

4 June 2020

Megan Nugent
Acting Director
Department of Planning, Industry and Environment
10 Valentine Avenue,
Parramatta, NSW 2150

Dear Megan,

**RE: 55 Coonara Avenue, West Pennant Hills
PP_2-17_THILL_006_00
Regional Open Space – Planning Agreement Offer**

We refer to the abovementioned site and our letters of offer dated 28 March 2018 and 15 May 2020, to enter into a Planning Agreement with the Minister in accordance with section 7.4 of the EP&A Act and part 4 division 1A of the *Environmental Planning and Assessment Regulation 2000*, associated with the site's proposed rezoning (see Appendix A of this letter). We note subsequent meetings were held with Department of Planning, Industry and Environment (DPIE) on 3 August 2018, 1 May 2019 and 29 May 2020 in which this matter was further discussed.

This letter constitutes an amendment to Mirvac's letters of offer dated 28 March 2018 and 15 May 2020 and also provides an update on discussions with Forestry Corporation of NSW (Forestry) that are relevant to the offer to dedicate the Forest Dedication Area. As set out in our letter of offer this is conditional on a planning agreement being entered into in respect of this contribution. However, in the event that a planning agreement acceptable to Mirvac is entered into (and as set out in our letter dated 28 March 2018 that must include a clause excluding the application of any contributions under section 7.24 of the EP&A Act), this letter constitutes an irrevocable offer to dedicate the Forest Dedication Area (as identified in Appendix B to this letter).

As suggested by DPIE and as outlined in our letter dated 15 May 2020, in June 2019 Mirvac commenced discussions directly with Forestry Corporation of NSW, who currently manage the adjoining Cumberland State Forest, in relation to the potential dedication of forest land within the 55 Coonara Avenue site.

As a result of these discussions, and other developments in relation to the Planning Proposal, Mirvac write to provide the following amendment to our March 2018 offer:

1. An in-principal agreement between Mirvac and Forestry was reached in late 2019. Further negotiations are pending the outcome of DPIE assessment of the Planning Proposal and finalisation of the LEP for the site;
2. In addition to the offer to dedicate the Forest Dedication Area, Mirvac offers to undertake significant vegetation works identified as the 'Revegetation of Area 3' on the plan attached as Annexure A to create a self-sustaining forest community utilising local provenance, and implemented in accordance with a Biodiversity Management Plan prepared by a qualified ecologist, and undertaken by suitably qualified and experienced contractors. This offer is conditional on Mirvac obtaining, at a minimum, the land use controls specified in Appendix C to this letter on any planning proposal being gazetted in respect of the subject lands;
3. The Forest Dedication Area that was agreed with Forestry comprised a total of approximately 8.9ha over two separate lots within the site and adjoining the boundary with the Cumberland State

Forest (Areas 1 & 2 on the plan in Annexure A, attached). It is understood by both parties that the Dedication Area may be subject to minor adjustments on finalisation of the LEP for the site;

4. Mirvac and the Forestry have agreed that at such time that dedication occurs, Mirvac will transfer the Forest Dedication Area to the Minister for Regional Industry and Trade for dedication as state forest. Any such transfer will be conditional on terms being agreed with Forestry, those contained in this letter, and a Planning Agreement being executed with the State Government; and
5. We note that Mirvac's offer of 28 March 2018 included reference to a planning agreement with the Hills Shire Council for public benefits in lieu of Section 7.11 contributions under the EP&A Act. Mirvac confirm that this is no longer proceeding in its current form, and it is not Mirvac's intention to agree an amended VPA with Hills Shire Council prior to the rezoning of the land.

The Forest Dedication and revegetation works identified on Annexure A as agreed in-principal with Forestry represents a significant opportunity to provide a regional open space facility in close proximity to the new Cherrybrook Metro station that will be unique in this locality.

