

JRPP PLANNING REPORT

JRPP NO:	2011SYW050
DA NO:	DA1276/2011/JPZ
PROPOSED DEVELOPMENT:	An integrated housing development consisting of 85 dwellings and 86 lots over six stages in both torrens title and community title schemes.
SUBJECT SITE:	Lot 3 DP 1123958 and Proposed Lot 216 in DA937/2011/ZB – 24-26 Fairway Drive, Kellyville
APPLICANT:	Capital Fairway View Pty Ltd
LODGEMENT DATE:	25 March 2011
REPORT BY:	Simon Turner – Senior Subdivision Planner The Hills Shire Council
RECOMMENDATION:	Approval

BACKGROUND

Owner: Mr and Mrs Hardy
– Lot 3 DP 1123958
Capital Sanctuary Estate – Lot 102 DP 1162628

Zoning: Residential 2(a2)

Area: 1.41ha – Lot 3 DP 1123958
1.69ha– Lot 102 DP 1162628

Existing Development: Dwelling and other improvements

MANDATORY REQUIREMENTS

1. LEP 2005 – Permissible
2. SEPP 55 Remediation of Lands – Satisfactory
3. SEPP 64 Advertising and Signage – Satisfactory
4. SEPP Building Sustainability Index: BASIX – Satisfactory
5. SEPP Major Developments – Satisfactory
6. SREP 20 Hawkesbury/ Nepean River – Satisfactory
7. DCP Part E Section 17 Balmoral Road Release Area – Variation sought, see report
8. DCP Part E Section 15 Kellyville/ Rouse Hill Release Area – Variation sought, see report
9. Section 79C (EPA Act) – Satisfactory
10. Draft LEP 2010 – Permissible, variation sought, see report
11. Section 94 Contribution – \$2,520,000.00

**SUBMISSIONS
JRPP****REASONS FOR REFERRAL TO**

1. Exhibition:	Yes, 30 days	1.	Capital Investment Value (CIV) exceeding \$10m.
2. Notice Adj Owners:	Yes, 30 days		
3. Number Advised:	Four		
4. Submissions Received:	Nil		

HISTORY

24/12/2010	Related DA937/2011/ZB was lodged.
18/03/2011	Related DA1244/2011/ZE was lodged.
25/03/2011	The subject application was lodged.
29/03/2011	The Draft LEP 2010 was placed upon exhibition until 15/05/2011.
13/04/2011	The application was referred to the JRPP.
02/05/2011	The applicant was requested to provide additional information in relation to flora and fauna.
10/05/2011	The applicant responded to Council's request for additional information in relation to flora and fauna.
13/05/2011	The applicant was requested to provide additional engineering detail.
25/05/2011	The Office of Water issued their general terms of approval.
01/06/2011	The applicant was requested to provide additional flora and fauna details.
09/06/2011	Council met with the applicant to discuss flora and fauna.
27/07/2011	Council engaged an ecological consultant to perform a peer review of matters relating to flora and fauna.
11/08/2011	Council met with the JRPP for a briefing on the application.
12/09/2011	The ecological consultant provided the final peer review.
27/10/2011	The applicant was requested to provide an assessment against the Draft LEP 2010.
07/11/2011	The applicant provided an assessment against the Draft LEP 2010.
09/11/2011	The applicant was requested to address the conclusions of the flora and fauna peer review.

30/12/2011

The applicant addressed the conclusions of the flora and fauna peer review.

SITE DESCRIPTION

The subject site is made up of existing Lot 3 DP 1123958 (No 26) Fairway Drive and proposed lot 216 in DA893/2011/ZE. A locality plan is included within this report as Attachment 1.

The subject site is zoned Residential 2(a2). Refer to Attachment 7 for the zoning plan. The site is mapped as containing Cumberland Plain Woodland and unclassified vegetation. Refer to Attachment 14 for the vegetation mapping.

The site adjoins land zoned Special Uses 5(b) Trunk Drainage land owned by Sydney Water and identified as Lot 2 DP 1123958 and Lot 1 DP 1107796. The lots contain a watercourse known as Strangers Creek.

The land to the west of the land zoned Special Uses 5(b) Trunk Drainage and on the other side of the creek consists of land zoned Public Open Space 6(a). The Public Open Space 6(a) zoned land is currently owned by both Council (Lot 1 DP 1123958) and private ownership (Lot 101 DP 1162628).

The subject site is adjoined by two residential properties to the south. Both properties are zoned Residential 2(a1) and contain a single dwelling and other minor improvements. The large property to the east is zoned Private Open Space 6(b) and contains a golf course, country club and a seniors living development.

The land to the north is zoned Residential 2(b1) and contains a single dwelling and improvements. DA937/2011/ZB lodged over the adjoining properties for the creation of 15 lots, construction of roads and a bridge over the creek and demolition of the existing dwellings and other improvements.

Attachment 7 demonstrates the zones of the locality.

Access to the development site is reliant upon the construction of the proposed bridge in DA937/2011/ZB.

PROPOSAL

The application is for an integrated housing development consisting of 85 dwellings over six stages. The integrated housing development is proposed over Lot 3 DP 1123958 (No 26) Fairway Drive and proposed lot 216 in approved subdivision DA893/2011/ZE. The proposed stages are: -

Stage 1

Torrens title subdivision of two lots into 25 lots consisting of: -

- 19 residential lots (lots 32 to 50)
- 5 residue lots (lots 51 to 54) intended to be developed in stages 2 – 6.
- 1 lot to be acquired by Sydney Water for trunk drainage purposes (lot 55)

Works within the stage consist of the construction of 19 dwellings, landscaping of each lot, construction of civil works (including public road, drainage and supporting service infrastructure) and demolition of structures within site.

Stage 2

Subdivision under Community Title of residue lot 51 (created in stage 1) into:-

- 14 residential lots (lots 2 to 15)
- 1 community lot (lot 1)
- 1 residue lot (16) to be developed in stage 4.

Works within the stage consist of the construction of 14 dwellings, landscaping of each lot, community landscaping, construction of civil works (including public road, drainage and supporting service infrastructure) and demolition of structures within site.

Stage 3

Torrens title subdivision of residue lot 52 (created in stage 1) into 8 residential lots and construction of 8 residential dwellings, landscaping and drainage works.

Stage 4

Community title subdivision of residue lot 16 (created in stage 2) into 15 residential lots and construction of 15 residential dwellings, landscaping of dwellings, drainage works and finalisation of community landscaping.

Stage 5

Torrens title subdivision of residue lot 52 (created in stage 1) into 11 residential lots and construction of 11 residential dwellings, landscaping and drainage works.

Stage 6

Torrens title subdivision of residue lot 52 (created in stage 1) into 18 residential lots and construction of 18 residential dwellings, landscaping and drainage works.

The application consists of both torrens and community title development. Stages 2 and 4 are proposed as a community title development with a total of 29 dwellings. Stage 1, 3, 5 and 6 are proposed as a torrens title development with a total of 56 dwellings.

The proposed dwellings are in the form of detached and semi-detached dwellings. All 85 dwellings include an enclosed double garage on the ground floor. A total of 77 three bedroom dwellings and 8 four bedroom dwellings are proposed. Each dwelling is two storey.

The proposed development will consist of a number of dwelling façade designs and colour schemes. Details of the proposed colour scheme and finishes to be utilised in the development have been submitted. Dwellings typically consist of concrete roof tiles with rendered, brick and cladding walls. The feature elements of each dwelling consist of a combination of face brick, rendered elements or cladding. Aluminium will be utilised for the gutters and windows.

It is intended to provide private open space areas within each individual lot which exceeds the minimum required to be provided, rather than providing for an area of communal open space.

Landscaping is to be implemented throughout the development to the front of each dwelling to provide for an attractive streetscape. An estate sign identifying the community title development is proposed.

It is intended to utilise Council's waste contractor and waste is proposed to be collected from both public and the proposed private road.

A draft community management statement has been submitted with the application. A total of three visitor parking spaces are to be provided within the community title development.

For corner lots, side fencing consisting of masonry with decorative inserts are proposed. Landscaping will also be implemented in front of each corner lot fencing.

ISSUES FOR CONSIDERATION

1. Compliance with State Environmental Planning Policy (Major Developments) 2005

Clause 13B(1) of State Environmental Planning Policy (Major Developments) 2005 provides the following referral requirements to a Joint Regional Planning Panel (JRPP):-

(1) *This Part applies to the following development:*

- (a) *development that has a capital investment value of more than \$10 million,*
- (b) *development for any of the following purposes if it has a capital investment value of more than \$5 million:*
 - (i) *affordable housing, air transport facilities, child care centres, community facilities, correctional centres, educational establishments, electricity generating works, electricity transmission or distribution networks, emergency services facilities, health services facilities, group homes, places of public worship, port facilities, public administration buildings, public ferry wharves, rail infrastructure facilities, research stations, road infrastructure facilities, roads, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, wharf or boating facilities,*
- (c) *Crown development that has a capital investment value of more than \$5 million,*
- (d) *development for the purposes of eco-tourism facilities that has a capital investment value of more than \$5 million,*
- (e) *designated development,*
- (f) *subdivision of land into more than 250 lots.*

Comments:-

The applicant has advised that the Capital Investment Value (CIV) of the development is \$14,945,000 which exceeds the \$10m threshold established under sub-point (a) above, requiring the matter be determined by the Panel. In accordance with this requirement the application was referred to, and listed with, the Panel for determination.

Part 3 of State Environmental Planning Policy (Major Developments) 2005 has since been repealed by the Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011. Now, classes of regional development requiring referral to a Panel are set out on Schedule 4A of the Environmental Planning and Assessment Act 1979. The most relevant change is that the CIV threshold for general development has been raised from \$10m to \$20m. However, this change only applies to new developments lodged after 1 October 2011. As the application was lodged prior to 1 October 2011, it must continue to be determined by the Panel as set out in Planning Circular PS 11-020 dated 30 September 2011.

2. Compliance with Baulkham Hills Local Environmental Plan 2005 (BHLEP)

The site is zoned Residential 2(a2) under the Baulkham Hills Local Environmental Plan 2005 (LEP), as shown on the attached zoning map (refer Attachment 2).

The proposal is defined as "subdivision" and "integrated housing" under the LEP. Both forms of development are permissible in the Residential 2(a2) zone.

Subdivision is permissible pursuant to Clause 14 of the LEP.

The LEP defines integrated housing as:

"The subdivision of land into two or more allotments, and the erection of one or more dwellings on each allotment so created, where the siting and design of each dwelling occurs prior to the determination of the subdivision boundaries but, does not include a form of development elsewhere specifically defined."

The proposal is consistent with the above definition of integrated housing.

