

All communications to be addressed to:

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The General Manager
Shellharbour City Council
Locked Bag 155
SHELLHARBOUR CITY CENTRE NSW 2529

Your Ref: DA0647/2015
Our Ref: D15/3373
DA15110499239 JM

ATTENTION: Victoria Nicholson

30 June 2016

Dear Ms Nicholson

Integrated Development for 522//1168919 - Braemar Street, Tullimbar NSW 2527

I refer to your letter dated 23 June 2016 seeking general terms of approval for the above Integrated Development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of a subdivision certificate, and in perpetuity, the proposed residential lots, lot 1001 and part of lot 902 to the west and south-west of stages 3, 4 and 5, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

2. At the issue of a subdivision certificate a 100 metre wide asset protection zone shall be provided to the south and south east of stage 4 as shown in 'Section 9 - Subdivision Plan showing managed Temporary Asset Protection Zone to the southeast of Stage 4' included in the 'Bushfire Protection Assessment' prepared by Australian Bushfire Protection Planners Pty Limited with reference 'B152473-2' and dated 6/10/2015. The APZ shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. This shall be maintained until such time as the land is developed and the bush fire hazard is removed.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

5. Property access roads shall comply (where applicable) with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

6. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

Any future development application lodged for land in this subdivision will be subject to the requirements of 'Planning for Bush Fire Protection 2006'. Provision of Asset Protection Zones within the lots boundaries and construction to AS3959-2009 standards will be required.

Reviewed determination

This letter is in response to a request for a further assessment of the application and supercedes our previous advice dated 1 December 2015.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 1 December 2015.

For any queries regarding this correspondence please contact Jason Maslen on 1300 NSW RFS.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Amanda Moylan'.

Amanda Moylan

Team Leader, Development Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006' , visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.



Department of
Primary Industries
Water

Contact: Jeremy Morice
Phone: 02 4224 9736
Fax: 02 4224 9740
Email: jeremy.morice@dpi.nsw.gov.au

Our ref: 10 ERM2015/1122
Our file: 2015-0698
Your ref: 647/2015

SHELLHARBOUR CITY COUNCIL	
Doc No.	
17 DEC 2015	
Catch No.	
Box No.	

The General Manager
Shellharbour City Council
PO Box 155
Shellharbour City Centre NSW 2529

Attention: Victoria Nicholson

15 December 2015

Dear Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: 647/2015

Description of proposed activity: 163 Lot Residential Subdivision
Site location: Lot 522 DP 1168919, Braemar Street, Tullimbar

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

Level 0, 84 Crown Street WOLLONGONG PO Box 53 WOLLONGONG NSW 2520 Australia

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Template Ref: CAA04, Version 1.2 – July 2015

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Jeremy Morice
Water Regulation Officer
Water Regulatory Operations, Water Regulatory Operations South
NSW Department of Primary Industries – DPI Water

General Terms of Approval

for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000*

Number	Condition	File No: 2015-0698
Site Address:	Lot 522 DP 1168919, Braemar Street, Tullimbar	
DA Number:	647/2015	
LGA:	Shellharbour City Council	
Plans, standards and guidelines		
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 647/2015 and provided by Council:</p> <ul style="list-style-type: none"> (i) Statement of Environmental Effects (ii) Stormwater Management Study <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>	
3	<p>The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> (i) Construction Drainage Details (ii) Erosion and Sediment Control Plan 	
4	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.</p>	
Reporting requirements		
5	<p>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.</p>	
Disposal		
6	<p>The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.</p>	
Drainage and Stormwater		
7	<p>The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.</p>	
8	<p>The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.</p>	

Number	Condition	File No: 2015-0698
Erosion control		
9	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
10	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
11	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by DPI Water.	
END OF CONDITIONS		

Our Ref: STH07/00741/02
Contact: Kendrick Westlake 02 4221 2771
Your Ref: DA 0647/2015



Transport
Roads & Maritime
Services

16 December 2015

Victoria Nicholson
Shellharbour City Council
BY EMAIL: records@shellharbour.nsw.gov.au

**DEVELOPMENT APPLICATION DA 0647/2015 – LOT 522 DP 1168919, BRAEMAR STREET
TULLIMBAR – 158 LOT SUBDIVISION, 5 SUPER LOTS, PUBLIC RESERVE AND
RESIDUAL LOT**

Dear Madam

Roads and Maritime Services (RMS) refers to your letter dated 6 November 2015 regarding the subject development application.

RMS has reviewed the submitted information and notes that traffic signals are proposed at the intersection of the Illawarra Highway and Church Street. RMS considers traffic signals may be an acceptable solution at this intersection. To make an informed decision, RMS requires an updated concept plan to be provided. The concept plan needs to address the attached design and pavements comments.

In addition, the following comments are provided for Council's consideration:

- It is unclear from the Statement of Environmental Effects when the Traffic Signals are proposed to be constructed. The Traffic Impact Assessment identifies the need for signalisation of the Illawarra Highway and Church Street intersection after the construction of 36 dwellings. RMS considers this to be impractical as it could cause unreasonable delays to individual property owners. RMS considers that the traffic signals at the junction of the Illawarra Highway and Church Street would need to be provided **prior to any subdivision**. The signals would need to be designed in accordance with Austroads *Guide to Road Design Part 4a: Unsignalised and signalised intersections*, Austroads *Guide To Traffic Management Part 6: Intersections, Interchanges and Crossings* (2007) and the RTA's *Traffic Signal Design* (2008).
- RMS does not object in principle to the proposed left-in left-out access arrangements at Pollock Crescent however RMS highlights that in determining the application under Part 4 of the Environmental Planning and Assessment Act, 1979, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent. Depending on the level of environmental assessment undertaken to date and nature of the works, the consent authority may

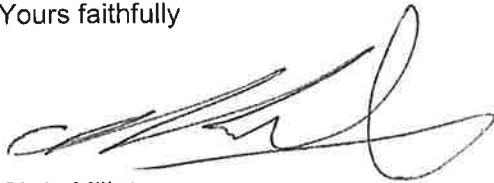
Roads & Maritime Services

require the developer to undertake further environmental assessment for any ancillary road works, including community consultation.

- If traffic signals are required as a condition of consent, it should be noted that the developer would need to mitigate any increased road traffic noise associated with the traffic signals on nearby residents (and other sensitive receivers) in accordance with the Department of Environment, Climate Change and Water's *Environmental Criteria for Road Traffic Noise*. This may require pre construction noise monitoring and may require post construction noise monitoring.

RMS will reconsider the application once a revised concept plan is provided and the above issues are addressed to its satisfaction. If you have any questions please contact Kendrick Westlake on 02 4221 2771.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Chris Millet', with a stylized, flowing script.

Chris Millet
Manager Land Use
Southern Region

Roads & Maritime Services

Level 4, Southern Regional Office, 90 Crown Street, Wollongong NSW 2500 | PO Box 477 Wollongong East NSW 2520
T 02 4221 2460 | F 02 4221 2777 | www.rmservices.nsw.gov.au |

Attachment 1

Intersection design/layout comments and requirements:

- RMS would not support the provision of cycle lanes if there is no connectivity with the surrounding road network. Unless there is strong justification for cycle lanes, supported by a Council plan, RMS considers cyclists should be provided a widened shoulder rather than designated cycle lanes.
- The kerb blisters need to be designed in accordance with relevant standards. This needs to be addressed in the concept design to enable an assessment of the impact on parking and driveway access.
- The give way line at Pollock Cres west should be parallel to the Illawarra Highway.
- It appears the angle of observation for the Pollock Cres west exceeds the maximum 70deg.
- The diverge for eastbound vehicles, east of Church St is too short for a speed zone of 70km/h.
- Sight lines are inhibited for queued vehicles at both Pollock Cres intersections by vehicles in the left turn bays.
- A 19m semi-trailer cannot perform the left turn into or out of Church St at the signals without impinging upon the adjacent kerb.
- A 12.5m SU truck can perform all turning movements except:
 - The left turn from the Illawarra Highway into Pollock Cres west without impinging over the centre of Pollock Cres. This is permitted as there is no centreline barrier control and will not be a safety issue as long as the volumes in Pollock Cres are low.
 - The left turn into Church St from the Illawarra Highway without impinging upon the adjacent kerb from the left lane. It can perform the left turn from the second lane but by doing so will be in direct conflict with cyclists and may result in a safety issue.
- Due to the proximity of Pollock Cres west to Church St, it will be difficult for a vehicle exiting Pollock St to turn right into Church St.

Pavement comments and requirements:

- All pavement design on the State road network must be in accordance with Austroads standards. It should be noted that pavement investigations need to consider the suitability of the existing shoulder to accommodate new loadings and if necessary, the developer must upgrade the existing shoulder.
- The proposal pushes traffic onto the existing shoulder which is unlikely to be suitable for full highway traffic loading.
- The area that will become the eastbound lane will probably need full reconstruction. The left turn bays are also likely to need reconstruction.

Roads & Maritime Services

- The existing highway through lanes will possibly need reconstructing (or at least 100 mm AC) to provide support for signal detectors. Detectors must be the 'ezy loop' style, rather than being cut into the pavement after the asphalt is placed.
- Any changes to line marking will require replacement of the asphalt on that section of the Illawarra Highway.
- All pavement joints are to be located on lane lines or in the middle of lanes – no joints are to be near any wheel paths

Roads & Maritime Services

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Contact: Louise Myler
Phone: (02) 4224 9467
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Email: louise.myler@planning.nsw.gov.au

Mr Carey McIntyre
General Manager
Shellharbour City Council
Locked Bag 155
Shellharbour City Centre NSW 2529

Dear Mr McIntyre

DA647/2015: Lot 522 DP 1168919 Sophia Street, Tullimbar – creation of undersized allotment as part of a 165 lot subdivision.

I refer to your request for the concurrence of the Secretary of the Department of Planning and Environment under State Environmental Planning Policy No.1 – Variations to development standards to vary the 40 hectare minimum lot size development standard for land zoned 1A Rural under the Shellharbour Local Environmental Plan 2000 (LEP).

I note that this application will create 163 residential lots and two residual lots. One of the proposed residue lots will contain land zoned 1A Rural and will have an area of approximately 25.76ha, which is less than the area required for subdivision under the LEP.

I have considered the information provided by the applicant and formed the view that the proposed variation does not raise matters of State or regional significance and there is no public benefit in upholding the 40 hectare minimum lot size in this instance. I am pleased to advise that, as the Secretary's delegate, I have decided to grant concurrence to the application as submitted.

Should you have any questions in relation to this matter please contact Louise Myler of the Department's Southern Regional office on 4224 9463.

Yours sincerely

 23/11/15

Graham Towers
Team Leader
Southern Region



All Communication address to the General Manager
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DX 26402 Shellharbour City Centre

22 January 2016

Ken Rootsey
Site Plus Pty Ltd
PO Box 5104
WOLLONGONG 2500

BY EMAIL
ken@siteplus.com.au

DA No. 647/2015
At: Lots 1, 2 & 3 DP 1214606, Braemar Street, Tullimbar
Proposal: Staged residential subdivision comprising of 158 residential lots,
5 superlots, 1 public reserve and 1 residue lot

Hello Ken

The following matters are raised in the assessment of the above DA for your consideration and response. I have included the matters previously raised (points 1 & 2) so that all matters are contained in the one letter. Point 3 has been refined.

1. Road Design - Coolangatta Street and Bombala Place

The applicant must demonstrate how Coolangatta Street and Bombala Place will adequately function, particularly in respect to waste collection services and on-street parking, taking into consideration the proposed 6m wide pavement, minimal radii curves (specifically the southernmost bends on each street), concentration of small-frontage lots on bends and potential for subdivision of larger lots.

2. Roads & Maritime Services

RMS have requested a revised concept plan that addresses their design and pavement requirements.

With regard to RMS's comments provided for Council's consideration, it is requested that these are also addressed in your response.

A copy of the RMS letter is provided at the end of this letter.

3. Section 94 contributions

Please confirm that the total site area for this DA, as shown in green on the 'Title Page', is 12.87Ha. In addition, the site area for each of the proposed stages inclusive of the road network is required.

This information is required for the purpose of calculating the Benefit Area levy.

4. Shellharbour Development Control Plan – Appendix 16 (SDCP)

The SEE states that the proposal satisfies the objectives detailed in A16.4 of SDCP, in addition to various development provisions, however there does not appear to be any information demonstrating how the relevant objectives have been met.

Objective 2

The See states (p. 35) that the subdivision will provide a close relationship between public amenity and private development. Information is required that supports this assertion.

Objective 4

SEE (p. 27) states that the proposal complies with Council's Pedestrian and Cyclist Master Plan, however no information has been provided to support this. This should include a copy of this Plan.

A shared pedestrian-cycle path should be provided to link the development to various facilities within Tullimbar such as public open spaces and the primary school. Please note that pedestrian pathways are not suitable for cyclists (notwithstanding the legality issue).

Development yield

The SEE (p. 35 & 45) states that lot yield complies with the precinct plan. Further information is required to demonstrate this.

An overlay is required with the proposed subdivision and Figure A33 (p. 417) of the Appendix. This will clarify the development precincts applicable to the proposal.

To achieve a minimum dwelling yield for the Tullimbar urban area of 1500 dwellings, minimum dwelling yields for each precinct have been defined.

Table A16 (p.437) shows the range of possible lot sizes in each precinct so as to achieve the minimum 1500 dwelling yield. The DCP notes that it is desirable to have a higher yield of 1500 lots and this can be achieved by reducing the average lot sizes (of the table).

Figure A45 (p. 439) 'minimum precinct density' shows the site falling within 'precinct group E' with a dwelling yield of 262.

Information is required showing how this dwelling yield for the area nominated as 'E' will be achieved. It should be noted that the residential zoned land on lot 3 should contain the (perimeter) roads and any required asset protection zones, rather than encroaching onto the rural zoned land which has high ecological value, that is, it should not be assumed that all the residential zoned land can be developed with residential lots and this needs to be considered in designing for the minimum dwelling yield.

Connectivity

The SEE says the street network provides good connectivity to the surrounding residential zoned land. As the proposal has reduced the number of intersections with Noble Road by two intersections, this statement needs to be justified.

Rear loaded lots

The absence of rear loaded lots as part of the street network has not been adequately justified. The statement that this will *provide a point of difference in the Tullimbar precinct* is inadequate. Where there are variations to the Tullimbar Village Structure Plan a justification must be provided in the context of relevant objectives.

Proposed building design guidelines

Further information is required that the guidelines satisfy the objective 16.17.1, with particular regard 'to optimise streetscape values, neighbourhood amenity and parking'.

- The draft building design guidelines do not appear to include a diagram that identifies the relevant lots. This diagram will include building, and where relevant storey, footprints with boundary setbacks detailed.
- The guidelines do not appear to be facilitating a built outcome that will be different to the usual contemporary development occurring in other new release areas. The objectives requiring the need for building design guidelines should be underpinned in the development provisions contained therein. The guidelines should be facilitating a desired streetscape and neighbourhood character.
- The guidelines refer to the areas that contribute to the 40sqm of outdoor space and includes areas with a minimum dimension of 1m. An area of this dimension will not contribute in any functional way to the provision of usable outdoor space and accordingly should be increased to at least 1.5m.
- The guidelines (p. 10) refer to the storage of waste bins behind the fence line. It is queried if this should be behind the front building line.
- There is a requirement for solar panels to be the same colour as the roof. Is this possible or reasonable? Please clarify.
- There are a number of requirements referring to trees within the lot. As these lots are small and minimal area will be available for tree planting, it is queried how often trees will be planted and thus the number of related development provisions.
- A 3m separation distance between upper levels of adjoining dwellings is required (p.10); this is replicated with a requirement for a 1.5m minimum side boundary setback (p.11). The summary table refers to a 2.4m wide separation distance between the upper levels.
- Where upper levels have a zero lot boundary line, does this mean that an adjoining dwelling will need to have a 3m side boundary setback.
- A rear building line to the wall of an upper level of 5m is required. This should also include any upper level balconies, i.e. 5m to the building inclusive of balconies. Alternatively, a rear building line for upper level open structures should be provided that adequately addresses issues relating to overlooking and amenity.
- The SEE contains a number of statements that the subdivision design will provide solar access. How do the guidelines deliver this?
- The table on p13 should be reviewed with regard to the following comments:

The first row appears to relate only to houses and the second row relates to garages even though 'house' and 'garage' are bracketed and yet there are provisions in the garage row that appear should be in the house row.

It is unclear why the SDCP numerical requirements have been included.

Lofts are referred to however I couldn't find any provisions relating to lofts in the guideline.

A 2.4m *minimum gap between upper level and adjoining houses* is a duplication (although expressed differently) to the above requirement that a double storey (assume of a house) has a side boundary setback of 1.2m. This requirement is not consistent with the requirements on pages 10 and 11 which require a 1.5m side boundary setback.

Will lots less than 450sqm be created on land with average slope of 20°? If not, then perhaps should not be referred to.

Maximum width of carport or garage has 2 requirements – this is ambiguous unless qualified (which will depend on the desired outcome).

5. Subdivision Design

The following comments are made with regard to the proposed subdivision design layout:

Connectivity

Pedestrian/cyclist connectivity of the proposal with the existing development to the east could be improved with a pathway from Coolangatta Street to Noble road for example, between lots 233 and 234.

Battleaxe lots

A subdivision layout design should be able to avoid the creation of battleaxe lots. The creation of battle axe lots is a poor design outcome and is generally not supported for the reasons provided below. Eleven (11) battleaxe lots are proposed. The proposed size of these lots will support a range of residential development, for example multi dwelling housing.

Having regard to the future development of the battleaxe lots, the access handle width of these lots should be suitable to support a range of residential development that is likely to be proposed on the site.

Any proposal for battleaxe lots must demonstrate that the width of the battleaxe handle can accommodate:

- a. adequate perimeter landscaping along full length of handle, and
- b. adequate kerb length to accommodate waste bins for kerbside collection within frontage of the lot; and
- c. satisfy Council's access requirements noting that long access handles and frontage to a busy road may require passing bays or 2 way access.

The proposed access handle widths are unlikely to be adequate for more than a single dwelling (2.9m driveway width + 0.5-1m wide landscape) however it is highly likely that these lots will be purchased for the development of multi dwelling housing development. Issues then arise at the DA stage for such development proposals. Please note that each dwelling requires 1.5m kerb frontage for kerbside presentation of bins for collection. Bins need to be presented within the kerb length that fronts the lot.

With regard to the above, the number of battleaxe lots should be reduced and/or access handle width increased.

It is also noted that the Tullimbah Village DCP provisions restricts battle axe lots to where they front bushland, creek reserves or public open space. The battleaxe lots as proposed is a variation and must be justified for Council's consideration.

Retaining wall, cut & fill

Substantial cut is proposed along the western side of a proposed catch drain. The civil works plans indicate that this cut will be stabilised with a 1.8m – 2.4m high retaining wall within the properties of proposed lots 230-234, 344, 316-322. The retaining wall will continue along the northern boundary of lot 230. The SDCP however refers to a maximum retaining wall height of 1m. The SEE does not appear to address this policy requirement nor provide a justification for the proposed depth of cut.

Retaining wall heights should be reduced in height to be closer to the DCP maximum.

Substantial fill also seems to be proposed between Noble Road and lots 230-234. Earthworks also appear to be proposed between Noble Road and no. 2 (lot 119) Noble Road including an existing driveway into this property.

It would be appreciated if the following information is submitted:

- a. Subdivision layout plans should include retaining wall location and heights.
- b. Cross sections through lot #37–#230, Noble Road–#233, adjoining land with structure (eg no. 6) to an adjoining lot where no earthworks are proposed (eg #315) that details existing and proposed site levels, TOW heights, interface of retaining walls with adjoining lands. A cross section where the wall is highest should be selected.
- c. Where retaining walls exceed 1m in height, this variation to policy needs to be justified in accordance with part 2.5 of the SDCP for Council's consideration. This must include an assessment of the visual impact of the wall. A wall of this height is likely to detract from the amenity of the lot on which it is located noting that a 1.8m high boundary fence will be above the wall, albeit some 2m setback from the wall.
- d. How will the catch drain area some 2.4m above the finished levels of the residential lots be accessed for maintenance, including general weeding.
- e. A number of structures, including a dwelling and swimming pools, have minimal setback along the eastern boundary of the site. The proposed retained cut is likely to extend below the base of the footings of these structures. How has this been considered?

Superlots

What type of residential development is envisaged on the superlots? The dimensions of the superlot should allow the option of future development of rear loaded lots as future development is likely to include small lots.

Stage 7 small lots

Why has the partial development of the reside lot on the western side of Huskisson Street been proposed? It is noted that there maybe implications on the future development of this land, for example, the lots having frontage to Balmoral Parade are likely to require rear access thereby maintaining the existing streetscape; in addition, the transmission line easement will be a site constraint and a key factor in the siting of a dwelling and associated open space.

The future development of this land should be considered in the design layout and street network of the proposed lots of stage 7.

Small lots

The proposed building design guidelines and proposed street network are likely to result in the development of the small lots with driveways and garages dominating the streetscape, hence the requirement for rear loaded lots for similar sized lots elsewhere in Tullimbar. In addition, it is likely that little, if any, on-street parking will be possible along the street servicing these lots.

Shared paths

Pedestrian pathways with a width of 1.2m have been proposed *throughout the subdivision*. However, cycle paths or shared paths should be provided to encourage active transportation. Please submit a cycle and footpath network plan for the development of the site.

Transition

The SEE states that the proposal provides a transitional built form between the existing Tullimbar development and residential development to the east of the site. Information is required to support this statement.

A transition in urban design from the existing built environment of Tullimbar to the existing more traditional type of low density residential development to the east is acknowledged as being appropriate, however, (in the absence of how the land between Huskisson Street and Balmoral Parade will be developed) this appears to be limited to only the provision of some lots being less than 450sqm in area. On the basis of the information provided, the proposed street network and building design guidelines do not appear to promote a gradual transition in urban form.

6. Additional information

- a. Page 8 of Statement of Environmental Effects (SEE) refers to the development site as relating to (proposed) lots 1 and 2 however the fire trails and asset protection zone for the development proposal, in addition to the temporary turning heads, are located on lot 3.
- b. Revised information / plans are to 1) refer to current legal description of the development site; 2) identify the stages that relate to this DA only, i.e. stage 1 relates to a separate application DA 742/2002 (Part 10) eg the number of lots proposed under the current application are not to include the lots approved under a separate development application as has been shown on the submitted plans..
- c. The DA form identifies that a controlled activity approval is required under *the Water Management Act 2000*. Please clarify which water course is the subject of a controlled activity.
- d. Please provide a copy of the approved Tullimbar Water Quality and management Scheme referred to on page 18 of SEE; an electronic copy will suffice.
- e. The SEE (p. 40) says that the building design guidelines will apply to lots with an area of 450sqm with these lots being sold as house and land packages. As the DCP (as per the Court approved consent) requires guidelines for lots less than 450sqm in area, further information is required in this regard. For lots 450sqm in area (and greater) the planning framework does not include Tullimbar Village building design guidelines. Please clarify.
- f. The SEE (p.46) states that all proposed lots are for single housing. The SLEP 2000 however permits, with development consent, dual occupancy and multi dwelling housing developments, in addition to other types of residential development. Please clarify.
- g. On page 58 of the SEE under 6.12 'visual assessment', the last paragraph says the proposal 'seeks to maximise tree retention', and 'the subdivision adopts allotment sizes and frontages that are in excess of Council's requirements to achieve a lower density development than that contemplated by the SDCP requirements for subdivision'. Please clarify.

7. Riparian corridor

There is some inconsistency between the SEE and the Flora and Fauna report (prepared by Kevin Mills and Associates) in the recognition of native riparian vegetation along the ephemeral stream running east-west from Digby Close/north end of Noble Road. The SEE continually states there is no native vegetation on the proposal site, however Mills has recorded 105 native species on the site, with a majority of these occurring in the Riparian Corridor along the drainage line. This stand includes iconic species of including Red Cedar, Red Gum and Moreton Bay Fig.

Concept plans provided as drawing number 1501.DA.P01 (cover sheet of plans) shows the riparian vegetation is to be retained, however the plans contained in the remainder of the set show the vegetation will be removed and the drainage line developed with a drainage easement. Plans submitted with other DAs have shown the retention of the riparian corridor.

The assessment of significance conducted by Kevin Mills shows the removal of this vegetation will not be a significant impact. Whilst this may be the case on a regional perspective, the importance of this stand of vegetation to local residents is high.

Anecdotal advice has been provided regarding an agreement reached by Tullimbar Landcare in the late 1990's for the conservation of the riparian corridor in any future development at the site.

With regard to the above, please clarify the intention of clearing the riparian corridor.

8. Public notification

A number of submissions have been made objecting to the development. Matters raised in the submissions include traffic and road safety, the piping of an ephemeral water course and removal of associated vegetation, proposed plant species and plan information inconsistency.

The proposed plant species includes noxious weed species and poorly suitable species. This matter however can be addressed via conditions of consent such as species to be from locally sourced endemic species, should development consent be granted.

A response to the following matters raised in the submissions would be appreciated. Please note that your response, or part thereof, is likely to be provided to the objectors as relevant to the issues the objection has been made (usually at time of DA determination, or within any report to the JRPP).

Matters raised below are mostly extracts taken from the submissions:

Piping of Digby Creek from Noble Road

Inconsistency in plans with a plan showing Digby Creek whilst other plans show it being piped in the "Plans" notification documents the map on page 6 shows Digby Creek as a creek and not piped. However, in the "Plans" notification documents on Page 32 it shows Digby Creek piped and called a DRAINAGE EASEMENT. This is very unclear as it shows two completely different plans, so which is it to be? -- A pipe system or a natural water course?

The intermittent watercourse provides habitat for native fauna. In 1999, a Land Care Group was formed and successfully fought to have this creek in question retained as a natural water way with native species along the creek line. This development is substantial in size and greater consideration to the environment that the local residents have fought to protect over the last 16 years and take great pride of the environment in which we live.

Protection of the watercourse would provide a link to the natural landscape of the area. In this regard, how is the proposal consistent with the SEE clause 4.1 that the development is based on "ecological sustainable development principles" and the plan capitalises on the natural setting.

The Statement of Environmental Effects also states that the proposal will have no impact on the surrounding lands. How can this be when a natural creek bed will be covered and piped, fauna will lose their homes, and flora will be ripped out.

The increase in yield from the original DA approved master plan should allow the developer to develop as per the approved plan. Increased yield should not be as a result of piping the creek.

Flood risk will increase when piping a creek.

Retention of Digby Creek will provide additional open space as a nature reserve. Digby Creek should remain a natural water course as with further revegetation it would be a lovely location for residents to visit.

Street layout & connection

Difficult to comment on the proposed streets as submitted information and plans are inconsistent, with regard to the road connections to Noble Road, as summarised in the table below:

Reference	Road connection – Middle of Noble Rd	Road connection – Southern end of Noble Rd
Lot 522 Traffic Impact Assessment Fig 3.3	Yes	No
Lot 522 Traffic Impact Assessment Layout Plan 1 1501.DA.P01	No	No
Lot 522 Traffic Impact Assessment Layout Plan 2 1501.DA.P09	Not shown	No
Stormwater Management Study 1501 Figure 1	Yes	Yes
Stormwater Management Study 1501 Figure 3	No	No
Subdivision Staging Plan 1501.03.P03	No	No
DA 3 Subdivision Plan 1501.D3.P01	No	No
DA 3 Subdivision Density Plan 1501.D3.P02	No	No
Pit Catchment Plan 1501.D3.C15	No	No
Bulk Earthworks Plan 1501.D3.C05	No	No
Civil Works Plan 2 1501.D3.C03	No	No
Proposed S96 Subdivision Layout 1501.DA.P01	No	No
Balmoral Parade – Council Contract Plan 1501.DA.P01	Yes	Yes

TLC would have stronger objections to the layout which includes a road link to the southern end of Noble Road, as this would contribute to fragmentation of the habitat and impact on wildlife moving between Elizabeth Brownlee Reserve and Stockyard Mountain. This would also cause traffic problems on Noble Rd. It is hard to understand the inconsistency between the documents provided, surely the proponents know where the roads will be located?

Is Noble Road to be extended to connect to the southern part of the Tullimbar development?

Noble Road & traffic flow

... on page 1 in section 1.2 Development details contained in the document in the Traffic Assessment Plan that the development will be accessed via Sophia Street and Noble Road. Subsequent to that the traffic impact assessment focuses on the impacts to Sophia Street, Church Street and Tongarra Highway. Further, in the Statement of Environmental Effects Page A3, the DA states that "future residents will use existing street system, which is well able to accommodate the level of traffic that will be generated by future development proposals". Within the DA there has not been consideration and substantiated third party assessment given to the impacts to Noble Road. In its current state, Noble Road is hazardous. It is hazardous due to the following facts that result in "near misses" each and every day:

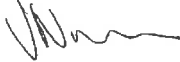
- 1) when driving from Sophie Street "up" Noble Road and approaching the crest of the road drivers are unable to see any oncoming traffic. Since the road is very narrow and there are cars parked on either side, you often have to drive on the wrong side of the road and hope that another car isn't approaching over the hill.;
- 2) There are blind spots as you come over the crest of the road; and
- 3) In sections of road where there are cars parked on either side there is only adequate safe space for one car to pass along the road at any one time.

Noble Road is also home to many children who ride bikes and play games along the street, having more traffic will be an accident waiting to happen. I don't see how Noble Road can be used as access when the residents already have difficulty travelling along the street.

Please provide 2 hard copy sets and 1 electronic copy of any amended subdivision plans and additional information; where the latter is provided via email to me, a CD will not be required.

Please do not hesitate in contacting me on 42216135 or reply email.

Yours sincerely

A handwritten signature in black ink, appearing to read 'V Nicholson', with a stylized flourish at the end.

Victoria Nicholson
Senior Development Assessment Officer

23rd May 2016

Project No. 1501

General Manager
Shellharbour City Council
Locked Bag 155
Shellharbour City Council, NSW 2529

Attention: Ms Victoria Nicholson
Senior Development Assessment Officer

Dear Victoria,

RE: DA 647/2015 – PROPOSED STAGED RESIDENTIAL SUBDIVISION AT LOTS 1, 2 & 3 DP 1214606, BRAEMAR STREET, TULLIMBAR – COUNCIL REQUEST FOR SUPPLEMENTRY INFORMATION

I refer to your email dated 2 May 2016 requesting additional information for Council (Environment Section) and my discussions with Mr Tim Anger regarding Engineering issues.

To this end I forward the following information:

1. Environmental Matters

Council's Environment Officer raised two concerns with our proposed development. Firstly that some potential fauna habitat has not been addressed, and secondly that details of an offset area for the loss of trees along the Digby Creek corridor needs to be addressed.

In regard the potential fauna habitat, I herewith attach a supplementary letter from our Flora and Fauna consultant, Dr Kevin Mills. Please note that Dr Mills had some telephone conversations with Council's Environment Officer, Ms Tuesday Heather, and further information was gleaned from her that Dr Mills has directly related to in his supplementary advice.

It seems that there are two hollow bearing trees at the end of the Digby Creek corridor, and we have had these trees located by survey and tagged (trees 30 and 32 on the attached survey plan).

We understand these trees may be habitat to micro bats so we have engaged the services of Lesryk Environmental Pty Ltd to carry out a bat survey on the night of Monday 23 May 2016. We will forward the results of this survey as soon as they come to hand, which will be within the next week.

Dr Mills is still suggesting the two trees in question, which are both *angophora floribunda*, should be removed as they will be incompatible with urban development.

In regard the offset area, we attach a plan showing an area within the subject property further to the south adjacent to the Hazelton Creek corridor (see attached plan). This offset land has an area of 4,670 sqm and is better placed to survive in the longer term.



2. Engineering Matters

Mr Tim Anger advised on Wednesday 18 May 2016 that Council's Waste Services section did not approve of the accessways we had linking Coolangatta Street, Bombala Place and Foxground Street.

We accept this concern, and have revised the subdivision layout accordingly to remove the accessways (see attached plans nos. 1501.DA3.P01 to P06 Rev E dated 20 May 2016).

Instead we have adopted a standard public road that runs parallel to the site eastern boundary, and links Coolangatta Street to Foxground Street. Some new roads have been created by doing this, and we have provided names in keeping with the South Coast towns theme Tianjara Street and Berry Street).

From discussions with Mr Anger, it seemed that this arrangement would be supported by Council's Waste Services section as well as the Engineering Section.

We forward this supplementary information in the hope that Council's concerns are accommodated, and a suitable solution has been found.

As mentioned above, we will forward the Micro Bat survey results as soon as they come to hand.

If however, Council identifies other areas of concern we would be happy to attend a meeting to resolve any outstanding issues with regard to the proposal.

If you wish to discuss this matter further please contact me on 02 4227 4233 or 0409 851833 or email ken@siteplus.com.au.

Yours faithfully



Ken Rootsey
Project Manager

Attachments:

1. *Flora and Fauna Supplementary Advice Letter from Dr Kevin Mills dated 19 May 2106.*
2. *Survey plan showing hollow-bearing trees.*
3. *Plan showing proposed Offset area*
4. *Revised layout plans nos. 1502.DA3.P01 to P06 Rev E dated 20 May 2016.*

Tel: (02) 4236 0620
Mobile: 0429 848 094

email: kevinmillskma@gmail.com

12 Hyam Place
Jamberoo NSW 2533

Mr Kern Rootsey
Director Engineering
Site Plus Pty Ltd
PO Box 5104 Wollongong NSW 2500

19 May 2016

Dear Sir

Re Further assessment of land at Digby Close, Albion Park

We note the questions from Council regarding the flora and fauna assessment for the above subdivision. Discussion with Council's environmental officer identified the two issues as:

- removal of two trees at the lower end of the Digby Close tree stand that contain hollows;
- the nature of the offset for removing the trees below Digby Close.

Council identified two trees of *Angophora floribunda*, one of which is said to be dead, at the lower end of the stand of trees below Digby Close as having hollows. Such hollows are used by many native animals, most particularly micro-bats, as indicated by Council. While it is unlikely that these trees contain important habitat for listed species of micro-bat, we **recommend** a survey of the hollows to determine use by bats. Retaining natural the trees in a backyard is never a good option. . In the long term, such trees rarely survive urbanisation. In this case *Angophora* trees drop branches readily and would likely be seen as a safety issue, particularly if the trees are dead or dying.

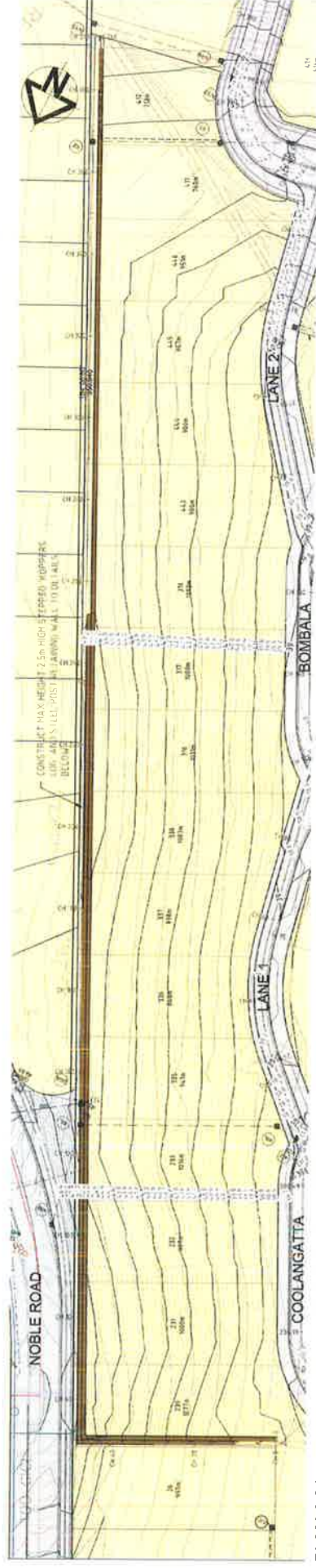
The area near Hazelton Creek covering 4670 m² would be a suitable offset area for the loss of the trees below Digby Close. Regeneration further along this creek would enhance this location as an offset area. This site is linked to other open space along the creek, so is better placed to survive in the long term, compared to the tree below Digby place that is small and surrounded by housing. We **recommend** a condition of consent that states this area should be regenerated as native forest and that a management plan be prepared to achieve this end.