The following table describes the updated proposed terms of the Planning Agreement;

Parties	Mirvac and Minister for Regional Industry and Trade
Description of the land (s7.4(3)(a))	Lot 61, DP737386
Description of the development application (s7.4(3)(b)(i))	Rezoning of a 25.87 ha site to enable a maximum of 600 dwellings comprising up to 200 housing up to 9m in height and 400 apartment dwellings up to 22m in height, plus identification of conservation and open space areas.
Nature and extent of the provision to be made by the developer, and the times and manner in which the provision is to be made (s7.4(3)(c))	<p>The following is to be provided by Mirvac in relation to the Planning Proposal:</p> <ol style="list-style-type: none"> 1. Dedication of the Forest Dedication Area, for the purpose of state forest. To be dedicated to the Minister for Regional NSW, Industry and Trade for state forest; and 2. Significant revegetation works identified as 'Revegetation of Area 3' on Annexure A. <p>(A plan is attached at Appendix B detailing the proposed Forest Dedication Area and the Revegetation of Area 3' works.)</p>
Exclusion of s7.24	The VPA should contain provision to exempt the site from payment of any future NSW government levies, charges, fees, works or other payments related to the proposed development including payments under the EP&A Act.
Relationship to s7.11 and 7.12	Section 7.11,7.12 of the EPA Act are <u>not</u> excluded as they apply to the payment of local contributions for the development.
Enforcement of the agreement by a suitable means (s7.4(3)(g))	Mirvac will register the Planning Agreement on the title to the land, to be removed from title, on dedication of the Forest Dedication Area and completion of the revegetation works. By way of further security Mirvac will consent to the imposition of a clause allowing compulsory acquisition of the Forest Dedication Area for one dollar if there is a breach of the agreement in regard to the timing of dedication.

Mirvac will agree to paying the Department's reasonable costs for VPA preparation (which would include a reference to this irrevocable offer which would remain irrevocable until any VPA commences operation) up to a maximum amount of \$20,000. Subject to the Department's views, Mirvac would be prepared to draft the first version of the planning agreement for its review.

We look forward to your response in relation to the above offer, and I can be contacted at any time on [REDACTED]

Yours sincerely,



Robert Wilson
Project Director

cc. Catherine van Laeren, Department of Planning, Industry and Environment
Gina Metcalf, Department of Planning, Industry and Environment
Toby Long, Mirvac
Amanda Blake, Mirvac

ANNEXURES

- A – Letters of Offer to Department of Planning and Environment, dated 15 May 2020 and 28 March 2018 (appended to letter dated 15 May 2020);
- B – Forest Area Dedication and Revegetation Plan
- C – Proposed Land Use Plan



15 May 2020

Megan Nugent
Acting Director
Department of Planning, Industry and Environment
10 Valentine Avenue,
Parramatta, NSW 2150

Dear Megan,

**RE: 55 Coonara Avenue, West Pennant Hills
PP_2-17_THILL_006_00
Regional Open Space – Planning Agreement Offer**

We refer to the abovementioned site and our letter of offer dated 28 March 2018, to enter into a Planning Agreement with the Minister in accordance with section 7.4 of EP&A Act and part 4 division 1A of the Environmental Planning and Assessment Regulation 2000, associated with the site's proposed rezoning (see Appendix B of this letter). We note subsequent meetings were held with Department of Planning, Industry and Environment (DPIE) on 3rd August 2018 and 1 May 2019 in which this matter was further discussed.

This letter does not constitute an amendment or variation to Mirvac's letter of offer dated 28 March 2018 but rather provides an update on discussions with Forestry Corporation of NSW (Forestry) that are relevant to the offer to dedicate the Forest Dedication Area (and as set out in our letter of offer this is conditional on a planning agreement being entered into in respect of this contribution).

As suggested by DPIE, in June 2019 Mirvac commenced discussions directly with Forestry Corporation of NSW, who currently manage the adjoining Cumberland State Forest, in relation to the potential dedication of forest land within the 55 Coonara Avenue site.