The objectives of the Residential 2(a2) zone are:

- "(a) to provide for the development of town-houses, villas, and the like in locations close to established public transport routes and the main activity centres of the local government area, and*
- (b) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and*
- (c) to ensure that any development carried out:*
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and*
 - (ii) has regard to the privacy of existing and future residents, and*
 - (iii) has regard to the transmission of noise between dwellings, and*
 - (iv) minimises energy consumption and utilises passive solar design principles, and*
 - (v) retains significant vegetation, and*
 - (vi) incorporates landscaping within building setbacks and open space areas, and*
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and*
- (d) to encourage a diversity of dwelling types, and*
- (e) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and*
- (f) to allow a range of development, ancillary to residential uses, that:*
 - (i) is capable of visual integration with the surrounding environment, and*
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and*
 - (iii) does not place demands on services beyond the level reasonably required for residential use."*

The proposal seeks to provide an additional 85 residential dwellings in the locality. The proposed dwellings are consistent with the desired outcome for the medium density residential environment within the Residential 2(a2) zoned portion of the Balmoral Road Release Area as per objective (a) above. The proposal is also consistent with other integrated housing developments approved within the Balmoral Road Release Area.

While yet to commence, the North West Rail Link is proposed to traverse the Balmoral Road Release Area. Stations are proposed at the Burns Road Bus Interchange and also within the Norwest Business Centre. The NSW and Maritime Services (RMS – formerly the RTA) also propose to establish a bus transit way along Memorial Avenue to provide additional public transport in the locality when this road is upgraded.

The proposal has a built form that is consistent with the desired future character of the locality and will not detract from the amenity of existing and future nearby residents or the existing quality of the environment as per objective (b) above. The proposed built form is consistent with other developments in the locality.

The proposed development will consist of a number of dwelling façade designs and colour schemes. The development will provide for reasonable solar access to living areas and private open space areas and will not affect the solar access of adjoining properties. The privacy of existing residents within the locality will not be detrimentally affected as a result of the proposed development.

The proposal seeks to remove a number of trees from the site. It is proposed to plant replacement trees as shown on the landscape plan. Council's Tree Management team and Sustainability team are satisfied with the proposal as discussed later in this report.

The proposal is therefore considered satisfactory with respect to the zone objectives.

Clause 2 of the LEP establishes the aims and objectives of this plan. The proposal is generally consistent with these aims and objectives.

Clause 6 identifies that Clauses 1 to 3, 6, 9 to 12, 18 and 29 to 32 from the Environmental Planning and Assessment Model Provisions 1980 are adopted for the purposes of the LEP. Clause 6 has been repealed. Clauses 10, 14 and 30 are relevant to this application. Clause 10 and 14 relate to the opening of, and works within, a public road and the proposal is consistent with these clauses. Clause 30 relates to the servicing of the site for the purpose of water and sewer which is addressed later in this report. Accordingly, the proposal complies with Clause 6 of the LEP.

Clause 21 of the LEP relates to orderly development and states:

"Consent must not be granted to the development of:

- (a) land in Zone 2 (a2) for the purpose of town-houses or villas, or*
- (b) land in Zone 2 (a3) for the purpose of villas,*

if the carrying out of the proposed development would, in the opinion of the consent authority, render any allotment adjoining the site of the proposed development incapable of development for the purpose of villas because the allotment would not meet the requirements of Clause 19."

Clause 19 prescribes a minimum lot size for villa developments of 1000m².

There are no adjoining properties zoned Residential 2(a2) that are unable to be developed for either villas or townhouses in a manner consistent with the LEP as a result of the proposal. Accordingly, the proposal complies with Clause 21 of the LEP.

Clause 22 of the LEP relates to integrated housing and states:

"Despite any other provision of this plan, development for the purpose of integrated housing may be carried out, but only with development consent, on land:

- (a) that is within Zone 2(a), 2(b) or 2(c), and*

- (b) *to which the Sydney Regional Environmental Plan No 19 Rouse Hill Development Area, as gazetted on 1 September 1989 applies, but excluding any land within Zone 2(b1)."*

The site is zoned Residential 2(a2) and is subject to SREP 19 thereby complying with Clause 22 of the LEP.

Clause 23 of the LEP relates to flood liable land and requires that Council consider the impacts of flooding as part of the development of land subject to flooding. The subject site is not subject to flooding however runoff from the site is discharged into the adjoining Sydney Water owned Trunk Drainage land. The drainage design complies with the requirements of Council, Sydney Water and the Office of Water. Accordingly, the proposal complies with Clause 23 of the LEP.

Clause 45 of the LEP relates to services and states:

- "(1) Consent must not be granted for the erection of a building, the carrying out of a work or a change of building use unless the consent authority is satisfied that adequate arrangements have been made for any provision or augmentation of the following that will be needed because of the carrying out of the proposed development:*
- (a) a water supply, and sewerage or drainage services,*
 - (b) an electricity supply or telephone service,*
 - (c) roads.*
- (2) Consent must not be granted to the carrying out of development for the purpose of apartment buildings, exhibition villages, shop-top housing, town-houses or villas unless the development is able to be connected to a Sydney Water Corporation sewerage system."*

The site is located within an urban release area that has been provided with water, recycled water, sewer, electricity and telecommunication services by the relevant service providers. Water, recycled water and electrical services are available in Fairway Drive fronting the site. The developer will be responsible for extending the existing sewer main into the site to service the development. Road access to the site is available directly from Fairway Drive along its frontage. The proposal includes the partial width reconstruction of Fairway Drive from its current rural-residential construction to an enhanced collector road standard complying with Council's Development Control Plan. The drainage arrangements for the site are discussed earlier in this report.

Conditions have been recommended below requiring the provision of certification from each service provider confirming that these services have been provided before a Subdivision Certificate can be issued by Council. Accordingly, the proposal complies with Clause 45 of the LEP.

Clause 45A of the LEP relates to developer contributions and limits Council's ability to approve developments on land zoned Residential 2(a2) unless arrangements have been made for the payment of developer contributions concerning regional transport infrastructure.

A condition has been recommended which requires liaison with the NSW Department of Planning and Infrastructure in relation to this matter before a Construction Certificate is issued for each stage, complying with the Department's accepted practice in relation to these matters. Accordingly, the proposal complies with Clause 45A of the LEP.

The subject application is considered satisfactory with respect to the LEP.

3. Compliance with the Draft The Hills Local Environmental Plan 2010

The Draft The Hills Local Environmental Plan 2010 (Draft LEP) was placed on public exhibition between 29 March 2011 and 15 May 2011. On 23 August 2011 Council resolved to adopt the Draft LEP.

Clause 1.8A of the Draft LEP relates to development applications lodged prior to the commencement of this plan and states:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced."

The application was lodged on 25 March 2011, which was four days prior to the exhibition period commencing. Notwithstanding, in the interests of providing a complete assessment the application has been considered against the Draft LEP.

Under the Draft LEP, the site is zoned R3 Medium Density Residential, as shown on the attached zoning map (refer Attachment 7).

The proposal seeks approval for "multi dwelling housing" which is defined as:-

"multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building."

The proposal seeks approval for the erection of more than three dwellings, including a mixture of attached and detached dwellings, each with access at ground level and the development is not in the form of a residential flat building. The development is to take place over a development lot. Multi dwelling housing is permissible within the zone.

Clause 4.1B states that in order to undertake a multi dwelling housing development a minimum site area of 1800m² is required for a development site. The proposal complies with this requirements as the development site exceeds 1800m².

Clause 4.1(3) states that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the 'Lot Size Map'. The 'Lot Size Map' identifies a minimum site area of 700m². The proposal does not comply with this control with all dwellings proposed with lots of less than 700m².

It is noted that this control has been imposed over the majority of the Balmoral Road Release Area and is not intended as the final minimum lot size. The Draft LEP has provisions, as discussed below, which allow for smaller lots under certain circumstances.

Clause 4.1(4) notes that the controls relating to minimum lot size do not apply in relation to the subdivision of individual lots in a strata plan or community title scheme. Only a portion of the development is proposed as a community title subdivision. The community title subdivision is made up of lots 2 to 15 and 16 to 31. Accordingly, the minimum lot size control does not apply to those lots.

The remaining lots are proposed as a Torrens title subdivision which are not provided the same benefit with respect to minimum lot size control not as the community title subdivision as previously discussed. Accordingly, the proposed torrens title lots do not comply with the Draft LEP regardless that they are proposed in the same application and as the same built form as the community title dwellings. Should the application be amended to propose a community title development, then the application would comply.

With respect to the inconsistencies with the Draft LEP the applicant has made the following statement:-

Whilst the Draft The Hills Local Environmental Plan 2010 was publicly exhibited between 29th March 2011 and 13th May 2011 (with submissions received up to the 23rd August 2011), at the time the development application was lodged, the Draft LEP was not considered to be imminent or certain.

The statement is supported and furthermore the application was lodged prior to the exhibition of the Draft LEP which means that the Draft LEP was not a matter for consideration under Section 79(c) at the time of lodgement.

In addressing the Draft LEP the applicant made the following points:-

- The proposal seeks approval for a permitted form of development at the time of lodgement.
- The application is consistent with other developments approved within the Balmoral Road Release Area.
- The proposal is consistent with the current zone objectives for the Residential 2(a3) Zone under the LEP 2005.
- The proposal is consistent with the draft zone objectives for the land zoned Residential R3 under the Draft LEP.
- The applicant was also mindful that the Draft LEP was unlikely to be gazetted for another 12 months (ie: early 2012) and was not imminent at the time the development application was lodged.

In responding to the points raised above the following comments are offered:-

- The proposed development is identified as integrated housing under the BHLEP 2005 and BHDGP. Integrated housing is permissible within the current zoning of the property.
- The proposed built form is consistent with the built form and lot sizes of other integrated housing developments approved in the locality such as DA877/2010/ZE at 35 Fairway Drive and DA185/2010/HA at 20-22 Memorial Avenue.
- The proposal is consistent with the zone objectives of the BHLEP for land zoned Residential 2(a3) zone.
- The proposal is consistent with the zone objectives of the Draft LEP 2010 as noted below.
- The applicant's assertion that the Draft LEP was not imminent at the time of lodgement is supported.

The objectives of the R3 zone are:-

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of medium density residential in locations that are close to public transport routes and centres.*

The applicant has made the following submission addressing the zone objectives: -

- *The proposal will meet the needs of the community within the broader medium density housing environment.*
- *The proposal provides for a variety of housing types (detached and attached) within a carefully designed and landscaped residential environment;*
- *The proposal ensures that building form is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment;*

The comments made by the applicant in relation to this matter are generally supported. The proposed development is considered to be consistent with the zone objectives.