Please feel free to contact me should you require any further comment.

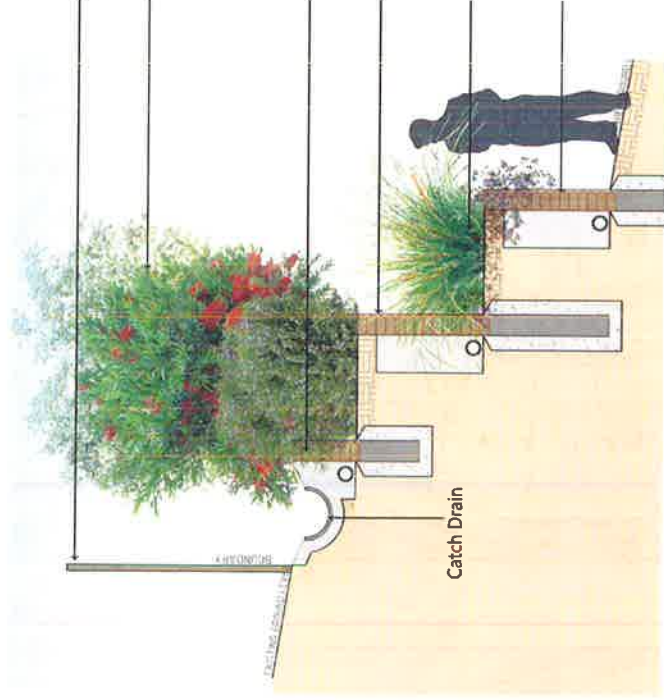
Yours sincerely
KEVIN MILLS & ASSOCIATES
Dr Kevin Mills
Managing Director



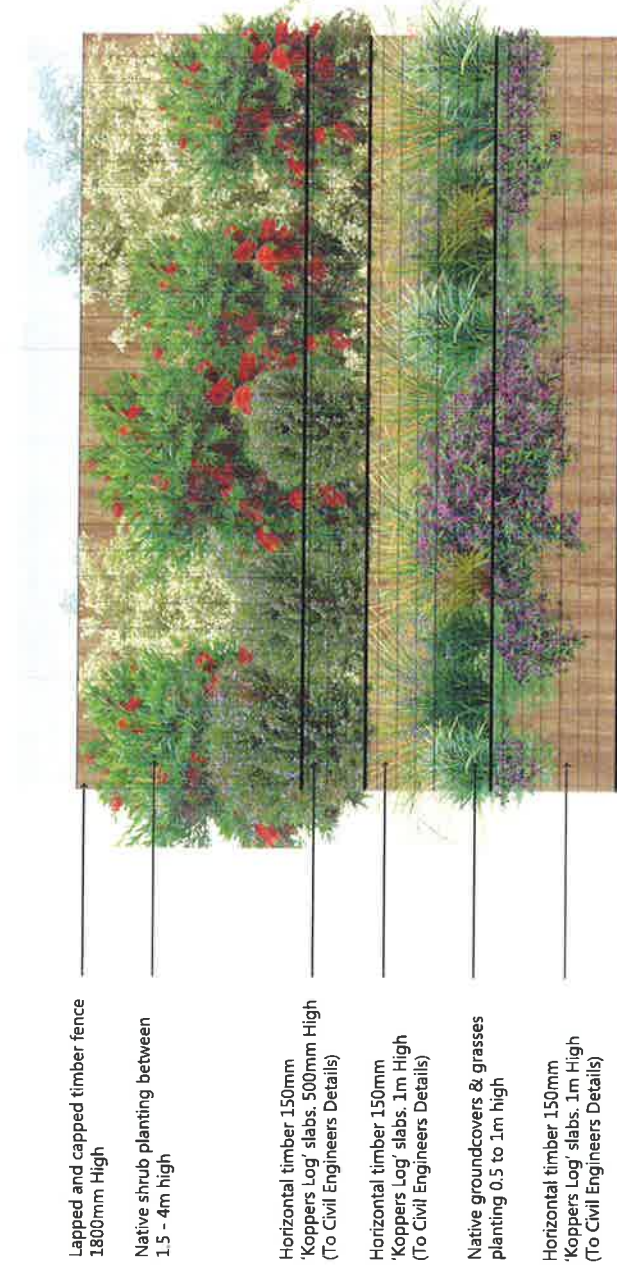
Tullimbar DA3, Illawarra, NSW - Eastern Boundary Wall Landscape Treatment



PLAN 1:500 (REFER TO CIVIL DRAWINGS FOR FURTHER DETAILS)



SECTION 1:20



ELEVATION 1:20

PLAN, SECTION AND ELEVATION

Drawing LDA-016

Tullimbar - DA3
Illawarra, NSW

20150317

Project:

Client:

Balmoral Parade Pty Ltd

Scale:

[illegible]

Tullimbar DA3, Illawarra, NSW - Eastern Boundary Wall Landscape Treatment

ATTACHMENT 5



ILLUSTRATIVE PERSPECTIVE

Botanical Name	Common Name	Mature Height	Pot Size
Shrubs			
Correa alba	White Correa	1.5m	200mm
Callistemon 'Kings Park Special'	Kings Park Bottle Brush	4m	200mm
Callistemon viminalis 'Macarthur'	Macarthur Bottle Brush	1.8m	200mm
Grevillea 'Moonlight'	Grevillea Moonlight	4m	200mm
Grevillea 'Honey Gem'	Grevillea Honey Gem	4m	200mm
Kunzea ambigua	Tick Bush	3.5m	200mm
Westringia fruticosa	Coastal Rosemary	2m	200mm
Groundcovers / Low Shrub			
Dianella caerulea	Dianella	1m	150mm
Hardenbergia violacea 'Merma'	Purple coral pea	0.5m	150mm
Lomandra longifolia	Lomandra	1m	Tube
Lomandra laevis	Tenille	0.6m	Tube
Pennisetum alopecuroides	Football Grass	0.8m	Tube
Rhagodia spinescens	Creeping Salt Bush	0.5m	150mm
Scariosa humilis	Fair Flower	0.2m	150mm

PLANT IMAGES



Westringia fruticosa



Callistemon viminalis
'Kings Park Special'



Pennisetum nafray



Lomandra longifolia



Correa alba



Hardenbergia violacea



Dianella caerulea

Note: Low maintenance, low water use native planting to be used.

ILLUSTRATIVE PERSPECTIVE AND

PLANTING LIST

Drawing LDA-017

Project:

Tullimbar - DA3

Illawarra, NSW

Job Number:

20150317

Client:

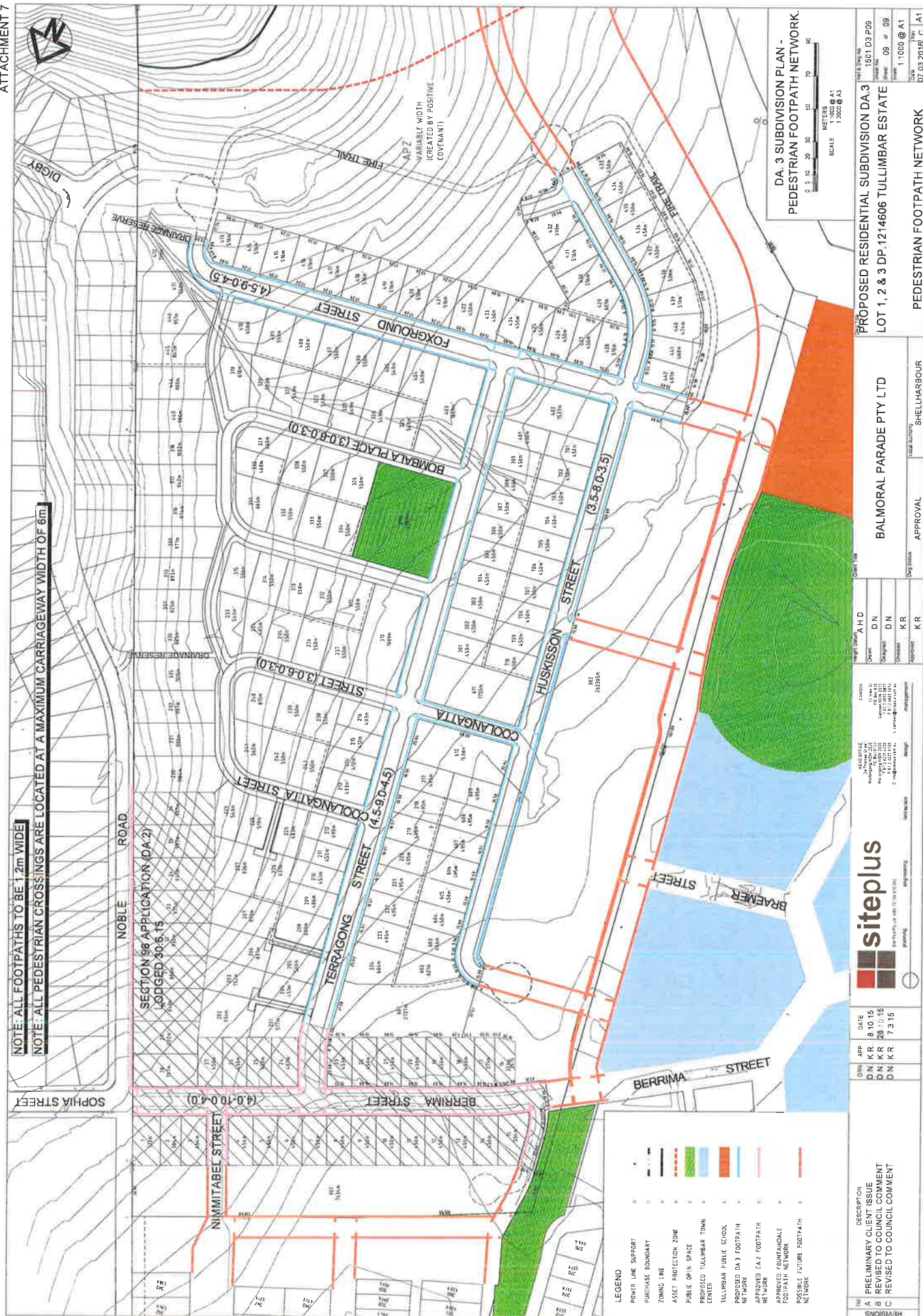
Balmoral Parade Pty Ltd

Scale:

1:100 (Landscape Architecture)

1:50 (Site Plan)

1:25 (Detail)



Targeted microchiropteran survey, Noble Road, Tullimbar, NSW.

At the request of Site Plus Pty Ltd a targeted microchiropteran (insectivorous bat) survey has been conducted within a portion of the above property. The investigation has been conducted as three hollow-bearing trees are present, and there is the potential for these to be occupied by hollow-dependent microchiropterans. Two of the trees are dead (on site tagging indicating that these are tree numbers 30 and 32), the third (tree number 31), is an alive Rough-barked Apple (*Angophora floribunda*).

As part of the site's subdivision, in addition to a number of other plants, it is proposed to remove these three trees.

The three trees are present within an ephemeral drainage line, the alive plant being around 15 metres (m) in height. Some hollows are present, these being between 5 centimetres (cm) and 20 cm wide. Using a hand held torch, inspections of those accessible hollows did not reveal any sheltering animals. The depth of the inspected hollows is no greater than 10 cm.

It is noted that several horizontal dead limbs are present. Inspections of several of these was possible and it was noted that the heartwood was still present. The presence of this material has precluded the development of hollows.

Dead vertical limbs were also present. Given the height and angle of these it was not possible to visually inspect these plants. Whilst it is assumed that the character of these limbs would be similar to the horizontal ones inspected (i.e. no hollows due to the presence of heartwood), as these limbs could not be viewed, a precautionary approach to the presence of hollows has been adopted. If present, the hollows would be approximately 5 cm wide.

To target the presence of any microchiropterans, two Anabat ExpressTM echolocation detection units were established. One unit was attached to tree 31, the second to tree 32. Both detectors were established at a height of 3 m above ground level. The detector placed in tree 31 was directed at the canopy of this plant, the one in tree 32 was positioned so it would record any bats roosting in plants 30 and 32.

A third detector ('a control') was established on the edge of a clearing that is present within a nearby woodland stand. This woodland area occurs 230 m south of those trees being targeted (Figure 1). For reference, the Global Positioning System coordinate of the control detector was Easting 294654; Northing 6171223. This unit was established to determine if any microchiropterans were present within this larger, and better developed stand, of vegetation.

Being programmable, all units were set to night mode and established on site on 23 May 2016. The units were left in place for two evenings. The weather conditions at the time of the investigation were generally clear skies and warm day time temperatures dropping to around 11 degrees at night. No rain fell within the region during the course of the investigation.

Results

No microchiropterans were recorded through use of the two echolocation units placed within the creek line.



Source: Google Maps (2016)

Not to scale

Figure 1: Placement of Anabat units.

27/05/16

The unit placed in the woodland recorded calls produced by the Chocolate Wattled Bat (*Chalinolobus morio*), Eastern False Pipistrelle (*Falsistrellus tasmaniensis*) and Eastern Bentwing Bat (*Miniopterus (schreibersii) orianae oceansis*).

The Chocolate Wattled Bat and Eastern False Pipistrelle are both hollow-occupying microchiropteran. In regards to these two bats, the time of their first pass (i.e. the first time their calls were recorded) was 0122 am and 0258 am respectively. The recording of these bats at this time would suggest they were detected whilst foraging through the woodland, as opposed to leaving a roosting site on dusk (which at the time of the investigation was 1724 pm) or returning at dawn (0619 am).

The Eastern Bentwing Bat, a cave dependent species, was recorded at 2215 pm. As no caves or suitable cave substitutes are present, this species is also expected to have been recorded during one of its foraging movements.

The Eastern False Pipistrelle and Eastern Bentwing Bat are both listed as Vulnerable under Schedule 2 of the NSW *Threatened Species Conservation Act 1995*.

As no hollow-dependent microchiropteran were recorded by the detectors placed in trees 31 and 32, and as microchiropteran were recorded within the woodland, it is not considered that any individuals are occupying the three plants targeted. The observed habitat of the dead limbs to retain their heartwood is considered to negate the development of hollows. Hollows are present, but inspections of these did not reveal any sheltering bats. As none were detected, the clearing of trees 30, 31 and 32 would not remove any sheltering opportunities for hollow-dependent microchiropteran, particularly those of State conservation concern. As no threatened microchiropteran were detected in association with trees 30, 31 and 32, it is not considered that the clearing of these three plants would have a significant impact on these animals, their habitat or life cycle requirements.

Whilst no threatened microchiropteran were detected in association with trees 30, 31 and 32, as State listed hollow-occupying species were recorded nearby, it was considered appropriate to assess the proposed clearing works with reference to the assessment criteria provided under Part 1, 5A of the NSW *Environmental Planning and Assessment Act 1979* (these commonly referred to as the seven-part test).

As no significant resources are present for the Eastern Bentwing Bat, particularly sheltering or breeding habitat, it is not considered necessary to undertake an assessment on this species.

Assessment of Significance

The potential impacts associated with the removal of three hollow-bearing trees and a number of insect attracting plants on the local viability of the Eastern False Pipistrelle is considered with reference to the assessment criteria provided in association with Part 1, Section 5A of the NSW *Environmental Planning and Assessment Act 1979*. These criteria are designed to determine whether there is likely to be a significant effect on threatened species or their habitats, and consequently whether a Species Impact Statement is required.

(a) in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction.

The Eastern False Pipistrelle was not recorded roosting within any of the areas surveyed, particularly that portion of the site where the three hollow-bearing trees occur. As they are not being occupied, the removal of these plants, and some insect attracting resources, would not disrupt the life cycle of a viable local population of this species such that it would be placed at risk of extinction.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction

An 'endangered population' is defined as a "population specified in Part 2 of Schedule 1" of the NSW *Threatened Species Conservation Act 1995*. No hollow-dependent microchiropterans are listed under Part 2, Schedule 1 of the NSW *Threatened Species Conservation Act 1995*.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

- (i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
- (ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction*

No hollow-dependent microchiropterans are listed as an endangered ecological community.

(d) in relation to the habitat of a threatened species, population or ecological community:

- (i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and*

Three hollow-bearing trees and a number of insect attracting plants will be removed.

- (ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and*

The Eastern False Pipistrelle can easily negotiate open areas, urban developments and urban infrastructure (author's field notes). The removal of the 110 m (approximately) long strip of vegetation that is present in association with the ephemeral drainage line would not result in habitat for this species becoming fragmented or isolated.

- (iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality*

The resources present within the ephemeral drainage line are not considered to be unique to this locality. South of the area surveyed, and in the wider region, similar resources (i.e. hollow-bearing trees and insect attracting plants) are present. The importance of the area targeted is therefore considered to be limited. The vegetation proposed to be cleared is not considered important for the long-term survival of the Eastern False Pipistrelle.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)

No critical habitat would be adversely affected by the proposal. The subject site is not listed as critical habitat under Part 3 Division 1 of the TSC Act.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan

A recovery plan has not been prepared for the Eastern False Pipistrelle. A number of priority actions have been identified to assist the recovery of hollow-dependant microchiropteran in NSW, none of which would be relevant to the scope of works proposed.

A targeted strategy for managing the Eastern False Pipistrelle has been developed under the Saving Our Species program, this species being assigned to the 'Landscape species management stream'. Actions identified for this species are:

- Protect and maintain areas of high quality habitat, particularly areas of extensive tall forest (dominated by trees more than 20 m in height), which include areas of high productivity foraging habitat around creeks, rivers and wetlands. Where possible negotiate conservation agreements with landholders, agreements should preferably be funded and in-perpetuity.
- Encourage landholders to retain and protect hollow-bearing trees in suitable habitat. Ensure long-term hollow availability by protecting recruit trees, that is, trees that will be able to provide hollows when current hollow-bearing trees have died and fallen.
- Undertake revegetation, using a locally appropriate mix of native species, in areas that will develop into tall forest. Revegetation should focus on expanding existing smaller areas of suitable habitat, and areas of high productivity such as riparian areas and wetlands.
- Ensure roosting bats are not present before removing or disturbing hollow-bearing trees in winter.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process

Currently 35 Key Threatening Processes for mainland NSW are listed under Schedule 3 of the TSC Act. Of these, the 'clearing of native vegetation' and 'loss of hollow-bearing trees' would be applicable to the proposal.

Whilst it is acknowledged that the proposal would remove some vegetation and three hollow-bearing trees, no microchiropterans were recorded occupying or using these resources. Hollow-dependent microchiropteran were recorded south of the area proposed to be cleared, in an area of better habitat.

Expected impact on the Eastern False Pipistrelle

The undertaking of the proposal would not disturb, remove, modify or fragment any habitats critical to the life cycle requirements of the Eastern False Pipistrelle. Therefore, the preparation of a Species Impact Statement that further considers the impacts of the proposal on this species is not required.

Conclusion

Hollow-dependent microchiropteran were not recorded occupying trees 30, 31 and 32. Given the character of these trees as observed during the field inspection, the nature of these plants are not expected to provide any sheltering and breeding opportunities for Hollow-dependent microchiropteran.

Should you require anything further on this matter please contact the undersigned.

Yours sincerely,



27 May 2016

Deryk Engel
Director
Lesryk Environmental Pty Ltd
PO Box 3001 Bundeena NSW 2230
deryke@lesryk.com.au

Attachment 1: Photographic record



Plate 1: Tree 31, with trees 32 and 30 to the left and right of it respectively.



Plate 2: Character of an accessible hollow observed within tree 30.

24 June 2016

Project No. 1501

General Manager
Shellharbour City Council
Locked Bag 155
Shellharbour City Council, NSW 2529

Attention: Ms Victoria Nicholson
Senior Development Assessment Officer

Dear Victoria,

RE: DA647/2015 – PROPOSED STAGED RESIDENTIAL SUBDIVISION AT BRAEMAR STREET TULLIMBAR – COUNCIL REQUEST FOR ADDITIONAL INFORMATION

I refer to your email correspondence dated Monday 20 June and Tuesday 21 June 2016 requesting additional information for Council to complete its assessment of the above Development Application (DA).

This additional information has been prepared by Project Plus Pty Ltd (Project Plus) on behalf of Balmoral Parade Pty Ltd, in response to the issues raised by Shellharbour City Council (Council) on the proposed Staged Residential Subdivision at Braemar Street, Tullimbar.

It is to be read in conjunction with the Statement of Environmental Effects (SEE) lodged with the Development Application (DA647/2015) on 13 October 2015 and the additional information lodged with Council on 11 March 2016 and 23 May 2016. This letter and the attachments endeavour to address all the issues raised in Council's request for additional information dated 20 and 21 June 2016 and our meeting of 22 June 2016.

It should be noted that as a consequence of our meeting and the comments below we have prepared amended plans that we now lodge in support of our application (Attachment 7) our response is as follows:

Ecological Matters

1. Assessment of Fauna

As part of the Flora and Fauna Assessment (Kevin Mills & Associates Report dated September 2015) prepared and submitted to Council for the subject Development Application a fauna survey was undertaken in March and April 2015 to detect possible presence of vertebrate fauna species present, to describe the fauna habitat on the subject land and to assess the potential for the habitat to support threatened animals. All animals observed were identified and recorded, either through direct observation, recognition of calls



or by indirect means (eg: dung, tracks and diggings). This survey included the Digby Creek gully area.

Additionally, Lesryk Environmental Pty Ltd undertook a Microchiropteran (Insectivorous bat) survey of hollow bearing trees on site in May 2016. Another copy of this report is included in [Attachment 1](#) for Council's convenience. Although the survey targeted bats, other sheltering animals (eg: possums, sugar gliders etc) were also considered in the hollow bearing trees and none were observed. (See additional comments provided by Lesryk Environmental in [Attachment 2](#).)

2. Bat Survey

Council has raised concerns regarding the timing of the bat survey being outside the peak survey time and following a full moon and how this may have impacted the species detected. Deryk Engel of Lesryk Environmental provides a detailed comment on this matter in [Attachment 2](#) to this letter.

Council advised that a table recording the number, height and size of each hollow should have been included in the Microchiropteran Survey Report. Lesryk Environmental acknowledges this however a cherry picker or crane would be required on site to access the tops of the trees in the gully and this was not considered feasible. The number and size (ie: 5cm to 20cm) of the hollows observed and inspected was provided in the report.

Council also commented that a table is usually included which records species detected, location and time, however all this information was presented in the text of the report and it is considered that a table would not add value in this instance.

3. Mitigation Measures and Tree Removal Procedures

Council requested details of proposed mitigation measures and appropriate tree removal procedures and recommendations for fauna which may be utilising hollows in the trees in the Digby Creek gully. Lesryk Environmental has provided a detailed response on mitigation measures and procedures and recommendations to minimise the impact on any fauna present on site in [Attachment 3](#).

4. Proposed Offset

A review of the Statement of Environmental Effects dated September 2015 submitted for the subject DA and the Supplementary Information letter dated 11 March 2016 submitted to Council does not use the wording "offset" or refer to "offsets" in the context of the clearing of the Digby Creek gully area. Therefore, it is unclear where the term "offset" for the loss of vegetation along the 100m of Digby Creek originated.

Our letter of 11 March 2016 did state that a much better environmental outcome was to target the conservation effort into the more viable area of native vegetation on Lot 3 in the future. There is a significant area of existing native rainforest and woodland in the environmental protection zone to the south on Lot 3 which has connectivity to the existing vegetation on the adjoining land to the south and east. This vegetation requires further ecological assessment as part of a future development application.

The intention was not for this area of vegetation to be considered as a formal offset for the loss of vegetation in the Digby Creek gully but to highlight that from an ecological viewpoint it is where the effort for conservation should be targeted as it will be more viable in the long term and more important on a regional perspective.

Therefore, based on the discussions at our meeting of 21 June 2016 and all the information provided to Council to date as follows:

- Statement of Environmental Effects dated September 2015;
- Flora and Fauna Assessment by Kevin Mills dated September 2015;
- Supplementary Letter from Kevin Mills dated 10 February 2016;
- Supplementary Information letter and attachments dated 11 March 2016; and
- Targeted Microchiropteran Survey, dated May 2016, by Lesryk Environmental.

it is considered that the 100m of Digby Creek vegetation is not a significant area of vegetation and contains no threatened species or endangered ecological communities. Accordingly, the removal of the vegetation is not significant in terms of the assessment of significance under the State Legislation, being the *Environmental Planning & Assessment Act 1979* and the *Threatened Species Conservation Act* (ie: not State Significant) . Furthermore, this being the case under the State Legislation the proposal does not need a Species Impact Statement and does not need to be offset or bio banked.

Finally, it is our understanding that based on all the information presented this position is supported by Council , as indicate at the meeting on 21 June 2016, and Council does not require an offset for the removal of the Digby Creek vegetation as part of this DA.

5. Landscape Plant Species

It is noted that the submitted Landscape Concept Plan lists *Pennesitum* sp. It is agreed to remove this species and we request it be a condition of consent.

6. Moving Forward

Council's comments on the embellishment of the riparian corridor along Hazelton and Cooback Creeks in Lot 3 and the Endangered Ecological Community (EEC) and habitat on Lot 3 are noted.

The embellishment of the riparian corridor requires consideration of the recommendations in the adopted Forbes Rigby Flood Study dated April 2000, the existing consent conditions (DA 741/2002) and further discussions with Miltonbrook Land on the treatment and reshaping of the creekbank. This will be the subject of a future DA over Lot 3.

The issue of the significant vegetation on Lot 3 being assessed under the Biobanking Assessment Methodology and a Biobanking Agreement being entered into for any future development on Lot 3 is a matter for the future proposal on Lot 3 and not relevant to this subject DA.

Any proposal for Lot 3 would require a detailed ecological assessment of the vegetation and habitat features and discussions with Council on the methods of biodiversity conservation.

Planning & Engineering Matters

7. Future Development of Super Lots

It is understood that the Tullimbar Development Control Plan (DCP) does not discuss superlots. However, it is our understanding that the superlots can be subdivided in the future subject to the preparation of another DA. The intention is to do an integrated application where the subdivision and building applications are combined in one package. The lots to be created would be less than 450m² and accordingly BDGs would be included with the application.

The location of the superlots are in the medium to low density areas of the project area and rear loaded housing cannot be undertaken in this area due to the topographical constraints. For rear loaded housing to be considered a flat area is required as you require minimal fall between the first dwelling, the lane and the opposite dwelling (opposite garage of the laneway).

8. Lot 601 and Kerbside Collection of Waste

We agree with Council's comments in relation to Lot 601. As there is flexibility with the lots to the west of Lot 601 we have amended the subdivision plan to ensure there are no future issues on this lot.

9. Battleaxe Lots

Council's concerns regarding the potential for multi-unit housing on the battleaxe lots and the potential issues with garbage bins and kerbside waste collection are noted. However, as discussed at our meeting on 21 June 2016 with Victoria Nicholson, we seek to find a better solution for the battleaxe lots to the one put forward, being a 200m strip of land across the frontage of the adjoining lots to provide space to store bins for the potential homes on the battleaxe lots. Although this may satisfy Council's requirements Allam Property Group (Allam) does not consider it a good planning outcome and may create issues in the future for the people that live on the lot at the front as they will have a thin strip of land on their front boundary that belongs to someone else.

In an email to Tim Anger on 20 June 2016 Allam put forward a preferred option which was also discussed at the meeting on 21 June 2016. Whilst it is understood that the SLEP 2013 allows multi unit housing Allam has undertaken measures to avoid this occurring as Allam do not believe it is a positive urban design outcome for its residential estate.

Allam will be building on approximately half the lots at Tullimbar and the other half will be sold off as land. On the lots that are sold as land Allam includes a Deed in the Sales Contract which the purchasers have to agree to if they want to purchase. A copy of the Deed forms [Attachment 4](#). The Deed is for the sole purpose of avoiding anyone building more than a single dwelling on any property. In the event that they do not comply then Allam can legally

buy the land back from the purchaser. This will prevent people from building dual occupancies and multi unit dwellings. There are time restrictions also included in the Deed (Refer to page 12 in the document) which notes the requirement to start and complete the dwelling in a specific time frame. It is understood Lend Lease have been using a similar process at their Calderwood Valley Project.

As well as the Deed, Allam have incorporated a Clause in the Section 88B Instrument which does not allow people to on sell the property to anyone else until a dwelling has been constructed on it (Refer to Condition 4 in restriction number – page 3 in the attached draft Section 88B Instrument document in Attachment 5).

Overall it is considered these measures are sufficient to deter purchasers looking to build dual-occupancies or multi unit dwellings in the Estate and offers a better design solution. Therefore, we look to Council to be flexible and support this preferred option.

10. Transition Area

Allam have considered various options in relation to how the rear loaded housing would be feasible between Huskisson Street and Balmoral Parade. Allam have prepared a further design concept to demonstrate how this area could be developed incorporating rear loaded housing which Allam believes complies with the Tullimbar DCP (See Attachment 6). It is considered that the concept eliminates any issues associated with garage dominance on Balmoral Parade and also offers a good outcome with regards to providing housing diversity in the Estate. The option presented is indicative at this stage and Allam seek to develop this further in the future.

As noted previously there are topographical constraints on the site associated with where rear loaded housing can be established. The plan shows a highlighted area in red which is relatively flat and can accommodate the rear loaded housing. The adjoining area highlighted in green starts to increase in slope and it becomes more difficult to construct this form of housing.

The importance of the Balmoral Parade streetscape to the future Village Centre is recognised and it is considered that the electrical easement offers an opportunity to enhance the streetscape through a landscape buffer. Together with the orientation of the dwellings, sympathetic fencing design, pavement choice and landscape design the amended layout will present an enhanced and attractive streetscape to Tullimbar Village Centre.

11. Amended Plans

Council's comments on the submitted plans are noted and the plans have been amended accordingly and form Attachment 7.

It is hoped that this addresses all the information that Council requires to finalise the assessment of the DA. If however, Council identifies other areas of concern we would be happy to attend a meeting to resolve any outstanding issues with regard to the proposal as a matter of urgency. Making the JRPP meeting of 25 July 2016 remains a critical date for the project.

If you wish to discuss this matter further please contact me on 02 4227 4233 or 0409 851833 or email ken@siteplus.com.au or Wendy Todd on 0418 616 443 or email wendy@siteplus.com.au

Yours faithfully



Ken Rootsey
Project Manager

Attachments:

1. *Targeted Microchiropteran Survey, May 2016, Lesryk Environmental.*
2. *Additional information letter from Lesryk Environmental dated 20 June 2016.*
3. *Proposed Ecological Mitigation Measures from Lesryk Environmental dated 20 June 2016.*
4. *Copy of the Deed of Covenant for Sales Contract.*
5. *Copy of draft Section 88B Instrument*
6. *Concept Stage 5 Master Plan for Rear Loaded Lots*
7. *Amended Subdivision Plans*

Targeted microchiropteran survey, Noble Road, Tullimbar, NSW.

At the request of Site Plus Pty Ltd a targeted microchiropteran (insectivorous bat) survey has been conducted within a portion of the above property. The investigation has been conducted as three hollow-bearing trees are present, and there is the potential for these to be occupied by hollow-dependent microchiropterans. Two of the trees are dead (on site tagging indicating that these are tree numbers 30 and 32), the third (tree number 31), is an alive Rough-barked Apple (*Angophora floribunda*).

As part of the site's subdivision, in addition to a number of other plants, it is proposed to remove these three trees.

The three trees are present within an ephemeral drainage line, the alive plant being around 15 metres (m) in height. Some hollows are present, these being between 5 centimetres (cm) and 20 cm wide. Using a hand held torch, inspections of those accessible hollows did not reveal any sheltering animals. The depth of the inspected hollows is no greater than 10 cm.

It is noted that several horizontal dead limbs are present. Inspections of several of these was possible and it was noted that the heartwood was still present. The presence of this material has precluded the development of hollows.

Dead vertical limbs were also present. Given the height and angle of these it was not possible to visually inspect these plants. Whilst it is assumed that the character of these limbs would be similar to the horizontal ones inspected (i.e. no hollows due to the presence of heartwood), as these limbs could not be viewed, a precautionary approach to the presence of hollows has been adopted. If present, the hollows would be approximately 5 cm wide.

To target the presence of any microchiropterans, two Anabat Express™ echolocation detection units were established. One unit was attached to tree 31, the second to tree 32. Both detectors were established at a height of 3 m above ground level. The detector placed in tree 31 was directed at the canopy of this plant, the one in tree 32 was positioned so it would record any bats roosting in plants 30 and 32.

A third detector ('a control') was established on the edge of a clearing that is present within a nearby woodland stand. This woodland area occurs 230 m south of those trees being targeted (Figure 1). For reference, the Global Positioning System coordinate of the control detector was Easting 294654; Northing 6171223. This unit was established to determine if any microchiropterans were present within this larger, and better developed stand, of vegetation.

Being programmable, all units were set to night mode and established on site on 23 May 2016. The units were left in place for two evenings. The weather conditions at the time of the investigation were generally clear skies and warm day time temperatures dropping to around 11 degrees at night. No rain fell within the region during the course of the investigation.

Results

No microchiropterans were recorded through use of the two echolocation units placed within the creek line.



Source: Google Maps (2016)

Not to scale

Figure 1: Placement of Anabat units.

27/05/16

The unit placed in the woodland recorded calls produced by the Chocolate Wattled Bat (*Chalinolobus morio*), Eastern False Pipistrelle (*Falsistrellus tasmaniensis*) and Eastern Bentwing Bat (*Miniopterus (schreibersii) orianae oceansis*).

The Chocolate Wattled Bat and Eastern False Pipistrelle are both hollow-occupying microchiropteran. In regards to these two bats, the time of their first pass (i.e. the first time their calls were recorded) was 0122 am and 0258 am respectively. The recording of these bats at this time would suggest they were detected whilst foraging through the woodland, as opposed to leaving a roosting site on dusk (which at the time of the investigation was 1724 pm) or returning at dawn (0619 am).

The Eastern Bentwing Bat, a cave dependent species, was recorded at 2215 pm. As no caves or suitable cave substitutes are present, this species is also expected to have been recorded during one of its foraging movements.

The Eastern False Pipistrelle and Eastern Bentwing Bat are both listed as Vulnerable under Schedule 2 of the NSW *Threatened Species Conservation Act 1995*.

As no hollow-dependent microchiropteran were recorded by the detectors placed in trees 31 and 32, and as microchiropteran were recorded within the woodland, it is not considered that any individuals are occupying the three plants targeted. The observed habitat of the dead limbs to retain their heartwood is considered to negate the development of hollows. Hollows are present, but inspections of these did not reveal any sheltering bats. As none were detected, the clearing of trees 30, 31 and 32 would not remove any sheltering opportunities for hollow-dependent microchiropteran, particularly those of State conservation concern. As no threatened microchiropteran were detected in association with trees 30, 31 and 32, it is not considered that the clearing of these three plants would have a significant impact on these animals, their habitat or life cycle requirements.

Whilst no threatened microchiropteran were detected in association with trees 30, 31 and 32, as State listed hollow-occupying species were recorded nearby, it was considered appropriate to assess the proposed clearing works with reference to the assessment criteria provided under Part 1, 5A of the NSW *Environmental Planning and Assessment Act 1979* (these commonly referred to as the seven-part test).

As no significant resources are present for the Eastern Bentwing Bat, particularly sheltering or breeding habitat, it is not considered necessary to undertake an assessment on this species.

Assessment of Significance

The potential impacts associated with the removal of three hollow-bearing trees and a number of insect attracting plants on the local viability of the Eastern False Pipistrelle is considered with reference to the assessment criteria provided in association with Part 1, Section 5A of the NSW *Environmental Planning and Assessment Act 1979*. These criteria are designed to determine whether there is likely to be a significant effect on threatened species or their habitats, and consequently whether a Species Impact Statement is required.

(a) in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction.

The Eastern False Pipistrelle was not recorded roosting within any of the areas surveyed, particularly that portion of the site where the three hollow-bearing trees occur. As they are not being occupied, the removal of these plants, and some insect attracting resources, would not disrupt the life cycle of a viable local population of this species such that it would be placed at risk of extinction.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction

An 'endangered population' is defined as a "population specified in Part 2 of Schedule 1" of the NSW *Threatened Species Conservation Act 1995*. No hollow-dependent microchiropterans are listed under Part 2, Schedule 1 of the NSW *Threatened Species Conservation Act 1995*.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

- (i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
- (ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction*

No hollow-dependent microchiropterans are listed as an endangered ecological community.

