

PLANNING PROPOSAL

**REZONE LOT 493 PRINCES HIGHWAY,
BOMMADERRY (5C Creston Grove)**

TO B5 BUSINESS DEVELOPMENT



Council reference: 50572E

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1 Executive Summary

This Planning Proposal report has been prepared in accordance with Shoalhaven City Council's Planning Proposal Guidelines 2013. As outlined by the Guidelines and the Associated "A guide to preparing planning proposals" by the NSW Department of Planning & Infrastructure, the report has been prepared as "*a plain English document which explains and justifies a requested or intended change to the Shoalhaven Local Environmental Plan, such as rezoning land or specific changes to principle development controls within the plan*". The elements of the report are summarised below:

Intent:

- To outline an existing anomaly in the land use planning controls under the LEP that applies to land at 5C Creston Grove, Bomaderry (The Site) and demonstrate that the proposed amendment to allow commercial uses on the site is minor in nature and actually has the ability to result in a net positive impact on the land and surrounding community.
- To support a well-established local business continue to grow naturally and will contribute to the economic, employment and region promoting objectives of the major planning policies applying to the land.
- To demonstrate that the proposed amendment is specifically relevant to this site only (i.e. no precedent) which is the only vacant residential land adjoining a service station on the highway and has been left vacant due to the constraints of the land being contamination (Site Audit Statement restricts consumption of produce grown on the site) and being adjacent to recently upgraded petrol station including the heavy vehicle refuelling station adjacent to the site boundary (see cover photo).
- To demonstrate that the site unsuitable for the current large-lot residential zoning of the land (contamination, petrol station) and continuing this anomaly in land use controls will result in no development of the land continuing the urban blight on this primary access way to the Shoalhaven (see cover photo).
- To achieve access from the Princes Highway to support the proposed commercial uses

Proponents / Proposed Development:

Ride Australia, the proponents (and owners of the land) have a vision for the Site to further establish a successful Shoalhaven-based business that is expanding globally and deliver a high-quality office and administration complex that will act as the Australasian, SE Asia and UAE headquarters for two of the most successful globally recognised specialised boating brands for wakeboarding – Supra and Moomba Boats which retail from \$100K-\$250K each. The proponents are local and have chosen to further cement their presence in the Shoalhaven by the establishment of a global Head Quarters for their business that will carry out the display, promotion, administration, logistics, finance, insurance and marketing functions. Importantly, the proposal will not include conventional sales yard, manufacturing or servicing of their products. This is a predominantly low-intensity commercial/office use with bulky goods display that will be compatible with the surrounding uses and provide a buffer to surrounding residential development from the adjoining petrol station.

Why this site:

As part of the extended contract and expanded wholesale/distribution rights for Ride Australia, it was agreed to build a modern corporate headquarters in a suitable location in Australia. As outlined above, being in the Shoalhaven was critical for the proponent which is a positive reflection on their commitment to the business, tourism and natural elements of the region. They embarked on a site procurement process that would meet the unique needs and vision to further establish this successful international business in the Shoalhaven. The key characteristics of the site are outlined below:

- Based in the Shoalhaven
- Good / direct highway exposure
- Easily accessed from Sydney Airport for international clients
- Clear and legible destination site that would not be lost in the mixed use industrial/commercial precincts
- Unique location to represent the specialised nature of the business
- Vacant to accommodate specific design requirements
- Approx. 2,500-4,000m² that was flat and serviced

The owners and operators of Ride Australia, who have been located in the Shoalhaven and Illawarra all their lives purchased 5C Creston Grove as the perfect location for their business after an extensive site search across the Nowra-Bomaderry Area. The extensive search was restricted by the limited availability of vacant commercial/industrial/business land with highway frontage that accommodated the other key characteristics for the proponents (and their US-based licensor's) to further establish their business in the Shoalhaven. Accordingly, the characteristics of the Subject Site presented an excellent opportunity for the Proponent and despite the limitations of the current zoning, it is considered that the residential zone is not appropriate and the proponents are committed to delivering the project through a rezoning of the land.

Why is a Planning Proposal Required

Despite the suitability of the site for business/commercial operations and the site specific constraints and land-use interface issues, the Site is currently zoned R2 Low Density Residential under the Shoalhaven Local Environmental Plan 2014 (SLEP) which prohibits the majority of commercial uses and accordingly would not support the proposed commercial/business operations of the Proponents. An extension of the B5 Business Development zone that applies to the adjoining service station is considered appropriate and directly consistent with the objectives of the Planning Proposal to support the growth of a locally established and growing business. The B5 Zone will support the proponent's development objectives as the primary land uses are permitted with development consent ensuring that Council and other key authorities will have the opportunity to further assess a more detailed development proposal.

Why is the Current Zoning an Anomaly

Based on the current opportunities and constraints of the site, it is considered that the current residential zoning of the site is not appropriate given the following:

- The Site was created in 29/10/2009 and has not been sold or built upon in accordance with the residential zoning of the site while all other zoned land in the locality has established residential dwellings
- The Site is located adjacent to a well-established and recently upgraded Caltex Service Station which creates odour and noise issues over its extended trading hours (7am-8pm weekdays and 7am – 5pm weekends)
- The adjoining service station has located the heavy vehicle refuelling area for large trucks including B-Doubles adjacent to the boundary with the Subject Site creating significant risk and substantially reducing amenity for any residential uses.
- It is undesirable land-use planning practice to have residential uses next to such a potentially dangerous facility such as a service station
- As part of a recent upgrade to the service station, a decontamination process was undertaken which included the subject site and while it was determined that the site could be used for residential purposes, restrictions on the use of the land for growing plants for consumption was restricted which is inconsistent with the large-lot residential nature of the current land use objectives and controls under the LEP. The Site Audit Statement states – "Residential land use with gardens and accessible soils (home grown produce contributing less than 10/5 fruit and vegetable intake) having regard to petroleum hydrocarbon impacts in groundwater."

Accordingly, it is considered that the current zoning over the site is an anomaly as it does not reflect the individual site constraints and opportunities of the land. This anomaly creates an opportunity to adjust the land use controls that can provide a compatible land use that provides a buffer between the service station and surrounding residential uses that is more aligned with the unique characteristics of the Site at the gateway to the Shoalhaven.

Why is the Planning Proposal only relevant to this Site (Precedent)

- Land use interface – The adjoining (and recently upgraded) Caltex Service Station is an established long-term use that was rationalised in the creation of SLEP 2014 with a B5 Business zoning from the previous residential/tourism zoning under SLEP 1985. Service Stations create one of the highest risk land use interfaces with residential development and present both an amenity and safety risk to the Site if developed for residential purposes as per the current zone objectives. As can be seen in the attached photo, the recent upgrade has located to the truck refuelling area directly adjacent to the subject site locating a noise and odour source on the boundary with the subject site. A large skip bin is also located in this area further exacerbating the noise and odour issues.
- Contamination – To exacerbate the interface issue, as outlined in the Site Audit statement for the site, while the site is recognised as suitable for residential development there are restrictions on the use of the land to consume produce grown on the site.
- Vacant – Unlike all other residentially zoned land in the immediate vicinity, the subject site has remained vacant since being created in 2009 (see attached aerial). This is a clear direction that the land is not suitable and/or desirable for residential uses. As can be seen in the attached photo, all residentially zoned land in the immediate vicinity is developed and the Subject Site is the only vacant land both in conventional sized and large lot residential areas. The subject site is the only vacant land in the immediate vicinity which is directly adjacent to a service station. All other residentially zoned land is not constrained by the proximity and direct contamination issues caused the service station that are not consistent with the large-lot residential land use controls that apply to the site.
- Specific Location – As can be seen by the attached extract from google maps locating petrol stations, when considered more broadly, it is the only vacant residentially zoned land adjacent to a petrol station on a classified road in the broader Nowra-Bomaderry Area giving it very specific constraints not experienced by any other residentially zoned land.
- Therefore, the concerns relating to this proposal setting a precedent for similar proposals has been adequately addressed and Council has sufficient justification to rationalise supporting this proposal in isolation and based on the anomalies in the existing zoning of the land.

Planning and Environmental Justification

The Planning proposal will demonstrate that the minor site-specific proposal to address an identified anomaly, while minor and almost inconsequential in a macro-planning sense, is not inconsistent with the predominant strategic planning policies and studies that apply to the site in relation to local, regional and state-wide planning policies. It also demonstrates that the environmental constraints that affect the site can be better managed through the proposed amendments to the SLEP and through more detailed assessment at the Development Application (DA) stage. Key issues are raised below:

- Planning – the Planning Proposal adheres to the primary economic, employment and regional promotion objectives of the key strategic planning policies that apply to the site. It is not inconsistent with other key housing or environmental objectives.
- Traffic – the traffic report demonstrates that the proposed development only generates very minor traffic and can accommodate all on-site access and parking requirements. It has also demonstrated that access from the highway can be accommodated from a technical perspective under the existing and future highway upgrade scenarios and is not considered to adversely impact the safety or efficiency of the classified road. The proponents have outlined

their willingness to accommodate any design and construction costs to ensure safe operation of the highway (similar to the approved works for the Caltex service station). Furthermore, it is considered that the Planning Proposal is not inconsistent with the Infrastructure SEPP as outlined in the traffic report and defined as a Traffic Generating use (under SEPP Infrastructure 2007) and a future DA does not need to be referred to the RMS for comment prior to determination. It is also considered not to be inconsistent with the relevant ministerial direction in regard to integrating land use and transport which relate to older documents which are difficult to locate and unavailable on relevant government websites.

- Impacts on residential development – It is considered that the Planning proposal will generate a net positive impact on adjoining residential development by providing a buffer to the petrol station; potentially removing access/easement from adjoining residential land, providing adequate provision for screen planting, being a non-offensive development with limited emissions (odour, noise) and accommodating traditional business hours.
- Odour/Emissions – the Planning proposal will provide a land use that is less sensitive to the odour and emissions emanating from both the highway and petrol station and provide a buffer to the more sensitive residential development surrounding. It will not generate any adverse emissions and can be addressed in more detail at DA Stage.
- Ecological – A more detailed review of the existing hollow-bearing trees on the site will be undertaken as part of detailed site planning and layout for the future development and a supplementary environmental study would be completed. The previous reports indicate that the recommendations to retain the trees were made due to the large-lot residential zoning objectives underpinning the site at the time which would accommodate a smaller footprint allowing trees to be retained while the value of the trees were not considered to significantly high. Retention of the trees close to development is not consistent with Council's tree policy and the hollow-bearing nature of the trees suggests they would be more susceptible to storm or wind damage.
- Bushfire – the site is located in a bushfire prone area under the LEP.
- Tree impact / removal – can be addressed at detailed design stage for the DA

Conclusions:

It is considered that there is sufficient information for relevant authorities to support the proposed rezoning to B5 Business Development and allow access to the site from the Highway to permit the low intensity use of the site which is consistent with the opportunities and constraints that are only relevant to this site.

2 Introduction

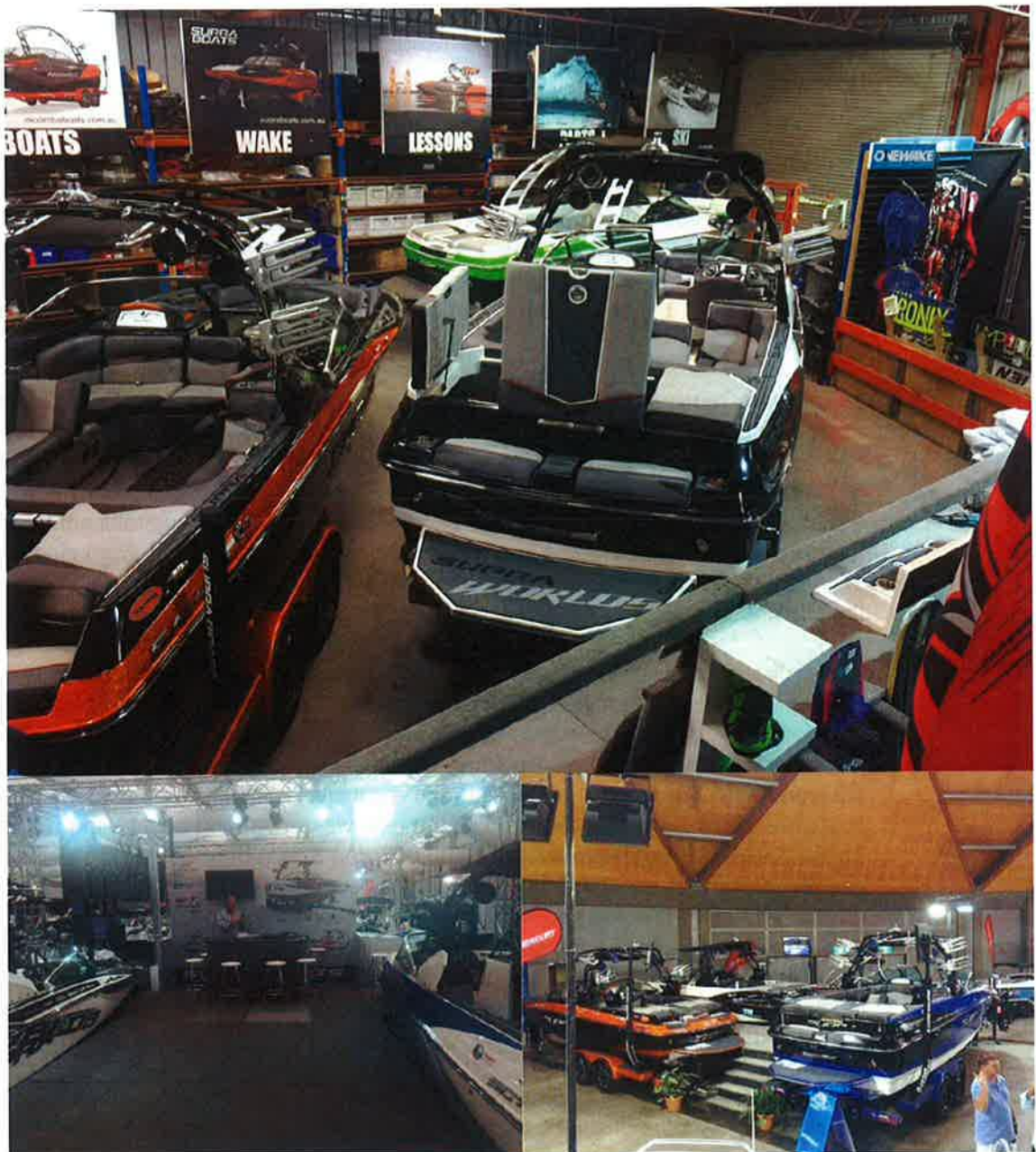
a) Proponents and Business Operations

Ride Australia (The Proponent) has been based in the Shoalhaven area for over 13 years, and has recently expanded their existing Australasian distribution rights with Supra & Moomba boats (world leading specialised boating brands) to the United Arab Emirates (UAE) and Asia-Pacific region (including China, South Korea and Japan) to build on its established Australasian business portfolio. To further establish its role, function and obligations to its US-based licensor Ride Australia has to secure modern purpose-built facilities to continue and expand its business functions.

Despite the requests from the licensor to secure premises on the Gold Coast or closer to an international Airport, Ride Australia is committed to its roots in the Shoalhaven. Ride Australia has had a long association with local community building events as a member of the Shoalhaven Business Chamber and key player in the delivery of the community events and previous wakeboarding championships on the Shoalhaven River. Ride Australia continues to be an active member of the local business community and is passionate about promoting the area as part of their growing business operations. Accordingly, being located in the Shoalhaven was critical for their business.

The proposed business operation is not a boat retail sales or service facility. It is a corporate headquarters for two of the most well-recognised specialised boating brands for wakeboarding across the globe (www.supraboats.com.au and www.moombaboats.com.au) primarily incorporating administration, logistics, finance, insurance and marketing functions as well as accommodate the display of its high-end exclusive boating product. Both Supra and Moomba boats are internationally recognised as the elite wake-boarding boats – the Bugatti of the industry. These boats retail for between AUD\$100,000 and \$250,000 meaning the daily business activities are moderate and accommodates a very acute market in the maritime industry. Ride Australia primarily manage the sales and wholesale distribution of these watercraft across Australia and now more globally to retail dealers that sell the boats direct to the public. Ride Australia is effectively the wholesaler and distributor and apart from the display stock and associated merchandise, the custom-ordered boats are delivered direct from the US to the retail dealers.

The proposed business operations will primarily be office, administrative and display for this growing international business that is committed to retaining its operations in the Shoalhaven. It will have boats and associated merchandise on display (refer to images below), primarily for corporate image and promotional purposes. The business currently has 5 full time staff and a range of part-time staff and suppliers that is growing with the business and will support jobs growth in the local economy. Off the street trade is almost non-existent due to the product type and average cost meaning visitor levels are less than 1-2 customers per day and any other customers are predominantly scheduled visits by national and international retail partners to view and order new stock which is why the location of the site is so critical.



Reference Images – Product Presentation

b) Why this Site

As part of the extended contract and expanded wholesale/distribution rights for Ride Australia, it was agreed to build a modern corporate headquarters in a suitable location in Australia. As outlined above, being in the Shoalhaven was critical for the proponent which is a positive reflection on their commitment to the business, tourism and natural elements of the region. They embarked on a site procurement process that would meet the unique needs and vision to further establish this successful international business in the Shoalhaven. The key characteristics of the site had to meet the following criteria.

- Based in the Shoalhaven
- Good / direct highway exposure / access
- Easily accessed from Sydney Airport for international clients

- Clear and legible destination site that would not be lost in the mixed use industrial/commercial precincts
- Unique location to represent the specialised nature of the business
- Vacant to accommodate specific design requirements
- Approx. 2,500-4,000m² that was flat and serviced

The owners and operators of Ride Australia, who have been located in the Shoalhaven and Illawarra all their lives purchased 5C Creston Grove as the perfect location for their business after an extensive site search across the Nowra-Bomaderry Area (refer to proponent's statement in **Annexure A**). The extensive search was restricted by the limited availability of vacant commercial/industrial/business land with highway frontage that accommodated the other key characteristics for the proponents (and their US-based licensors) to further establish their business in the Shoalhaven.

Even today, when undertaking web-based searches on primary real estate websites, there is a lack of large vacant commercial or industrial land with highway frontage available that meets the proponents objectives. A search of commercial real estate websites and discussions with commercial estate agents (at the time of purchase) confirms a site of this nature is difficult to locate in the local market place. While there may be some limited land available, it is inconsequential unless the land is available for sale and in any event, the purpose of this planning proposal is not to transfer land that is otherwise able to serve its current purpose, it is to recognise an existing zoning anomaly that has restricted the development of the land and seek a more appropriate zoning that responds to the unique site constraints and will deliver a high quality gateway development for the region.

Accordingly, the site characteristics of the Subject Site presented an excellent opportunity for the Proponent and despite the limitations of the current zoning, it is considered that the residential zone is not appropriate for the land and the proponents are committed to delivering the project through a rezoning of the land to further establish their business in the Shoalhaven.

c) Why is a Planning Proposal required?

Despite the suitability of the site for the business operations, the Site is currently zoned R2 Low Density Residential under the Shoalhaven Local Environmental Plan 2014 (SLEP) which prohibits the majority of commercial uses and accordingly would not support the proposed commercial/business operations of the Proponents. Notwithstanding, based on the current opportunities and constraints of the site, it is considered that the current residential zoning of the site is not appropriate given the following:

- The Site was created in 29/10/2009 and has not been sold or built upon in accordance with the residential zoning of the site while all other zoned land in the locality has established residential dwellings
- The Site is located adjacent to a well-established and recently upgraded Caltex Service Station which creates odour and noise issues over its extended trading hours (7am-8pm weekdays and 7am – 5pm weekends)
- The adjoining service station has located the heavy vehicle refuelling area for large trucks including B-Doubles adjacent to the boundary with the Subject Site creating significant risk and substantially reducing amenity for any residential uses.
- It is undesirable land-use planning practice to have residential uses next to such a potentially dangerous facility such as a service station
- As part of a recent upgrade to the service station, a decontamination process was undertaken which included the subject site and while it was determined that the site could be used for residential purposes, restrictions on the use of the land for growing plants for consumption

was restricted which is inconsistent with the large-lot residential nature of the current large-lot residential land use objectives and controls under the LEP.

Accordingly, it is considered that the current zoning over the site is an anomaly as it does not reflect the individual site constraints and opportunities of the land. This anomaly creates an opportunity to adjust the land use controls that can provide a compatible land use that provides a buffer between the service station and surrounding residential uses that is more aligned with the unique characteristics of the Site at the gateway to the Shoalhaven.

Accordingly, it is considered that the site is better suited to commercial or business uses that can contribute to the gateway location and remove that urban blight caused by the existing uncontrolled interface with the highway.

3 Site Context and Characteristics

a) Site Location

The Site is located at the northern entry to Bomaderry Township on the Princes Highway approximately 4.5km north of the Nowra CBD as shown in Figure 1. It is located slightly north of the Shoalhaven River which is a primary boating and recreation resource for the local area and a primary driver for the local tourism industry.