In considering the proposed development the following points are offered: -

- The proposed development is consistent with the form, density and minimum lot sizes of other developments in the locality.
- The proposed development is consistent with the zone objectives.
- The proposed development is consistent with the BHLEP 2005 and BHDCP and would have been an acceptable form of development should the Draft LEP 2010 not have been prepared.
- The application was prepared on the basis that the Draft LEP 2010 was not in force and its adoption was not imminent.
- The Draft LEP 2010 was not placed on exhibition when the application was lodged.
- Compliance with the Draft LEP 2010 will not necessarily result in a better development.
- A minor change to the development, via title, would result in a development type which is consistent with the Draft LEP. The change would not represent a change in design or built form but rather only on paper.
- Strict compliance with the Draft LEP 2010 is unreasonable and unnecessary as shown and as such no objections are raised.

Clause 4.3 of the Draft LEP states that the height of any building must not exceed the maximum height shown on the building height map. The building height map indicates that the maximum building height for this site is 10m. The proposal complies with this control as discussed in more detail later in this report.

Clause 6.1 of the Draft LEP relates to developer contributions and limits Council's ability to approve developments in an urban release area unless arrangements have been made for the payment of developer contributions concerning designated State public infrastructure. The subject site is mapped as being within an urban release area.

A proposed condition requires liaison with the NSW Department of Planning and Infrastructure in relation to this matter before a Construction Certificate is issued for each stage, complying with the Department's accepted practice in relation to these matters. Accordingly, the proposal complies with Clause 6.1 of the Draft LEP.

Clause 6.2 of the Draft LEP relates to services and states:

- “(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.*
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.”*

The site is located within an urban release area that has been provided with water, recycled water, sewer, electricity and telecommunication services by the relevant service providers. Water, recycled water and electrical services are available in Fairway Drive fronting the site. The developer will be responsible for extending the existing sewer main into the site to service the development. Road access to the site is available directly from Fairway Drive along its frontage. The proposal includes the partial width reconstruction of Fairway Drive from its current rural-residential construction to an enhanced collector road standard complying with Council's Development Control Plan. The drainage arrangements for the site are discussed earlier in this report.

Conditions have been recommended below requiring the provision of certification from each service provider confirming that these services have been provided before a Subdivision Certificate can be issued by Council. Accordingly, the proposal complies with Clause 6.2 of the Draft LEP.

The subject application is considered satisfactory with respect to the Draft LEP.

4. Compliance with the Baulkham Hills Development Control Plan

The following sections of the Baulkham Hills Development Control Plan Development Control Plan apply to either the subject site or the proposed development:

BHDCP Part E Section 6 – Townhouses (Townhouse DCP).

BHDCP Part E Section 17 – Balmoral Road Release Area (BRRA)

BHDCP Part E Section 15 – Kellyville / Rouse Hill Release Area (KRHRA)

The BRRA DCP does not include any controls relating to “integrated housing” developments. This is because the objectives for the Residential 2(a2) zone included with the LEP above envisage the development of “townhouses, villas, and the like”. Similarly, the BRRA DCP includes specific controls relating only to townhouse and villa developments in the Residential 2(a2) zone. Accordingly, the Integrated Housing controls contained within Part E Section 15 (Kellyville / Rouse Hill Release Area) part of the DCP have been used as a guide to assess the development application. The assessment of the application against the KRHRA component of the BHDCP can be viewed below.

BHDCP Part E Section 6 – Townhouses (Townhouse DCP) of the DCP has been used to provide guidance on density as neither Part E Section 17 Balmoral Road Release Area or the Part E Section 15 Kellyville / Rouse Hill Release Area components of the DCP do not provide any controls with respect to this matter.

Part E Section 17 Balmoral Road Release Area of the BHDCP does contain some specific controls with respect to: -

- Front Setbacks (public road)
- Corner Lot Setback
- Site Coverage
- Building Height

These controls should take precedence over the controls contained within Part E Section 15 Kellyville / Rouse Hill Release Area part of the BHDCP as they were established as part of the expected character of the locality. The compliance table below outlines compliance with the DCP.

Part E Section 15 Kellyville / Rouse Hill Release Area part of the BHDCP has been used as a guide to assess the development application. The controls used within this DCP relate to: -

- Garage Setback
- Front Setbacks (community road)
- Rear Setback
- Side Setbacks
- Car Parking
- Private Open Space
- Community Open Space
- Side Setback to Adjoining Property

The compliance table below outlines compliance with the DCP. The table incorporates the controls from each DCP and are presented in the stages outlined below: -

DEVELOPMENT STANDARD	PROPOSED DEVELOPMENT	COMPLIANCE
Density Townhouses: 95 persons/ hectare <i>Townhouse DCP Clause 3.5(a)</i>	71.5 persons/ 1ha 221.9 persons/ 3.1ha	Yes
Front Building Setback Dwelling House: (Public Road Interface) 6m <i>BRRA DCP Clause 8.1.1(j)</i>	32 to 54, 56 to 87 55	Yes No, See Report
Front Building Setback Integrated Housing Dwelling: (Private Road Interface) 4.5m <i>KRHRA DCP Clause 4.3(a)/ Table 5</i>	2 to 15 and 17 to 31	Yes
Corner Lot Building Setback Dwelling House: 6m (Public Road Interface) 4m (secondary frontage/ corner lot) <i>BRRA DCP Clause 8.1.1(k)</i>	34, 50, 62 and 78 55	Yes No, See Report
Corner Lot Building Setback Integrated Housing Dwelling:	45, 58, 59 and 81	Yes

(Private Road Interface) 2m (secondary frontage/ corner lot) <i>KRHRA DCP Clause 4.3(a)/ Table 5</i>		
Garage Setback Integrated Housing Dwelling: (Private Road Interface) 5.5m <i>KRHRA DCP Clause 4.3(b)</i>	2 to 14, 16 to 18, 26 to 31 15, 19 to 25	Yes No, See Report
Rear Building Setback Integrated Housing Dwelling: (Adjoining Property Interface) 3m <i>KRHRA DCP Clause 4.3(a)/ Table 5</i>	All lots comply	Yes
Side Building Setback Integrated Housing Dwelling: (Adjoining Property Interface) 2m <i>KRHRA DCP Clause 4.3(a)/ Table 5</i>	Development Complies	Yes
Building Separation Dwelling House: (Internally) 0.9m <i>Residential DCP Clause 2.14.1(g) BCA</i>	All lots comply	Yes
Building Height Dwelling House: 7.2m (underside of eave) 10m (roof ridgeline) <i>BRRA DCP Clause 8.1.3(a) KRHRA DCP Clause 4.6(a) Draft LEP Clause 4.3</i>	All lots comply	Yes
Car Parking Integrated Housing Dwelling: 2 spaces/ dwelling <i>KRHRA DCP Clause 4.9(a)</i>	All lots comply	Yes
Maximum Zero Lot Line Length Integrated Housing Dwelling: 10m <i>KRHRA DCP Clause 4.4(e)</i>	2, 4, 6, 8, 10, 12 to 14, 19, 21 to 23, 25, 27, 29, 31 to 35, 37, 39, 41, 43, 45, 47 to 56, 58 to 63, 65, 67, 69, 71, 73, 75, 77 to 83, 85 and 87. 3, 5, 7, 9, 11, 15, 18, 20, 24, 26, 28, 30, 36, 38, 40,	Yes No, See Report

	42, 44, 46, 57, 64, 66, 68, 70, 72, 74, 76, 84 and 86	
Site Coverage Dwelling House: 60% (site coverage) (two storey) 40% (landscaping) <i>BRRR DCP Clause 8.1.2(a)</i> <i>KRHRA DCP Clause 4.10(a)</i> <i>KRHRA DCP Clause 4.11(a)</i>	Development Complies	Yes
Private Open Space Detached Dwelling Lot: 20% (minimum width 2m) <i>KRHRA DCP Clause 4.8(c)</i>	All lots comply	Yes
Principal Private Open Space Detached Dwelling Lot: 24m ² (minimum width 4m) <i>KRHRA DCP Clause 4.8(c)</i>	All lots comply	Yes
Solar Access Detached Dwelling Lot: 50% of PPOS (2hrs min.) <i>KRHRA DCP Clause 4.8(e)</i>	Lots 2 to 16, 32 to 34, 55 to 87 Lots 17 to 31 and 35 to 54	Yes No, See Report

The proposal includes a number of inconsistencies with the DCP which are considered below:

Front Building Setback

The DCP requires a dwelling, addressing a public road, to have a front setback of 6m. Proposed lot 55 has a proposed front setback of 5m.

The lot has an irregular shape due to the pre planned road layout. The dwelling is located at an irregular angle to the road and as such the front setback varies from 5m to 8.5m. The intrusion in the front setback is in the form of an architectural feature where the main part of the dwelling is set back in excess of 6m from the front boundary.

The proposed variation will not result in a detrimental impact upon anticipated streetscape.

No objections are raised to the proposed variation.

Corner Lot Setbacks

The DCP requires a dwelling located on the corner of a public road to have a primary setback of 6m and a secondary setback of 4m. Proposed lot 55 has a primary setback of 5m and a secondary setback of 6.4m which does not comply with the DCP.

The lot has an irregular shape due to the pre planned road layout. The dwelling is located at an irregular angle to the road and as such the front setback varies from 5m to

8.5m. The intrusion in the front setback is in the form of an architectural feature where the main part of the dwelling is set back in excess of 6m from the front boundary.

The proposed variation will not result in a detrimental impact upon anticipated streetscape.

No objections are raised to the proposed variation.

Garage Setbacks

The DCP requires that all garages be setback a minimum of 5.5 metres from the primary street frontage or internal roadways.

The proposal seeks approval for dwellings 15, 19 to 25 (being 8 dwellings) with garage setbacks which do not comply with the DCP. The garage setbacks range from 5m to 5.3m for non-complying garages.

The intent of this requirement is to allow for resident and visitor parking in front of the garage within any development. The proposal provides for 2 parking spaces within a double garage for each dwelling. In addition, the proposal provides for 3 visitor parking spaces within the community allotment at a rate which is consistent with the Town House component of the DCP for visitor parking (i.e. 2 spaces per 5 dwellings). The visitor parking compensates for the fact that some dwellings/lots do not provide for resident/visitor parking in the front of the proposed garage. Accordingly, the proposal provides for adequate resident and visitor parking.

Zero Lot Line Setbacks (Maximum Length)

The DCP states that the maximum length of a zero lot line wall is 10m. The proposal seeks to provide a zero lot line exceeding 10m for proposed dwelling Nos. 3, 5, 7, 9, 11, 15, 18, 20, 24, 26, 28, 30, 36, 38, 40, 42, 44, 46, 57, 64, 66, 68, 70, 72, 74, 76, 84 and 86. The proposed zero lot line does not exceed 14m.