(d) in relation to the habitat of a threatened species, population or ecological community:

- (i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and*

Three hollow-bearing trees and a number of insect attracting plants will be removed.

- (ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and*

The Eastern False Pipistrelle can easily negotiate open areas, urban developments and urban infrastructure (author's field notes). The removal of the 110 m (approximately) long strip of vegetation that is present in association with the ephemeral drainage line would not result in habitat for this species becoming fragmented or isolated.

- (iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality*

The resources present within the ephemeral drainage line are not considered to be unique to this locality. South of the area surveyed, and in the wider region, similar resources (i.e. hollow-bearing trees and insect attracting plants) are present. The importance of the area targeted is therefore considered to be limited. The vegetation proposed to be cleared is not considered important for the long-term survival of the Eastern False Pipistrelle.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)

No critical habitat would be adversely affected by the proposal. The subject site is not listed as critical habitat under Part 3 Division 1 of the TSC Act.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan

A recovery plan has not been prepared for the Eastern False Pipistrelle. A number of priority actions have been identified to assist the recovery of hollow-dependant microchiropteran in NSW, none of which would be relevant to the scope of works proposed.

A targeted strategy for managing the Eastern False Pipistrelle has been developed under the Saving Our Species program, this species being assigned to the 'Landscape species management stream'. Actions identified for this species are:

- Protect and maintain areas of high quality habitat, particularly areas of extensive tall forest (dominated by trees more than 20 m in height), which include areas of high productivity foraging habitat around creeks, rivers and wetlands. Where possible negotiate conservation agreements with landholders, agreements should preferably be funded and in-perpetuity.
- Encourage landholders to retain and protect hollow-bearing trees in suitable habitat. Ensure long-term hollow availability by protecting recruit trees, that is, trees that will be able to provide hollows when current hollow-bearing trees have died and fallen.
- Undertake revegetation, using a locally appropriate mix of native species, in areas that will develop into tall forest. Revegetation should focus on expanding existing smaller areas of suitable habitat, and areas of high productivity such as riparian areas and wetlands.
- Ensure roosting bats are not present before removing or disturbing hollow-bearing trees in winter.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process

Currently 35 Key Threatening Processes for mainland NSW are listed under Schedule 3 of the TSC Act. Of these, the 'clearing of native vegetation' and 'loss of hollow-bearing trees' would be applicable to the proposal.

Whilst it is acknowledged that the proposal would remove some vegetation and three hollow-bearing trees, no microchiropterans were recorded occupying or using these resources. Hollow-dependent microchiropteran were recorded south of the area proposed to be cleared, in an area of better habitat.

Expected impact on the Eastern False Pipistrelle

The undertaking of the proposal would not disturb, remove, modify or fragment any habitats critical to the life cycle requirements of the Eastern False Pipistrelle. Therefore, the preparation of a Species Impact Statement that further considers the impacts of the proposal on this species is not required.

Conclusion

Hollow-dependent microchiropteran were not recorded occupying trees 30, 31 and 32. Given the character of these trees as observed during the field inspection, the nature of these plants are not expected to provide any sheltering and breeding opportunities for Hollow-dependent microchiropteran.

Should you require anything further on this matter please contact the undersigned.

Yours sincerely,



27 May 2016

Deryk Engel
Director
Lesryk Environmental Pty Ltd
PO Box 3001 Bundeena NSW 2230
deryke@lesryk.com.au

Attachment 1: Photographic record



Plate 1: Tree 31, with trees 32 and 30 to the left and right of it respectively.



Plate 2: Character of an accessible hollow observed within tree 30.

Ms Wendy Todd
Site Plus Pty Ltd
2a Thomas Street
Wollongong NSW 2500



20 June 2016

Dear Wendy,

Reponses to Council's comments in regards to the conducting of a microchiropterans survey as part of DA 647/2015, Noble Road, Tullimbar, NSW,

Thank you for contacting us in regards to the above matter. We provide the following feedback in response to matters raised by Shellharbour City Council (SCC).

SCC - The survey was conducted outside the peak survey time (Oct – Mar) and 1 day following a full moon. This would have impacted the number and type of species detected. These limitations were not mentioned in the report.

Lesryk response - It is acknowledged that, as per standard guidelines, the timing of the survey was outside of the recommended period for microchiropterans. Whilst this is the case, the extended warm weather that proceeded the investigation (which included temperatures that ranged from around 20 to 27 degrees) were considered to be conducive to the detection of microchiropterans. If the temperatures were not conducive, no bats would have been recorded. As it was, three species were detected, one, the Eastern Bentwing Bat (*Miniopterus (schreibersii) orianae oceansis*), being Australian main cave occupying species. Presumably if the bats were entering hibernation/torpor, microchiropteran such as the Eastern Bentwing Bat should not have been detected.

Two hollow-dependant bats were recorded in the 'southern' woodland where hollow-bearing trees were present. Presumably if bats were occupying those trees in the gully, individuals would also have been detected.

In regards to the potential for those trees present within the gully to form hollows, as stated clearly in our report dated 27 May 2016, we make the comment:

- It is noted that several horizontal dead limbs are present. Inspections of several of these was possible and it was noted that the heartwood was still present. The presence of this material has precluded the development of hollows (page 1, paragraph 4).
- Dead vertical limbs were also present. Given the height and angle of these it was not possible to visually inspect these plants. Whilst it is assumed that the character of these limbs would be similar to the horizontal ones inspected (i.e. no hollows due to the presence of heartwood), as these limbs could not be viewed, a precautionary approach to the presence of hollows has been adopted. If present, the hollows would be approximately 5 cm wide (page 1, paragraph 5).

Some hollows are present and, as stated, these were inspected, no bats or any other sheltering animals [e.g possums etc] were observed [state on page 1, paragraph 3, second sentence]. Council makes a comment that no consideration of other fauna sheltering in hollows was made. This is incorrect.

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Influence of a full moon on survey outcomes

The following standard state and federal survey guidelines, do not make reference to the presence of a full moon influencing microchiropteran activity.

- Office of Environment and Heritage [OEH] (draft) Threatened bat survey guidelines for NSW: NSW guide for the survey of threatened bats and their habitats for offset methodologies.
- Australian Government (2010) Survey guidelines for Australia's threatened bats: Guidelines for detecting bats listed as threatened under the Environment Protection and Biodiversity Conservation Act 1999

The only comment the OEH draft publication makes is:

Surveys for bats must also be conducted in suitable weather conditions, as most bats enter torpor to save energy in unfavourable conditions. Bat activity is significantly lower on cold, windy nights or nights of heavy rain (Wojciechowski et al. 2007, Scanlon and Petit 2008, Fischer et al. 2009, Skalak et al. 2012). Suitable weather is hot, warm or mild and calm conditions (Mills et al. 1996, Fischer et al. 2009, Law et al. 2015).

The conditions experienced during the survey period are considered to comply with these.

Page 5-94 Section b) Effort of the Department of Environment and Conservation (now OEH) 2004 publication titled *Threatened Species Survey and Assessment: Guidelines for developments and activities (working draft)*, New South Wales Department of Environment and Conservation, Hurstville, NSW does make the comment:

"The prevailing conditions should be taken into account when planning microchiropteran bat surveys; cold temperatures, strong wind, heavy rain and full moons should be avoided when undertaking bat surveys (Law et al. 1998)."

As this publication references a 1998 Law et al. paper, and the latest draft OEH bat survey guidelines reference a 2015 Law et al. publication, it is likely that the influence of moon phase on bat activity has been 'removed'.

An article published in the Journal of Zoology 2003 (#3) pp 257-264 titled *Swarming activity of temperate zone microchiropteran bats: Effects of season, time of night and weather conditions* makes the comment "Activity varied markedly from night to night and was affected by rainfall (which significantly suppressed swarming activity), and residual maximum ambient temperature (with which activity was positively correlated). Moon phase had no detectable influence on swarming activity"

I note that the following article does indicate that moon phase has a bearing on microchiropteran activity: *Activity levels of bats and katydid in relation to the lunar cycle* (Oecologia 2006). This article makes the comment "We conclude that foraging activity of [a species of microchiropteran] is probably influenced by prey availability to a large extent and argue that generally the causes of lunar phobia [i.e. full moon] are species-specific". This article concluded that the full moon phase affected the presence of insects, rather than the activity of those bats that feed on them.

As mentioned, if the presence of a full moon affected microchiropteran activity, no bats would have been detected. As it was, three species, two of which, Eastern False Pipistrelle (*Falsistrellus tasmaniensis*) and Eastern Bentwing Bat, are threatened at a state level, were recorded.

SCC - A table recording the number, height and size of each hollow should be included in the report.

Lesryk - The size of those hollows observed and able to be inspected was provided (i.e. 5 cm to 20 cm) (paragraph 3, page 1).

Due to the height of trees 30, 31 and 32, and the vertical nature of some of the dead limbs, these could not be viewed due to safety concerns. A precautionary approach was adopted, this assuming that these limbs were hollow even though lower, easily accessible similar limbs were noted to still support their heartwood and therefore not be hollow forming.

SCC - A table is also usually included which records species detected, location and time, however this was referred to in part in the text.

Lesryk - This information was presented in the text of the report. Not sure value of providing a table.

Should you require anything further on this matter please contact the undersigned.

Yours sincerely,



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Ms Wendy Todd
Site Plus Pty Ltd
2a Thomas Street
Wollongong NSW 2500



20 June 2016

Dear Wendy,

Ecological mitigation measures, DA 647/2015, Noble Road, Tullimbar, NSW,

Thank you for contacting us in regards to the above matter. We acknowledge that Lesryk has been requested to provide a series of ecological mitigation measures that should be adopted prior to, during and/or after the clearing of the vegetation that occurs within a portion of the above site.

The recommendations relate to the clearing of vegetation that lines the ephemeral drainage line, particularly the removal of trees 30, 31 and 32.

The recommendations stem from an investigation of this area conducted by us during May 2016.

If required, clarification on one or more of the following recommendations can be provided.

As discussed, if required, a representative from Lesryk is available to fulfil the role of the project's onsite ecologist.

Recommendations proposed for adoption in regards to the removal of the vegetation that lines the drainage line within part of the site encompassed by DA647/2015 are:

Pre-vegetation removal

- Suitable, purpose built microchiropteran, habitat boxes should be erected in a portion of the property that will be retained in perpetuity.
- The location of the habitat boxes should be recorded using a Global Positioning System (GPS), and a map showing the position of these produced.
- The ratio of habitat boxes to trees removed should be 3 to 1.
- A total of 9 habitat boxes (3/tree cleared) should be erected.
- The habitat boxes should be erected prior to the clearing of the hollow-bearing trees that are located in the gully.

During vegetation removal

- Non hollow-bearing vegetation, shrubs and so forth should be cleared 48 hours prior to the felling of the hollow-bearing trees. The clearing of this vegetation should result in the hollow-bearing trees becoming 'exposed' and isolated'.
- Immediately prior to the clearing of the gully vegetation the onsite ecologist should conduct an inspection of any suitable ground debris, shrubs and accessible hollows. These inspections should be conducted to determine, and collect if possible, any sheltering or nesting animals.

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-
- An ecologist should be on site during the removal of the gully trees, particularly trees 30, 31 and 32.
 - The ecologist should provide direction on the most appropriate removal technique that should be employed to clear the hollow-bearing trees.
 - Once felled, the ecologist should inspect the hollows for any sheltering animals.
 - Any animals present within the tree hollows should be collected and released on dusk, or under conditions that equate to the life cycle requirements of the species collected, within those portions of the site that are to be retained in perpetuity.
 - Any suitable hollow limbs present in association with the felled trees should be collected and located within those portions of the site that are to be retained in perpetuity.
 - These natural hollows should be included, GPS'ed, mapped and incorporated in the ongoing habitat box monitoring.

Post-vegetation clearing

- The erected habitat boxes should be monitored at regular intervals.
- The habitat boxes should be monitored twice per year.
- Any damaged boxes, or those occupied by exotic species, should be replaced.
- Monitoring should be conducted for a minimum period of 5 years.
- Yearly monitoring reports should be submitted to Council for their records.

If the above recommendations are adopted, the requirement for an onsite ecologist would be:

- 1) Onsite during the removal of all non hollow-bearing vegetation (conducted 48 hours prior to the removal of the hollow-bearing trees). Concurrent with this the ecologist would be required to erect the nine habitat boxes
- 2) Onsite during the clearing of the three hollow-bearing trees
- 3) Onsite every 6 months after the trees are removed for a minimum period of 5 years.

Should you require anything further on this matter please contact the undersigned.

Yours sincerely,



Deryk Engel
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PARTIES:

BALMORAL PARADE PTY LIMITED (ACN 602 674 484)

[PURCHASER]

DEED OF COVENANT
[PROPERTY ADDRESS]



6 Macquarie Avenue, Penrith NSW 2750

DX 8006 Penrith

T: (02) 4731 6966

F: (02) 4721 5629

R: 20160340

DEED OF COVENANT [PROPERTY ADDRESS]

DATED:

PARTIES:

1. **BALMORAL PARADE PTY LIMITED (ACN XXX XXX XXX)** of 27 Lawson Street Penrith NSW 2750.
2. **[PURCHASER]** of **[ADDRESS]**

BACKGROUND:

- A. The *Vendor* is the registered proprietor of the *Land*.
- B. The *Vendor* proposes to develop the *Land* for sale to purchasers for use for residential purposes.
- C. The *Vendor* and the *Purchaser* have entered into the *Contract* for the sale by the *Vendor* of the *Property* to the *Purchaser*.
- D. Under the *Contract*, the *Purchaser* agreed to covenant in respect of the *Property* in accordance with the terms of this Deed in part consideration of the *Vendor* agreeing to complete the *Contract*.
- E. The terms and conditions of the *Purchaser's* covenant referred to in recital D are as set out in this Deed.

OPERATIVE PART:

1. Dictionary and Interpretation

- 1.1 The following words have these meanings in this Deed unless the contrary intention appears:

Approval means the *Vendor's* approval of the *Plans*, which the *Vendor* may withhold if the *Plans*:

- (a) do not conform to the *Building Design Guidelines* and the *Restrictions*; or
- (b) include a *Prohibited Building*.

Approval Date means the date at Item 5 of the *Particulars*.

Building Design Guidelines means the design guidelines at Annexure A, as may be varied by the *Vendor* from time to time in its absolute discretion.

Buy Back Contract means a contract for sale of land for the *Property* with the *Purchaser* as seller and the *Vendor* as buyer for the *Buy Back Price*, with a completion date of not less than fourteen (14) days after the date of the *Buy Back*

Buy Back Notice means a written notice from the *Vendor* to the *Purchaser* under clause 4.2 requiring the *Purchaser* to transfer the *Property* to the *Vendor* for the *Buy Back Price*, which *Buy Back Notice* must be accompanied by:

- (c) the *Vendor's* calculation of the *Buy Back Price*;
- (d) the *Buy Back Contract* executed by the *Vendor* (as buyer);
- (e) a counterpart of the *Buy Back Contract* for execution by the *Purchaser* (as seller); and
- (f) a form of transfer showing the *Purchaser* as transferor and the *Vendor* as transferee.

Buy Back Price means the purchase price under the *Contract*, less:

- (a) any legal costs, stamp duty, registration fees and other expenses or costs incurred by the *Vendor* in effecting the transfer of the *Property* from the *Purchaser* to the *Vendor* pursuant to the *Buy Back Notice*;
- (b) any rates or taxes owing to any government or statutory authority with respect to the *Property* by the *Purchaser*; and
- (c) any legal costs or other expenses incurred by the *Vendor* arising from the default of the *Purchaser* under this Deed or the transfer of the *Property* from the *Purchaser* to the *Vendor* pursuant to the *Buy Back Notice*.

Commencement Date means the date shown in Item 7 of the *Particulars*.

Commencement of Dwelling means the substantial commencement of foundational works upon the *Property* for the *Dwelling* in accordance with the *Consent*.

Completion Date means the date shown in Item 8 of the *Particulars*.

Consent means the consent of the *Plans* (such plans to be subject to the *Approval*)

- (a) by *Council*; or

(b) by way of complying development consent.

Consent Date means the date shown in Item 6 of the *Particulars*.

Contract means the contract for sale of land between the *Vendor* and the *Purchaser* with respect to the sale of the *Property* by the *Vendor* to the *Purchaser*, which contract was made on the date shown in Item 4 of the *Particulars*.

Council means the local government authority shown at Item 9 of the *Particulars*.

Default Notice means a written notice issued by the *Vendor* to the *Purchaser* following a default by the *Purchaser* in complying with any of its obligations under this Deed, such notice setting out the nature of the default and giving the *Purchaser* a period of not less than fourteen (14) days to remedy the default, together with details of how the *Vendor* requires the *Purchaser* to remedy the default.

Dwelling means a single residential dwelling and associated improvements on the *Property* in accordance with the *Building Design Guidelines*, the *Approval* and the *Consent* (but excludes a *Prohibited Building*).

Land means the land known shown in Item 1 of the *Particulars*.

Particulars means the particulars shown in the First Schedule to this Deed.

Permitted Granny Flat means a dwelling which has all of the following characteristics and is otherwise approved by the *Vendor* (acting reasonably):

- (a) an area of not more than 60m²;
- (b) external materials which are substantially similar to the materials which are used on the *Dwelling*;

Plans means the *Purchaser's* plans for a *Dwelling* upon the *Property*, which *Plans*:

- (a) must comply with the *Building Design Guidelines* and the *Restrictions*;
- (b) must not include a *Prohibited Building*.

Prohibited Building means a dual or multi occupancy building or buildings, resulting in more than one (1) residence being constructed upon the *Property* (whether as attached or detached dwellings), but does not include a *Permitted Granny Flat*.

Property means property shown in Item 2 of the *Particulars*.

Purchaser means the party shown in Item 3 of the *Particulars*.

Restrictions means the restrictions as to use of land and covenants affecting and burdening the *Property*.

Step In Rights means the right of the *Vendor* to:

- (a) comply with any of the obligations of the *Purchaser* under this Deed which remain outstanding after the failure of the *Purchaser* to comply with a *Default Notice*; and
- (b) do anything which the *Vendor* considers necessary to comply with a *Default Notice* which the *Purchaser* has failed to comply with

Vendor means Balmoral Parade Pty Limited (ACN 602 674 484) of 27 Lawson Street Penrith NSW 2750.

1.2 Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The *singular* includes the plural and conversely.
- (b) A *gender* includes all genders.
- (c) Where a *word* or *phrase* is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a *clause* or *schedule* is to a clause of or schedule to this agreement.
- (f) A reference to any *party* to this agreement or any other agreement or documents includes the party's successors and permitted assigns.
- (g) A reference to any *agreement* or *document* is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this agreement or that other agreement or document.
- (h) A reference to any *legislation* or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (i) A reference to *dollars* or *\$* is to Australian currency.
- (j) Each schedule, annexure and document delivered under this Deed forms part of the agreement.
- (k) A reference to *conduct* includes any omission and any statement or

undertaking, whether or not in writing.

- (l) A reference in *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (m) Mentioning anything after *include*, *includes* or *including* does not limit what else might be included.
- (n) All references to *time* are to New South Wales time.
- (o) A *business day* means a day on which the major trading banks are open for ordinary business in Sydney, Australia, excluding a Saturday, Sunday or public holiday.
- (p) A reference to a *right* or *obligation* of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally.
- (q) If the time for something to be done or to happen is not a business day, then the time is extended to the next business day.
- (r) A *related entity* has the meaning given in the *Corporations Act 2001 (Cth)*.

2. Approval

- 2.1 The *Purchaser* must obtain the *Approval* by the *Approval Date*.
- 2.2 The *Purchaser* must not seek the *Consent* until it has obtained the *Approval*.
- 2.3 After obtaining the *Approval*, the *Purchaser* must obtain the *Consent* by the *Consent Date*.
- 2.4 The *Purchaser* must not seek or obtain any alteration, variation or modification of the *Consent* without first obtaining a further *Approval* with respect to such alteration, variation or modification.

3. Construction

- 3.1 The *Purchaser* must effect the *Commencement of Dwelling* in accordance with the *Plans* the subject of the *Approval* and the *Consent* by the *Commencement Date*.
- 3.2 In undertaking construction of the *Dwelling*, the *Purchaser* must comply with the *Approval*, the *Consent*, the *Building Design Guidelines* and the *Restrictions*.

- 3.3 The *Purchaser* must not seek or obtain any alteration, variation or modification of the *Dwelling* without first obtaining a further *Approval* with respect to such alteration, variation or modification.
- 3.4 Notwithstanding clause 3.3, any alteration, variation or modification of the *Dwelling* must comply with the *Building Design Guidelines* and the *Restrictions*.
- 3.5 The *Purchaser* must complete construction of the *Dwelling* in accordance with the *Plans* the subject of the *Approval* and the *Consent* before the *Completion Date*.

4. Condition of Property

From the date of completion of the *Contract* until the date upon which the *Purchaser* obtains its occupation certificate with respect to the *Dwelling* constructed upon the *Property*, the *Purchaser* must:

- (a) keep the *Property* in a clean and tidy state;
- (b) keep the *Property* free of rubbish and debris;
- (c) keep the *Property* regularly mown and free from weeds;
- (d) not permit materials or equipment to be stored upon the *Property*, other than is reasonably necessary for immediate use in constructing the *Dwelling* upon the *Property*;
- (e) not use the *Property* for any purpose other than as the site of construction of the *Dwelling*;
- (f) not reside in the *Property* or in the *Dwelling*; and
- (g) not construct a *Prohibited Building*.

5. Default

- 5.1 If the *Purchaser* fails to comply with any of its obligations under this Deed, the *Vendor* may issue a *Default Notice* to the *Purchaser*.
- 5.2 Where:

- (a) the *Vendor* issues a *Default Notice*; and
 - (b) the *Purchaser* fails to comply with the terms of the *Default Notice*,
- the *Vendor* may:
- (c) exercise its *Step In Rights*; and/or
 - (d) issue a *Buy Back Notice* to the *Purchaser* requiring the *Purchaser* to sell the *Property* to the *Vendor* for the *Buy Back Price* set out in the *Buy Back Notice*.

5.3 Notwithstanding whether the *Vendor* has exercised issued a *Buy Back Notice* or exercised its *Step In Rights*, the *Purchaser* acknowledges that the *Vendor* shall be entitled to seek damages from the *Purchaser* to compensate the *Vendor* for the *Vendor's* loss and damage arising from the *Purchaser's* default of its obligations under this Deed.

6. Step In Rights

- 6.1 Where the *Vendor* exercises its *Step In Rights*, the *Purchaser* irrevocably authorises and consent to the *Vendor* entering onto the *Property* for the purpose of the *Vendor* doing any act or thing which the *Vendor* considers necessary to exercise its *Step In Rights*.
- 6.2 The *Purchaser* indemnifies the *Vendor* with respect to any act undertaken in exercise of its *Step In Rights*.
- 6.3 Any costs or expense of the *Vendor* incurred in the exercise of its *Step In Rights* is a debt due and owing by the *Purchaser* to the *Vendor* upon demand of the *Vendor* and interest at the rate of ten per cent (10%) per annum shall accrued on any sum not paid by the *Purchaser* to the *Vendor* within twenty-eight (28) days of demand by the *Vendor*.
- 6.4 Where the *Vendor's* exercise of its *Step In Rights* includes the completion of construction of the *Dwelling* (or any part), the *Purchaser* gives an irrevocable and fee-free licence to the *Vendor* of the copyright in the *Plans* and the *Dwelling*.

7. Buy Back

- 7.1 Within seven (7) days of receiving a *Buy Back Notice* from the *Vendor*, the *Purchaser* must execute the counterpart *Buy Back Contract* and return this to the *Vendor*.
- 7.2 The parties acknowledge that the *Purchaser* (as seller) and the *Vendor* (purchaser) shall be bound by the *Buy Back Contract* from the date which it is served upon the *Purchaser* by the *Vendor* irrespective of the *Purchaser's* compliance with its obligations under clause 4.3.

- 7.3 The parties must complete the *Buy Back Contract* in accordance with its terms, at which time the *Purchaser* must transfer the *Property* to the *Vendor* in consideration of the payment by the *Vendor* to the *Purchaser* of the *Buy Back Price*.
- 7.4 At completion of the *Buy Back Contract*, the *Purchaser* must discharge any mortgage or withdraw any caveat against the *Property*.

8. Vendor's Rights and Assignment

- 8.1 The *Purchaser* acknowledges that the rights of the *Vendor* as set out in this Deed:
- (a) rest both in contract (arising from the *Contract*) and as covenants contained in this Deed and do not amount to a restraint, penalty or alienation in respect of the interests of the *Purchaser* in the *Property*; and
 - (b) are appropriate obligations having regard to the legitimate commercial interests of the *Vendor* in respect of the *Land* and the development of the *Land* by the *Vendor*.
- 8.2 The rights of the *Vendor* under this Deed are assignable.
- 8.3 The *Purchaser* may not assign its obligations under this Deed nor transfer, sell, mortgage or assign its interest in the *Property* unless the *Purchaser* procures that any transferee, purchaser, mortgagee or assignee enters into a deed with the *Vendor* upon terms which reflect the balance of the terms and conditions of this Deed and the obligations of the parties outstanding at the time of the transfer, sale, mortgage or assignment.
- 8.4 This Deed binds the *Purchaser's* heirs, estate, executors, administrators, successors, attorneys and assigns.

9. Charge and Caveat

- 9.1 The *Purchaser* grants to the *Vendor* a charge over the *Property* as security for the *Purchaser's* due performance of its obligations under this Deed.
- 9.2 The *Vendor* may lodge a caveat against the *Property* in order to protect its rights in the *Property* under the charge in clause 9.1 and as otherwise contained in this Deed.

10. Legal Costs and Disbursements and Stamp Duty

- 10.1 Each party shall pay its own legal costs and disbursements of and in relation to this Deed.
- 10.2 The *Purchaser* must pay all stamp duty (including penalties and fines) payable in respect of or in connection with this Deed.

11. General

11.1 Notices

All approvals consents notices and other items required or appropriate to be given under the provisions of this Deed shall be in writing and shall only be deemed to be properly served if delivered personally to a party by the relevant party to the address of that party set out at the commencement of this Deed or to the address of that party's solicitor set out in the *Contract* (or in each case to such other address as each party may from time to time designate in writing to the others being an address in Sydney) except that service by email is not sufficient service.

11.2 Governing Law

The interpretation of this Deed, the rights and obligations of the parties and all questions relating to the execution, validity and performance shall be governed by and be interpreted under the laws of the State of New South Wales.

11.3 Entire Deed

This Deed (and the *Contract*) constitute the entire agreement of the parties in relation to the matters the subject of this Deed and supersedes all prior agreements understandings and negotiations between the parties in relation to those matters. It is expressly agreed and declared that no further or other covenants representations or provisions shall be deemed to be implied herein or to arise between the parties by way of collateral or other agreement and the *Purchaser* hereby acknowledges that it has not been included to enter in this Deed by any promise, representation, warranty or undertaking given or made by the *Vendor* (or any of its servants employees or agents) on or prior to the execution hereof and the existence of any such implication or collateral or other agreement is expressly negated.

11.4 Jurisdiction

The parties submit to the non-exclusive jurisdiction of the Supreme Court of New South Wales and to the jurisdiction of the Courts to which an appeal will lie in respect of this Deed and with respect to all claims and demands which either party may hereafter have against the other on account of or arising out of this Deed.

11.5 Counterparts

This Deed may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

11.6 Attorneys

Wherever this Deed is executed by an attorney, the attorney states by such execution that as at the time of such execution the attorney has received no notice of the revocation of the power of attorney pursuant to which the attorney has executed this Deed.

11.7 Variations

This Deed shall not be changed or modified in any way subsequent to its execution except by writing duly executed by all relevant parties.

11.8 Representations

The *Purchaser* represents and warrants to and covenants with the *Vendor* that it has full power to enter into and perform its obligations under this Deed and this Deed constitutes valid and binding obligations of the *Purchaser* enforceable in accordance with its terms.

11.9 Invalidity

All provisions herein contained shall be construed so as not to be invalid illegal or unenforceable in any respect but if any such provision on its true interpretation is illegal invalid or unenforceable that provision may at the option of the *Vendor* be read down to such extent as may be necessary to ensure that it is not illegal invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation of a partial character. In the event that any such provision or part cannot be so read down such provision shall be deemed to be void and severable and the remaining provisions hereof shall not in any way be affected or impaired.

11.10 Non Merger

Each representation warranty covenant and obligation under this Deed shall continue in full force and effect until such representation warranty obligation or covenant is satisfied or completed.

11.11 Contra Proferentem

In the interpretation of this Deed no rules of construction shall apply to the disadvantage of one party on the basis that that party put forward the Deed or any part thereof.

Execution

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED by)
BALMORAL PARADE PTY LIMITED)
(ACN 602 674 484) in accordance with)
section 127 of the Corporations Act:

Director

Director/Secretary

SIGNED SEALED AND DELIVERED by)
[PURCHASER])
in the presence of:)

Witness

First Schedule - Particulars

Item 1	Land	[Land]
Item 2	Property	[Property]
Item 3	Purchaser	[Purchaser]
Item 4	Contract Date	[Date]
Item 5	Approval Date	[Time] after the date of this Deed
Item 6	Consent Date	[Time] after the date of this Deed
Item 7	Commencement Date	Twelve (12) months after the date of this Deed
Item 8	Completion Date	Eighteen (18) months after the <i>Commencement of Dwelling</i>
Item 9	Council	Shellharbour Council

Annexure A – Building Design Guidelines

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B Conveyancing Act 1919.

Page 1 of 6 sheets

PLAN:

Plan of Subdivision of
Lot 1 DP1214606
covered by Subdivision Certificate No.

**Full name and address of
the owner of the land:**

Balmoral Parade Pty Ltd
27 Lawson Street
Penrith NSW 2750

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement to be created and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s) bodies or Prescribed Authorities.
1	Easement to drain water 1.5 wide (J)	4 5 6 7 8 9 10 11 12 13 14 15	Nimmitabel Street 4& Nimmitabel Street 4,5& Nimmitabel Street 4-6 incl.& Nimmitabel Street 4-7 incl.& Nimmitabel Street 4-8 incl.& Nimmitabel Street 4-9 incl.& Nimmitabel Street 4-10 incl.& Nimmitabel Street 4-11 incl.& Nimmitabel Street 4-12 incl.& Nimmitabel Street 4-13 incl.& Nimmitabel Street 4-14 incl.& Nimmitabel Street
2	Easement to drain water 1.5 wide (K)	2 3	1 1,2

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.

3	Easement to drain water 1.5 wide (L)	35 34 33 32 31 30 29 28	36 35, 36 34-36 incl. 33-36 incl. 32-36 incl. 31-36 incl. 30-36 incl. 29-36 incl.
4	Restriction on the Use of Land	2, 16 & 17	Shellharbour City Council
5	Restriction on the Use of Land	8 to 13 incl and 28 to 36 incl	Every other lot except 2, 16 & 17

Part 1A (Release)

Number of item shown in the intention panel on the plan	Identity of easement to be released and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s) bodies or Prescribed Authorities.
1	Easement to drain water 2 wide (H)	1/1214606	Noble Road

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.

Part 2 (Terms)

Terms of Restriction on the Use of Land numbered four in the Plan

The restrictions on the use of land more completely set out in Council Approved Guidelines.

The name of the Authority empowered to release vary or modify the restriction numbered four in the Plan is Shellharbour City Council

Terms of Restriction on the Use of Land numbered five in the Plan:

1. No building shall be erected or permitted to remain on the Burdened Lot, and the Owner shall not make application to Council for a development consent to approve a building to be constructed on the Burdened Lot, unless the building and associated landscaping and fencing complies with the Building and Design Guidelines which Balmoral Parade requires to apply to the Land from time to time.
2. The Owner must not:
 - a. erect any structure or building;
 - b. carry out any site works (which includes fencing, excavation, filling or retaining);
 - c. erect any fence or wall,on any Burdened Lot unless the Owner obtains the prior written approval of Balmoral Parade, which Balmoral Parade must not unreasonably withhold. Without limiting the rights of Balmoral Parade under this restriction, Balmoral parade may withhold its approval if Balmoral Parade reasonably determines that the proposed structure, building, works, fence or wall:
 - A. do not comply with the Building Design Guidelines;
 - B. do not conform with the general standards of design and planning of the Development; or
 - C. are undesirable by reason of the effect they would have upon the Development, appearance, safety or amenity of the Development.
3. The Burdened Lot shall not be subdivided other than by Balmoral Parade and whilst Balmoral Parade is the owner of the Burdened Lot.
4. The Owner (other than whilst Balmoral Parade is the owner) shall not transfer, assign or lease the Burdened Lot before the Sunset Date unless a dwelling approved by Balmoral Parade in accordance with paragraph 2 has been completed upon the Burdened Lot (except that this paragraph 4 shall not apply to the transfer from the executor of the will or the administrator of

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.

the estate of the Owner to a person entitled to the Burdened Lot under the will or upon intestacy of the Owner).

5. Balmoral Parade may from time to time and in its absolute discretion and upon any conditions modify, waive or release any of these restrictions in respect of any one or more of the Burdened Lots.
6. No fence shall be erected on the boundary of any Burdened Lot unless it is erected without expense to Balmoral Parade.
7. No fence shall be erected on any Burdened Lot to divide it from any adjoining land owned by Balmoral Parade without its consent but such consent shall not be withheld if such fence is erected without expense to Balmoral Parade.
8. No dwelling shall be occupied or permitted to remain on a Burdened Lot unless within 3 months from the first day of occupation of such building a driveway is constructed between the garage and the street, all side and rear boundaries are fenced, a letter box is installed and the remaining area between the dwelling and the front boundary is landscaped with a substantial quantity of shrubs and trees and good quality turf.
9. No air conditioning plant and/or equipment shall be installed or permitted to remain on any Burdened Lot unless such plant and equipment is not visible from any public road and/or place.
10. No structure of a temporary character or nature which is intended for habitation, including but without generality thereof, any basement, tent, shack, garage, trailer, camper or caravan, shall be erected or permitted to remain on any Burdened Lot.
11. No advertising hoarding sign or matter of any description shall be erected or displayed on any Burdened Lot without the prior written consent of Balmoral Parade. Such consent shall not be withheld should no more than one (1) sign be displayed solely for the purposes of advertising the sale of the Burdened Lot and is painted and/or decorated in its entirety by a professional sign writer.
12. These restrictions shall expire and have no further force or effect upon the Sunset Date.

The name of the Authority empowered to release vary or modify the restriction numbered 5 in the Plan is the Owners of the Benefitted Lots.

DEFINITIONS AND INTERPRETATION:

1. For the purpose of this instrument, the following words and phrases shall have the following meanings, unless another meaning is expressed to apply:
 - a. **"Act"** means the Conveyancing Act 191 (NSW).
 - b. **"Balmoral Parade"** means Balmoral Parade Pty Limited ACN 602 674 484 and includes its successors, permitted assigns, attorney or appointee;

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.

- c. **"Benefitted Lot"** means any lot which has the benefit of an easement or restriction on the use of land created by the Plan;
- d. **"Building Design Guidelines"** means the design guidelines prepared by Balmoral Parade which regulate all building and associated landscaping works within the Land, as may be varied by Balmoral Parade from time to time in its absolute discretion;
- e. **"Burdened Lot"** means any lot burdened by a restriction on the use of land or easement created by the Plan and includes every part of a Burdened Lot and every lot created by a subdivision of a Burdened Lot;
- f. **"Council"** means Shellharbour City Council;
- g. **"Council Approved Guidelines"** means the guidelines approved by Council and registered at the LPI as memorandum dealing number [XX000000].
- h. **"Development"** means the proposed residential development by Balmoral Parade within the general area of the Burdened Lot;
- i. **"LPI"** means Land and Property Information (NSW).
- j. **"Owner"** means the registered proprietor from time to time of the Burdened Lot, together with anyone claiming under or through the registered proprietor;
- k. **"Plan"** means the plan of subdivision to which this instrument relates;
- l. **"Sunset Date"** means the date upon which the earlier of the following occurs:
 - (i) five (5) years after the date of registration of the Plan; or
 - (ii) the date upon which Balmoral Parade ceases to be an owner of any Benefitted Lot.

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.

Balmoral Parade Pty Ltd

Shellharbour City Council

Authorised Officer

PLAN:

Plan of Subdivision of
Lot 1 DP1214606 covered by
Subdivision Certificate No.