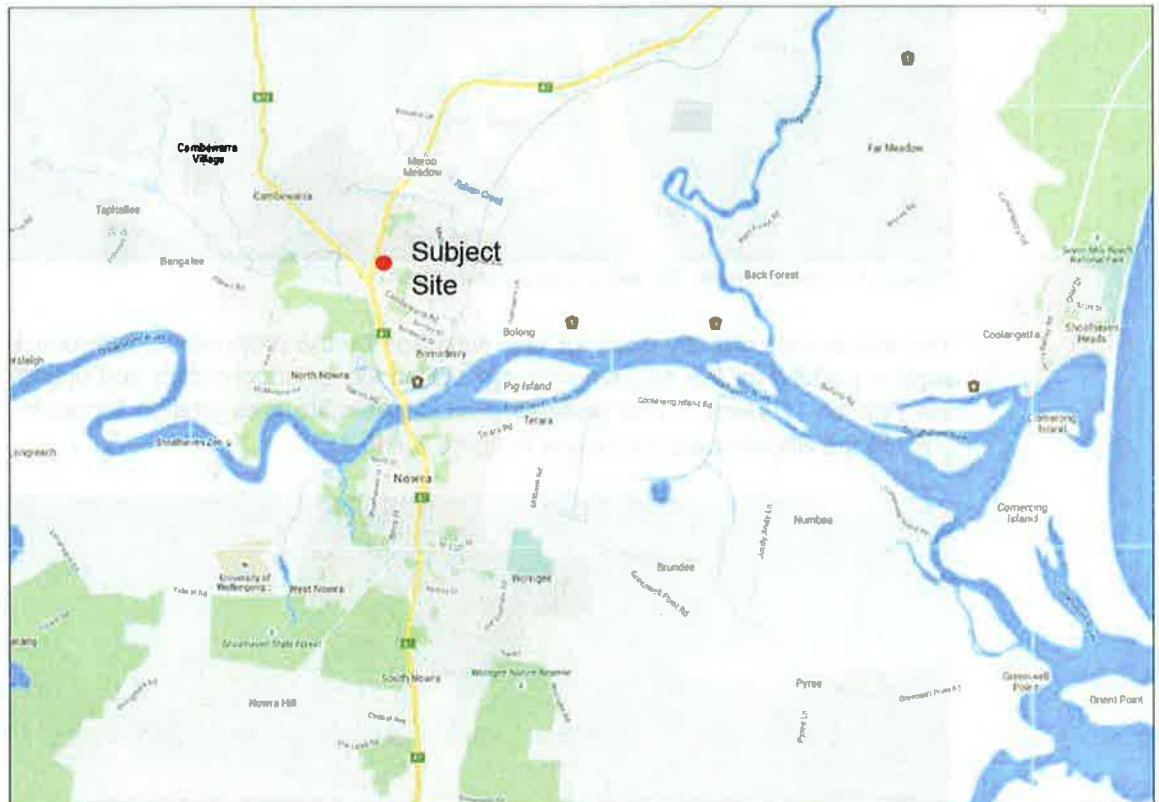


Figure 1 – Locality Plan

b) Site Description

The site address is 5C Creston Grove, Bomaderry and is formally known as Lot 393 DP 1144727. It has a regular shape with a 41.75m frontage to the Princes Highway (access restricted to easement from Creston Grove) and an area of approximately 3,340m².

It is currently vacant and is occupied by some unmanaged vegetation. It is surrounded by established residential and commercial uses as outlined below and demonstrated in Figure 2:

- North – established residential dwellings on large lots
- East – established residential dwellings on large lots
- South – established and recently renovated Caltex Service Station operating from 7am-8pm weekdays and 7am – 5pm weekends with a heavy vehicle refuelling facility on the immediate boundary
- West – Princes Highway and established residential dwellings



Figure 2 – Aerial Photo showing site boundaries

The site is not currently used for any purposes by the proponents, however is illegally used for surplus parking for the adjoining service station via an uncontrolled and unmanaged access from the Princes Highway. This generates an undesirable presentation for such a significant entry point to the Shoalhaven area (refer to figure 3 and 4).



Figure 3 – View from Google Street view looking north towards the subject site from the Princes Highway.



Figure 4 – View from Google Street view looking south towards the subject site from the Princes Highway

c) Access and Services

Vehicular access is provided to the site via a right of way over the adjoining property at 5B Creston Grove, Bomaderry from Creston Grove. Access is currently restricted from the Princes Highway. This proposal seeks to reverse these access arrangements.

All primary services are available to the Site including gas, water, electricity and sewer. These services can be easily adjusted to accommodate the proposed development of the site.

d) Other Site details and title restrictions

The Site is also constrained by a number of easements and covenants registered on the title of the property with Council being the prescribed authority to vary such restrictions. These restrictions further inhibit the development of the site for residential purposes and place additional risk, cost and maintenance requirements on the future owner/occupant of the Site. As outlined in **Figure 5** below, there are a number of easements for vegetation and screen planting which can be accommodated by the proposal. It is also constrained by easements for services and has a restricted building envelope control. There are also covenants requiring the approval of Council for the removal of some hollow bearing trees in accordance with a previous Flora and Fauna Assessment for the original subdivision (May 2004) by PMA Consulting. The report only suggests that there should be an “attempt” to retain certain vegetation indicating the environmental value is not critical. The report confirms that the majority of the trees and other significant vegetation are located on the periphery of the site and future detailed design and site planning can be undertaken to mitigate any impact and appropriate reports and assessments completed to address any impacts with a future Development Application.

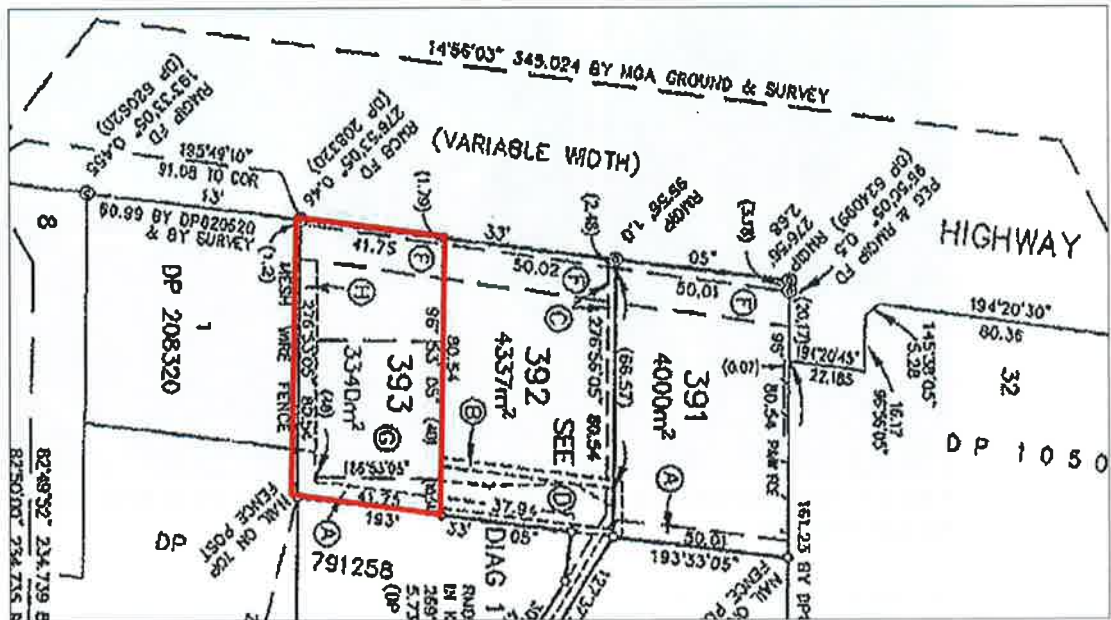


Figure 5 – Extract from Deposited Plan

e) Primary Statutory Planning Controls

Shoalhaven Local Environmental Plan 2014

The Site is currently zoned R2 Low Density Residential and SP2 under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014) as shown in Figure 6.

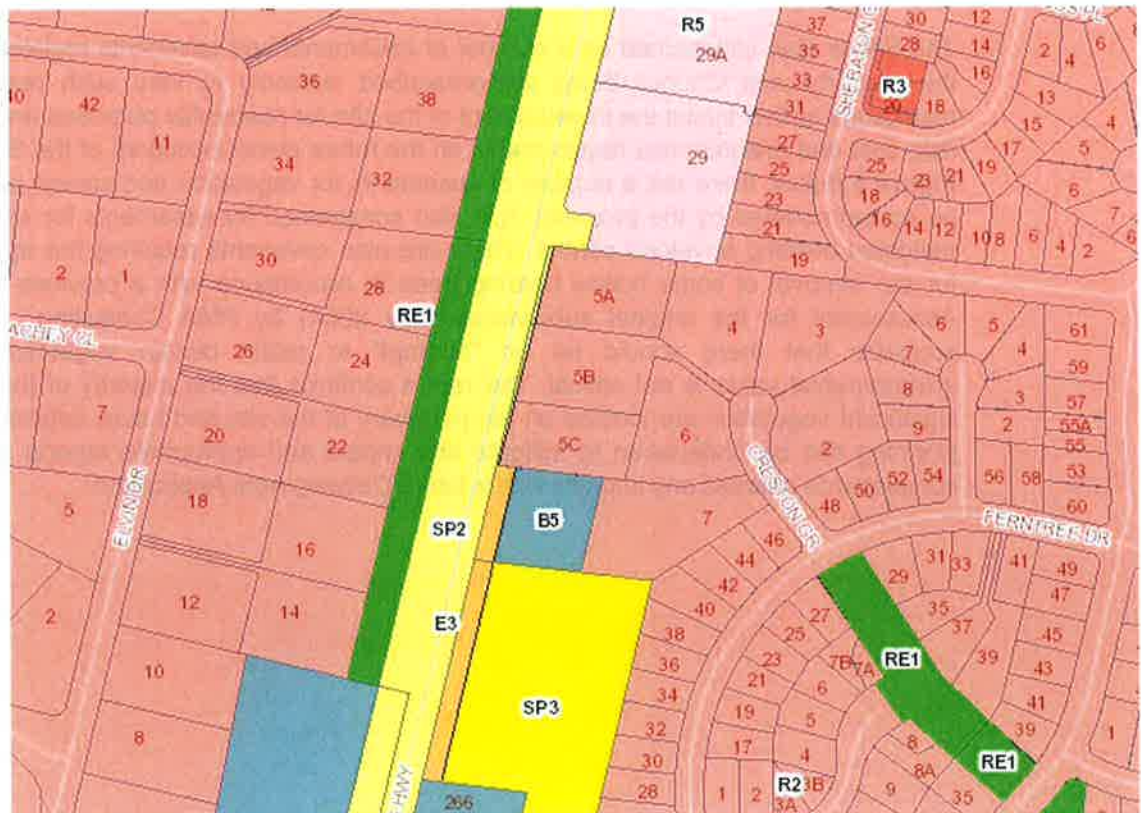


Figure 6 – Current zoning under SLEP 2014

The Objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

This zone primarily promotes the use of the land for residential purposes and to ensure that the other development is “compatible” with that environment. As outlined throughout this report, the site specific constraints affecting this land inhibit the site from supporting residential uses which are considered incompatible with the adjoining service station. Accordingly, the large-lot residential planning intentions for the site are considered to be an anomaly.

The objectives of the SP2 Zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The only permissible uses under this zone is “roads” and is primarily intended for the future reservation and acquisition for the purposes of the princes Highway upgrades as this part of the Site is also identified in the acquisitions mapping to the SLEP. The RMS has advised that the acquisition of this land may not be necessary.

The other primary controls applying to the land are outlined in the summary of applicable controls and provisions for the Site downloaded from Council’s website as shown in Figure 6. Further to the low-density residential land use provisions applying to the land, the LEP also adopts a minimum lot size of 4,000sqm promoting a large-lot rural residential type use. Importantly, there are no significant land use or environmental constraints that affect the site under the LEP.

Name	Value
Property Details :	Lot 393 DP 1144727
Address Details :	5C Creston Gr
Zoning(LZN) :	R2, SP2
Minimum Lot Size(LSZ) :	Minimum Lot Size 4000m2
Maximum Building Height(HOB) :	Maximum Building Height 8.5m
Maximum Floor Space Ratio(FSR) :	No
Heritage(HER) :	No
Urban Release Area(URA) :	No
Land Reservation Acquisition(LRA) :	Arterial Road Widening (SP2)
Biodiversity(BIO) :	No
Riparian Lands and Watercourses (WCL) :	No
Scenic Protection(SCP) :	No
Flood Planning Area(FLD) :	No overlay, Clause 7.3 applies
Coastal Risk Planning(CRP) :	No
Lands(NRL) :	No
Acid Sulfate Soils(ASS) :	Soil Class 5
Buffers(BFR) :	No
Clauses(CLS) :	No
Shoalhaven DCP 2014 Area Specific Chapter and Value :	No

Figure 6 – LEP Summary downloaded from Council's website

Shoalhaven Local Environmental Plan 1985

Prior to the gazettal of SLEP 2014, the site was zoned 2(a3) under the SLEP 1985 which also supported large lot residential uses (refer to Figure 7) – The objectives are to provide for a low density residential environment with a minimum allotment size of 4,000 square metres primarily for detached housing. The zone objective and lot size restrictions were directly transferred into the standard LEP Template provisions under SLEP 2014 which was first adopted on 8th April 2014.

The petrol station and tourist facility to the south of the site which are currently zoned B5 (Business Development) and SP3 (Tourist) under SLEP 2014 were zoned 2(d) which promoted tourist accommodation facilities and other compatible residential uses. The recognition of the existing and established service station use on the adjoining land resulted in it being zoned B5 which reflected the ongoing and committed use of the land. Based on the same principles and recognising that the subject site is constrained by a range of issues, one being the proximity to and contamination caused by the adjoining petrol station, consideration should also be given to facilitating uses on the subject Site given the intention of the landowners and lack of use of the site for residential purposes.

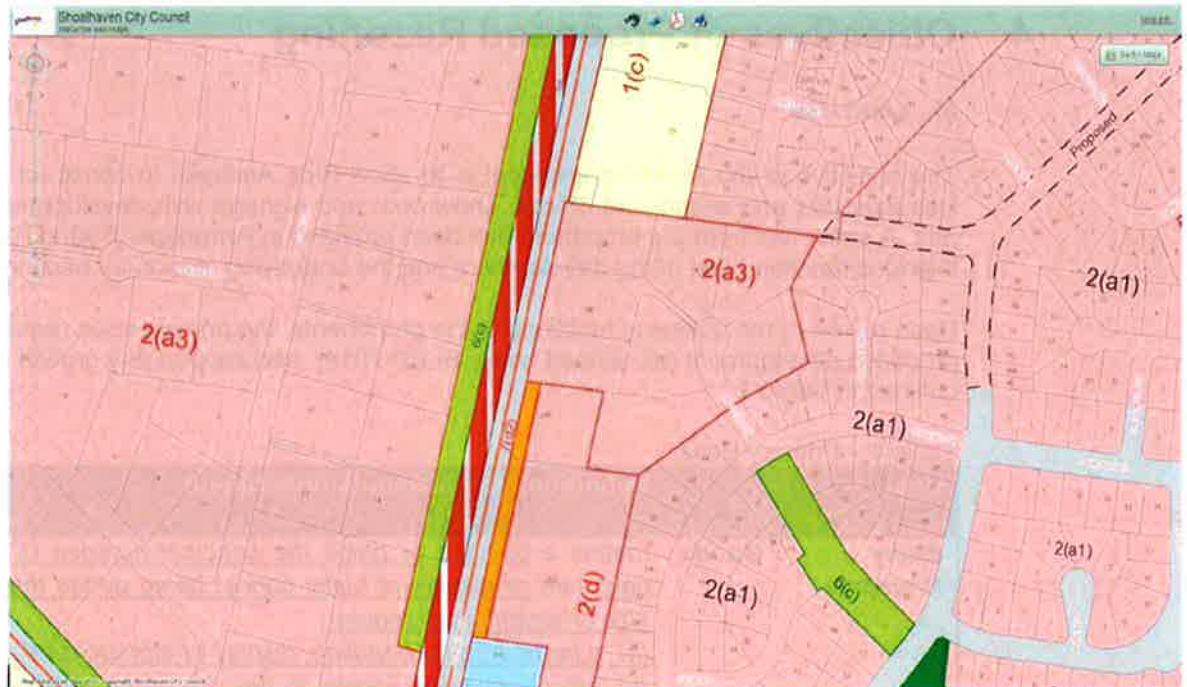


Figure 7 – Zoning under SLEP 1985

f) Land use History

All available records demonstrate that the land has been vacant without any defined use despite the ongoing residential zoning. In 2002, prior to the current lot being created, a Development Application (DA02/4447) was lodged over the former lot for an aged persons housing development under the provisions of SEPP No. 5 – comprising 44 self-care units, a manager's residence and a community room which was refused by Council. Subsequently, the subject site was created under an approved 3 lot subdivision (SF9436) on 28 November 2004. The plan of subdivision that created the subject site was registered on 29/10/2009. Despite other lots (5A and 5B Creston Grove) being subsequently sold and developed for large lot residential purposes, the subject land has remained vacant and undeveloped due to the residential land use controls being incompatible with the unique site constraints that affect this site (contamination, adjoining service station) making it unsuitable (and undesirable) for residential purposes.

The proponents purchased the site in 2014 noting its unique attributes for their business operations and commissioned relevant studies and consultation to pursue a business zone.

4 Objectives of Proposed Rezoning

a) Land Use

The objective of the Planning Proposal is to allow Ride Australia to construct and operate their Headquarters and associated offices, showroom and signage with development consent on the Site. A statement from the proponent has been provided in **Annexure A** which outlines the vision, intended function / use of the development and the underlying reason for securing the Site.

Upon review of the business functions of the proponents, the primary uses required to support the proposed development (as defined under SLEP 2014) and support any growth into the future are outlined in **Table 1**.

Table 1 – Primary Uses

Use	Definition (Key elements underlined)
Bulky Goods Premises	means a <u>building or place the principal purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:</u> <u>(a) a large area for handling, display or storage, and</u> <u>(b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,</u> and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.
Business identification sign	<u>means a sign:</u> <u>(a) that indicates:</u> <u>(i) the name of the person or business, and</u> <u>(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and</u> <u>(b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.</u>
Commercial Premises	<u>means any of the following:</u> <u>(a) business premises,</u> <u>(b) office premises,</u> <u>(c) retail premises.</u>
Dwelling houses	means a building containing only one dwelling
Office Premises	means a <u>building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.</u>

Retail Premises

means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,*
- (b) cellar door premises,*
- (c) food and drink premises,*
- (d) garden centres,*
- (e) hardware and building supplies,*
- (f) kiosks,*
- (g) landscaping material supplies,*
- (h) markets,*
- (i) plant nurseries,*
- (j) roadside stalls,*
- (k) rural supplies,*
- (l) shops,*
- (m) timber yards,*
- (n) vehicle sales or hire premises.*

The uses are typically low-intensity commercial / office / business uses that will operate without any significant additional noise, odour or air quality emissions but would provide a less sensitive buffer to the emissions being generated by the service station and highway. The types of uses proposed and intended operations of the proponent will also restrict the uses to conventional business hours on weekdays and limited operation on weekends. The intended operating hours are well below that of the adjoining service station (7am-8pm weekdays and 7am – 5pm weekends) and therefore create a compatible land use buffer between the existing service station and established residential development to the north and east. In any event, necessary environmental assessments would be carried out as part of any future Development Application.

The uses outlined in Table 1 are permitted with consent under the B5 Business Development zone under the SLEP 2014. Accordingly, the primary land use objective is to facilitate a slight extension of the existing B5 Zone which applies to the service station site over the subject site as shown in **Annexure B**.

b) Development Concept

Conceptual architectural plans provided in **Annexure C** have been prepared to support the proponent's vision for the site. The plans have been revised following discussions with Council to present a more residential character that will be more consistent with the residential characteristics of land to the north. The Highway frontage presents a more human scale with single storey elements using more traditional finishes (i.e. timber cladding). The skillion roof form contrasting these elements is reflective of modern residential housing design. The lower position of the development has been located adjacent to the northern boundary to limit the impact on the adjoining residential development.

The roof form is reflected internally to create large internal volumes to present the boats and create separated internal spaces that support the administrative and promotional functions of the proponent. A separate storage building is necessary for the temporary storage of boats that sometimes occurs as part of the logistics' functions of the business.

Importantly, the concept still maintains a high quality functional building that will enhance the streetscape and entry to the Shoalhaven in this location. The building design and materiality presents a high quality finish that is essential to represent the quality and calibre of the brands on display.

The plans have also made provisions for tree planting to the frontage, sides and rear of the site to enhance the amenity to surrounding residential areas. There is also extensive provision for on-site access and manoeuvrability which is essential for these large items and to be able to manoeuvre them into different positions for display and storage.

The proponents have committed extensive time and resources into the concept design with the US licensors endorsing the concept design. Once the Planning Proposal process has commenced and subject to any initial feedback on land use and highway access, it is the intent of the proponents to lodge a Development Application based on the approved concept design.

c) Access

As part of the rezoning, it is proposed for access to be made available from the Princes Highway as demonstrated in the plans. A Traffic Impact Assessment has been prepared (refer to **Annexure D**) which demonstrates that the proposal meets all relevant technical requirements to allow the proposed access. The report was issued to the RMS who advised upon subsequent discussions that despite the technical compliance demonstrated, land use planning issues needed further consideration and support from Council with regard to precedent and possible "ribbon development" which have been addressed as part of this report. A more detailed review of the consultation with the RMS is outlined later in this report.

d) Precedent

Another clear objective of the Planning Proposal is to ensure that the proposed zoning will not create an undesirable precedent for the local area and clearly articulate that the proposed changes to the LEP are specific to this site only. In preliminary discussions, both Council and the RMS have raised concerns with regards to the opportunities of surrounding residential land to seek a similar zoning which may encourage undesirable ribbon development along this section of the Highway.

Importantly, the site has the following unique characteristics which clearly differentiate it from any other proposals to seek a similar zoning in the immediate (and broader) area making any decisions to support the rezoning relatable to this site only.

- **Land use interface** – The adjoining (and recently upgraded) Caltex Service Station is an established long-term use that was rationalised in the creation of SLEP 2014 with a B5 Business zoning from the previous residential/tourism zoning under SLEP 1985. Service Stations create one of the highest risk land use interfaces with residential development and present both an amenity and safety risk to the Site if developed for residential purposes as per the current zone objectives. As can be seen in Figure 8 below, the recent upgrade has located the truck refuelling area directly adjacent to the subject site locating a noise and odour source on the boundary with the subject site. A large skip bin is also located in this area further exacerbating the noise and odour issues.



Figure 8 – Location of adjoining truck refuelling station and skip bin

- **Contamination** – As outlined in the Site Audit statement (**Annexure E**), while the site is recognised as suitable for residential development there are restrictions on the use of the land to consume produce grown on the site.

Residential land use with gardens and accessible soils (home grown produce contributing less than 10/5 fruit and vegetable intake) having regard to petroleum hydrocarbon impacts in groundwater.

- **Vacant** – Unlike all other residentially zoned land in the immediate vicinity, the subject site has remained vacant since being created in 2009. This is a clear direction that the land is not suitable and/or desirable for residential uses. As can be seen in Figure 9 and 10, all residentially zoned land in the immediate vicinity is developed and the Subject Site is the only vacant land both in conventional sized and large lot residential areas apart from 3 Creston Grove which is heavily vegetated constraining development (however no land use or development history records were located). Notwithstanding, the subject site is the only vacant land in the immediate vicinity which is directly adjacent to a service station and has direct frontage to a major arterial road. All other residentially zoned land is not constrained by the proximity and direct contamination issues caused the service station that are not consistent with the large-lot residential land use controls that apply to the site.