The intent of the control is to facilitate the more efficient use of land, concentrate open space in a useable focus, optimise areas of sun and shade, and enhance privacy by avoiding overlooking and noise intrusion.

With respect to privacy, no openings are proposed on the zero lot line and as such the proposed variation will not result in any visual or acoustic privacy impacts.

Where a zero lot line has been used in excess of 10m the adjacent dwelling has been set back a larger distance than required to allow for solar access and natural light for each dwelling.

No objections are raised to the proposed variation in this instance.

Common Open Space

Clause 4.8(h) from the KRHRA DCP requires a common open space area of no less than 10m² per dwelling for "integrated housing" developments of 15 or more dwellings.

The proposal does not include any common open space. The justification provided for this approach is that excess areas of private open space are provided within each lot as an offset.

Clause 4.8(c) from the KRHRA DCP requires a minimum area of private open space of 20% for each lot/ dwelling in an "integrated housing" development, excluding any areas

narrower than 2m. In addition, the principal private open space area must be 24m², excluding any areas narrower than 4m.

The proposal is fully compliant with this requirement as detailed in the table below:

Lot	Required	Area Provided	% Provided	Lot	Required	Area Provided	% Provided
2	45.5m ²	68.7m ²	30.20%	45	47.8m ²	87.3m ²	29.60%
3	43.6m ²	72.5m ²	33.20%	46	71.2m ²	174m ²	48.90%
4	48m ²	68.2m ²	28.40%	47	77.8m ²	197.5m ²	50.80%
5	43.1m ²	63.8m ²	29.60%	48	79.2m ²	198.3m ²	50.10%
6	44.9m ²	58.2m ²	25.90%	49	78.7m ²	196m ²	49.80%
7	40.1m ²	54.7m ²	27.30%	50	108m ²	297.8m ²	55.10%
8	44.1m ²	58.2m ²	26.30%	51	57.1m ²	81.6m ²	28.60%
9	41.8m ²	54.7m ²	26.20%	52	51.9m ²	69.6m ²	26.80%
10	46.6m ²	71.9m ²	30.80%	53	51.9m ²	75.3m ²	29%
11	40.1m ²	54.7m ²	27.30%	54	51.1m ²	67.6m ²	26.50%
12	45.1m ²	59.9m ²	26.60%	55	72.2m ²	123.5m ²	34.20%
13	45.1m ²	59.9m ²	26.60%	56	58.5m ²	77.7m ²	26.60%
14	44.1m ²	58.2m ²	26.40%	57	55.9m ²	69.6m ²	24.90%
15	41.9m ²	64.7m ²	30.90%	58	78.1m ²	147.3m ²	37.70%
17	49.4m ²	61.7m ²	25%	59	57.9m ²	73.2m ²	24.10%
18	42.6m ²	61m ²	27.10%	60	62m ²	100m ²	32.30%
19	44.2m ²	61.6m ²	27.90%	61	60.5m ²	73m ²	24.10%
20	39.9m ²	54.7m ²	27%	62	88.5m ²	157.3m ²	35.50%
21	43.8m ²	58.2m ²	26.60%	63	52.9m ²	82.5m ²	31.10%
22	44.8m ²	59.9m ²	26.70%	64	45.5m ²	66m ²	29%
23	44.8m ²	59.9m ²	26.70%	65	49.9m ²	70.7m ²	28.30%
24	39.9m ²	57.7m ²	28.90%	66	45.3m ²	64.3m ²	28.40%
25	45.6m ²	61.6m ²	27%	67	49.6m ²	68m ²	27.70%
26	43.5m ²	72.6m ²	33.40%	68	45m ²	62.5m ²	27.70%
27	48m ²	77.8m ²	32.40%	69	49.3m ²	66.8m ²	27.10%
28	43.1m ²	69.4m ²	29.40%	70	44.8m ²	62.5m ²	27.90%
29	44.9m ²	62.1m ²	27.70%	71	49m ²	66.8m ²	27.20%
30	39.9m ²	53.5m ²	26.80%	72	44.5m ²	59m ²	26.50%
31	43.2m ²	53.6m ²	24.80%	73	48.7m ²	63m ²	25.80%
32	56.8m ²	79.9m ²	28.10%	74	44.2m ²	59m ²	26.70%
33	48.7m ²	52.8m ²	21.70%	75	48.4m ²	63m ²	26%
34	84.7m ²	158.4m ²	37.40%	76	44m ²	59m ²	26.80%
35	47.2m ²	58.4m ²	24.70%	77	48.6m ²	65.4m ²	26.90%
36	43.5m ²	57.5m ²	26.40%	78	76m ²	122.7m ²	32.30%

37	48.1m ²	63m ²	28.20%	79	56.8m ²	79.9m ²	28.10%
38	43.8m ²	59.1m ²	27%	80	49.6m ²	53.5m ²	21.60%
39	48.1m ²	63m ²	28.20%	81	60.1m ²	83.1m ²	27.70%
40	43.8m ²	59.1m ²	27%	82	80.4m ²	204.6m ²	50.90%
41	48.1m ²	63m ²	28.20%	83	79m ²	203.6m ²	51.50%
42	43.8m ²	59.1m ²	27%	84	72.3m ²	179.6m ²	49.70%
43	48.1m ²	63m ²	28.20%	85	79.8m ²	207.6m ²	52%
44	46.1m ²	70.8m ²	30.70%	86	73m ²	183.2m ²	50.20%
				87	47.8m ²	392.2m ²	61.40%

The amount of private open space provided for each dwelling/ lot exceeds the minimum amount required for a "dwelling house" in the KRHRA DCP. Also, each dwelling/ lot is provided with an area of principal private open space exceeding 24m².

Integrated housing developments usually provide small lots with limited private open space supplemented by common open space areas. In this proposal, the lot areas proposed, and consequently the private open space provided within each lot, exceed the minimum controls for an "integrated housing" development. The amount of private open space provided for each dwelling/ lot is more representative of that provided for a typical dwelling house, where communal open space areas are not required to be provided.

The justification for this variation is consistent with the approach taken for other similar developments in the Balmoral Road Release Area. Further, ample public open space available in the immediate locality.

This variation to the DCP is considered acceptable for the reasons outlined.

Pre-determined Road Pattern

The application seeks approval for a road pattern which varies from the pre-determined road pattern. However, the proposed changes to the pre-determined road patterns are contained within the site and do not impact upon the development potential of adjoining properties.

No objections are raised with the application with respect to this matter.

Solar Access

Clause 4.8(e) from the KRHRA DCP requires that 50% of the principal private open space area receives a minimum of 2 hours direct sunlight between 9:00am and 3:00pm during mid-winter.

The shadow diagrams submitted with the proposal demonstrate that proposed lots 35 to 54 and 17 to 31 (being 29 lots or 33% of the development) do not comply with this control having the majority of their open space in shadow throughout the day in mid-winter. The remaining 57 dwellings comply with this control.

For the dwellings which do not comply the following points are offered:-

- The proposed dwellings are not excessive in height being approximately 7m in height representing 3m less than the maximum permissible height.

- The dwellings are set back further than required from the rear boundary. Furthermore, the separation between the dwellings is generous being approximately 10m.
- Where a zero lot line is not proposed the living area of the dwelling is typically setback a greater distance to the side boundary than the minimum required by the DCP.
- The areas of private open space exceed the minimum required by the DCP.
- The proposal complies generally with the predetermined road pattern which dictates the orientation of the proposed dwellings. As a result the dwellings face north which results in the dwelling having their areas of private open space located on the southern side of the dwelling which often results in less solar access than when a dwelling faces other orientations.

The proposed variations are not as a result of non-compliance with the DCP with respect to height. The proposal also exceeds the requirements of private open space and setbacks as stipulated by the DCP. Furthermore, the proposed density of approximately 70 people per net hectare is 20 people less than the maximum allowable of 90 people per net hectare and as such the proposal is not considered to be an overdevelopment of the site in respect to density.

Where some developments may result in non compliance in relation to solar access due to overdevelopment of a site the above points demonstrate that the proposed non-compliance with the DCP is not a result of bulky or over crowded development.

As noted above, the non compliance is linked to the development generally complying with the predetermined road pattern. The predetermined road pattern dictates that the dwellings be constructed addressing the road frontage being north. As a result, private open space is located on the southern side of the dwelling.

Whilst the proposal may not provide for direct sunlight to areas of open space for some dwellings within the development the generous setbacks allow for light to penetrate the living areas and private open space to each of the proposed dwellings on the winter solstice. Furthermore, the dwellings also receive a higher level of sunlight to the areas of private open space at other times of the year.

No objections are raised in respect to this matter.

Visual and Acoustic Privacy

The ground floor of each dwelling is designed such that habitable room windows for one dwelling are located opposite non-habitable room windows (where windows are proposed) for an adjacent dwelling. In addition, the 1.8m high dividing fence will provide adequate screening between adjacent dwellings.

No rear or side balconies are proposed on the first floor and the degree of mutual overlooking from first floor rear windows is consistent with what would be expected for this form of development. The proposed balconies face onto front yards only and would not affect the principal private open space areas.

At the first floor side windows, direct overlooking into habitable rooms has been avoided, where possible, by locating bedrooms opposite landings and bathrooms in adjacent dwellings, which would not impinge unduly upon privacy. In the instances where there is overlooking between first floor habitable room windows, they are low traffic habitable rooms such as bedrooms and studies, and the windows have been partially offset in

some cases. The privacy impacts upon the primary living areas of the proposed dwellings would be minimal.

The proposal is considered to be acceptable on this basis with regard to visual and acoustic privacy.

4. Issues raised by the Joint Regional Planning Panel

A preliminary meeting was held with the Joint Regional Planning Panel on the 11 August 2011 to discuss the proposal. During the meeting the following key points were raised by the Panel which were requested to be specifically addressed within any report referred to the Panel for determination. The issues raised included:

Traffic Management/ Access

The question was asked as to how access to the private road will be readily distinguishable to avoid possible conflict with the public entering the site on the mistaken assumption that it was a public road.

The proposed road is a private road intended to be used by:

- Residents and their guests;
- Services vehicles, including garbage trucks, Endeavour Energy, Sydney Water etc;
- Emergency vehicles.

Details concerning access rights, regulatory roles (parking enforcement) and maintenance for the private road are set out in the draft community management statement provided with the application.

