents by Grantee

- (a) Within twenty (20) Business Days after the date of this Deed the Grantee will execute the Easement Documents which must be in registrable form and deliver them to the Grantor for execution; and
- (b) within twenty (20) Business Days of receipt the Grantor will execute and return the Draft Easement Documents to the Grantee.

3.3 Execution of Easement Documents by Grantor

This clause 3.3 intentionally deleted

4. Payment

The Grantee will pay the Payment Sum (if demanded) by way of electronic funds transfer into the Grantor's nominated bank account within 10 Business Days of receipt of a Tax Invoice.

5. Appointment of Valuer

Not applicable

6. Costs and Duty

6.1 Preparation Fee

The Grantor and Grantee will each bear their respective costs incurred in relation to preparation, negotiation and execution of this Deed, the non-binding terms sheet and performing their respective obligations under this Deed.

6.2 Registration Fees

- (a) The Grantee will bear all fees incurred for preparation and registration of the Easement (including any Easement plan, s88B and LRS requisition fees or other documents required to facilitate registration), PEXA and legal fees.

6.3 Duty

The Grantee must pay when due any duty payable under the Duties Act 1997 (NSW) on this Deed and the Easement.

6.4 Default

The Grantee must pay all Costs of the Grantor, including legal costs and disbursements of the Grantor, arising out of any default by the Grantee under this Deed.

7. GST

7.1 Consideration exclusive of GST

Unless otherwise expressly stated in this Deed, amounts, prices or other sums payable or consideration to be provided under or in accordance with this Deed are expressed as GST-exclusive amounts.

7.2 Payment of GST

If a party makes a taxable supply under or in connection with this Deed, the recipient must pay to the supplier at the same time, and in addition to the GST-exclusive consideration, an amount equal to the GST payable on that supply.

7.3 Tax invoice

The supplier must, as a precondition to the payment of an amount under clause 7.2, give the other party a tax invoice.

7.4 Adjustments

If an adjustment event occurs in connection with a taxable supply made under this Deed, the supplier must give the recipient an adjustment note in accordance with the GST Law and the amount payable by the recipient under clause 7.2 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the circumstances require.

7.5 Reimbursements

If this Deed requires one party to pay for, reimburse or contribute to any expense or outgoings incurred or loss suffered by the other party, the amount required to be paid, reimbursed or contributed by the first party will be reduced by the amount of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense.

8. Disposal of Land

8.1 Disposal of Land

Either party must not sell, transfer or assign its interest in the Burdened Land or Benefited Land (as the case may be) or any part thereof unless and until:

- (a) the Easement has been registered at LRS; or
- (b) that party procures that the transferee or assignee enters into a deed with the other party on substantially the same terms and conditions as this Deed. The costs of the deed will be borne by the party selling, transferring or assigning its interest.
- (c) For the avoidance of doubt, party means the party's executors, administrators, successors and permitted assigns

9. Dispute resolution

9.1 Confer before any proceedings

- (a) Subject to clause 9.1(b):
 - (i) the Grantee may not commence or progress legal proceedings against the Grantor in relation to any clause in this Deed unless it has first complied with clause 9.2; and
 - (ii) the Grantor has the right but not the obligation to take the steps set out in clause 9.2 before it commences or progresses legal proceedings against the Grantee in relation to any clause in this Deed.
- (b) Nothing in this clause 9 prevents a party seeking injunctive relief against the other party.

9.2 Method of conferring

If a dispute concerning this Deed arises:

- (a) a party may give to the other a written notice of the dispute;
- (b) within 15 Business Days after the service of a notice of the dispute, a nominated representative of the Grantee and the Director, Property, School Infrastructure NSW (or another nominated representative of the Grantor) must meet in good faith to resolve the dispute or agree on methods of doing so;
- (c) if the dispute is not resolved under 9.2(b), the dispute is to be referred to the Resolution Institute for mediation;
- (d) the mediation must be conducted in accordance with the Resolution Institute's Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the Costs involved; and
- (e) if the dispute is not settled within 30 Business Days after the appointment of a mediator, or if no mediator is appointed within 30 Business Days of the referral of the dispute to mediation, the parties may thereafter pursue any other procedure available at Law for the resolution of the dispute.

10. Notices

10.1 In writing

All formal notices under this Deed must be in writing and must be served on a party as provided in this clause 10.

10.2 Served on Grantor

All notices served on the Grantor must be:

- (a) sent to the address and emailed to the email address specified in Item 6; and
- (b) signed by an authorised officer of the Grantee or by a lawyer acting for the Grantee.

10.3 Served on Grantee

All notices served on the Grantee must be:

- (a) sent to the address and emailed to the email address specified in Item 5; and
- (b) signed by an authorised representative of the Grantor or by a lawyer acting for the Grantor.

10.4 Timing of Service

A Notice is delivered, served or otherwise given if:

- (a) hand delivered, on the date of delivery;
- (b) sent by email and the sending party's electronic equipment reports that the email has been sent:
 - (i) before 5 pm on a Business Day, on that Day;
 - (ii) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (iii) on a day that it is not a Business Day, on the next Business Day after it is sent,
 and the sender does not receive a delivery failure notice; or
- (c) sent by registered prepaid mail within Australia, on the date that is 2 Business Days after the date of posting; or
- (d) sent by prepaid Express Post International (or overseas equivalent) airmail between countries, on the date that is 10 Business Days after the date of posting.