Figure 9 – Aerial photo demonstrating that all residentially zoned land (zoning plan below) has been fully developed in the immediate vicinity apart from the Subject Site and there was not any evidence of development for 3 Creston Grown which is densely vegetated.



Figure 10 – Zoning plan for comparison with Figure 9 above.

- **Specific Location** – As can be seen by the Figure 11, when considered more broadly, it is the only vacant residentially zoned land adjacent to a petrol station on a classified road in the broader Nowra-Bomaderry Area giving it very specific constraints not experienced by any other vacant residentially zoned land. Therefore, the concerns relating to this proposal setting a precedent for similar proposals has been adequately addressed and Council has sufficient justification to rationalise supporting this proposal in isolation and based on the anomalies in the existing zoning of the land.



Figure 11 – Location of Petrol stations in Nowra-Bomaderry Area

- **Other constraints** – the site is quite heavily constrained by a range of easements and restrictions as to user which further inhibit the use of the site for conventional residential uses, particularly given it is significantly smaller than the lots to the north (**Figure 5** refers). Coupled with the specific site constraints above, this further diminishes the sites suitability for the current residential zoning which has left the site vacant contributing to urban blight in this key gateway to the site. In particular, the retention of hollow-bearing trees presents a significant

risk to residential development as these trees are more susceptible to major damage or falling in major storm events presenting risk to life and property. A more flexible approach to allow commercial uses on the site will result in a development of the site that can achieve the key objectives of the primary easements and any changes can be permitted by Council with relevant information submitted when the design is finalised and submitted as a Development Application.

e) No other appropriately zoned land

Early discussions with Council have identified the need to consider if there is other appropriately zoned land available to facilitate the proposed development. It is acknowledged that there is a number of land use zones that support the development objectives in various areas, however, at the time the proponents were seeking vacant land to accommodate their new premises in the Shoalhaven there was no vacant land available that met the specific criteria:

- Based in the Shoalhaven
- Good / direct highway exposure
- Easily accessed from Sydney Airport for international clients
- Clear and legible destination site that would not be lost in the mixed use industrial/commercial precincts
- Unique location to represent the specialised nature of the business
- Vacant to accommodate specific design requirements
- Approx. 2,500-4,000m² that was flat and serviced

Notwithstanding, as discussed throughout this report, the Planning Proposal is not seeking commercial uses on the land to simply accommodate a development proposal, it is recognising the unique and site specific constraints and opportunities presented by the land that are not reflected under the current residential zoning of the land. The Planning Proposal is effectively identifying an existing anomaly in the zoning controls which is clearly demonstrated by the land remaining vacant for over 6 years which is a direct result of the contamination and obtrusive adjoining land uses.

5 Explanation of Provisions

The most rational zoning response to facilitate commercial uses on the site that will support the development intentions of the proponent is to extend the current B5 Business Development to the south over the subject site. The nature of the zone to support business development is directly aligned with the objectives of the Planning Proposal. A new zone recognises that the current residential zoning is not appropriate given the environmental constraints (contamination, odour, noise) generated by the adjoin service station and in particular the truck refuelling facility on the immediate boundary.

The objectives of the Business Development Zone are:

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.*

The objectives and underlying land use are closely aligned with the objectives of the Planning Proposal which seeks to establish a new business use that requires a large floor plate for the display of bulky goods and associated storage and office uses. It is also a low-intensity and compatible use with the surrounding residential uses and provides a transition/buffer to the service station.

The permissible uses listed under the SLEP are:

Backpackers' accommodation; Boarding houses; Bulky goods premises; Child care centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Passenger transport facilities; Respite day care centres; Roads; Self-storage units; Serviced apartments; Shop top housing; Warehouse or distribution centres; Any other development not specified in item 2 or 4.

The prohibited uses are listed as:

Agriculture; Air transport facilities; Airstrips; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Eco-tourist facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Helipads; Highway service centres; Home occupations (sex services); Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Sex services premises; Storage premises; Tourist and visitor accommodation; Truck depots; Waste disposal facilities; Wharf or boating facilities.

The land use controls under the zone support the development objectives outlined in Section 4a) and the development concept outlined in **Annexure C** would be permissible with Development Consent. Importantly, and as outlined in the objectives of the zone, intensive or high traffic generating uses that may otherwise be desirable in this location (i.e. Highway Service Centres) are prohibited.

6 Justification

a) Need for the planning proposal.

i. *Is the planning proposal a result of any strategic study or report?*

Due to the scale and nature of the Planning proposal, it is not necessarily addressed or recommended directly through any existing strategic planning study. The Planning Proposal has eventuated from a detailed review of the opportunities and constraints of the site that has identified an existing anomaly in the land use controls. It has been identified that the existing residential zoning and permitted uses that apply to the land under the SLEP are not consistent with the individual site constraints. Notwithstanding, the Planning Proposal has been prepared with regard relevant prevailing strategic plans that apply to the site and broader Shoalhaven/Illawarra region and has been determined that the site is not inconsistent with these strategic documents. A closer review of the key strategic planning documentation is provided below.

ii. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

A Planning Proposal is the only way to address the existing anomaly and facilitate the development objectives outlined above as the proposed uses that better align with the identified constraints of the site are currently prohibited under the SLEP. The proposal is better aligned with the location, opportunities and constraints of the site, however the current zoning of the land prohibits this form of development.

iii. *Is there a net community benefit?*

Yes. The minor rectification of the anomaly will allow for the site to be developed and remove the current urban blight caused by uncontrolled access and parking from the Princes Highway. It will also establish a compatible transitional use between the existing residential uses to the north and east from the existing service station. The proponents have prepared a concept design which has been revised to deliver a more residential scale and feel. The future development would rationalise this primary entry into the Shoalhaven with a high quality development that would further enhance the gateway location of the Site.

The Planning Proposal will also further support the expansion of a successful and growing local business that has selected the Shoalhaven and this site in particular to cement its presence in the local area. This planning proposal will diversify the local economy as a primary goal under the Nowra-Bomaderry Structure Plan and Shoalhaven Community Strategic Plan.

In contrast, a “do nothing” scenario would result in the underlying land use intentions not being fulfilled which would exacerbate the anomaly in the planning controls. It would also allow the ongoing uncontrolled use of the site for parking contributing to ongoing urban blight on a primary gateway to the region.

Relationship to strategic planning framework

iv. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?*

Yes. The Planning Proposal, while site specific and not directly responding to key strategic issues that are driving the regions forward planning is not inconsistent with relevant provisions. Initially it is important to recognise that such a minor change to address an anomaly in the existing planning system is not necessarily driven by strategic/macro planning principles established by adopted policies that set objectives, agendas and goals for the direction of entire regions. Notwithstanding, as outlined below, the Planning Proposal is not

considered to be inconsistent the board planning principles but does take specific direction from key agendas and actions around economic diversity and employment growth.

NSW 2021 Agenda

More broadly, the proposal is consistent with Goal 3 of 32 under the NSW 2021 Agenda (refer to Figure 12) that is focused on economic prosperity and economic growth in regional areas to increase the attractiveness of doing business in NSW. The Proponent has intentionally located in the business in the Shoalhaven despite suggestions from the US-based licensors to select more accessible location. This is a positive opportunity for the Shoalhaven as the Ride Australia business expands its markets globally and attracts new business partners to the Shoalhaven.

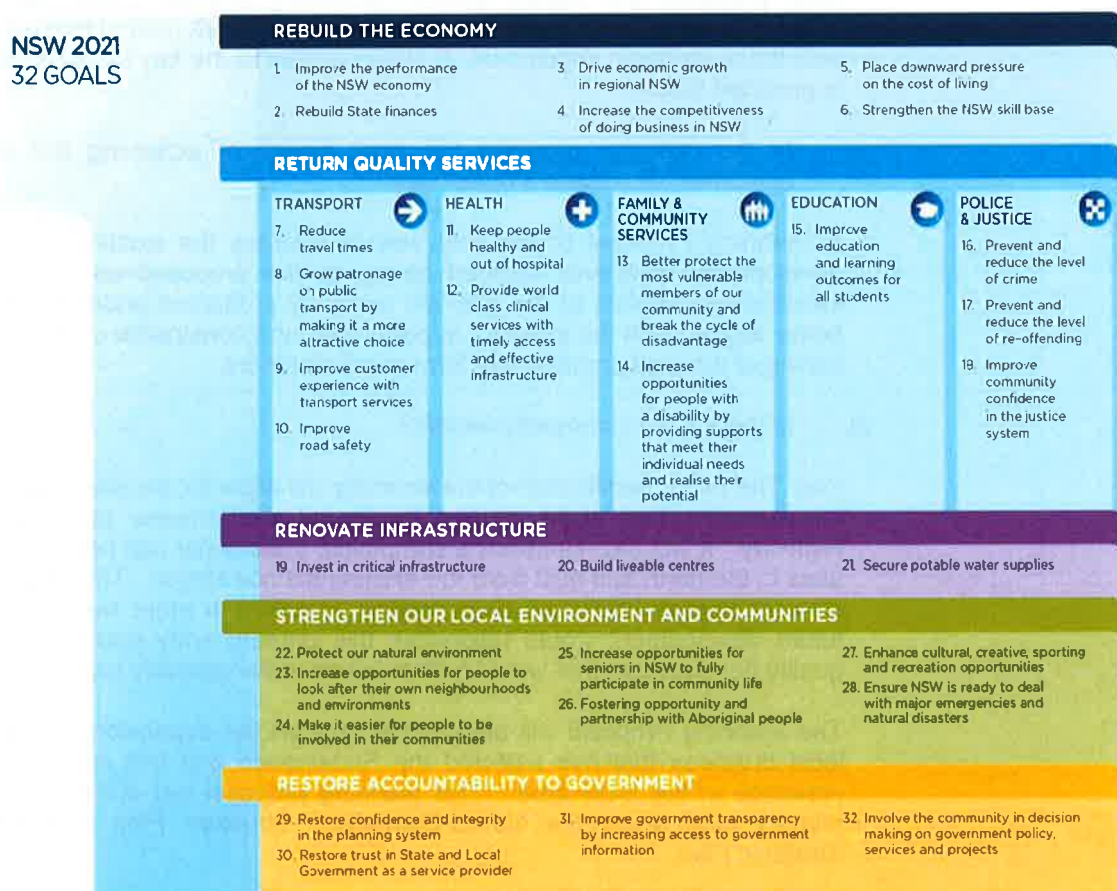


Figure 12 - NSW 2021 Agenda

Nowra-Bomaderry Structure Plan (2009)

The Nowra Bomaderry Structure Plan (NBSP) was adopted in 2006 by Shoalhaven Council and February 2008 by the Department of Planning and:

- Sets the development and conservation agenda over a 20-30 year period in the Nowra-Bomaderry area.
- Establishes primary goals and principles to underpin the future urban structure of the area

The Planning proposal is considered to be directly consistent with the primary Goal (2) Economic Vitality out of only 3 under Section 1.2.1 of the NBSP. Goal (2) outlines that a primary outcome of the structure plan is to:

“Facilitate the diversification and expansion of the Nowra Bomaderry’s economy by building on the towns human resources, skills base and environmental quality of the Shoalhaven whilst strengthening regional linkages, providing efficient support networks, fostering innovation and rewarding enterprise”.

The Planning Proposal directly facilitates the attainment of this Goal by building upon the success and anticipated growth of a local business that is expanding its presence both regionally and internationally. The intention of Ride Australia in further establishing their business in their Shoalhaven is also directly linked to promoting the natural assets of the region through its water-based business activities.

The other 2 primary goals of promoting sustainable living and community well-being are not directly or necessarily affected by the Planning proposal. Notwithstanding, the proposal neither inconsistent or hinders the attainment of these goals given its modest scale and intent to effectively mitigate an existing land use issue. It does however aim to enhance the amenity of the primary gateway to the region as well as act as a buffer to surrounding residential uses to enhance the amenity of surrounding residents from the adjoining service station.

In the same regard, the planning proposal is not inconsistent with the principles underlying the primary goals outlined in Section 1.2.2 of the NBSP.

In terms of Urban Structure, the Site sits within the Bomaderry - Existing Living Area. Permitting low-intensity and compatible commercial uses is not inconsistent with the desired future character and is consistent with the recognised opportunity for employment generating activities along the Princes Highway. The Constraints outlined in the Section 2.1.1 of the NBSP also recognise the issues associated with existing land use conflict which the planning proposal is seeking to address.

Accordingly, it is considered that the Planning Proposal directly responds to a primary goal of the NBSP and will directly assist in improving the economic vitality of the region, while also being compatible with the desired future character of the Bomaderry Living Area.

South Coast Regional Strategy (SCRS)

As per Council’s request a review of the SCRS has been provided. *The primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region’s population over the next 25 years.* The Strategy identifies the Nowra-Bomaderry Area as a “Major Regional Centre” of the northern part of the region that should strengthen its role as *the major residential, employment and administrative centre.* It also focuses on the revitalisation and consolidation of the area to provide employment.

As mentioned previously the scale of this proposal and intent to make a minor adjustment to address a zoning anomaly that is not allowing the Site to be developed for its current zoning objectives is at a very micro scale meaning that the macro planning objectives outlined in the strategy are not necessarily directly affected by the proposal.

Notwithstanding, it is considered that the Planning Proposal is consistent with the more relevant provisions surrounding “Economic development and Employment Growth” which underpins the proposal. In particular, a key action under this Section of the report states that:

Councils will maintain the current net supply of zoned employment lands; however consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities.

This report identifies specific opportunities and constraints that specifically apply to this land only. Accordingly, the SCRC makes specific provision for Council to consider making provision for this development which will contribute to the Economic Development and

Employment Growth outcomes outlined in the SCRC and more broadly in other strategic documents being considered.

More broadly it is considered that the minor nature of the proposal does not inhibit the attainment of the other key outcomes or actions identified within the SCRS. Importantly, the Planning Proposal will not restrict or have any demonstrable impact on housing targets or is not in a location constrained by significant environmental or heritage constraints.

Accordingly, it is considered that the Planning proposal is consistent with the relevant considerations of the SCRC and is not of a scale that would affect other key outcomes from being achieved.

Illawarra Regional Growth and Infrastructure Plan (2015)

The Illawarra Regional Growth and Infrastructure Plan (2015) was formally adopted in November 2015. It is a comprehensive document that unlike the other 2 strategies above groups the Shoalhaven with Wollongong and Shellharbour to form a regional strategy stretching across the Illawarra. The plan, amongst other broad strategic matters is focused on “**creating a robust, diversified economy, including access to high quality jobs**”.

Again, like the response on other strategies, the scale and intent of the project to address a specific land use issue related to this site only makes the broad strategic and macro planning objectives less relevant, however there are still some very important matters that are supported by the Planning Proposal to further establish a successful business in the Shoalhaven that will contribute to economic growth, promotion of the area and employment opportunities.

Importantly, “*The Plan makes developing a strong, diverse and competitive economy central to building prosperity and resilience in the region, to meet any economic, social and environmental challenges that arise.*” and although the site is not directly in the Nowra CBD, it recognises that the region’s economic prosperity will also be supported by growing the economic competitiveness of the Nowra Centre including the promotion of the area and recreational opportunities (i.e. boating).

The Planning Proposal is also a reflection of the Mega Trends that are affecting the Illawarra’s economy and should be embraced such as the digital economy which is allowing a successful international boating company to operate a successful regional and international business from the Shoalhaven. The growth of the company is also a reflection of the growth in Asia and the middle-east which is allowing the company to expand. It also reflects and is directly linked to the enhanced connectivity to Sydney which is important for their international and regional clients who will be exposed to the fantastic natural assets of the area promoting recreation and tourism.

As per the Plan, it also builds on some of the NSW Government’s goals for regional economic development to *promote key regional sectors and regional competitiveness and drive regional employment and regional business growth.*

The other key areas addressed by the Plan such as housing, community development, environment & heritage, agriculture, natural resources, infrastructure have no direct relationship to the Planning Proposal, however the proposal does not hinder the attainment of the directions and actions set out in these areas.

Accordingly, it is considered that the Planning Proposal is consistent with relevant provisions of the Plan and does not restrict the delivery of outcomes in other less specific areas.

- v. *Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?*

The Shoalhaven community Strategic Plan *"identifies the community's main priorities and expectations for the future and ways to achieve these goals. It will support a City that is sustainable, has strong and resilient communities and nurtures a skilled economic base, with leadership that thinks strategically and acts collaboratively."* It has developed Objectives and Strategies around five Key Result Areas.

The Planning Proposal is based upon and contributes directly towards two Areas by promoting the rich natural diversity and distinctive "place" that is the Shoalhaven and promoting "prosperity" through further establishing a successful business that is expanding internationally and will attract national and international visitors to the region. Less directly it relies on Council's mandate under the Leadership objectives to focus on the areas future and promote and support the growth of a successful business with a unique vision and opportunity to further establish itself in the Shoalhaven as outlined in the Planning Proposal.

Place – As outlined by the proponents in **Annexure A**, showcasing the Shoalhaven district and its unique natural attributes has been a key driver in the decision to further establish the business in the Shoalhaven.

People – The CSP discusses issues associated with an aging population and the trend of younger people leaving the region to seek opportunity. This is a unique example of young locally based people that have built and established a successful business in the region and are seeking to further establish the business as it expands within the region despite external factors (i.e. US-based licensors) seeking alternative locations. These type of people can provide a positive guide to other younger generations and should be encouraged and supported wherever possible.

Prosperity - The Planning Proposal directly correlates to the Plan with regard to prosperity which outlines that "This Key Result Area focuses on creating an economy that is linked to the unique characteristics and advantages of Shoalhaven, ensuring that a variety of employment and training opportunities are available, the workforce is supportive of innovation and business excellence and in which skill-based and sustainable operations, transactions and development will occur.

Leadership – This area of the Plan focuses on the leadership required to support and enhance the City's Future. In a time when global uncertainty and an unstable global market exists, Council is mandated by the CSP to encourage and foster new business that focuses on the City's Future. The proponents are committed to further establishing and growing this successful international business in the Shoalhaven.

vi. *Is the planning proposal consistent with applicable state environmental planning policies?*

Yes. The Planning Proposal has considered the relevant SEPP's and is not inconsistent with the relevant Policies:

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) – the development concept is not defined as a Traffic Generating use (under SEPP Infrastructure 2007) and a future DA does not need to be referred to the RMS for comment prior to determination. Notwithstanding, this proposal does seek direct access from the Prices Highway and therefore future development would need to consider Clause 101 of the Infrastructure SEPP. A response to this clause has been provided below:

101 Development with frontage to classified road

(1) *The objectives of this clause are:*

(a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*

Response: As per the Traffic Report concludes:

- The proposed development will not compromise the effective and ongoing operation and function of a classified road;
- The proposed development does not have the potential to be impacted upon by traffic noise or vehicle emissions

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

Response: A primary objective of the Planning Proposal is to permit a less-sensitive land use on this site which is subject not only to traffic noise/emissions, but also being directly adjacent to a heavy vehicle refuelling facility in a recently upgraded service station.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

Response: A primary purpose of the Planning Proposal is to seek approval from RMS to allow the primary access for the site to be provided from the Highway. The existing easement that traverses adjoining residential properties would be inadequate for the proposed land uses. Providing access from the Highway for this site only will not set an undesirable precedent (as outlined throughout this report) if it is associated with future commercial uses of the site. It will also alleviate the burden of the access easement over adjoining residential properties.

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

Response: As outlined in this report and the Traffic Report (Annexure D), appropriate access design can be provided and the proponents agree to fund any works to facilitate this access such as pavement widening etc (same as Caltex) until the highway upgrade is completed.

(ii) the emission of smoke or dust from the development, or

Response: The proposed development will not emit any smoke or dust.

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

Response: As outlined in this report and the Traffic Report (Annexure D), the nature of the proposed business generates very low traffic movements which can be accommodated from a technical traffic perspective.

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Response: The proposed development is not sensitive to traffic noise or vehicle emissions.

State Environmental Planning Policy No 55—Remediation of Land (SEPP 55) - Clause 6 of SEPP 55 requires Council to consider if the land subject of a rezoning is contaminated and subsequently, if any remediation is necessary to facilitate that rezoning. As outlined in this report, it is considered that the existing contamination is not consistent with the existing large lot residential land use controls applying to the land. Despite the Site Audit Statement (Annexure E) stating that residential uses may be accommodated on the site, it restricts the consumption of produce grown on the site by "Residential land use with gardens and accessible soils (home grown produce contributing less than 10/5 fruit and vegetable intake)

having regard to petroleum hydrocarbon impacts in groundwater.” Accordingly, it is considered that the residential zoning is not compatible with this constraint which is compounded by other constraints including the land use interface with the service station and highway noise.

There are no other SEPP’s that are relevant to the Planning Proposal.

- vii. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Yes. Refer to **Annexure F**.

Environmental, social and economic impact

- viii. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

A more detailed review of the existing hollow-bearing trees on the site will be undertaken as part of detailed site planning and layout for the future development and a supplementary environmental study would be completed. Discussions with previous consultants involved in the site suggests that the recommendations were made due to the large-lot residential zoning objectives underpinning the site at the time which would accommodate a smaller footprint allowing trees to be retained while the value of the trees were not considered to significantly high. Retention of the trees however, also creates a direct and specific risk of the trees being susceptible to heavy winds placing the future residents’ lives and property at increased risk which is not consistent with the current zoning intent.

- ix. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Traffic

A Traffic Impact Assessment (TIA) has been prepared and is provided in **Annexure D**. The report concludes that:

- The proposed development will not compromise the effective and ongoing operation and function of a classified road;
- The proposed development does not have the potential to be impacted upon by traffic noise or vehicle emissions

As part of initial investigations, the report has been issued to and considered by has been considered by the RMS. While the RMS not identified technical reservations with the report, they have identified a number of land use planning issues that have been addressed consistently throughout this report as similar matters have been raised by Council. The key issues outlined by RMS are addressed below.

