



13 November 2025

Notification of Modification of Consent Application No. 2024/065.002

Site Description: Lot: 1 DP: 861697, 'Llanelly' 170 Bushs Lane GUNNEDAH.

Notice is given that a Section 4.55(1A) Modification to Consent Application has been submitted for Council's consideration seeking modification of the six (6) lot subdivision to remove condition for bitumen seal of Bushs Lane.

The address of the proposed development is 170 Bushs Lane GUNNEDAH.

The applicant is R Pryde and Gunnedah Shire Council is the consent authority.

The Application to Modify Consent has been placed on public exhibition for a period of **15** days. The documents may be inspected at Council's office during office hours 9am-4pm or on Council's website <http://www.gunnedah.nsw.gov.au/>.

Any person may make a written submission about this application to the General Manager, Gunnedah Shire Council, PO Box 63, Gunnedah NSW 2380 or via email council@gunnedah.nsw.gov.au. The issues you raise will be included in the evaluation of the development application, along with the other matters Council must consider.

Submissions should be received no later than 5.00pm on **Friday 28 November 2025**. All submissions **must** include disclosure of any reportable political contribution or gift made in the previous two years.

If the submission includes an objection to the proposal, the grounds of objection must be given. You are advised that you may request that your name and address not be disclosed by stating prominently "OBJECTION IN CONFIDENCE" on your submission for reason that disclosure would result in detriment to you. However, Council may be obliged to release these details under the Freedom of Information Act 1989 even if these words are used in the submission. Further, submissions that do not contain the author's name and address may not be considered as Council will be unable to validate the submissions authenticity.

If you have any enquiries in relation to this Development Application, please contact Council's Duty Planner on 02 6740 2100.

Yours faithfully,

Wade Hudson
MANAGER DEVELOPMENT ASSESSMENT

Contact: 02 6740 2100
Reference: 2024/065.002
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Development Consent Cover Sheet – Council's Use

Made under the Environmental Planning & Assessment Act.1979

LAST UPDATED 23 JULY 2021

Date: 03/11/2025

DEVELOPMENT APPLICATION NUMBER

Development Application Number: 2024/65.002

APPLICANT DETAILS

Name(s): Ryan Pryde C/-Stewart Surveys Pty Ltd



LAND TO BE DEVELOPED

Address: 170 Bushs Lane

Lot Number: 1 DP Number: 861697 Site Area: 16.99 Ha

BRIEF DESCRIPTION AND USE OF PROPOSED DEVELOPMENT

S4.55 (1A)- Proposed modification to remove the bitumen sealing condition requirements for only Lot 6 (Access road and Driveway) and retain existing gravel section.

PROPOSED DEVELOPMENT DETAILS

- ☒ Local Development
- ☐ Integrated Development (requires approval under another Act)
- ☐ Designated Development (requires an EIS to be submitted)

Total Project Value: \$60,000

Applicant contact details

First given name	Ryan
Other given name/s	
Family name	Pryde
Contact number	[REDACTED]
Email	[REDACTED]
Address	[REDACTED]
Application on behalf of a company, business or body corporate	No

Owner/s of the development site

Owner/s of the development site	There are one or more owners of the development site and the applicant is NOT one of them
Owner #	1
Title	
First given name	Ryan
Other given name/s	
Family name	Pryde
Contact number	
Email	[REDACTED]
Address	[REDACTED]

I declare that I have shown this document, including all attached drawings, to the owner(s) of the land, and that I have obtained their consent to submit this application. - Yes

Note: It is an offence under Section 10.6 of the Environmental Planning and Assessment Act 1979 to provide false or misleading information in relation to this application.

Site access details

Are there any security or site conditions which may impact the person undertaking the inspection? For example, locked gates, animals etc.	No
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Developer details

ABN	
ACN	
Name	
Trading name	
Address	
Email Address	

Development details

Application type	Modification Application
On what date was the development application to be notified determined	13/03/2025
Type of modification requested	S4.55(1A) - Modification involving minimal environmental impact, where the development will remain substantially the same as the development that was originally approved
Development Application number of the consent to be modified	

Description of the proposed modification	It is proposed to modify development consent DA 2024/ 065, to remove the requirement to bitumen seal Bushs Lane (and consequently the requirement to bitumen seal the driveway to 170 Bushes Lane).
Was the DA applied for via the NSW Planning Portal?	Yes
Please provide portal application number (PAN)	pan-460574
Site address #	1
Street address	170 BUSHS LANE GUNNEDAH 2380
Local government area	GUNNEDAH
Lot / Section Number / Plan	1/-/DP861697 ☒
Primary address?	Yes
Planning controls affecting property	Land Application LEP Gunnedah Local Environmental Plan 2012 Land Zoning R5: Large Lot Residential Height of Building NA Floor Space Ratio (n:1) NA Minimum Lot Size 9000 m² Heritage NA Land Reservation Acquisition NA Foreshore Building Line NA

Proposed development

Selected common application types	Subdivision
Description of development	Subdivision of Lot 1 in DP 861697 into Six lots.
Dwelling count details	
Number of dwellings / units proposed	
Number of storeys proposed	
Number of pre-existing dwellings on site	
Number of dwellings to be demolished	
Existing gross floor area (m2)	
Proposed gross floor area (m2)	0
Total site area (m2)	
What is the estimated development cost, including GST?	\$60,000.00
Estimated development cost	\$60,000.00
Do you have one or more BASIX certificates?	
Subdivision	
Number of existing lots	1
Type of subdivision proposed	Torrens Title
Number of proposed lots	6
Proposed operating details	
Number of staff/employees on the site	

Number of parking spaces

Number of loading bays	
Is a new road proposed?	No
Concept development	
Is the development to be staged?	No, this application is not for concept or staged development.
Crown development	
Is this a proposed Crown development?	No

Related planning information

Is the application for integrated development?	No
Is your proposal categorised as designated development?	No
Is your proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat?	No
Is this application for biodiversity compliant development?	Yes
What are the reasons the development is biodiversity compliant development?	Does not exceed the clearing threshold. Property previous cultivated and cropped
Is this application subject to a private land conservation agreement under the Biodiversity Conservation Act 2016?	No
Does the application propose a variation to a development standard in an environmental planning instrument (eg LEP or SEPP)?	No
Is the application accompanied by a Planning Agreement ?	No
Section 68 of the Local Government Act	
Is approval under s68 of the Local Government Act 1993 required?	No
10.7 Certificate	
Have you already obtained a 10.7 certificate?	
Tree works	
Is tree removal and/or pruning work proposed?	No
Local heritage	
Does the development site include an item of environmental heritage or sit within a heritage conservation area.	No
Are works proposed to any heritage listed buildings?	No
Is heritage tree removal proposed?	No
Affiliations and Pecuniary interests	
Is the applicant or owner a staff member or councillor of the council assessing the application?	No
Does the applicant or owner have a relationship with any staff or councillor of the council assessing the application?	No
Political Donations	
Are you aware of any person who has financial interest in the application who has made a political donation or gift in the last	No

two years?	
Please provide details of each donation/gift which has been made within the last 2 years	

Sustainable Buildings

Is the development exempt from the State Environmental Policy (Sustainable Buildings) 2022 Chapter 3, relating to non-residential buildings?	Yes
Provide reason for exemption. Is the development any of the following:	Development that is wholly residential

Payer details

Provide the details of the person / entity that will make the fee payment for the assessment.

The *Environmental Planning and Assessment Regulation 2021* and Council's adopted fees and charges establish how to calculate the fee payable for your development application. For development that involves building or other works, the fee for your application is based on the estimated cost of the development.

If your application is for integrated development or requires concurrence from a state agency, additional fees will be required. Other charges may be payable based on the Council's adopted fees and charges. If your development needs to be advertised, the Council may charge additional advertising fees.

Once this application form is completed, it and the supporting documents will be submitted to the Council for lodgement, at which time the fees will be calculated. The Council will contact you to obtain payment. Note: When submitting documents via the NSW Planning Portal, credit card information should not be displayed on documents attached to your development application. The relevant consent authority will contact you to seek payment.

The application may be cancelled if the fees are not paid:

First name	Ryan
Other given name(s)	
Family name	Pryde
Contact number	
Email address	
Billing address	

Application documents

The following documents support the application.