DA. 3 SUBDIVISION PLAN -
AERIAL IMAGE



REVISIONS	DATE	APP	COMMENTS
C	7.3.15	D.N.	REVISED TO COUNCIL COMMENT
D	11.3.16	A.C.	REVISED LOTS 213 TO 216 AND 238 TO 243
E	20.5.16	D.N.	REVISED REMOVAL LANE 1 & 2 TO COUNCIL COMMENT
F	16.6.15	D.N.	REVISED FOR BATTLEAKE STREET FRONTAGE
G	22.6.15	D.N.	REVISED TO COUNCIL MEETING 21.6.15



DA. 3 SUBDIVISION PLAN -
AERIAL IMAGE

Height Above	A.H.D.
DN	DN
DN	DN
DN	DN

APPROVAL	APPROVAL
K.R.	K.R.
K.R.	K.R.

BALMORAL PARADE PTY LTD

PROPOSED RESIDENTIAL SUBDIVISION DA.3
LOT 1, 2 & 3 DP.1214606 TULLIMBAR ESTATE

1501 D3.P10
Sheet 10 of 10
Scale 1:1000 @ A1
20.05.2016 G A1

11th March 2016

Project No. 1501

General Manager
Shellharbour City Council
Locked Bag 155
Shellharbour City Council, NSW 2529

Attention: **Ms Victoria Nicholson**
Senior Development Assessment Officer

SHELLHARBOUR CITY COUNCIL	
Doc No.....	
21 MAR 2016	
Batch No.....	
Box No.....	

Dear Victoria,

RE: DA 647/2015 – PROPOSED STAGED RESIDENTIAL SUBDIVISION AT LOTS 1, 2 & 3 DP 1214606, BRAEMAR STREET, TULLIMBAR – COUNCIL REQUEST FOR SUPPLEMENTRY INFORMATION

I refer to your letter dated 22 January 2016 requesting additional information for Council to complete its assessment of the above Development Application.

This additional information has been prepared by Project Plus Pty Ltd (Project Plus) on behalf of Balmoral Parade Pty Ltd, in response to the issues raised by Shellharbour Council on the proposed Staged Residential Subdivision for 158 residential lots, 5 superlots, 1 public reserve and 1 residue lot at Lots 1,2 and 3 DP 1214606, Braemar Street, Tullimbar.

It is to be read in conjunction with the Statement of Environmental Effects (SEE) lodged with the Development Application (DA647/2015) on 13 October 2015. This letter and the attached plans endeavour to address all the issues raised in Council's request for additional information dated 22 January 2015 and our meeting of 4 February 2016.

Additionally, issues raised by the Joint Regional Planning Panel (JRPP) at its site inspection on 11 February 2016 have been addressed in the final section of this letter.

It should be noted that as a consequence of our meeting and the comments below we have prepared an amended Layout Plan that we now lodge in support of our application (See Attachment 1). Our response is as follows:

1. Road Design – Coolangatta Street and Bombala Place

Council has raised concerns how Coolangatta Street and Bombala Place will adequately function in the eastern portion of the site with regard to road width and curvature and the battleaxe blocks at the top of Coolangatta St and Bombala Place. Concerns focus on the impact on waste services, on street parking and the potential for the further development of the larger lots into smaller lots or multi dwelling housing in the future causing issues for bin storage on the kerbside.



Council's concerns have been taken on board and a redesign of this area of the subdivision has been prepared and is included in Attachment 1. The amended design now incorporates a 3.5 metre wide laneway linking the top of Coolangatta Street with Bombala Place and Bombala Place with Foxground Street to facilitate the movement of waste vehicles through the eastern area of the site and improve the functionality of the roads. The design includes the provision for 6 car parking spaces on each section of laneway. The amended design has also resulted in the removal of 5 battleaxe blocks along the Noble Road boundary of the site.

2. Roads & Maritime Services (RMS)

The RMS has questioned when the proposed traffic lights at the intersection of the Illawarra Highway and Church Street are to be constructed. The Traffic Impact Assessment Report accompanying the DA identifies the need for signalisation of this intersection after the construction of 36 lots. Therefore it is the proponent's intention to construct the traffic lights prior to any subdivision of the land subject to this DA 3.

The intersection design and layout comments and requirements outlined in the RMS letter are being attended to now and we have been in touch with the RMS regarding the process we need to follow. We understand these requirements will be a Condition of any Consent.

3. Section 94 Contributions

The total area for this subject DA 3 is 12.65 hectares. The site area for each proposed stage inclusive of the road network is as follows:

Table 1: Site Areas

Subdivision Stage	Area (Hectares)
Stage 1	2.639 Ha (approved DAM0509/2015)
Stage 2	3.287 Ha
Stage 3	3.543 Ha
Stage 4	3.793 Ha
Stage 5	Future DA (DA6)
Stage 6	1.353 Ha
Stage 7	0.676 Ha
Stage 8	Future DA
Stage 9	Future DA
Stage 10	Future DA
Total	15.291-2.639 = <u>12.65Ha</u>

4. Shellharbour Development Control Plan (SDCP) – Appendix 16

Objectives

Objective 2 of the SDCP states the subdivision design “...must provide a close relationship between public amenity and private development”. The proposed subdivision design is a site responsive layout which will deliver a residential neighbourhood with high amenity, solar access and accessibility to public open space areas and surrounding village facilities. The intent is for the majority of the lots to be developed for single dwellings with a maximum of 2 storeys to ensure the development achieves a human scale. The design endeavours to provide a close relationship between public amenity and private development through the

inclusion of landscaping on individual lots and the planting of street trees and turf along each streetscape to soften the hardstand areas and extend the private open space areas into the streetscape. Also a signature tree species theme is proposed along individual streets as per the Landscape Concept Plan in Appendix G of the SEE to create a sense of place.

Additionally, most streets (with the exception of Coolangatta Street and Bombala Place) will have 1.2m wide footpaths on both sides to enhance the pedestrian environment and facilitate linkages with the public open space areas, playing fields, the school and village centre. The road layout and profile has also been designed for a low speed environment with rolled kerbs, parking bays and traffic calming measures to enhance the private development, improve the public amenity and create a pedestrian friendly environment.

It is considered that this will provide a sustainable residential neighbourhood with high amenity and a sense of place which will enhance the private domain of the residents and ensure successful and highly utilised public areas.

Objective 4 of the SDCP states the subdivision design should endeavour to *"...minimise dependence on the private car by locating and supporting many daily activities within the project area, with detailed design that supports walking, cycling and bus use."*

The proposed subdivision design does provide an extensive footpath network and bus route thus supporting pedestrian activity and public transport. The design does not include cycleway paths for the following reasons:

- (i) The roads within the proposed subdivision are designed for low speeds enabling the roads to be shared safely with cyclists, therefore, there is no need to provide additional facilities.
- (ii) Council's Pedestrian and Cyclist Master Plan does not include the Western Valley area of Tullimbar.
- (iii) There are no cycleway facilities outside the subject land in the adjoining Regal Heights area or in the Tullimbar Village being developed by Miltonbrook Development (Fountaindale) to join into, therefore no point in providing additional facilities in an isolated area on the subject land.

Therefore, a shared pedestrian-cycle path is not proposed as part of the development as there is no network to link into and increasing the widths of the proposed footpaths to create shareways would negatively impact the landscape design and amenity of the proposed streetscapes. Finally, in its letter of 16 December 2015, the RMS stated it would not support the provision of cycle lanes if there is no connectivity with the surrounding road network.

Development Yield

The SDCP states that to achieve a minimum dwelling yield of 1500 dwellings for the Tullimbar Village area, minimum dwelling yields for each precinct as shown in Figure A45 have been defined. The land subject to this DA falls within Precinct E of the SDCP with a proposed yield of 262 dwellings. Once developed the whole residential subdivision proposed by Allam Homes within Precinct E will provide a total of approximately 404 dwellings as shown in Table 2 below.

Table 2: Dwelling Yields

Proposed Subdivision Stage	No of Dwellings (Yield)
Stage 1	36 (Approved DAM509/2015)
Stage 2	43
Stage 3	44
Stage 4	56
Stage 5	Approx 103 (Future DA6)
Stage 6	28
Stage 7	10
Stage 8	45 (Future DA)
Stage 9	26 (Future DA)
Stage 10	13 (Future DA)
Total	404

To provide further clarification a plan has been prepared overlaying the proposed subdivision plan over the relevant SDCP Figure A45 Dwelling Yield Precinct Plan to show the SDCP development precincts relative to the proposal. Plan contained in Attachment 2.

Connectivity

The proposal does reduce the number of intersections with Noble Road, however, this was done in direct response to the resident objections to increasing the traffic along Noble Rd and concerns about safety of pedestrians and other car users along Noble Road. The proposed road design does not feature a southern vehicular access point with Noble Road, thus reducing the impact on Noble Road, and provides a nice controlled intersection with a future roundabout at Berrima Street. Connectivity to the surrounding residential land is provided along Berrima Street to Noble Road and Balmoral Parade.

Pedestrian access to Noble Road is provided along Berrima Street and from the eastern end of Foxground Street in a later stage.

Rear Loaded Lots

Allam Homes has given this issue a great deal of consideration and has reviewed its plans for the land fronting Balmoral Parade and has redesigned this section of the proposed subdivision of their land to include a portion of rear loaded lots along the Balmoral Parade frontage opposite the proposed Tullimbar Village Centre. It is considered that this approach meets the objectives of the SDCP by increasing the dwelling yields in the Precinct E, provides a higher density development adjacent to the Village Centre and protects the integrity of the Balmoral Parade streetscape and amenity of the Village area, thus meeting the vision for the Tullimbar Village as set out by Miltonbrook Developments.

The rear loaded lots are not part of the current DA 3 before Council but will form part of the proposed subdivision in the future DA 6 fronting Balmoral Parade.

It is considered that the inclusion of rear loaded lots in the design for the subject land meets the objectives of the SDCP as stated in Clause A16.16 Lot Density and Configuration as follows:

- It will increase the dwelling yield in order to support the primary school and other facilities.

- It concentrates the higher density development around the Village Centre.
- It encourages lower density in areas not within easy walking distance of the Village Centre.
- Achieves a diversity of lot types and sizes in Precinct E.
- Provides lot and street layouts which use the land efficiently and facilitate higher densities in strategic locations.
- Contributes to the streetscape and amenity around the Village Centre.

A Conceptual Layout of how these rear loaded lots may work is included in Attachment 3 for Council's benefit.

It is considered that this change in design philosophy for the future DA 6 answers this concern regarding the absence of rear loaded lots in the subject DA.

Proposed Building Design Guidelines

As a consequence of our discussions and a number of amendments to the proposed layout Allam have removed all lots less than 450 square metres from the subject DA 647/2015. Looking at the submitted Construction Staging Plan (ie: Drawing number 1501.D5.P02 Sheet 02 of 03) the following summarises the proposed changes:

- Stage 2 – Lots 210, 211, 214 and 215 will be adjusted to 450 square metres.
- Stage 6 – Lots 601 and 602 will be removed from the subject DA 647/2015 and incorporated into the future DA 6.
- Stage 6 – Lots 614 and 615 will be combined with Lots 613 and 616 to create an additional superlot for future medium density housing.
- Stage 7 – Lots 701 to 709 fronting the western side of Huskisson Street will be removed from the current DA647/2015 and included in the future DA 6 to give a better design outcome.

Therefore, all proposed lots will now be 450 square metres or greater in area. This removes the requirement for Building Design Guidelines (BDG's) for this DA647/2015 and allows Allam to take on board Council's comments on the BDG's and refine and tailor them specifically for the proposed rear loaded lots in the future DA 6 to meet the objectives in the SDCP and satisfy Council and Miltonbrook with regard to streetscape values, neighbourhood amenity and parking.

The amended layout plan is shown in Attachment 1.

5. Subdivision Design

Connectivity

We have considered Council's comments regarding pedestrian connectivity to the east of the development proposal but a pathway connection through to Noble Road cannot be achieved between Lots 230 – 231 or Lots 233 - 234 due to the topography and steepness of the land in this location.

An obvious connection exists along Berrima Street and a second connection will be possible from the eastern end of Foxground Street in a future DA.

Battleaxe Lots

The battleaxe lots are proposed in the subdivision design in response to the steep topography of the land along the eastern boundary, as the detailed site survey shows it is difficult to achieve good road design and road geometry along this section of the site. In this location the lots are larger lots due to the steepness of the land, to achieve an adequate building platform, construct the retaining walls and provide a landscape buffer to the neighbouring properties along Noble Road at the rear of the lots.

Additionally, Council's Design Engineer Luke Preston advised at our first Pre Lodgement Meeting on 19 March 2015 that Council would not support cul-de-sacs in this location.

However, as indicated in Point 1 of this response, Council's concerns have been taken on board and a redesign of this area of the subdivision has been prepared and is included in Attachment 1. The amended design now incorporates a 3.5 metre wide laneway linking the top of Coolangatta Street with Bombala Place and Bombala Place with Foxground Street to facilitate the movement of waste vehicles through the eastern area of the site and improve the functionality of the roads. The design includes the provision for 6 car parking spaces on each section of laneway. The amended design has resulted in the removal of 5 battleaxe blocks along the Noble Road boundary of the site.

The subdivision layout still includes 4 battleaxe lots off Terralong Street and 2 battleaxe lots of the northern side of Coolangatta Street. It is emphasised that the 6 proposed battleaxe lots remaining in the subdivision layout comply with the requirements in *SDCP - Chapter 4 – Subdivision – Infill and Greenfield* page 70 Point 4; “For an access handle servicing more than one allotment a minimum combined width of 5m (with a reciprocal right of carriageway) and maximum length of 40m is required”, as each pair of battleaxe lots share a 5 metre wide accessway and each access handle is approximately 30 m in length. Furthermore, the lots in this area of the subdivision are approximately 14 m to 15 m in width and can accommodate 1.5m kerb frontage for each dwelling for kerbside presentation of bins for collection.

This design is a variation to the SDCP as the 6 lots do not front bushland, creek reserves or public open space. This variation is considered minimal in this precinct and justified as it responds to the detailed site survey and ground conditions and the inherent site constraints of steep topography which determined the road geometry and road location of the proposed Terralong Street and Coolangatta Street. The design delivers a functional and efficient street layout, uses the land efficiently and optimises lot orientation and housing siting to capitalise on solar access. It also provides an increased number of lots with frontage to Noble Road.

Retaining wall, cut and fill.

The retaining walls are necessary due to the steepness of the land in the locality and to achieve satisfactory gradients and road geometry on the proposed roads in the area. It is proposed that the retaining walls will be stepped and then landscaped to achieve an attractive built form. The steps will meet the SDCP maximum retaining wall height of 1 metre. The landscaping is designed to soften the built form of the retaining walls and

substantially reduce the visual impact of the structures in the locality. Specifically the following information is provided in response to Council's letter:

- (a) Amended plans have been included in Attachment 4 showing the location and heights of the retaining walls and various cross sections as requested by Council.
- (b) Cross sections are provided in Attachment 4.
- (c) The retaining walls are 1 m in height and stepped to soften their visual impact and protect the amenity of the lots. A Landscape Plan is included in Attachment 5 demonstrating how the retaining walls will be treated to reduce the visual impact and ensure the amenity of each lot is protected.
- (d) The proposed catch drain will be lined with concrete so maintenance will not be an issue.
- (e) The footings and the zone of influence of the mentioned structures will not impact on the structural integrity of the retaining walls. Details will be provided with the Construction Certificate.

Superlots

Allam Homes has prepared conceptual layouts for the proposed Super Lots to demonstrate to Council how they may be developed in the future.

Plans are contained in Attachment 6.

Stage 7 Small lots

Allam has taken on board Council's comments with regard to the smaller lots in Stage 7 fronting the western side of Huskisson Street and they have been removed from the current DA647/2015 and will be included in the future DA 6 to achieve a better design outcome on the land.

Small Lots

The proposed small lots (< 450 square metres) proposed as part of the subject DA have been removed from the proposal. A number of rear loaded lots are now being incorporated into the design for the future DA6 area and will be accompanied by detailed BDG's for those lots.

Shared Paths

As indicated in Point 4 of this letter the proposed subdivision design does provide an extensive footpath network and bus route thus supporting pedestrian activity and public transport. The design does not include cycleway paths for the following reasons:

- (iv) The roads within the proposed subdivision are designed for low speeds enabling the roads to be shared safely with cyclists, therefore, there is no need to provide additional facilities.
- (v) Council's Pedestrian and Cyclist Master Plan does not include the Western Valley area of Tullimbar.

- (vi) There are no cycleway facilities outside the subject land in the adjoining Regal Heights area or in the Tullimbar Village being developed by Miltonbrook Development (Fountaindale) to join into, therefore no point in providing additional facilities in an isolated area on the subject land.

Therefore, a shared pedestrian-cycle path is not proposed as part of the development as there is no network to link into and increasing the widths of the proposed footpaths to create shareways would negatively impact the landscape design and amenity of the proposed streetscapes.

A Pedestrian Footpath Network Plan clearly showing the footpath network for the proposed subdivision is contained in Attachment 7.

Transition

Allam has refined its design for the land between Huskisson St and Balmoral Parade to include rear loaded lots in accordance with the advice and objectives of the SDCP as shown in conceptual form in Attachment 3. This will provide a higher density residential area close to and in support of the Village Centre, complement the Miltonbrook rear loaded lot development in the existing Tullimbar Village and improve the streetscape by removing the dominance of driveways and garages around the Village Centre in line with Miltonbrook's philosophy.

This creates a gradual transition in urban form where the higher densities on smaller lots are located adjacent to the proposed Village Centre as per the existing built form of the Tullimbar Village and the more traditional low density residential development is located east and west of the Village Centre on the Allam land and around Yellowrock Road respectively. Further east in the Regal Heights area the built form is low density housing on slightly larger lots again. This will deliver an appropriate transition in urban design, built form and streetscape as one moves beyond the Tullimbar Village Centre to the existing Albion Park urban area.

6. Additional Information

- a) On page 8 of the submitted Statement of Environmental Effects (SEE) the subject land is referred to as Lot 1 and Lot 2. To clarify, the subject land is Lots 1, 2 and 3 in DP 1214606. The proposed residential lots in this DA are located on Lots 1 and 2 and the turning heads and APZ's are located on Lot 3.
- b) We have provided a new Layout Plan in Attachment 1 that clearly identifies the footprint of the subject DA647/2015 only.
- c) Digby Creek is the water course the subject of the controlled activity under the *Water Management Act 2000*.
- d) Shellharbour Council or Miltonbrook provided this to Project Plus. A copy has been provided back to Council for your information.
- e) Lots less than 450 square metres have been removed from DA647/2015, therefore BDG's no longer apply to the subject DA.
- f) The intent is for Allam Homes to develop an attractive residential estate primarily with single dwellings on single lots. Allam will develop a large proportion of the lots themselves. In addition, concepts have been developed to show how the super lots will be developed for a higher density residential style development (approximately 6 dwellings per superlot). However, although single dwelling lower density housing is encouraged by Allam it will have little control over the housing type constructed on the lots it does not sell as house and land packages.

- g) The proposed residential subdivision of the Allam land provides a range of lot sizes from smaller rear loaded lots to larger lots on the steeper land which will provide the opportunity to plant vegetation along the eastern boundary of the site to soften the impact of the houses on the hillside. The site is predominantly a cleared site used for grazing. Once developed views of the land from the adjoining residential neighbourhoods to the east and west will see a continuation of housing development across the landscape, with streetscapes planted with street trees and private landscaped gardens. To the south on Lot 3 the native vegetation will be maintained where appropriate to maintain the ecological value, visual amenity and rural character in that location.

7. Riparian Corridor

The Concept Plan number 1501.DA.P01 that Council refers to is not part of this DA647/2015 but included to show the approvals that have occurred on the site. It was prepared at Council's request as part of the first procedural DA229/2015 for the 3 Lot subdivision to demonstrate how the subdivision proposed by Allam overlays over a copy of the "Master Plan" Council gave Allam Homes in March 2015.

On this "Master Plan" a portion of the creekline known as Digby Creek is shown as remaining. However, the status of this "Master Plan" is unclear and is no longer relevant on the site. Figure A32 Tullimbar Western Valley Village Structure Plan in Appendix 16 in the SDCP does not show Digby Creek being retained but shows residential development in this area.

It should be noted that the plan that appears in Figure A32 of the SDCP is different from the A3 Tullimbar Village Plan prepared by Ecologically Sustainable Design and regularly tabled at meetings as the "Master Plan". And both plans are different again to the approved Tullimbar Village Development Application Layout Plan dated 17 September 2002, prepared by TTM Consulting Pty Ltd and Ecologically Sustainable Design Pty Ltd. Therefore, it is hard to know which plan takes precedence and which plan the proposal needs to address and be consistent with.

The advice from Shellharbour Council, documented in meetings, is that any proposed DA needs to address the objectives, advice and requirements in Appendix 16 of the SDCP and the figures therein, specifically the Tullimbar Western Valley Village Structure Plan in Figure A32. As such, Attachment 8 contains a Plan showing the proposed subdivision overlain on Figure A32 of the SDCP which clearly shows Digby Creek not retained.

The watercourse known as Digby Creek runs in an east west direction for about 100m from Noble Road into the residentially zoned land and peters out halfway through the site. It has no geomorphological merit and the proposed subdivision does not maintain the small steeply incised gully referred to as Digby Creek. This has to occur to achieve the building landform in that area of the site and is in compliance with the SDCP Tullimbar Western Valley Village Structure Plan. Justification for not retaining Digby Creek is outlined below:

Creek Morphology

Digby Creek is an ephemeral stream in a deeply incised gully approximately 2 metres deep with steep channel walls, approximately 4 to 5 metres wide at the top of the embankment. The creek was identified back in the original DA741/2002 and now as an unstable and migrating channel.

It cannot be retained in its current form, so close to new dwellings on the subject land, and would require significant reconstruction to stabilise it and make it safe resulting in substantial loss of vegetation. In fact the steep profile of the channel and creek bed would make maintenance and regeneration of the channel very difficult.

Environmental Value

Kevin Mills & Associates was engaged to undertake a Flora and Fauna Assessment for the subject DA.

Page 5 of the report states that the Digby Creek drainage line supports a small stand of several rainforest and sclerophyll trees and native understorey plants and *Lantana camara*. The report goes on to say on page 15, *"There are elements (trees and other species) typical of Illawarra Subtropical Rainforest and Illawarra Lowlands Grassy Woodland growing on the subject land. However, these plants do not represent a significant stand of either community. The substantial stands of these types of vegetation occur to the south and are not involved in the current DA."*

The report also states that there are no ecologically endangered populations, threatened species or critical habitats on the site. In conclusion the report states that, *"The trees and other plants, some of which have been planted, along the small gully in the southeast are associated with the endangered ecological communities but are not considered to be a significant stand of either community."* The assessment of significance conducted by Kevin Mills states that the removal of this vegetation will not have a significant impact.

In response to Council's letter dated 22 January 2016, Kevin Mills has provided additional advice in this respect which is located in Attachment 9. The advice states that although stands of native vegetation should endeavour to be retained when possible, the long term viability of such stands must be considered. On the subject land the retention of a small stand on a difficult site within an urban environment would be difficult because of the small size of the vegetation and the surrounding housing.

It is considered a much better environmental outcome to target that effort into another more viable area of native vegetation. On the subject land it is proposed to set aside a significant area of existing native rainforest and woodland in the environmental protection zone to the south which has connectivity to the existing vegetation on the adjoining land to the south and east. It is considered that is where the effort for conservation should be targeted as it will be more viable in the long term and more important on a regional perspective.

Apparently anecdotal advice has been provided that the "Tullimbar Landcare Group" maintains the creek and has undertaken regeneration works within the channel. A site inspection has revealed that an area of land east of the Allam property boundary adjacent to Noble Road does appear to have been maintained. This section of creek is currently piped, and the ground relatively uniformly graded. The outlet from the pipe is near the Allam property boundary.

On the Allam land the gully is deeply incised and very unstable, and is heavily overgrown with lantana and other vegetation and does not appear to have benefitted from any weeding, regeneration works or maintenance in recent years. Whilst it is apparent that the small stand of vegetation in the gully is important to local residents it must be emphasised that it is on private land which is zoned residential and it is not a public reserve. Once it is surrounded by houses it will be difficult to maintain and be viable in the long term.

Finally, although anecdotal advice to Council indicates some sort of agreement to maintain the creek channel in the 1990's there is no evidence of this agreement and the SDCP Tullimbar Western Valley Village Structure Plan does not show its retention as part of the development of the area.

Public Open Space

The steep incised gully of Digby Creek is not appropriate for use as public open space. It is not suitable for passive or active recreation and Council's Property Section have advised that Council would not want to maintain this strip of land and would not accept dedication of the gully as public reserve. The topography of the gully does not lend itself to Digby Creek being used as a nature reserve as one could not access the gully or vegetation due to the steeply incised nature of the channel.

Stormwater Management

Council Engineers Luke Preston and Tim Anger have advised that there is no merit from a stormwater point of view in keeping the Digby Creek gully and that the stormwater pipe from the end of Noble Road that currently feeds into the Digby Creek channel can be piped and diverted through the development.

In normal circumstances the need for retention of riparian corridors increases as you progress downstream. It is most irregular to retain an upstream section, whilst allowing the downstream section to be transformed by urbanisation.

It is not required as part of the overall Stormwater Management Strategy for the site. Additionally, the NSW Office of Water has raised no objections to the loss of this corridor, and has approved the proposed works and has expressed no need for the retention of the Digby Creek gully.

8. Public Notification

We understand several public submissions have been received in response to the public exhibition of the proposal. A detailed response to the objections will be prepared once we receive all the public submissions from Council. However, we will briefly address the 3 issues highlighted in Council's letter as follows:

Piping of Digby Creek from Noble Road

It is considered that this issue has been addressed in detail in Point 7 Riparian Corridor above.

Street layout and connection

Once again the inclusion of the Plan Number 1501.DA.P01 referred to is not part of this DA647/2015 but included to show the approvals that have occurred on the site. It was prepared at Council's request as part of the first procedural DA 229/2015 for the 3 Lot subdivision to demonstrate how the subdivision proposed by Allam overlays over a copy of a "Master Plan" Council gave Allam Homes in March 2015.

The proposal reduces the number of intersections with Noble Road, which was done in direct response to the resident objections to increasing the traffic along Noble Rd and concerns about safety of pedestrians and other car users along Noble Road. The proposed road design does not feature a southern vehicular access point with Noble Road, thus

reducing the impact on Noble Road, and provides a nice controlled intersection with a future roundabout at Berrima Street. Connectivity to the surrounding residential land is provided along Berrima Street to Noble Road and Balmoral Parade.

Noble Road and traffic flow

Again, the proposal reduces the number of intersections with Noble Road, which was done in direct response to the resident objections to increasing the traffic along Noble Rd and concerns about safety of pedestrians and other car users along Noble Road. The proposed road design does not feature a southern vehicular access point with Noble Road, thus reducing the impact on Noble Road, and provides a nice controlled intersection with a future roundabout at Berrima Street. Connectivity to the surrounding residential land is provided along Berrima Street to Noble Road and Balmoral Parade.

It is considered that these measures will enhance the safety and function of Noble Road and this is supported by the Traffic Assessment Report that accompanied the subject DA.

Joint Regional Planning Panel (JRPP)

It is understood that the JRPP held an on-site briefing meeting on the subject land on 11 February 2016 and raised two issues with the proposal which we would like to briefly address as part of this supplementary information.

1. The JRPP raised a concern about the existing consent of the land (DA741/2002 Pt 10) and how it relates to the current DA.

The subject DA647/2015 was lodged as a new DA on the land as per Council's advice. (It follows the approval of the first procedural DA229/2015 for the 3 lot subdivision to facilitate the sale of the land from Council to Allam Homes, and the Section 96AA DA (Ref number DAM0509/2015) for the first stage of 36 lots).

It is considered appropriate that the current application is a new DA over the land as a number of modifications have been made to the original consent and layout plan over the last 12 years due to detailed survey and engineering requirements in the Tullimbar Miltonbrook Development, in the Yellow Rock Road area, to the Hazelton Creek Riparian Corridor and the Electricity Transmission Easement running along Balmoral Parade.

It is noted that the existing consent is based on a Development Application Layout Plan, dated 17 September 2002, that is an indicative layout of how the Tullimbar Village Precincts can be developed over time. It is a conceptual plan and not based on detailed site surveys. The subject DA647/2015 is generally consistent with the approved layout plan and Tullimbar Western Valley Village Structure Plan in the SDCP, however, some variations and refinements were made in the design process in response to:

- Detailed site survey information.
- Topography of the site along the eastern boundary.
- Function and efficiency of street layout and lot design.
- Staging considerations.
- Detailed engineering studies.

The proposed subdivision design is considered to meet the intent, objectives and advice contained in Appendix 16 of the SDCP as they relate to the site. This is addressed in detail in the submitted SEE and this supplementary information.

Under the provisions of the EP&A Act 1979, there can be a number of DA's applying to a site. The development consent that is acted upon and initiated then supercedes other consents on the land to the extent of that approved DA. The subject DA647/2015 is just another DA applying to the subject land within the Tullimbar urban release area. If approved and acted upon it will supercede the original existing DA741/2002 development consent for that portion of the Tullimbar site being Lots 1,2 and 3 DP 1214606 and will be conditioned accordingly.

Furthermore, a precedent has already been set on the land on the corner of the Princes Highway and Yellow Rock Road within the Tullimbar Village development approved under the existing consent DA741/2002. It is understood that a new DA was lodged over the portion of the site on the corner of the Princes Highway and Yellow Rock Road, being DA390/2013, which also proposed changes to the existing approved development layout and Structure Plan, and was approved by Council. That DA390/2013, superceded the original existing consent DA741/2002 for that portion of the Tullimbar Village.

2. Piping of Digby Creek

The justification for not retaining Digby Creek in the subject DA647/2015 has been outlined in Point 7 on page 9 of this letter and will not be repeated here.

However, the JRPP questioned the proposed piping of Digby Creek as part of the subject subdivision proposal when the original consent supports the retention of Digby Creek and we would like to address this matter further.

The original DA741/2002 and development layout were proposed based on a number of baseline studies, one of which was the Digby Creek Drainage Study prepared by Forbes Rigby for Shellharbour Council dated April 2000. That study indicates that the ephemeral stream known as Digby Creek had urban potential due to its relatively low environmental significance. The Study also stated that it was not desirable that the creek be left in its existing form with respect to public safety and ongoing scouring.

Its banks were too steep and unstable for the proposed urban context and the ongoing bed scour would lead to undercutting of the toes of the banks and subsequent bank collapse if unchecked. Some modification was considered necessary to ensure public safety. The Study came up with 5 modification options for Digby Creek ranging from minimal work with scour protection in the creek bed and reducing the batters of the embankments to excavation of the channel to increase capacity and batter the embankments and install a low flow pipe in the bottom of the channel. All options involved some or all vegetation removal and possible replanting.

The existing consent (DA741/2002) specifies that the design for Digby Creek must be generally in accordance with Option C of the Digby Creek Drainage Study. Option C requires the complete conversion of the creek into a floodway with substantial excavation and filling to improve the channel capacity and batter the banks and results in the removal of all the existing vegetation in the gully and riparian corridor except the identified *Angophora floribunda*. A review of the approved development layout plan shows that a portion of the

incised gully appears to be maintained but delivering the proposed 2 road crossings would result in approximately 50% of the creekline being lost and the gully being partially filled.

Therefore, the existing consent does not maintain the existing Digby Creek riparian corridor and protect the existing vegetation. It does not see any environmental value in the riparian vegetation and in fact it supports the removal of all the vegetation and the re-engineering of the channel as a floodway. Subsequent Stormwater Management Studies have identified that Digby Creek is not required for flood mitigation and stormwater management and Council Engineers support this position.

Therefore on any considered basis for the development of a successful residential subdivision in this location the channel of Digby Creek needs to be filled requiring the loss of a small stand of vegetation, and conservation efforts should be targeted at the significant vegetation on Lot 3 in the southern portion of the site from a regional perspective.

I hope that this addresses all the information that Council requires to finalise the assessment of the DA. If however, Council identifies other areas of concern we would be happy to attend a meeting to resolve any outstanding issues with regard to the proposal.

If you wish to discuss this matter further please contact me on 02 4227 4233 or 0409 851833 or email ken@siteplus.com.au.

Yours faithfully



Ken Rootsey
Project Manager

Attachments:

1. *Amended Layout Plans (Site Plus Drawing Nos. 1501.D3.P01).*
2. *Plan Showing Overlay with Precinct E Dwelling Yields.*
3. *Concept Plan for Rear Loaded Lots.*
4. *Retaining Wall Details.*
5. *Landscape Plan for Retaining Walls.*
6. *Concept Plans for Super Lots.*
7. *Pedestrian Footpath Network Plan.*
8. *Overlay with SDCP Tullimbar Western Valley Village Structure Plan.*
9. *Letter from Kevin Mills dated 10 February 2016.*



LEGEND

- POWER LINE SUPPORT
- PURCHASE BOUNDARY
- ZONING LINE
- ASSET PROTECTION ZONE
- DA 3
- POTENTIAL DWELLINGS
- 14.9 LOTS
- 191 DWELLINGS

DA 3 SUBDIVISION PLAN

SCALE: 1:1000 @ A1, 1:2000 @ A3

0 10 20 30 40 50 60 70 80

PROPOSED RESIDENTIAL SUBDIVISION DA.3 LOT 1, 2 & 3 DP.1214606 TULLIMBAR ESTATE		BALMORAL PARADE PTY LTD		DA 3 SUBDIVISION PLAN	
DATE	5/10/15	DATE	15/01/2016	DATE	07/03/2016
APP	KR	APP	KR	APP	D
DN	KR	DN	KR	DN	D
DN	KR	DN	KR	DN	D
AC	KR	AC	KR	AC	D
DESCRIPTION A PRELIMINARY CLIENT ISSUE B REVISED TO COUNCIL COMMENT C REVISED TO COUNCIL COMMENT D REVISED LOTS 213 TO 216 AND 238 TO 243		REVISIONS		APPROVAL	
PREPARED BY: [Signature] CHECKED BY: [Signature] DESIGNED BY: [Signature] DRAWN BY: [Signature]		APPROVED BY: [Signature] DATE: 15/01/2016		APPROVED BY: [Signature] DATE: 07/03/2016	



NO	DESCRIPTION	APP	DATE
A	PRELIMINARY CLIENT ISSUE	D.N. K.R.	8.10.15
B	REVISED TO COUNCIL COMMENT	D.N. K.R.	28.10.15
C	REVISED TO COUNCIL COMMENT	D.N. K.R.	7.3.16
D	REVISED LOTS 213 TO 216 AND 238 TO 243	A.C. K.R.	11/03/16



HEAD OFFICE
26 Thomas Street
Waltham Park NSW 2109
Tel 61 2 860 3177
Fax 61 2 860 3177
E info@theapple.com.au

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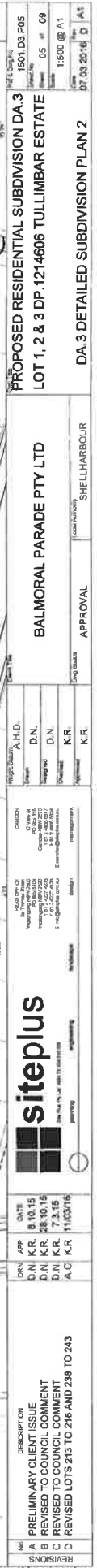
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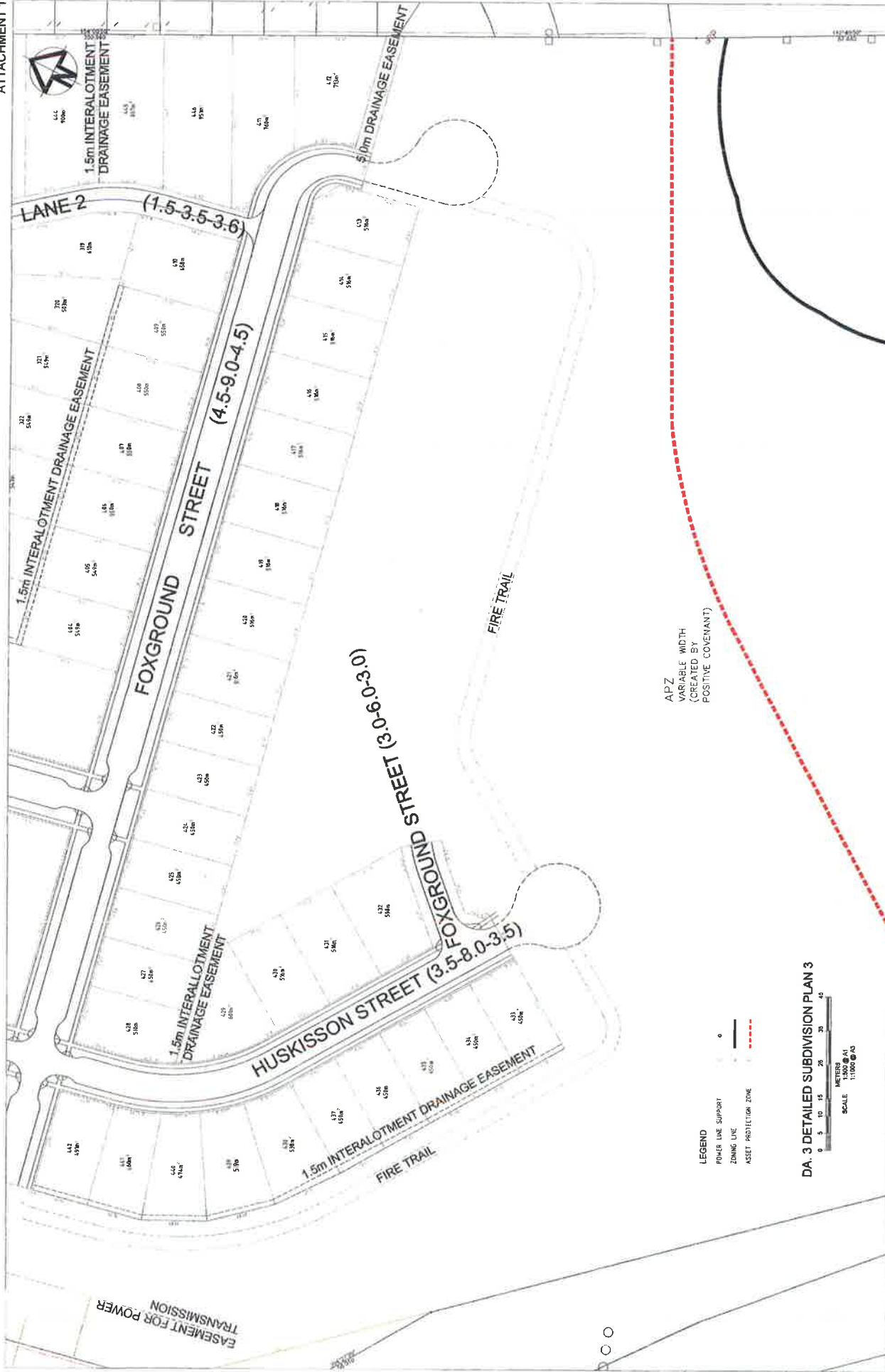
APPROVAL	Shell Harbours
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PROPOSED RESIDENTIAL SUBDIVISION DA.3
LOT 1, 2 & 3 DP.1214606 TULLIMBAR ESTATE

DA.3 DETAILED DUBDIVISION PLAN 1

DA.3 DETAILED DUBDIVISION PLAN 1





APZ
VARIABLE WIDTH
(CREATED BY
POSITIVE COVENANT)

- LEGEND
- POWER LINE SUPPORT
 - ZONING LINE
 - ASSET PROTECTION ZONE

DA. 3 DETAILED SUBDIVISION PLAN 3



PROPOSED RESIDENTIAL SUBDIVISION DA.3 LOT 1, 2 & 3 DP.1214806 TULLIMBAR ESTATE		1501 D3 P06	
BAMMORAL PARADE PTY LTD		1:500 @ A1	
DA.3 DETAILED SUBDIVISION PLAN 3		D A1	
SHELLHARBOUR		APPROVAL	
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NOTE FIGURE A45 IS CONCEPTUAL ONLY. THE EXISTING RIPARIAN CORRIDOR IS DIFFERENT TO THAT IN FIGURE A45.