- Concerns about incremental extensions of commercially zoned land – As outlined throughout this report, the underlying justification of the proposed rezoning are related to matters only applicable to the Subject Site. It is not considered that support of the Planning proposal could be used a justification for other sites to seek a similar zone given the unique and site specific nature of the se matters.
- Other possible land uses through schedule 1 of the SLEP – Using additional permitted uses provisions within the SLEP is not considered necessary as it will effectively retain the land use objectives and permitting uses which are not consistent with these objectives. These provisions are usually relied upon for slight variations to the permitted uses as opposed to wholesale changes to permitted uses to support the proposed development as outlined in Table 1. Notwithstanding, the underlying objectives and land use provisions of the proposed B5 Business Development zone ensures compatible and low intensity land uses which remain dependent on future Development Applications.

- Consistency with the Infrastructure SEPP and Ministerial Directions – An assessment of both the Infrastructure SEPP and the relevant Ministerial Directions (Annexure F) has been completed above. The Planning proposal is considered to be consistent with both policies.
- Impact on the safety and efficiency of the Berry to Bomaderry Upgrade Project – The TIA has analysed the possible impact of the proposed development both pre and post the highway upgrade. It is concluded that, particularly given the minor traffic being generated by the development, it will not adversely impact the safety or efficiency of the future upgrade project.

Despite the above matters which we believe have been adequately addressed to facilitate the rezoning, both discussions and written advice from the RMS has suggested that the matter will be reconsidered if Council supports the rezoning.

Contamination

A Site Audit Statement has been prepared for the Site and is attached at **Annexure E**. While it has determined that the site could be developed for residential purposes, it also outlines the restrictions on consuming vegetables from the land due to petroleum hydrocarbon impacts in groundwater which is not conducive to large-lot residential living. The Planning proposal will deliver a more appropriate land use over the site that will provide low-intensity buffer between existing residential uses and the service station that will be compatible and non-intrusive to both existing uses.

Acoustic

The site is currently zoned to permit residential uses which are sensitive to the road noise from the Princes Highway as well as the operational acoustic and odour emissions from the adjoining petrol station. The Planning Proposal seeks approval for a low-intensity commercial use which is more compatible as a buffer between the residential development and service station.

The proposed commercial use is less sensitive and inherently will not be adversely affected by the noise sources (highway / service station). Further studies can be provided upon request during the Development Application phase if deemed necessary.

Removal of Trees

The extent of tree removal will be determined by the ultimate design of the future development and can be addressed at the Development Application Stage. It should be noted that under Council's current tree management policy that there are provisions that would allow the removal of some trees when measured from the base of a future building at a 45degree angle. Notwithstanding, the concept design in Annexure C has made provision for extensive screen landscaping around the periphery of the development which may be used as compensatory planting should removal of existing substantial trees be required.

Flooding and Drainage.

The Subject site is not located in a Flood Planning Area under the SLEP (refer to Figure 13 below). Adequate provisions can be made to drain the site using existing infrastructure and a detailed drainage concept plan would form part of a future Development Application.

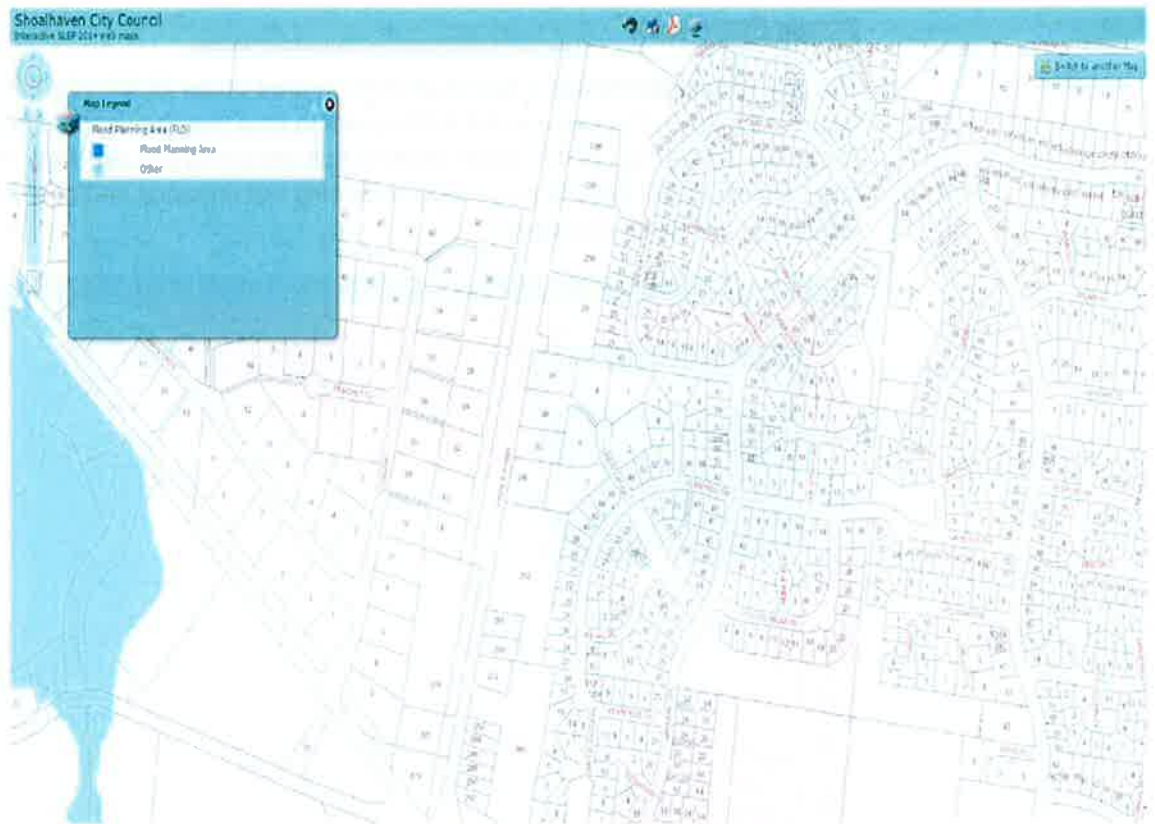


Figure 13 – Extract from SLEP Flood Planning Area maps

Bushfire

The site is not identified as being affected by Bushfire as demonstrated in Figure 14 below. Any further investigation can be completed as part of a future Development Application if required.



Figure 14 - Bushfire Hazard Mapping

Scenic Protection

The Site is not identified in a scenic protection area under SLEP 2014 as demonstrated in Figure 15 below. It is considered at this point in time that the vacant and uncontrolled nature of the site contributes to the urban blight of this section of the highway. It is intended that the proposal which will include landscape screening will enhance and contribute to the gateway location of the North Bomaderry.

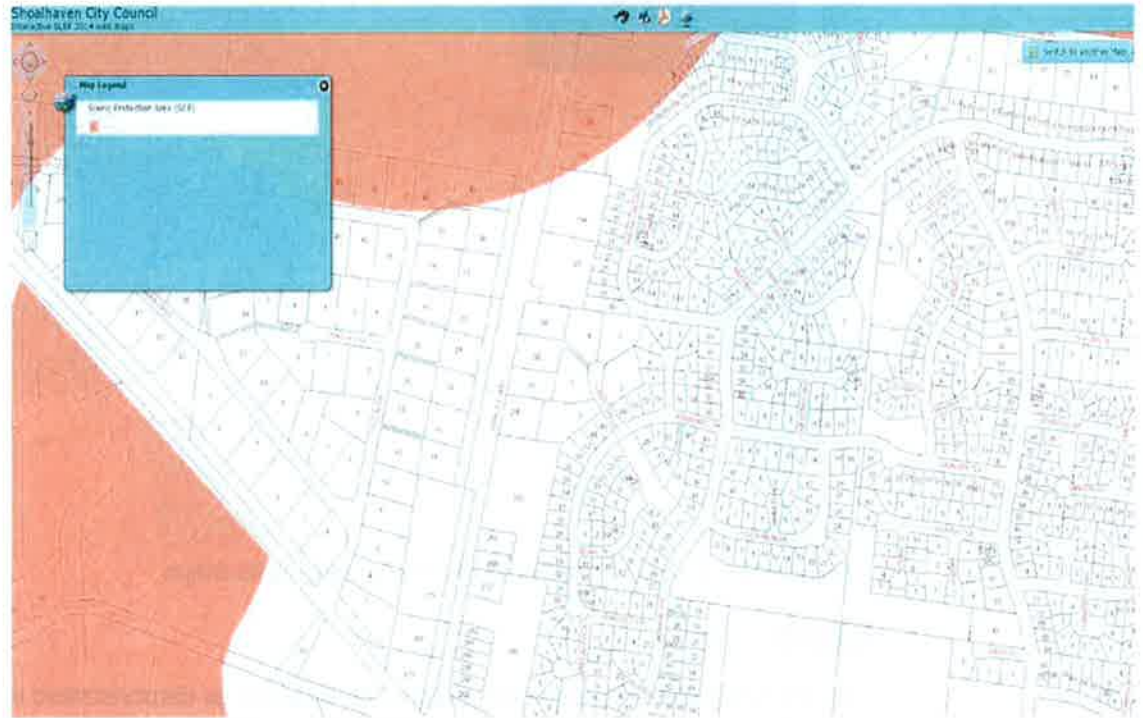


Figure 15 – extract from SLEP Scenic Protection Area maps

x. How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal broadly produces a net positive impact to the local community by establishing a successful and well recognised boating brand in the local community. It will also contribute to the further diversification of the local economy and create employment opportunities which are key objectives in all relevant strategic planning policies that relate to the site from a state to a local level.

At a more micro-level, the development itself will mitigate the impacts of the petrol station with a more suitable transitional use that will provide a buffer to surrounding residents. The proponents have also included screen planting and will adopt general business hours of operation well below these of the adjoining petrol station. The proponents have also considered it feasible (if necessary) to extinguish the easement burdening the adjoining properties which provides legal access to the site from Creston Grove in light of the support issued by the RMS.

It will also contribute to the gateway appeal of north Bomaderry with a modern building that reflects positively on the area.

State and Commonwealth interests.

xi. Is there adequate public infrastructure for the planning proposal?

Yes. The minor nature of the proposal will not place undue or excessive demand on existing infrastructure and all primary services and utilities are available to the site.

The proposal is only dependent on access from the adjoining highway which is a classified road. As explained throughout this report, the RMS has reviewed the application and has not identified any technical traffic issues with the proposal, however there are land use issues that require Council support for RMS to support the proposed rezoning.

- xii. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Council will determine the final position when consultation is undertaken. As advised above, the proponents have extensively engaged with the RMS to confirm that there are no technical issues associated with the proposed access from the Highway. The RMS has raised similar issues as Council with regard to land use planning which have been addressed in this report.

Community Consultation

Community consultation will be carried out as required through the Planning Proposal process. The proponents and consultant team are more than willing to review and address any valid concerns raised by the community through the relevant exhibition processes.

7 Conclusion

The intent of the Planning Proposal is to outline an existing anomaly in the land use planning controls under the LEP that applies to land at 5C Creston Grove, Bomaderry and demonstrate that the proposed amendment to allow commercial uses on the site is minor in nature and actually has the ability to result in a net positive impact on the land and surrounding community. This report clearly demonstrates that the underlying principles and outcomes of the Planning Proposal are site specific and will address an anomaly in the current zoning to facilitate a more appropriate use of the site aligned with its constraints and opportunities.

The allowance of commercial uses on this site to facilitate the consolidation of a well-established local business that is rapidly expanding positively reflects the capacity Shoalhaven-based businesses and will protect jobs in the local area and present the Shoalhaven as a place to do business. It also demonstrates that the proposed amendment is specifically relevant to this site only which has been left vacant for over 6 years due to the constraints of the land (contamination, adjacent to petrol station including a heavy vehicle refuelling area etc.) that makes the site unsuitable for the current large-lot residential zoning of the land which contributes to urban blight on this primary access way to the Shoalhaven. A commercial zoning will allow a less sensitive use that can accommodate the site specific constraints as well as provide a low-intensity buffer to established residential development in the area.

The proponents (and owners of the land) have a vision for the Site to further establish a successful Shoalhaven-based business that is expanding globally and deliver a high-quality office and administration complex that will act as the Australasian, SE Asia and UAE headquarters for two of the most successful globally recognised specialised boating brands for wakeboarding – Supra and Moomba Boats. The proponents are local and have chosen to further cement their presence in the Shoalhaven by the establishment of a global Head Quarters for their business that will carry out the display, promotion, administration, logistics, finance, insurance and marketing functions. Importantly, the proposal will not include conventional sales, manufacturing or servicing of their products. This is a predominantly low-intensity commercial/office use with bulky goods display that will be compatible with the surrounding uses and provide a buffer to surrounding residential development from the adjoining petrol station.

It also demonstrates that the site-specific proposal, while minor and almost inconsequential in a macro-planning sense, is not inconsistent with and does not hinder the attainment of the objectives / outcomes of the predominant strategic planning policies and studies that apply to the site in relation to local, regional and state-wide planning policies. The Planning Proposal is entirely consistent with and contributes to the overarching economic, employment and regional promotion objectives of the relevant strategic plans. As mentioned, while the proposal is directly consistent with these objectives, it is not inconsistent with the other primary objectives and outcomes of the relevant strategic planning documents driving growth in the Shoalhaven. It also demonstrates that the environmental constraints that affect the site can be better managed through the proposed amendments to the SLEP and through more detailed assessment at the Development Application (DA) stage.

Importantly, the proponents have engaged with key government stakeholders upon advice from Council and have heavily consulted with the Roads and Maritime Service (RMS) as the proposal relies on gaining new access from the Princes Highway. A report and further correspondence has confirmed the future development of the site can be accommodated from a technical traffic perspective. This has been recognised, however the RMS has advised that they are concerned with land use planning issues (predominantly precedent and extension of ribbon development) but have advised that if Council can support the proposal, then they will reconsider their position.

Pre-lodgement advice from Council has also stated that RMS support is required to facilitate the Planning Proposal. We trust that the information in this report clearly identifies the existing zoning anomaly and that the issues underpinning the proposal are only related to this site so it will not cause undue precedents for other similar proposals.

In this regard, it is considered that there is substantial merit in Council supporting the Planning Proposal and look forward to an efficient and positive process.

Annexure A: Proponents Statement

26 October 2015

RE: 5C Creston Grove, Bomaderry, NSW - Proposition by Ride Australia

Ride Australia is a privately owned company that has been based in the Shoalhaven since 2003.

Ride Australia is the wholesale distributor of Supra Boats (see www.supraboats.com.au) and Moomba Boats (see www.moombaboats.com.au) – luxury waterski/wakeboard boats.

Ride Australia is a community focused organisation that supports local events such as Shoalhaven River Festival.

As a wholesale distributor, Ride Australia sells its products to retail sales outlets (boat dealerships) in most Australian capital cities and some regional hubs, who then retail the products to the public.

Ride Australia has recently secured the rights to distribute the boats to Asia, and the United Arab Emirates.

Ride Australia ships the product direct from the USA manufacturer to the retail sales outlets (both in Australia, Asia & the UAE) – so increased distribution has very minimal impact on Ride Australia's staffing or traffic movements.

However, now Ride Australia has an increased distribution territory, its USA manufacturer, has requested it build a corporate office in Australia, easily accessible from Sydney Airport, to meet with its Australian and international clientele (i.e. boat dealer principles) – approx 10 clients, with 1 visit per year.

Ride Australia owns 5c Creston Grove, Bomaderry, NSW, 2541; and it is the perfect location for this premises.

Reason being:

The Shoalhaven is a beautiful location (rivers, bays, beaches, & mountains) to entertain inter-state and international guests.

The trip to the Shoalhaven is a nice coastal drive from Sydney Airport (particularly once the Berry bypass shortens its duration).

Bordering the Princes Highway, Creston Grove would be the first blue ribbon building on your arrival into the Shoalhaven

5c Creston Grove is a suitably sized flat block, and with permitted access, would be easily accessible from the Princes Highway.

Princes Highway.

Our business (predominately administration, marketing, & logistics) has minimal staffing requirements, and generates very minimal traffic movements (as per the "allen, price & associates" Traffic Report).

Ride Australia is happy to meet any stipulated RMS traffic requirements.

Given 5c Creston Grove borders the Princes Highway and a Caltex Service Station it is not suitable for pure residential purposes but is perfect for our purpose; and our building will create a noise buffer to the surrounding residents as well as lesson the environmental impact of the petrol station to residents.

Having our business located in the Shoalhaven compliments tourism; and we believe that this is a great opportunity to secure it in this region.

Reason for purchasing 5C Creston Grove.

Ride Australia completed an extensive site acquisition process across the Nowra-Bomaderry Area (including the South Nowra industrial precinct) with many local agents to identify a site that would suit the key criteria for the future development being:

- Good highway exposure
- Easily accessed from Sydney Airport for international clients
- Clear and legible destination site that would not be lost in the mixed use industrial/commercial precincts
- Unique location to represent the specialised nature of the business
- Vacant to accommodate specific design requirements
- Avoiding large industrial / business park areas to increase accessibility and legibility
- Approx. 2,500-4,000m² that was flat and serviced

It was also preferable to have a site adequately zoned to accommodate the use. However, we were unable to find a site that accommodated the above criteria. Its zoning will require additional permitted uses to meet our requirements.

It is acknowledged that we did locate appropriately zoned vacant land in the South Nowra precinct and other areas that are zoned appropriately to accommodate the proposed development. However, South Nowra can be confusing with slip lanes and separated roads as well as being at the end of the Nowra-Bomaderry Area instead of at the beginning and that's why the focus was on the Bomaderry / North Nowra. We are already experiencing such issues with our current business premises at the southern end of the South Nowra precinct 245 Princes Highway, South Nowra and we regularly receive feedback from our agents, customers and licensors that this location is not preferable for people unfamiliar with the area. Accordingly, the northern approach to the district was a primary focus for our business.

On review of the criteria, other sites inspected were not appropriate for the intended use and vision we have adopted to further establish our business in the Shoalhaven.

business and we were of the strong belief that the zoning issues could be overcome given the unique site constraints.

We are committed to delivering the project to establish our business in the Shoalhaven. We have initiated discussions with both Council and the RMS to discuss the project. We understand both organisations have issues with the potential for the extension for commercial development along the highway and adverse precedents being set.

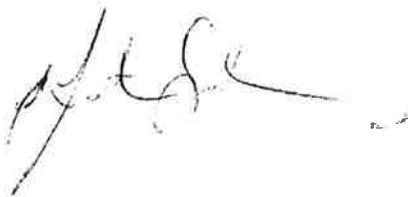
Our planning report has clearly demonstrated that this site is the only such site in the area and therefore a rezoning to allow commercial uses will not set an undesirable precedent and is actually better aligned with the constraints that affect the site (i.e. contaminated, adjoining petrol station, adjoining a highway, restricted access over adjoining properties, restrictions on title etc) which is why the block has never been developed for residential purposes. Therefore, we believe it is the perfect site for a low-intensity commercial business as we are proposing.

Another key factor is the proposed access from the Princes Highway which is an essential part of the development. We would be willing to consider a release of the easement over adjoining residential properties benefiting our site for access purposes should the highway access be granted. This would further reduce the impact on surrounding residential properties and improve their amenity.

RMS have agreed that technically the proposed access from the Princes Highway is achievable and support for the broader land use change is subject to Council support which we should be forthcoming on the basis of the documents submitted with the application.

We are excited to be pursuing this project to further establish this successful business in the Shoalhaven and please feel free to contact me should you need to discuss these matters further.

Kind regards



Justin Sanders
Director
Ride Australia Pty Ltd
E: justin@rideaustralia.com.au
P: 02 4422 4477 Ext 1

Annexure B: Proposed Zoning Plan

PROPOSED REZONING



NOTE:

This plan was prepared for Ride Australia as an indicative subdivision design to accompany a rezoning application to Shoalhaven City Council.

The information shown on this plan is not suitable for any other purpose.

The property dimensions, contours and other physical features have been compiled from existing information and have not been verified by field survey.

The dimensions, areas and total number of lots shown on this plan are subject to field survey and also to the requirements of Council and any other authority which may have requirements under any relevant legislation.

In particular, no reliance should be placed on the information on this plan for detailed subdivision design or for any financial dealings involving the land.

Allen Price & Scartratts therefore disclaims any liability for any loss or damage whatsoever or howsoever incurred, arising from any party using or relying upon this plan for any purpose other than as a document prepared for the sole purpose of accompanying an application to council for rezoning and which may be subject to alteration for reasons beyond the control of Allen Price & Scartratts.

Unless stamped by Council, this plan is not a plan of an approved subdivision.

This note is an integral part of this plan.

NOTE:

CADAstral INFORMATION HAS BEEN OBTAINED FROM NSW LAND & PROPERTY INFORMATION (LPi) DIGITAL CADAstral DATA BASE (DCDB) AND IS SUBJECT TO SURVEY. IT SHOULD BE VIEWED AS APPROXIMATE ONLY.

NOTE:

IT IS PROPOSED TO REZONE LOT 393 DP 1144727 TO BE B5. THE CURRENT ZONING FOR THIS LOT IS R2.



REV	DESCRIPTION	BY	DATE	PROPOSED REZONING OF LAND OVER LOT 393 DP 1144727 5C CRESTON GROVE, BOMADERRY FOR RIDE AUSTRALIA		RATIO: 1:2000 (AT A3 ORIGINAL)		DATE OF PLAN: 21.12.2015	
						DRAWING NUMBER 26402-01		SHEET 1 OF 1	
								REVISION	
								P0	

Transmittal Report:

Created by AutoCAD eTransmit Monday, 21 December 2015, 11:53 AM.

Drawing:

This is a transmittal based on 26402-01 rezoning plan.dwg.

Files:

Root Drawings: 26402-01 rezoning plan.dwg

JPEG Image References:

logo\apa logo_cmyk (medium).jpg

CTB File References:

PlotCfgs\APA STANDARD.ctb

Adobe Acrobat Document References:

26402-01 rezoning plan 20151221.pdf

The following files were excluded from the transmittal:

acad.fmp

Fonts\simplex.shx

Fonts\FRML4360.TTF

Fonts\arial.ttf

Notes for distribution:

Raster image files:

Paths may be present on references to raster images. Make sure these paths work or that the root drawing is using the correct references.

.CTB/.STB plot style tables:

Please copy these files to the AutoCAD Plot Style Table Search Path directory.