Document type	Document file name
Other	251028_Modification Opinion - Bushs Lane Subdivision DA - 28 October 2025
Owner's consent	251029_Signed Owners Consent
Preliminary Engineering Drawings	2024.065 - Notice of Determination - 170 Bushs Lane - FINAL_PAN-460574

Applicant declarations

I declare that all the information in my application and accompanying documents is, to the best of my knowledge, true and correct.	Yes
I understand that the development application and the accompanying information will be provided to the appropriate consent authority for the purposes of the assessment and determination of this development application.	Yes
I understand that if incomplete, the consent authority may request more information, which will result in delays to the application.	Yes
I understand that the consent authority may use the information and materials provided for notification and advertising purposes, and materials provided may be made available to the public for inspection at its Offices and on its website and/or the NSW Planning Portal	Yes

I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Government Information (Public Access) 2009 (NSW) (GIPA Act) under which it may be required to release information which you provide to it.	Yes
I agree to appropriately delegated assessment officers attending the site for the purpose of inspection.	Yes
I agree to pay any required NSW Planning Portal Service Fee/s specified under Schedule 4 of the Environmental Planning and Assessment Regulation 2021 to the Department of Planning, Housing and Infrastructure.	Yes
I have read and agree to the collection and use of my personal information as outlined in the Privacy Notice	Yes
I confirm that the change(s) entered is/are made with appropriate authority from the applicant(s).	

EXHIBITION COPY

Gunnedah

Shire Council



Owners Consent

Made under the *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*

ABOUT THIS FORM

You can use this form to demonstrate that all owners have consented to the lodging of an application where Council is the consent authority.

LAND RELATING TO THE APPLICATION

Address: 170 BUSH'S LANE MODIFICATION TO DA2024/065
Town/Suburb: GUNNEDAH State: NSW Postcode: 2380
Lot Number: 1 Section Number: - DP Number: 861697

OWNERS DETAILS

Name(s): RYAN PRYDE & NANCY WILLIAMS

I/WE, THE OWNER(S) GIVE CONSENT TO

Nominated Agent: STEWART SURVEYS PTY LTD

TO ACT ON MY/OUR BEHALF TO

- Lodge all relevant applications for development consent, CCs, CDCs, Subdivision Works Certificates, Subdivision Certificates, Appointment of Principal Certifier, Building Information Certificates, Occupation Certificates, Planning Proposal and Section 68 Applications.
- Have discussions with all relevant authorities.
- Do all things required to be done, or provide all information and documents necessary to obtain such approvals.
- Where applicable, withdraw the application/s and obtain a refund of relevant fees paid.

CONSENT OF ALL OWNERS

As the owner(s) of the property, I/we consent to this application to apply for approval to carry out the development described herein and state that the information contained herein is, to the best of my/our knowledge, true and correct. I/we hereby give permission for Council authorised personnel to carry out inspections of the land and buildings as necessary for the purpose of assessing this application without prior notice of entry.

Name: NANCY WILLIAMS

Signature: [Signature] Date: 29/10/2025

Name: RYAN PRYDE

Signature: [Signature] Date: 29/10/2025

Note: if ownership is under a company name, please provide evidence that the signatory on the application has the authority to sign on behalf of the company, by providing authority on company letterhead.

28 October 2025
Our Ref: 5608

The General Manager
Gunnedah Shire Council
PO Box 63
Gunnedah NSW 2380

Dear Sir,

**APPLICATION TO MODIFY DEVELOPMENT CONSENT DA 2024/065
TORRENS TITLE SUBDIVISION (1 LOT INTO 6)
LOT 1 IN DP861697 – 170 BUSHES LANE GUNNEDAH**

It is proposed to modify development consent DA 2024/ 065, to remove the requirement to bitumen seal Bushes Lane (and consequently the requirement to bitumen seal the driveway to 170 Bushes Lane). This modification application seeks to delete Condition E3 and to amend Condition E4. We have sought legal advice and enclosed a memorandum of advice for development consent 2024/065 for 170 Bushes Lane, Gunnedah prepared by Barrister Clare Colett letter confirming there is legal precedence to support this application.

Our request for this modification is on the following basis:

The Gunnedah Development Control Plan, 2012, clause 5.10 states:

The road pavement requirements will be determined based on vehicle movements (both current and future) and with consideration to the existing development and character of the locality. Generally, sealed pavement will be required where the Lot Size map specifies a minimum lot size of up to and included 10 hectares.

Historical precedents in the R5 Large Lot Residential Zone under the same Gunnedah Local Environmental Plan 2012 and Gunnedah Development Control Plan 2012 as this development, have not required the sealing of the road or the construction of kerb and guttering across a residual block where no new driveway access is proposed. The table below outlines these precedents.

Development Consultants – Surveying, Environmental & Landscape Architecture Services

Stewart Surveys Pty Ltd
ABN 65 002 886 508

109 Conadilly Street
PO Box 592
Gunnedah NSW 2380

T 02 6742 2966
office@stewartsurveys.com
www.stewartsurveys.com

DA Number	Date of Approval	Address	Comments	Zoning	MLS
2013/015	13 December 2013	31 Hunts Road, Gunnedah	McCalls Road was not constructed.	R5 Large Lot Residential	1.2ha
2014/098	3 October 2014	45 Booloocooroo Road, Gunnedah	586m Blackjack Forest Road was not constructed.	R5 Large Lot Residential	1.2ha
2022/043	12 October 2022	251-261 Kamilaroi Road, Gunnedah	207.6m Kamilaroi Road not constructed.	R5 Large Lot Residential	1.2ha
2019/079	30 December 2019	103-107 Kamilaroi Road, Gunnedah	273m Stock Road was not constructed.	R5 Large Lot Residential	1.2ha

It is our opinion, based on these precedents, that the application of clause 5.10 of the DCP has been that roads where new driveways have been constructed requires the road to be bitumen sealed, as there is additional traffic generated on this section of the road. However, existing driveways which front a gravel road do not present any future increase in traffic and therefore, do not require bitumen sealing to comply with this clause which states the word “generally” allowing the application of flexibility in this regard.

Further, council did not request a traffic impact assessment as part of the Development Application assessment, to ascertain any traffic generated by this development and notes in the Gunnedah Development Control Plan, 2012 that this is not required when there are less than 20 lots proposed in a development. This indicates the minor impact a development of this size has on the surrounding traffic network.

The applicant based his development on the historical road construction requirement within the shire, with the expectation he would not be required to construct Bushs Lane, if all of the new lots front the existing bitumen sealed section of the road. His application only proposed five new 1.2 hectare lots, as this proposal met this requirement. This was outlined in our the submitted statement of environmental effects, that no new road works would be carried out on Bushs Lane. Had he known the construction of Bushs Lane to a bitumen standard with Kerb and Gutter would be conditioned, his lot layout may have differed.

Our client has always intended to construct Bushs Lane in the second half of his development in which lots were created fronting this section of the Road. The sale of the lots in Stage 1 was required to fund the future road upgrade works. This approach, based on how it has always been for other developers in the R5 zone, has guided the lot layout including

maintaining a minimum lot size of 1.2 hectares even though the site has been zoned with 9,000 square metres minimum lot size. Council was aware of the full development proposal as the concept plan was submitted to Gunnedah Shire Council's Department of Planning as part of the rezoning application for this site.

The proposal to maintain the gravel road as there was no additional traffic generated by the development was clearly articulated in the submitted Development Application documentation which stated on page 10:

"There is a section of gravel road formation across Lot 6, which will be retained. As there is no increased traffic to this section of the road, no upgrades are required for this development." and

"There is no new road construction proposed as part of this subdivision"

When the proponents proposal, as presented in the submitted development application documentation, did not align with council's expectations we were sent three (3) separate letters requesting additional information on the stormwater design. However not once, did council advise the applicant, that their proposed road works didn't align with Council's expectations nor did they allow the proponent to demonstrate, via additional information, that the expected vehicle movements generated by the proposed development on the gravel section of Bushs Lane were insignificant and compliant with the wording of the DCP clause 5.10.