As a result of these discussions, and other developments in relation to the Planning Proposal, Mirvac write to provide the following update to our March 2018 offer:

1. An in-principal agreement between Mirvac and Forestry was reached in late 2019. Further negotiations are pending the outcome of DPIE assessment of the Planning Proposal and finalisation of the LEP for the site;
2. The Forest Dedication Area that was agreed with Forestry comprised a total of approximately 8.9ha over two separate lots within the site and adjoining the boundary with the Cumberland State Forest (as per attached plan). It is understood by both parties that the Dedication Area may be subject to minor adjustments on finalisation of the LEP for the site;
3. Mirvac and the Forestry have agreed that at such time that dedication occurs, Mirvac will transfer the Forest Dedication Area to the Minister for Regional Industry and Trade for dedication as state forest. Any such transfer will be conditional on terms being agreed with Forestry, those contained in this letter, and a Planning Agreement being executed with the State Government; and
4. We note that Mirvac's offer of 28 March 2018 included reference to a planning agreement with the Hills Shire Council for public benefits in lieu of Section 7.11 contributions under the EP&A Act. Mirvac confirm that this is no longer proceeding in its current form, and it is not Mirvac's intention to agree an amended VPA with Hills Shire Council prior to the rezoning of the land.

The Forest Dedication as agreed in-principal with Forestry represents a significant opportunity to provide a regional open space facility in close proximity to the new Cherrybrook Metro station that will be unique in this locality.

The following table describes the updated proposed terms of the Planning Agreement;

Parties	Mirvac and Minister for Regional Industry and Trade
Description of the land (s7.4(3)(a))	Lot 61, DP737386
Description of the development application (s7.4(3)(b)(i))	Rezoning of a 25.87 ha site to enable a maximum of 600 dwellings comprising up to 200 housing up to 9m in height and 400 apartment dwellings up to 22m in height, plus identification of conservation and open space areas.
Nature and extent of the provision to be made by the developer, and the times and manner in which the provision is to be made (s7.4(3)(c))	The following dedication is to be provided by Mirvac in relation to the Planning Proposal: <ul style="list-style-type: none"> 1. Forest Dedication Area, for the purpose of state forest. To be dedicated to the Minister for Regional NSW, Industry and Trade for state forest. (A plan is attached at Appendix A detailing the proposed Forest Dedication Area".)
Exclusion of s7.24	The VPA should contain provision to exempt the site from payment of any future NSW government levies, charges, fees, works or other payments related to the proposed development including payments under the EP&A Act.
Relationship to s7.11 and 7.12	Section 7.11,7.12 of the EPA Act are <u>not</u> excluded as they apply to the payment of local contributions for the development.
Enforcement of the agreement by a suitable means (s7.4(3)(g))	Mirvac will register the Planning Agreement on the title to the land, to be removed from title, on dedication of the Forest Dedication Area. By way of further security Mirvac will consent to the imposition of a clause allowing compulsory acquisition of the Forest Dedication Area for one dollar if there is a breach of the agreement in regard to the timing of dedication.

Mirvac will agree to paying the Department's reasonable costs for VPA preparation up to a maximum amount of \$20,000. Subject to the Department's views, Mirvac would be prepared to draft the first version of the planning agreement for its review.

We look forward to your response in relation to the above offer, and I can be contacted at any time on