The AutoCAD variable FONTALT was set to:

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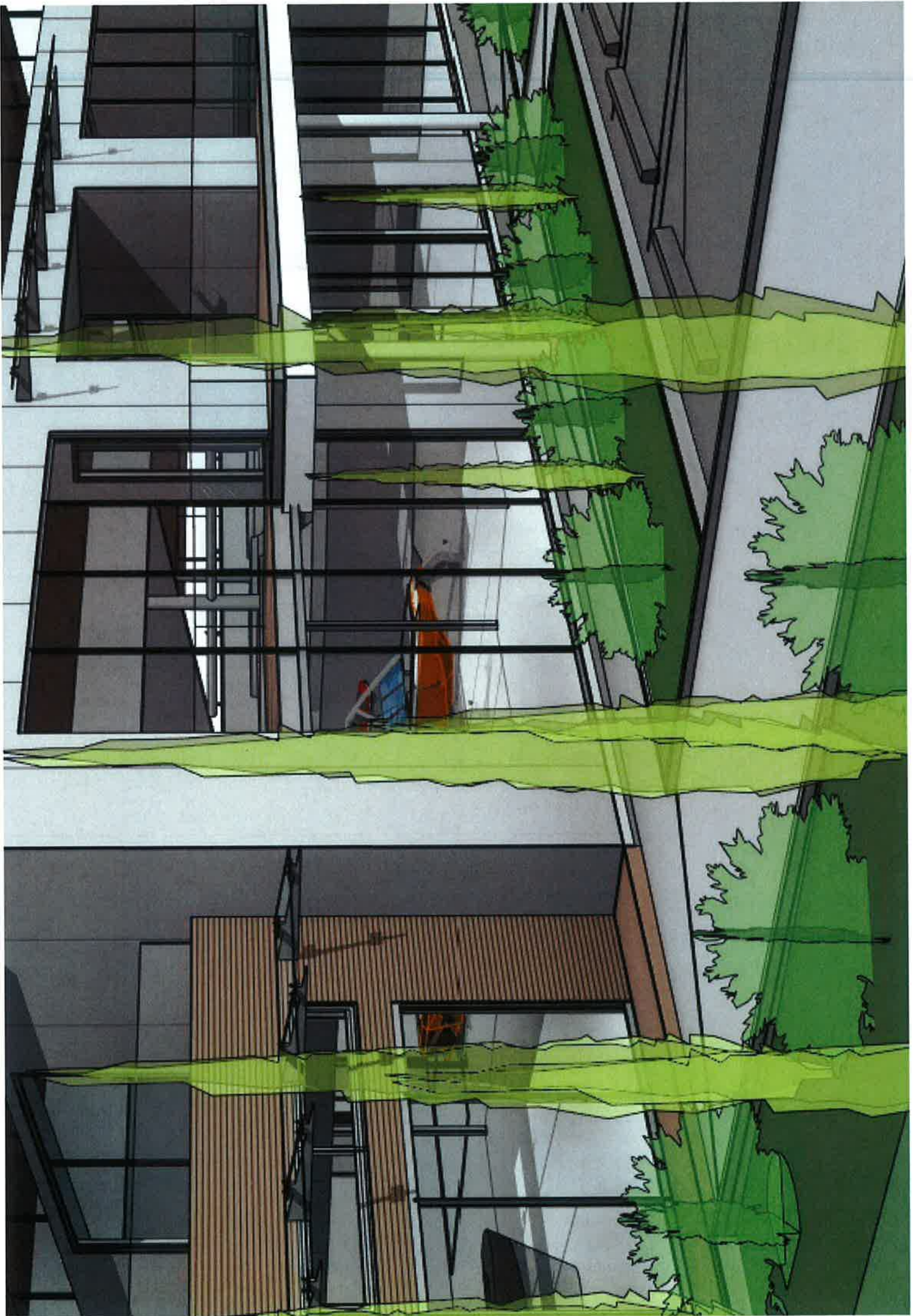
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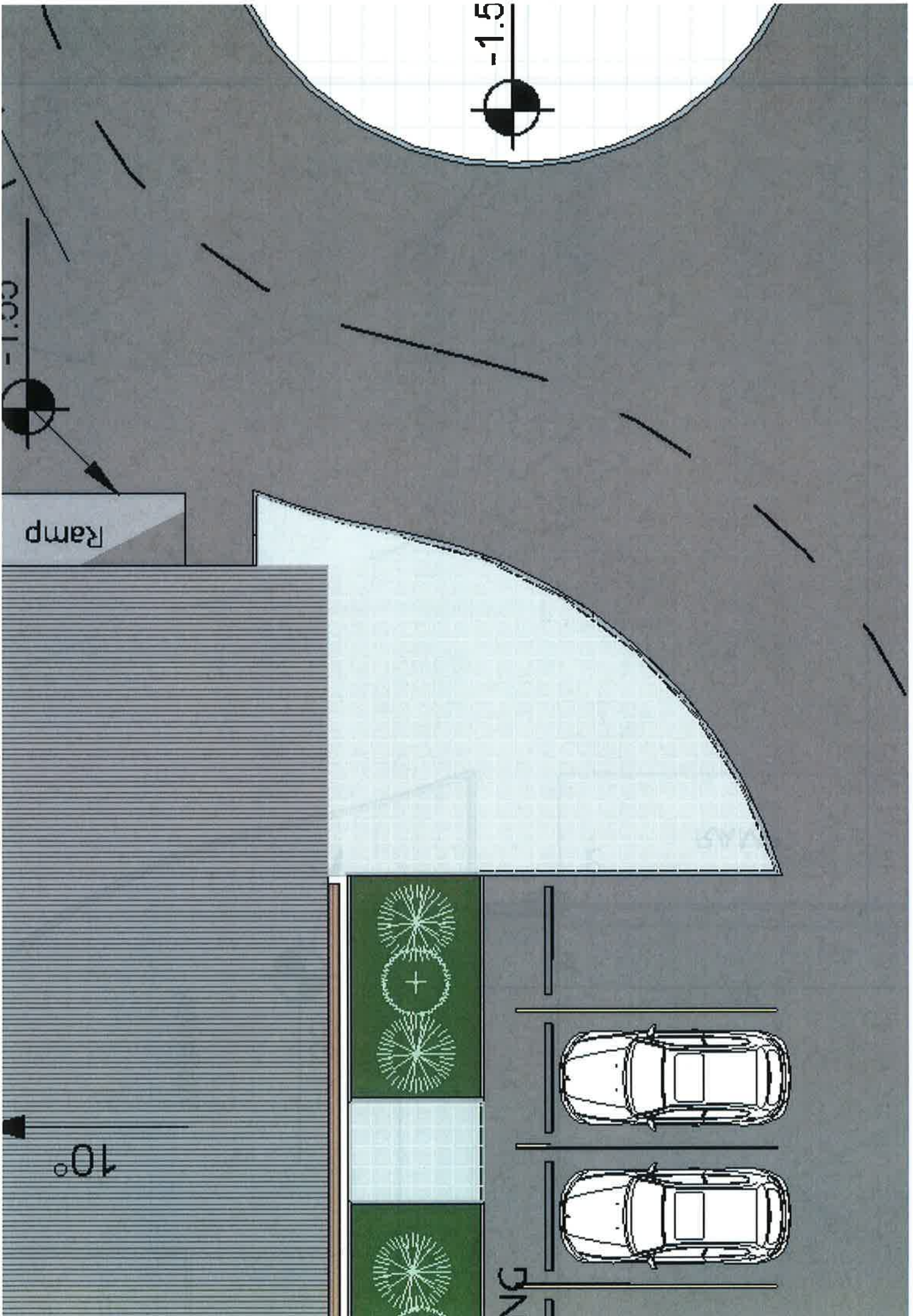
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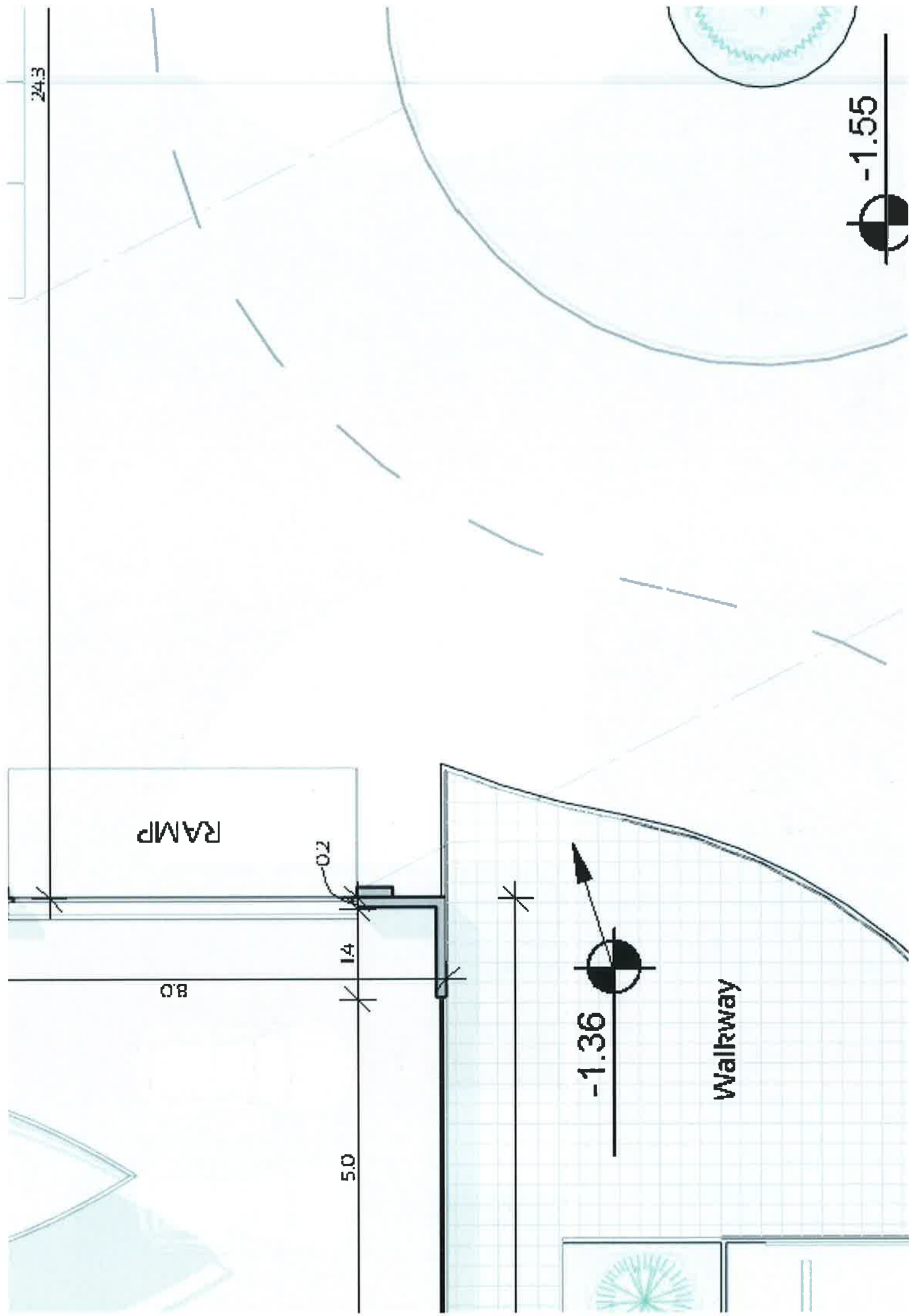
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You may also need to update the cache manifest XML file to point to the unzipped location of the data files.

Annexure C: Concept Plans

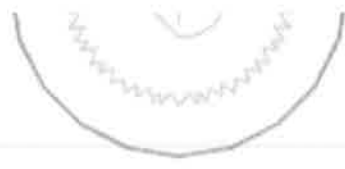
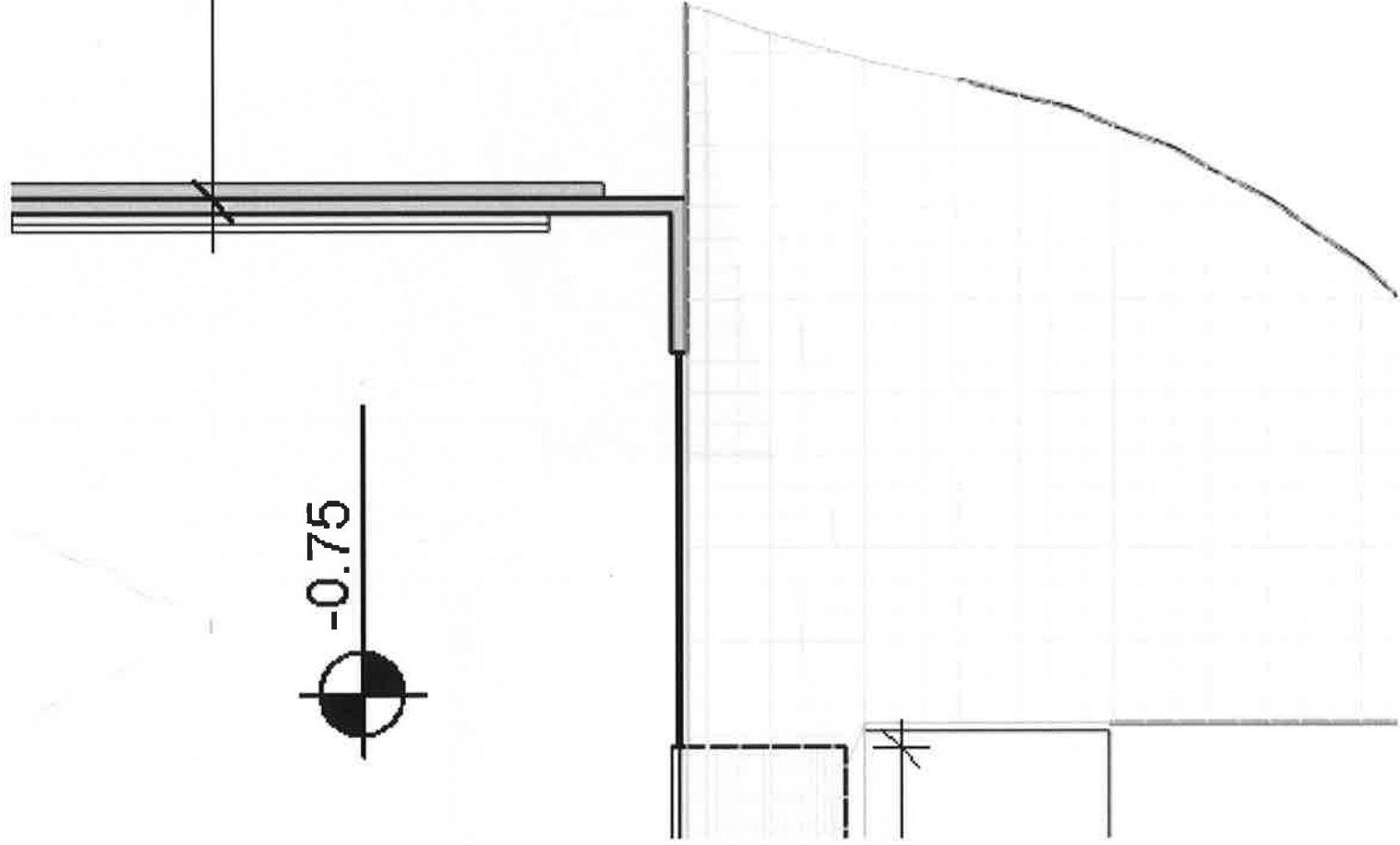


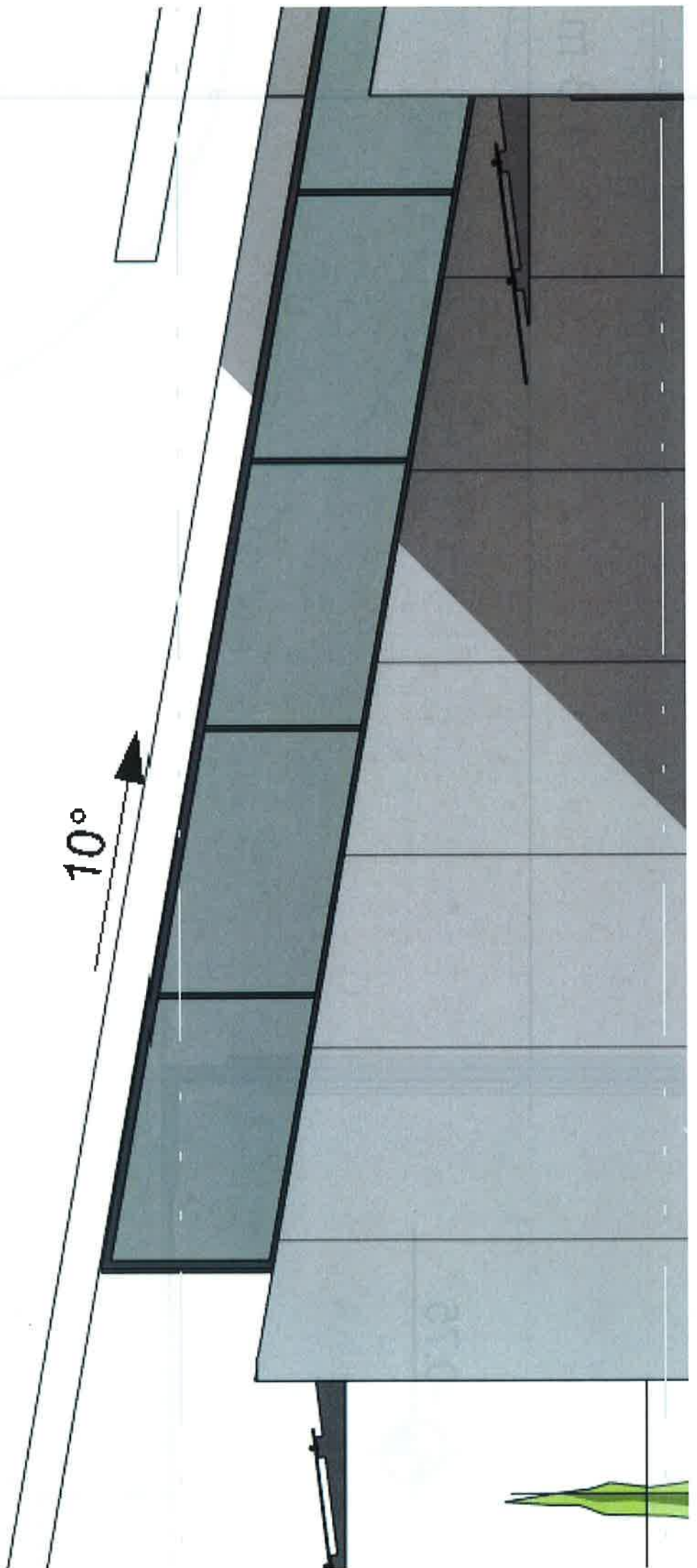






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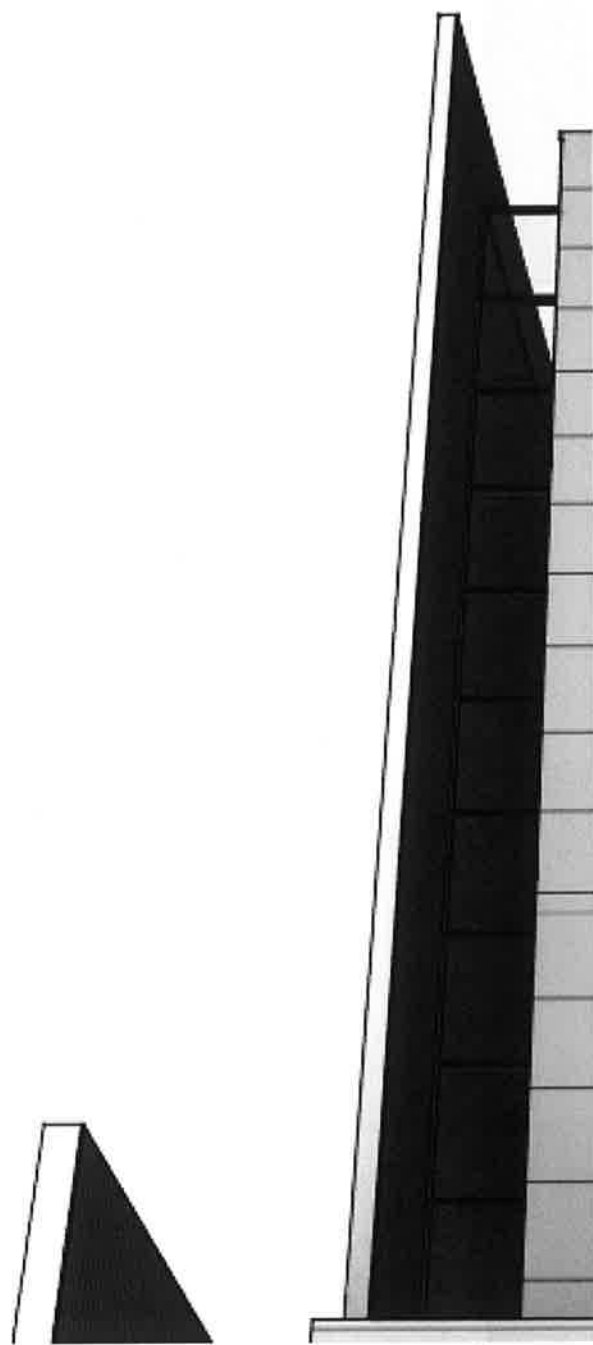