Delineating the private nature of the road to address the potential for confusion will be achieved through the following measures:

- Vehicles entering or leaving the site will need to cross over a concrete gutter crossing and driveway slab, rather than a standard road intersection with bitumen seal and kerb returns;
- The driveway crossover will feature a paved threshold to demarcate the private nature of the road;
- There will be a street name sign with a "private road" name blade below;
- Ornamental fencing, artwork and estate naming at the entrance will be in keeping with the private nature of the development. The entry feature details are provided with this report.

Soil Contamination

The issue of possible contamination was raised during the preliminary meeting.

The application was accompanied by contamination and salinity reports.

With respect to the potential for contamination, the report concluded that the site is suitable for the proposed residential use with no remediation required.

With respect to salinity, the report concluded that salinity was not a significant issue for the site however it is best practice to adopt good soil and waste management processes

as part of the development. The report makes recommendations on good soil practices which are required to be followed during construction.

Accordingly, no objection is raised subject to conditions relating to contamination and salinity.

Infrastructure Services Availability

The issue of provision of services was raised during the preliminary meeting.

The subject is located within an urban release area that has been provided with water, recycled water, sewer, electricity and telecommunication services by the relevant service providers.

Conditions have been recommended below requiring that the applicant provide certification from each service provider confirming that these services have been provided before a Subdivision Certificate can be issued.

Integrated Development/ External Referrals

The question was asked as to the need to refer the development application to external agencies as integrated development. The following response is provided:

- The site is not mapped as being bushfire prone nor is it located within a bushfire prone area.
- The site is not known to contain any significance items of Aboriginal or European cultural heritage.
- The proposal seeks approval for works within 40m of a natural watercourse. The Office of Water has considered the application and issued their General Terms of Approval.
- The site contains Cumberland Plain woodland. The impact of the development upon the sites vegetation has been deemed to be not significant and therefore does not require referral to an external agency under the Act.

Vegetation

Questions were raised regarding the presence of any threatened or endangered species or ecological communities on site and if present, what impact the development may have upon them.

Refer below for consideration of this matter.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

Flora and Fauna

Council's vegetation mapping identifies that the site contains Cumberland Plain Woodland and other unclassified vegetation.

The applicant submitted a flora and fauna report with the development application noting that the site contains vegetation which could (in part at least) constitute Cumberland Plain Woodland, Swamp Oak Forest and/or River-flat Eucalypt Forest which are all endangered ecological communities listed in the TSC Act and/or EPBC Act. The report also noted that this vegetation does not represent a native vegetation community either

structurally or floristically, and does not constitute an EEC or a CEEC listed in either the EPBC Act or TSC Act.

Council's Environmental Health and Sustainability Team considered the flora and fauna reports submitted with the application and concluded that the vegetation on the subject site is consistent with the definition of Cumberland Plain Woodland, a Critically Endangered Ecological Community as defined in the final determination by the NSW scientific committee which includes areas which have been subject to disturbance, particularly clearing, fire and grazing. The applicant was requested to either demonstrate that the proposed development was not having a significant impact upon flora and fauna or provide a Species Impact Statement.

The applicant advised that they did not agree with Council's assessment and it was agreed that a peer review would be undertaken by an independent ecological consultant to determine if the site contained Cumberland Plain Woodland and if present, provide advice as to whether the proposal would be likely to have a significant effect upon threatened biodiversity.

The peer review concluded that the vegetation on the site constitutes Cumberland Plain Woodland and that the proposal is unlikely to result in a significant impact on any threatened species, populations, communities or their habitat as listed under the TSC Act or EPBC Act. It also contained a recommendation that mitigation and offset measures be implemented in acknowledgement of the Critically Endangered status of CPW. The recommendation stated:

- *An offset for the proposal is provided and could include:*
 - o *Planting trees characteristic of CPW at a ratio of 5:1 throughout the riparian zone and / or a suitable location as agreed with Council;*
 - o *Rehabilitation of the River Flat Eucalypt Forest (RFEF) along the riparian zone. It is envisaged that some of the CPW tree planting could be incorporated into the outer edge of this riparian zone rehabilitation; and*
 - o *Preparation of a vegetation management plan for the proposed rehabilitation works which includes a commitment to manage weeds within the riparian zone following replanting for a minimum of five years.*
- *The use of locally endemic species listed as characteristic of CPW in site landscaping. These must be sourced locally to protect the genetic integrity of the area.*

The applicant was requested to address the recommendation. The applicant provided the following summarised points in response:-

- The applicant will accept a condition requiring the preparation of a VMP over the land identified within 20m of the centreline of the creek being the riparian zone.
- The applicant will accept a condition requiring the planting of 5 trees for every one tree removed from the site within the riparian zone.
- The applicant proposes to landscape the site from locally endemic species listed as characteristic of CPW. The applicant acknowledged the plantings must be sourced locally to protect the genetic integrity of the area.
- The applicant proposes to plant species consistent with the Cumberland plain within the road reserve.

Council's Environmental Health and Sustainability Team have considered the peer review and the applicant's response. Conditions have been recommended.

It should be noted that the peer review report also recommended that the applicant refer the application to the Commonwealth under the Environmental Protection Biodiversity Conservation Act 1999. The applicant was advised that they should give consideration to

referring the application to the Commonwealth on 2 May 2010. Council is unaware if this has occurred. The determination of the application is not dependent upon the application being referred to the Commonwealth. Notwithstanding, an advisory note attached to the recommended condition of consent is recommended advising the applicant of their responsibilities under the EPBA Act to comply with the requirements of SEWPAC (refer to advisory condition).

Soils

The application was accompanied by contamination and salinity reports.

With respect to the potential for contamination, the report concluded that the site is suitable for the proposed residential use.

With respect to salinity, the report concluded that salinity was not a significant issue for the site; however it is best practice to adopt good soil and waste management processes as part of the development. The report makes recommendations on good soil practices which are required to be followed during construction.

Accordingly, no objection is raised subject to conditions relating to contamination and salinity.

BUILDING CERTIFICATION COMMENTS

The application has been considered by Council's Building Certification Team who raised no objections and recommended standard conditions.

SUBDIVISION ENGINEERING COMMENTS

The application has been considered by Council's Subdivision Engineer who raised no objections and recommended standard conditions.

TREE MANAGEMENT COMMENTS

No objection subject to conditions relating to tree removal and retention.

WASTE MANAGEMENT COMMENTS

No objection subject to conditions relating to compliance with the submitted waste management plan and garbage collection, including indemnity for Council against any damage caused to the proposed private road.

HERITAGE COMMENTS

The Preliminary Due Diligence Aboriginal Heritage Assessment undertaken by MDCA revealed high levels of historic disturbance and erosion across the study area and did not result in the identification of any Aboriginal archaeological remains or areas of subsurface archaeological potential.

However, one isolated artefact was found (named Fairview Drive IF1 at 24 Fairway Drive). However, the assessment concluded that it was unlikely to be in its original location and is not indicative of subsurface archaeological deposits in adjacent areas or other parts of the study area. Based on the proposed development layout Fairview Drive IF1 will be impacted. However, given the disturbed nature of the artefact and the lack of other adjacent surface artefacts, the study considers it appropriate that this artefact be managed in relation to the current proposal of collection under a National Parks and Wildlife Act s90 Aboriginal Heritage Impact Permit.

The Preliminary Due Diligence Aboriginal Heritage Assessment recommended that the applicant be required to obtain a section 90 of the National Parks & Wildlife Act 1974 prior to any works commencing on site.

Council's Heritage Planner is satisfied with the proposed development subject to an appropriate condition has been recommended with respect to this matter.

NSW OFFICE OF WATER

The application proposes works within 40m of a watercourse. The NSW Office of Water (NOW) agreed to issue their general terms of approval.

SYDNEY WATER COMMENTS

The application was referred to Sydney Water for comment who raised no objections to the proposal.

CONCLUSION

The application has been assessed against the 'matters for consideration' as noted under Section 79C of the Environmental Planning and Assessment Act 1979 and against the NSW Land and Environment Court's 'criteria for the assessment of impacts on neighbouring properties' and is considered satisfactory. The variations to Council's Development Control Plan are considered satisfactory.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Hills 2026

The social and environmental impacts have been identified and addressed in the report. The proposal is consistent with the planning principles, vision and objectives outlined in Hills 2026 as the proposal will enable the creation of a range of housing to suit the different needs of people living in our Shire whilst ensuring in future built environment blends with our natural beauty.

RECOMMENDATION

It is recommended that the application be approved subject to the following conditions:

ATTACHMENTS

1. Locality Plan
2. Subdivision Plans (Stages 1 to 6)
3. Site Plans
4. Streetscapes
5. Landscape Plans
6. Shadow Diagrams 1
7. BHLEP 2005 Zones
8. Draft LEP 2010 Zones
9. Draft LEP 2010 Minimum Lot Size
10. Aerial Photograph