10.5 Change of contact details

Each party must notify the other party of a change of address or email address for service of notices or change of person to receive notices.

11. Security Deposit

Not used

12. Confidentiality

12.1 Confidential

Each party must keep the other party's Confidential Information confidential and not use it other than for the purpose of performing this Deed. Confidential Information does not include information which:

- (a) is lawfully in the public domain prior to its disclosure to a receiving party by another person;
- (b) enters the public domain otherwise than as a result of an unauthorised disclosure;
- (c) is or becomes available to the receiving party from a third person lawfully in possession of it who has the lawful power to disclose the information to the receiving party on a non-confidential basis; or



- (d) was known by the receiving party before disclosure to it.

12.2 Safeguard other's information

Each party must establish and maintain the protections needed to safeguard the other party's Confidential Information from unauthorised use or access. Each party must notify the other party immediately on becoming aware of any suspected or actual unauthorised use or disclosure of the other party's Confidential Information.

12.3 Grantor may disclose

- (a) The Grantor may publish and use information relating to the Easement for the purpose of tendering or contracting for future services for the Burdened Land.
- (b) Despite clause 12.1, the Grantor may disclose any Confidential Information to the Office of the Minister for Education and Early Learning (**Minister's Office**) to the extent it is required to do so by the Minister's Office.
- (c) The Grantor may be required to disclose the contents of this deed pursuant to a request under the *Government Information (Public Access) Act 2009* (**GIPA Request**). The Grantor does not need to consult with the Grantee in relation to any GIPA Requests.

12.4 Disclosure to advisors etc.

A party may disclose the other party's Confidential Information to any of its Personnel and professional advisers to the extent necessary to enable it to perform this Deed. Except in the case of a disclosure of Confidential Information by the Grantor to the Minister's Office, a party who makes such a disclosure must first ensure that the person is bound by confidentiality obligations no less restrictive than the party's obligations in this Deed.

12.5 Disclosure required by Law

A party may disclose the other party's Confidential Information to the extent it is required by any applicable laws.

13. Publicity

13.1 Public communications

- (a) The Grantee must not, and must ensure that its Personnel do not, disclose, distribute or otherwise communicate any information, media release, material or publicity about this Deed, their relationship and dealing with the Grantor or otherwise refer to the Grantor (including use its logos) without the Grantor's prior approval.
- (b) Nothing limits any public communications which the Grantor may make in connection with this Deed. The Grantor will use its reasonable efforts to consult with the Grantee before making any public communications.

13.2 Media engagement

The Grantee must not, and must ensure that its Personnel do not, engage with the media about this Deed without the Grantor's prior approval.

13.3 Disclosures required by Law

If the Grantee is required by laws or a regulatory body to make a public announcement in connection with this Deed, it must first consult with the Grantor and comply with the Grantor's reasonable requirements.

14. General

14.1 Caveat

The Grantee is not permitted to lodge a caveat on the title of the Burdened Land.

14.2 Insolvency or incapacity

- (a) Without limiting or restricting any rights or remedies which would have been available to a party to this Deed at law or in equity or if this clause 14.2 had not been included in this Deed, it is agreed that if the Grantee is a company and:
 - (i) resolves to go into liquidation;
 - (ii) has a petition for its winding up presented;
 - (iii) enters into any scheme or arrangement with its creditors under the *Corporations Act 2001* (Cth), or
 - (iv) has a receiver, administrator or official manager appointed to it,

then the Grantee is in default of an essential term of this Deed.
- (b) If the Grantee being a natural person (or if the purchaser consists of 2 or more natural persons, any of those persons):
 - (i) dies; or
 - (ii) is so intellectually, physically or psychologically disabled as to be, in the opinion of the vendor, unable to complete this contract on, or prior to the date for completion,

then the Grantee is in default of an essential term of this Deed.

14.3 Construction

Neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

14.4 No fetter on the Grantor's powers

This Deed does not restrict or otherwise affect the Grantor's unfettered discretion to exercise its statutory powers.

14.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this Deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

14.6 Variation

This Deed must not be varied except by a later written document executed by all parties.

14.7 Governing Law and jurisdiction

- (a) The laws applicable in New South Wales govern this Deed.
- (b) The parties submit to the exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

14.8 Entire agreement

This Deed is the entire agreement and understanding between the parties and supersedes any prior agreement or understanding between the parties.

14.9 Further assurances

Each party must promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in this Deed.

14.10 Electronic signing

This Deed:

- (a) may be exchanged and dated electronically;
- (b) may be signed by one or more parties electronically;
- (c) can be executed in counterparts; and
- (d) constitutes an original document even if held in an electronic format.

14.11 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

14.12 Preservation of existing rights

The expiration or termination of this Deed for any reason will be without prejudice to any rights which either party may have accrued before termination.