Yours sincerely,

Robert Wilson
Project Director

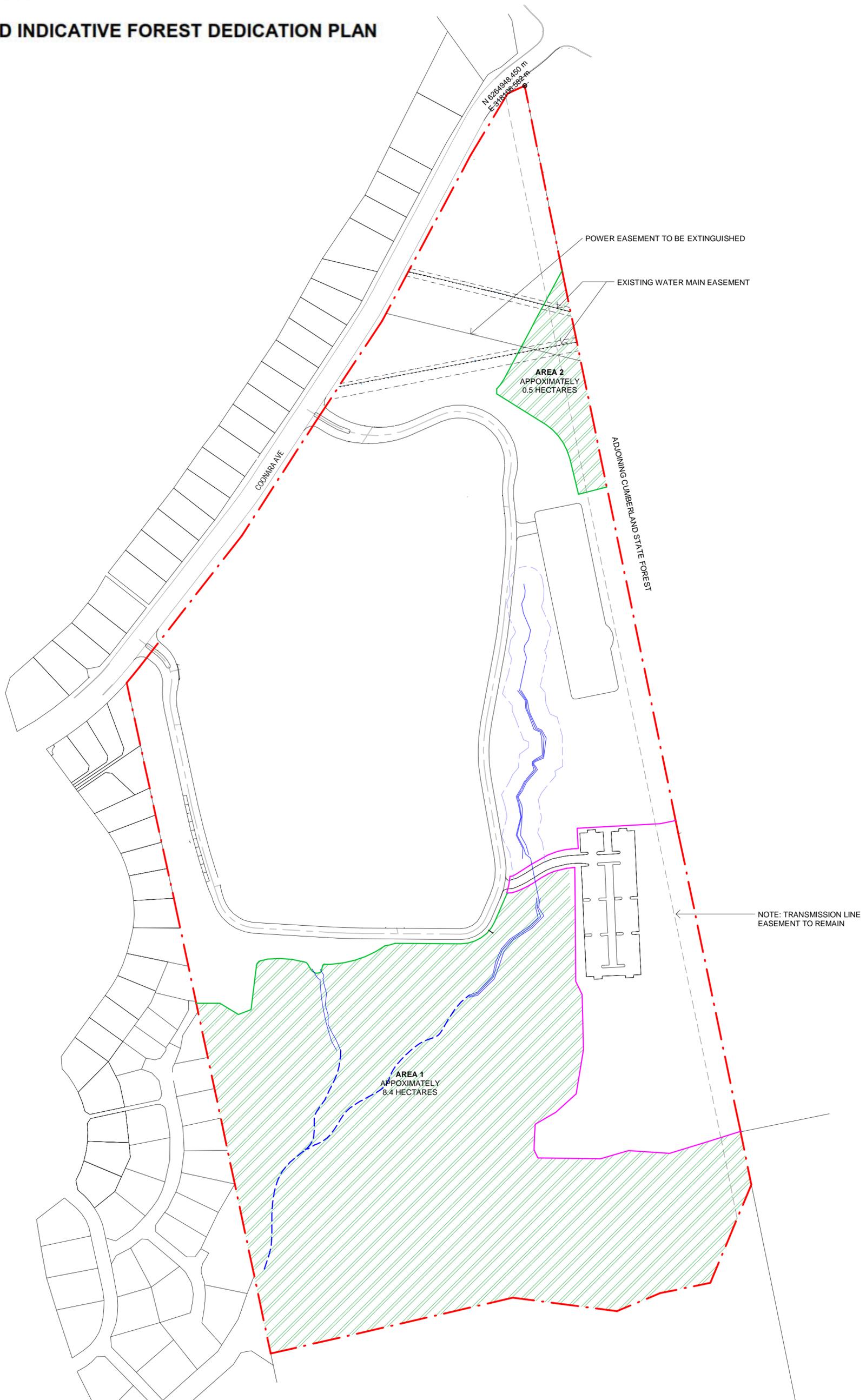
cc. Catherine van Laeren, Department of Planning, Industry and Environment
Gina Metcalf, Department of Planning, Industry and Environment
Toby Long, Mirvac
Amanda Blake, Mirvac

APPENDICES

A – Forest Area Dedication Plan

B – Letter of Offer to Department of Planning and Environment, dated 28 March 2018.

PROPOSED INDICATIVE FOREST DEDICATION PLAN
14/10/19



TOTAL PROPOSED FOREST DEDICATION AREA - APPROXIMATELY 8.9 HECTARES



28 March 2017

(note: 2017 is not correct, letter issued in 2018)

Ann-Maree Carruthers
Director, Sydney Region West
Department of Planning and Environment
10 Valentine Avenue,
Parramatta, NSW 2150

Dear Ann-Maree,

**RE: 55 Coonara Avenue, West Pennant Hills
PP_2-17_THILL_006_00
Regional Open Space – Planning Agreement Offer**

In accordance with Section 7.4 of EP&A Act we write to offer to enter into a Planning Agreement with the NSW Government, associated with the proposed rezoning of the site at 55 Coonara Avenue, West Pennant Hills.

The planning proposal which received a Gateway Determination on 31 October 2017, has a range of strategic benefits to the current and future community not least of which is the preservation of approximately 10 hectares of high quality open space containing a variety of significant vegetation ("Forest Dedication Area").