11. Pre Planned Road Pattern
12. Subdivision Plan 893/2011/ZB
13. Subdivision Plan DA1244/2011/ZE
14. Vegetation Mapping

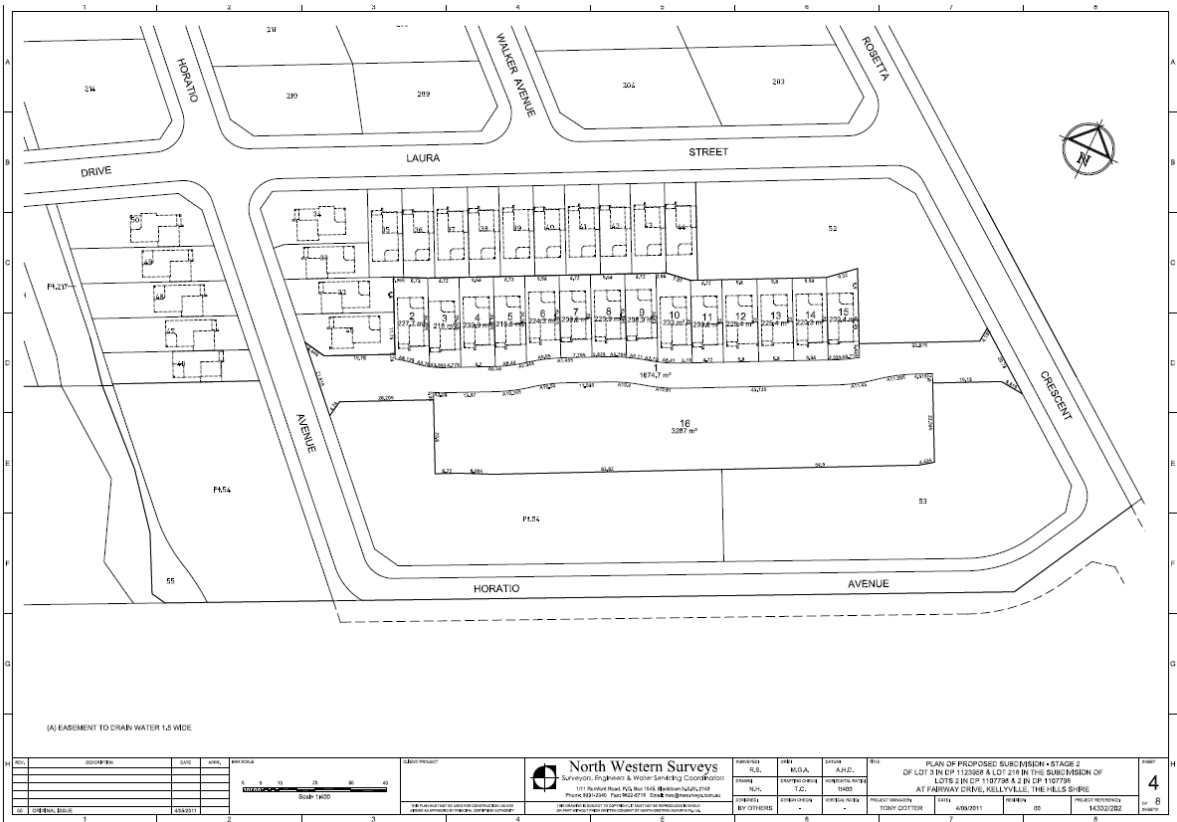
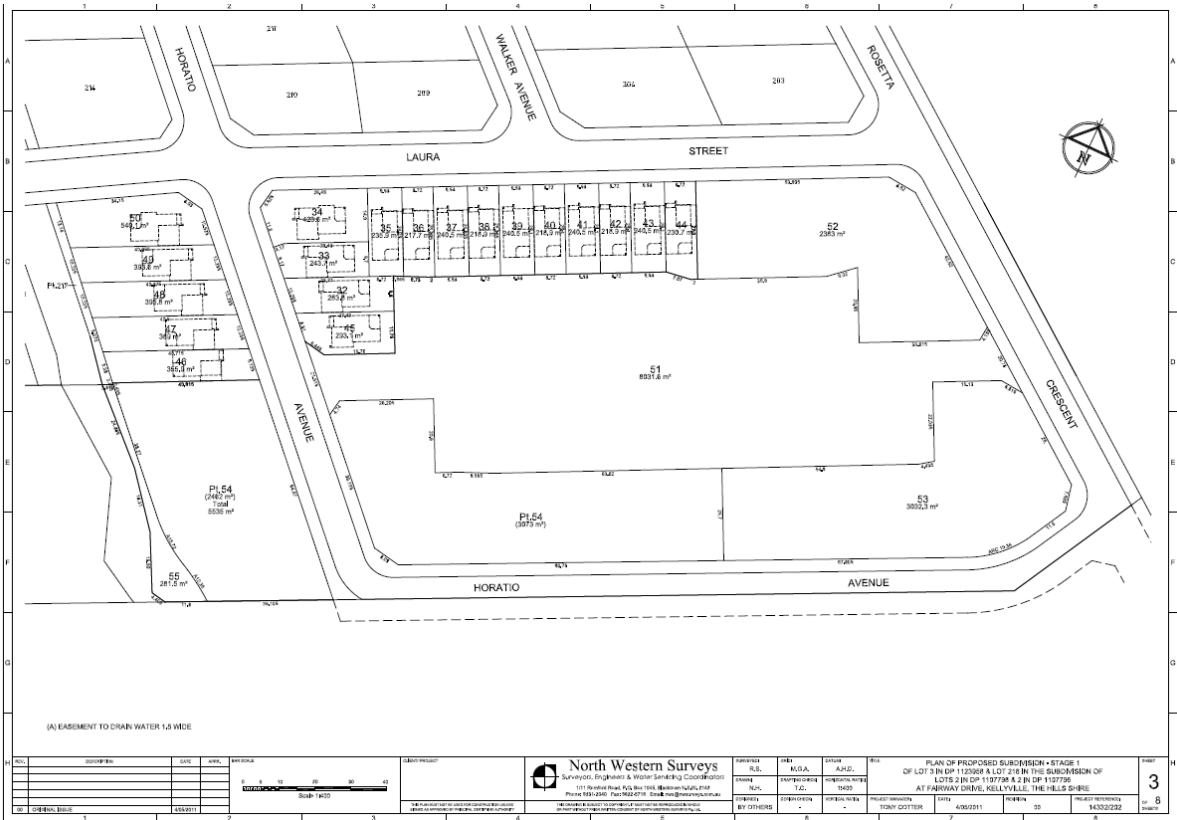
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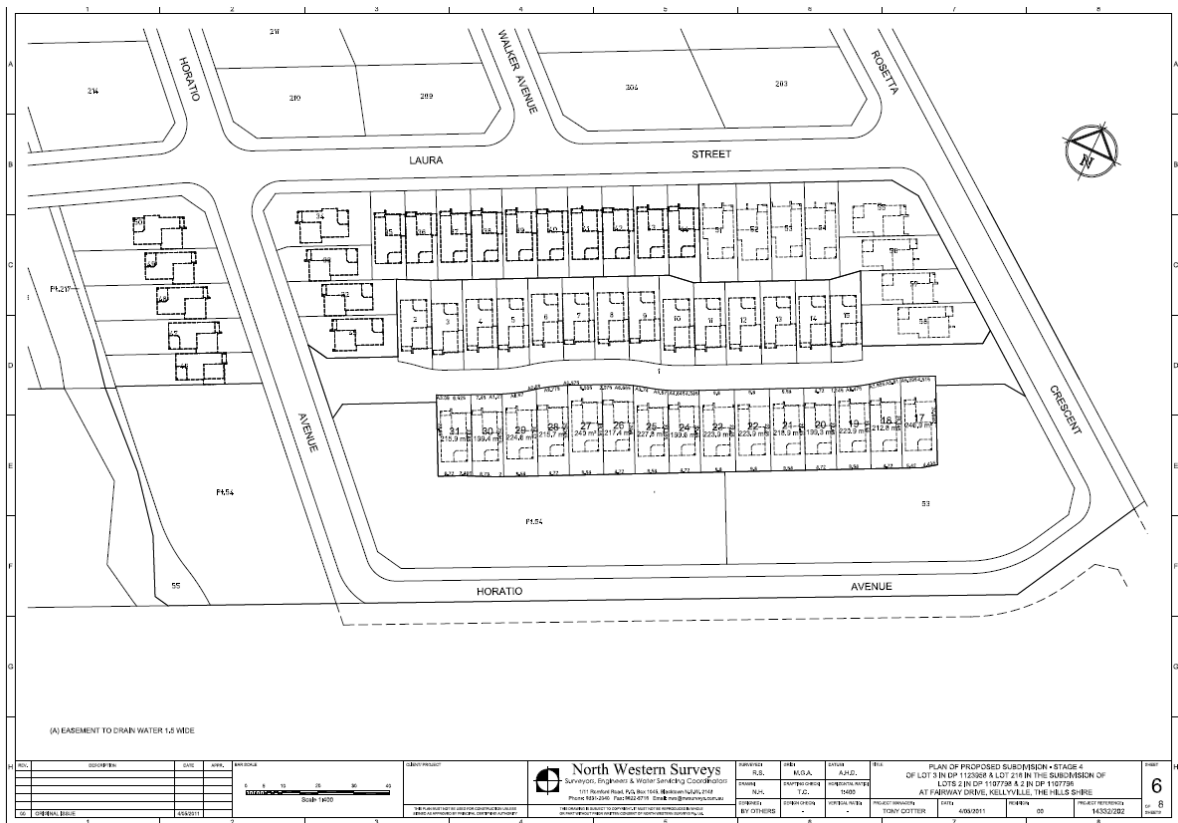
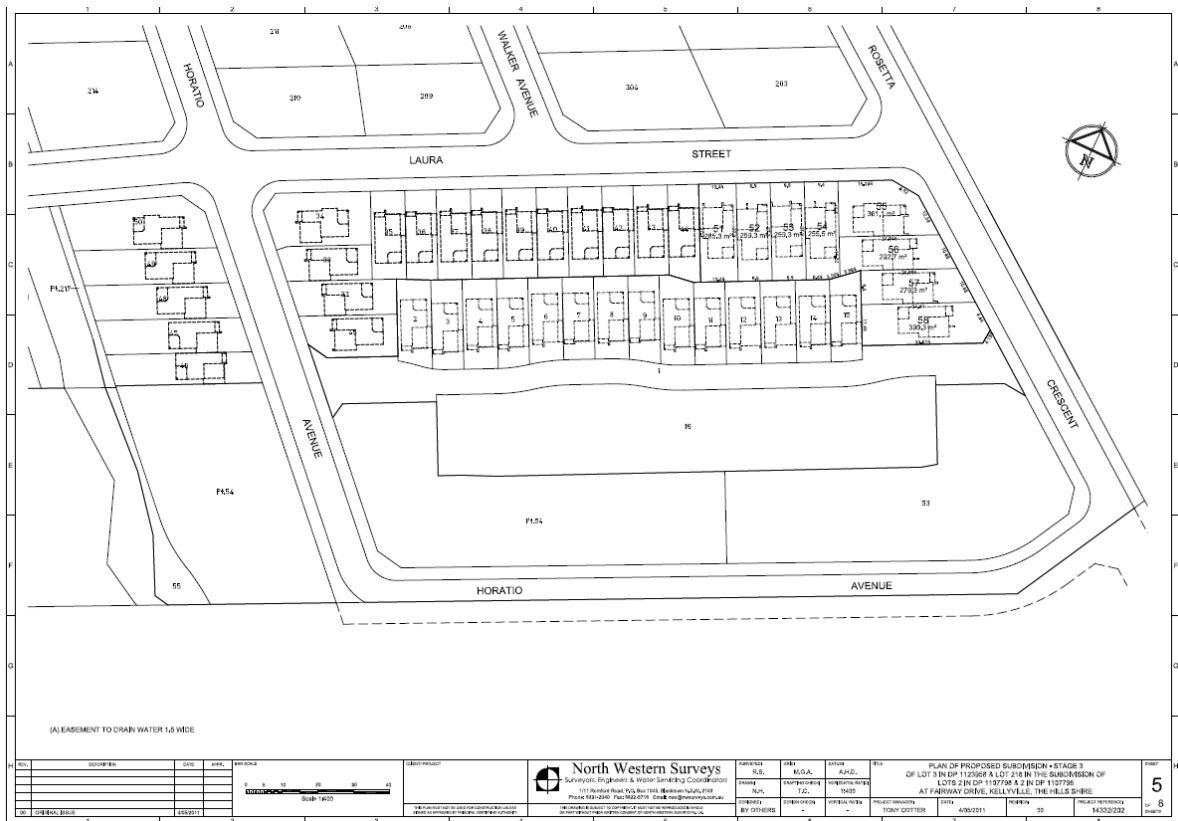
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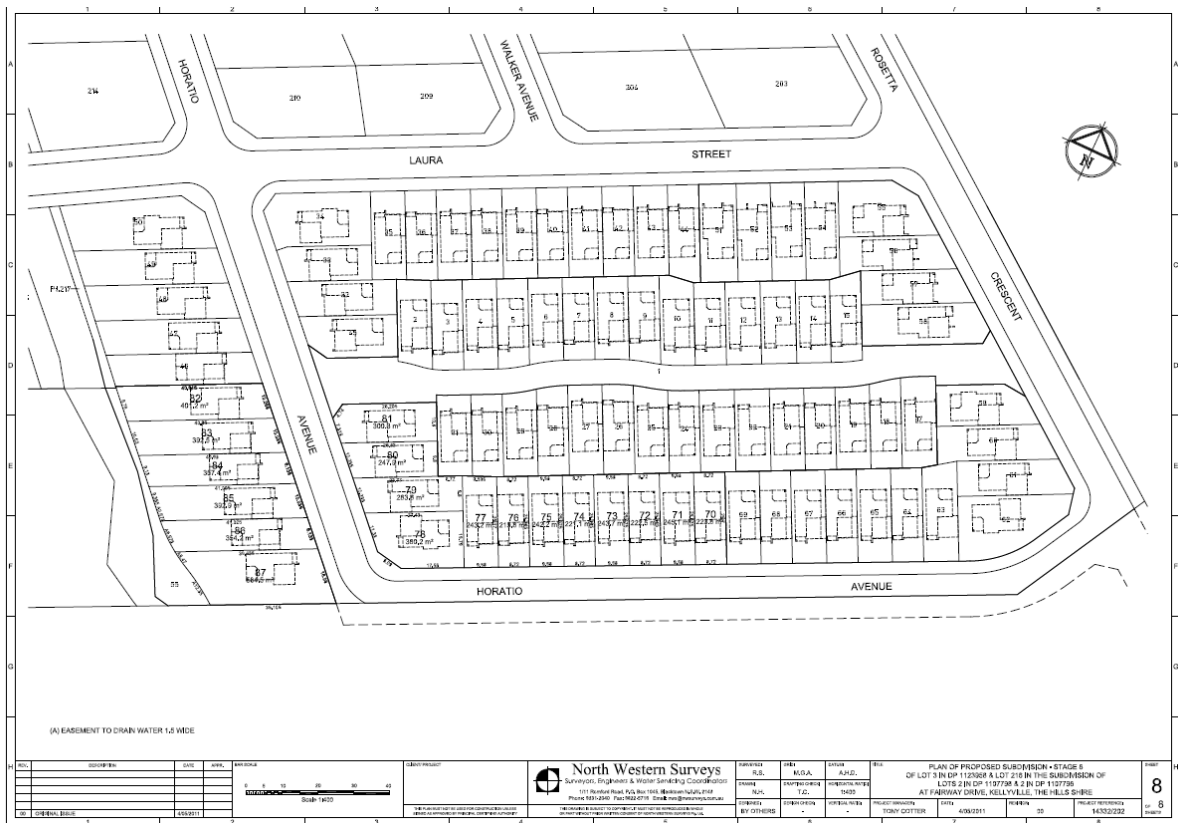
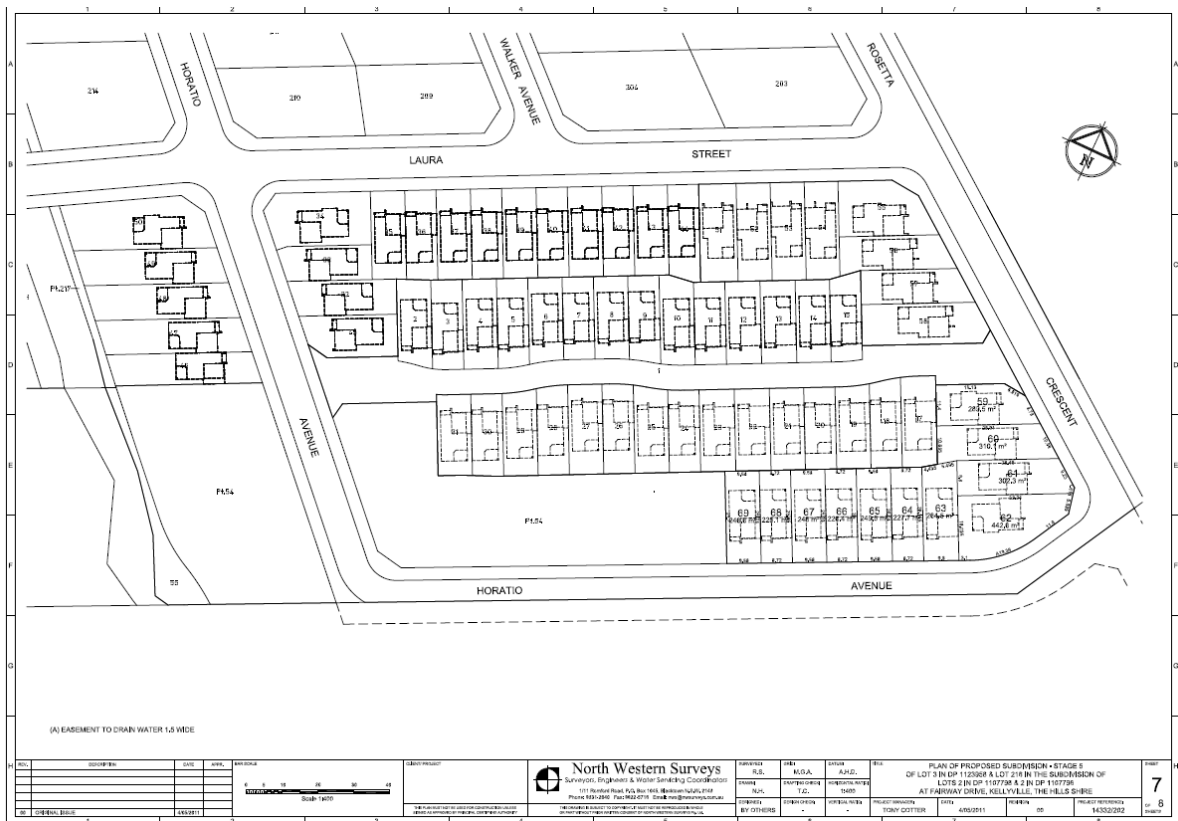
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ATTACHMENT 2 – STAGES