Schedule 1 – Reference Schedule

Item 1	Benefitted Land	Folio Identifier Lot 51 in Deposited Plan 1162489 being known as corner Gillieston Road and Ryan Road, Gillieston Heights NSW 2321	
Item 2	Burdened Land	Folio Identifier Lot 213 in Deposited Plan 1186997 being known as 29 Northview Street, Gillieston Heights NSW 2321	
Item 3	Not Used		
Item 4	Security Deposit	Not applicable	
Item 5	Notices on the Grantee:	Name/Position	Director, Property, School Infrastructure (NSW)
		Address for Service:	GPO Box 33, Sydney NSW 2001
		Telephone Number:	02 9273 9200
		Email Address:	property@det.nsw.edu.au
Item 6	Notices on the Grantor:	Name/Position	Paul Solomon, Development Director - Infrastructure
		Address for Service:	137 Gilba Road, Girraween NSW 2145
		Telephone Number:	0414 154 842
		Email Address:	paul.solomon@bathla.com.au

[illegible]

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B CONVEYANCING ACT 1919.

(Sheet 1 of 7 sheets)

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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Full name and address

Of the lot benefitted	Minister for Education and Early Learning (ABN 40 300 173 822) NSW Department of Education 105 Phillip Street Parramatta NSW 2150
------------------------------	--

Full name and address of the owner of the land burdened	UPG 400 Pty Limited (ABN 85 659 722 559) of 137 Gilba Road, Girraween NSW 2145
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Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
[insert]	Easement for Asset Protection Zone	Lot 213 in Deposited Plan 1186997	Lot 51 in Deposited Plan 1162489

.....
Attesting Witness

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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Part 2 (Terms)

1. Definitions and interpretation

1.1 Definitions

In this instrument, unless the context clearly indicates otherwise:

Authorised Persons means every person authorised by the Owner of the Benefited lot for the purposes of the easement, including but not limited to invitees of the Owner of the Benefited lot.

Authority means any government or any governmental, semi-governmental, administrative, municipal, licensing, health or judicial body, department, commission, authority, tribunal, agency or entity.

Costs include fees, costs, charges and expenses including those incurred in connection with advisers, experts and consultants and including legal costs, all on a full indemnity basis.

Laws means statutes, rules, regulations, proclamations, ordinances, by-laws present or future or applicable codes of practice or Australian Standards.

Occupier means:

- (a) a lessee;
- (b) a licensee; or
- (c) other person, not being an Owner, lessee or licensee that is in lawful occupation.

Owner means:

- (a) a person registered or entitled to be registered as proprietor;
- (b) a mortgagee in possession; or
- (c) a covenant chargee in possession.

Works includes works as set out in Clause A4.1.1 of Appendix 4 of the NSW Rural Fire Service Planning for Bush Fire Protection (PBP) 2019.

1.2 References to certain terms

In this instrument unless the context indicates otherwise:

- (a) words implying a person imply a natural person, company, statutory corporation, partnership, the Crown, an owners corporation and any other organisation or type of legal entity;
- (b) **including** is not a word of limitation;
- (c) the words **at any time** mean at any time and from time to time;

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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- (d) a reference to a right or obligation of a person is a reference to a right or obligation of that person under this instrument;
- (e) a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (f) a reference to a natural person includes their personal representatives, successors, and permitted assigns;
- (g) a reference to a corporation includes its successors and permitted assigns;
- (h) a reference to a document is a reference to a document of any kind, including a plan;
- (i) where this instrument refers to a body or authority which no longer exists, unless otherwise prescribed by law, there is taken to be substituted a body or authority having substantially the same objects as the named body or authority;
- (j) a reference to legislation or a legislative provision includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (k) a reference to a time is to that time in New South Wales;
- (l) if a period of time is specified to start from a certain day or the day of an act or event, the period is to be calculated exclusive of that day;
- (m) a requirement to do any thing includes a requirement to cause that thing to be done;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) the singular includes the plural and vice-versa;
- (p) words importing one gender include all other genders; and
- (q) a reference to a **Burdened lot** or a **Benefited lot** includes, where the context permits, any improvements on such a lot.
- (r) Any notice, demand, approval, request, application or communication under this instrument must be in writing.

2. Terms of Easement for Asset Protection Zone firstly referred to in the plan:

- 2.1 For the purposes of this easement: Asset protection zone has the meaning given to that term within *Planning for Bushfire Protection 2019* (or equivalent

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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where this document is superseded) produced by the NSW Rural Fire Service.

2.2 The registered proprietor of the lot hereby benefited by this easement must, in accordance with section 3.2, Chapter 6 and Appendix 4 the Rural Fire Service's Planning for Bushfire Protection 2019, and the Rural Fire Service's Standard for Asset Protection Zones (or equivalent where these documents are superseded and hereafter referred to as the Standards):

- (a) establish an asset protection zone within the area shown "Y" on the plan annexed hereto (Easement Site) prior to commencement of any building works within the lot benefitted by this easement; and
- (b) maintain the Easement Site area shown "Y") in accordance with the Standards in perpetuity (subject to the terms of this easement).
- (c) For completeness, as at the date of this instrument, the requirements include but are not limited to:
 - (i) **Trees**
 - (A) tree canopy cover should be less than 15% at maturity;
 - (B) trees at maturity should not touch or overhang any building;
 - (C) lower limbs should be removed up to a height of 2m above the ground;
 - (D) tree canopies should be separated by 2 to 5m; and
 - (E) preference should be given to smooth barked and evergreen trees.
 - (ii) **Shrubs**
 - (A) create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
 - (B) shrubs should not be located under trees;
 - (C) shrubs should not form more than 10% ground cover; and
 - (D) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - (iii) **Grass**
 - (A) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
 - (B) leaves and vegetation debris should be removed.