PROPOSED RESIDENTIAL SUBDIVISION DA.3
LOT 1, 2 & 3 DP.1214606 TULLIMBAR ESTATE
DA.3 SUBDIVISION PLAN OVERLAY
PRECINCT E DWELLING YIELD - SDCP APP. 1607 03 2016, D A1

BALMORAL PARADE PTY LTD

APPROVAL

siteplus

REVISIONS

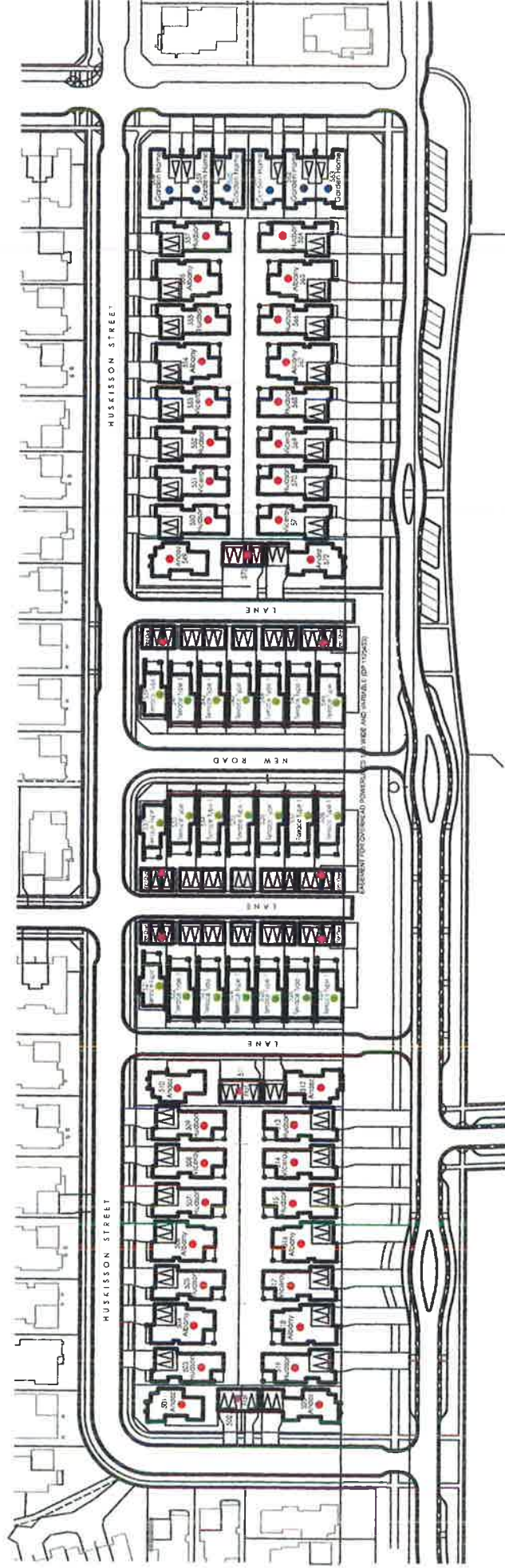
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2	28/10/15	REVISED TO COUNCIL COMMENT
3	7/3/16	REVISED TO COUNCIL COMMENT
4	11/03/16	REVISED LOTS 215 TO 216 AND 238 TO 243

APPROVAL

DATE 15/01/16

SCALE 1:2000 @ A1

Stage 5 Master Plan



Legend

- Garden Home
- Detached Home
- Terrace Home
- Flat over Garage



SITEPLAN - CONCEPT ONLY - REAR LOADED LOTS

SCALE 1:200

[illegible][illegible]

Project Path: Projects\2015 Projects\1501 Engineer for Affm Property Group\DWG\Development Application\1501_DA_2_RETAINING WALL DETAILS.dwg

REVISION	DESCRIPTION	DATE	BY	APP
A	PRELIMINARY CLIENT ISSUE	DN KR 8.10.15		
B	REVISED TO COUNCIL COMMENT	DN KR 28.10.15		
C	REVISED TO COUNCIL COMMENT	DN KR 7.3.15		

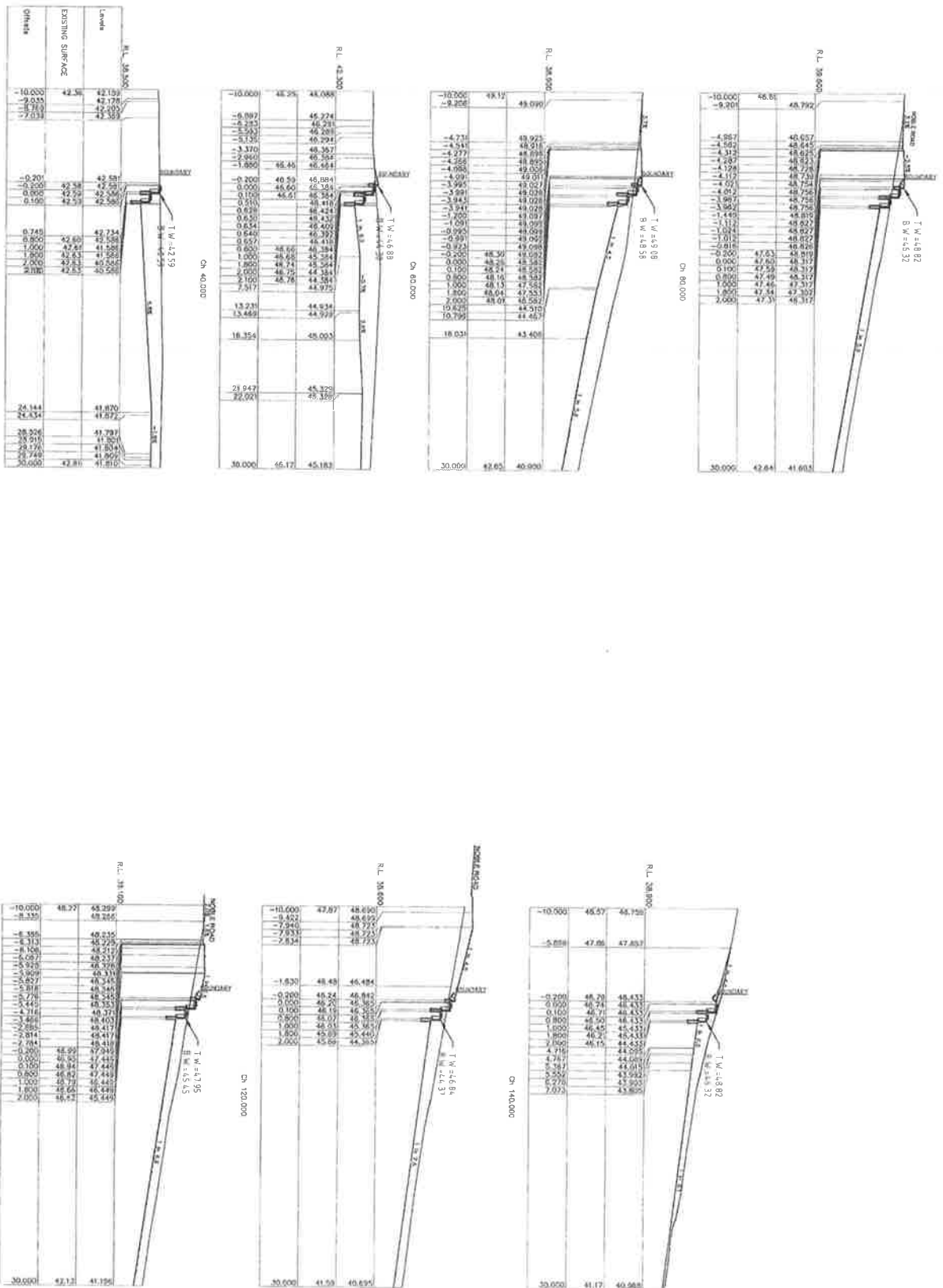
siteplus	100% COMPLETE	100% COMPLETE	100% COMPLETE	100% COMPLETE
PROJECTING	APPROVING	REVIEWING	CHECKING	DESIGNING

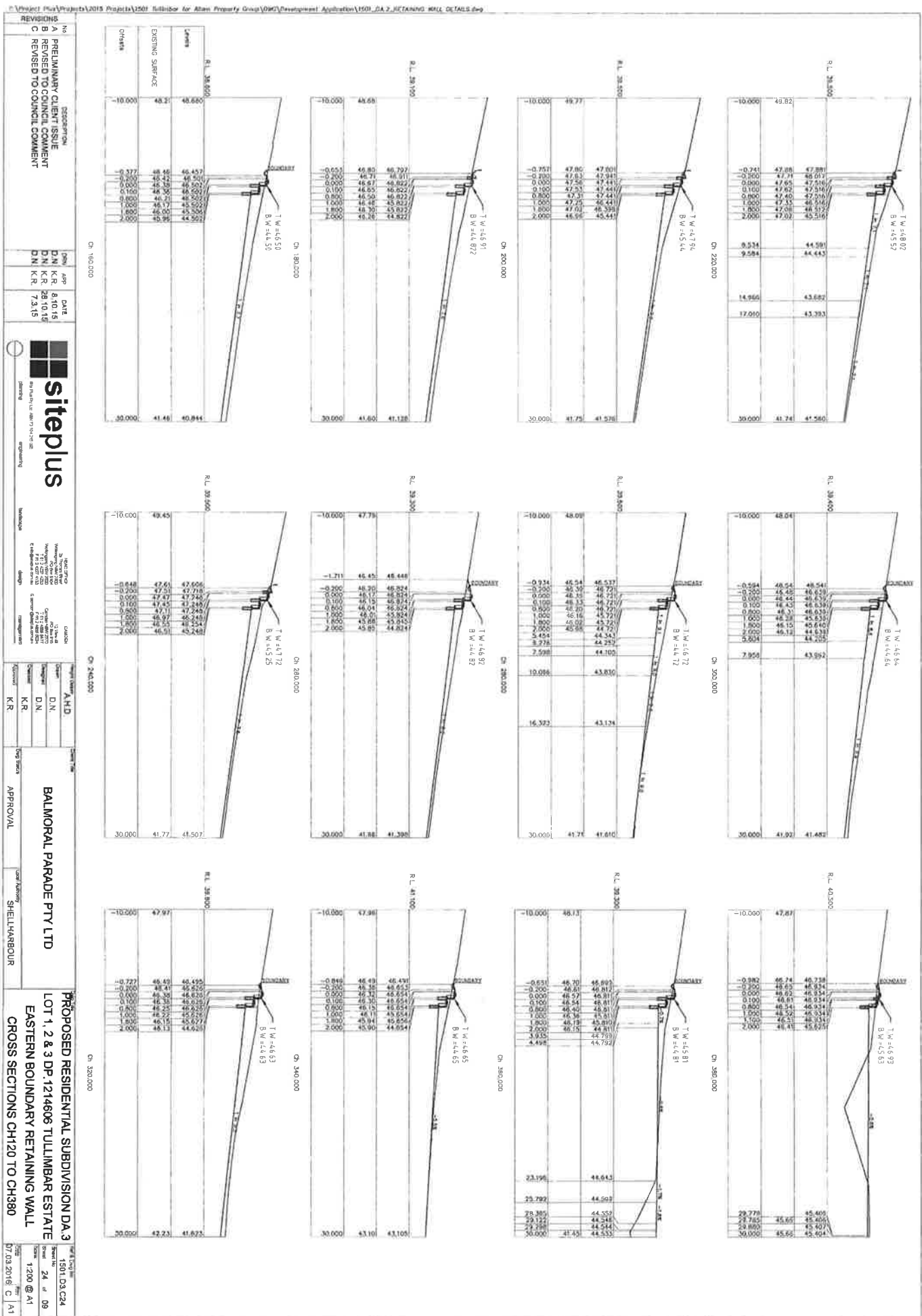
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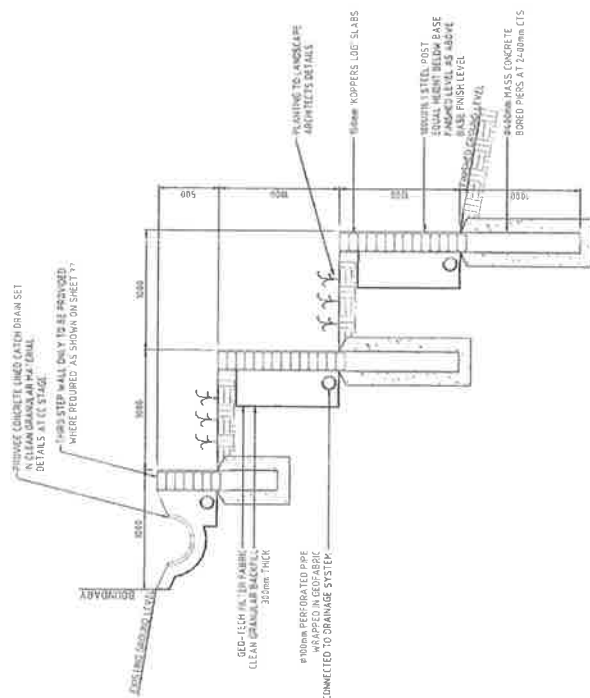
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KR	KR	KR	KR	KR

PROPOSED RESIDENTIAL SUBDIVISION DA.3	1501 DA.3
LOT 1, 2 & 3 DP 1214606 TULLIMBAR ESTATE	
EASTERN BOUNDARY RETAINING WALL	
CROSS SECTIONS CH0 TO CH100	

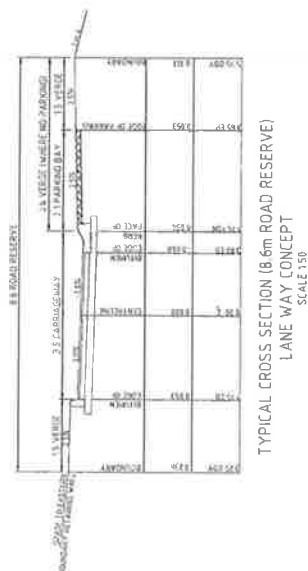
DATE	07.03.2016	BY	C.15
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2.0m TO 2.5m HIGH RETAINING WALL DETAIL
SCALE 1:20

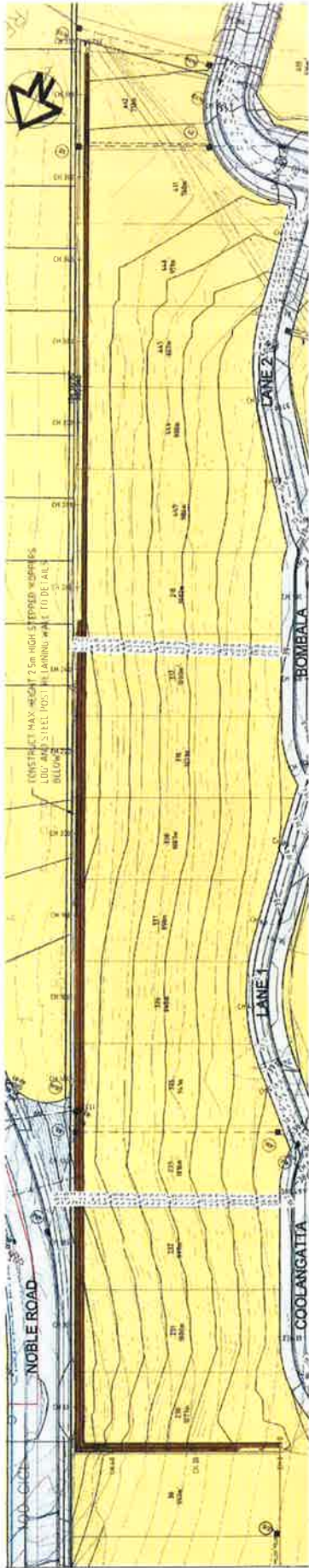


TYPICAL CROSS SECTION (8.6m ROAD RESERVE)
LANE WAY CONCEPT
SCALE 1:50

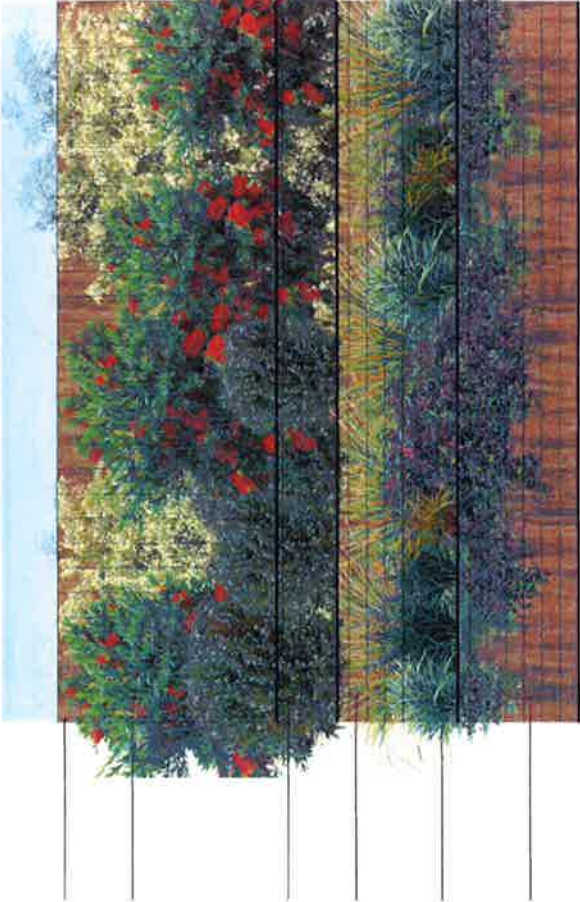
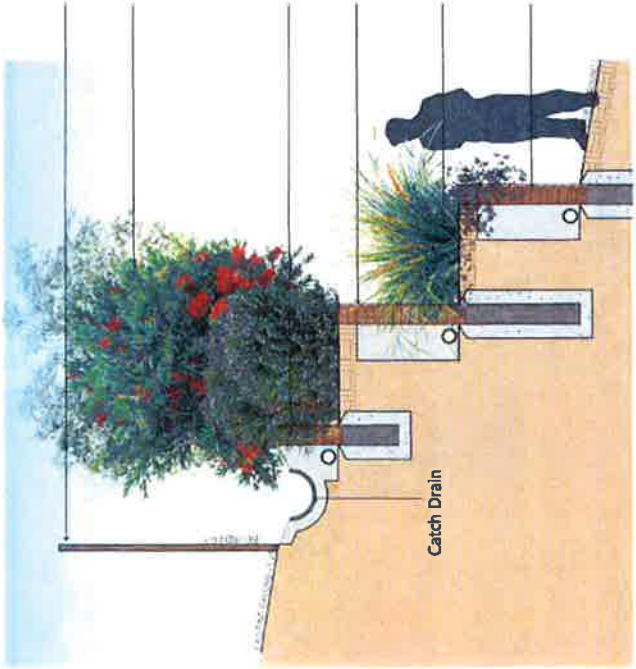
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Tullimbar DA3, Illawarra, NSW - Eastern Boundary Wall Landscape Treatment

ATTACHMENT 5



PLAN 1:500 (REFER TO CIVIL DRAWINGS FOR FURTHER DETAILS)



- Lapped and capped timber fence 1800mm High
- Native shrub planting between 1.5 - 4m high
- Horizontal timber 150mm 'Koppers Log' slabs. 500mm High (To Civil Engineers Details)
- Horizontal timber 150mm 'Koppers Log' slabs. 1m High (To Civil Engineers Details)
- Native groundcovers & grasses planting 0.5 to 1m high
- Horizontal timber 150mm 'Koppers Log' slabs. 1m High (To Civil Engineers Details)

SECTION 1:20

ELEVATION 1:20

PLAN, SECTION AND ELEVATION

Drawing LDA-016

25 07 2016

Project: Tullimbar - DA3 Illawarra, NSW

Job Number: 20150317

Client: Balmoral Parade Pty Ltd

Scale:

ink.

landscape architecture - design visuals
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Tullimbar DA3, Illawarra, NSW - Eastern Boundary Wall Landscape Treatment

ATTACHMENT 5



ILLUSTRATIVE PERSPECTIVE

Botanical Name	Common Name	Mature Height	Pot Size
<i>Succisa</i>			
<i>Cornus alba</i>	White Cornus	1.5m	200mm
Callitriche "Kings Pipe Sound"	Kings Pipe Bottle Brush	200mm	200mm
<i>Callitriche verticillata</i> Macarthur	Macarthur Bottle Brush	1.6m	200mm
<i>Grevillea woodii</i> "	Grevillea Woodford	4m	200mm
<i>Grevillea honeyeater</i> "	Grevillea Honey Eater	4m	200mm
<i>Ruscus angustifolia</i>	Tin Flush	2.5m	200mm
<i>Wisteria floribunda</i>	Coastal Wisteria	3m	200mm
<i>Groundcover</i> / Low Shrub			
<i>Dianella caerulea</i>	Daniella	1m	Tall
<i>Hesperaloe parviflora</i> "Marian's"	Lupine coral sea	0.5m	150mm
<i>Lonicera japonica</i>	Lamarna	1m	Tube
<i>Lonicera laurifolia</i>	Lanila	0.6m	Tube
<i>Phytolacca americana</i>	Fruit Grass	0.3m	Tube
<i>Argemone mexicana</i>	Cowboy Salt Bush	0.5m	150mm
<i>Scilla maritima</i>	Fox Flower	0.5m	150mm

PLANT IMAGES



Westringia fruticosa



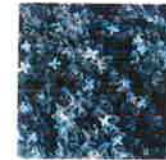
Callistemon viminalis
'Kings Park Special'



Pennisetum nafray



Lomandra longifolia



Correa alba



Hardenbergia violacea



Diane C. Casper

Note: Low maintenance, low water use native planting to be used.

**ILLUSTRATIVE PERSPECTIVE AND
PLANTING LIST**
Drawing LDA-017

25.02.2016

Project
Tullimbar - DA3
Illawarra, NSW

Job Number: 20150317

Client:
Balmoral Parade Pty Ltd

Scale:

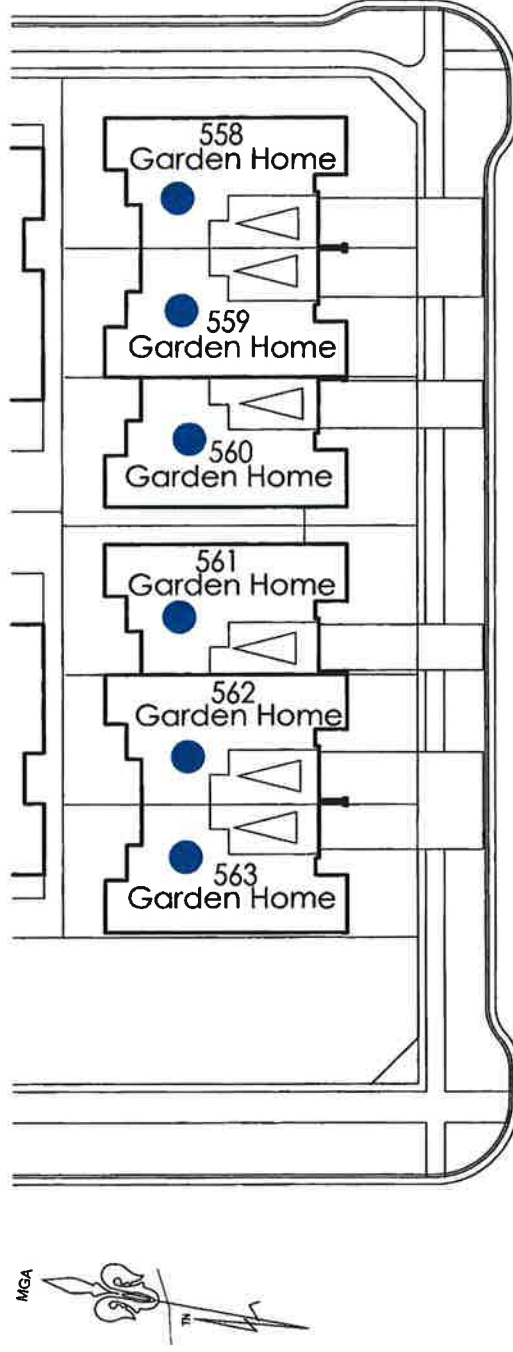
100 | Page

landscape architecture + design visual
groundink
© Groundink Pty Ltd. All rights reserved. 2014

Garden Homes

ATTACHMENT 6

Lot 588 to 563 Huskisson Street Tullimbar



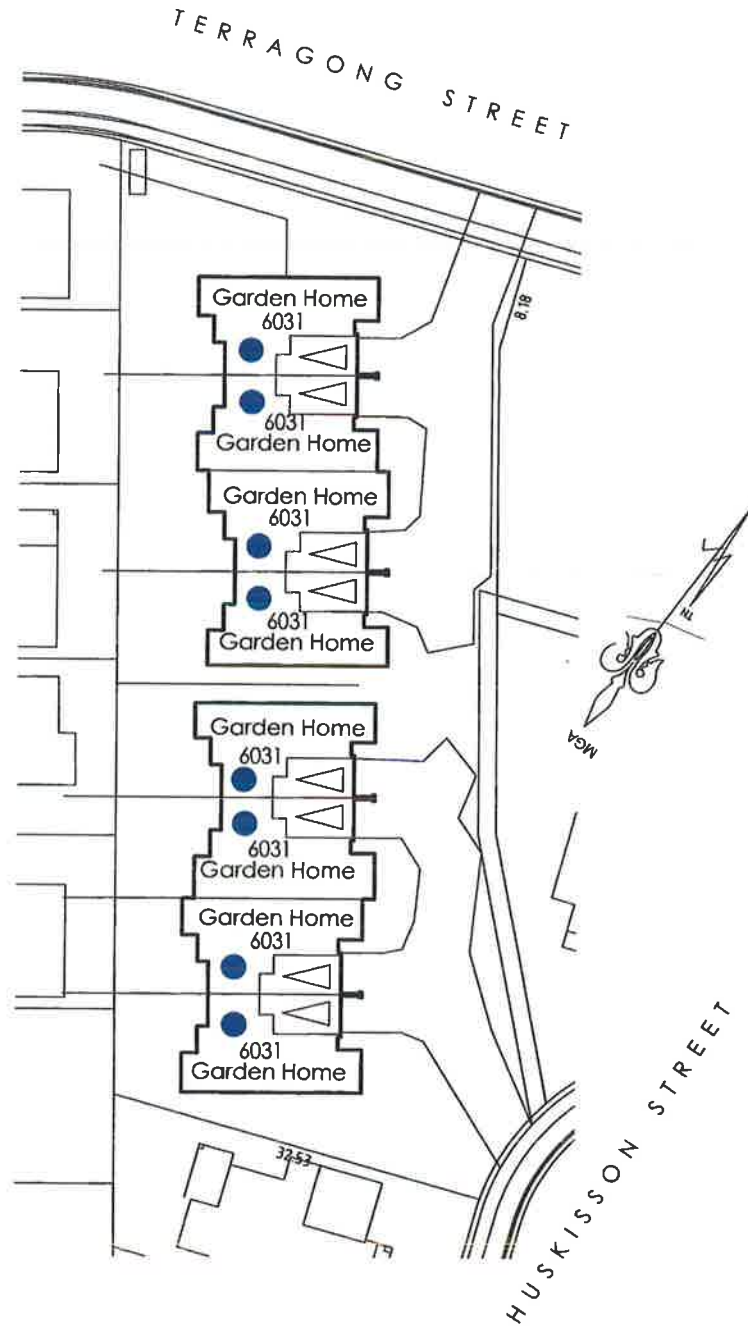
HUSKISSON STREET

SITEPLAN - CONCEPTUAL DESIGN FOR SUPERLOTS

Garden Homes

Lot 6031 to 6038 Terragong Street Tullimbar

ATTACHMENT 6



SITEPLAN - CONCEPTUAL DESIGN FOR SUPER LOTS



REVISIONS		DESCRIPTION	DATE	APP	CHK
A	PRELIMINARY CLIENT ISSUE		8.10.15		D.N. K.R.
B	REVISED TO COUNCIL COMMENT		28.10.16		D.N. K.R.
C	REVISED TO COUNCIL COMMENT		7.3.15		D.N. K.R.

PROJECT NO.	1501.03.P09
DATE	09.09.15
SCALE	1:1000 @ A1
DATE	07.03.2016
BY	C.A.T.

DESIGNER	siteplus
PROJECT NO.	1501.03.P09
DATE	09.09.15
SCALE	1:1000 @ A1
DATE	07.03.2016
BY	C.A.T.

APPROVAL	SHELLMARBOROUGH
DATE	07.03.2016
BY	C.A.T.

CLIENT	BALMORAL PARADE PTY LTD
PROJECT NO.	1501.03.P09
DATE	09.09.15
SCALE	1:1000 @ A1
DATE	07.03.2016
BY	C.A.T.

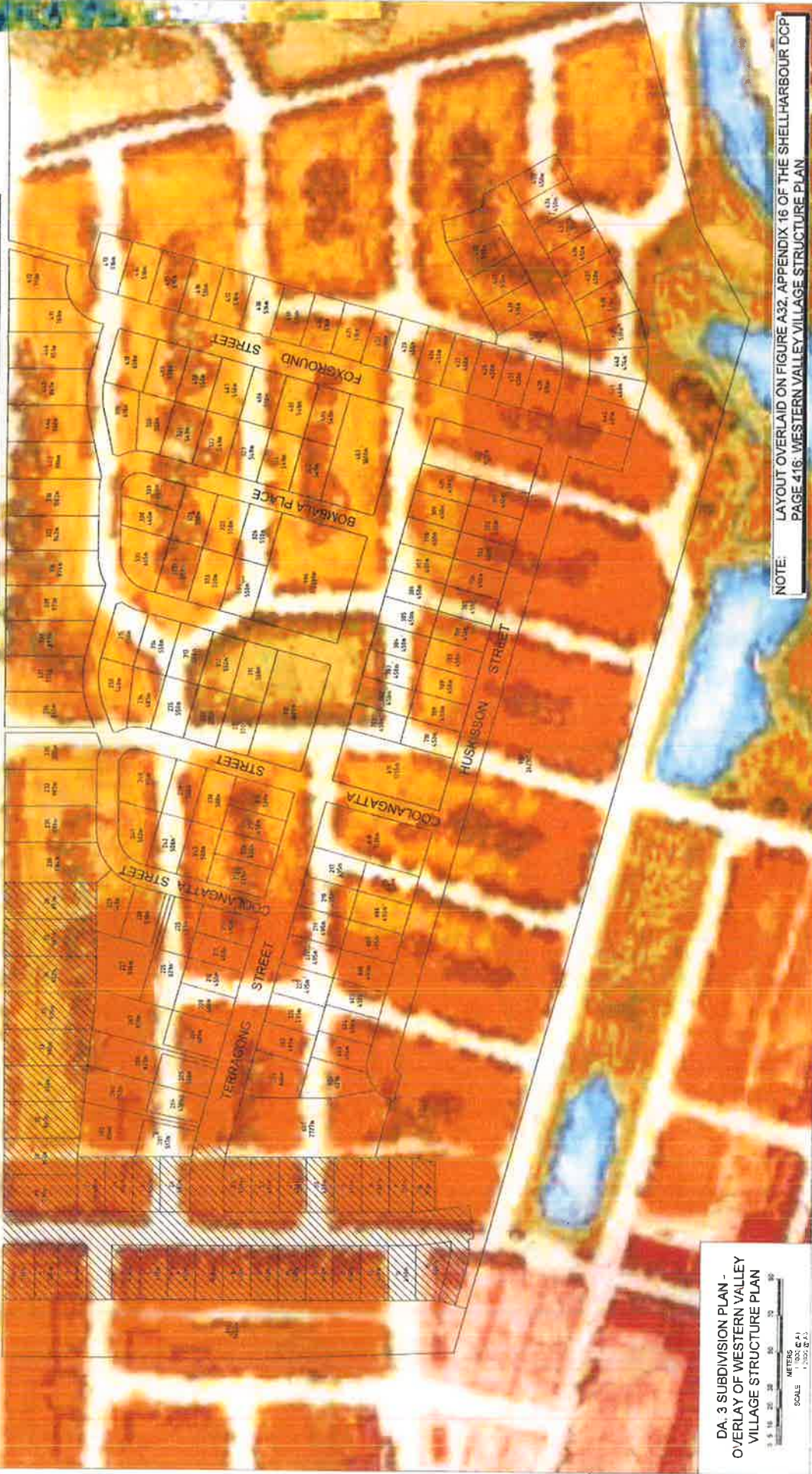
SOPHIA STREET

NOBLE ROAD

NOBLE ROAD

NOBLE ROAD

NOTE: DIGBY CREEK IS NOT RETAINED IN THE TULLIMBAR VILLAGE STRUCTURE PLAN



DA 3 SUBDIVISION PLAN -
OVERLAY OF WESTERN VALLEY
VILLAGE STRUCTURE PLAN

SCALE 1:1000 @ A1
1:1000 @ A1

REV	DESCRIPTION	DATE
A	PRELIMINARY CLIENT ISSUE	08/10/15
B	REVISED TO COUNCIL COMMENT	28/10/15
C	REVISED TO COUNCIL COMMENT	23/11/15
D	REVISED LOTS 215 TO 216 AND 238 TO 243	11/03/16



NO	NAME	DATE	STATUS
1	DA 3 SUBDIVISION PLAN	08/10/15	ISSUED
2	DA 3 SUBDIVISION PLAN	28/10/15	REVISED
3	DA 3 SUBDIVISION PLAN	23/11/15	REVISED
4	DA 3 SUBDIVISION PLAN	11/03/16	REVISED

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

NOTE: LAYOUT OVERLAIN ON FIGURE A32, APPENDIX 16 OF THE SHELLHARBOUR DCP
PAGE 416: WESTERN VALLEY VILLAGE STRUCTURE PLAN

PROPOSED RESIDENTIAL SUBDIVISION DA 3
LOT 1, 2 & 3 DP 1214606 TULLIMBAR ESTATE
OVERLAY WESTERN VALLEY
STRUCTURE PLAN

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

APP	DATE	STATUS
DA 3	08/10/15	ISSUED
DA 3	28/10/15	REVISED
DA 3	23/11/15	REVISED
DA 3	11/03/16	REVISED

KMA

KEVIN MILLS & ASSOCIATES
ECOLOGICAL AND ENVIRONMENTAL CONSULTANTS

ABN 346 816 238 93

Tel: (02) 4236 0620

Mobile: 0429 848 094

email: kevinmillskma@gmail.com

12 Hyam Place

Jamberoo NSW 2533

Mr Kern Rootsey
Director Engineering
Site Plus Pty Ltd
PO Box 5104 Wollongong NSW 2500

10 February 2016

Dear Sir

Re Stand of trees below Digby Place, Albion Park

Our report of September 2015 (see reference below) assessed the stand of trees adjacent to the drainage line below Digby Place. The report described the stand of trees (page 5), and provided a schedule of the trees in the stand (see Appendix 2 in the report); see also a photograph at page 9. In relation this stand of trees the report concluded at page 17 : "The trees and other plants, some of which have been planted, along the small gully in the southeast are associated with the endangered ecological communities but are not considered to be a significant stand of either community."