The Forest Dedication Area is adjacent to a proposed area of 2.493 hectares of additional active open space which has been the subject of discussions with the Hills Shire Council. In totality, these areas represent a significant opportunity to provide a regional open space facility in close proximity to the new Cherrybrook Metro station that will be impossible to replicate in the locality.

Mirvac has received significant feedback from the local community entailing direct consultation events and through correspondence. An overwhelming majority of this feedback has expressed a community desire for the protection and preservation of the Forest Dedication Area. Mirvac's proposal is consistent with this community desire, and Mirvac is of the view that the transfer of this land to public ownership and dedication for regional open space would provide a significant benefit to the area and an ongoing community resource for current and future generations. This outcome is also consistent with the Greater Sydney Commission's strategic aspirations of a "Green Grid" and the State Government's recent emphasis on the importance of open space particularly in infill urban areas.

It is noted that the Gateway Determination for the site makes reference to a requirement for "satisfactory arrangements" to be made for provision for contributions to State public infrastructure. The proposed change of use from Business Park to Residential reduces the demand on State public infrastructure, and therefore there would not be any contributions to State public infrastructure required.

The Coonara Avenue proposal has demonstrated that load on the traffic network will be reduced as a result of the proposed development compared to its current uses. It has also been determined that the proposal will have a negligible effect on the demand for educational services in the locality. The NSW Department of Education has also advised that the site is not a suitable location for a public education facility.

While we do not consider that the proposed development generates a demand for State infrastructure, in the spirit of meeting community expectations, we propose to dedicate the Forest Dedication Area as regional open space to the Minister for Planning.

We also note that, if contrary to our view, DPE considers that a special infrastructure payment and/or infrastructure works are warranted, dedication of the Forest Dedication Area will constitute a substantial contribution that would, in value, far exceed the cost, if any, of providing State infrastructure and any payment and/or infrastructure works required by any other NSW agency.

Section 7.22 of the EP&A Act describes what can be provided as a special infrastructure contribution and Section 7.24(5) allows for the dedication of land in lieu of payment of a special infrastructure contribution. The proposed dedication is entirely consistent with the intention of this part and represents good value for the State of NSW and a substantial public benefit for the community.

The offer to dedicate the Forest Dedication Area is therefore made on the basis that it will fully satisfy all NSW government levies, charges, fees or other payments or works related to the proposed development including payments under the EP&A Act.

We note that Mirvac has also offered to enter into a VPA with the Hills Council under which public benefits of a value substantially exceeding the contributions that would otherwise be payable under s7.11 of the EP&A Act will be delivered.

Mirvac is proud to be working with Council and the NSW government to deliver a development that will provide much needed homes adjacent to the proposed metro station and valuable open space that will benefit not only the development's future residents but the broader community.

Mirvac is in possession of more detailed information regarding the environmental attributes of the land and would be happy to make this information available on request.

The land is wholly owned by Mirvac and the following table describes the proposed terms of the Planning Agreement;

Parties	Mirvac and Minister for Planning
Description of the land (s7.4(3)(a))	Lot 61, DP737386
Description of the development application (s7.4(3)(b)(i))	Rezoning of a 25.87 ha site to 600 dwellings comprising 200 housing and 400 apartment dwellings ranging from 2 to 6 storeys in height plus identification of conservation and open space areas.
Nature and extent of the provision to be made by the developer, and the times and manner in which the provision is to be made (s7.4(3)(c))	The following dedication is to be provided by Mirvac in relation to the Planning Proposal: 1. Forest Dedication Area, for the purpose of regional open space. To be dedicated to the Minister for Planning in perpetuity prior to the issue of the Occupation Certificate for the final stage of the proposed development.* (A plan is attached at Appendix 1 detailing the proposed Forest Dedication Area".)
Exclusion of s7.24	The VPA should contain provision to exempt the site from payment of any future NSW government levies, charges, fees, works or other payments related to the proposed development including payments under the EP&A Act.
Relationship to s7.11 and 7.12	Section 7.11, 7.12 of the EPA Act are <u>not</u> excluded as they apply to the payment of local contributions for the development. A separate VPA is being negotiated with Council at this time.
Enforcement of the agreement by a suitable means (s7.4(3)(g))	Mirvac will register the Planning Agreement on the title to the land, to be removed from title, on dedication of the Forest Dedication Area. By way of further security Mirvac will consent to the imposition of a clause allowing compulsory acquisition of the Forest Dedication Area for one dollar if there is a breach of the agreement in regard to the timing of dedication.