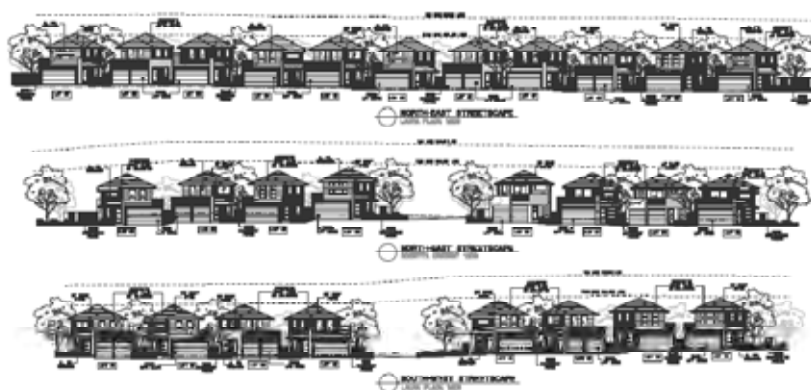
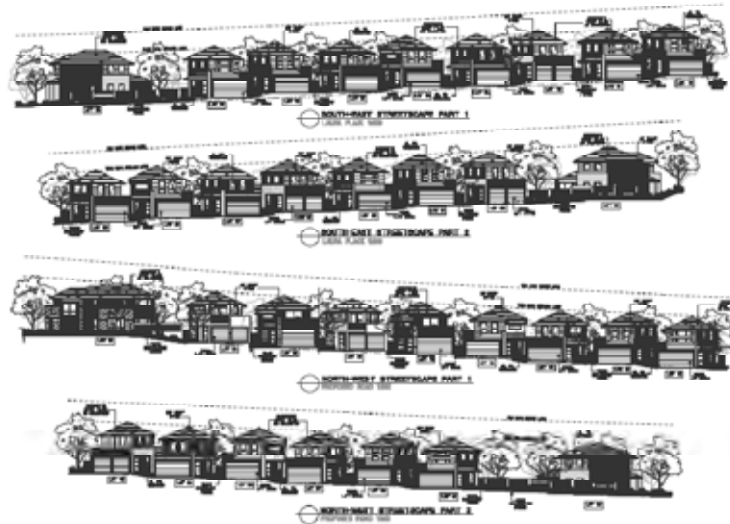