Further, we refer to the legal advice our client has obtained, attached to this application which references the "Newbury Test". Whilst council may impose conditions on a development application relating to Planning Law, they must be fair and reasonable, relating to that development. We do not believe the expense of meeting condition E3 and E4 to re-construct and bitumen seal, with kerb and guttering, approximately 400 metres of Bushs Lane to be fair and reasonable for this development, when, as outlined above the development meets the DCP requirement as there are no new driveways on the gravel section of the road and a negligible impact on the traffic movements generated by the development, demonstrated by council's lack of request for information in this regard. There is no kerb and guttering on any road in Gunnedah Shire in the R5 zone and this is not a requirement in the past of current engineering guidelines for roads in this zone.

The size of the proposed development did not require preparation and lodgement of a Vehicle Movement or Traffic Report under the Gunnedah DCP 2012. Therefore, this demonstrates that council considers the traffic generated by this scale of development to be not significant and therefore to impose a condition making the developer pay to upgrade the gravel road to a fully constructed bitumen sealed road with kerb and gutter is not only out of character for the area but does not appear to meet the Newbury test.

170 Bushs Lane Gunnedah contains an existing residential dwelling which utilises the gravel section of Bushs Lane. The proposed development to subdivide this property does not change or increase the number of lots or amount of traffic on the gravel section of the road. All new lots front the bitumen sealed section of Bushs Lane. In this development application, the only potential increase in traffic is generated by the new lots which all front the existing bitumen sealed section of Bushs Lane. The town of Gunnedah is located east and north of the development site and there is bitumen sealed roads from the new lots to the town with no need to travel on the gravel section of Bushs Lane. We do not believe the proposed development will generate additional traffic impacts on the gravel section of road. We believe this evidenced that no traffic impact assessment was prepared or requested by council for the development in its assessment phase as it was not deemed necessary, and the DCP, 2012 does not require an assessment.

It appears based on our verbal discussions in the meeting held on 28 March 2025 at Gunnedah Shire Council's Administration office, that council is imposing onerous condition on this developer to address a historical increase in traffic on this section of the road, which has not resulted from the subdivision of Lot 1 in DP861697, but the cumulative subdivision of Bushs Lane, Kerry Elizabeth Drive and Robert Gordon Road which included 49 Lots under DP1193436 and 20 Lots under DP1167105 (69 Lots total). To expect the development of six (6) lots as proposed under DA2024/065 to construct Bushs lane to be a bitumen sealed kerb and gutter road is disproportionate to the level of impact this development has on the road network and therefore, should not be the responsibility of this proponent. Furthermore, the historical increase of traffic is in no way linked to DA2024/065 and the imposition of a condition on this DA to address the historical increase in traffic is neither justified on the merits nor lawful.

If acceptable to council, we request the following modification to the notice of determination.

Delete Condition E3

~~The developer shall upgrade Bushs Lane to a 7.2 metre Bitumen Sealed Road on a 9 meter wide formation, from existing end of seal 60 meters west of Robert Gordon Road, to the western boundary of the site. All roads must include the installation of kerb and guttering. All works are to be undertaken and inspected in accordance with Council's Engineering Guidelines for Subdivision and Development 2013.~~

Condition E4 Current Wording

Vehicle access to each lot must be from Bushs Lane and will require the construction of an entrance driveway from road edge to boundary line, including upgrade of the existing vehicle access to 170 Bushs Lane

a) The driveway must be either a two coat bitumen seal or reinforced concrete as specified in the relevant Council standard drawing.

b) Construction must not commence until a permit under Section 138 of the

Roads Act 1993 has been granted by Council. This will require sketch drawings showing proposed works – applicants should address AS2890.1 2004 regarding width and gradient.

It is proposed to remove the requirement to construct a bitumen or concrete driveway for 170 Bushs Lane Gunnedah as the proponent wishes to use the existing driveway.

Proposed Wording Condition E4:

Vehicle access to each lot must be from Bushs Lane and will require the construction of an entrance driveway from road edge to boundary line (except for 170 Bushes Lane, which will utilise the existing entrance driveway).

a) The driveway must be either a two coat bitumen seal or reinforced concrete as specified in the relevant Council standard drawing.

b) Construction must not commence until a permit under Section 138 of the Roads Act 1993 has been granted by Council. This will require sketch drawings showing proposed works – applicants should address AS2890.1 2004 regarding width and gradient.

This modification is considered to be a type 1A modification under the *Environmental Planning and Assessment Act 1979 No 203*, clause 4.55.

A 1A modification involves minimal environmental impact. This clause states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

As outlined above the proposed development has a negligible impact on the gravel section of Bushs Lane, as there are no new driveways fronting this section of the road, and all new lots have bitumen road frontage and bitumen road access back to Gunnedah via Hunts Road and Bushs Lane to the east. There is currently a residential house on 170 Bushs Lane and access to this house is via the gravel section of Bushes Lane. DA2024/065 does not change this access or result in any additional vehicle movements from 170 Bushs Lane. This development remains the subdivision of 1 lot into 6 lots and is therefore substantially the same as the development which was originally granted consent.

With consent to this application, it is requested that condition numbers E3 is deleted and condition number E4 is modified as outlined in this letter.

Along with the Memorandum of advice on development consent 2024/065 for 170 Bushs Lane, Gunnedah, prepared by Clare Colett (Barrister), we enclose a completed owner's consent form and a copy of the original consent. It is requested that council contact Ryan Pryde [REDACTED] for payment of the application fees.

If you have any queries regarding this application, please contact our office.

Yours faithfully

STEWART SURVEYS PTY LTD



Kathryn Stewart

BLArch (UNSW), MEnvMgmt (UNSW)

Registered Landscape Architect #001493

MEMORANDUM OF ADVICE

Development Consent 2024/065 for 170 Bushs Lane, Gunnedah

Prepared for:

Mr Wayne Chaffey
Wordsworth Lawyers

[REDACTED]
[REDACTED]

Clare Colett
Barrister
Martin Place Chambers

[REDACTED]
[REDACTED]
[REDACTED]

BACKGROUND FACTS & INSTRUCTIONS

1. My instructing solicitors act for the owner of 170 Bushs Lane, Gunnedah (the Site) in relation to development application DA 2024/065 which sought consent for torrens title subdivision of the Site into six lots (the DA).
2. Development consent for DA 2024/065 was granted on 13 March 2025, subject to conditions of consent (the Consent).
3. Condition E3 required an upgrade of Bushs Lane and reads as follows:

The developer shall upgrade Bushs Lane to a 7.2 meter Bitumen Sealed road on a 9 meter wide formation, from existing end of seal 60 meters west of Robert Gordon Rd, to the western boundary of the site. All roads must include the installation of kerb and guttering. All works are to be undertaken and inspected in accordance with Council's Engineering Guidelines for Subdivision and Development 2013.

4. I am instructed that the DA did not propose an upgrade to Bushs Lane and that the applicant was not aware that any condition requiring road works would be imposed. That is, the applicant only became aware of the requirement when the Consent was granted and conditions were reviewed.
5. I have been provided with the documents which form part of the DA and confirm that the DA did not propose the upgrade of Bushs Lane. I have also been provided with a copy of a number of Requests for Information (RFI) issued by Gunnedah Shire Council (Council) and confirm that none of these RFIs raised the issue of road upgrades being required for the DA.
6. You have asked for advice on any course of action the applicant may take in relation to Condition E3 of the Consent.
7. In my opinion, you should lodge a modification application seeking to delete condition E3 and amend condition E4 as the conditions are not valid conditions and do not meet the Newsbury Test of reasonableness. The reasons for this are set out in detail below.

LAWFULLNESS of CONDITIONS of CONSENT

8. Section 4.17 of the *Environmental Planning and Assessment Act* 1979 (NSW) (EP&A Act) provides a power to impose conditions of development consent.