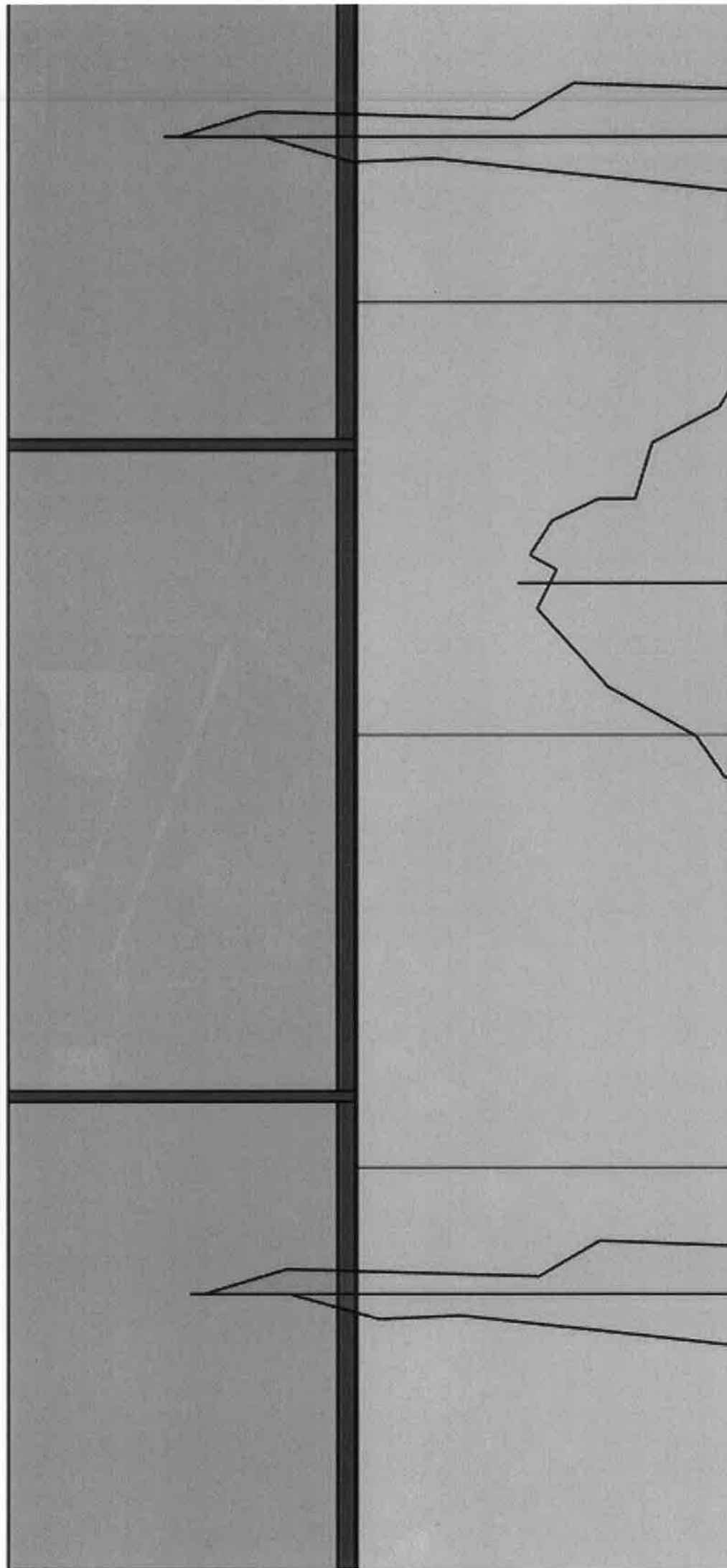


10.5 m



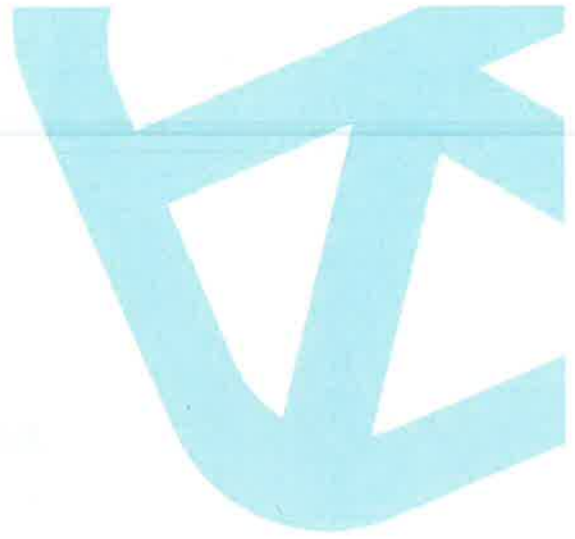








Annexure D: Traffic Impact Assessment



Traffic Statement

Proposed Boat Showroom and Office

Prepared for

Ride Australia Pty Limited

Site address

Lot 393

DP 1144727

5c Creston Grove, Bomaderry NSW 2541

Date

28 April 2015

allen, price & associates
land and development consultants

Surveying



Town Planning



Civil Engineering



Project Management



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Pororoca Pty Limited
Kryssning Pty limited

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Traffic Statement

Proposed Boat Showroom and Office

Prepared for

Ride Australia Pty Limited

Location

Lot 393 DP 1144727
5c Creston Grove
BOMADERRY NSW 2541

Prepared by

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Appendices

Table of Revisions

Rev	Date	Details
P0	April 2015	Issued to client for review and input
0	28 April 2015	Issue for review by RMS

Introduction

This report has been prepared to support a Planning Proposal on behalf of Ride Australia Pty Ltd for the rezoning (and future Development Application) over land known as 5C Creston Grove, Bomaderry.

Ride Australia intends to develop the site as a boat showroom for both Supra and Moomba Boats.

Allen, Price & Associates have been engaged to prepare this Traffic Statement in order to address those matters considered to be of relevance to the traffic impacts associated with the proposed development including traffic generation impacts, parking, on-site manoeuvring, access/egress, including the impacts of this proposal on the local and regional street network.

Site & Locality

The subject land, Lot 393 DP 1144727, known as 5C Creston Grove Bomaderry, is located northerly adjacent the Kel Campbell Caltex service station on the Princes Highway, Bomaderry. The site locality is shown below in Figure 1.



Figure 1 - Location Plan – 5C Creston Grove, Bomaderry

The site is rectangular in shape, approximately 80.5m x 42m and has an area of 3340m². The land is currently vacant.

Direct access to the site is currently off the head of the Creston Grove cul-de-sac via a right of carriageway approximately 100m long, not the Princes Highway. A restriction on the land prohibits direct access to the Princes Highway.

Proposed development

This proposal involves the construction of a boat showroom and associated offices, parts storage and associated access/egress and car parking.

The site is currently zoned R2 – low density residential and has a frontage to the Princes Highway that is identified for future road widening. The land will need to be re-zoned before development of this nature can proceed. Access to the site is currently via a right of carriageway over adjoining and established residential properties. If the rezoning and subsequent development application is approved, the proponent would agree to extinguish the right of carriageway subject to negotiation with the adjoining landowner (if necessary). It is proposed that the future development would have direct access to the Princes Highway.

From a traffic perspective, the proposal includes:

- An ingress/egress off the Princes Highway;
- 7 parking spaces, including one accessible space;
- Manoeuvring areas to enable a service vehicle to enter and leave the site in a forward direction
- Turning circle to enable car/trailers to turn in a forward movement on site, and exit in a forward direction.

A copy of the site plan prepared by Vision Tech Design is attached in Appendix A showing the proposed development.

Traffic Generation Estimations

The RTA's Guide to Traffic Generating Development (Version 2.2 – October 2002) does not provide peak hour traffic volumes for boat showrooms, and therefore cannot be relied upon for this data.

The proponent currently operates the business at South Nowra. Normal operating hours are 8.30am to 5.30pm Monday to Friday, and 8.00am to 2.00pm on Saturday. This traffic assessment is based upon the following data provided by the proponent that is typical of the traffic generation at the South Nowra site. This is representative of the high-end, high value nature of the products with specialised boats in excess of \$200K attracting specific buyers to a narrow market.

Expected daily traffic movements for normal operational activities:

Trip type	Average daily vehicle movements	Weekly total
Staff – 2 permanent – 6 days	4 movements	24 movements
Staff – 1 casual – 2 days only	0.67 movements	4 movements
Staff – errands	1.3 movements	8 movements
Staff – boat and trailer	0.67 movements	4 movements
Customers – single vehicle	3 movements	18 movements
Customers – boat and trailer	1 movement	6 movements
Deliveries	3.33 movements	20 movements
Total	14 movements	84 movements

Peak hour movements are typically 10% of the daily vehicle movements. On that basis, during normal operation, peak hour movements are 1.4 (say 2) movements in a peak hour. This is a very small traffic generator and provides a negligible increase to existing traffic flows.

In the period until the proposed highway upgrade, it is expected the majority of the manoeuvres will be from/to Nowra, being a right turn into the site and left turn out of the site.

Site Access Location and Sight Distances

Access to the site is currently via a right of carriageway off Creston Grove, a cul-de-sac directly east of the site. The rezoning application would likely include the removal of the right of the subject land to utilise the right of carriageway over neighbouring residential properties subject to agreement with affected property owners. The proposal would be to have direct access to the Princes Highway.

The speed limit of The Princes Highway in the adjacent the site is 70km/hr. Directly north of the site the speed limit is 100km/hr with the transition from 100km/hr to 70km/hr being at the northern boundary of the subject site.

Sight distances from the proposed site egress, taken from 5m back from the edge line (as per Austroads) were measured using a trundle wheel and sight distance observation markers by the author and were found to be:

- North – approximately 360m;
- South – exceeding 450m. i.e. to the Cambewarra Rd roundabout

The required safe intersection sight distances as per Austroads Part 4A Table 3.2 are 151m for a 70km/hr road with 2.0s reaction time, which are easily complied with at the proposed egress location, even with minor corrections for grade.

As increased speeds could be expected on the Princes Highway given the site is directly adjacent the 70km/hr / 100km/hr speed limit transition zone, even with a 100km/hr speed vehicle the required safe intersection sight distance is 262m with a minimum reaction time of 2.5s, which are still easily complied with at the proposed egress location.

Sight distances are therefore adequate at the proposed egress location.



Sight distance looking north – 360m



Sight distance looking south - >450m

Existing traffic volumes and traffic impacts from the proposed development on the road network

Peak hour traffic volumes have been taken from RMS publication; *Berry to Bomaderry Princes Highway upgrade – Technical paper: Traffic and Transport, November 2013*.

Daily and peak period traffic volume summary (2013)

Location	AM peak (veh/h)	PM peak (veh/h)	AM peak southbound (veh/h)	PM peak northbound (veh/h)
Princes Highway, south of Abernethys Lane	865 veh/h	950 veh/h	470 veh/h	550 veh/h

Graphical representation of this data is provided in Appendix B.

The traffic volumes on the Princes Highway are an important determinant for intersection performance at the proposed development. From the above table, two-way traffic volumes on the Princes Highway are between 865 veh/h and 950 veh/h in the vicinity of the site. The proposed development would only increase peak hour traffic by approximately 0.2%.

Based on the warrants contained in Figure 4.9(b) of *Austroads - Guide to Road Design Part 4A: Unsignalised and Signalised Intersections (Austroads)*, the required intersection treatments are:

- BAL – for left-turn manoeuvres - based on a turning peak movement of 2 veh/h
- BAR – for right-turn manoeuvres - based on a turning peak movement of 2 veh/h

A copy of the intersection warrants are included in Appendix C, which show the abovementioned figures.

Proposed Operation – interim prior to Princes Highway upgrade

It is proposed to provide the following treatments at the access point:

- Left turn (subject site side of the road) – shoulder widening with kerb and gutter to match alignment of adjacent kerb and gutter
- BAR – for right-turn manoeuvres – extension of existing sealed shoulder widening

A concept sketch of the proposed interim access (pre highway upgrade) is included in Appendix D.

Proposed Princes Highway upgrade

Detailed design of the Berry to Bomaderry upgrade is not yet complete or available however the “Concept” status drawings for the Berry to Bomaderry Upgrade (prepared by AECOM – 60021933-DRG-10-03-RD1022-Rev 07 and 60021933-DRG-10-03-RD3026-Rev 06) has been reviewed to assess the proposed upgrade works fronting the subject site.

The concept design of the upgrade includes a central median across the frontage of the subject site that will limit access to the site to left in / left out only. Utilisation of U-turn facilities at the Cambewarra Road roundabout to the south and a proposed U-turn facility at Abernethys Lane to the north will be required by vehicles not able to enter or exit the site from or to their desired direction.

The timing of this upgrade is not confirmed and is subject to budgetary constraints of the state government. The upgrade is however likely to be provided in the medium term though the timing would not preclude the development proceeding given the very low traffic generation.

The long term 'bypass' of Bomaderry and Nowra altogether will see traffic volumes reduce in the area significantly.

Vehicle Parking Requirements – Chapter G21 DCP2014: Car Parking and Traffic

Neither Chapter G21 of Council's DCP2014 nor the RTA's Guide to Traffic Generating Development (Version 2.2 – October 2002) provides suitable car parking requirements for a development of this nature.

Given the traffic generation outlined above is extremely low, it is not appropriate to apply parking space requirements for bulky goods or motor showroom developments. The business simply does not have the through traffic of traditional bulky goods or motor showrooms as the boats are high-end products aimed at a relatively narrow market. The provision of 20 to 25 spaces is clearly excessive.

Given the above, the proposal provides:

- 7 parking spaces, including one accessible space;
- Parking sufficient for staff
- Adequate manoeuvring areas for all vehicles

Parking layout and dimensions – Section 5.2 Chapter G21 DCP2014

A review of the site parking arrangements has been undertaken in accordance with Section 5.2 of Chapter G21 of Council's DCP2014 and is outlined below:

Acceptable solutions	Comments
Carparking spaces shall be provided on-site and be readily accessible from the road frontage of the development	All carparking is on site and is readily accessible from the public road system.
Entrance to parking area shall not be accessed through buildings or carports	This situation does not exist.
Parking spaces located adjacent to an obstruction shall be of a larger dimension	This situation does not exist.
Dead-end parking aisles longer than 15m are not permitted unless used in situations of low vehicle turnover, such as employee parking, and are to be signposted accordingly.	This situation does not exist.

The minimum car space and aisle dimensions are shown in Figure 1.	The spaces will all comply with DCP2014 requirements
Stack parking of vehicles is not supported by Council	There is no stack parking proposed.

Access – Section 5.3 Chapter G21 DCP2014

A review of the site access has been undertaken in accordance with Section 5.3 of DCP2014 and is outlined below:

Acceptable solutions	Comments
Development must be designed so that vehicles enter and leave the premises in a forward direction.	Vehicles will be able to enter and exit the site in a forward direction;
Where more than one access point is proposed to a site, the first driveway reached by traffic shall be the entrance	There is only one access point to the site;
Each site shall minimise the number of ingress and egress points at any street frontage.	There is only one access point to the site;
Vehicular access to parking areas will not be permitted in close proximity to traffic signals, major intersections or where sight distance is considered inadequate. Site distance requirements must comply with Figure 3.2 AS2890.1.	Vehicular access is not proposed in close proximity to traffic signals, major intersections or where sight distance is inadequate. Sight distance complies with the requirements of AS 2890.1.
Driveways shall be located a minimum of six (6) metres from the corner of a building located on corner lots. See Figure 2.	The driveway is more than 6m from the corner of any building.
Buildings must be designed to ensure that there is adequate sight distance at intersections and driveways. In some instances this may require the provision of splay corners on buildings.	There is adequate sight distance at the intersection location in all directions.
A building splay will be required where a driveway adjoins.	No driveways are adjacent to buildings.
Turning paths for vehicles will be based upon the largest vehicles likely to utilise the premises.	Turning paths have been assessed separately and can be seen in Appendix D.
Driveways shall be a minimum 1m from the side boundary.	The driveway is more than 1m from the side boundary.

Where car parking exceeds 50 spaces separate provision shall be made for ingress and egress.	Car parking does not exceed 50 spaces
Treatments such as threshold treatment or the provision of speed humps should be provided where a driveway crosses a footpath to ensure the safety of pedestrians.	The driveway does not cross a footpath;
Prohibited driveway locations and driveway orientation are indicated in Figure 2.	The driveway location is not in a prohibited location.
Ramps must not extend across the footpath.	Ramps are not proposed to extend across the footpath.

Manoeuvrability – Section 5.4 Chapter G21 DCP2014

A review of the site manoeuvrability has been undertaken in accordance with Section 5.4 of DCP2014.

Due to the nature of the proposed development, a service vehicle has been adopted as the largest vehicle likely to enter the site. Cars and trailers are also catered for by the provision of a full forward tuning circle within the site. Turning paths are shown in Appendix D and demonstrate adequate manoeuvring area is available.

Service – Section 5.5 Chapter G21 DCP2014

Service vehicles will enter the site for supply of certain goods however no loading docks as such are required or proposed. Service vehicles can enter and leave the site in a forward direction as shown in Appendix D.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) specifies the following:

104 Traffic-generating development

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
- (a) *new premises of the relevant size or capacity, or*
 - (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

- (2) *In this clause, relevant size or capacity means:*
- (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment*

of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

(3) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

Schedule 3 of the SEPP contains the following table:

Column 1	Column 2	Column 3
Purpose of development Note: The development may be the erection of new premises or the enlargement or extension of existing premises	Size or capacity-site with access to any road	Size or capacity-site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)
Commercial premises	10,000m ² in area	2,500m ² in area
Motor showrooms	200 or more motor vehicles	50 or more motor vehicles

As the proposed development does not meet the requirements of Column 3, a future DA does not need to be referred to RMS for comment. Clause 101 of the SEPP states:

101 Development with frontage to classified road

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The above report sets out the appropriate methodology, to allow Council and the RMS to make a determination on the above matters.

In short, with the intersection treatments proposed:

- Vehicular access to the proposed development can only be provided via a classified road;
- The proposed development will not adversely impact upon the safety, efficiency and ongoing operation of the classified road;
- The proposed development is not of a type that is sensitive to traffic noise or vehicle emissions;
- The proposed development is appropriately located and designed, and will include measures, to ameliorate potential traffic noise within the site of the development (and surrounding residential properties) from the classified road;

In light of the above, it is the author's opinion that:

- The proposed development will not compromise the effective and ongoing operation and function of a classified road;
- The proposed development does not have the potential to be impacted upon by traffic noise or vehicle emissions

Conclusions

The proposed development will generate additional traffic movements to and from the site.

The development is not defined as a Traffic Generating use (under SEPP Infrastructure 2007) and a future DA does not need to be referred to the RMS for comment prior to determination.

Generally, traffic numbers are very low (< 14 movements per day) with approximately 2 movements in the peak hour of the Princes Highway.

The existing site access off Creston Grove is not suitable for the proposed development. Direct access will be required to the Princes Highway. Adequate sight distances are available in both directions.

Intersection warrants suggest that a BAL/BAR is required for normal operation. It is proposed to provide the following treatments at the access point in the interim period till the highway upgrade is undertaken;

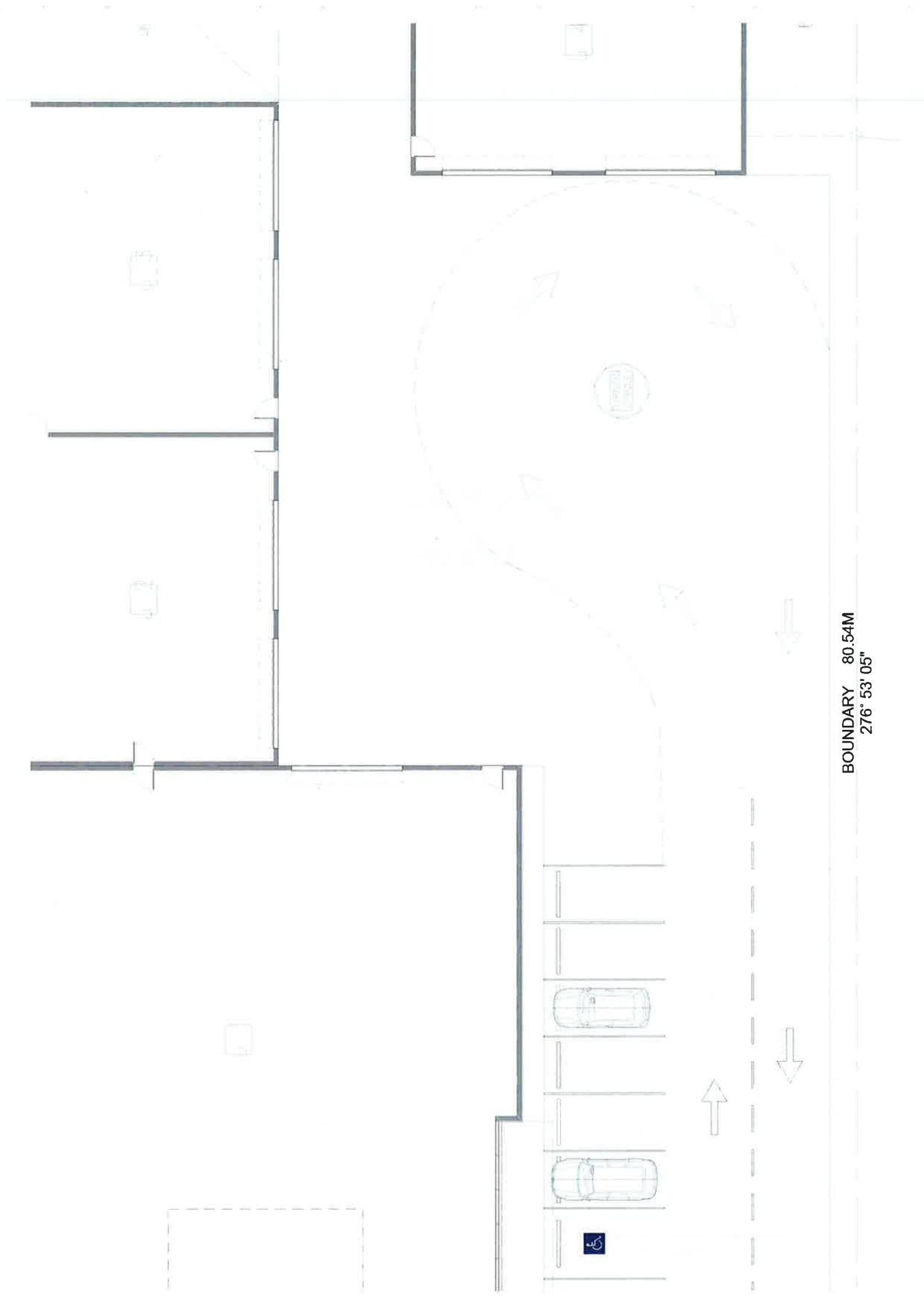
- Left turn (subject site side of the road) – shoulder widening with kerb and gutter to match alignment of adjacent kerb and gutter
- BAR – for right-turn manoeuvres – extension of existing sealed shoulder widening

The proposed site parking facilities are adequate for the required parking requirements.

The site manoeuvring areas are adequate for the proposed use.

Appendix A

Site Plan



BOUNDARY 80.54M
276° 53' 05"

Appendix B

Traffic Data

As a result, the probability of congestion and delays is typically higher during weekend peak hours than AM peak and PM peak hours through the week.