While stands of native vegetation should be retained wherever possible, the long term viability of such stands must be considered. In this case, trying to retain this small stand within an urban environment would be quite difficult because of its very small size and surrounding housing. We understand that the drainage line must be re-contoured as part of the subdivision works; it is therefore likely that few of the existing trees could be retained.

We believe that it is much better to target that effort into another more viable area of native vegetation. In the case of this subdivision, it is proposed to set aside a relatively large area of existing native rainforest and woodland to the south. That area is, in our view, where the effort for conservation should be targeted, as it will be more viable in the long term.

Please feel free to contact me should you require any further comment.

Yours sincerely

KEVIN MILLS & ASSOCIATES

Dr Kevin Mills

Managing Director



Reference

Kevin Mills & Associates (2015). Flora and Fauna Assessment, Part Lot 522 DP 1168919, Illawarra Highway, Tullimbar/Albion Park, City of Shellharbour. Report prepared for Balmoral Parade Pty Limited, c/- Project Plus Pty Limited, Wollongong, September.

PART 6 - TULLIMBAR

APPENDIX 13 - TULLIMBAR PROVISIONS

This Appendix and associated Chapter 33, provide site specific provisions for deferred lands including Tullimbar. For advice in addition to these site specific provisions, please refer the relevant chapters of the remainder of the DCP. Please note, where there are inconsistencies between the remainder of the DCP and the site specific provisions, the latter will prevail.

A13.1 - Subject land

This Appendix applies to land at Tullimbar zoned 2(e) Mixed Use Residential under *LEP 2000*

A13.2 - Other related documents

Tullimbar Village Housing guidelines - these guidelines will apply to proposals for single residential use of lots in the Tullimbar Village. This document is yet to be reviewed and finalised however, in light of the requirements of Environmental Planning and Assessment Amendment Bill 1997.

A Mixed Use Village for the Western Valley, Albion Park. Outcomes from the Charrette, August, 1996 - this report provides information relating the outcomes of the Western Valley Charrette, on which this Appendix is based. It is a resource document that provides interpretive information or more detail explanations of the provisions of this Appendix.

A13.3 - Background information

This Appendix is based in the outcomes of the Western Valley Charrette conducted in March 1996 to develop an urban design for the development of land to which this Appendix applies. The urban design is based on ecologically sustainable development principles and therefore embraces the goal of a mixed use, relatively dense community that minimises dependence on the private car by providing for a range of services, activities and employment whilst respecting and preserving the natural habitat and resources.

The charrette was a five day, interactive planning process involving consultation with elected officials, public authorities, the community, interest groups and land owners. The urban design developed at the charrette and which forms the basis for this Appendix, proposes a walkable, mixed-use village with a variety of workplaces catering for around 350 jobs and a range of residential densities providing for a total of 1,500 dwellings. The plan capitalises on the natural setting, with the escarpment forests providing an attractive rural backdrop at the end of many streets, while Hazelton Creek is proposed to be rehabilitated into a naturally functioning stream, fronted by development, as a central focus of a linear park running through the middle of the village.

As an outcome of the finalisation of Council's *Local Environmental Plan 2013*, a planning proposal is proposed to be undertaken to review LEP 2013's provisions for Tullimbar. Any revised DCP provisions for Tullimbar will need to follow and be in line with the outcome of any planning proposal and can potentially be integrated throughout this DCP.

In the interim, provisions from the repealed *Tullimbah Village DCP* are the basis for this Appendix.

A13.4 - Objectives

1. To provide a much closer relationship between land use, subdivision and building types.
2. To provide a much closer relationship between public amenity and private development.

3. To promote development of a mixed use urban village community for the Western Valley of Albion Park.
4. To minimise dependence on the private car by locating and supporting many daily activities within the project area, with detailed design that supports walking, cycling and bus use
5. To encourage local employment and business (including home-based business) development within the project area.
6. To ensure that significant native vegetation, habitat, water resources, agriculture land and landscapes are protected.
7. To ensure the site constraints of flooding, bushfire risk, easement limitations, slope instability and erosion are taken into account.
8. To enable limited retail and commercial development provided that it is complementary to the existing Albion Park town centre.
9. To generate a strong sense of community identity through site-responsive layout, and urban design that creates a village with high amenity and supportive of informal interaction.
10. To ensure that the staging of the development maintains efficiency and equity for adjoining parcels of land in terms of costs, services, street layout and subdivision.
11. To provide sufficient resident population in conjunction with Regal Heights to support a primary school and community facilities in the village.
12. To regulate housing and mixed use development to ensure compatibility and protect amenity of surrounding neighbours and the community.
13. To provide a clearly defined urban growth boundary to south-western urban development of Albion Park and to manage development along the edge of the village to protect rural values.
14. To concentrate densities on lands within a safe and accessible walking distance to village and neighbourhood centres.

A13.5 - Tullimbar Village structure plan

This Appendix adopts the Tullimbar Village Structure Plan as illustrated in **Figure A13.1**. It is noted that the Structure Plan includes lands outside the land to which this Appendix applies. Development concepts for lands not contained in this Appendix should not be construed as making such developments permissible.

The provisions of this Appendix operate by requiring development to be generally consistent with the structure plan, however refinements to the structure plan may be considered in some circumstances where the objectives of the Appendix are still to be fulfilled.

Circumstances that may warrant consideration of variations to the Appendix include (but need not be limited to):

- refinement of government agency requirements (e.g. for stormwater, streams, bushland protection etc)
- detailed survey information
- detailed environmental studies
- detailed engineering studies
- design refinement that increases efficiency of street layout and lot dimensions
- achievement of higher than anticipated resident and/or worker density in appropriate locations
- unanticipated, but compatible, type of business investment or development staging considerations.

Appendix 13 – Tullimbar Provisions

Variations to the Tullimbar Village Structure Plan will only be considered where satisfaction of the objectives contained in this Appendix and other legislative requirements are able to be demonstrated.

It is noted that urban development will not generally be supported on land greater than 20% slope.

A13.6 - Tullimbar Village urban development precincts

Within the context of the Tullimbar Village Structure Plan identified in **Figure A13.2**, the village has been divided into development precincts so as to provide some development certainty and some scope for mixed uses. In each precinct, one land use or activity will usually predominate and in most precincts, a range of other compatible activities will be considered on a performance basis.

The following **Table A13.1** lists the precincts, the map notation and a brief description of each. Different requirements may apply in each precinct.

The precinct boundaries are shown on **Figure A13.2**.

Table A13.1 – Tullimbar Village Urban Development Precincts

TULLIMBAR VILLAGE URBAN DEVELOPMENT PRECINCTS		
Notation	Precinct Name	Description
MIXED USE PRECINCTS		
VCR1	Village Centre Retail 1	Local retail core
VCR2	Village Centre Retail 2	Highway-focussed speciality retail
VCMU1	Village Centre Mixed Use 1	Central main street frontage adjoining and/or between VCR1 and VCR2 nodes.
VCMU2	Village Centre Mixed Use 2	Mixed use precincts close to and functionally related to the Village Centre
VCEMU	Village Centre Easement Mixed Use	Mixed use precinct on the power easement
NC1	Neighbourhood Centre 1	Southern valley neighbourhood centre near the confluence of the two streams
NC2	Neighbourhood Centre 2	Neighbourhood centre on the Central Plateau at the eastern edge of the project
PREDOMINANTLY RESIDENTIAL PRECINCTS		
MDR1-9	Medium Density Residential 1	Precincts where the Appendix generally encourages medium density, predominantly residential, development and home-based business
LDR 1-9	Lower Density Residential	Precincts where the Appendix generally encourages lower density, predominantly residential development and home-based business.

A13.7 - Development incentives

The Tullimbar Village mixed use village project is regarded as innovative and valuable to Shellharbour local government area. Council has therefore included a range of incentives into this Appendix to encourage development to be well-designed in terms of the site and surroundings.

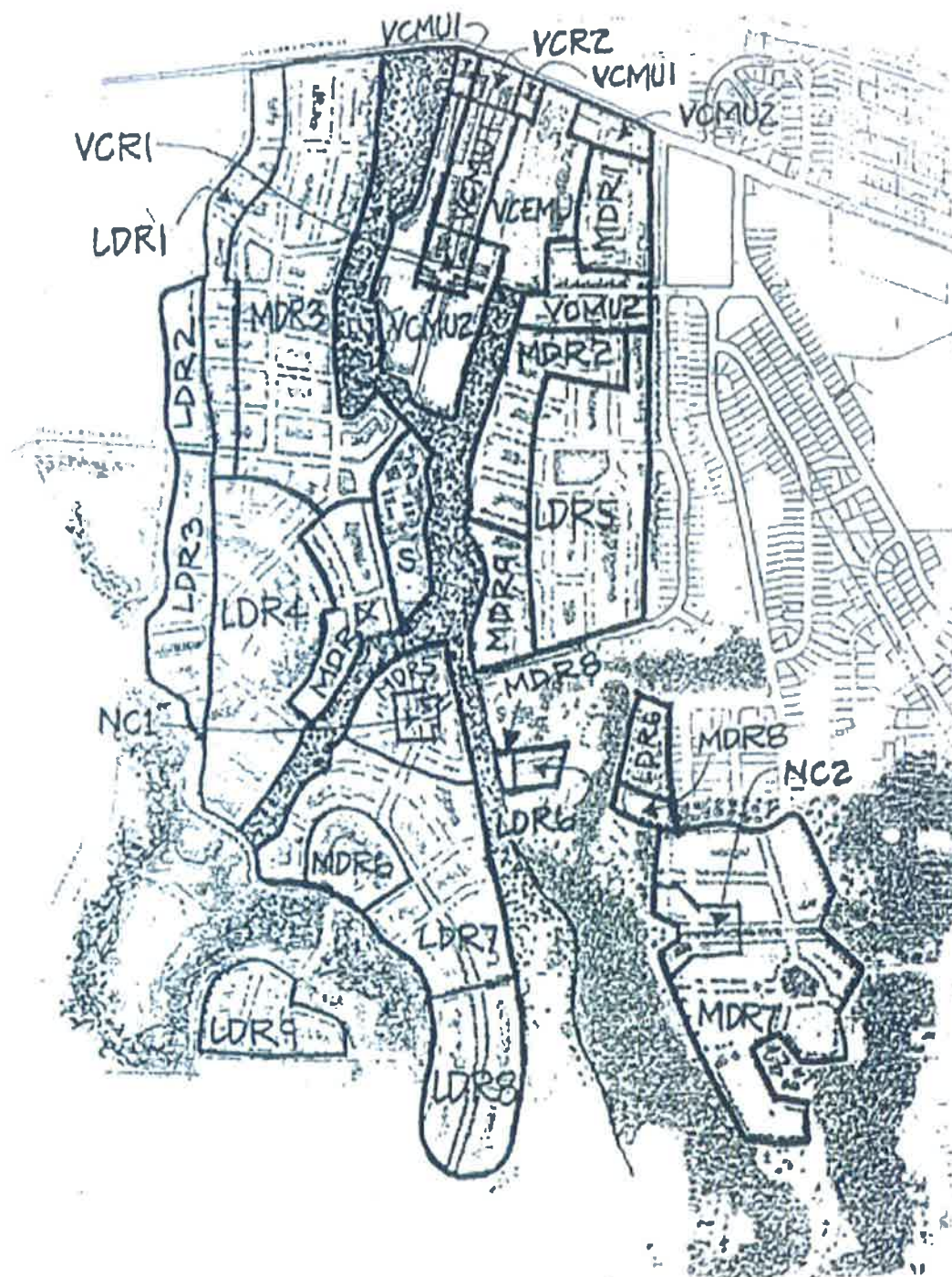
A13.7.1 These incentives include:

- a. *design advice and plan endorsement* - Council will require plans to be endorsed by an architect prior to the lodgement of development applications should developers wish to provide such a service to subsequent developers and home-buyers to facilitate development in compliance with this Appendix
- b. *car parking* - the design of the village incorporates extensive on-street parking capacity. This means that many non-residential and home-business uses will not be required to provide additional off-street parking because of the on-street supply
- c. *easier approval and design flexibility for residential lots* - *Building and Access Guidelines (BAGs)* will define building envelopes and access requirements. This will also make it easier to provide smaller lots between 230 and 450 m²
- d. *interim use approvals* - to stimulate construction of the village centre and local facilities, interim uses such as "school in shops" or "school in dwellings" may be supported.

Figure A13.1 - Western Valley Village Structure Plan (NB This plan includes lands to which this Appendix does not apply)



Figure A13.2 - Tullimbar Village Urban Development Precincts (NB This plan includes lands to which this Appendix does not apply)



A13.8 - Provisions

The development requirements within this Appendix are organised into Sections within which objectives and advice are specified. Normally all relevant advices are to be met. If one or more of the advices is not met, then justification must be provided to show the specific objectives of the section and the general objectives of this Appendix are met.

A13.9 - Water and stream management

Objectives

1. To ensure that areas used for urban development are not flood liable.
2. To manage storm water quantity and quality, both during construction and long term.
3. To engineer and re-configure the features of a naturally functioning stream including a riparian corridor, minimum width 40m, in the modified central and lower sections of Hazelton Creek, north of where it leaves the present power easement, in order to enhance its habitat value, water quality, recreation and urban landscape value.
4. To preserve the habitat value and enhance the urban landscape value of both branches of upper Hazelton Creek, south and west of where it meets the present power easement.

Advice

A13.9.1 A detailed Stream and Stormwater Management Plan for Hazelton Creek Catchment is to be prepared. **Figure A13.3** is a Stream and Stormwater Management Concept Plan that demonstrates in principle one possible solution with:

- a. retarding basins upstream of the urban areas to reduce peak flows and downstream flooding, located to minimise their urban land take
- b. reconstruction of the stream channel, fringing vegetation and floodway in the northern and central part of the site to restore its potential to support a complex aquatic ecology and to reduce the relatively flat and well-located land that is presently flood prone
- c. retention of those stream sections which are still in a relatively natural state and in good ecological condition
- d. increased culvert capacity under the highway to reduce likely flooding of the highway and to reduce the upstream area likely to flood
- e. construction of artificial wetlands adjacent to the creek to clean storm water runoff from the urban areas before it enters the creek.

The detailed Stream and Stormwater Management Plan, or a satisfactory alternative, must be prepared by the developers and to the satisfaction of Shellharbour City Council and relevant statutory authorities.

Detailed storm water management plans consistent with the adopted Stream and Stormwater Management Plan and soil and water management plans, are to be approved by Council in association with the subdivision of each stage.

A13.10 - Bushland protection

Objectives

1. To retain and protect as bushland those areas of native vegetation identified as significant for conservation, wildlife corridors, habitat, slope protection or landscape values.
2. To protect and enhance threatened plant species.

Appendix 13 – Tullimbar Provisions

3. To provide for limited street crossings, detailed to minimise damage through the bushland escarpments.
4. To detail development abutting bushland to address bushfire hazards, generate minimal damage to the bushland from weeds, rubbish and domestic pets, and provides appropriate storm water management.

Advice

- A13.10.1 The forested land identified as having significance for conservation or rehabilitation is shown in **Figure A13.4** and these areas are generally to be retained as bushland and managed by the appropriate government authority, Council or landowner is generally to be retained as bushland.
- A13.10.2 Detailed plans of management for forested land identified in **Figure A13.4** must be submitted in conjunction with related subdivision proposals.
- A13.10.3 All areas of the threatened *Cyanchum* and *Zieria granulata* species are to be identified on subdivision plans and a plan of management developed and approved by Council to protect these plants.
- A13.10.4 The number and width of vehicle routes through bushland escarpments, is limited to four (two serving Cooby Plateau and two serving the Central Plateau), and detailed to be a narrow two-lane paved section with minimal cut and fill work, and with dispersed (rather than point source) run-off, subject to street layout
- A13.10.5 Streets must be provided between upland urban development and the bushland edge for fire protection and to provide access for fire-fighting vehicles between forests and urban lands. Storm water runoff is to be collected and then diffused into the bushland escarpments so as to retain a similar runoff regime to the presently undeveloped state, or an enhanced regime beneficial to the vegetation.
- A13.10.6 Where vehicular streets are not practical against the lower edge of the escarpment, a public access reserve with footpath is to be provided and abutting lots laid out and building envelopes specified to ensure that development fronts the bushland. The length of any such pedestrian reserve should generally not exceed 150 metres without vehicular access.
- A13.10.7 Trees determined to be retained within the development must be initially identified on aerial photographs at Council and subsequently marked on site. On ground subdivision plans and development applications are required to respond to these requirements. Trees proposed to be removed (subject to Council's requirements) are also to be identified on subdivision plans and development applications.

A13.11 Parklands and public recreation

Objectives

1. To provide parkland and public recreation facilities to serve the passive recreation and local sporting needs of the local community.
2. To provide for parklands that are be well-distributed and have safe and convenient access to residents and to ensure that they are developed to a reasonable standard at an early stage.
3. To facilitate the contribution that high quality parks, particularly those that capitalise on natural site features, can make to the success of the mixed use village.
4. To ensure that urban parks are provided with good surveillance from streets and adjacent development frontage.

Advice

- A13.11.1 Parkland is provided in general accord with **Figure A13.5** *Indicative Locations, Sizes and Functions of Parkland for the Western Valley Project Area*. This includes the Hazelton Creek linear park (with minimum width of 40 metres), local parks of minimum area 3000m² in the east, north, north west, Cooby Knoll and Central Plateau. The precise boundaries, size and location of parks may be varied or amended to be consistent with the adopted Stream & Storm water Management Plan and as detailed plans for each precinct are finalised.
- A13.11.2 Additional pocket parks and green landscape features may be provided to provide sufficient parks in appropriate locations.
- A13.11.3 The design, location and access to the sports field is to ensure this facility is available for both school and community use.
- A13.11.4 A walking and cycle path is provided along the Hazelton Creek linear park. This cycle/walking route may use "shareway" streets fronting the park.
- A13.11.5 Parks must be substantially bounded by streets or "shareways" and fronted by development. Minor frontages may be to footpaths. Lot layouts backing on to parks or resulting in a back fence to another street will not be supported.

Figure A13.3 - Possible Stream and Stormwater Management Concept Plan (NB This plan includes lands to which this Appendix does not apply)

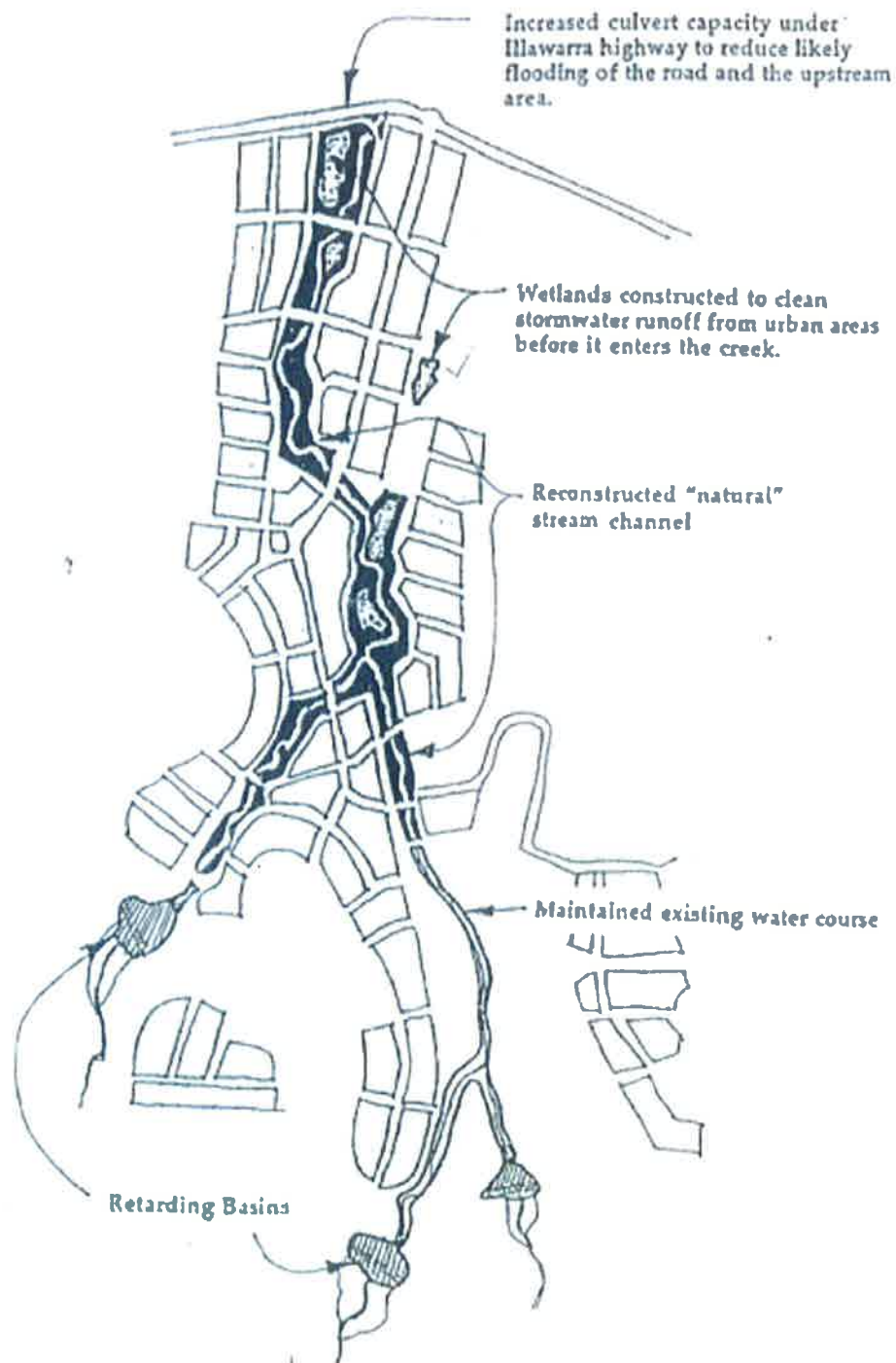


Figure A13.4 - General Bushland and Habitat Plan (NB This plan includes lands to which this Appendix does not apply)

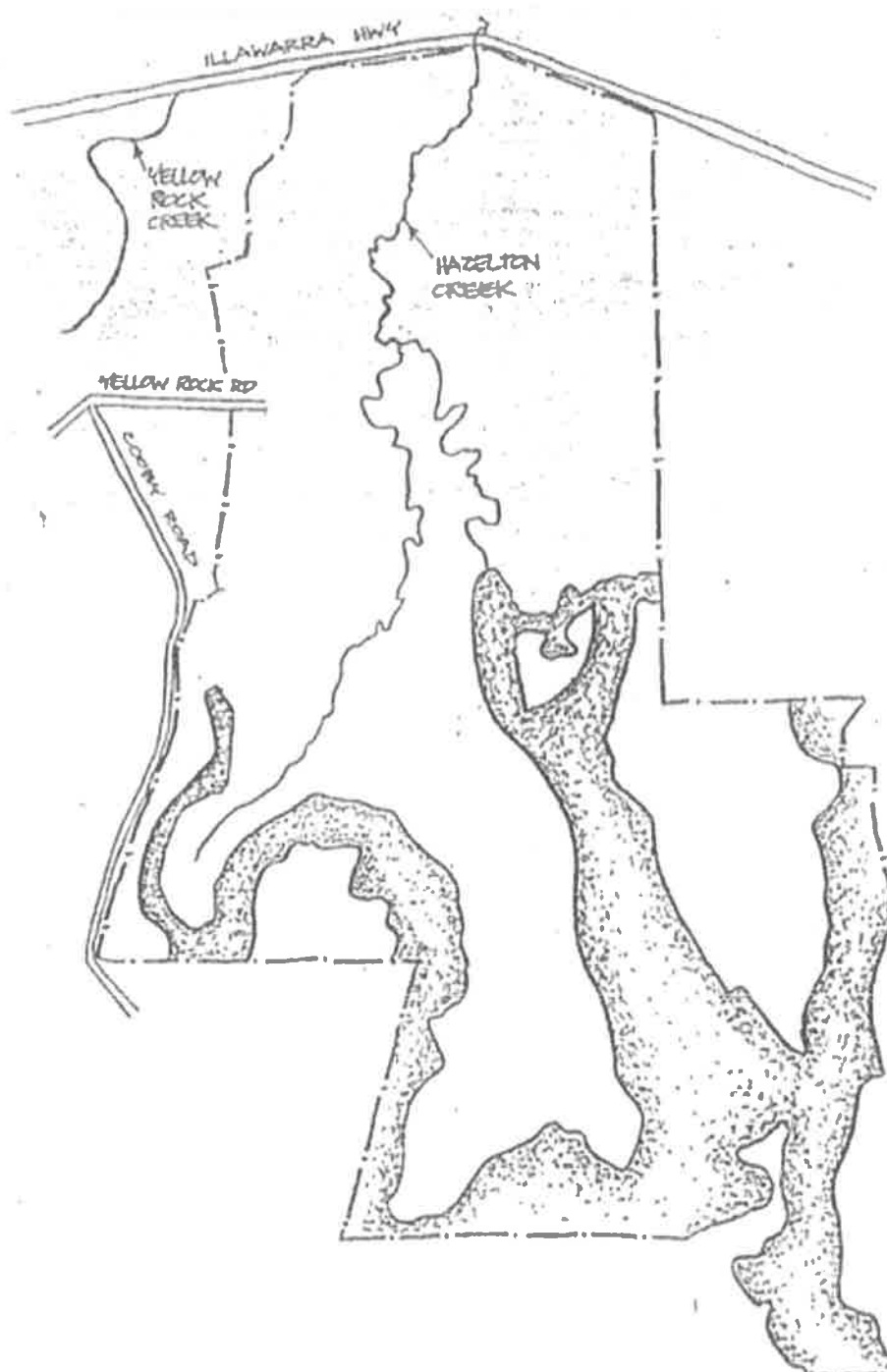
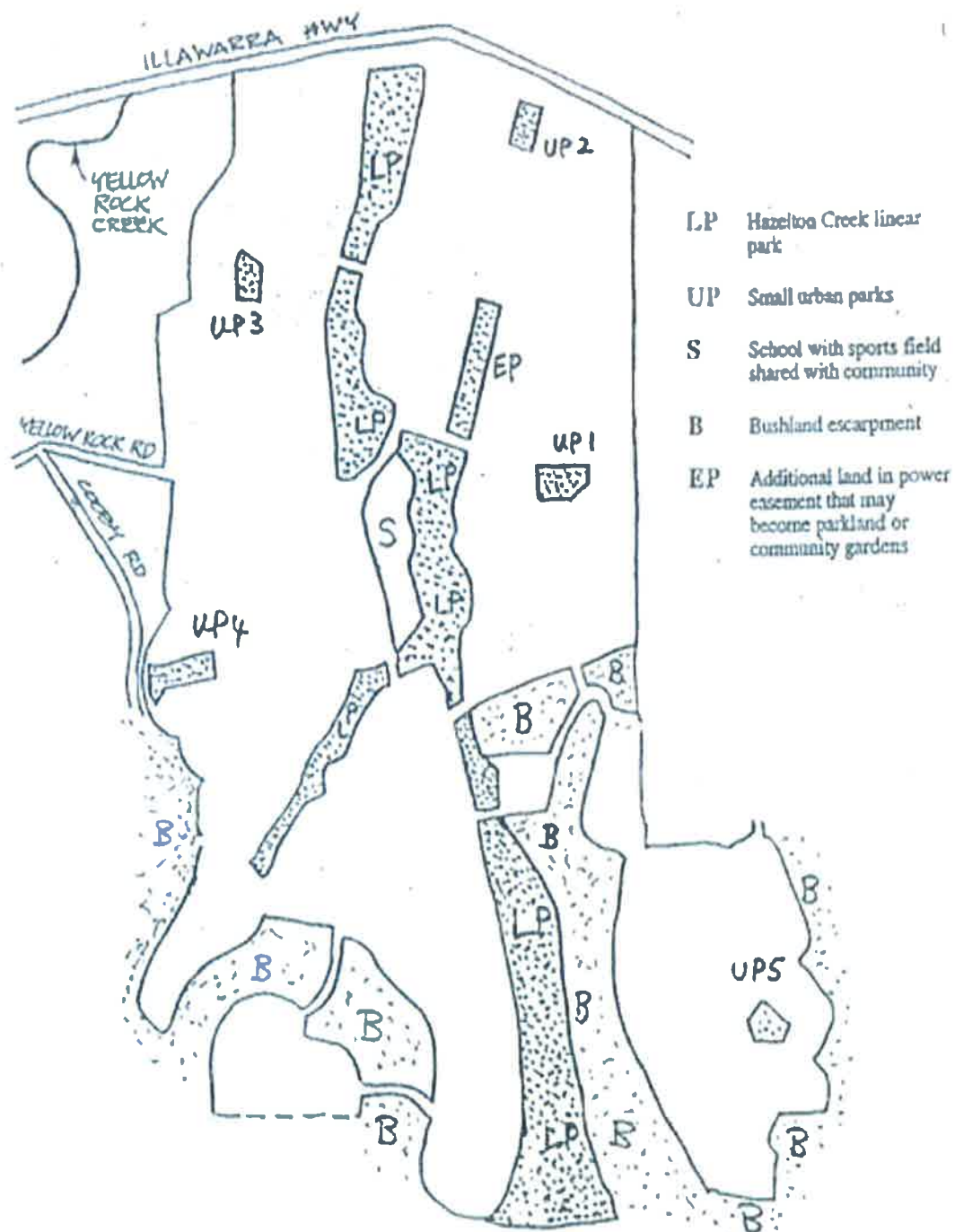


Figure A13.5 - Indicative Locations, Sizes and Functions of Parkland for the Western Valley Project Area (NB This plan includes lands to which this Appendix does not apply)



A13.12 - Schools and community facilities

Objectives

1. To identify and commit land for a school central to its catchment and make efficient use of land by seeking to incorporate some floodplain and easement land in the school site, where buildings are not to be located.
2. To provide for the possibility of an interim school being established at an early stage of the village development, in buildings which can be used for other purposes when the main school opens.
3. To encourage provision and shared use of public community, school and recreation facilities.
4. To encourage within the village private community facilities such as churches, child care centres, private schools, meeting rooms and halls etc.
5. To guide the location, design and appearance of public and private community buildings to enhance the character and identity of the village, and to ensure that community facilities are designed to be compatible with the surrounding uses.

Advice

A13.12.1 Land for the Primary school is to be set aside generally in accordance with the Western Valley Structure Plan (**Figure A13.2**). The school should be sited, designed and detailed as a landmark to terminate the vistas of applicable village streets.

A13.12.2 Community use buildings should generally be placed in positions of prominence in relation to the street network, sited to front streets and other abutting public spaces and detailed to appear as “public” buildings to enhance the village character.

A13.13 - Utilities

Objectives

1. To provide adequate utility services to the village in a manner that is efficient in land take and land disturbance.
2. To optimise the integration of the transmission easement into the street layout, open space network and compatible land uses.

Advice

A13.13.1 The design and provision of public utilities, including sewerage, water, electricity, street lighting and gas services must conform with the requirements of the relevant servicing authorities for all allotments.

A13.13.2 Compatible public utility services must be coordinated in common trenching in order to minimise construction costs for underground services and required widths of street reserves.

A13.13.3 Streetscape schemes, including tree planting, must take into account any restrictions imposed by the location of underground services.

A13.13.4 Residential developments in elevated or bushland edge locations must have adequate water supply services for both domestic and fire-fighting purposes.

A13.14 - Street network

Objectives

1. To provide a highly inter-connected street network and village centre to support shortened local car trips, walking, cycling and public transport which will reduce travel and car-dependence.
2. To structure and provide a street network to facilitate and support development of a higher density, mixed use urban village.
3. To encourage inter-connectivity across the Hazelton Creek linear park.
4. To provide a bus route linking the village community to its centres, Albion Park and to other destinations.
5. To provide a site-responsive street network taking into account natural features, addressing physical constraints, surrounding parks and facilitating solar access to dwellings.
6. To provide adequate local street connections between the village and existing urban areas.
7. To ensure efficiencies in street layout, services and costs between related development parcels of land.
8. To ensure streets are designed to control traffic speed and provide good on-street local parking facilities.

Advice

- A13.14.1 Major streets must generally be provided in accord with **Figure A13.6 Indicative Major Street Network, Centres and Bus Route Plan** focussing traffic to and through the village centre and diverting Yellow Rock Road and Cooby Road traffic through the centre.
- A13.14.2 Streets must be designed to accommodate a bus route in general accord with **Figure A13.6**. The detailed route between the southern and central plateau neighbourhood centres across the escarpment may be adjusted in response to engineering investigations and demand studies. Principal bus stops must be located at centres with secondary stops at main intersections or destinations up to 400m apart.
- A13.14.3 A village centre street network must be provided in general accord with **Figure A13.6** to provide a main street flanked by two parallel streets, one along the Hazelton Creek Linear Park and the other an easement frontage street with interconnected cross-streets.
- A13.14.4 Creek and escarpment crossings must be provided in the general locations shown in **Figure A13.6** and use a hierarchy of street crossings of Hazelton Creek, so that access is possible to all areas of the Village in the 1% AEP storm event, whilst permitting temporary submergence of non-essential road crossings.
- A13.14.5 A highly-interconnected local street network must be provided in general accord with **Figure A13.1** incorporating rear lanes for garage access in mixed use and denser residential areas.
- A13.14.6 At least 60% of all dwellings proposed must be within 400 metres actual walking distance along streets or shareways of the village centre, local retail node and bus stop or the southern neighbourhood centre and bus stop. This may be achieved by producing the highest lot/dwelling yields within such distances and by ensuring that the local street network is oriented towards the target (see **Figure A13.7. Indicative Overall Street Network Plan and Walkable Catchments**)

For other bus stops and for residential areas beyond those designated above, the street network must provide for walking routes that are as short and direct as practical within the physical constraints of the site.