9. However, it is well established that this power is limited by what is known as the “Newbury Test”¹. Under the Newbury Test, conditions of consent will only be valid if they:
- a) have a planning purpose;
 - b) fairly and reasonably relate to the development that is the subject of the development application; and
 - c) are not so clearly unreasonable that no reasonable planning authority could have imposed the condition.
10. In this case, condition E3 has a planning purpose. The issue is whether Condition E3 fairly and reasonably relates to the development that is the subject of the development application and is not so clearly unreasonable that no reasonable planning authority could have imposed it.
11. In order to determine this, I consider the proposed development and the applicable planning controls.
12. The Site is zoned R5 large lot residential under the *Gunnedah Local Environmental Plan 2012* (Gunnedah LEP). The minimum lot size under the Gunnedah LEP is 9,000 sq meters.
13. The DA sought consent for subdivision of a large rural holding into six new lots. Proposed lots 1-5 are vacant land (and will remain vacant land under the DA) and proposed Lot 6 contains an existing residence, outbuildings and livestock yards. Proposed lots 1-5 are 1.2 ha each and proposed Lot 6 has an area of 10.97 ha.
14. Lot 6 currently has a driveway onto Bushs Lane. The part of Bushs Lane which the driveway joins is a gravel road. However, the area of Bushs Lane in front of the new Lots 1-5 is an existing bitumen road.
15. The DA did not propose any change to the use, the driveway or access from what was to become the new Lot 6. New Lot 6 would retain the residential dwelling and access to Bushs Lane via the existing driveway.
16. At the time that the DA was determined, *Gunnedah Development Control Plan 2012* (the DCP) was in force.

¹ Derived from *Newbury District Council v Secretary of State for the Environment* [1981] AC 578.

17. Section 5 of the DCP is titled "Subdivision" and section 5.10 contains controls relating to roads. Relevant controls under the heading "Road Network Design" in section 5.10 of the DCP include the following:

- *"An assessment of potential traffic impacts is to include an assessment of the proposed subdivision and its impacts on the adjacent road network. For development involving more than 20 lots, a detailed Traffic Impact Assessment is to be submitted with the development application".*
- *"Kerb and gutter is required for subdivision where the Lot Size map specifies a minimum lot size of up to and including 3,000m²"*
- *"The road pavement requirement will be determined based on vehicle movements (both current and future) and with consideration to the existing development and character of the locality. Generally, sealed pavement will be required where the Lot Size Map specifies a minimum lot size of up to and including 10 hectares."*

18. In terms of the DA and the DCP controls:

- a) There was no Traffic Impact Assessment as the DA did not involve more than 20 lots. This is in line with the DCP requirements;
- b) There was no detailed assessment of potential traffic impacts as the DA did not seek consent for the construction of any new dwellings or use of those dwellings. The existing dwelling on the new Lot 6 already accesses and uses Bushs Lane and such access and use would not change with the DA. The Statement of Environment Effects submitted with the DA notes "There is a section of gravel road formation across Lot 6, which is to be retained. As there is no increase in traffic to this section of the road, no upgrades are required for the development";
- c) No kerb and guttering was proposed as the DCP only requires this for land with a minimum lot size of up to and including 3,000m². The minimum lot size for the Site is 9,000m²; and
- d) There was no proposal to pave the road as there was no increase in vehicle movements (noting that new Lot 6 already accessed Bushs Lane and this was not changing).

19. Control 5.14 of the DCP relates to site access and states "Public road access is required for all lots". This control is met by the DA.

IS CONDITION E3 LAWFUL?

20. The Courts have considered what the meaning of “fairly and reasonably” relates to a development means, in the context of the Newbury Test. The High Court has held that a condition will fairly and reasonably relate to a proposed development “if the condition is not simply justifiable as one which a reasonable planning authority could impose but is one which is **fair and reasonable** in all the circumstances of the case”².
21. In my opinion, the imposition of condition E3 is not fair and reasonable in the circumstances of the case because:
 - a) The DCP specifically states that kerb and guttering is required for subdivision with a minimum lot size up to 3,000m². Condition E3 requires kerb and guttering for a subdivision where the minimum lot size is three times this size. There does not seem to be any basis for the imposition of the kerb and guttering requirement in Condition E3;
 - b) The DCP states that the “road pavement requirement will be determined based on vehicle movements”. There was no Traffic Impact Assessment or any detailed analysis of vehicle movements (as none was required). Therefore, there is simply no basis on which Council could have determined the road pavement requirement based on vehicle movements. I understand that Gunnedah Town Centre is in fact in the opposite direction to the gravel portion of Bushs Lane and so it is expected that most future traffic from Lots 1-5 would not be using the gravel portion of Bushs Lane. In any case, there is simply no evidence on vehicle movements to justify the imposition of condition E3;
 - c) The DA seeks consent for subdivision only. It does not seek consent for any built form or the future use of Lots 1-5. The statement in the DCP that sealed pavement will generally be required for subdivision up to and including 10 ha should be read in this context. The DA does not seek consent for subdivision and construction of new residential dwellings. It seeks consent for subdivision only. In any case, DCP controls are not binding and s3.42 of the EP&A Act specifically states that the DCP is to provide “guidance” only. The DCP controls are to be considered in relation to the specific circumstances of the proposed development. In my opinion, the DCP controls, when applied to the DA, do not justify the requirement to pave part of Bushs Lane; and

² *Western Australian Planning Commission v Temwood Holdings P/L* (2004) 221 CLR 30 at [155] per Callinan J

- d) The gravel portion of Bushs Lane is already being used by the residents of 170 Bushs Lane and the DA does not propose any change to that use.
22. A number of cases provide guidance as to how the Court may consider condition E3, should you choose to commence an appeal in relation to the imposition of the condition (something I deal with in more detail below).
23. *Lorenzato v Burwood Council [2017] NSWLEC 1269* was an appeal against conditions of consent which required the relocation of a stormwater drainage pipe. Burwood Council relied, in part, upon a Stormwater Code as the basis for imposing the condition. However, the Court found the condition invalid on two bases.
24. First, the Court found that there was not any genuine association or nexus with the proposed development which would justify the imposition of the condition.
25. Second, the Court found that the Stormwater Code did not provide the “necessary warrant”³ for the stormwater works to be carried out.
26. It seems to me that, for the DA, there is not a genuine nexus with the proposed development and condition E3 which justifies the imposition of the condition. Furthermore, the DCP does not provide the “necessary warrant” for the road works.
27. In the case of *Goorkiz v Liverpool City Council [2021] NSWLEC 1050*, the Land and Environment Court found that a condition requiring the upgrading of roads for a subdivision of land and childcare development application was not valid as it did not accord with the Newbury principle. The Court found the condition requiring the road upgrade invalid for the following reasons:
- a) whilst the proposed development would benefit from the upgrade of the road, it did not generate the need for the road;
 - b) other roads could be used by the proposed development; and
 - c) there was no traffic evidence to support the road upgrade.
28. This finding was made for an application which sought consent for both subdivision and a childcare development. In my opinion, similar reasoning should be applied to the DA. This would mean that condition E3 is invalid on the basis that the DA did not generate the need for the road upgrade, other roads could be used by the proposed development (if in fact there is any traffic generation) and there was no traffic evidence to support the road upgrade.

³ *Lorenzato v Burwood Council* (2017) at [20]

29. I have also been provided with correspondence between Ms Kathryn Stewart of Stewart Surveys Pty Ltd and Council which took place after the Consent was granted and in which Ms Stewart raised concerns regarding Condition E3.
30. In an email from Mr Wade Hudson to Ms Stewart dated 17 April 2025, Mr Hudson notes the following:
- a) In relation to a comment from Ms Stewart that Council did not impose a condition requiring a road upgrade on other development consents, Mr Hudson states (in relation to the consents where a road upgrade was not required) "In the circumstances of these developments there was no unsealed movements created from a residual lot which contained an existing dwelling...". In my opinion, this is exactly the case for the DA in question. The DA does not create any unsealed movements from a residual lot which contained an existing dwelling. There is an existing movement to an unsealed road which remains unchanged as part of the DA. There are not any "unsealed movements created". If Council accepts this, it appears to be Council's own position that a road upgrade would not be needed;
 - b) "Council has had recent experience of where construction was not included in development consents...where the deferment of road construction...has resulted in additional cost being born by the community. These situations are considered by Council, to be a bad outcome... as the required cost for works is passed on to Council and rate payers, not the person benefiting from the development". Council's experience in other un-identified consents is an irrelevant consideration in the determination of your DA on its merits. Furthermore, the statement appears to place the responsibility for road upgrades squarely on any development without any consideration of Council's role and responsibility in the delivery of roads.
31. Finally, I note that Council issued a number of RFIs but did not raise traffic impacts or the requirement for a road upgrade in any RFI. Any lack of procedural fairness could also be raised in any appeal proceedings.