Daily traffic volume profiles for the surveyed Princes Highway and 'Sandtrack' locations listed in **Table 2.5** are shown in **Figures 2.7** to **Figure 2.11**.

The profiles for all of the survey sites (shown in **Figure 2.7** to **Figure 2.11**) show a steady increase in traffic throughout the day, generally peaking at around 3pm-4pm before subsiding in the early evening. Traffic volumes tend to grow gradually throughout the morning and into the early afternoon; there is however a noticeable peak in morning southbound traffic, particularly on Meroo Road, south of the Princes Highway and Bolong Road ('Sandtrack'), north of Meroo Road.

The general traffic patterns in the proposal area are dissimilar to denser urban areas, which generally peak early in the morning with commuter traffic, subsiding in the inter-peak period, before growing again to a peak in the afternoon. The early afternoon peak (3pm) suggests a significant level of after school pickup and resultant social and commercial activity in the proposal area.

Table 2.5: Daily and peak period traffic volume summary (2012-2013)

Location	Year	Two-way traffic flows				
		AM peak (veh/h)	PM peak (veh/h)	100 HH (veh/h)	AADT	
					Volume (veh/day)	% heavy vehicles
Princes Highway, north of Rose Valley Road	2012	1570	1850	2570	22,125	8.0 %
Princes Highway, south of Mullers Lane	2013	910	1015	1460	12,560	15.7 %
Princes Highway, south of Abernethys Lane	2013	865	950	1380	11,870	14.9 %
Meroo Road, south of Princes Highway	2013	135	150	210	1800	20.4 %
Bolong Road ('Sandtrack'), north of Meroo Road	2013	730	825	1140	9800	8.7 %
Local Roads²						
Andersons Lane	2011	5	5	6	50	-
Mullers Lane	2011	12	12	13	115	-
Croziars Road	2011	25	25	28	245	-
O'Keefe's Lane	2011	11	11	12	105	-
Jaspers Brush Road	2011	12	12	14	120	-

² Local roads: AADT shown is ADT for September 2011; AM & PM peak hour volumes estimated as ten per cent of ADT, consistent with Guide to Traffic Generating Developments (RMS 2002); 100HH volumes estimated as 11.6 per cent of ADT, consistent with local traffic survey data for 100HH periods.

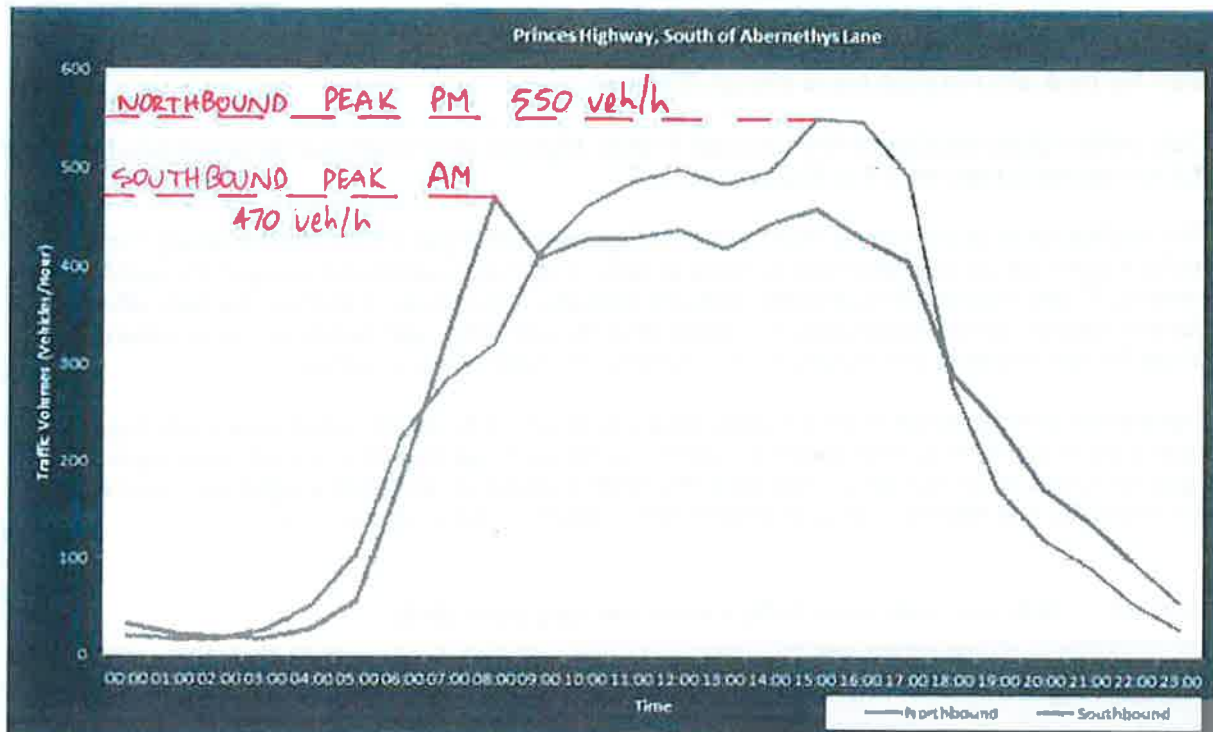


Figure 2.9: Average daily traffic profile: Princes Highway, south of Abernethys Lane (2013)

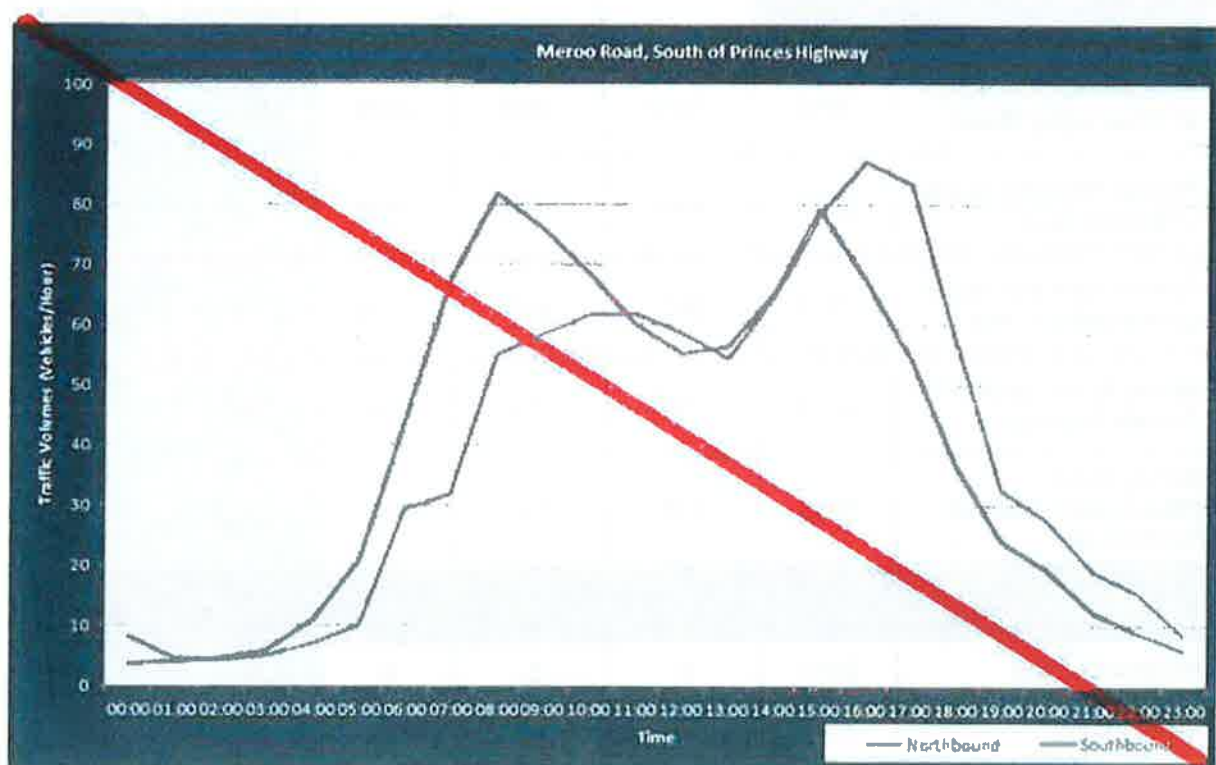
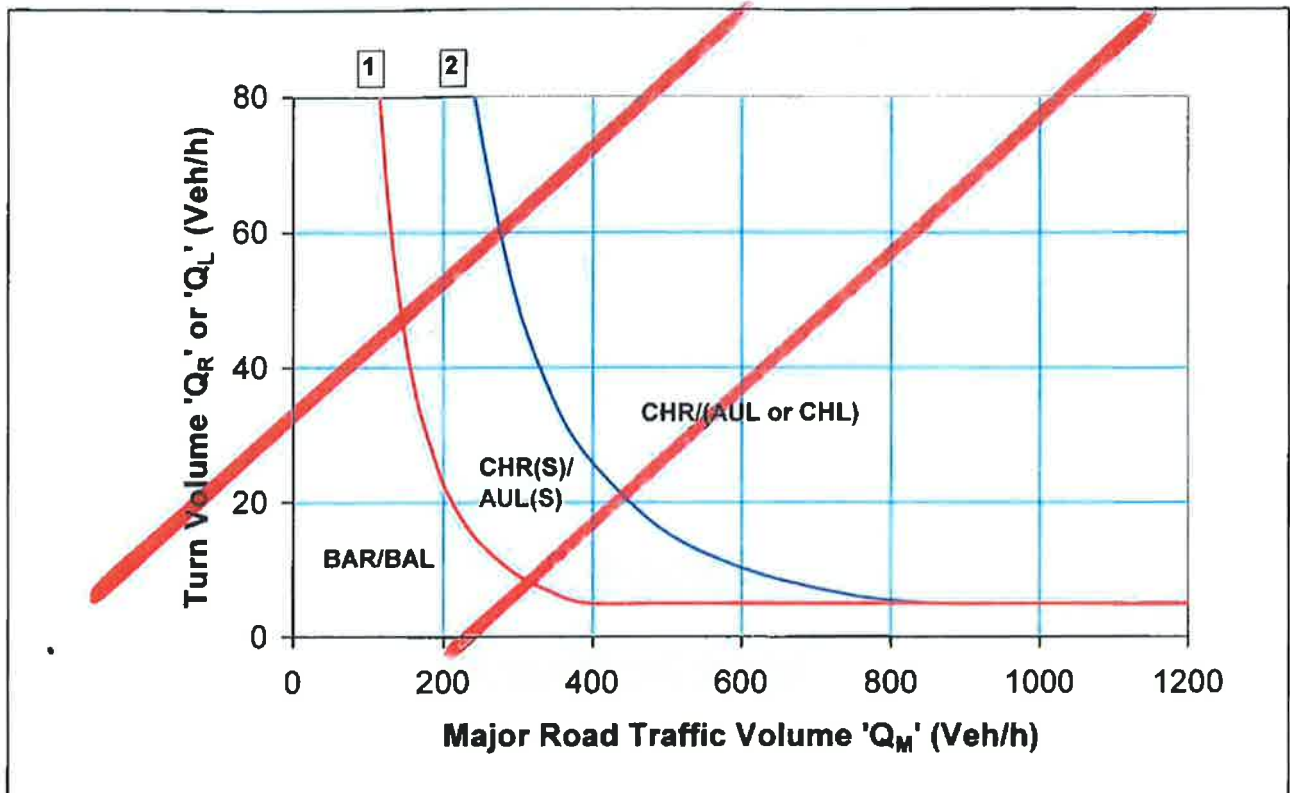


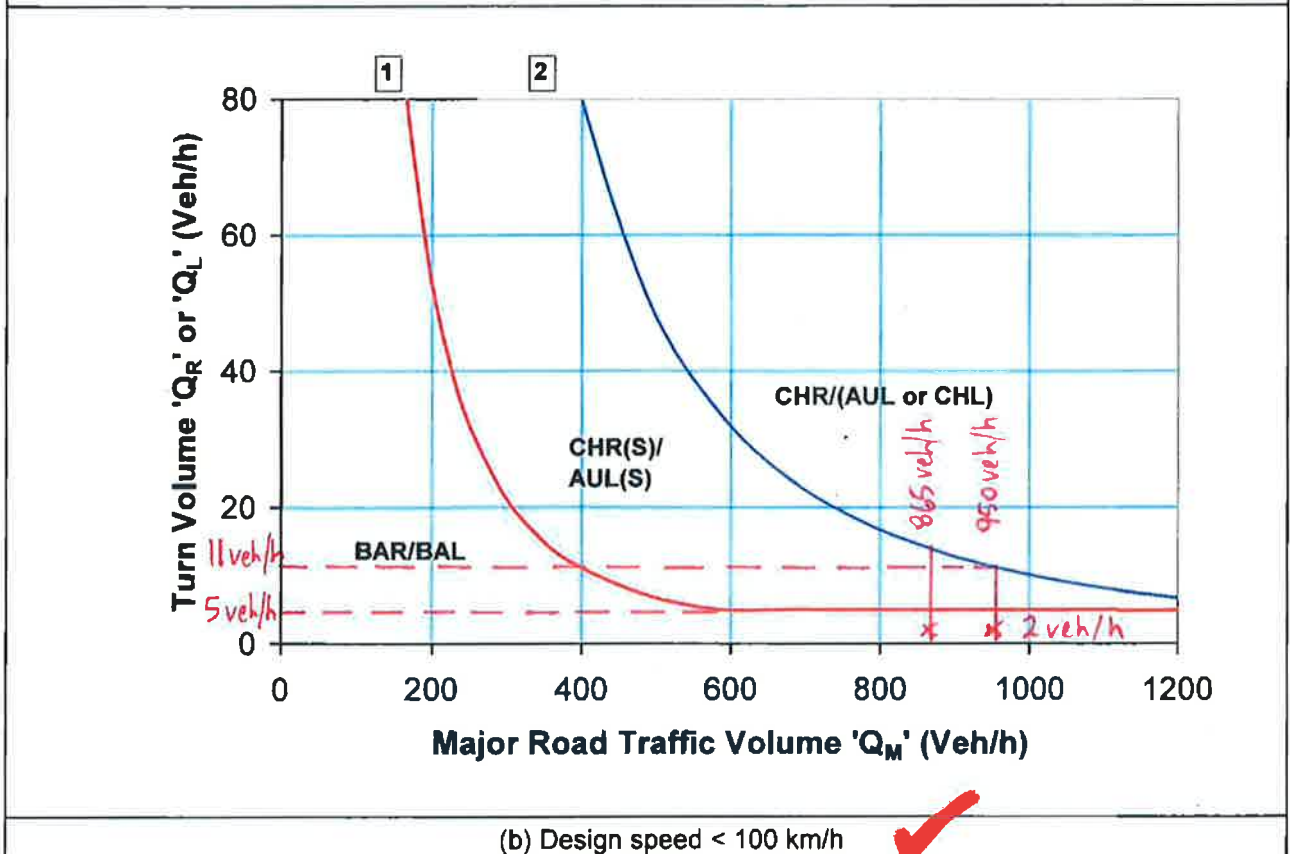
Figure 2.10: Average daily traffic profile: Meroo Road, south of Princes Highway (2013)

Appendix C

Intersection Warrants



(a) Design speed ≥ 100 km/h



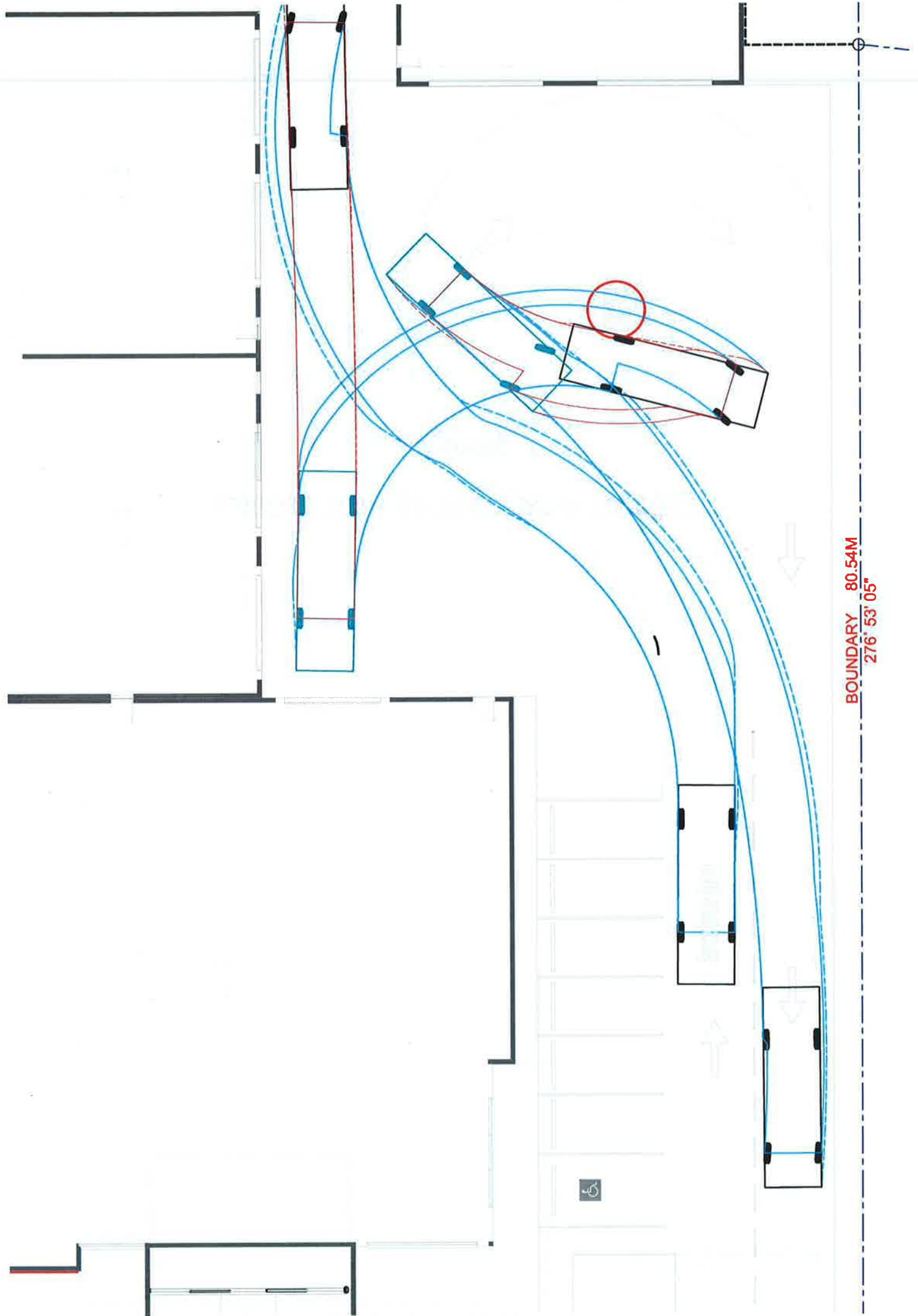
(b) Design speed < 100 km/h

Source: Arndt and Troutbeck (2006).

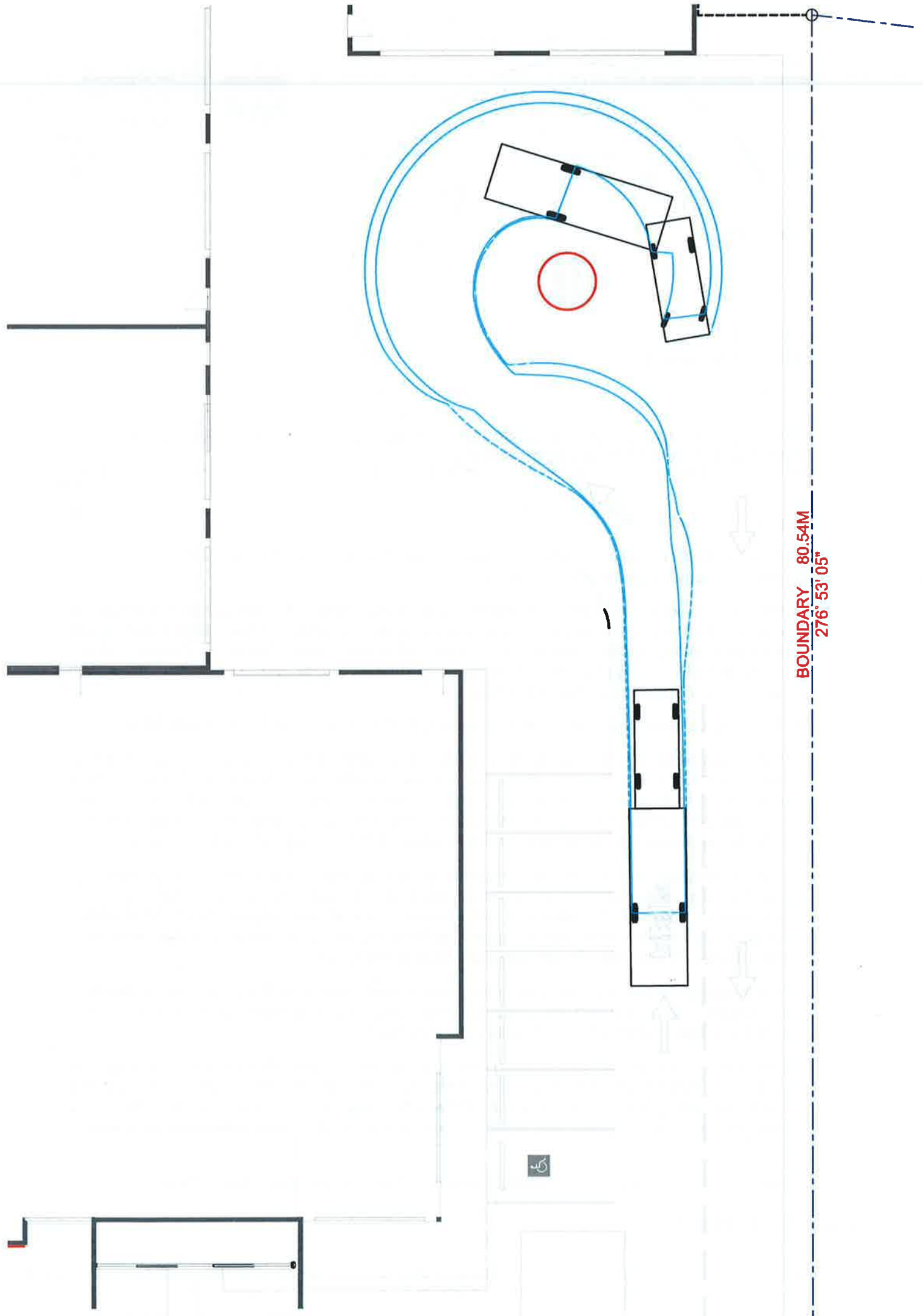
Figure 4.9: Warrants for turn treatments on the major road at unsignalised intersections

Appendix D

Preliminary access concept and turning movements



BOUNDARY 80.54M
276° 53' 05"



BOUNDARY 80.54M
276° 53' 05"

9 June 2015

Mr Matthew Lennartz
mattlennartz@gmail.com

**LOT 393 DP 114427, 5C CRESTON GROVE, BOMADERRY, PROPOSED REZONING,
BOAT SHOWROOM AND HEADQUARTERS**

Dear Sir,

Roads and Maritime Services (RMS) refers to your emails dated 29 April and 19 May 2015 regarding the subject development application.