- A13.14.7 The number of dwellings to be located outside an 800 metre radius of the primary school must be minimised (see **Figure A13.7** for radius).
- A13.14.8 Bushfire risk must be reduced by providing streets to bound urban development at the edge of bushland on the Central and Cooback plateaux, and be ensuring that there are at least two street connections serving all areas bounded by bushland vegetation.
- A13.14.9 Straight segments of street should be used to direct views to trees, escarpments, the creek valley, main school and community buildings and other landscape features within the village. Slight bend of streets, usually at junctions should be used to direct views obliquely to important and/or significant community buildings. (**Figure A13.8** provides some design suggestions.)
- A13.14.10 Most streets must be generally aligned north-south or east-west (within 30 degrees) to facilitate lot layout and house siting that can capitalise on solar access.
- A13.14.11 Streets or "shareways" must be provided to bound parks, including the whole of the main Hazelton Creek parkway, to ensure they are fronted by development.
- A13.14.12 Limited sections of parks or bushland bounded only by lots fronting a foot/cycle path may be considered where a frontage situation exists as identified in **Figure A13.9 Design Suggestion: Lot Layout Alternatives For Frontage to Lower Slopes of Bushland Escarpments** and **Figure A13.10 Design Suggestion: Lot and Dwelling Layouts for Front Narrow Linear Parks**.
- A13.14.13 Rear lanes must be used in areas of increased density where lot frontage is typically 9.5 metres or less, and are recommended for use when most lot frontages are 12 metres or less. Rear lanes may be used for properties fronting parkland, to accommodate greater density for these properties, and/or as one way to enable footpaths or shareways to replace streets for certain lengths of park frontage not exceeding 150 metres.

A13.15 - Street design

Objectives

1. To ensure that streets are designed as multi-purpose public spaces appropriate to traffic needs but which also support pedestrians, cyclists, parking, attractive development frontage and social interaction.
2. To ensure high streetscape quality including adequate space for street trees, landscape elements and street furniture.
3. To ensure that the designated bus route is designed as an efficient route and provides for comfortable passenger travel.
4. To ensure that streets are designed and detailed to have appropriate landscape treatment, minimise cut and fill and bushland disturbance, support wildlife movement, manage storm water runoff and control erosion.

Advice

- A13.15.1 Residential street sections and layouts must generally be in accord with **Figure A13.11 Residential Street Types** and **Figure A13.12 Street Layout and Intersection Treatments**.
- A13.15.2 Village street sections and layouts must be generally in accord with **Figure A13.13 Village Centre Street Types** and **Figure A13.12**.
- A13.15.3 The street pavement and minimum reserve width selected for each street is to take into account not only traffic volume, but also other functions of the street, including the relationship to topography, lot types and other development intensity, through travel function, parking demand for residents, visitors and home businesses, street trees, servicing and appearance.

Appendix 13 – Tullimbar Provisions

- A13.15.4 Street types indicated in **Figure A13.11** and related street pavement widths for local streets in residential precincts are generally to provide as follows:
- in all Medium Density Residential Precincts: normally Street Type C - 7.5 metres; and for parkland edges, Street Type A - 5 metres;
 - in Low Density Residential Precincts within a 400 metre radius of the village centre or a 200 metre radius of a neighbourhood centre: Street Type C - 7.5 metres; except for parkland frontage streets which may be Street Type A - 5 metres or Shareways - 3.5 metres, depending on traffic volume;
 - in Low Density Residential Precincts outside the 400 metre/200 metre radii streets would usually be Street Type B - 5 metres, (although Street Type C - 7.5 metres is acceptable). Street Type A - 5 metres or Shareways - 3.5 metres may be used to front parks or bushland, although Shareways may not be appropriate for streets bounding development along the top of the escarpment, as these streets must be detailed for fire-fighting access.
- A13.15.5 Development fronting the Illawarra Highway and the main street in the village centre north of the creek crossing must be provided with vehicle access that does not require vehicles to reverse out into the main traffic stream. A service road must be provided along most of the Illawarra Highway frontage, and rear lanes are to be provided for the main street unless it can be demonstrated that other 'no-reversing' parking access arrangements can be provided without significant detriment to the amount of on-street parking.
- A13.15.6 Intersection treatments must accord with **Figure A13.12**. To encourage pedestrian movement and safety:
- minimum kerb radii are encouraged and should not exceed 5 metres, except at junctions with the Illawarra Highway or village centre streets, where it can be demonstrated that substantial demand will exist from large vehicles;
 - pram/ wheelchair ramps must be provided at all footpath/roadway junctions;
 - sight lines at intersections within the village must be kept to a minimum to encourage a safe and slow speed traffic environment;
 - splayed corners are not required on any lot unless a severe topographic site line constraint is demonstrated.
- A13.15.7 Kerb profiles must generally be applied as follows:
- upright kerbs must be used in all village centre streets, all streets with back lanes, in all areas denser than 18 dwellings per gross hectare on average and on all 7m-7.5m pavements. Upright kerbs are permitted on all streets;
 - mountable or semi-mounted kerbs must only be used in low-volume narrow pavement-width streets (5.5m or less);
 - flush kerbs must be used wherever an informal edge to parkland is appropriate or wherever diffused discharge of storm water is appropriate; and
 - Back lanes are encourage to be designed with a central drainage invert.
- A13.15.8 Where no street is provided along frontage to lower bushland slopes, foot/cycle paths must be provided and detailed to enable emergency access for fire-fighting and maintenance.
- A13.15.9 Footpaths and their widths must be provided in accord with **Figures A13.11 and A13.13**. Footpaths on residential streets must be a minimum of 1.2m wide and are required on one side only in low density residential precincts. Shareways (narrow pavements of 3.5 metres and special slow speed design giving equal priority to pedestrians) do not require a separate footpath.

- A13.15.10 Footpaths and streets on slopes must be designed to minimise site-disturbance and to reinforce the relationship to adjoining properties.
- A13.15.11 Innovative solutions to providing on-street parking along shareways, at the rate of one space per two dwellings, are encouraged.

Figure A13.6 - Indicative Major Street Network, Centres and Bus Route Plan (NB This plan includes lands to which this Appendix does not apply)

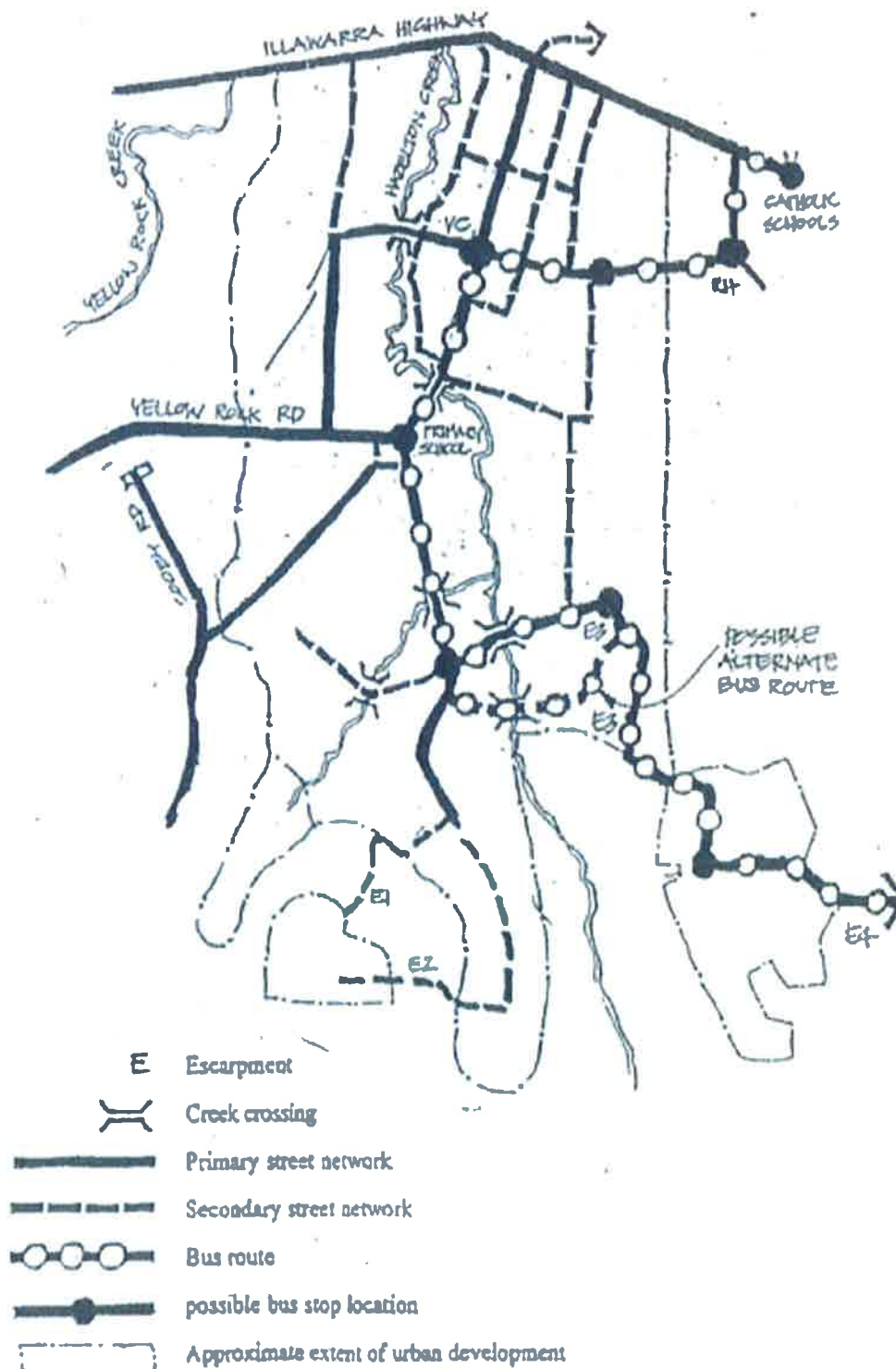


Figure A13.7 - Indicative Overall Street Network Plan and Primary Walkable Catchments
(NB This plan includes lands to which this Appendix does not apply)

Note: This map is a Concept Plan and is subject to the final location of the Southern and Central Neighbourhood Centres.

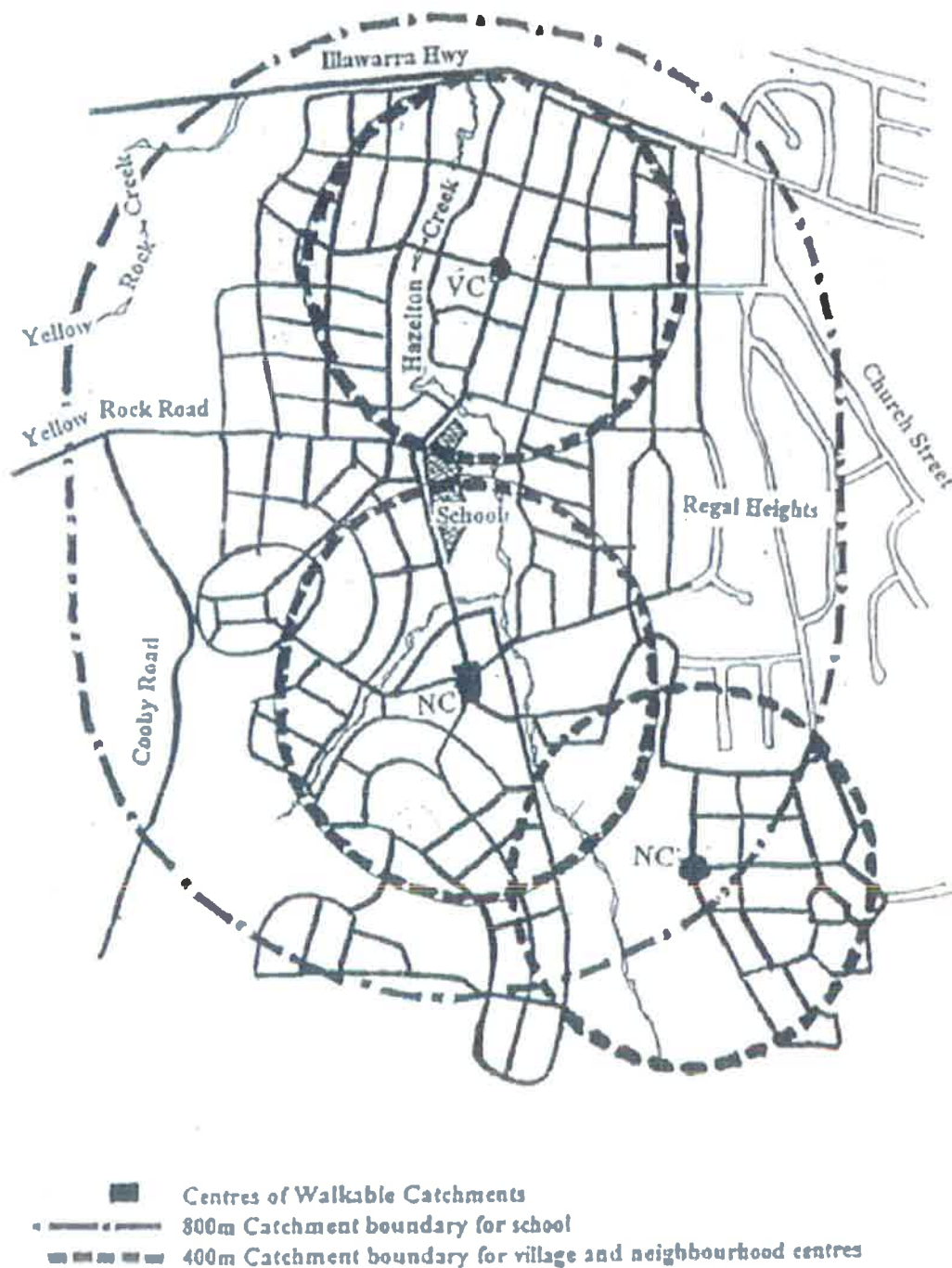


Figure A13.8 - Design Suggestion: Minor Realignment of Straight Streets to Direct Views to Buildings or Landscape Features

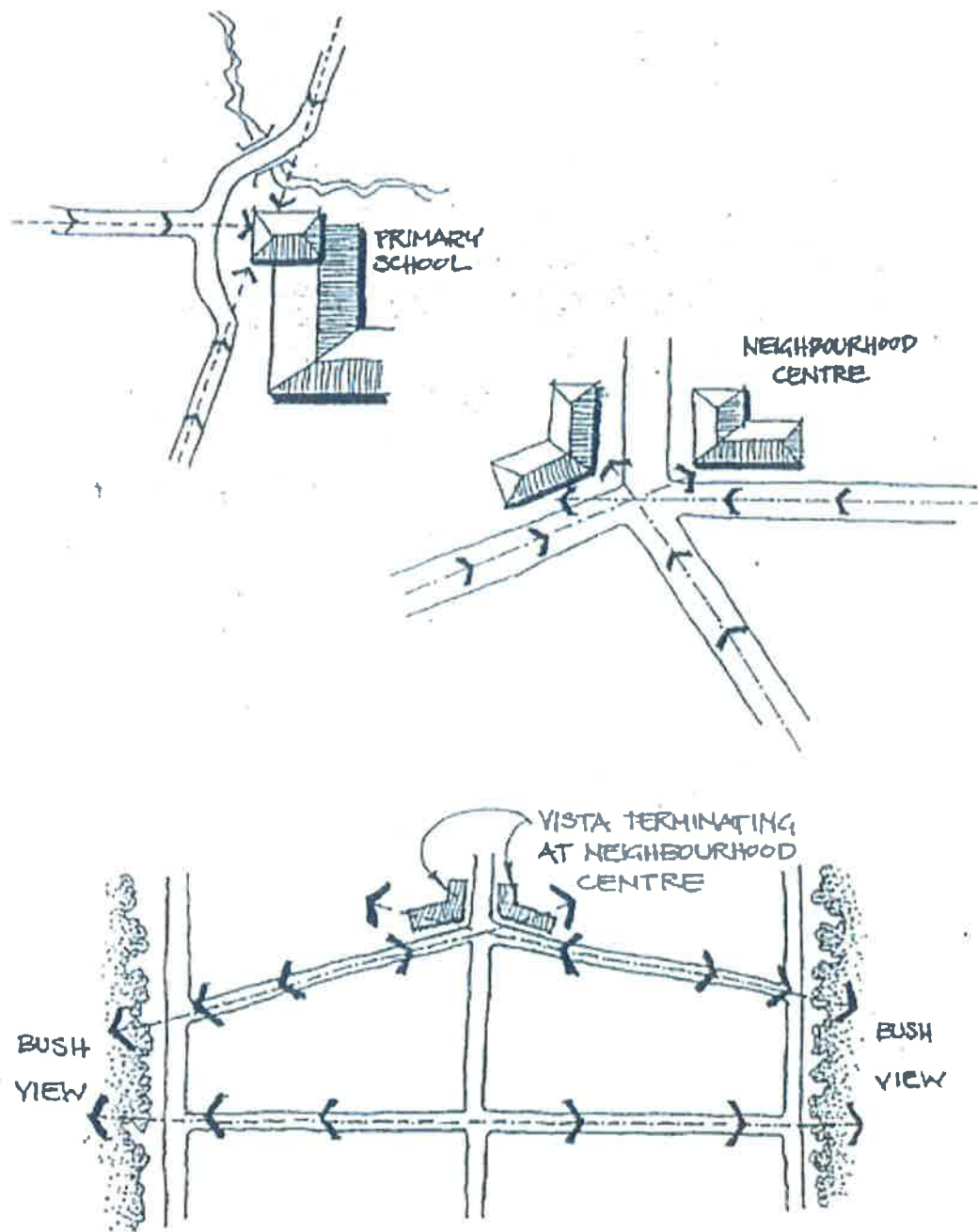
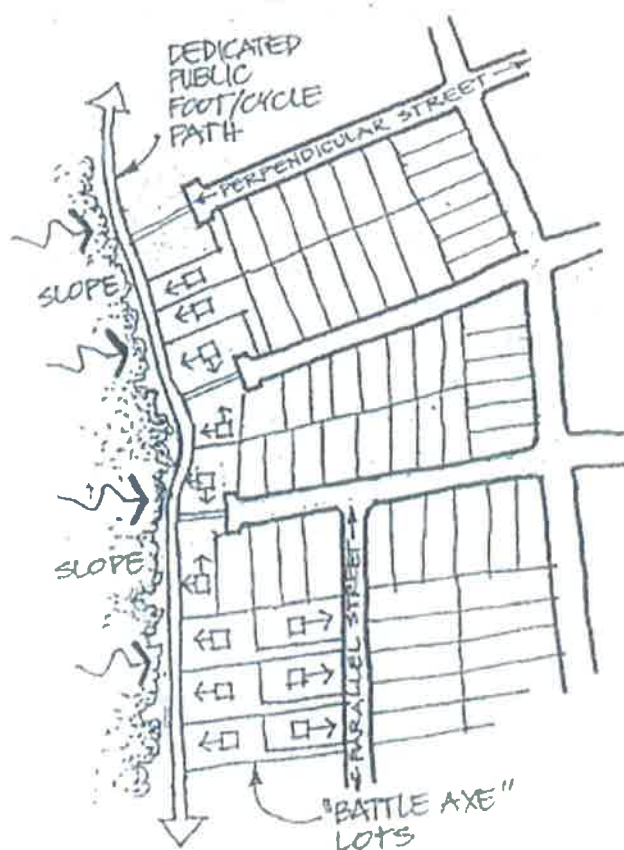


Figure A13.9 - Design Suggestion: Lot Layout Alternatives For Frontage to Lower Slopes of Bushland Escarpments



STREETS PERPENDICULAR TO SLOPE/BUSH

Preferred

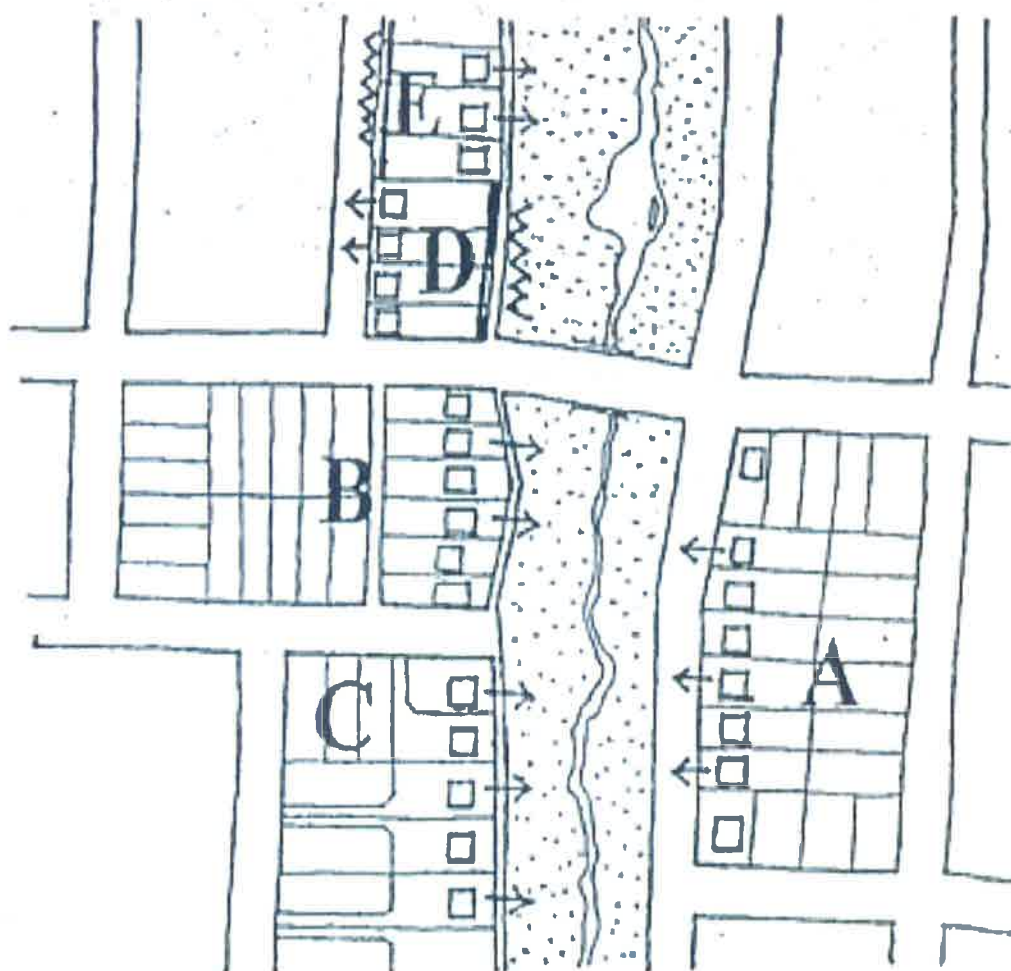
- Two "battle axe" lots.
- Corner lot dwellings face both ways.

STREETS PARALLEL TO SLOPE/BUSH

- "Battle Axe" lots from parallel street



Figure A13.10 - Design Suggestion: Lot and Dwelling Layouts for Front Narrow Linear Parks



- A** Lots fronting park across a street - preferred solution.
- B** Rear lane along end-block with footpath frontage - acceptable where there is a street on the opposite side.
- C** Side or rear access battleaxe lots fronting to footpath - acceptable where there is a street on the opposite side.
- D** Lots backing onto park - not supported.
- E** Lots backing onto street - not supported.

Figure A13.11 - Residential Street Types

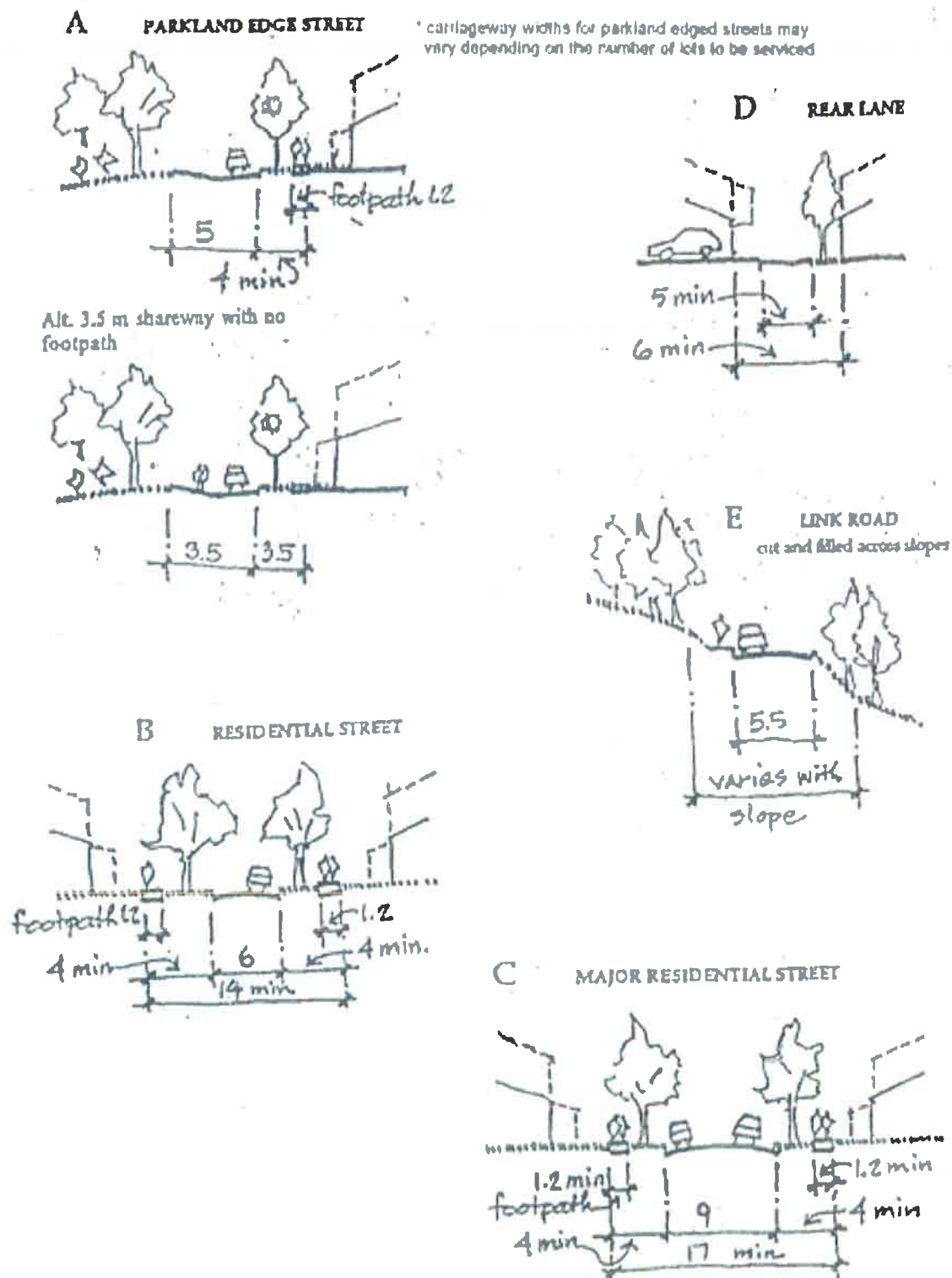


Figure A13.12 - Street Layout and Intersection Treatments

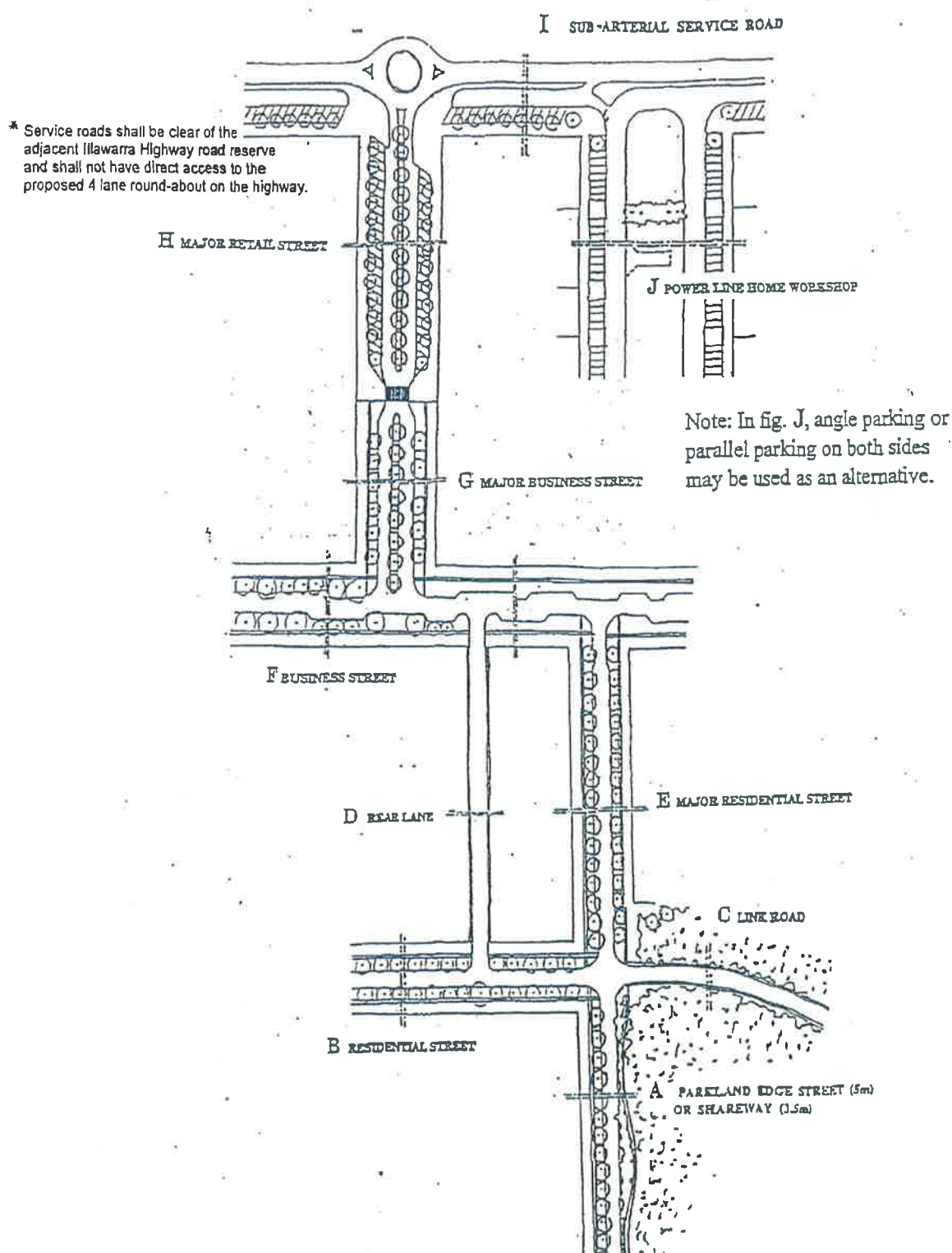
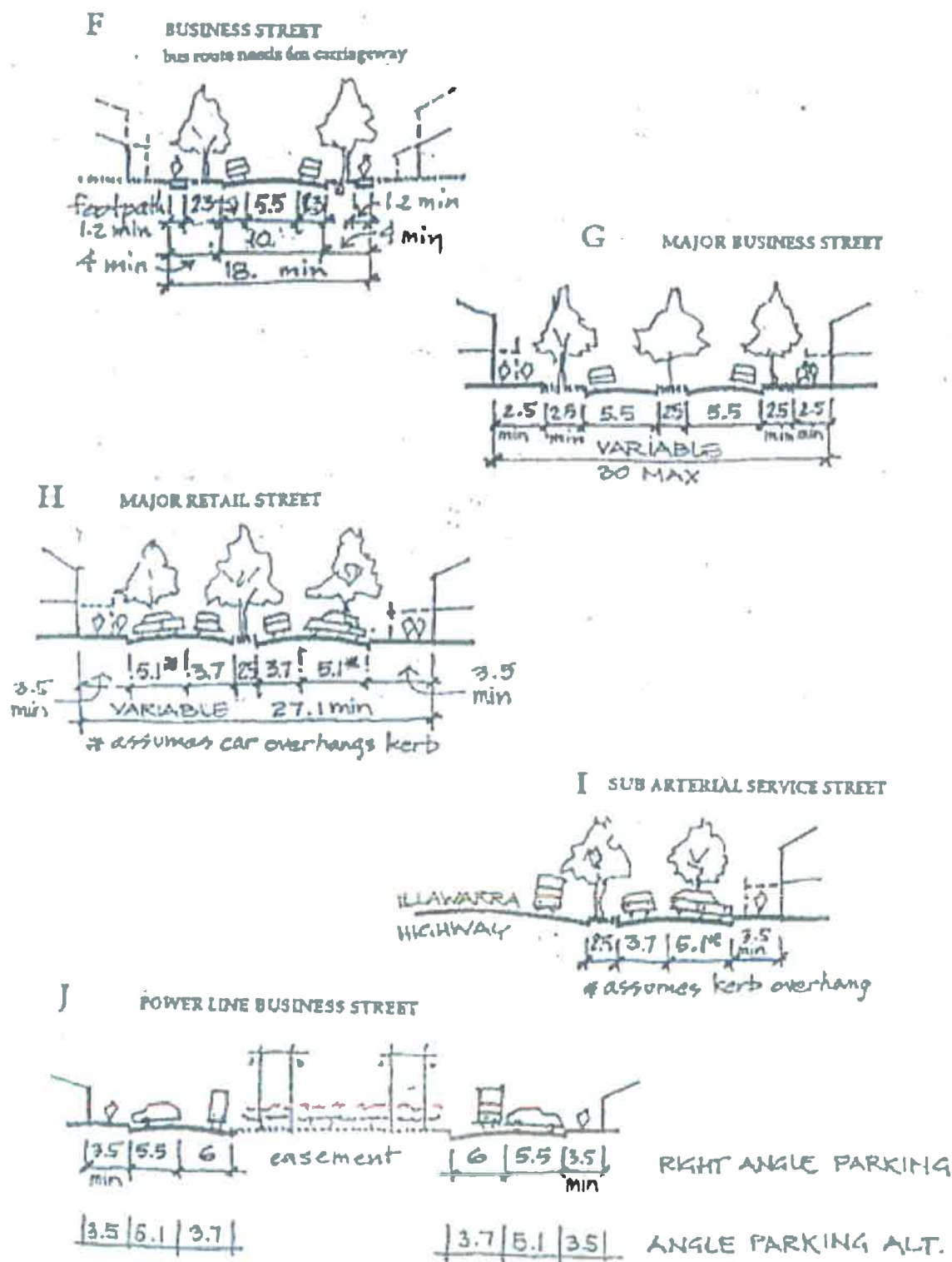


Figure A13.13 - Village Centre Street Types



A13.16 - Lot density and configuration

Objectives

1. To achieve a minimum dwelling yield for the urban area of 1500 dwellings in order to support a primary school and other facilities.
2. To concentrate the higher density development into areas of closer proximity to the village centre, neighbourhood centres and public transport stops.
3. To encourage a lower density in areas not within walking distance of a village or neighbourhood centre.
4. To define minimum dwelling yields for various precincts throughout the development.
5. To specify the location and extent of multi-unit development and dual occupancies in all low and medium density residential precincts in the initial build-out phase of the Tullimbar Village.
6. To achieve a diversity of lot types and sizes within each precinct to suit a variety of dwelling and household types, with area and dimensions that meet user requirements.
7. To provide lots which are orientated and dimensioned to support low energy housing and micro climate management.
8. To provide lots with area and dimensions that protect environmental features and take into account site constraints.
9. To arrange lots to front streets, parkland and rural edges such that development supports community safety and contributes to streetscape and park quality.
10. To provide lot and street layouts which use land efficiently and facilitate higher development density, particularly around village and neighbourhood centres and public transport stops.
11. To apply Building and Access Guidelines (BAGs) to all lots to enable efficient use of sites, ensure streetscape and neighbourhood amenity and parking optimisation (see section on Building & Access Guidelines in this Appendix)
12. To provide lots in appropriate locations which are suited to local business development so as to reduce travel and provide jobs.