NEXT STEPS

32. In my opinion, the requirement for a paved road upgrade with kerb and guttering in condition E3 is unlawful as it does not meet the Newbury test of reasonableness.
33. I recommend that you submit a modification application which seeks to delete condition E3.

34. Flowing from the deletion of Condition E3, the modification application could also seek to amend condition E4 so that vehicle access to 170 Bushs Lane is not required to be upgraded. This requirement in condition E4 is unreasonable and unnecessary for the same reasons as condition E3.
35. If the modification application is not approved, you could approve any actual or deemed refusal to the Land and Environment Court for the reasons outlined above.

Please let me know if you wish to discuss any aspect of this advice.

Clare Collett

Martin Place Chambers

28 October 2025

Notice of Determination of Development Application

Issued under Environmental Planning and Assessment Act 1979 section 4.18(1)(a)

DEVELOPMENT APPLICATION NUMBER

Application Number: **2024/065**

Proposed Development: **TORRENS TITLE SUBDIVISION (1 LOT INTO 6)**

APPLICANT DETAILS

Applicant Name: **STEWART SURVEYS PTY LTD**

Mailing Address:

Email:

LAND TO BE DEVELOPED

Address: **170 BUSHES LANE GUNNEDAH**

Lot No/DP/MPS: **LOT: 1 DP: 861697**

DETERMINATION

Made on: **13 MARCH 2025**

Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW**

Consent to Operate From: **13 MARCH 2025**

Consent to Lapse on: **13 MARCH 2030**

CONDITIONS OF CONSENT

A. GENERAL CONDITIONS

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 27 August 2024
 - Statement of Environmental Effects, prepared by Stewart Surveys Pty Ltd, dated 05 August 2024; and
 - Submitted plans:
 - Prepared by Stewart Surveys Pty Ltd, dated 28 October 2021, Ref: 5608- Concept Plan for proposed Subdivision of Lot 1 DP 861697;
 - Prepared by Stewart Surveys Pty Ltd, dated 01 August 2024, Ref: 5608, Concept Plan on Aeria Photo for proposed Subdivision of Lot 1 DP 861697;
 - Prepared by Stewart Surveys Pty Ltd, dated 28 October 2021, Ref: 5608 – Proposed Site Servicing on Concept Plan for proposed Subdivision of Lot 1 DP 861697.
 - Supporting Documentation:
 - Archaeological Technical Report, prepared by OzArk Environmental Heritage, dated: December 2023;
 - Preliminary Site Investigation Report, prepared by PEM Environmental, dated August 2023;

- Land Use Conflict Risk Assessment Report (LUCRA), prepared by Stewart Surveys Pty Ltd, dated 30 November 2023, Ref: 5608;
- Concept Stormwater strategy and Additional Information Letter, prepared by Stewart Surveys Pty Ltd, dated 13 December 2024, ref: 5608;
- Site Servicing Strategy, dated 05 August 2024, prepared by Stewart Surveys Pty Ltd, dated 05 August 2023, ref: 5608;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 Assessment, prepared by Stewart Surveys Pty Ltd, dated 05 August 2024, Ref: 5608.

except as otherwise provided by the conditions of consent.

Reason: To ensure compliance with application and plans.

- A2.** No permanent structures are to be placed on any easement.

Reason: To ensure legal requirements.

- A3.** If the soil conditions require it:

- (a) Retaining walls associated with the erection or demolition of a building or other approved methods preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

Should a retaining wall be proposed to be constructed above a height of 600mm the applicant shall have the structure designed by a suitably qualified Structural Engineer and a copy of the design plans are to be provided to council before work commences on the site. The retaining wall is to be completed in accordance with the design provided prior to any occupation or use of the building.

Reason: To ensure site stability.

- A4.** Approval is granted to remove a maximum of 0.2Ha vegetation for the purpose of the subdivision as identified within Portal Application Form PAN-460574; and State Environmental Planning Policy (Biodiversity and Conservation) 2021 Assessment, prepared by Stewart Surveys Pty Ltd, dated 5 August 2024, Ref: 5608. The felling and removal of trees shall be carried out by a person is appropriately qualified and who hold an appropriate licence and current insurance.

Reason: To ensure compliance with Biodiversity Conservation Act 2016.

B. BEFORE ISSUE OF CONSTRUCTION CERTIFICATE

- B1.** Prior to the issue of a Subdivision Works Certificate a Stormwater Management Plan prepared by a suitably qualified and experienced engineer or registered surveyor is to be submitted to Council for assessment and approval.

The Stormwater Management Plan is to include detailed calculations and supporting drawings/documentation, which demonstrate that stormwater can be intercepted, drained and lawfully discharged for the purpose of preventing stormwater from entering the building in the designed storm event and not create nuisance to any downstream neighbours.

Any proposed works (e.g. diversion banks, drains etc) must be designed in accordance with Australian Rainfall and Runoff. The design average recurrence interval should be in accordance with Clause 3.7.2.1 of the Gunnedah Shire Council Engineering Guidelines for Subdivisions and Developments 2013.

Reason: To ensure satisfactory drainage whilst ensuring that the surface water is not diverted onto adjoining properties.

- B2.** A Compliance Certificate for each stage under Section 306 of the *Water Management Act 2000* must be obtained from the Council (as the local water supply authority).

Note: Council requires the following contributions to be paid prior to issuing a compliance certificate to allow continued funding of water facilities.

- \$10,741.20 per each additional lot for Water headworks

The contributions must be paid prior to the issue of a Subdivision Works Certificate.

The contributions are determined in accordance with the Development Servicing Plan for Gunnedah Shire Council Water Supply and Development Servicing Plan for Gunnedah Shire Council Sewerage commencing on July 2020, a copy of which may be inspected at the office of the Council. The above contributions have been adopted under the Council's 2024/2025 Operational Plan. Revised rates adopted by Council in the subsequent Operational Plans will apply to lots released in later financial years.

Reason: To ensure compliance with Council's Development Services Plans.

- B3.** Prior to the issue of a Subdivision Works Certificate, the Developer must pay the Contributions for upgrades to Gallen Reservoir water supply pump infrastructure in accordance the Voluntary Planning Agreement (VPA) in accordance with Section 7.4 of the *Environmental Planning and Assessment Act 1979*, executed on the 10 October 2023 between Gunnedah Shire Council and 2728 Pty Ltd, Ryan Peter Pyrde and Nancy Fay Margaret Williams.

Reason: To ensure compliance with the Voluntary Planning Agreement.

- B4.** Prior to the issuing of a Subdivision Works Certificate, the Developer shall obtain from Council approval under Section 68 of the *Local Government Act 1993*, for the provision of water service to the existing dwelling and required stormwater management, to:
- (a) Carry out water supply works
 - (b) Carry out stormwater drainage works

Note: All works are to be carried out by an appropriately licensed contractor in accordance with NSW Code of Practice for Plumbing and Drainage-2006.

Reason: To ensure environmental health standards are met.

- B5.** Prior to issuing a Subdivision Works Certificate, a Water Meter Application must be lodged with Council.

Reason: To ensure a water service is provided to the site in accordance with Council's requirements.

- B6.** A Road Opening Permit under Section 138 of the *Road Act 1993*, is to be obtained from Council prior to the issue of a Subdivision Works Certificate for any road or infrastructure works, including payment of application and inspection fees together with any applicable bonds, and shall be lodged and approved by Gunnedah Shire Council (being the Roads Authority for any works required in a public road). All works shall be carried out in accordance with the *Roads Act 1993* approval, the development consent, including the stamped approved plans, and Council's Engineering Guidelines for Subdivision and Development, 2013.

Reason: To ensure compliance with application and plans.

C. BEFORE WORK COMMENCES

- C1.** A Subdivision Works Certificate is to be obtained prior to commencement of any subdivision works and can be obtained by applying to either Council, or a private certifier. Please note that under Council's current planning instrument, *Gunnedah Local Environmental Plan 2012*, the Principal Certifying Authority must be the Council.

Reason: To ensure compliance with application and plans.