ATTACHMENT 3 – SITE PLANS



ATTACHMENT 4 – STREETSCAPE



9 AM
SHADOW DIAGRAMS
JUNE 21ST MID-WINTER 1760

12 PM
SHADOW DIAGRAMS
JUNE 21ST MID-WINTER 1760

3 PM
SHADOW DIAGRAMS
JUNE 21ST MID-WINTER 1760





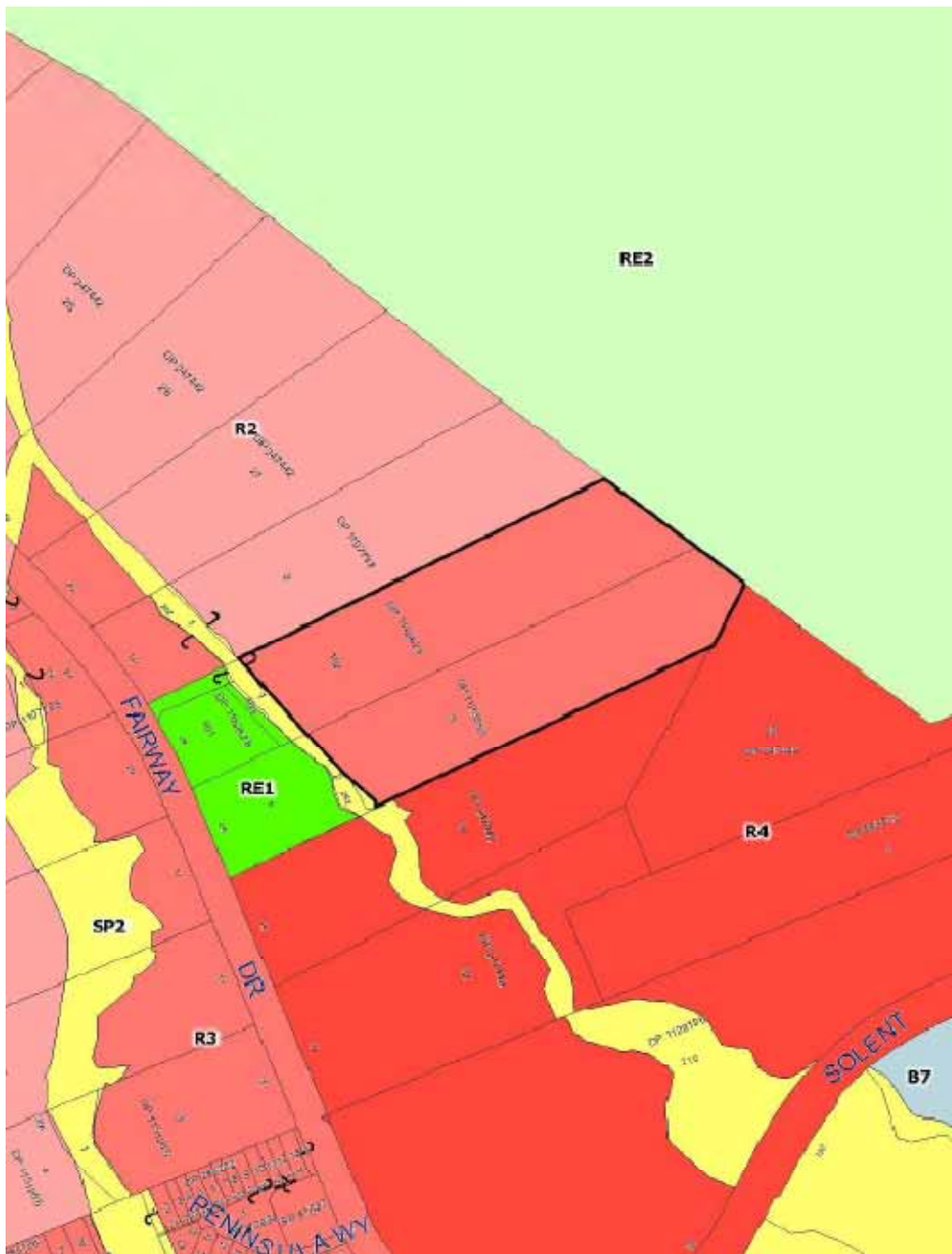
ATTACHMENT 6 – LANDSCAPE PLANS



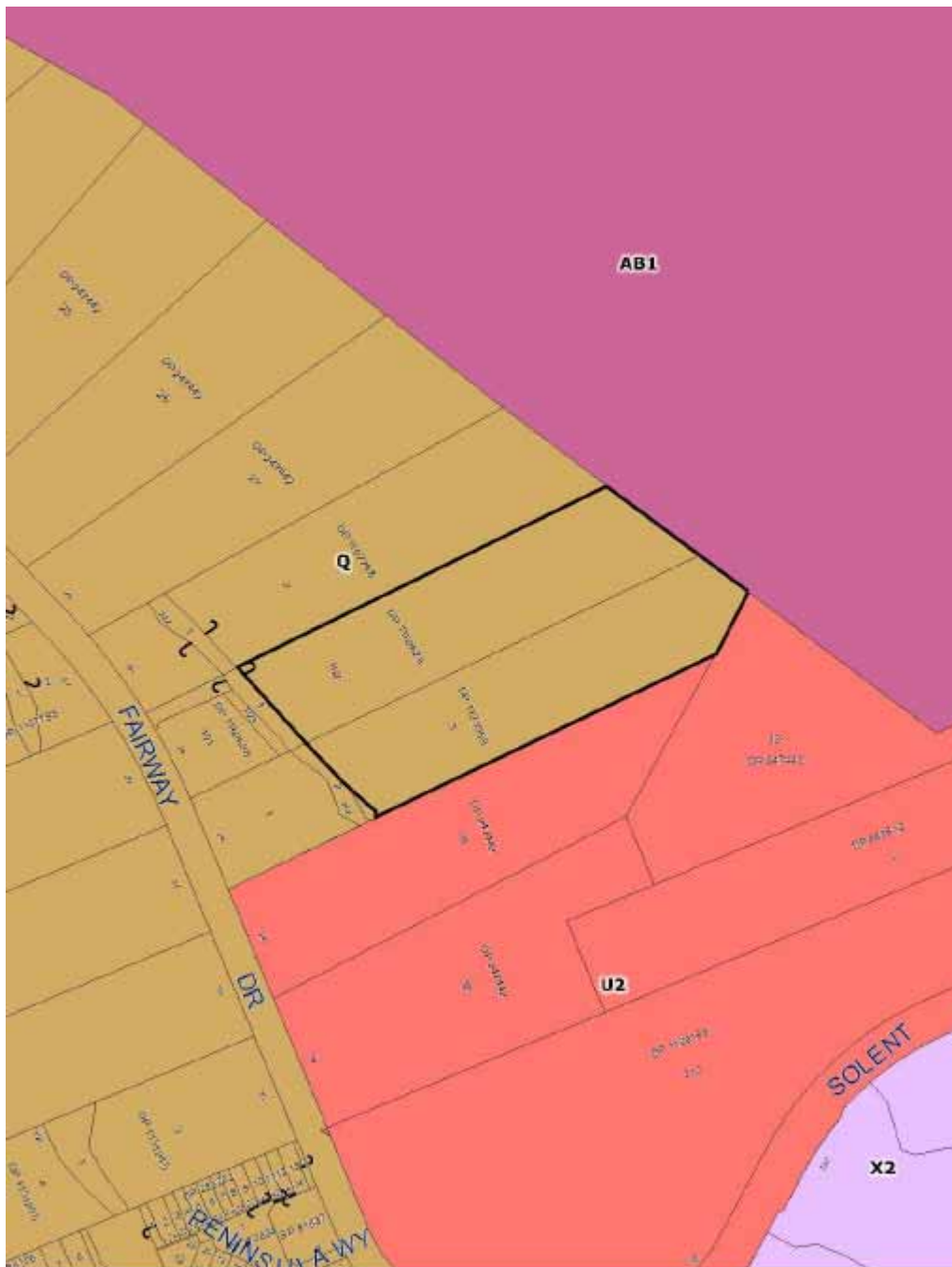
ATTACHMENT 7 – BHLEP 2005 ZONES



ATTACHMENT 8 – DRAFT LEP 2010 ZONES



ATTACHMENT 9 – DRAFT LEP 2010 MINIMUM LOT SIZE



Key

Q = 700m²

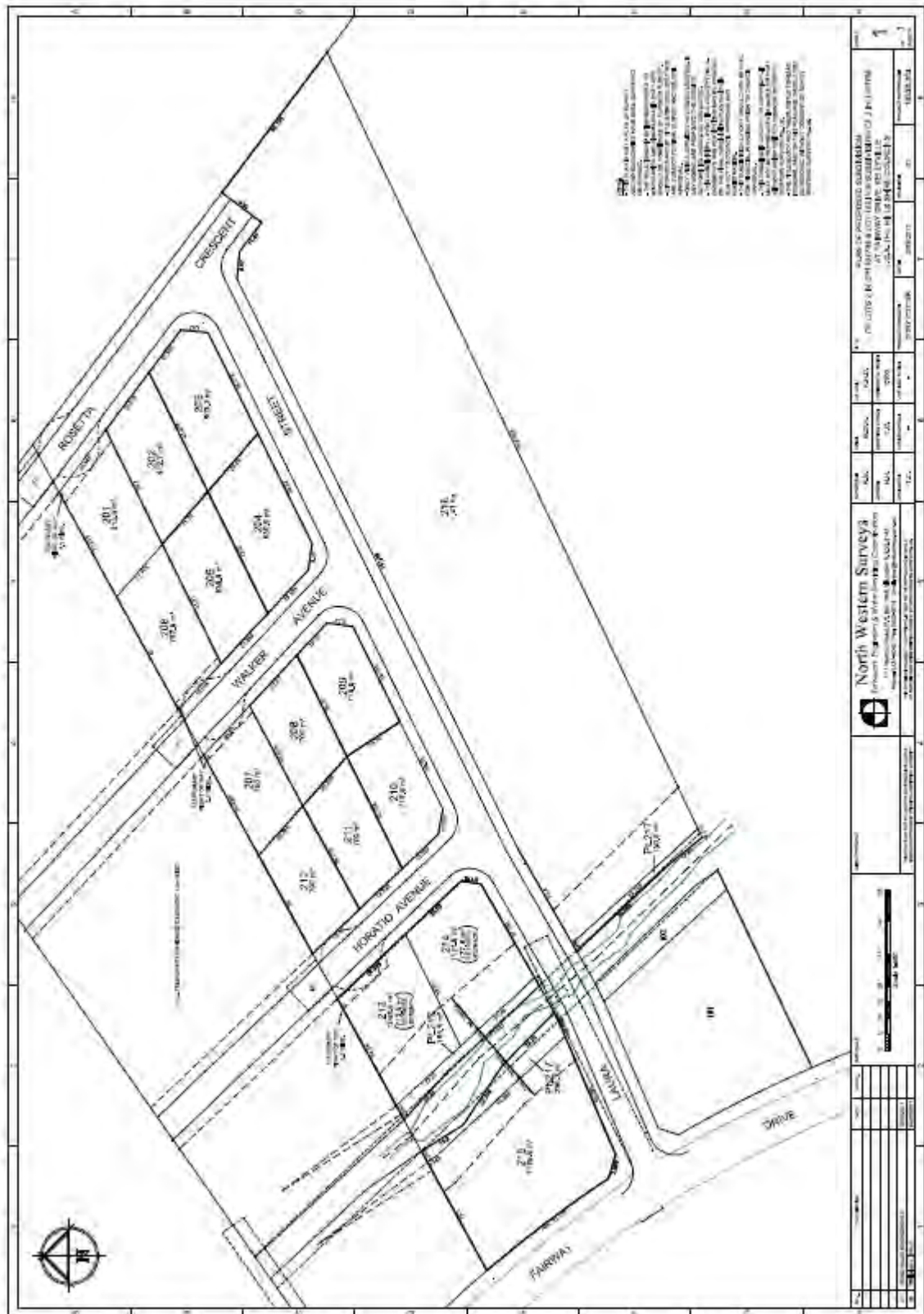
ATTACHMENT 10 – AERIAL PHOTOGRAPH



ATTACHMENT 11 – PRE PLANNED ROAD PATTERN



ATTACHMENT 12 – SUBDIVISION PLAN 937/2011/ZB



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ATTACHMENT 14 – VEGETATION MAPPING