* Services and drainage easements may be required over the Forest Dedication Area in order to facilitate the development.

Mirvac will agree to paying the Department's reasonable costs for VPA preparation up to a maximum amount of \$20,000.

We look forward to your response in relation to the above offer, and can be contacted at any time on [REDACTED]

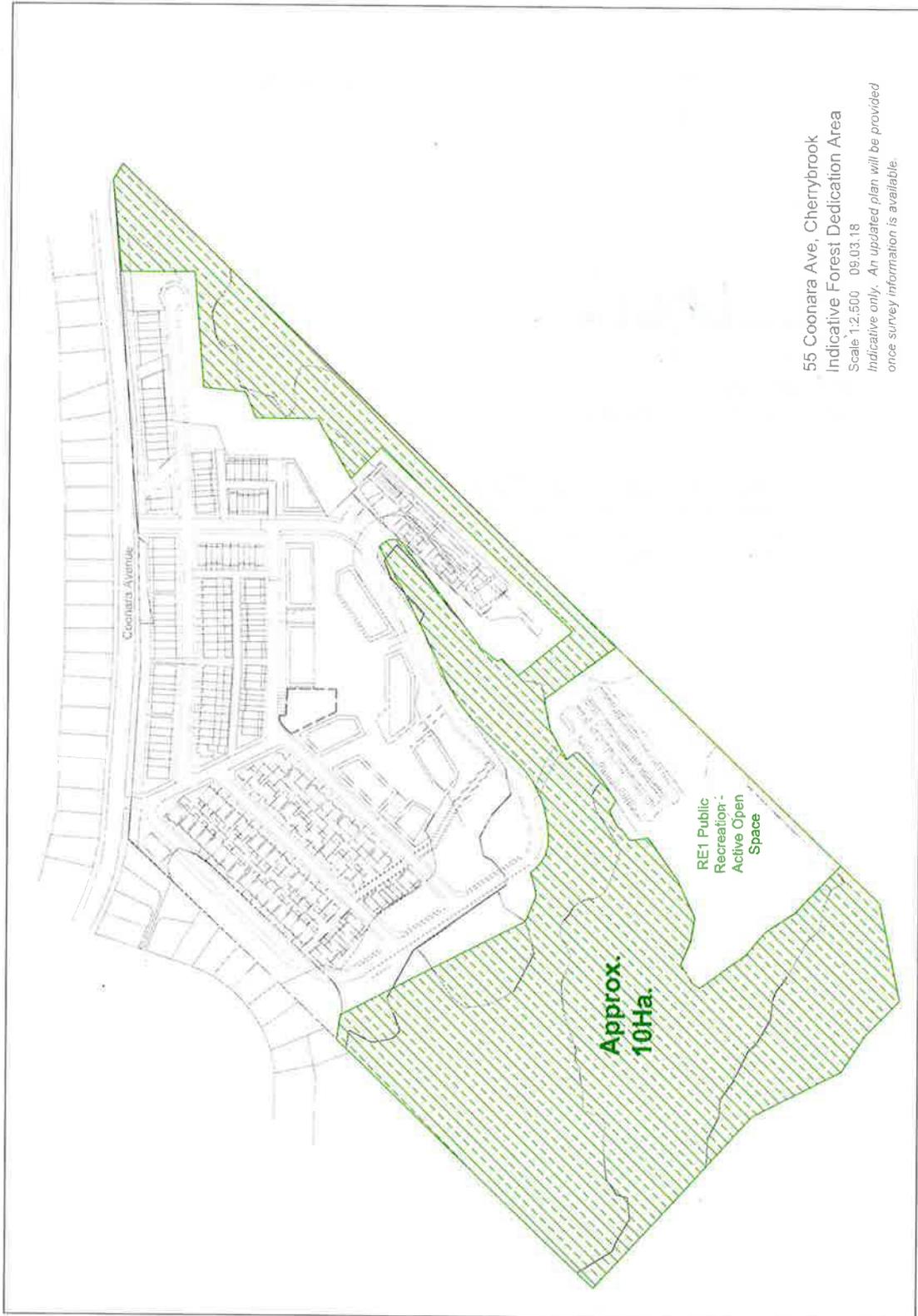
Yours sincerely,



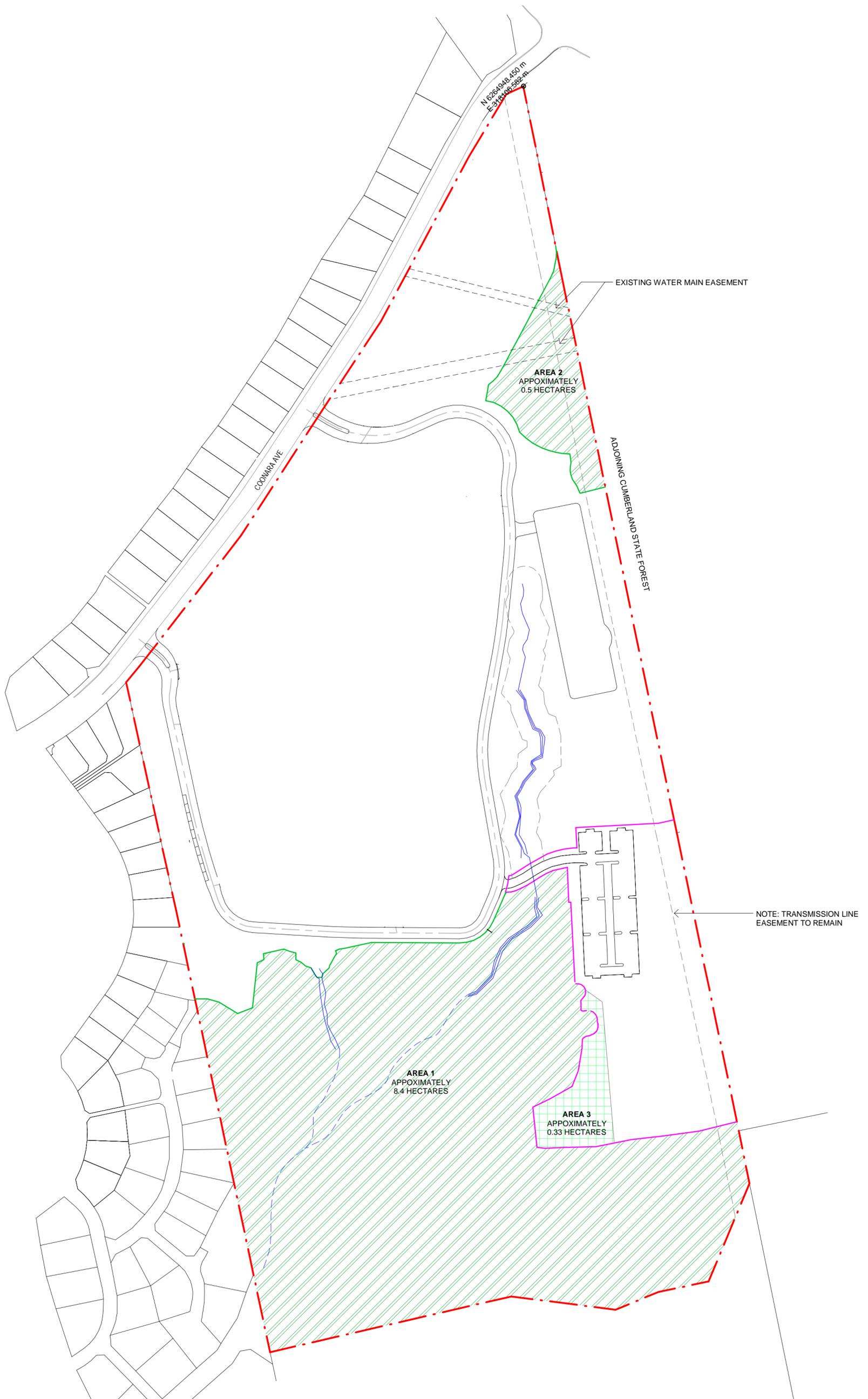
Amanda Blake
Senior Development Manager

cc. Adrian Hohenzollern, Department of Planning and Environment
Sebastian Tauni, Department of Planning and Environment
Adrian Checchin, Mirvac
Michael File, FPD