RMS has reviewed the submitted information and advises that a planning proposal would not be supported on access management principles as the rezoning of the subject land would necessitate creating a direct access to a classified (state) road. Under the current zoning, access to the site is available from the local road network and does not impact on the safety and efficiency of the classified road frontage.

The following comments are provided in response to the issues raised in your submission;

- RMS recognises that the proposal is to rezone a single parcel of land and is concerned about the precedent it a rezoning may set for incremental extensions of commercially zoned land to the north of Bomaderry and subsequent implications for traffic and access management along the Princes Highway. RMS will not support a rezoning with the potential to encourage further ribbon development along the highway in this location.
- It is understood that the current proposal to rezone the subject site is to facilitate the development of a commercial premise, which is proposed to result in minimal traffic generation. However, the proposed commercial zoning of the subject site would enable a range of permissible uses with the potential for more intensive forms of traffic generating development should the site change ownership in the future.
- The retention of the existing residential zoning and access to the local road network is considered consistent with the *State Environmental Planning Policy (Infrastructure) 2007* and the Minister for Planning's Section 117 Directions.
- Significant public investment is being directed towards an upgrade of the Princes Highway under the Berry to Bomaderry Upgrade Project. This investment is intended to optimise the future safety and efficiency of the Highway for regional traffic movements. The project seeks to rationalise access and improve travel times. Further information can be obtained online at:

<http://www.rms.nsw.gov.au/projects/south-coast/berry-to-bomaderry/index.html>

Roads & Maritime Services

RMS notes that a number of issues raised in your submission relate to land use planning issues that would need to be considered by Council prior to endorsement of any planning proposal. Should Council be satisfied that a valid need to rezone the subject land exists, then further consultation with RMS should be undertaken.

Should you have any questions please contact Matt Adams on (02) 4221 2570.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Chris Millet', with a long horizontal flourish extending to the right.

for Chris Millet
Manager Land Use
Southern Region

Cc: Council@shoalhaven.nsw.gov.au

Annexure E: Site Audit Statement

NSW Site Auditor Scheme SITE AUDIT STATEMENT



A site audit statement summarises the findings of a site audit. For full details of the site auditor's findings, evaluations and conclusions, refer to the associated site audit report.

This form was approved under the Contaminated Land Management Act 1997 on 31st October 2012. For more information about completing this form, go to Part IV.

PART I: Site audit identification

Site audit statement no. 014-2118723.....

This site audit is a ~~statutory audit~~/non-statutory audit* within the meaning of the Contaminated Land Management Act 1997.

Site auditor details (as accredited under the Contaminated Land Management Act 1997)

Name Andrew Kohlrusch..... Company GHD.....

Address 133 Castlereagh Street, Sydney.....

..... Postcode 2000.....

Phone 9239 7187..... Fax 9239 7199.....

Site details

Address Lot 393, Princes Highway, Bomaderry, NSW

..... Postcode 2541.....

Property description (attach a list if several properties are included in the site audit)

Lot 393 in DP 1144727

Local Government Area Shoalhaven City Council.....

Area of site (e.g. hectares) 3 340 m²..... Current zoning 2(a3) Residential

To the best of my knowledge, the site ~~is~~/is not* the subject of a declaration, order, agreement, proposal or notice under the Contaminated Land Management Act 1997 or the Environmentally Hazardous Chemicals Act 1985.

Declaration/Order/Agreement/Proposal/Notice* no(s)

.....

**Strike out as appropriate*

Site audit commissioned by

Name Beatrice Bowen.....**Company** Caltex Australia Pty Ltd.....

Address Level 24, 2 Market Street, Sydney, NSW.....

..... **Postcode** 2000.....

Phone..... **Fax**

Name and phone number of contact person (if different from above)

Colin Roberts 9250 5862.....

Purpose of site audit

- ☒ A. To determine land use suitability (*please specify intended use[s]*)

Residential land use with gardens and accessible soils (home grown produce contributing less than 10% fruit and vegetable intake) having regard to petroleum hydrocarbon impacts in groundwater

OR

☐ B(i) To determine the nature and extent of contamination, and/or

☐ B(ii) To determine the appropriateness of an **investigation/remedial action/management plan***, and/or

☐ B(iii) To determine if the land can be made suitable for a particular use or uses by implementation of a specified **remedial action plan/management plan*** (*please specify intended use[s]*)

Information sources for site audit

Consultancy(ies) which conducted the site investigation(s) and/or remediation

Coffey Environments.....

Title(s) of report(s) reviewed

Groundwater monitoring event – November 2012 Lot 393 Princes Highway, Bomaderry, NSW (November 2012)

Groundwater monitoring event – January 2013 Lot 393 Princes Highway, Bomaderry, NSW (January 2013)

Groundwater monitoring event (March 2013) and assessment of groundwater monitoring trends Lot 393 Princes Highway, Bomaderry, NSW (adjacent to former Caltex leased service station site (id: 28498d)

Other information reviewed (including previous site audit reports and statements relating to the site)

Remediation and Validation Report No 246. (Caltex Service Station 28498) and Lot 393 Princes Highway, Bomaderry, NSW December 2011

***Strike out as appropriate**

Groundwater Management Plan Lot 393 Princes Highway Bomaderry, NSW January 2012
Caltex Service Station (28498) 246 Princes Highway Bomaderry NSW, Off-Site Health Risk Assessment 31 March 2009.

Report for Lot 393, DP1144727 Princes Highway Bomaderry NSW Site Audit Report (February 2012).....

Site audit report

Title *Site audit of Groundwater Monitoring Program at Lot 393 PD 1144727 Princes Highway, Bomaderry, NSW.....*

Report no 2118723/174361..... **Date** 20 September 2013.....

PART II: Auditor's findings

Please complete either Section A or Section B, **not** both. (*Strike out the irrelevant section.*)

Use Section A where site investigation and/or remediation has been completed and a conclusion can be drawn on the suitability of land use(s).

Use Section B where the audit is to determine the nature and extent of contamination and/or the appropriateness of an investigation or remedial action or management plan and/or whether the site can be made suitable for a specified land use or uses subject to the successful implementation of a remedial action or management plan.

Section A

☒ I certify that, in my opinion, the site is **SUITABLE** for the following use(s) (*tick all appropriate uses and strike out those not applicable*):

☐ ~~Residential, including substantial vegetable garden and poultry~~

☐ ~~Residential, including substantial vegetable garden, excluding poultry~~

☒ Residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry

☒ Day care centre, preschool, primary school

☒ Residential with minimal opportunity for soil access, including units

☒ Secondary school

☒ Park, recreational open space, playing field

☒ Commercial/Industrial

☐ ~~Other (please specify)~~

~~subject to compliance with the following environmental management plan (insert title, date and author of plan) in light of contamination remaining on the site:~~

.....

OR

☐ ~~I certify that, in my opinion, the site is NOT SUITABLE for any use due to the risk of harm from contamination.~~

Overall comments

1. This site audit statement should be read in conjunction with the accompanying site audit report
2. Validation sampling of soils collected from the excavations created as part of the remedial works demonstrated there to be no unacceptable risk to human health from residual hydrocarbon concentrations in the remaining soils

3. Groundwater monitoring as part of the validation process demonstrated that the groundwater is contaminated with petroleum hydrocarbons including benzene, toluene, ethyl benzene and xylenes
4. The recorded hydrocarbons in groundwater concentrations were less than the nominated health screening levels (HSLs) for groundwater (at a depth of greater than two metres in a clay aquifer). The concentrations were below the HSLs at which a vapour risk could be present
5. There are no groundwater bores for beneficial reuse on the site.
6. Groundwater monitoring events (November 2012, January 2013 and March 2013) subsequent to completion of remedial works (2011) at the site demonstrated that the concentrations of petroleum hydrocarbons remained below applicable investigation levels.
7. An evaluation by Coffey of the mass of hydrocarbons in the groundwater showed that there has been a greater than 50 percent reduction since completion of the remedial works. Coffey also assessed that the aquifer characteristics are conducive to ongoing reduction in the hydrocarbon concentrations.
8. At the time of the site audit, and in the site's current configuration, the contaminated groundwater was not considered to present an unacceptable risk to site users. However, if groundwater is to be extracted, additional assessments will be required to determine whether ingestion and/or contact with the water presents an unacceptable risk or whether there are particular disposal restrictions in relation to the POEO Act.
9. The presence of contaminated groundwater should be notified on the Section 149 certificate by Shoalhaven City Council

Section B

Purpose of the plan¹ which is the subject of the audit

I certify that, in my opinion:

- ☐ the nature and extent of the contamination HAS/HAS NOT^{*} been appropriately determined

AND/OR

- ☐ the investigation/remedial action plan/management plan^{*} IS/IS NOT^{*} appropriate for the purpose stated above

AND/OR

- ☐ the site CAN BE MADE SUITABLE for the following uses (tick all appropriate uses and strike out those not applicable):

- ☐ Residential, including substantial vegetable garden and poultry
- ☐ Residential, including substantial vegetable garden, excluding poultry
- ☐ Residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry
- ☐ Day care centre, preschool, primary school
- ☐ Residential with minimal opportunity for soil access, including units
- ☐ Secondary school
- ☐ Park, recreational open space, playing field
- ☐ Commercial/industrial
- ☐ Other (please specify)

if the site is remediated/managed^{*} in accordance with the following remedial action plan/management plan^{*} (insert title, date and author of plan)

subject to compliance with the following condition(s):

Overall comments

¹ For simplicity, this statement uses the term 'plan' to refer to both plans and reports.

PART III: Auditor's declaration

I am accredited as a site auditor by the NSW Environment Protection Authority under the *Contaminated Land Management Act 1997* (**Accreditation No. 0403**).

I certify that:

- I have completed the site audit free of any conflicts of interest as defined in the *Contaminated Land Management Act 1997*, and
- with due regard to relevant laws and guidelines, I have examined and am familiar with the reports and information referred to in Part I of this site audit, and
- on the basis of inquiries I have made of those individuals immediately responsible for making those reports and obtaining the information referred to in this statement, those reports and that information are, to the best of my knowledge, true, accurate and complete, and
- this statement is, to the best of my knowledge, true, accurate and complete.

I am aware that there are penalties under the *Contaminated Land Management Act 1997* for wilfully making false or misleading statements.

Signed  Date 20 September 2013.....

PART IV: Explanatory notes

To be complete, a site audit statement form must be issued with all four parts.

How to complete this form

Part I identifies the auditor, the site, the purpose of the audit and the information used by the auditor in making the site audit findings.

Part II contains the auditor's opinion of the suitability of the site for specified uses or of the appropriateness of an investigation, or remedial action or management plan which may enable a particular use. It sets out succinct and definitive information to assist decision-making about the use(s) of the site or a plan or proposal to manage or remediate the site.

The auditor is to complete either Section A or Section B of Part II, **not** both.

In **Section A** the auditor may conclude that the land is *suitable* for a specified use(s) OR *not suitable* for any beneficial use due to the risk of harm from contamination.

By certifying that the site is *suitable*, an auditor declares that, at the time of completion of the site audit, no further remediation or investigation of the site was needed to render the site fit for the specified use(s). Any **condition** imposed should be limited to implementation of an environmental management plan to help ensure the site remains safe for the specified use(s). The plan should be legally enforceable: for example a requirement of a notice under the *Contaminated Land Management Act 1997* (CLM Act) or a development consent condition issued by a planning authority. There should also be appropriate public notification of the plan, e.g. on a certificate issued under s.149 of the *Environmental Planning and Assessment Act 1979*.

Auditors may also include **comments** which are key observations in light of the audit which are not directly related to the suitability of the site for the use(s). These observations may cover aspects relating to the broader environmental context to aid decision-making in relation to the site.

In **Section B** the auditor draws conclusions on the nature and extent of contamination, and/or suitability of plans relating to the investigation, remediation or management of the land, and/or whether land can be made suitable for a particular land use or uses upon implementation of a remedial action or management plan.

By certifying that a site *can be made suitable* for a use or uses if remediated or managed in accordance with a specified plan, the auditor declares that, at the time the audit was completed, there was sufficient information satisfying guidelines made or approved under the CLM Act to determine that implementation of the plan was feasible and would enable the specified use(s) of the site in the future.

For a site that *can be made suitable*, any **conditions** specified by the auditor in Section B should be limited to minor modifications or additions to the specified plan. However, if the auditor considers that further audits of the site (e.g. to validate remediation) are required, the auditor must note this as a condition in the site audit statement.

Auditors may also include **comments** which are observations in light of the audit which provide a more complete understanding of the environmental context to aid decision-making in relation to the site.

In **Part III** the auditor certifies his/her standing as an accredited auditor under the CLM Act and makes other relevant declarations.

Where to send completed forms

In addition to furnishing a copy of the audit statement to the person(s) who commissioned the site audit, statutory site audit statements must be sent to:

EPA (NSW)

Contaminated Sites Section
PO Box A290, SYDNEY SOUTH NSW 1232
nswauditors@epa.nsw.gov.au

AND

the **local council** for the land which is the subject of the audit.

Annexure F: Response to S.117 Directions

Section 117 Directions

The following is a response to the relevant Directions issued by the Minister for Planning under section 117(2) of the *Environmental Planning and Assessment Act 1979*. These directions apply to Planning Proposal and have been addressed to demonstrate that the proposal is not inconsistent with the directions:

1. Employment and Resources

1.1 Business and Industrial Zones

Objectives

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified strategic centres.

Relevant Direction

A Planning Proposal must:

- (d) give effect to the objectives of this direction,
- (e) retain the areas and locations of existing business and industrial zones,
- (f) not reduce the total potential floor space area for employment uses and related public services in business zones,
- (g) not reduce the total potential floor space area for industrial uses in industrial zones, and
- (h) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

Response

The Planning Proposal is consistent with this direction as it seeks to support and continue employment generating uses in a local business that is expanding globally. Its size and scale does not compromise any existing strategic centres and complements the adjoining and nearby commercial uses including service stations, car yards and tourist facilities. It has been demonstrated in the report that the Planning Proposal is entirely consistent and will directly contribute to the economic, business and promotional objectives of the region outlined in the major strategic planning policies. It has been further demonstrated that it is not inconsistent with the other primary objectives relating to other key areas such as housing. Despite the strategic planning objectives, the Planning Proposal more simply recognises the existing anomaly in the residential planning controls that apply to the site created by the unique opportunities and constraints that are only relevant to this site.

1.2 Rural Zones

(Not Applicable)

1.3 Mining, Petroleum Production and Extractive Industries

(Not Applicable)

1.4 Oyster Aquaculture

(Not Applicable)

1.5 Rural Lands

(Not Applicable)

2. Environment and Heritage

2.1 Environment Protection Zones

(Not Applicable)

2.2 Coastal Protection

(Not Applicable)

2.3 Heritage Conservation

(Not Applicable)

2.4 Recreation Vehicle Areas

(Not Applicable)

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

Objectives

The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

Relevant direction

- (2) A Planning Proposal must include provisions that encourage the provision of housing that will:
 - (a) broaden the choice of building types and locations available in the housing market, and
 - (b) make more efficient use of existing infrastructure and services, and
 - (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
 - (d) be of good design.
- (3) A Planning Proposal must, in relation to land to which this direction applies:
 - (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
 - (b) not contain provisions which will reduce the permissible residential density of land.

Response

The Planning Proposal recognises that the subject site is constrained by impacts only relevant to this site that have prevented the site from being used for large-lot residential uses in line with current planning controls. The site is located directly adjacent to a heavy vehicle refuelling facility and has underlying land contamination constrictions restricting food consumption grown on the site therefore making the current land use controls inappropriate for the site. The Planning Proposal would only reduce potential dwelling supply by a single dwelling which is inconsequential and will have no direct impact on dwelling supply targets for the region. It will however, ensure that the site can be utilised more effectively and efficiently while also buffering the established residential property from the service station.

3.2 Caravan Parks and Manufactured Home Estates

(Not Applicable)

3.3 Home Occupations

(Not Applicable)

3.4 Integrating Land Use and Transport

Objective

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

Relevant planning authority must do if this direction applies

A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and
- (b) *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

Response

The Planning Proposal is not inconsistent with these two documents which are focused on a broader approach to land use planning. Despite the Planning Proposal being site specific, it is still able to adhere to broad objectives outlined in the documents by:

- Planning business activities in close proximity to other business activities
- Having an acceptable impact on the local (current and future) road network that can meet relevant technical requirements (refer to Annexure C)
- Not setting an undesirable precedent for the extension of ribbon development along the highway by demonstrating that the unique constraints and opportunities are relevant to this site only.

Importantly, the proposed access arrangements to the site from the highway can be adequately accommodated from a technical perspective. It will not adversely affect the safety or function of the highway (now or in the future) and to the contrary, will formalise the uncontrolled and unsafe interface that is currently unsealed and used without approval by the users of the petrol station.

3.5 Development Near Licensed Aerodromes

(Not Applicable)

3.6 Shooting Ranges

(Not Applicable)

4. Hazard and Risk

4.1 Acid Sulfate Soils

(Not Applicable)

4.2 Mine Subsidence and Unstable Land

(Not Applicable)

4.3 Flood Prone Land

(Not Applicable)

4.4 Planning for Bushfire Protection

Objectives

The objectives of this direction are:

- to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- to encourage sound management of bush fire prone areas.

Relevant direction

- In the preparation of a Planning Proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,
- A Planning Proposal must:
 - (a) have regard to *Planning for Bushfire Protection 2006*,
 - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
 - (c) ensure that bushfire hazard reduction is not prohibited within the APZ.
- A Planning Proposal must, where development is proposed, comply with the following provisions, as appropriate:
 - (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
 - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
 - (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the Planning Proposal permit Special Fire Protection Purposes (as defined under section 100B of the *Rural Fires Act 1997*), the APZ provisions must be complied with,
 - (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
 - (d) contain provisions for adequate water supply for firefighting purposes,
 - (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
 - (f) introduce controls on the placement of combustible materials in the Inner Protection Area.

Response

The Planning Proposal is on land that is affected by bushfire and has a requirement over the title of the land (benefiting the consent authority – Council) to be maintained as an Inner Protection Area (IPA). The proposed commercial uses are less sensitive to bushfire risk and adequate bushfire hazard assessment will be carried out at the relevant stages in the development process or as otherwise required by Council.

5. Regional Planning

5.1 Implementation of Regional Strategies

Objective

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

Relevant direction

Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

Consistency

- (4) A Planning Proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the regional strategy:
- (a) is of minor significance, and
 - (b) the Planning Proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

Response

The nature of the Planning Proposal is minor and is based on matters only relevant to this site. Broadly, it is not directly dealt with in the relevant strategic planning policies as outlined in the report. Notwithstanding, as per Section 6a) iv. of the Report, it has been demonstrated that the Planning Proposal is entirely consistent with the economic, business and promotion objectives of the region. It is also demonstrated that it is not inconsistent with the other provisions of the Nowra-Bomaderry Structure Plan, Illawarra Regional Growth and Infrastructure Plan or Community Strategic Plan and does not hinder the attainment of any vision, land use strategy, policies, outcomes or actions contained within those plans. It is simply a Planning Proposal to rectify an existing anomaly in the land use planning system that is relevant to this site only.

5.2 Sydney Drinking Water Catchment

(Not Applicable)

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

(Not Applicable)

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

(Not Applicable)

5.8 Second Sydney Airport: Badgerys Creek

(Not Applicable)

5.9 North West Rail Link Corridor Strategy

(Not Applicable)

6. Local Plan Making

6.1 Approval and Referral Requirements

Objective

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

Relevant direction

A Planning Proposal must:

- (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:
 - (i) the appropriate Minister or public authority, and
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),prior to undertaking community consultation in satisfaction of section 57 of the Act, and
- (c) not identify development as designated development unless the relevant planning authority:
 - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and
 - (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.

Response

The Planning Proposal is not inconsistent with this provision. As identified in Section 6a)vi. Of the Report, it is not defined as a Traffic Generating use under the Infrastructure SEPP and a future DA does not require the concurrence of the RMS. Notwithstanding, the Planning Proposal is dependent on RMS granting approval to permit access to the site from the RMS as part of the rezoning process. Future DA's will need to consider Clause 101 of the SEPP which has been addressed in the main report and it is demonstrated that the future development objectives of the site can accommodate the considerations under this clause.

The Planning Proposal does not facilitate development that would be defined as designated development under the EPAA.

6.2 Reserving Land for Public Purposes

(Not Applicable)

6.3 Site Specific Provisions

Objective

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

Relevant direction

A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or

- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

A Planning Proposal must not contain or refer to drawings that show details of the development proposal.

Response

The Planning Proposal is seeking to rectify an existing anomaly in the land use controls only relevant to this site and propose a more appropriate zone that will allow the site to be used for less sensitive uses given the site specific constraints (i.e. land use interface with a petrol station and contamination) and provide a buffer to this constraint to surrounding residential uses. The current zoning of the site for primarily residential purposes is overly restrictive given the constraints and does not permit the development proposal put forward by the proponents / landowners.

Accordingly the Planning Proposal seeks a minor extension of the existing B5 Business Development zone over the subject site which applies to adjoining land. This is entirely consistent with Part (b) of the direction and does not require any additional development standards or requirements in addition to the existing provisions for the B5 zone under the SLEP in accordance with Part (c).

7. Metropolitan Planning

7.1 Implementation of A Plan for Growing Sydney

(Not Applicable)