Advice

- A13.16.1 In order to achieve the minimum dwelling yield for the Tullimbar Village, requirements for minimum dwelling yields for each precinct are specified in **Figure A13.14**. *Minimum Development Yield and Dwelling Density for each Precinct*. The following table provides an example of a range of lot sizes that could be used in each precinct (refer to section on Tullimbar Village Urban Development Precincts and **Figure A13.2** for an explanation of precincts) to achieve a minimum 1500 dwelling yield.

Table A13.2

Range of lot sizes that may be used in each precinct to achieve 1500 lots in the Village

Precinct	Examples of Dwelling Yields or Average Lot Sizes Used to Achieve A Minimum 1500 dwelling yield
VCMU1, VCR1 & VCR2	Min. 40 dwellings above retail or commercial, or integrated with business use
VCMU2	Min. 115 dwellings or HBBs @ av. 12m frontage
VCEMU	Min. 10 home workspace dwellings @ av. 18m frontage
MDR1, MDR2, MDR3	Average lot size of 360m ²
MDR4, MDR5, MDR6, MDR9	Average lot size of 390m ²
MDR2, MDR3, MDR7, MDR8	Average lot size of 420m ²
LDR1, LDR2, LDR3, LDR4, LDR5 LDR7, LDR9	Average lot size of 540m ²
LDR6, LDR8	Average lot size of 600m ²

*It should be noted that the aim for Tullimbar Village, within the objectives of this Appendix, is to achieve a higher dwelling yield than 1500. This will be achieved by, where appropriate, reducing the average lots sizes stated in the above **Table A13.2**.*

A13.16.2 Higher dwelling yields are encouraged in the precincts within 400 metres of the Village or neighbourhood centres (refer to **Figure A13.7** for radii).

A13.16.3 Where development is staged within the precincts and early stages are proposed that do not achieve their share of the minimum dwelling yield for the precinct, information should accompany the proposal to outline any site-specific factors as to why the yield is not achieved, together with a strategy and commitment to reach the overall yield with the later stages.

A13.16.4 Studio units provided as a secondary dwelling within a single lot are encouraged but are not counted toward dwelling yields.

A13.16.5 Lots sizes and types must provide for housing diversity and choice, to meet the requirements of people with different housing needs, and to satisfy the minimum precinct density. Design suggestions for higher density small lot layouts are provided in **Figure A13.15 Lot Layout to Achieve a Site Density of around 15 Dwellings per Hectare (420m² average lot size)** and **Figure A13.16 Lot Layout to achieve a Site Density of around 22 Dwellings per hectare (295m² average lot size)**.

- A13.16.6 Single housing lots must have appropriate area and dimension to enable efficient siting and construction of a dwelling and ancillary outbuildings, provision of private outdoor space, convenient vehicle access to a public street and adequate parking. Such parking and access must be designed to minimise car parking dominating street frontage and optimising on-street parking capacity. Garaging for smaller and narrower lots is generally to be provided from rear lanes.
- A13.16.7 Lots must be orientated and dimensioned to facilitate siting of dwellings to take advantage of winter solar access and summer sun deflection by:
- ensuring the long axes of lots are generally within the range of N20°W to N30°E, or E20°N to E30°S; and
 - the dimensions of lots adequate to protect solar access on site taking into account likely dwelling size and siting, relationship of each lot to the street and abutting dwellings, and the need for cross-ventilation and implementation of landscaping.
- Design suggestions for lots suited for capturing solar access are included in **Figure A13.17 Design Suggestion: Lot Layout and Building Siting for Solar Access**.
- A13.16.8 Lots must have a size and dimension to enable dwellings to be sited to:
- protect important trees or other natural or cultural features;
 - acknowledge site constraints including soil erosion, drainage, slope or bushfire risk;
 - provide space for appropriate planting to assist with microclimate management and energy conservation.
- A13.16.9 Lots must be arranged to enable dwellings to front streets to provide surveillance of footpaths and streetscape amenity and to facilitate business and home business development. All lots along the Illawarra Highway must front a service road except at intersections where side street access may be provided.
- A13.16.10 Lots must be orientated to enable dwellings to front parks to enhance the amenity and safety of the park. This may be achieved by fronting public open space across a street or fronting a footpath with vehicle access provided to the side or rear by battleaxe lots or laneways. (Refer to Lot Layout Design suggestions in **Figures A13.9 & A13.10** for dwellings abutting parks and bushland).
- A13.16.11 Battle-axe lots will only be supported where they front either bushland or creek reserves or public open space. Minimum driveway widths are 3m. Reciprocal rights-of-way are encouraged to minimise carriageway widths.
- A13.16.12 Building and Access Guidelines (BAGs) must be specified for all lots in accordance with the section on Building and Access Guidelines.
- A13.16.13 Lots intended for multi-dwellings (including dual occupancies) in all low and medium density residential precincts and their indicative dwelling yields must be identified on subdivision plans.

Figure A13.14 - Minimum Dwelling Yield for Each Precinct to Ensure a Minimum Yield of 1500 Dwellings for the Valley (NB This plan includes lands to which this Appendix does not apply)

NOTE: Much greater development potential will be possible in some precincts.

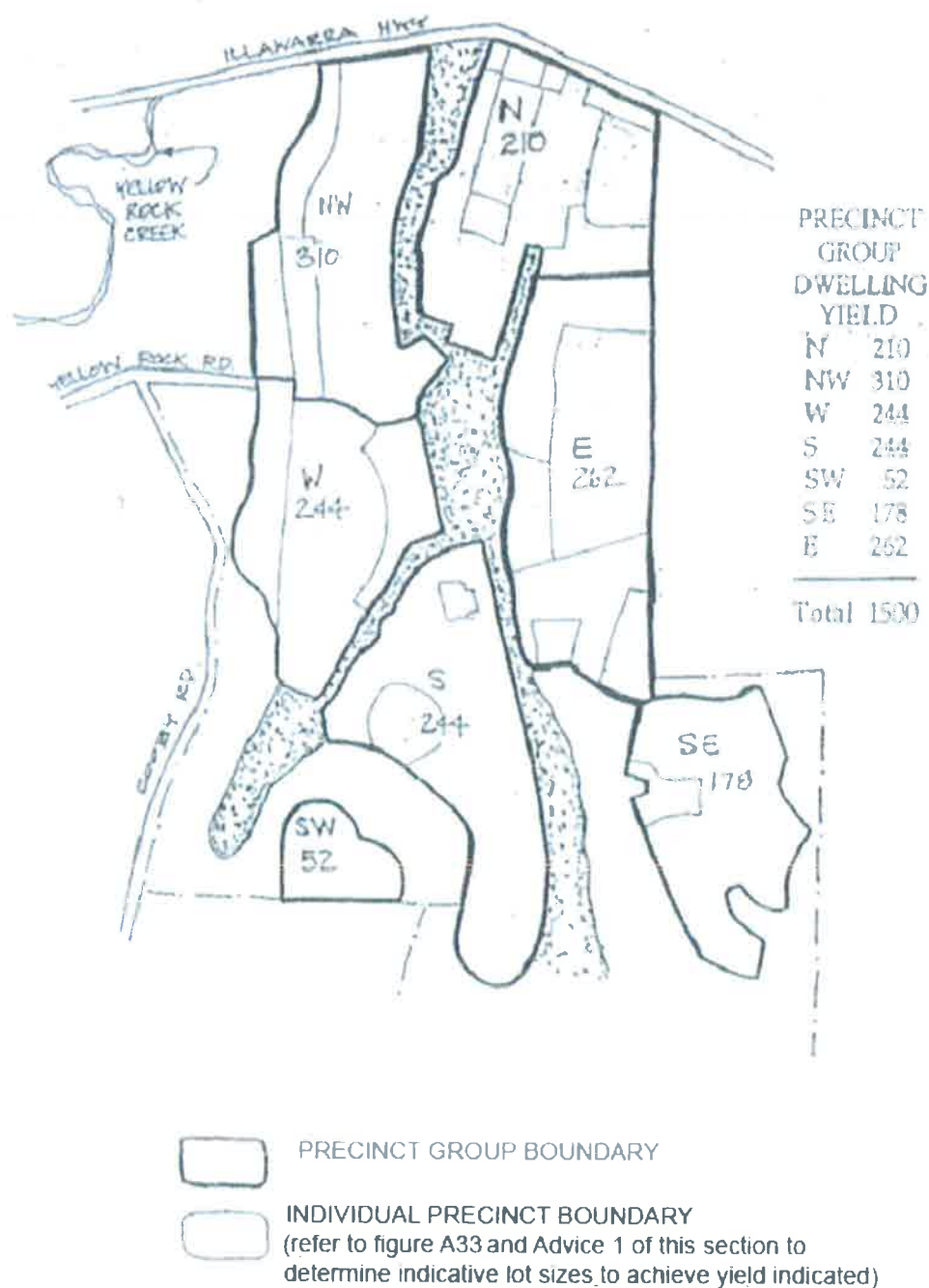
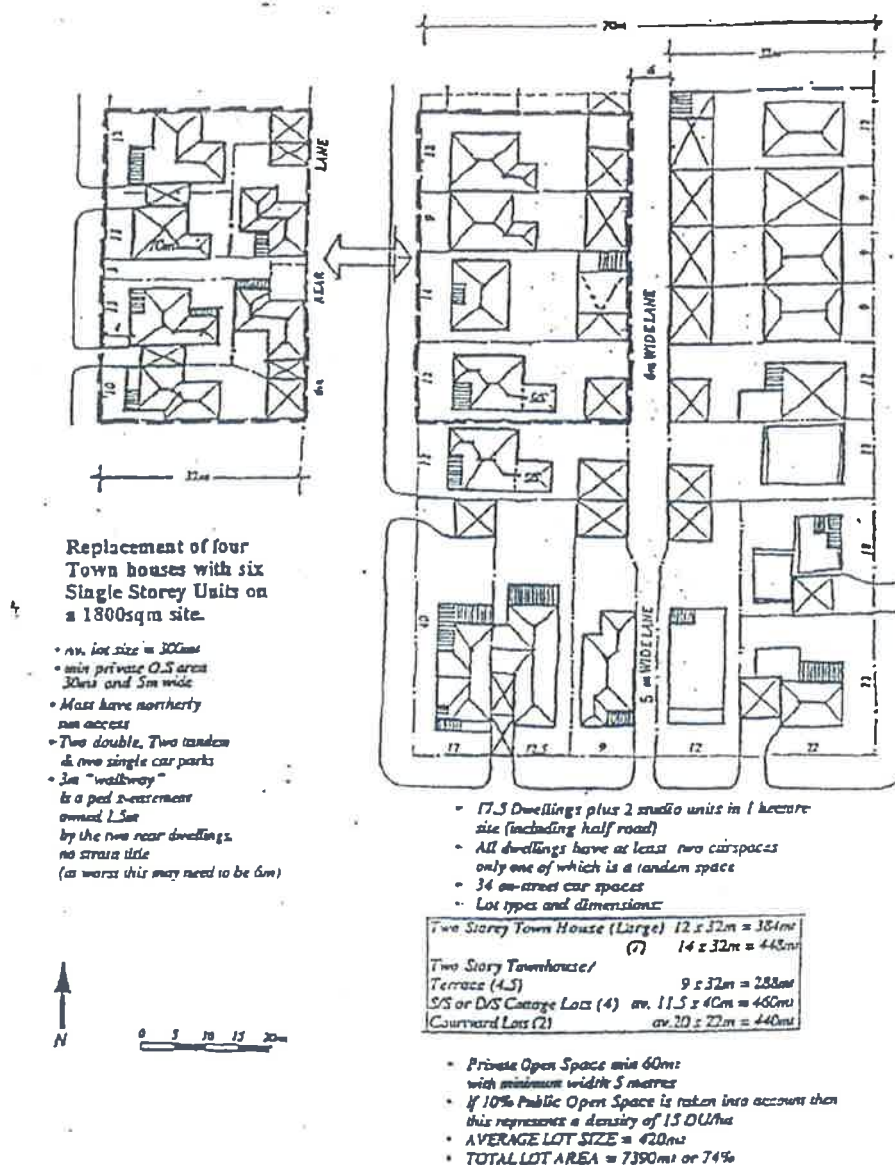


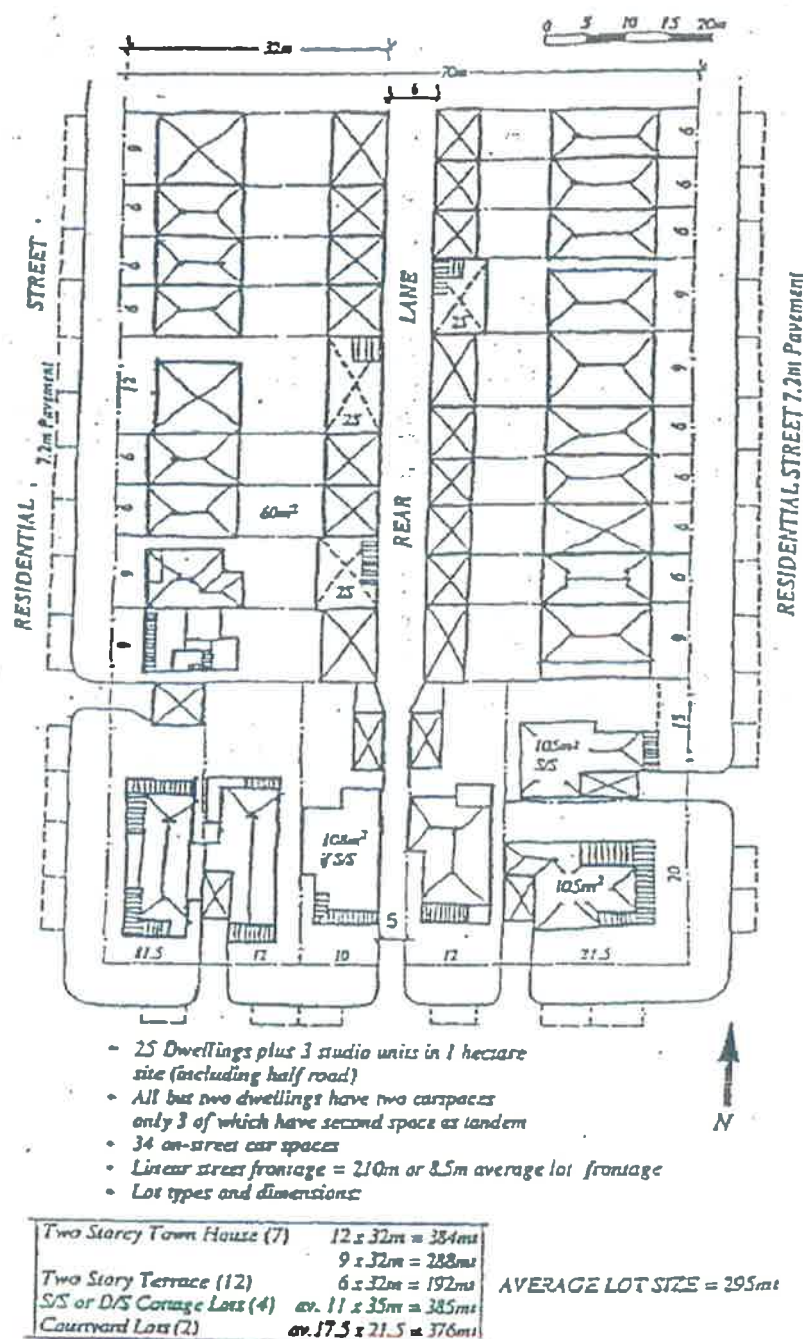
Figure A13.15 - Design Suggestion: Lot layout to achieve a Site Density of around 15 Dwellings per Hectare (420 sqm average lot size)



This lot layout (upper right) achieves a site density of around 15 dwellings per hectare, with an average lot size of 420sqm. Although a rear lane, as shown, is beneficial at this density, (particularly if many residents build double garages and reasonable on-street parking capacity is needed), it is not imperative, as lot widths could be adjusted to a minimum lot width of 9.5m, and single garages with tandem parking provided.

The plan at upper left shows the four lots highlighted in the main plan alternatively developed for six elderly persons' units at an average lot size of 300sqm. This plan demonstrates how such group dwelling sites can be inserted into a 'terrace' style layout, to achieve a good yield and Streetscape, with most dwellings fronting the street and most garages off the lane. This unit development brings the average lot size for the whole one hectare site down to 380sqm.

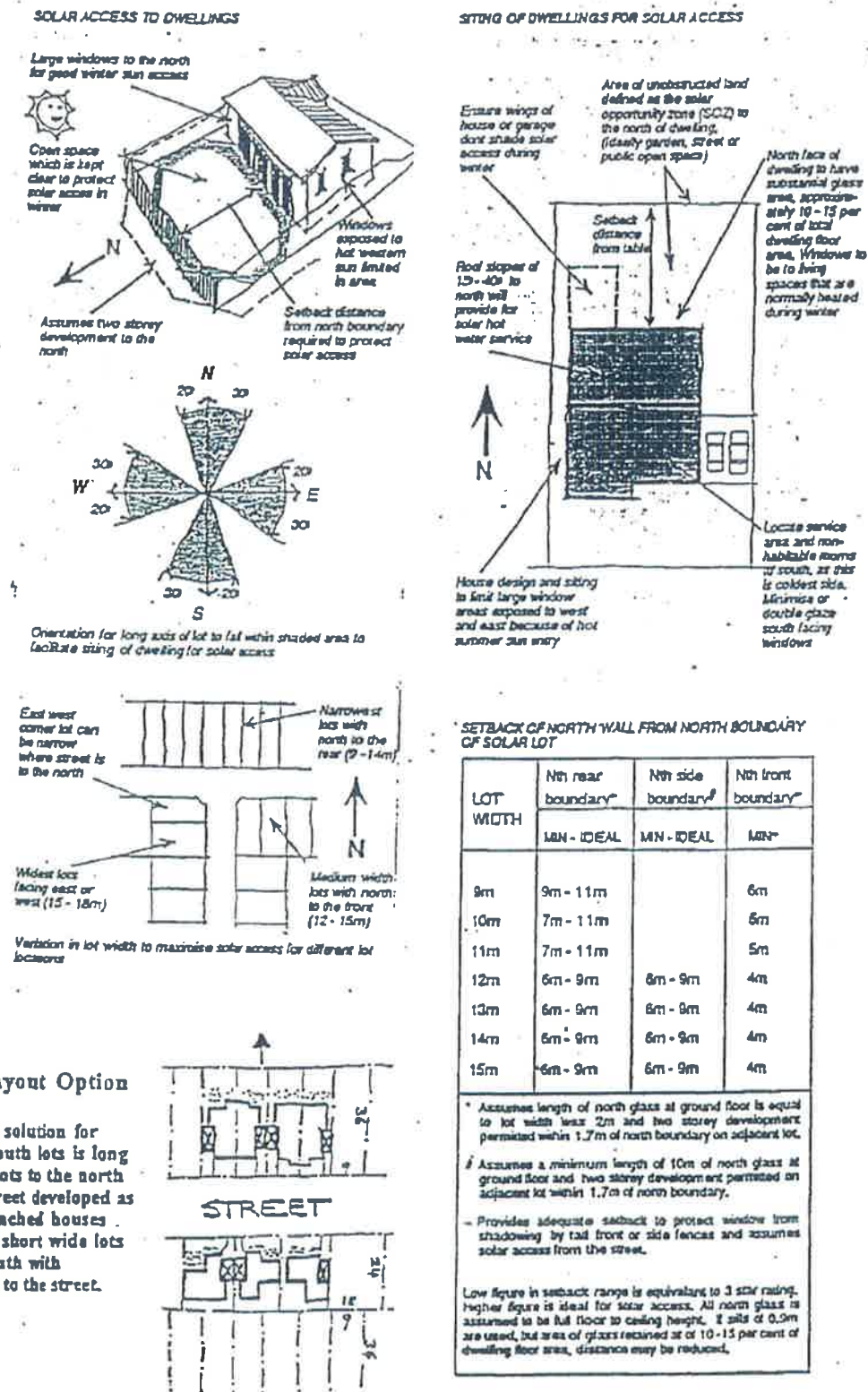
Figure A13.16 - Design Suggestion: Lot Layout to achieve a Site Density of around 22 Dwellings per hectare (295 sqm average lot size)



- Private Open Space min 60m² < with 5m min width
- If 10% Public Open Space is included then density = 22 DU/ha

This alternative lot layout on the same one hectare site achieves a site density of around 22 dwellings per hectare, with an average lot size of 295sqm and easily justifies a back lane.

Figure A13.17 - Design Suggestion: Lot Layout and Building Siting for Solar Access



A13.17 - Building Access Guidelines (BAG's)

This Appendix introduces a new concept called Building Access Guidelines (BAGs) to help achieve both efficient use of land and high quality urban design. BAGs must be identified for lots within a subdivision with an area of less than 450m². They will show details of proposed building envelopes and vehicle access points. This section outlines the objectives and advice for the preparation of BAGs.

Objectives

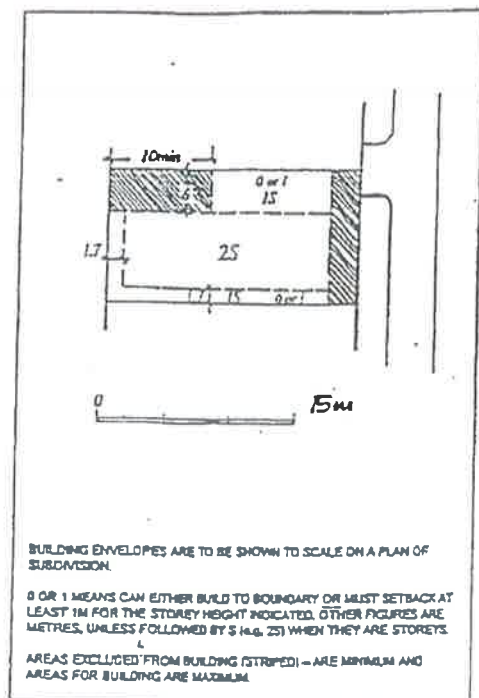
1. To enable efficient use of all sites, including special sites and mixed use development sites, and to optimise streetscape values, neighbourhood amenity and parking.
2. To encourage diverse housing forms (including varied size and dwelling types, mixed use buildings, home business, home workspaces and studio units) in appropriate locations.
3. To promote development of smaller residential lots by enabling approval of BAGs instead of requiring approval of dwellings.
4. To ensure that lot purchasers are aware of BAGs that apply to that and adjoining lands.

Advice

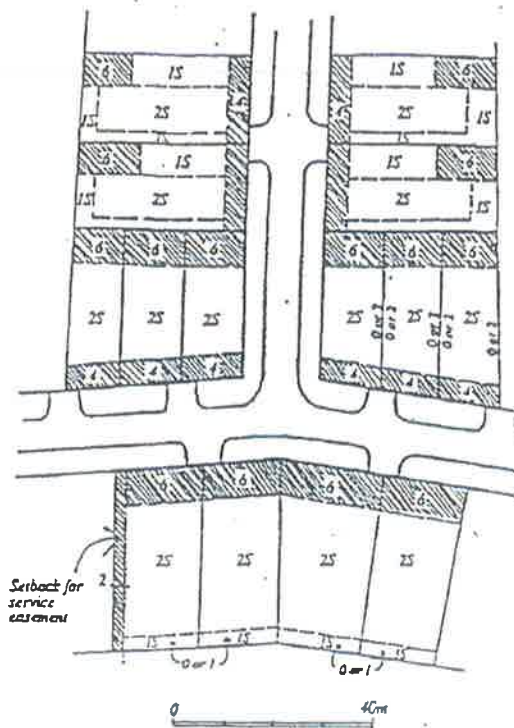
- A13.17.1 Building Access Guidelines (BAGs) must be prepared for all lots with an area less than 450m². They must be specified on plans of subdivision and land title documentation and be available to lot purchasers as part of the contracts of sale. **Figure A13.18 and Table A13.3** provides an example of the range of matters that may be included in the BAGs.
- A13.17.2 Building Access Guidelines must, as a minimum, provide details of building envelopes and appropriate car parking and vehicle access points. The BAGs must encourage building to side and rear boundaries wherever practical and satisfy the following matters:
- a. visual and acoustic privacy;
 - b. street and property surveillance;
 - c. adequate day-lighting;
 - d. solar access for amenity and energy efficiency;
 - e. useable private recreational open space;
 - f. amenity protection for adjoining dwellings;
 - g. adequate protection of views;
 - h. streetscape quality and neighbourhood character;
 - i. adequate car parking and vehicle access, limiting access to main roads; and
 - j. protection or other response to any specific site features such as trees.
- A13.17.3 The vehicle and access issues outlined above will require the minimisation of car parking dominating street frontage, providing safe access and optimising on-street parking capacity. This may generally be achieved by:
- a. setting garages back at least 5 metres from the primary street frontage and behind the frontage of the dwelling;

- b. limiting single garages to lots 9.5 metres or wider fronting streets with pavements 7 metres or wider, and to 10 metres or wider on pavements of less than 7 metres;
 - c. ensuring that rear lands are used for garage access where provided. This should be where most of the lot widths are less than 10 metres or where lot widths are less than 12 to 14 metres and double garages are likely to predominate;
 - d. taking advantage of slope to locate garages under houses; and
 - e. requiring suitable alternatives for dwellings fronting the Illawarra Highway so vehicles do not back out into highway traffic.
- A13.17.4 All lots identified on the Tullimbar Village Structure Plan as specifically suited to home workspaces (in VCEMU and MDR1) have appropriate BAGs applied to ensure that development of street front or rear lot home workspace buildings is both possible and encouraged.
- A13.17.5 BAGs may specify mandatory provisions of a minimum level of development. This may include provision of some living space built above selected garages at the rear of lots abutting laneways, to ensure adequate surveillance of the land; or double-storey dwellings specific at key street junctions.

Figure A13.18 - An example of a Building and Access Guideline Specification



Terminology and graphic representation for building and access guidelines.



Notes to indicative precinct plan

1. Driveways are to be located in the positions shown to protect the streets' terminating vista, to facilitate maneuverability in narrow streets and to optimise on-street parking capacity.
2. All garages set back 5m minimum from street frontage. Double garages permitted only on lots 15m or wider. Garages must not project forward of dwelling frontage.
3. Living room to face north setback area of 6m minimum depth, with windows a minimum of 7m long. Eaves or verandas of 1m minimum width to shelter windows.
4. Verandas and porches may project up to 3m forward of dwelling frontage setback line on south lots and up to 2m forward on north lots and east-west lots.
5. Fences: South and east-west facing lots have front fences to a maximum height of 1.2m. North-facing lots may have fences to 1.5m high along the whole frontage if >50% transparent, or solid for up to 1.8m high for 30% of the frontage, with the remainder 1.2m max.
6. The areas shown as open space are minimums; and the areas shown as buildings are maximums. An area of 40 sqm, with minimum dimension 5m, must be provided at the side or rear of dwelling.
7. Wall heights: Maximum wall height for single storey on boundary is 3.3m. Maximum wall height for double storey on and off boundaries is 6.3m.
8. Overall building height maximum 9.5 metres.
9. These BAGs apply to construction commenced within 3 years of final subdivision approval and expire within 5 years of it.
10. Variation of BAGs is not permitted, except with written approval from local government after it has consulted with abutting lot owners.

Table^[LN2] A13.3 - Possible Scope of Building and Access Guidelines

Possible Scope of Building & Access Guidelines	
Building Envelope	front, side and rear setbacks build-to-boundary areas wall and building heights wall articulation wall setback from north boundary to gain solar access into living room windows
Building Details	dwelling frontage orientation window location for street surveillance and privacy roof form, style elements wall and roof colours and materials
Energy Efficiency	north window location and size shading from hot summer sun
Parking	Number of car spaces Garage location, size and setbacks Vehicle access point
Private Open Space	Location and minimum dimensions Qualities
Fencing	Heights, materials, detailing Retaining walls
Services	Easement setbacks, stormwater, air conditioners
Landscaping	Protection of existing trees
Noise-buffering	Dwelling design and detailing to protect from external noise Provision of noise-buffering walls for home work spaces
Ancillary Dwellings/Studio Dwellings, Home Business or Home-Work Space	Potential and location Mandatory rear studio units on specified lots
Storage Space	Potential location and size
Sitting on Lot in Relation to Slope, Retaining Walls, Cut & Fill	
Encroachments	Porches and verandahs Utilities Reciprocal right-of-ways, party walls
Sunset clause for applicable Building & Access Guidelines	
Variation mechanism for Building & Access Guidelines	

A13.18 - Village and neighbourhood centres

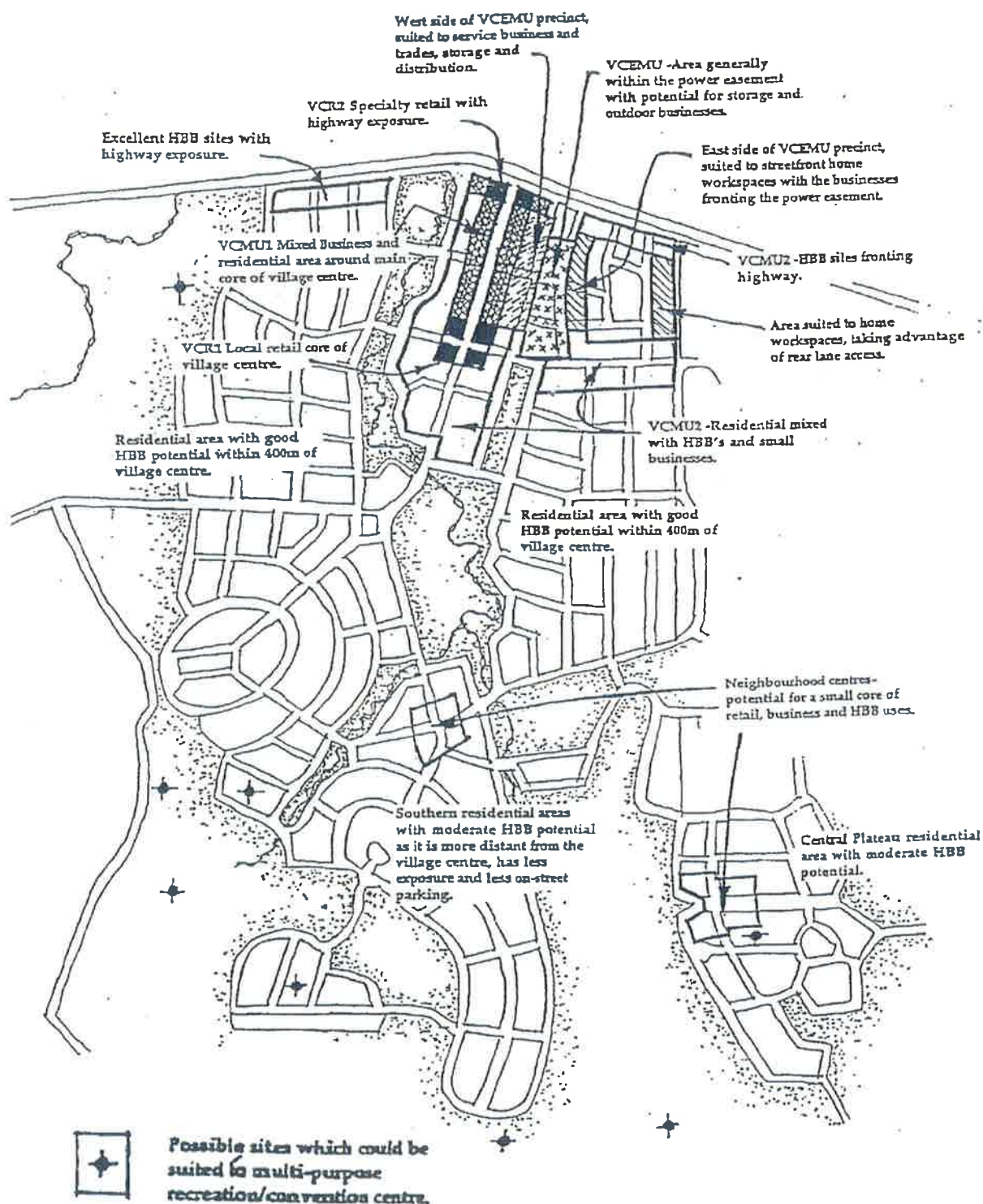
Objectives

1. To facilitate provision of local retail and commercial services, small businesses and local employment in the Tullimbar Village.
2. To encourage the development of a mixed use village centre in the northern part of the site, and to provide for village centre retail, business, mixed use and medium density development generally in accord with the Structure Plan and Precinct Plan.
3. To encourage the development of two smaller neighbourhood centres in the southern valley and on the central plateau, in accord with the Structure Plan and Precinct Plan.
4. To provide lots particularly suited to home businesses and home workspaces in appropriate areas of the village.
5. To provide opportunity for development of a multi-purpose recreation/convention centre on an attractive site in or abutting the village.

Advice

- A13.18.1 Land must be set aside and designated for non-residential and mixed uses generally in accord with **Figure A13.19. Village and Neighbourhood Centres and other Business and Employment Areas**. A site for a supermarket of between 800m² and 1200m² of gross floor area is to be provided in the VCR1 precinct, preferably located on the north-east corner of the main intersection.
- A13.18.2 Adequate lots must be provided for non-residential or mixed use development in the village and neighbourhood centre precincts to facilitate business and employment generation. This may be achieved by:
- a. designating lots and their usages generally in accord with the structure plan;
 - b. ensuring that mixed use lots initially developed for housing have the capacity to efficiently convert to or add a business use.
- A13.18.3 Provision of conventional residential lots must be minimised within the village and neighbourhood centres unless detailed with Building and Access Guidelines that facilitate future intensification and/or conversion to mixed use.
- A13.18.4 Larger lots for business or mixed use purposes may be provided as super lots. Applications for such lots must either incorporate appropriate Building and Access Guidelines or be accompanied by an indicative re-subdivision and building layout to demonstrate that appropriate buildings can be constructed efficiently.
- A13.18.5 An area of land approximately 5 hectares in size may be identified in a low density residential precinct for a multi-purpose recreation/convention centre. Any such centre should be located and accessed so that patrons and workers pass through the village centre to reach it.

Figure A13.19 - Village and Neighbourhood Centres and other Business and Employment Areas (NB This plan includes lands to which this Appendix does not apply)



A13.19 - Review

This Appendix provides an indication of the considerations that Council would make in assessing an application for subdivision submitted for its approval. It is intended that, once procedures and have been put in place in accordance with the provisions of the Environmental Planning and Assessment Amendment Bill, 1997, the document will be reviewed to incorporate guidelines for development subsequent to subdivision.

It is anticipated that, the review of the document will incorporate or refer to the following:

- Urban Design Guidelines
- Mixed Use Guidelines
- Housing Guidelines
- DA requirements and Processes
- Checklists for Applications

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Mr Kern Rootsey
Director Engineering
Site Plus Pty Ltd
PO Box 5104 Wollongong NSW 2500

10 February 2016

Dear Sir

Re Stand of trees below Digby Place, Albion Park

Our report of September 2015 (see reference below) assessed the stand of trees adjacent to the drainage line below Digby Place. The report described the stand of trees (page 5), and provided a schedule of the trees in the stand (see Appendix 2 in the report); see also a photograph at page 9. In relation this stand of trees the report concluded at page 17 : "The trees and other plants, some of which have been planted, along the small gully in the southeast are associated with the endangered ecological communities but are not considered to be a significant stand of either community."

While stands of native vegetation should be retained wherever possible, the long term viability of such stands must be considered. In this case, trying to retain this small stand within an urban environment would be quite difficult because of its very small size and surrounding housing. We understand that the drainage line must be re-contoured as part of the subdivision works; it is therefore likely that few of the existing trees could be retained.

We believe that it is much better to target that effort into another more viable area of native vegetation. In the case of this subdivision, it is proposed to set aside a relatively large area of existing native rainforest and woodland to the south. That area is, in our view, where the effort for conservation should be targeted, as it will be more viable in the long term.

Please feel free to contact me should you require any further comment.

Yours sincerely

KEVIN MILLS & ASSOCIATES

Dr Kevin Mills

Managing Director



Reference

Kevin Mills & Associates (2015). Flora and Fauna Assessment, Part Lot 522 DP 1168919, Illawarra Highway, Tullimbar/Albion Park, City of Shellharbour. Report prepared for Balmoral Parade Pty Limited, c/- Project Plus Pty Limited, Wollongong, September.