- C2.** Engineering drawings and specifications for the construction and installation of all works relative to the proposed subdivision must be submitted to Council for approval prior to the issue of a Subdivision Works Certificate. The design of all works is to be related to the adjoining infrastructure. All drawings and specifications are to be in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013.

Reason: To ensure compliance with application and plans.

- C3.** The contractors engaged on the development of the subdivision must maintain public liability insurance cover to the minimum value of \$20 million. The policy must specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy must be provided to the Council prior to commencement of work and upon request, during the progress of the work.

Reason: To ensure compliance with Council's requirements.

- C4.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's 'Gunnedah Development Control Plan 2012'.

Reason: To ensure erosion and sediment control on the development site.

D. DURING WORK

- D1.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

Reason: To ensure compliance with approved application and plans.

- D2.** The storage of all building materials shall be confined within the boundaries of the allotment.

Reason: To ensure site safety.

- D3.** Excavated material from the lot is not to be placed on or used to alter the level of Council's footpath, with no earth batters to extend beyond the property boundary line.

Reason: Implementation of Council policy.

- D4.** Toilet facilities are to be provided at, or in the vicinity of, the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
 - (i). to a public sewer, or

- (II). if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- (III). if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced. In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (General) Regulation 2021* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Part 2 of the *Local Government (General) Regulation 2021*.

public sewer has the same meaning as it has in the *Local Government (General) Regulation 2021*.

sewage management facility has the same meaning as it has in the *Local Government (General) Regulation 2021*.

Reason: To ensure environmental health standards are met.

- D5.** Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-
- Monday to Friday – 7.00am to 5.00pm;
 - Saturday – 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;
 - No work to be carried out on Sunday or Public Holidays.

Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the *Protection of the Environment Operations Act 1997*, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

Reason: To ensure amenity of the neighbourhood is maintained.

- D6.** All excavations and backfilling associated with the conducting of works must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason: To ensure compliance.

- D7.** If the work involved in the subdivision works:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

Reason: To ensure site safety.

- D8.** Prior to the back filling all mains, a visual inspection is to be undertaken by Council.

Reason: To ensure compliance.

- D9.** All works undertaken by contractors (ie. other than Council) shall be inspected by Council to ensure that the works are undertaken in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013. The inspection fee for each section of the work carried out by contractors shall be paid to Council prior to the issue of a Subdivision Works Certificate.

Reason: To ensure compliance with Council's requirements.

E. BEFORE THE ISSUE OF A CERTIFICATE

- E1.** The Subdivision Certificate release fee in accordance with Council's adopted fees and charges, must be paid prior to the issue of the Subdivision Certificate.

Note: The above fee is applicable under Council's 2024/2025 Management Plan. Revised rates adopted in the subsequent Management Plans will apply to lots released in later financial years.

Reason: To ensure payment of application fee.

- E2.** A single water supply service shall be provided to each lot. The service shall be provided by extending Council's existing water main located in Bushs Lane within the existing road reserve to the western boundary of the site. All works are to be undertaken and inspected in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013.

Note: A Water Application must be submitted to Council, together with the installation costs. The installation costs are adopted in the Council's 2024/2025 Management Plan. Revised rates adopted in the subsequent Management Plans will apply to lots released in later financial years.

Reason: To ensure compliance with Council's requirements.

- E3.** The developer shall upgrade Bushs Lane to a 7.2 meter Bitumen Sealed road on a 9 meter wide formation, from existing end of seal 60 meters west of Robert Gordon Road, to the western boundary of the site. All roads must include the installation of kerb and guttering. All works are to be undertaken and inspected in accordance with Council's Engineering Guidelines for Subdivision and Development 2013.

Reason: To ensure adequate road construction is undertaken.

- E4.** Vehicle access to each lot must be from Bushs Lane and will require the construction of an entrance driveway from road edge to boundary line, including upgrade of the existing vehicle access to 170 Bushs Lane.

- a) The driveway must be either a two-coat bitumen seal or reinforced concrete as specified in the relevant Council standard drawing.
- b) Construction must not commence until a permit under Section 138 of the *Roads Act 1993* has been granted by Council. This will require sketch drawings showing proposed works – applicants should address AS2890.1-2004 regarding width and gradient.

Reason: To ensure access is provided and meets appropriate engineering standards.

- E5.** One set of approved construction drawings shall be amended to show the "works-as-executed" (WAE). These drawings in both hard copy and electronic form must be provided prior to issue of the subdivision certificate for each stage. The drawings are required to ensure that adequate

records are maintained of community infrastructure. The drawing must be certified by a registered surveyor or a Chartered Professional Civil Engineer. In addition, an electronic copy of the WAE in dwg format is required to be submitted to Council prior to the issue of the Subdivision Certificate.

Where allotment filling has been carried out, the "Works-As-Executed" plans must indicate the contours prior to and after filling and also the compaction test results.

Reason: To ensure compliance with Council's requirements.

- E6.** Prior to the issue of a Subdivision Certificate, written notification must be provided to demonstrate that electricity supply connection has been provided to each lot.

Reason: To ensure that electrical services are provided.

- E7.** Prior to the issue of a Subdivision Certificate, written notification must be provided to demonstrate that telecommunication services have been provided to each lot.

Reason: To ensure that telecommunication services are provided.

- E8.** Stormwater from the development site must not be concentrated onto adjoining land. Stormwater is to be discharged as per the approved Stormwater Management Plan within Condition B1 of this consent, in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013.

Reason: To ensure compliance with Council's requirements.

- E9.** The developer shall create an easement for Stormwater Drainage in accordance with Stormwater Strategy, prepared by Stewart Surveys Pty Ltd, dated 13 December 2024, ref: 5608.

Reason: To make provision for future sewer connection.

- E10.** Prior to the issue of an Subdivision Certificate, a Rural Addressing number and post shall be applied for through Council and erected for each new lot.

Reason: To ensure compliance and to ensure the correct property identification.

F. PRESCRIBED CONDITIONS

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

F1. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the *Home Building Act 1989*, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.

- (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.
- (4) In subsection (1), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the relevant date.
- (5) In subsection (3), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- (6) This section does not apply—
 - (a) to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
 - (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
- (7) In this section— **relevant date** has the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 19.

Reason: To ensure compliance with the statutory requirements.

F2. Erection of signs

- (1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
- (2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—
 - (a) showing the name, address and telephone number of the principal certifier for the work, and
 - (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) The sign must be—
 - (a) maintained while the building work, subdivision work or demolition work is being carried out, and
 - (b) removed when the work has been completed.
- (4) This section does not apply in relation to—
 - (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
 - (b) Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Reason: To ensure compliance with the statutory requirements.

F3. Notification of Home Building Act 1989 requirements

- (1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- (2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—
 - (a) for work that requires a principal contractor to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer of the work under the *Home Building Act 1989*, Part 6,
 - (b) for work to be carried out by an owner-builder—
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under the *Home Building Act 1989*—the number of the owner-builder permit.
- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Reason: To ensure compliance with the statutory requirements.

F4. Shoring and adequacy of adjoining property

- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- (2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense—
 - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- (3) This section does not apply if—
 - (a) the person having the benefit of the development consent owns the adjoining land, or
 - (b) the owner of the adjoining land gives written consent to the condition not applying.

Reason: To ensure compliance with the statutory requirements.

OTHER APPROVALS

Approvals granted under Section 7.11 and Section 68 Local Government Act 1993: **Nil**

RIGHT OF APPEAL

If you are dissatisfied with the decision, Section 8.7, 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months from the date of this notice.