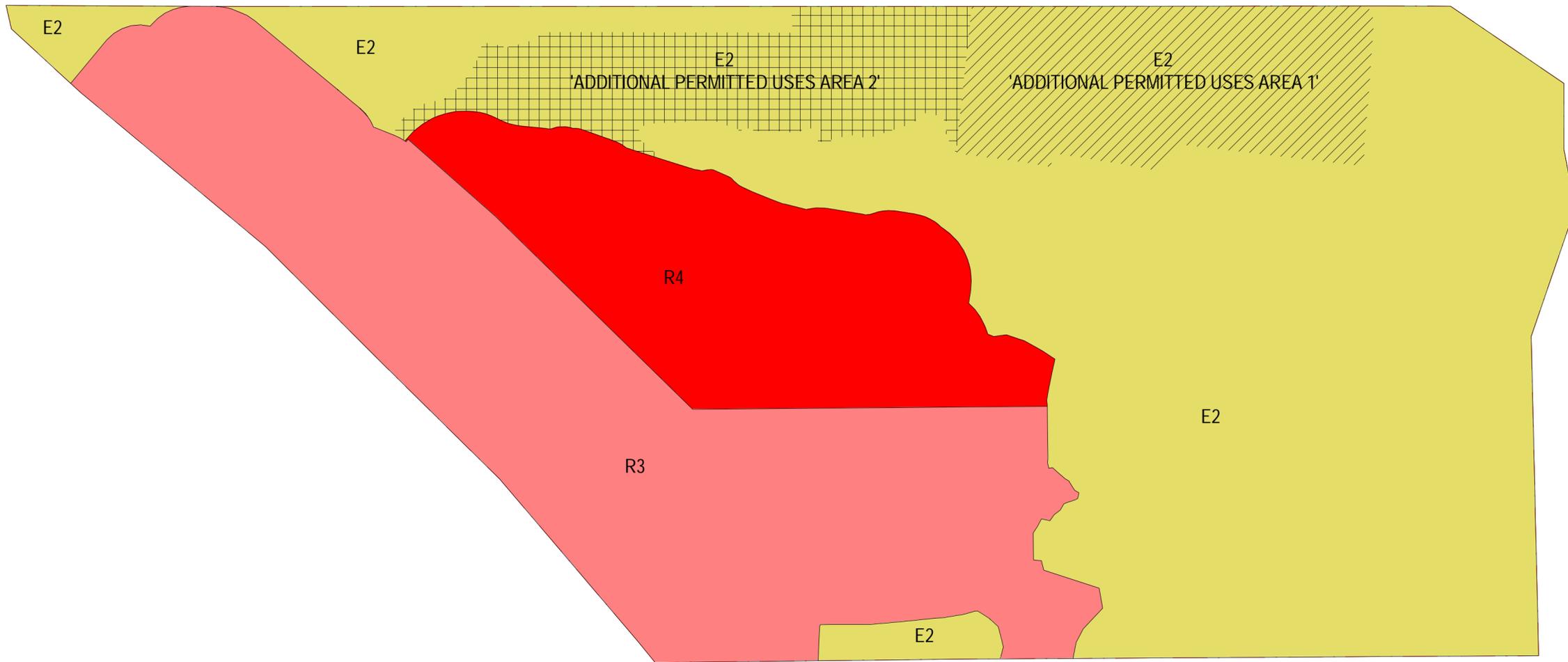
Appendix One – Indicative Forest Dedication Area Map



55 Coonara Ave, Cherrybrook
Indicative Forest Dedication Area
Scale 1:2,500 09.03.18
Indicative only. An updated plan will be provided once survey information is available.



Forest Area Dedication and Revegetation Plan



Proposed Land Use Plan