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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- 2.3** The registered proprietor of the lot hereby burdened gives full and free right for the registered proprietor and any contractors or employees or invitees of the registered proprietor of the lot benefitted to access and traverse the Easement Site for the purpose of maintenance of the asset protection zone within the Easement Site in accordance with the Standards.
- 2.4** In so doing, the registered proprietors of the lot benefitted and any of its contractors or employees or invitees may take anything onto the Easement Site reasonably necessary for undertaking works for the purpose allowed in 2.2(b) above.
- 2.5** The registered proprietor of the lot benefitted will:
- (a) be responsible for the clearing and maintenance of the area and will need to ensure that the condition of the land burdened is equivalent or better than the condition at the date this easement is granted;
 - (b) ensure the Easement Site is not damaged and must at its cost ensure the Easement Site remains well maintained and in a state of good repair with all clippings and prunings removed from the Easement Site and disposed of after each access
 - (c) consult with the registered proprietor of the lot burdened prior to undertaking any works on the Easement Site;
 - (d) not undertake any works on the Easement Site without first agreeing on suitable dates and times with the Department of Education (or the owner of the lot burdened), to ensure minimal disruption to any proximate school (or its successors);
 - (e) indemnify the registered proprietor of the burdened lot and agree to be liable for any injuries, deaths or claims to any persons which were caused by its invitees, agents, contractors or employees on the Easement Site or the burdened lot generally; and
 - (f) ensure that it has all appropriate and necessary insurance policies in place such as but not limited to Public and Products Liability and Workers Compensation insurance prior to entering or undertaking any works on the burdened land. The Public and Products Liability must be for an amount of not less than \$20,000,000 arising out of any one single accident or event.
- 2.6** The owner of the lot benefitted acknowledges that the owner of the lot burdened may sell, develop or subdivide the lot burdened.

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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2.7 In the event that the owner of the lot burdened develops, subdivides or sells all or part of the lot burdened, the owner of the lot benefited:

- (a) will sign any document which is required to remove or alter the easement from the title of the lot burdened, (including to transfer the benefit of the easement as directed by the owner of the lot burdened) and acknowledges the owner of the lot burdened may commence construction works prior to the owner of the lot benefitted executing the necessary documents;
- (b) will sign any document required by the owner of the lot burdened to affect any property transaction within 20 business days; and
- (c) will do so at no cost to the owners of the lot burdened.

The parties agree that for the purpose of determining that the requirement for the asset protection zone is reduced or no longer necessary (as referred to in **Y** above), the owner of the lot benefited will seek and obtain the written approval of the RFS confirming this.

Plan: DP	Plan of Asset Protection Zone Within Lot 213 DP 1186997
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Execution page

EXECUTED by Minister for Education and Early Learning by its authorised delegate pursuant to sections 119 and 125 of the <i>Education Act 1990</i> (NSW), without incurring any personal liability and without notice of revocation of such delegation		
..... Signature of witness	 Signature of delegate
..... Name of Witness	 Name of delegate
..... Address of Witness		Executive Director, School Infrastructure NSW Position of delegate

Executed by UPG 400 Pty Limited ABN 85 659 722 559 in accordance with section 127 of the Corporations Act:		
..... Signature of Director	 Signature of Director/Secretary
..... Name of Director	 Name of Director/Secretary

Schedule 3 – Special Conditions

Not used



Execution page

Grantee

I certify that I am an eligible witness and that an authorised delegate of the **Minister for Education and Early Learning on behalf of the Department of Education ABN 40 300 173 822** signed this dealing in my presence.

Elizabeth.Marinilli@det.nsw.edu.au
Digitally signed by Elizabeth.Marinilli@det.nsw.edu.au
Date: 2024.08.06 12:24:07 +10'00'

Signature of witness

Elizabeth Marinilli
Name of Witness

GPO Box 33, Sydney, NSW 2001
Address of Witness

Certified by the authorised delegate named below, without incurring any personal liability and without notice of revocation

Taka Bodiam
Digitally signed by Taka Bodiam
Date: 2024.08.06 12:24:16 +10'00'

Signature of delegate

Taka Bodiam
Name of delegate

Relieving Executive Director
Position of delegate

Grantor

SIGNED, SEALED AND DELIVERED by **UPG 400 Pty Limited** ABN 85 659 722 559 in accordance with section 127 of the *Corporations Act 2001* (Cth)

DocuSigned by:
Bhart Bhushan
BEC6D87C3874DA

Signature of Director

Bhart Bhushan
Name of Director

Signature of Director/Secretary

Name of Director/Secretary

DATE OF SIGNING: 06/08/2024

Appendix G – Draft 88b Instrument and Deposited Plan for APZ Easement (ID#1 to #4)



Education

Deed of Variation

UPG 400 Pty Limited (ABN 85 659 722 559)

**Minister for Education and Early Learning on behalf of the Department of Education
(ABN 40 300 173 822)**

Deed Details

Parties	Minister for Education and Early Learning on behalf of the Department of Education (ABN 40 300 173 822) (Department)	
	and	
	UPG 400 Pty Limited (ABN 85 659 722 559) (Grantor).	
Background to Deed	A.	The Department and the Grantor are parties to the Principal Agreement.
	B.	The Principal Agreement concerned the grant of an Asset Protection Zone easement to the Department.
	C.	The parties wish to amend the Principal Agreement in the manner set out in this Deed.
Department's details	Division:	School Infrastructure
	Address:	Level 10, 8 Central Avenue, Everleigh NSW 2015
	Contact:	property@det.nsw.edu.au
Principal Agreement	The Deed of Agreement to Grant Easement between the Department and the Grantor dated 6 August 2024	
Variation Effective Date	The date on which the last Party signed this Deed.	

Signing Page

By executing this Deed, the Parties acknowledge that they have read, and accept and agree to be bound by, the Terms and Conditions attached below.

Executed by the Parties as a deed.

I certify that I am an eligible witness and that an authorised delegate of the **Minister for Education and Early Learning on behalf of the Department of Education ABN 40 300 173 822** signed this dealing in my presence.

Certified by the authorised delegate named below, without incurring any personal liability and without notice of revocation

.....
Signature of witness

.....
Signature of delegate

.....
Name of Witness

.....
Name of delegate

.....
Address of Witness

.....
Position of delegate

Grantor

SIGNED, SEALED AND DELIVERED by
UPG 400 Pty Limited (ABN 85 659 722 559)
in accordance with section 127 of the
Corporations Act 2001 (Cth)

.....
Signature of Director

.....
Name of Director

DATE OF SIGNING:

27/11/24

Terms and Conditions

This Deed witnesses:

1. Definitions and interpretation

1.1 In this Deed:

Deed means this deed of variation, including the Deed Details, these Terms and Conditions and any schedules or attachments.

Deed Details means the section of this Deed headed 'Deed Details'.

Party means either of the Department or the Grantor (and **Parties** means both of them).

Principal Agreement means the agreement or deed (as applicable) which is varied by this Deed, as set out in the Deed Details.

Terms and Conditions means the terms and conditions set out in this section of the Deed headed 'Terms and Conditions'.

Variation Effective Date means the date on which the variations made by this Deed to the Principal Agreement take effect, as set out in the Deed Details.

1.2 In this Deed, unless expressed to the contrary:

1.2.1 any term defined in the Principal Agreement has the same meaning in this Deed;

1.2.2 words denoting the singular include the plural and vice versa;

1.2.3 the word 'includes' in any form is not a word of limitation;

1.2.4 no rule of construction applies to the disadvantage of the Party preparing this Deed on the basis that it prepared or put forward this Deed or a part of it;

1.2.5 a reference to any document (such as a deed, agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;

1.2.6 a reference to writing includes writing in digital form;

1.2.7 a reference to a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Deed; and

1.2.8 a reference to a person includes a firm, partnership, joint venture, association, corporation or other body corporate and the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee.

2. Variations

2.1 From the Variation Effective Date, the Principal Agreement is varied as set out in Schedule 1 to this Deed.

3. Principal Agreement confirmed

- 3.1 The Principal Agreement is confirmed and continues in effect except as varied by this Deed.
- 3.2 If there is an inconsistency between this Deed and the Principal Agreement, the provisions of this Deed prevail to the extent of that inconsistency.
- 3.3 Nothing in this Deed prejudices or adversely affects any right, power, authority, discretion or remedy or discharges, releases or otherwise affects any liability or obligation, arising under the Principal Agreement before the Variation Effective Date.

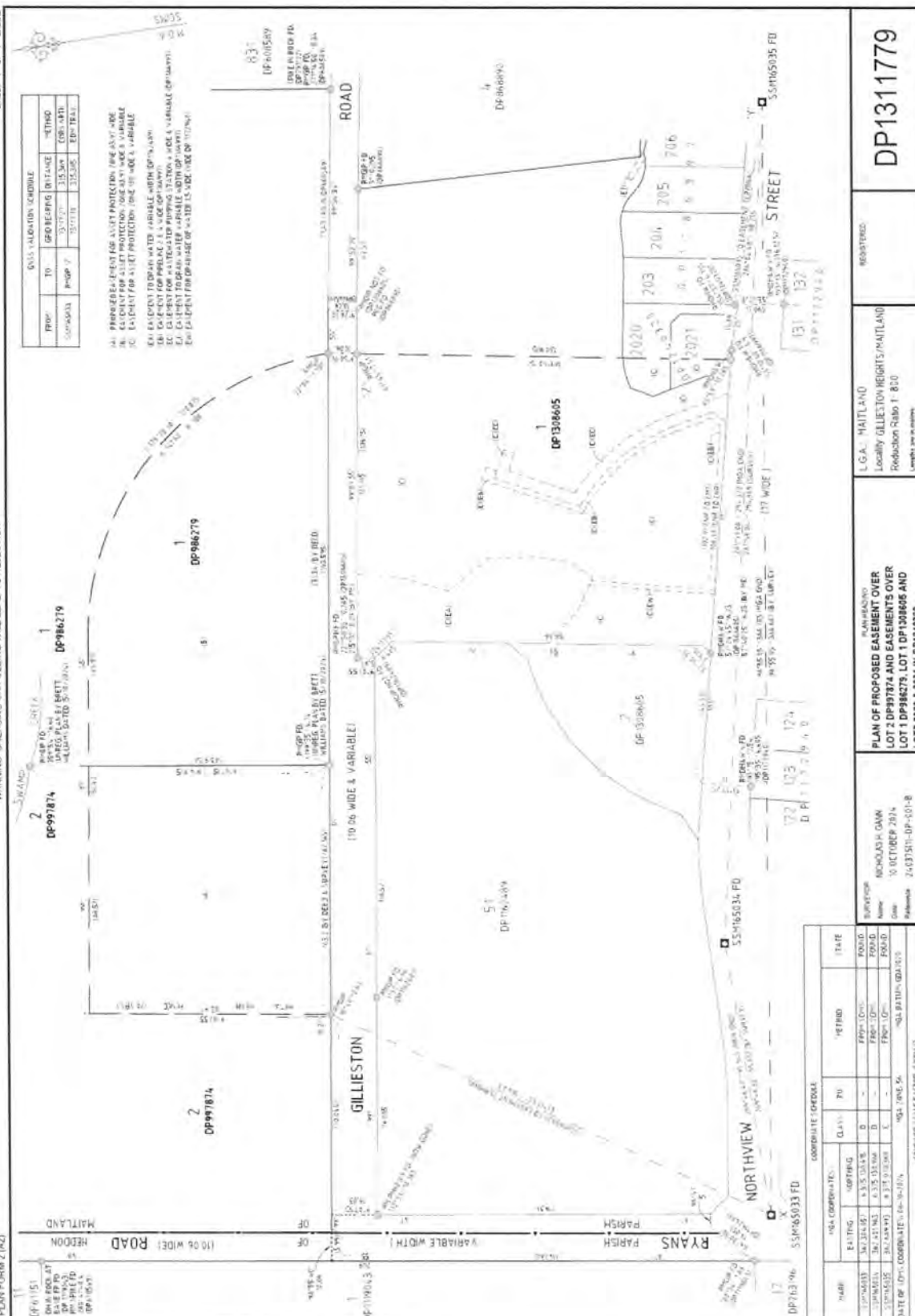
4. General

- 4.1 **Governing Law:** The laws of the State of New South Wales govern this Deed, and the Parties submit to the non-exclusive jurisdiction of the courts of that State.
- 4.2 **Notices:** A notice or other communication connected with this Deed must be in writing.
- 4.3 **Warranty:** Each Party warrants that it has the authority and right to enter into this Deed.
- 4.4 **Costs:** Unless set out otherwise in this Deed, each Party must bear its own costs of, and incidental to, the negotiation, execution and carrying into effect of this Deed, and any other document to give effect to this Deed.
- 4.5 **Further acts and documents:** Each Party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that Party) required by law or reasonably requested by a Party to give effect to this Deed.
- 4.6 **Variation:** This Deed may only be varied by a document executed by the Parties.
- 4.7 **Severability:** Any provision of this Deed that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable. If it is not possible to read down a provision as required by this clause, part or all of the relevant provision of this Deed that is unlawful or unenforceable will be severed from this Deed and the remaining provisions continue in force.
- 4.8 **Entire Agreement:** This Deed represents the entire agreement and understanding between the Parties on everything connected with the subject matter of this Deed, and supersedes any prior deed, agreement or understanding connected with that subject matter.
- 4.9 **Rights Cumulative:** The rights, powers, privileges and remedies provided under the provisions of this Deed are cumulative and are not exclusive of any rights, powers, privileges or remedies provided under any other provision of this Deed or by applicable law or otherwise.
- 4.10 **Waiver:** The failure of a Party at any time to insist on performance of any provision of this Deed is not a waiver of the Party's right at any later time to insist on performance of that or any other provision of this Deed. Any waiver by a Party of a breach of this Deed must be in writing and is not a waiver of any further breach of the same or any other provision.
- 4.11 **Assignment:** The Grantor must not assign or novate its obligations or interests under this Deed without the prior written consent of the Department.
- 4.12 **Counterparts:** This Deed may be signed in any number of counterparts (including counterparts in electronic form) which taken together will constitute one instrument.
- 4.13 **Electronic Execution:** A Party may sign this Deed, and any variations to it, by electronic means where permitted by law. Each Party consents to the signing of this Deed by electronic means.

Schedule 1 Variations to Principal Agreement

The Principal Agreement is varied as follows:

Reference	Description of variation
Amend item 2 in schedule 1	Insert the words "and part Lots 2020 and 2021 in Deposited Plan 1240320 being known as 33 and 31 Northview Street, Gillieston Heights NSW 2321" after the words "known as 29 Northview Street, Gillieston Heights NSW 2321".
Schedule 2	Amended by deleting the Draft easement site plan and inserting new Draft easement site plan at Annexure A .
Schedule 2	Amended by deleting the draft section 88B instrument and inserting new Draft section 88B instrument at Annexure B.



Annexure B – Draft section 88B instrument

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 1 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

Full Name and Address of Registered Proprietor of Lot 51 DP1162489

Minister for Education and Early Learning
(ABN 40 300 173 822)
NSW Department of Education
105 Phillip Street
Parramatta NSW 2150

Full Name and Address of Registered Proprietor of Lot 1 DP986279

UPG 281 Pty Ltd.
(ABN 12 651 702 788)
137 Gilba Road,
Girraween NSW 2145

Full Name and Address of Registered Proprietor of Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320

UPG 400 Pty Ltd.
(ABN 85 659 722 559)
137 Gilba Road,
Girraween NSW 2145

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement for Asset Protection Zone 83.97 Wide and Variable (B)	1/986279	51/1162489 2/1308605
2	Easement for Asset Protection Zone 100 Wide and Variable (C)	1/1308605 2020/1240320 2021/1240320	51/1162489 2/1308605

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 2 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

PART 2 (Terms)

1 Definitions and interpretation

1.1 Definitions

In this instrument, unless the context clearly indicates otherwise:

Authorised Persons means every person authorised by the Owner of the Benefited lot for the purposes of the easement, including but not limited to invitees of the Owner of the Benefited lot.

Authority means any government or any governmental, semi-governmental, administrative, municipal, licensing, health or judicial body, department, commission, authority, tribunal, agency or entity.

Costs include fees, costs, charges and expenses including those incurred in connection with advisers, experts and consultants and including legal costs, all on a full indemnity basis.

Occupier means:

- (a) a lessee;
- (b) a licensee; or
- (c) other person, not being an Owner, lessee or licensee that is in lawful occupation.

Owner means:

- (a) a person registered or entitled to be registered as proprietor;
- (b) a mortgagee in possession; or
- (c) a covenant chargee in possession.

Works includes works as set out in Clause A4.1.1 of Appendix 4 of the NSW Rural Fire Service Planning for Bush Fire Protection (PBP) 2019.

1.2 References to certain terms

In this instrument unless the context indicates otherwise:

- a. words implying a person imply a natural person, company, statutory corporation, partnership, the Crown, an owners corporation and any other organisation or type of legal entity;

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 3 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

- b. **including** is not a word of limitation;
- c. the words **at any time** mean at any time and from time to time;
- d. a reference to a right or obligation of a person is a reference to a right or obligation of that person under this instrument;
- e. a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- f. a reference to a natural person includes their personal representatives, successors, and permitted assigns;
- g. a reference to a corporation includes its successors and permitted assigns;
- h. a reference to a document is a reference to a document of any kind, including a plan;
- i. where this instrument refers to a body or authority which no longer exists, unless otherwise prescribed by law, there is taken to be substituted a body or authority having substantially the same objects as the named body or authority;
- j. a reference to legislation or a legislative provision includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- k. a reference to a time is to that time in New South Wales;
- l. if a period of time is specified to start from a certain day or the day of an act or event, the period is to be calculated exclusive of that day;
- m. a requirement to do any thing includes a requirement to cause that thing to be done;
- n. a word that is derived from a defined word has a corresponding meaning;
- o. the singular includes the plural and vice-versa;
- p. words importing one gender include all other genders; and
- q. a reference to a **Burdened lot** or a **Benefited lot** includes, where the context permits, any improvements on such a lot.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 4 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

- r. Any notice, demand, approval, request, application, or communication under this instrument must be in writing.

2. Terms of Easement for Asset Protection Zones firstly and secondly referred to in the plan:

2.1 For the purposes of this easement: Asset protection zone has the meaning given to that term within *Planning for Bushfire Protection 2019* (or equivalent where this document is superseded) produced by the NSW Rural Fire Service.

2.2 The registered proprietor of the lot hereby benefited by this easement must, in accordance with section 3.2, Chapter 6 and Appendix 4 the Rural Fire Service's *Planning for Bushfire Protection 2019*, and the Rural Fire Service's Standard for Asset Protection Zones (or equivalent where these documents are superseded and hereafter referred to as the Standards):

- (a) establish an asset protection zone within the area shown on the plan annexed hereto (Easement Site) prior to commencement of any building works within the lot benefited by this easement; and
- (b) maintain the Easement Site area shown in the plan in accordance with the Standards in perpetuity (subject to the terms of this easement).
- (c) For completeness, as at the date of this instrument, the requirements include but are not limited to:

(i) **Trees**

- (a) tree canopy cover should be less than 15% at maturity;
- (b) trees at maturity should not touch or overhang any building;
- (c) lower limbs should be removed up to a height of 2m above the ground;
- (d) tree canopies should be separated by 2 to 5m; and
- (e) preference should be given to smooth barked and evergreen trees.

(ii) **Shrubs**

- (a) create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 5 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2
DP997784 and Easements over Lot 1
DP986279, Lot 1 DP1308605 and Lots
2020 and 2021 DP1240320.

- (b) shrubs should not be located under trees;
 - (c) shrubs should not form more than 10% ground cover; and
 - (d) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- (i) **Grass**
 - (a) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
 - (b) leaves and vegetation debris should be removed.
- 2.3 The registered proprietor of the lot hereby burdened gives full and free right for the registered proprietor and any contractors or employees or invitees of the registered proprietor of the lot benefitted to access and traverse the Easement Site for the purpose of maintenance of the asset protection zone within the Easement Site in accordance with the Standards.
- 2.4 In so doing, the registered proprietors of the lot benefitted and any of its contractors or employees or invitees may take anything onto the Easement Site reasonably necessary for undertaking works for the purpose allowed in 2.2(b) above.
- 2.5 The registered proprietor of the lot benefitted will:
 - (a) be responsible for the clearing and maintenance of the area and will need to ensure that the condition of the land burdened is equivalent or better than the condition at the date this easement is granted;
 - (b) ensure the Easement Site is not damaged and must at its cost ensure the Easement Site remains well maintained and in a state of good repair with all clippings and prunings removed from the Easement Site and disposed of after each access
 - (c) consult with the registered proprietor of the lot burdened prior to undertaking any works on the Easement Site;
 - (d) not undertake any works on the Easement Site without first agreeing on suitable dates and times with the Department of Education (or the owner of the lot burdened), to ensure minimal disruption to any proximate school (or its successors);

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

- (e) indemnify the registered proprietor of the burdened lot and agree to be liable for any injuries, deaths or claims to any persons which were caused by its invitees, agents, contractors or employees on the Easement Site or the burdened lot generally; and
 - (f) ensure that it has all appropriate and necessary insurance policies in place such as but not limited to Public and Products Liability and Workers Compensation insurance prior to entering or undertaking any works on the burdened land. The Public and Products Liability must be for an amount of not less than \$20,000,000 arising out of any one single accident or event.
- 2.6** The owner of the lot benefited acknowledges that the owner of the lot burdened may sell, develop or subdivide the lot burdened.
- 2.7** In the event that the owner of the lot burdened develops, subdivides or sells all or part of the lot burdened, the owner of the lot benefited:
- (a) will sign any document which is required to remove or alter the easement from the title of the lot burdened, (including to transfer the benefit of the easement as directed by the owner of the lot burdened) and acknowledges the owner of the lot burdened may commence construction works prior to the owner of the lot benefited executing the necessary documents;
 - (b) will sign any document required by the owner of the lot burdened to affect any property transaction within 20 business days; and
 - (c) will do so at no cost to the owners of the lot burdened.

The parties agree that for the purpose of determining that the requirement for the asset protection zone is reduced or no longer necessary as referred to in the plan, the owner of the lot benefited will seek and obtain the written approval of the RFS or a Bushfire Planning and Design (BPAD) Accredited Practitioner confirming this.

Name of person empowered to release, vary, or modify the easement numbered one and two referred to in the plan.

The Registered Proprietor of Lot 51 DP1162489 and Lot 2 DP1308605.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

Executed by Minister for Education and Early Learning by its authorised delegate pursuant to s.119 and 125 of the *Education Act 1990 (NSW)* without incurring any personal liability and without notice of revocation of such delegation.

I certify that I am an eligible witness and that the delegate signed in my presence

.....
(signature of delegate)

.....
(signature of witness)

.....
(name of delegate)
(please print)

.....
(name of witness)
(please print)

.....
(position of delegate)

.....
.....
.....

.....
(address of witness)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2
DP997784 and Easements over Lot 1
DP986279, Lot 1 DP1308605 and Lots
2020 and 2021 DP1240320.

EXECUTED on behalf of UPG 281
PTY LTD (ABN 12 651 702 788)
By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

EXECUTED on behalf of UPG 400
PTY LTD
(ABN 85 659 722 559)
By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 9 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED on behalf of Payton Funds Management Pty Ltd
(ABN 32 107 613 258)
as Mortgagee of
Lot 1 DP1308605, Lot
2020 DP1240320 and
Lot 2021 DP1240320

By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Jeffery Augustus Spender

Executed in my presence by Jeffery Augustus
Spender who is personally known to me

.....
Signature of Jeffery Augustus Spender

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Emily Anne Nemeth

Executed in my presence by Emily Anne
Nemeth who is personally known to me

.....
Signature of Emily Anne Nemeth

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Frederick Kleiner

Executed in my presence by Frederick Kleiner who is personally known to me

.....
Signature of Frederick Kleiner

.....
Signature of Witness

.....
Name of Witness

.....

.....

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 13 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Peter Joseph Frost

Executed in my presence by Peter Joseph Frost who is personally known to me

.....
Signature of Peter Joseph Frost

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 14 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Maurice James Cashmere

Executed in my presence by Maurice James Cashmere who is personally known to me

.....
Signature of Maurice James Cashmere

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 15 of 21 Sheets)

Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Nikoleta Makris

Executed in my presence by Nikoleta
Makris who is personally known to me

.....
Signature of Nikoleta Makris

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Carol Ann Crighton

Executed in my presence by Carol Ann Crighton who is personally known to me

.....
Signature of Carol Ann Crighton

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2
DP997784 and Easements over Lot 1
DP986279, Lot 1 DP1308605 and Lots
2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Bradley Edward Crighton

Executed in my presence by Bradley
Edward Crighton who is personally known
to me

.....
Signature of Bradley Edward Crighton

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee:
Claire Eryn Parkhurst

Executed in my presence by Claire Eryn
Parkhurst who is personally known to me

.....
Signature of Claire Eryn Parkhurst

.....
Signature of Witness

.....
Name of Witness

.....

.....

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee: LPD Nominees Pty Ltd.

EXECUTED on behalf of LPD Nominees Pty Ltd.
(ABN 85 601 867 029)

By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee: R & M Asset
Management Pty Ltd.

EXECUTED on behalf of R & M Asset
Management Pty Ltd.

(ACN 151 599 655)

By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

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Plan: **DP1311779**

Plan of Proposed Easement over Lot 2 DP997784 and Easements over Lot 1 DP986279, Lot 1 DP1308605 and Lots 2020 and 2021 DP1240320.

EXECUTED by and on behalf the
Mortgagees of Lot 1 DP986279

Name of Mortgagee: Ruzicka
Super Pty Ltd.

EXECUTED on behalf of Ruzicka
Super Pty Ltd.

(ACN 132 133 094)

By the authorised persons whose
signatures appear below pursuant to
Section 127 of the Corporations
Act 2001

.....
Signature of authorised person

.....
Signature of Director/Company Secretary

.....
Name of authorised person
(please print)

.....
Name of Director/Company Secretary
(please print)