REVIEW OF DETERMINATION

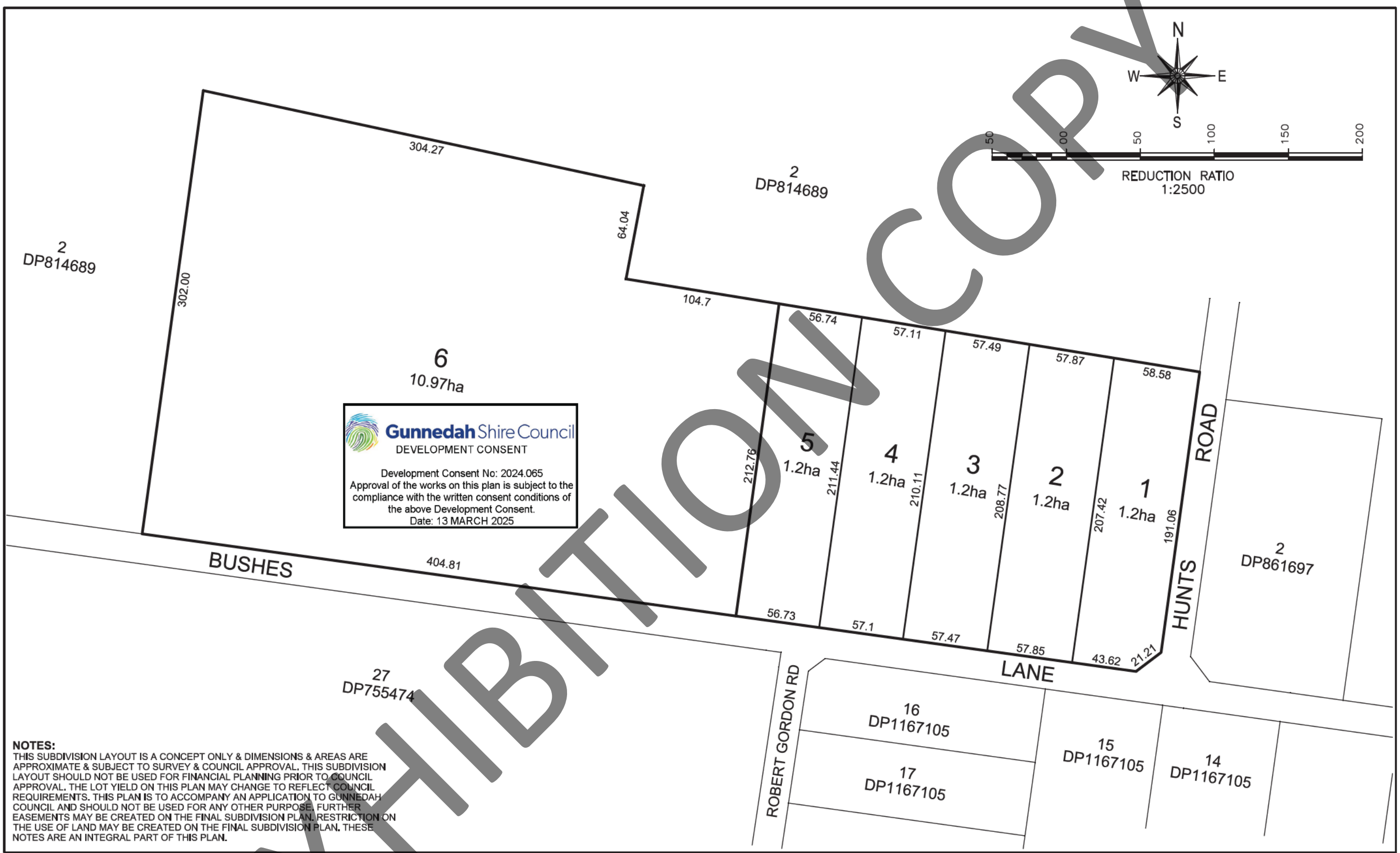
If you wish for a review of this decision, Section 8.2, 8.3, 8.4, 8.5 of the Environmental Planning and Assessment Act 1979 gives you the right to lodge a Review of Determination within 6 months from the date of this notice.

SIGNED

Signature: 

Name: **WADE HUDSON**
MANAGER DEVELOPMENT ASSESSMENT

Date: **13 MARCH 2025**



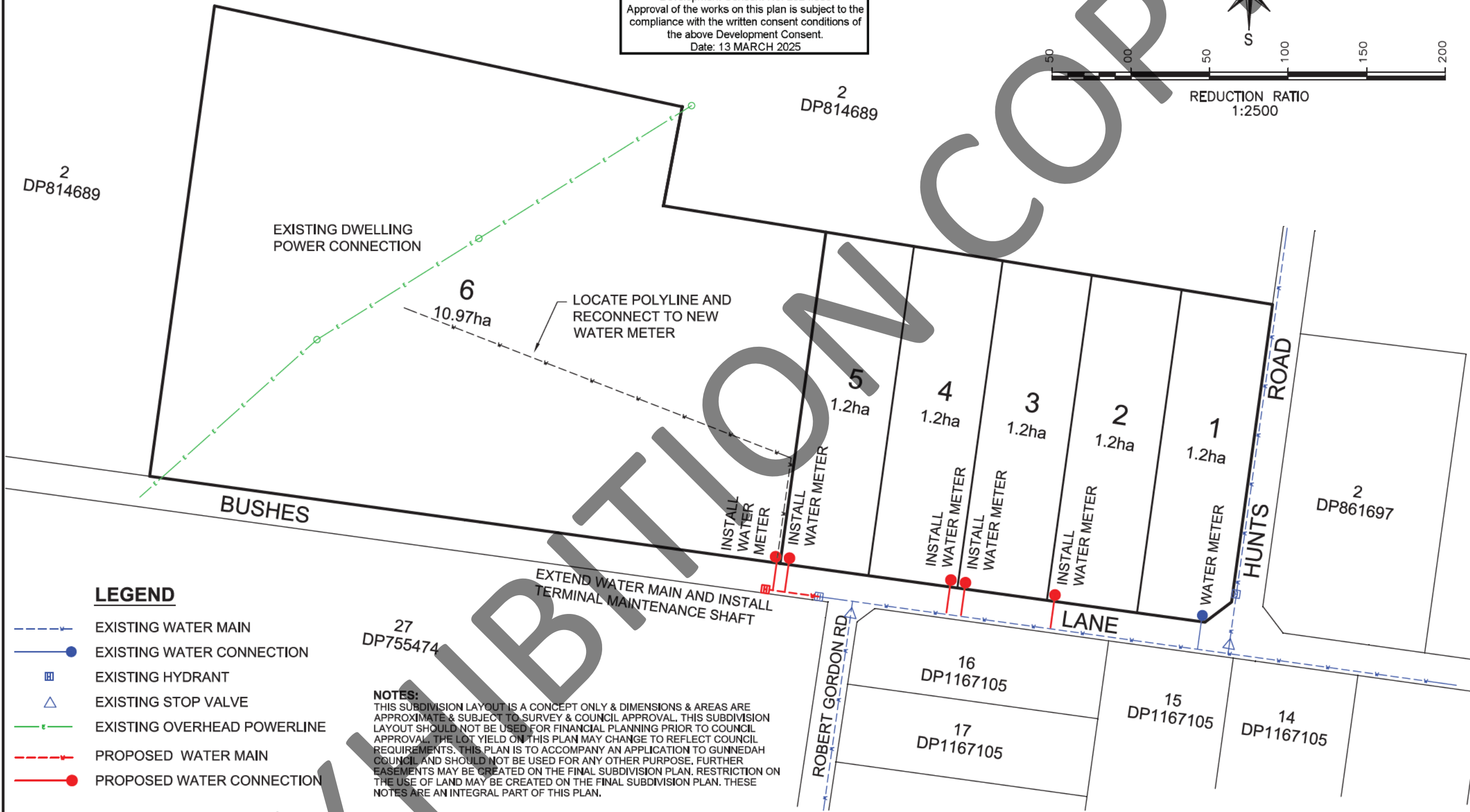
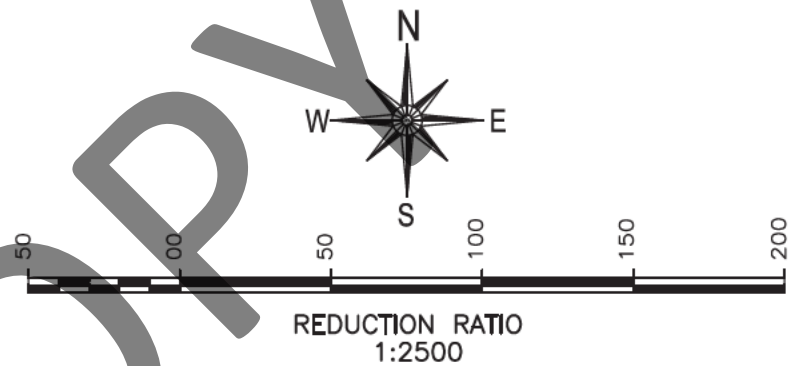
NOTES:
THIS SUBDIVISION LAYOUT IS A CONCEPT ONLY & DIMENSIONS & AREAS ARE APPROXIMATE & SUBJECT TO SURVEY & COUNCIL APPROVAL. THIS SUBDIVISION LAYOUT SHOULD NOT BE USED FOR FINANCIAL PLANNING PRIOR TO COUNCIL APPROVAL. THE LOT YIELD ON THIS PLAN MAY CHANGE TO REFLECT COUNCIL REQUIREMENTS. THIS PLAN IS TO ACCOMPANY AN APPLICATION TO GUNNEDAH COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. FURTHER EASEMENTS MAY BE CREATED ON THE FINAL SUBDIVISION PLAN. RESTRICTION ON THE USE OF LAND MAY BE CREATED ON THE FINAL SUBDIVISION PLAN. THESE NOTES ARE AN INTEGRAL PART OF THIS PLAN.

 STEWART SURVEYS Pty Ltd Inc in NSW ABN 65 002 886 508 109 Conadilly Street P.O. Box 592 GUNNEDAH NSW 2380 T 02 67422966 F 02 67420684 E office@stewartsurveys.com Surveying, Environmental & Landscape Architecture	CLIENT: RYAN PRYDE		DESCRIPTION: CONCEPT PLAN FOR PROPOSED SUBDIVISION OF LOT 1 DP861697					
	PROJECT: No 170 BUSHES LANE. GUNNEDAH							
	Date:	28TH OCTOBER 2021	File Ref:	5608	Drawn:	CRS	Scale:	1:2500 @ A3

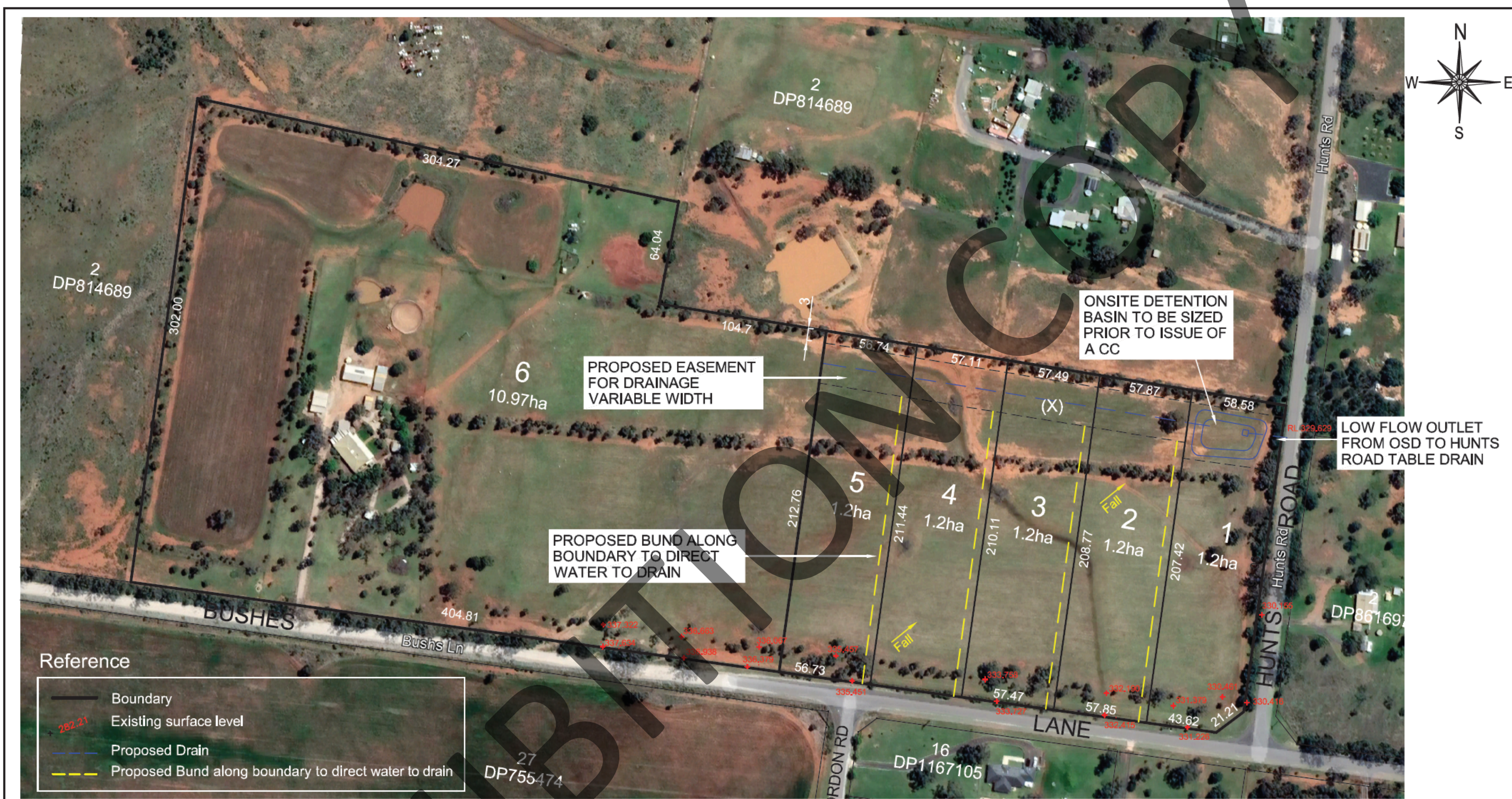


Gunnedah Shire Council
DEVELOPMENT CONSENT

Development Consent No: 2024.065
Approval of the works on this plan is subject to the
compliance with the written consent conditions of
the above Development Consent.
Date: 13 MARCH 2025



 STEWART SURVEYS Pty Ltd Inc In NSW ABN 65 002 886 508 109 Conadilly Street P.O. Box 592 GUNNEDAH NSW 2380 T 02 67422966 F 02 67420684 E office@stewart-surveys.com	CLIENT: RYAN PRYDE		DESCRIPTION: PROPOSED SITE SERVICING ON CONCEPT PLAN FOR PROPOSED SUBDIVISION OF LOT 1 DP861697		
	PROJECT: No 170 BUSHES LANE. GUNNEDAH				
	Date: 28TH OCTOBER 2021	File Ref: 5608	Drawn: CRS	Scale: 1:2500 @ A3	Sheet:



Reference

	Boundary
	Existing surface level
	Proposed Drain
	Proposed Bund along boundary to direct water to drain

NOTES:

THIS SUBDIVISION LAYOUT IS A CONCEPT ONLY & DIMENSIONS & AREAS ARE APPROXIMATE & SUBJECT TO SURVEY & COUNCIL APPROVAL. THIS SUBDIVISION LAYOUT SHOULD NOT BE USED FOR FINANCIAL PLANNING PRIOR TO COUNCIL APPROVAL. THE LOT YIELD ON THIS PLAN MAY CHANGE TO REFLECT COUNCIL REQUIREMENTS. THIS PLAN IS TO ACCOMPANY AN APPLICATION TO GUNNEDAH COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. FURTHER EASEMENTS MAY BE CREATED ON THE FINAL SUBDIVISION PLAN. RESTRICTION ON THE USE OF LAND MAY BE CREATED ON THE FINAL SUBDIVISION PLAN. THESE NOTES ARE AN INTEGRAL PART OF THIS PLAN.

(X) INDICATES EASEMENT FOR DRAINAGE VARIABLE WIDTH



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Gunnedah Shire Council
DEVELOPMENT CONSENT

Development Consent No: 2024.065
Approval of the works on this plan is subject to the compliance with the written consent conditions of the above Development Consent.
Date: 13 MARCH 2025

CLIENT:

RYAN PRYDE

PROJECT:

No 170 BUSHES LANE. GUNNEDAH

Date:

13 DECEMBER 2024

File Ref:

5608

DESCRIPTION:

**CONCEPT STORMWATER STRATEGY
FOR PROPOSED SUBDIVISION OF
LOT 1 DP861697**

Drawn: CRS

Scale: 1:2500 @ A3

Sheet: