

**Application for a fire station - 1A Ellsworth Drive,
Tregear**Item: **DE3466** Report: **DD350031** File: **DA-14-2393****Committee Meeting on 22 April 2015****Division is required**

Topic	P Goldin (from NSW Public Works) has submitted a Crown development application (DA) on behalf of Fire and Rescue NSW (FRNSW) for the construction of a new fire station on the corner of Ellsworth Drive and Forrester Road, Tregear.
Analysis	<p>A fire station, by or on behalf of FRNSW, is permissible on the land. The development will not cause a significant impact to any threatened species or community. A number of conditions, however, have been recommended to address objections to the removal of a large Eucalyptus tree. Approval of the DA will ensure rapid response times are met during emergencies. If the DA is to be refused, or if conditions of consent are disputed by FRNSW, it must be referred to the JRPP for determination.</p> <p>ATTACHMENTS: Attachment 1 – Draft conditions of consent. Attachment 2 – Section 79C assessment Attachment 3 – Assessment of significant tree nomination Attachment 4 – Photo showing tree sections to be retained Attachment 5 – DA plans and bush regeneration plan Attachment 6 – Six development options considered for the site Attachment 7 – Locality map and location of objectors Attachment 8 – Applicant's response to ecological concerns Attachment 9 – Applicant's response to archaeological concerns</p>
Report Recommendation	<p>1. Approve the application subject to the draft conditions at Attachment 1, following the Crown's advice that it agrees to all conditions and upon resolution of all the drainage issues to the satisfaction of the General Manager.</p> <p>2. In the circumstance that the Crown does not agree to Council's draft conditions, or disputed conditions cannot be resolved, the application be referred to the Joint Regional Planning Panel for determination.</p>

Key reasons

1. The development is satisfactory under the *Environmental Planning and*

Assessment Act 1979

- a. We consider that the application is satisfactory under Section 79C of the *Environmental Planning and Assessment Act 1979*. See **Attachment 2**.

2. Assessment is not required under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*

- a. Due to clearing, mowing and grazing, the vegetation on the site exists in a degraded form. The original vegetation was most likely to have been the critically endangered Cumberland Plain Woodland (CPW) ecological community.
- b. CPW is part of the *Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest* listed under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act). Following a survey of the native vegetation on the site by the applicant, it was determined and confirmed by Council's Senior Biodiversity Officer that referral to the Federal Minister for the Environment, Heritage and the Arts is not required under the Act. The Act focuses on protecting 'Matters of National Environmental Significance', while heavily degraded patches that do not satisfy the 'significance test' of the Act are excluded.

3. The development is satisfactory under the *Threatened Species Conservation Act 1995* (TSC Act)

- a. The proposed development is located in an area where there are 3 threatened species and 1 critically endangered ecological community. Assessments of significance (i.e. 7 part tests under the *Environmental Planning and Assessment Act 1979*) were therefore undertaken for:
 - i. The Cumberland Plain Land Snail
 - ii. Various species of micro-bats
 - iii. *Grevillea juniperina* subsp. *juniperina*
 - iv. Cumberland Plain Woodland.
- b. The assessments concluded that the development is not likely to cause a significant impact to any threatened species, population or endangered ecological community. Council's Senior Biodiversity Officer has indicated that further assessment, in the form of a Species Impact Statement (SIS) under the TSC Act, is not required.

4. The objections do not warrant refusal of the application

- a. The objections to traffic, archaeological significance, classification of the vegetation, building design, site suitability and permissibility are not sufficient grounds to warrant refusal of the application. The site includes a *Eucalyptus tereticornis* tree which has been nominated for inclusion in Council's "Register of Significant Trees and Vegetation". The objections to the removal of this *Eucalyptus* tree can be addressed by conditions of consent.

Supporting analysis

1. The development is permissible under *State Environmental Planning Policy (SEPP) (Infrastructure) 2007*

- a. Under *Blacktown Local Environmental Plan (BLEP) 1988* the proposed

development is prohibited in the 5(a) Special Uses - Corridor zone.

- b. Clause 47(2) of *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* allows emergency services facilities to be carried out with consent on land zoned RE1 Public Recreation. The NSW Department of Planning and Environment has produced a list of equivalent zones, which lists the subject 5(a) zone as being equivalent to the RE1 zone. The proposed fire station is therefore permissible under the Infrastructure SEPP.
- c. The site is proposed to be zoned RE1 Public Recreation under Draft BLEP 2015 and will be permissible under that instrument once it is made.

2. The development complies with *Blacktown Development Control Plan 2006*

- a. There are no specific development controls in *Blacktown Development Control Plan 2006* for fire stations or for the development of land zoned for special uses. However, the development is satisfactory in terms of cut and fill, tree preservation, cultural heritage, building height, carpark design and drainage

3. The development will ensure a satisfactory landscape outcome

- a. Instead of providing high maintenance exotic gardens, a bushland protection area will be created within the 2,507 sqm site. The bushland area will retain and improve 1,303 sqm (52%) of the existing vegetation and will ensure the protection of 10 existing trees. See the development plans and bush regeneration plan at **Attachment 5**.
- b. Additional local native species, including 6 new *Eucalyptus tereticornis* trees, will be planted within the bushland protection area. This will provide long term habitat outcomes on the site. The area will be maintained 4 times a year to control weeds and reduce bushfire fuel.
- c. Council's Tree Management Coordinator and Senior Biodiversity Officer support the recommendations contained within the flora and fauna and arboricultural reports, including the bushland protection measures. The recommendations have been included as draft **conditions** of consent.

4. The proposed building design is the most suitable for the site

- a. To retain as many trees as possible, 6 different designs were considered for the site. See **Attachment 6**. FRNSW has also proposed a non-standard design (i.e. 2 storeys) to minimise the building footprint. None of the options, however, are able to retain the *Eucalyptus* tree located in the middle of the site. The proposed design will have the least impact on the existing vegetation, and retains the most number of trees.

5. There are no archaeological artefacts on the site

- a. A due diligence Aboriginal heritage assessment was prepared for the proposed development. The assessment concluded that the registered Aboriginal site, on the development site, is actually invalid. It recommended that the Aboriginal site be deregistered from the NSW Office of Environment and Heritage (OEH) Aboriginal Heritage Information Management System (AHIMS). The OEH AHIMS team confirmed on 10 February 2015 that the Aboriginal site (AHIMS #45-5-4478) has been deregistered. No further archaeological investigations are required.

6. The development complies with the requirements for bushfire protection

- a. The development has been designed to meet the requirements of *Planning for Bush Fire Protection 2006* and of Australian Standard 3959 'Construction of

buildings in bushfire-prone areas' 2009. The submitted Bushfire Hazard Assessment Report provides recommendations to ensure compliance with these standards. These recommendations are included as draft **conditions** of consent.

7. The road hierarchy is suitable for the proposed use

- a. The site is located next to a signalised intersection and gains access from a collector road. The development has been designed to minimise traffic impacts and avoid unsafe vehicle movements.

8. Car parking provision is satisfactory

- a. *Blacktown Development Control Plan (DCP) 2006* does not include a minimum parking requirement for emergency services such as fire stations. The development proposes 12 car parking spaces and will adequately cater for the 8 staff members and any visitors to the site.

9. The number of access points to the site is satisfactory

- a. The proposed development includes 2 exit driveways. A separate exit for the fire trucks is considered the most appropriate configuration for rapid and safe emergency responses. It also allows the fire trucks to enter and exit the site in a forward direction.

10. Flood lighting is satisfactory

- a. The proposal includes flood lighting over the engine bay. External lighting is likely to increase the number of insects around the building, which would provide additional food for any fauna around the site. The lighting will not impact on any adjoining property given that the adjoining land is vacant and the nearest residential development is approximately 100 m from the site.

11. No unreasonable noise impacts will occur

- a. The fire station will operate on a 24 hour basis and will have a maximum of 8 staff on site at any time. Siren noise will be the main source of noise. Flashing lights are used at all times when responding to an emergency, but sirens are used with discretion. The use of sirens is governed by the *Fire Brigades Act 1989* and the *Fire Brigades Regulation 2008*.

12. The trees should not be listed on Council's significant tree register

- a. The proposal requires the removal of 1 *Eucalyptus tereticornis* (forest red gum) tree and a small group of *Casuarina* trees. The remaining 10 trees will be retained. Four of the remaining trees are semi-mature to young *Eucalyptus* and *Angophora* tree species and are considered to be of greater value than the *Eucalyptus* tree proposed to be removed. One of these trees contains hollows suitable for native fauna species.
- b. The *Casuarina* trees are not significant and no objections have been raised, by council officers or the public, to their removal.
- c. A local resident has nominated the *Eucalyptus tereticornis* tree for inclusion in Council's "Register of Significant Trees and Vegetation – Final report July 2012" given it is approximately 150 years old and includes several hollows. The applicant's environmental consultant has assessed the nomination against Council's 12 listed categories of significance. See **Attachment 3**.
- d. The *Eucalyptus* tree satisfies the outstanding habitat category given that it contains hollows that are of habitat value for tree dwelling fauna. This habitat

feature, however, is not uncommon in the area. There is a larger tree with hollows immediately to the east of the site and another similar sized tree with many hollows and nesting birds on the opposite side of Ellsworth Drive.

- e. While the tree is old and the hollows do provide outstanding habitat value, the health of the tree has been rated as average to poor. The tree is showing signs of advanced and irreversible decline (e.g. dieback and stress) and also has structural issues which could pose a significant risk to persons and property (e.g. cavities in the branches and main trunk which are vulnerable to failure).
- f. Given that the tree contains a number of significant hollows suitable for native fauna, the applicant is proposing that 2 sections of the tree be carefully detached and fixed to metal poles on the site. See **Attachment 4**. Nesting boxes will also be installed to offset any habitat loss.
- g. Council's Tree Management Coordinator advises that the *Eucalyptus* tree should not be listed in Council's 'Register of Significant Trees and Vegetation' and supports removal of the tree subject to the hollow bearing sections being retained on site. Very little fauna habitat will be lost because of the proposal, as there is only one hollow bearing tree being removed and most of the hollows in the tree will be retained on site.

13. Objections have been received

- a. We notified all property owners and occupiers within 200 m of the site, and advertised the proposal within local newspapers, from 24 February 2015 to 10 March 2015. The person who submitted a 'Register of Significant Trees and Vegetation Nomination Form' in relation to the site, Penrith Council and the NSW Department of Planning and Environment were also notified of the proposal.
- b. Council received submissions from 4 objectors, including 1 from the Blacktown and District Environment Group. See **Attachment 7** for the locality plan and separate plan showing the location of objectors where relevant.
- c. Below is a summary of the key objections received and our response. See **Attachment 8** for the applicant's environmental consultant's response to the ecological concerns raised. **Attachment 9** provides the applicant's archaeological consultant's detailed response to the concerns raised about the Aboriginal artefact. We have reviewed the applicant's responses and do not raise any objection to the information provided.

Objection	Reason for objection	Council's response
Tree removal	The <i>Eucalyptus tereticornis</i> tree is part of the critically endangered Cumberland Plain Woodland (CPW) community and requires protection under the EPBC Act 1999	The assessment of significance concludes that the removal of the tree will not have a significant impact on Cumberland Plain Woodland (CPW). Referral to the Federal Minister for the Environment Heritage and the Arts is not required under the Act. The site is also highly disturbed due to decades of grazing and cropping.
Significant tree nomination	The <i>Eucalyptus tereticornis</i> tree contains rare hollows and has been nominated for inclusion in Council's Significant Tree	The <i>Eucalyptus</i> tree is recognised as providing outstanding habitat value due to the hollows in the tree. The tree, however, is in deteriorating health and has structural issues.

Objection	Reason for objection	Council's response
	Register	Removal of the tree and proposed offset measures (i.e. retention of 2 sections of the trunk and installation of nesting boxes) are supported by Council's Tree Management Coordinator and Senior Biodiversity Officer.
Fauna habitat	The tree hollows provide important habitat for fauna species which are listed under the NSW <i>Threatened Species Conservation Act 1995</i>	At Council's Senior Biodiversity Officer's request, an assessment of all hollow dependent fauna, including the Glossy Black Cockatoo, Swift Parrot, Powerful Owl, Sooty Owl and various species of micro-bats, has been completed. The assessment concluded that a further assessment of significance (in the form of a 7-part test) needed to be undertaken for the various micro-bat species that could use the hollows. The 7-part test found that the removal of this 1 tree is unlikely to have a significant effect on the local populations of micro-bat species and that a Species Impact Statement (SIS) under the <i>Threatened Species Conservation Act 1995</i> was not required. Council's Senior Biodiversity Officer agrees with these findings.
Protection of fauna	No consideration has been given to the fate of any bird chicks or juveniles inhabiting the hollows	A qualified ecologist will be on site when the sections of the tree are detached and relocated. The hollows will be checked for fauna and any fauna will be removed in a humane way. The proposed works will also be undertaken in the winter when it is less likely that breeding fauna will be using the tree. Suitable draft conditions will address these matters.
Habitat measures will be ineffective	There is no guarantee that the relocation of 2 of the hollows and placement of additional nesting boxes will be effective. They could attract non-target species	It is acknowledged that the hollows and nesting boxes could attract non-native species. However, non-native species may already be using the site. There are different nesting box designs depending on the type of species to be accommodated. It is recommended that the applicant provide appropriate boxes to accommodate both micro-bats and native birds. It is also recommended that regular monitoring be undertaken to ensure that the hollows and boxes are not being used by pests (e.g. bees). Following the detection of any pests, appropriate measures should be taken to remove them from the site. These matters have been addressed as draft conditions of consent.

Objection	Reason for objection	Council's response
Invalid archaeological assessment	A valid archaeological assessment of the remnant CPW trees' value as Aboriginal heritage remains outstanding. The <i>Eucalyptus tereticornis</i> tree towers above all other trees in the district and is one of the oldest (about 150 years old) and most significant in Blacktown	The submitted archaeological report considered these issues and determined that none of the trees contained evidence of cultural modification (i.e. scars from bark removal or tree carving). The age and regrowth status of the trees would only be relevant to the assessment if evidence of human modification had been noted. As there is no evidence, the age and regrowth/remnant status of the trees is not relevant to the assessment of the Aboriginal heritage qualities of the subject site. See also Attachment 9 .
Lack of consultation	The archaeological report has been based on insufficient consultation	The archaeological assessment was undertaken in accordance with the Office of Environment and Heritage (OEH) 2010 <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales</i> . The purpose of the due diligence assessment is to determine whether further archaeological investigation or Aboriginal Heritage Impact Permits may be required. As part of the due diligence assessment, 3 experienced people inspected the site. The <i>Due Diligence Code of Practice</i> does not require any consultation with any Aboriginal community members. The Deerubbin Local Aboriginal Land Council, however, was consulted as a matter of principle by the consultant, rather than as part of any prescribed requirement.
Registered Aboriginal artefact	The archaeological report contradicts the findings of independent experts. The archaeological consultant failed to consult with me. I was the person who originally registered the Aboriginal artefact site	The NSW Office of Environment and Heritage (OEH) AHIMS team confirmed on 10 February 2015 that the Aboriginal site has now been deregistered. There is no requirement under current policies to consult with those responsible for registering records on the AHIMS register. Previously registered site records are reviewed by archaeologists as part of the assessment process. However, contact is generally only made if the level of information in the site record is insufficient or unclear. That was not the case in the current assessment and contact was not considered necessary.
Aboriginal artefacts	The artefact on site is an indigenous 'core stone' and is of Aboriginal significance	The stone is not an Aboriginal artefact as it does not contain features that demonstrate that it has been worked by Aboriginal people. The AHIMS site

Objection	Reason for objection	Council's response
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	and should be AHIMS registered. A recognised local Aboriginal elder and the Deerubbin Local Aboriginal Land Council also considered the artefact as an Aboriginal site	was deregistered on this basis. In discussion with Deerubbin Local Aboriginal Land Council representative Mr Steve Randall (on 13 March 2015), Mr Randall noted that the Land Council regards the ultimate determination of the stone as artefact, or not, to be a scientific issue, and are comfortable with the matter proceeding on this basis. See also Attachment 9 .
Site boundaries	The Blacktown and District Environment Group would not object to the development footprint being shifted in a slightly eastward direction at the expense of some younger and hollow free trees. If the boundaries of the site were changed there would be no need to destroy the heritage tree	The current design ensures the maximum number of trees is retained. Four of the trees to be retained have been assessed as being more valuable than the <i>Eucalyptus</i> tree proposed to be removed. FRNSW is not willing to seek a boundary adjustment and has advised that the timing involved in adjusting the boundaries and building design would jeopardise the project.
Site selection	The applicant should have considered repositioning the building footprint, shifting the boundaries or selecting another site altogether	FRNSW undertook an extensive site selection process and reviewed 9 different sites before selecting the subject site. Attachment 6 includes the 6 different building designs that were considered to ensure the final design would have the least impact on the trees.
Zoning	The site has a Special Uses zoning and is proposed for Open Space (Public Recreation)	The proposed use is <i>prohibited</i> in the 5(a) Special Uses - Corridor zone. However, fire stations are permissible under <i>State Environmental Planning Policy (SEPP) (Infrastructure) 2007</i> . The DA has been lodged on this basis.
Location	Why is the proposed 'Ropes Crossing' Fire Station being located in Tregear and not Ropes Crossing? What consideration has been given to locating the Fire Station near Jordan Springs?	The location of fire stations is determined by various considerations including the road network, relationships to other fire stations, fire risks within the area and response times. A Lend Lease site within Ropes Crossing was considered but was found to be unsuitable. Jordan Springs was not investigated as it is located outside the search area.
Traffic	When traffic is backed up along Ellsworth Drive, the fire trucks may proceed along the wrong side of the road to get quickly through the intersection.	Emergency response vehicles are permitted to drive on the opposite side of the road when the lights are flashing and sirens are on. The lights and sirens alert other motorists on the road. The signalised intersection does

Objection	Reason for objection	Council's response
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	A median can never be provided in Ellsworth Drive given that fire trucks will need to cross the lanes in an emergency	not require a median in Ellsworth Drive. To allow unobstructed entry and exit from the fire station a 'keep clear' zone will be required in front of the site on Ellsworth Drive. A draft condition will require that the applicant obtain separate Council approval through the Local Traffic Committee for the 'keep clear' zone. The works are to be provided at no cost to Council.
Future development	NSW Planning and Environment is seeking to release more land fronting Forrester Road. Blacktown and District Environment Group urges Council to initiate early action to ensure the continued existence of significant old growth <i>Angophora</i> species on this site	Significant tree nominations have been made for several <i>Eucalyptus tereticornis</i> and <i>Angophora subvelutina</i> / <i>floribunda</i> trees on the corner of Forrester Road and Ellsworth Drive and in Tregear Reserve. These nominations will be considered separately as they are not located on the subject site and will not be impacted by this proposal.

Context

1. The site is a vacant lot

- a. The site is located on the corner of Ellsworth Drive and Forrester Road, Tregear and is currently vacant. The site measures approximately 50 m by 50 m and has a total area of 2,507 sqm. The proposed on-site bush regeneration area measures 1,303 sqm. The remainder of the site contains the building footprint, hardstand and driveway areas. An electricity easement, 84.6 m wide, runs beside the site.

2. The site is suitable for the development

- a. Fire and Rescue NSW (FRNSW) identified 9 potential sites within the approved search area. The search area is determined by a maximum 10 minute response time. The suitability of the site was then determined by such things as location, access to distributor or collector roads, size, dimensions and slope. The subject site was deemed to be the best option and was subsequently purchased from the Minister for Planning in 2014.
- b. The applicant has submitted detailed archaeological, flora and fauna, arboricultural and bushfire reports demonstrating that the site is suitable from an environmental perspective. Council officers agree that the development will not have a significant impact on any flora or fauna species.

3. The application cannot be refused by Council

- a. The DA has been made on behalf of the Crown. Council is therefore the determining authority only if the DA is to be approved. If the DA is to be refused it must be referred to the Joint Regional Planning Panel (JRPP) for

determination.

4. The conditions must be agreed by the applicant

- a. As the DA has been made on behalf of the Crown, Council cannot impose any conditions of consent unless the applicant first agrees in writing. The draft conditions at **Attachment 1** will therefore be forwarded to FRNSW for its review and agreement. Any disputed conditions must be referred to the JRPP for determination.

5. The development is necessary to ensure efficient emergency response

- a. Mt Druitt, St Marys and Dunheved fire stations are currently located within a few kilometres of each other and provide inefficient service coverage. The proposed fire station at Tregear will replace the Dunheved fire station. Refusal of the application will prevent rapid response times during emergencies.




6. Timing of the approval







- a. The applicant is preparing amended drainage plans to eliminate any impact on the trees to be retained.
- b. Upon submission of the amended plans, the Drainage Section will be able to provide draft conditions of consent.
- c. The applicant (i.e. a Crown authority) needs the DA to be determined at a Council meeting in April 2015 or the government funds set aside for this project may be redirected elsewhere. It is likely the drainage issues will be resolved before the end of April and it would therefore be unreasonable to wait to report the matter to a later meeting.

Approval

Name and position	
→ Report author	Gordon R., Senior Town Planner
→ Endorsed by	Portelli J., Manager, Development Assessment
→ Director approval	Glennys James, Director Design & Development
	Signature: 
→ General Manager approval	Kerry Robinson, General Manager
	Signature: 

Attachments

Ref	Description	Files
1	Draft conditions of consent	 A1DD350031.pdf
2	Section 79C assessment	 A2DD350031.pdf
3	Assessment of significant tree nomination	 A3DD350031.pdf
4	Photo showing tree sections to be retained	

		 A4DD350031.pdf
5	DA plans and bush regeneration plan	 A5DD350031.pdf
6	Six development options considered for the site	 A6DD350031.pdf
7	Locality map and location of objectors	 A7DD350031.pdf
8	Applicant's response to ecological concerns	 A8DD350031.pdf
9	Applicant's response to archaeological concerns	 A9DD350031.pdf

Recommendations

Report Recommendation	<p>1. Approve the application subject to the draft conditions at Attachment 1, following the Crown's advice that it agrees to all conditions and upon resolution of all the drainage issues to the satisfaction of the General Manager.</p> <p>2. In the circumstance that the Crown does not agree to Council's draft conditions, or disputed conditions cannot be resolved, the application be referred to the Joint Regional Planning Panel for determination.</p>
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Blacktown City Council

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Environmental Planning and Assessment Act, 1979 (Section 81)

Applicant: NSW PUBLIC WORKS
C/- PENNY GOLDIN
LEVEL 14, 2-24 RAWSON PLACE
SYDNEY 2000

Determination Number: 14-2393

**DRAFT — Engineering and
drainage conditions also to be inserted**

Property Description: LOT 1 DP1195719, 1A ELLSWORTH DRIVE, TREGAR

Development: Construction of a new fire station, 12 associated car parking spaces and the establishment of a 1,303 sqm bushland protection area.

Determination: Pursuant to Section 81 of the Act Council advises that the Development Application has been determined by:

- GRANTING OF CONSENT SUBJECT TO THE CONDITIONS ATTACHED ON THE FOLLOWING PAGES

BY COUNCIL MEETING

Right of Appeal

Section 97 of the Act confers on an applicant who is dissatisfied with the determination of the consent authority a right of appeal to the Land and Environment Court. Section 97 does not apply to State significant development or development that has been subject to a Commission of Inquiry.

Section 82A of the Environmental Planning and Assessment Act 1979 provides that an applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) together with payment of the appropriate fee. The review must be lodged and determined within six (6) months of the date on which you received this notice.

Note: To enable the Section 82A review to be considered within the six (6) months timeframe prescribed by under the Environmental Planning and Assessment Act 1979, it is advisable to lodge the application for review under Section 82A as soon as possible to facilitate the statutory timeframes.

Section 82A does not apply to complying development, designated development, integrated development, or a determination made by Council under Division 4 in respect of Crown applications.

Note: This Consent is generally valid for a period of five years effective from the date of this Notice, unless specified otherwise by Sections 83 and 95 of the Act, or by conditions of this Consent.

Kerry Robinson
GENERAL MANAGER

Per

Date

1 ADVISORY NOTES

1.1 Terminology

- 1.1.1 Any reference in this document to a "consent" means a "development consent" defined in the Environmental Planning and Assessment Act 1979.

1.2 Scope of Consent

- 1.2.1 The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992. The applicant is advised to investigate any liability that may apply under that Act. The current suite of Australian Standard 1428 - Design for Access and Mobility, should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

- 1.2.2 This consent does not authorise the encroachment or overhang of any building or structure over or within any easement.

1.3 Services

- 1.3.1 The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Energy provider
- (c) Natural Gas Company
- (d) The relevant local telecommunications carrier

regarding any requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on the land or on the adjacent public road(s).

All approved building construction plans attached to the Section 109R Certification should be submitted to and stamped by a Sydney Water Corporation Limited Customer Centre or a Sydney Water Quick Check Agent as an indication that the proposal complies with the Sydney Water requirements. Sydney Water may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to ascertain the Sydney Water requirements for the eventual operation of the approved use.

- 1.3.2 Underground assets may exist in the area that is subject to your application. In the interests of health, safety, and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property.
- (c) It is in the public interest that they be imposed.

Kerry Robinson
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asset holders a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- 1.3.3 Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number: 1800 810 443.

- 1.3.4 Low voltage electricity and telecommunications services for the approved development shall be reticulated underground.

- 1.3.5 As the proposed development will involve work near electricity infrastructure, work should be carried out safely in accordance with public safety training resources available via Endeavour Energy's website:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures>

1.4 Substation

- 1.4.1 Any future substation or other utility installation required to service the approved development shall not under any circumstances be sited on future or existing Council land, including road reservations and/or public reserves. Any proposal to locate a proposed substation or other utility installation on Council land shall be negotiated with and fully endorsed by the relevant Council Directorates.

2 GENERAL

2.1 Scope of Consent

- 2.1.1 This consent relates to the following drawings/details submitted to Council with the Development Application, subject to compliance with any other conditions of this consent:

Drawing No.	Dated	Council's File Enclosure No.
Site Plan Revision I	26.02.15	99A
Ground Floor Partition Plan Revision F	21.11.14	1B
Level 1 Partition Plan	21.11.14	1C

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property.
- (c) It is in the public interest that they be imposed.

Kerry Robinson
GENERAL MANAGER

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Revision F

Ground Floor Finishes Plan Revision C	21.11.14	1D
Level 1 Finishes Plan Revision C	21.11.14	1E
Ground Floor RCP Revision F	21.11.14	1F
Level 1 RCP Revision F	21.11.14	1G
Building Elevations 1 Revision F	21.11.14	1H
Building Elevations 2 Revision F	21.11.14	1I
Roof Plan Revision E	21.11.14	1J
Sections Sheet 1 Revision E	21.11.14	1K
Sections Sheet 2 Revision E	21.11.14	1L
Landscape Bush Regeneration Plan SKL	09.02.15	56B
Site Management Plan SK-SMP01	09.02.15	56C
Bushfire Hazard Assessment Report	22 October 2014	2D
Arboricultural Impact Assessment Report	January 2015	59A
Flora and Fauna Impact Assessment	February 2015	57A

* Unless modified by any condition of this consent.

2.2 Tree removal

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property.
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- 2.2.1 Approval is granted for the removal of 1 *Eucalyptus tereticornis* (forest red gum) tree and a small group of *Casuarina* trees only as shown on the approved plans. The remaining 10 trees on site must be retained.

2.3 Identification survey

- 2.3.1 The applicant is advised to obtain an identification survey from a registered surveyor to ascertain the correct location of the property boundaries, and to ensure the development does not encroach upon adjoining properties.

2.4 DA Plan Consistency

- 2.4.1 A Section 109R Certification for the proposed development shall only be issued when the accompanying plans, specifications and/or details are consistent with the approved Development Application design plans.

2.5 Building Code of Australia Compliance

- 2.5.1 The building shall comply with a Section 109R Certification.

2.6 Suburb Name

- 2.6.1 The land the subject of this consent is known to be located in the following suburb. This suburb name shall be used for all correspondence and property transactions:

Suburb: Tregear

2.7 Services/Utilities

- 2.7.1 The following documentary evidence is to be submitted to Council:

- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Applications must be made through an authorised Water Servicing Coordinator. Please refer to the "Building Plumbing and Developing" Section of the website www.sydneywater.com.au, then follow the "Developing Your Land" link or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

NOTE: A copy of Sydney Water's Notice of Requirements must be obtained prior to the construction work commencing. The Section 73 Certificate must be obtained prior to the occupation of the development

- (b) A "Notification of Arrangement" Certificate from Endeavour Energy, or any other recognised energy provider, stating that electrical services, including the provision of street lighting, have been made available to the development.

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Written evidence must be obtained prior to the occupation of the development.

- (c) A written clearance from Telstra or any other recognised communication carrier, stating that services have been made available to the development or that arrangements have been made for the provision of services to the development. Written evidence must be obtained prior to the occupation of the development.

Note: A copy of the above documentation is to be submitted to Council for its records.

3 PRIOR TO DEVELOPMENT WORKS (PLANNING)

3.1 Section 109R Certification

- 3.1.1 No construction preparatory work (including tree or vegetation removal, ground clearing, excavation, filling, and the like) shall be undertaken on the land prior to a valid Section 109R Certification being issued for the construction works.

3.2 Trees and vegetation

- 3.2.1 The proposal is to comply with:

- (i) The recommendations listed under Sections 5 and 6 of the Arboricultural Impact Assessment Report (dated January 2015 prepared by NSW Public Works Landscape Urban Environment Design) held at Enclosure 59A on Council's file DA-14-2393.

- (ii) The ameliorative conditions and recommendations listed under Section 8 of the Flora and Fauna Impact Assessment Report (dated February 2015 prepared by GIS Environmental) held at Enclosure 57A on Council's file DA-14-2393.

3.3 Translocation of hollows

- 3.3.1 During tree removal 2 high habitat value sections of the *Eucalyptus tereticornis* tree are to be translocated on site in accordance with the recommendations listed under Section 8 of the Flora and Fauna Impact Assessment Report (dated February 2015 prepared by GIS Environmental) held at Enclosure 57A on Council's file DA-14-2393.

- 3.3.2 Prior to the tree removal, the hollows are to be checked for fauna. Any fauna found must be removed in a humane way. The proposed works should also be undertaken in the winter when it is less likely that breeding fauna will be using the tree.

- 3.3.3 In accordance with the report recommendations, all tree work must be carried out, coordinated and supervised by a qualified ecologist.

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3.4 Nesting boxes

- 3.4.1 Nesting boxes are to further supplement the amount of hollows on site. Nest boxes that are suitable in accommodating micro-bats and native birds should be selected.

3.5 Tree Protection

- 3.5.1 Any tree not indicated on the approved Development Application plans as being removed shall be effectively protected against damage.

3.6 Aboriginal Heritage

- 3.6.1 Prior to any construction works being undertaken on the site, the applicant is to contact the Western Sydney Aboriginal Stakeholder Groups to arrange for the initial earthworks to be monitored for the presence of any archaeological artefacts. A minimum of 14 days notice shall be given to each group. In the event archaeological relics are uncovered during construction, all works must cease until the appropriate "consent to destroy" is obtained from the NSW Office of Environment and Heritage (OEH).

3.7 Site Contamination

- 3.7.1 Given the site was used in the past for agricultural uses, an initial site contamination investigation is to be undertaken. Any areas that are suspected to be contaminated must be remediated. Upon completion of any required remedial work an appropriately qualified environmental consultant must prepare a validation report in accordance with:

- NSW Environment Protection Authority's "Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites" (2011)
- NSW Environment Protection Authority's *Contaminated Sites Sampling Design Guidelines* (1995)
- NSW Environment Protection Authority's "Contaminated Sites: Guidelines for NSW Site Auditor Scheme" (2006)
- National Environment Protection Council "National Environment Protection (Assessment of Site Contamination) Measure" (2011).

A NSW Environment Protection Authority accredited Site Auditor shall review the validation report and submit to Council a Site Audit Statement. The Site Audit Statement shall verify that the investigation, remediation and validation was carried out in accordance with the aforementioned guidelines and that the site is suitable for the proposed use as a fire station.

Note: Any importation of fill material is to be validated at the source in accordance with EPA requirements.

3.8 Salinity

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
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- 3.8.1 Prior to construction works commencing, a site specific Preliminary Salinity Investigation and Management Plan, prepared in accordance with the Department of Land and Water Conservation's (DLWC) publication 'Site Investigations for Urban Salinity' and WSROC Western Sydney Salinity Code of Practice publications, shall be prepared. This report is to include salinity mitigation measures for bulk earthworks, services, stormwater drainage infrastructure, roads, landscaping and future building construction to be incorporated as a part of the Section 109R certified plans.

4 PRIOR TO DEVELOPMENT WORKS (BUILDING)

4.1 Bush Fire Requirements

- 4.1.1 The proposal is to comply with the recommendations listed under Section 9 of the Bushfire Hazard Assessment Report (reference number: 150355 dated 22 October 2014 prepared by Building Code & Bushfire Hazard Solutions Pty Limited) held at Enclosure 2D on Council's file DA-14-2393.

4.2 Environmental Management

- 4.2.1 Prior to the commencement of works, an appropriately qualified person is to submit an comprehensive Environmental Management Plan (EMP) to NSW Public Works for approval. The final, approved EMP shall be submitted to Council for its records.

The operational measures should include but not be limited to:

- Proposed schedule of works
- Proposed hours of work
- Noise and vibration controls
 - location of noise sensitive receivers nearest to the site
 - the predicted level of noise likely to affect the nearest noise sensitive receivers
 - list plant and equipment to be used on site including the level of sound mitigation to be undertaken in each case
 - statement outlining whether or not predicted noise levels will comply with the noise criteria outlined in the NSW Industrial Noise Policy
 - where resultant site noise levels are likely to exceed the noise criteria, a proposal is to be submitted outlining the duration and frequency of respite periods afforded to the occupiers of neighbouring property
 - community complaints response and management procedure outlining the course of action to be undertaken following receipt of a complaint concerning offensive noise
- Erosion and Sedimentation Control Strategy

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- Dust control strategy noting that any stockpiled soil is to be stored on plastic sheeting in an area that is securely bunded with a silt fence and hay bales to prevent surface-water run-off. Plastic sheeting must be placed over the stockpile to minimise wind-blown dust.
- Procedures for validation of imported fill material and the proposed means of disposing overburden. Where Virgin Excavated Natural Material is required, the site demolition and construction contractor must provide certification of the source of the material. The suitability of the Material is to be assessed in accordance with the NSW EPA (2012) *Excavated Natural Material Exemption* prior to being imported to site.

4.3 Safety/Health/Amenity

- 4.3.1 Toilet facilities shall be provided on the land at the rate of 1 toilet for every 20 persons or part thereof employed at the site.

Each toilet provided shall be:

- (a) a standard flushing toilet, or
- (b) a temporary on-site toilet which is regularly maintained and the waste disposed to an approved sewerage management facility.

- 4.3.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (a) the name, address and telephone number of the Section 109R Certifier for the work, and
- (b) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

This condition does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- 4.3.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involve the enclosure of a public place,

a hoarding or protective barrier shall be erected between the work site and the

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public place. Such hoarding or barrier shall be designed and erected in accordance with Council's current Local Approvals Policy under the Local Government Act 1993.

Where necessary, an awning shall be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to any person in the public place.

- 4.3.4 Soil erosion and sediment control measures shall be provided in accordance with Council's Soil Erosion and Sediment Control Policy.
- 4.3.5 All soil erosion and sedimentation control measures indicated in the documentation accompanying the Section 109R Certification shall be installed prior to the commencement of development works.
- 4.3.6 A single vehicle/plant access to the land shall be provided to minimise ground disturbance and transport of soil onto any public place. Such access shall be provided in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. Single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided as a minimum.
- 4.3.7 Any excavation and/or backfilling associated with the development shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent such work being dangerous to life or property.
- 4.3.8 Should any excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
 - (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting work commences, be given notice of such intention and particulars of the excavation or supporting work.

4.4 Notification to Council

- 4.4.1 The person having the benefit of this consent shall, at least 2 days prior to work commencing on site, submit to Council a notice under Clauses 135 and 136 of the Environmental Planning and Assessment Regulation 2000, indicating details of the appointed Section 109R Certifier and the date construction work is proposed to commence.

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4.5 Sydney Water

- 4.5.1 The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped. For further assistance please telephone 13 20 92 or refer to Sydney Water's website www.sydneywater.com.au for: Quick Check agents details – see Plumbing, building and developing then Quick Check agents, and Guidelines for Building Over/Adjacent to Sydney Water Assets – See Plumbing, building and developing then Building over or next to assets.

5 PRIOR TO DEVELOPMENT WORKS (ENGINEERING)

5.1 Construction Traffic

- 5.1.1 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to works commencing on site.

6 DURING CONSTRUCTION

6.1 Landscaping/Environment Protection Zone

- 6.1.1 All landscaping shall be completed by a qualified Bush-regenerator in accordance with the approved landscaping design. An Environment Protection Zone (1,303 sqm) is to be retained on site and improved in accordance with the approved Landscape Bush Regeneration Plan and recommendations included under Section 8 of the Flora and Fauna Impact Assessment Report (dated February 2015 prepared by GIS Environmental) held at Enclosure 57A on Council's file DA-14-2393. Additional local native species are to be planted in the regeneration area, including 6 new *Eucalyptus tereticornis* trees, to provide long term habitat outcomes on the site.

6.2 Access and parking

- 6.2.1 The layout of the car parking area (including the driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and park bay dimensions) are to be in accordance with AS 2890.1-2004, AS/NZS 2890.6:2009, and AS 2890.2-2002.
- 6.2.2 All internal roads and other paved areas shall be designed to provide continuous surface drainage flow paths to approved points of discharge.
- 6.2.3 Access to and parking for persons with disabilities shall be designed in accordance with Australian Standard 2890.6.

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- 6.2.4 The 12 car parking spaces are to be designed having minimum internal clear dimensions in accordance with Australian Standard 2890.1 as follows:

Staff/visitor spaces: 2.5m x 5.4m

Disabled car space: 4.8m (2.4m + 2.4m share zone) x 5.4m

6.3 **Manoeuvring**

- 6.3.1 The swept path of the longest vehicle entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.

6.4 **Aesthetics**

- 6.4.1 The reflectivity index of glass used in the external facade of the building is not to exceed 20 percent.
- 6.4.2 Any bathroom or w.c. window in the external wall of the building shall be fitted with translucent glazing.
- 6.4.3 The development is to be constructed in accordance with the schedule of materials and finishes identified on the approved building elevation plans (Drawing No. WD 11 and WD12 Revision F dated 21.11.14) held at Enclosures 1H and 1I on Council file DA-14-2393.

6.5 **Building Code of Australia Compliance**

- 6.5.1 All building work shall be carried out in accordance with the Section 109R Certification.

6.6 **Safety/Health/Amenity**

- 6.6.1 The required toilet facilities shall be maintained on the land at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.
- 6.6.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (a) the name, address and telephone number of the Section 109R Certifier for the work, and
- (b) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

- 6.6.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be

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- obstructed or rendered inconvenient, or
(b) involves the enclosure of a public place,

the required hoarding, awning or protective barrier shall be maintained between the land and the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to persons in the public place.

- 6.6.4 Soil erosion and sediment control measures (including the connection of roofwater downpipes to stormwater drainage lines upon fixing of roof covering) shall be maintained during the development works.
- 6.6.5 All measures specified in the Section 109R Certification to control soil erosion and sedimentation shall be maintained throughout development works.
- 6.6.6 A single vehicle/plant access to the land shall be maintained to minimise ground disturbance and transport of soil onto any public place. Such access shall be maintained in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. As a minimum, single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided.
- 6.6.7 Any excavation and/or backfilling associated with the ongoing development works shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent them from being dangerous to life or property.
- 6.6.8 Should any excavation associated with the ongoing development works extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
- (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting works be given notice of such intention and particulars of the excavation or supporting works.
- 6.6.9 Building and construction materials, plant, equipment and the like shall not to be placed or stored at any time on Council's footpath, roadway or any public place.

6.7 Surveys

- 6.7.1 The building(s) shall be set out by a registered surveyor to verify the approved position of each structure in relation to the property boundaries.

6.8 Nuisance Control

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
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6.8.1 Any objectionable noise, dust, concussion, vibration or other emission from the development works shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.

6.8.2 The hours of any offensive noise-generating development works shall be limited to between 7.00am to 6.00pm, Mondays to Fridays: 8.00am to 1pm, Saturdays; and no such work to be undertaken at any time on Sundays or public holidays.

6.9 Tree Protection

6.9.1 The measures required to effectively protect trees on the land shall be maintained throughout the development works.

6.10 Waste Control

6.10.1 The waste material sorting, storage and re-use requirements of Council's Site Waste Management and Minimisation Development Control Plan shall be implemented during the course of development works.

6.11 Aboriginal Heritage

6.11.1 Should any archaeological material be uncovered during construction activities on any location within the approved development (including in areas that have not been identified as having Aboriginal Archaeological Potential), then all works in the vicinity of the discovery are to cease immediately and representatives of the Office of Environment & Heritage (OEH) are to be contacted.

6.12 Bush Fire Requirements

6.12.1 The proposal is to comply with the recommendations listed under Section 9 of the Bushfire Hazard Assessment Report (reference number: 150355 dated 22 October 2014 prepared by Building Code & Bushfire Hazard Solutions Pty Limited) held at Enclosure 2D on Council's file DA-14-2393.

7 PRIOR TO OCCUPATION

7.1 Compliance with Conditions

7.1.1 The building shall not be occupied until such time as all conditions of this consent, other than "Operational" conditions, have been satisfied.

7.2 Road Damage

7.2.1 The cost of repairing any damage caused to Council's assets in the vicinity of the land as a result of the development works shall be met in full by the applicant/developer.

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7.2.2 Fee Payment

- 7.2.3 Any fee payable to Council as part of an Approval or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.

7.3 Bush Fire Prone Land

- 7.3.1 The various construction standards and features required to protect the building from bush fire shall be provided in accordance with Section 9 of the Bushfire Hazard Assessment Report (reference number: 150355 dated 22 October 2014 prepared by Building Code & Bushfire Hazard Solutions Pty Limited) held at Enclosure 2D on Council's file DA-14-2393.

7.4 Service Authorities

- 7.4.1 A final written clearance shall be obtained from Sydney Water Corporation, an energy provider and Telstra (or any other recognised communication carrier) if such clearance (in the form of a Section 73 Certificate under the Sydney Water Act 1994, Notification of Arrangement, etc) has not previously been issued.

7.5 Landscaping

- 7.5.1 All landscaping shall be completed in accordance with the approved Landscape Bush Regeneration Plan.

7.6 Car Parking/Access

- 7.6.2 Off-street car parking shall be encouraged by the installation of appropriate, permanent and prominent signs indicating its availability.
- 7.6.3 All common areas and internal driveways shall be appropriately illuminated by the use of bollard lighting or the like to provide for the safety and convenience of people visiting the land at night.
- 7.6.4 Entrance/exit points are to be clearly signposted and visible from the street and the site at all times.
- 7.6.5 Access and parking for people with disabilities shall be provided in accordance with Australian Standard 2890.1.
- 7.6.6 All required internal driveways and car parking spaces shall be line-marked, sealed with a hard standing, all-weather material to a standard suitable for the intended purpose.

7.7 Local Traffic Committee approval

- 7.7.1 To allow unobstructed entry and exit from the fire station a "keep clear" zone will be

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required in front of the site on Ellsworth Drive. The applicant is to make application to Council's Local Traffic Committee (LTC) and obtain separate approval for the "keep clear" zone. All works are to be completed at no cost to Council.

7.8 Fencing

- 7.8.1 2.1m high black palisade fencing is to be provided to all property boundaries. All fencing is to be at full cost to the developer.

7.9 Retaining Walls

- 7.9.1 Council requires the construction of masonry retaining walls (i.e. no timber walls) where such walls are proposed to be located within a publicly visible area (such as future front building setbacks) or proposed to have a height in excess of 900mm.

7.10 Salinity

- 7.10.1 Written confirmation prepared by a suitably qualified person is to be submitted to Council identifying that the recommendations of the required site specific Preliminary Salinity Investigation and Management Plan have been implemented.

8 OPERATIONAL

8.1 Access/Parking

- 8.1.1 All 12 car parking spaces and internal roads and driveways shall be maintained to a standard suitable for the intended purpose.
- 8.1.2 All loading and unloading operations shall take place at all times wholly within the confines of the land.
- 8.1.3 Access and parking for people with disabilities shall be maintained in accordance with provisions of Australian Standards 1428.1 and 2890.1.
- 8.1.4 All vehicles must enter and exit the site in a forward direction at all times.

8.2 Graffiti Removal

- 8.2.1 Removal of any graffiti, visible from any public road or place, is the responsibility of the property owner/s. All graffiti must be removed in accordance with the approved "Graffiti Management Plan" and no later than 48 hours of detection.

8.3 General

- 8.3.1 No goods, materials, or trade waste shall be stored or displayed at any time outside the building other than in approved garbage receptacles.
- 8.3.2 Spillage of light from the approved floodlights shall be controlled so as not to cause

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nuisance to the amenity of adjoining land.

- 8.3.3 Should an intruder alarm be installed on the land it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 8.3.4 Emission of sound from the land shall be controlled at all times so as to not unreasonably impact upon nearby owners/occupants.

8.4 Bushland regeneration area

- 8.4.1 The Ecological Protection Area is to be maintained in accordance with the recommendations listed under Section 8 of the Flora and Fauna Impact Assessment Report (dated February 2015 prepared by GIS Environmental) held at Enclosure 57A on Council's file DA-14-2393. As part of the maintenance program the owner of the site is to ensure that the retained hollows and nesting boxes on site are not being used by pests. Following detection of any pests, appropriate measures are to be undertaken to remove them from the site.

8.5 Landscape maintenance

- 8.5.1 All outdoor areas on the property are to be managed as an Inner Protection Area (IPA) in accordance with the NSW Rural Fire Service's documents "Standards for Asset Protection Zones" and Appendix 2 of "Planning for Bush Fire Protection 2006".

8.6 Signage

- 8.6.1 In accordance with Clause 37(2)(b)(v) of Blacktown Local Environmental Plan (BLEP) 1988, any signage must not contain any flashing or moving elements.

9 OPERATIONAL (ENVIRONMENTAL HEALTH)

9.1 Environmental Management

- 9.1.1 Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- 9.1.2 All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- 9.1.3 In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

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Blacktown City Council

DA-14-2393 - Section 79C assessment

Consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) are summarised below:

Heads of Consideration 79C	Comment	Complies
a. the provisions of :		
(i) any environmental planning instrument (EPI)	<p>Blacktown Local Environmental Plan (BLEP) 1988</p> <p>Under <i>BLEP 1988</i> fire stations are prohibited in the 5(a) Special Uses - Corridor zone.</p> <p>State Environmental Planning Policy (Infrastructure) 2007</p> <p>Clause 47(2) of <i>SEPP (Infrastructure) 2007</i> allows emergency services facilities to be carried out with consent on land zoned RE1 Public Recreation. The NSW Department of Planning and Environment has produced a list of equivalent zones, which lists the subject 5(a) zone as being equivalent to the RE1 zone. The proposed fire station is therefore permissible under <i>SEPP (Infrastructure) 2007</i>. The SEPP overrides BLEP.</p> <p>State Environmental Planning Policy No. 55 – Contaminated Lands</p> <p>A draft condition has been imposed requiring validation that the site is suitable for the proposed use as a fire station prior to any construction on site.</p>	No
(ii) any draft EPI	<p>Draft Blacktown Local Environmental Plan (BLEP) 2015</p> <p>On 9 December 2013 Council adopted Draft BLEP 2013. It has since been forwarded to the Department of Planning and Environment to request that the Minister make the Plan.</p> <p>The site is proposed to be zoned RE1 – Public Recreation under Draft BLEP 2015. The fire station will become a permissible use.</p>	Yes
(iii) any development control plan (DCP)	<p>Blacktown Development Control Plan (DCP) 2006</p> <p>There are no specific development controls in <i>Blacktown DCP 2006</i> for fire stations or for the development of land zoned for special uses. However, the development is satisfactory in terms of cut and fill, tree preservation, cultural heritage, building height, car park design, traffic and drainage.</p>	Yes
(iv) the regulations	<p>Environmental Planning and Assessment Regulation 2000</p> <p>The requirements of the regulations have been satisfied</p>	Yes

Heads of Consideration 79C	Comment	Complies
	through the lodgement of the DA, the provision of information for public exhibition in the prescribed manner and the notification of the proposal.	
<i>b. the likely impacts of that development including, environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i>	<p>Any potential impacts including car parking, traffic, drainage and tree removal have been satisfactorily addressed. The development will not cause any overshadowing, privacy or amenity impacts on residents given the nearest residential properties are approximately 100m from the site. The location of the site on an existing collector road is considered suitable for the use.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social or environmental impacts.</p>	Yes
<i>c. the suitability of the site for the development</i>	<p>Fire and Rescue NSW identified 9 potential sites within the approved search area. The site was deemed to be the most suitable in terms of location, access to distributor and collector roads, size, dimensions and slope.</p> <p>The applicant has submitted detailed archaeological, flora and fauna, arboricultural and bushfire reports demonstrating that the site is suitable from an environmental perspective.</p> <p>The Aboriginal artefact on site has been removed from the NSW Office of Environment and Heritage (OEH) register and as such, no further assessment is required. The Assessments of Significance have concluded that the development is not likely to cause a significant impact to any threatened species, population or endangered ecological communities. Suitable conditions have been included to ensure the requirements for bushfire protection are applied.</p> <p>The site is therefore considered suitable for the proposed development.</p>	Yes
<i>d. any submissions made in accordance with this Act, or the regulations</i>	7 submissions from a total of 4 separate objectors (including the Blacktown and District Environment Group and the person who submitted the 'Register of Significant Trees and Vegetation Nomination Form') were received as a result of the notification process. The objections raised have been addressed under Section 2 of the report and at Attachments 8 and 9 . It is considered that the objections do not warrant refusal of the DA. Where relevant, suitable draft conditions have been recommended to address the concerns raised.	Yes
<i>e. the public interest</i>	It is considered that the objections raised do not contain any valid grounds to refuse the Application as discussed under Section 2 of the report. Appropriate draft	Yes

Heads of Consideration 79C	Comment	Complies
	<p>conditions have been included to address the public interest (e.g. relocation of the tree hollows on site, installation of appropriate nesting boxes, ensuring all works are undertaken in the presence of a qualified ecologist, planting of 6 additional <i>Eucalyptus teriticornis</i> trees and creation of a bush regeneration area measuring 1,303 sqm). Approval of the fire station is considered to be in the public interest.</p>	

Assessment of eligibility of Tree 1 for Blacktown City Council's Registry of Significant Trees and Vegetation
Reference: BLACKTOWN CITY COUNCIL REGISTER OF SIGNIFICANT TREES AND VEGETATION FINAL REPORT JULY 2012
at Ropes Crossing Proposed Fire station
By Nicholas Skeiton, B.Sc. (Ecology and Plant Physiology), M. App. Sc. (Vegetation Management)



45 Austin Ave, North Curl Curl 2259
Ph: 02 9438 1111
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Significance Categories	Description	Assessment Against Criteria Tree #1 a large Eucalyptus tereticornis	Conclusion	Assessment Against Criteria Tree #2 half of a clump of Casuarina glauca shoots	Conclusion
Aesthetic Value	Any tree or vegetation of outstanding aesthetic significance.	This tree is large but of poor form as it is misshapen due to a long history of branch loss, lightning strike and fungal attack. The main trunk has been lost early in its life and the tree now has two main leaders.	Does not meet this Criteria	This is half a clump of resprouting stems from a large root stock and has the form of a large bush rather than a tree. It is of little aesthetic value. And is not likely to have aesthetic value in the future due to the density of the stems.	Does not meet this Criteria
Outstanding Size	Any tree outstanding for its height, trunk diameter or canopy spread.	It is a tall tree but not exceptionally so. The trunk diameter is large but not exceptionally so. Due to disease the canopy spread is not large. There are larger trees in the vicinity.	Does not meet this Criteria	This is half a clump of resprouting stems from a large root stock and has the form of a large bush rather than a tree.	Does not meet this Criteria
Particularly Old or Venerable	Any tree or vegetation that is particularly old or venerable.	Any tree or vegetation commemorating or having associations with an important historical event or significantly associated with a well known public figure or ethnic group in Blacktown.	Does not meet this Criteria	This is half a clump of resprouting stems from a large root stock and has the form of a large bush rather than a tree.	Does not meet this Criteria
Historical Significance	Any tree or vegetation which occurs in a unique location or context, and so provides a significant contribution to Blacktown's landscape, including remnant vegetation, important landmark trees, and trees and vegetation which form part of a historic garden, park or town.	There is no association with a recognised association with Aboriginal activities.	Does not meet this Criteria	There is no association with an historical event known for this tree.	Does not meet this Criteria
Aboriginal Significance	Any tree or vegetation which occurs in a unique location or context, and so provides a significant contribution to Blacktown's landscape, including remnant vegetation, important landmark trees, and trees and vegetation which form part of a historic garden, park or town.	There is no known Aboriginal significance known according to the Aboriginal Heritage due diligence report.	Does not meet this Criteria	There is no known Aboriginal significance known according to the Aboriginal Heritage due diligence report.	Does not meet this Criteria
Unique Location or Context	Any tree or vegetation which occurs in a unique location or context, and so provides a significant contribution to Blacktown's landscape, including remnant vegetation, important landmark trees, and trees and vegetation which form part of a historic garden, park or town.	This tree is not in a unique location or associated with any landmark, garden road or other feature. It appears to be a naturally seeded original native tree.	Does not meet this Criteria	This tree is not in a unique location or associated with any landmark, garden road or other feature. It appears to be a naturally seeded original native tree.	Does not meet this Criteria
Rare or Localised Distribution	Any tree or vegetation of a species or variety that is rare or of very localised distribution.	Eucalyptus tereticornis is a common species and is abundant locally.	Does not meet this Criteria	Casuarina glauca is a very common species. It is unusual to find this species in this location, it is normally associated with water courses such as near Ropes Creek. This is not considered grounds to be considered rare or localised distribution.	Does not meet this Criteria
Horticultural or Genetic Value	Any tree or vegetation of horticultural or genetic value that could be an important source of propagation stock.	Eucalyptus tereticornis is a common species and is abundant locally.	Does not meet this Criteria	Casuarina glauca is a very common species in Blacktown and NSW.	Does not meet this Criteria
Curious Growth Form	Any tree or vegetation that exhibits a curious growth form.	This tree has a poor growth form that is not unusual.	Does not meet this Criteria	This type of resprouting growth form is not unusual.	Does not meet this Criteria
Outstanding Example of Species	Any tree or vegetation that is an outstanding example of that species.	This tree is not an outstanding example of its species.	Does not meet this Criteria	This tree is not an outstanding example of its species.	Does not meet this Criteria
Outstanding Habitat Value	Any tree or vegetation that has outstanding values as habitat for indigenous wildlife.	This tree does contain a few hollows that are of habitat value for tree dwelling fauna.	Meets this Criteria	This is half a clump of resprouting stems from a large root stock and has the form of a large bush rather than a tree, it is of little habitat value.	Does not meet this Criteria
Stand, Avenue or Copse conforming to one or more of the above criteria.	Any stand, avenue or copse of trees conforming to one or more of the above criteria.	This tree is not a stand, avenue or copse.	Does not meet this Criteria	This tree is not a stand or avenue. It could at a stretch be called half of a copse, the other half of which is to be retained. It does not conform to any of the above criteria.	Does not meet this Criteria

Overall Conclusion: Tree 1 a large Eucalyptus tereticornis tree that meets only one of the required criteria, Tree 2 a Clump of Casuarina suckering shoots does not meet any of the criteria of a Significant Tree or Vegetation.

Relevant Qualifications of the Author
Nicholas Skeiton has a 4 year Bachelor of Science degree with Honours from Sydney University specialising in Tree Physiology and a 3 years Masters of Science degree in Vegetation Management. He has taught Plant Physiology at Sydney University and the University of NSW. Nicholas Skeiton has been practising as a botanist including Tree assessments for 21 years including while working for State Forests of NSW. He has been assessing trees on construction sites for 12 years. He has represented Pittwater Hornsby and Baulkham Hills Councils as an Arborist in Land and Environment Court cases. He has also been employed as an Arboricultural expert by Workover in the Coroners Court to investigate and advise accidents by Arborists. He has published several scientific papers on tree Physiology.

Criteria for Register of Significance Trees

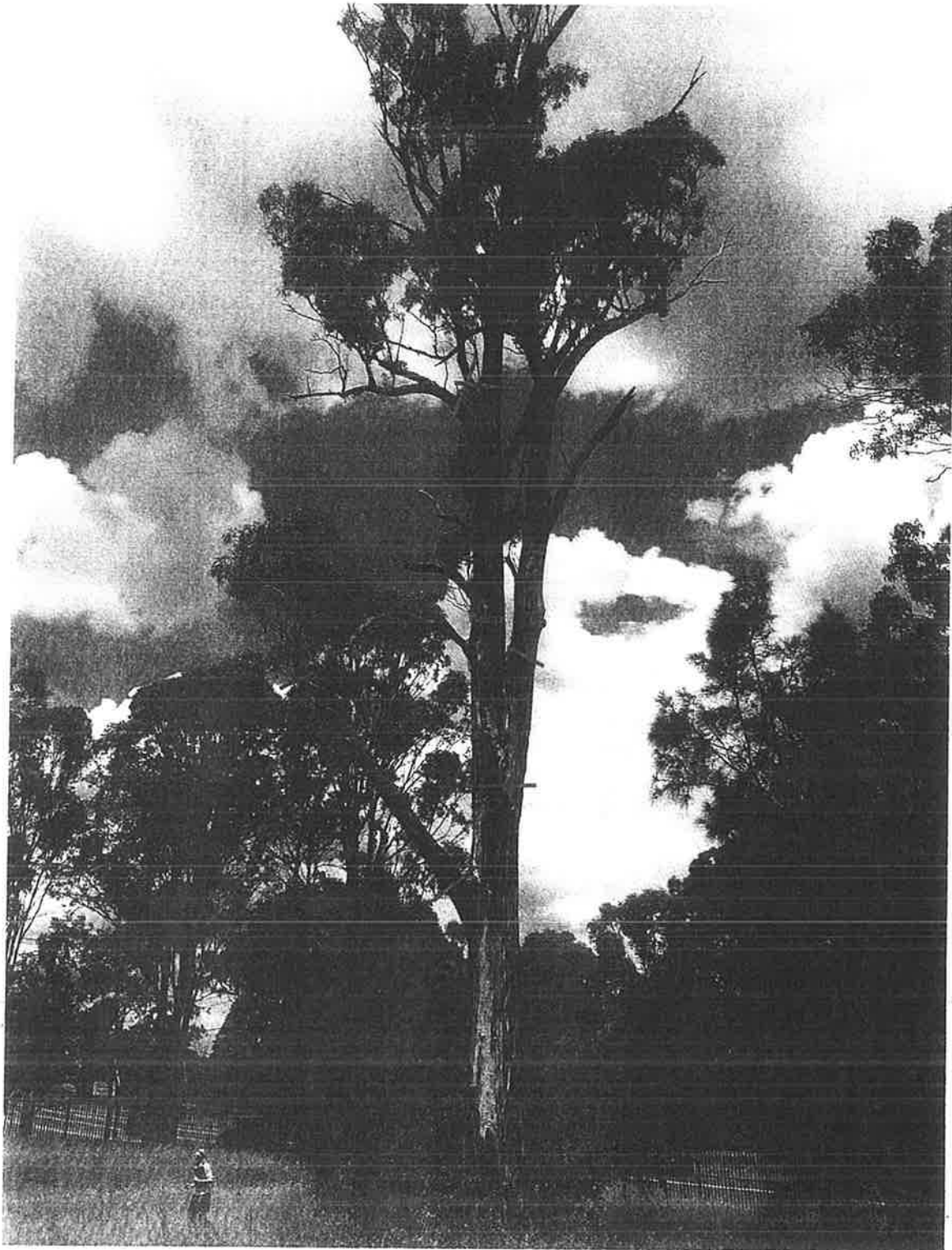
The criteria table for significance established by "BLACKTOWN CITY COUNCIL REGISTER OF SIGNIFICANT TREES AND VEGETATION FINAL REPORT JULY 2012 - PAGE 7" used and slightly modified with an additional column. A tree or area of vegetation may be significant if it meets at least two of the significance criteria.

Significance Categories:

Trees and Vegetation		TREE #1 YES/NO	TREE #2 YES/NO
Aesthetic Value	Any tree or vegetation of outstanding aesthetic significance.	No. Individual tree in average to poor health with no particular qualities.	No.
Outstanding Size	Any tree outstanding for its height, trunk diameter or canopy spread.	No. Tree has lost its form due to die back/storm damage. Canopy diameter and height consistent with a mature <i>Eucalyptus tereticornis</i> .	No.
Particularly Old or Venerable	Any tree or vegetation that is particularly old or venerable.	No. Consistent with a mature <i>Eucalyptus tereticornis</i> .	No.
Historical Significance	Any tree or vegetation commemorating or having associations with an important historical event or significantly associated with a well known public figure or ethnic group in Blacktown.	No evidence.	No.
Aboriginal Significance	Any tree or vegetation that has a recognised association with Aboriginal activities.	No. Refer to Aboriginal Heritage Assessment.	No.
Unique Location or Context	Any tree or vegetation which occurs in a unique location or context, and so provides a significant contribution to Blacktown's landscape, including remnant vegetation, important landmark trees, and trees and vegetation which form part of a historic garden, park or town.	No. Many trees/vegetation type located in the area. Refer to Flora and Fauna Assessment.	No.
Rare or Localised Distribution	Any tree or vegetation of a species or variety that is rare or of very localised distribution.	No. Many trees/vegetation type located in the area. Refer to Flora and Fauna Assessment.	No.
Horticultural or Genetic Value	Any tree or vegetation of horticultural or genetic value that could be an important source of propagation stock.	No. Refer to Flora and Fauna Assessment.	No.
Curious Growth Form	Any tree or vegetation that exhibits a curious growth form.	No. Tree has lost its form due to die back/storm damage.	No.
(*) Outstanding Example of Species	Any tree or vegetation that is an outstanding example of that species.	No. Individual tree in average to poor health with no particular qualities.	No.
(*) Outstanding Habitat Value	Any tree or vegetation that has outstanding values as habitat for indigenous wildlife.	Yes. Good value as habitat. Refer to Flora and Fauna Assessment.	No.
Stand, Avenue or Copse conforming to one or more of the above criteria.	Any stand, avenue or copse of trees conforming to one or more of the above criteria.	No. Individual tree.	No.

(*) Categories not previously included within Blacktown's significance criteria.

Tree Sections to be Retained



FORRESTER ROAD

DRIVE ELLSWORTH

36

ATTACHMENT 5 TO DD350031

GENERAL NOTES

1. All proposed works to be carried out in accordance with the relevant Australian Standards (AS) and Australian Building Codes Board (ABCB) Approved Documents (AD) and the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the National Construction Code (NCC).

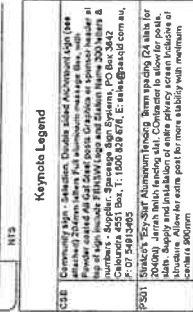
2. All proposed works to be carried out in accordance with the relevant Australian Standards (AS) and Australian Building Codes Board (ABCB) Approved Documents (AD) and the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the National Construction Code (NCC).

3. All proposed works to be carried out in accordance with the relevant Australian Standards (AS) and Australian Building Codes Board (ABCB) Approved Documents (AD) and the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the National Construction Code (NCC).

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5. All proposed works to be carried out in accordance with the relevant Australian Standards (AS) and Australian Building Codes Board (ABCB) Approved Documents (AD) and the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the National Construction Code (NCC).

2 Fire Hose Pole Plan & Part Elevation



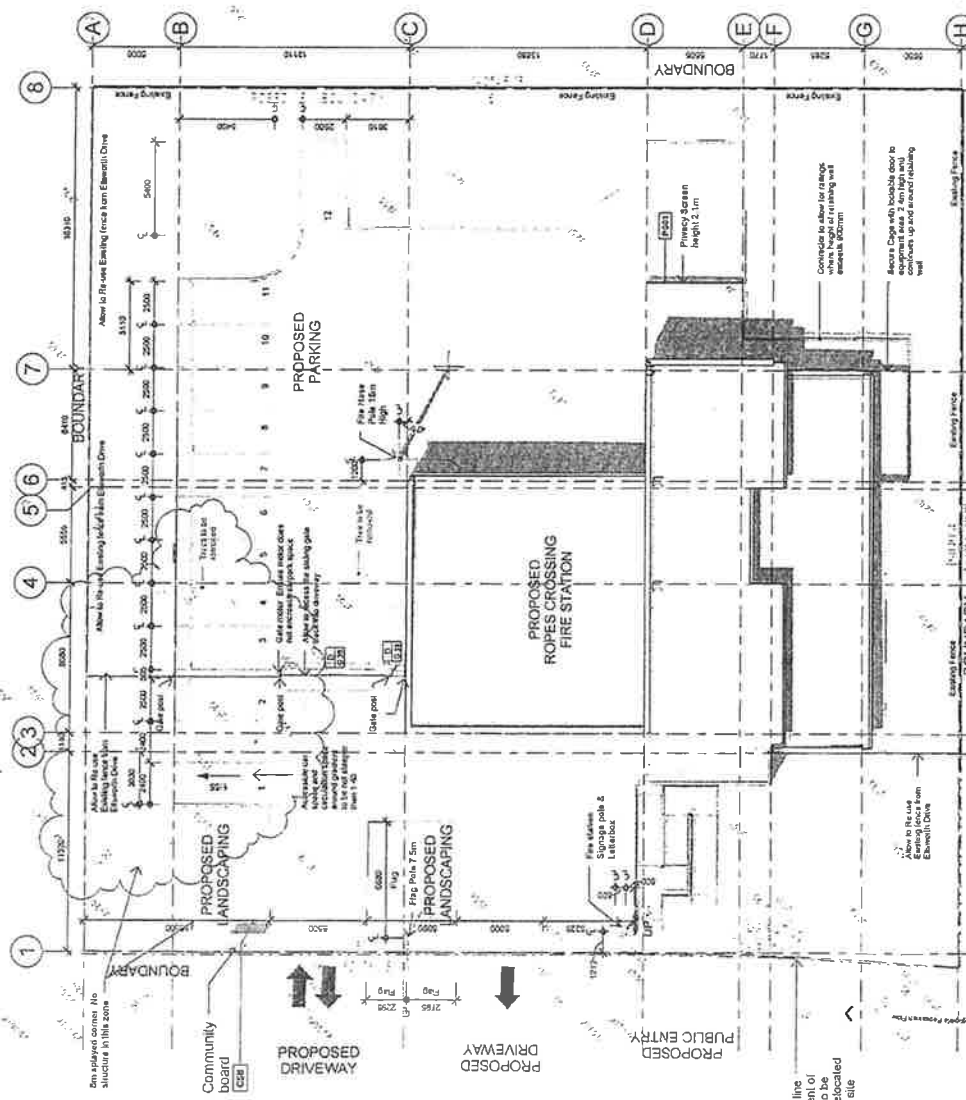
3 Fire Station Signage Pole Details



1 D10.SP Site Plan



5 Lockable Hose Clamp



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NORDON • JAGO
ARCHITECTS

All new participants and visitors to the point length P1 to ceiling level unless otherwise observed

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 Sydney NSW 2000
 Tel: (02) 9231 1111
 Fax: (02) 9231 1111
 Email: info@fireandrescue.nsw.gov.au
 Website: www.fireandrescue.nsw.gov.au

Project
Level 1 Finishes Plan
 Level 1 Finishes Plan
 Fire & Rescue NSW
 Level 11, 111 Pitt Street
 Sydney NSW 2000
 Tel: (02) 9231 1111
 Fax: (02) 9231 1111
 Email: info@fireandrescue.nsw.gov.au
 Website: www.fireandrescue.nsw.gov.au

Drawn by
 [Signature]
Scale
 1:100
Date
 11/11/2011
Project No
 11111111

Architect's Declaration
 I, the Architect, declare that I am a duly qualified Architect under the Architectural Act 2006 and I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006.

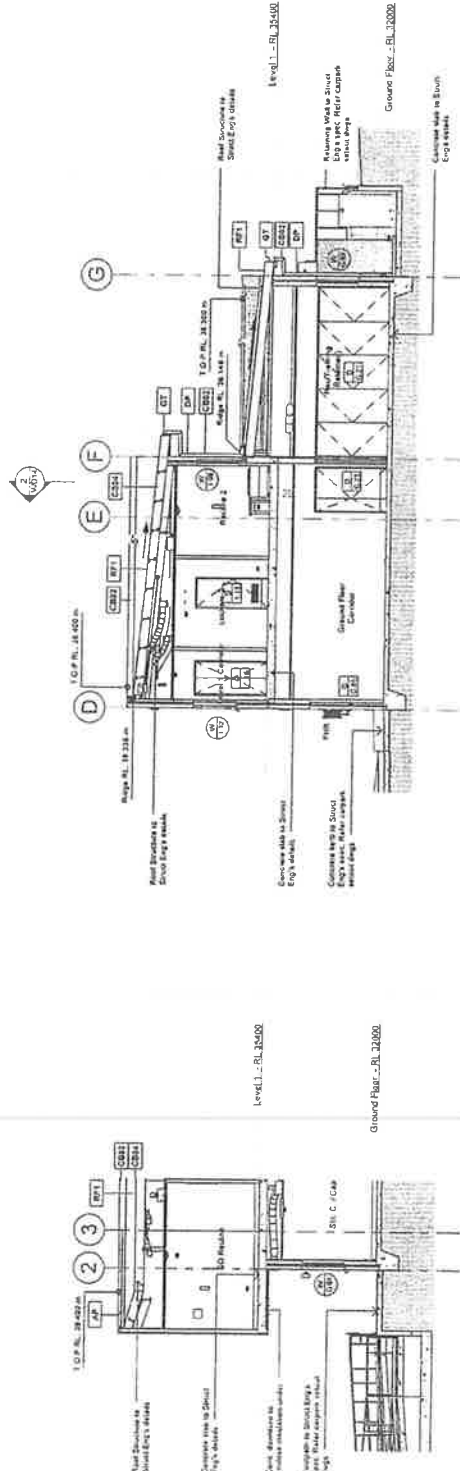
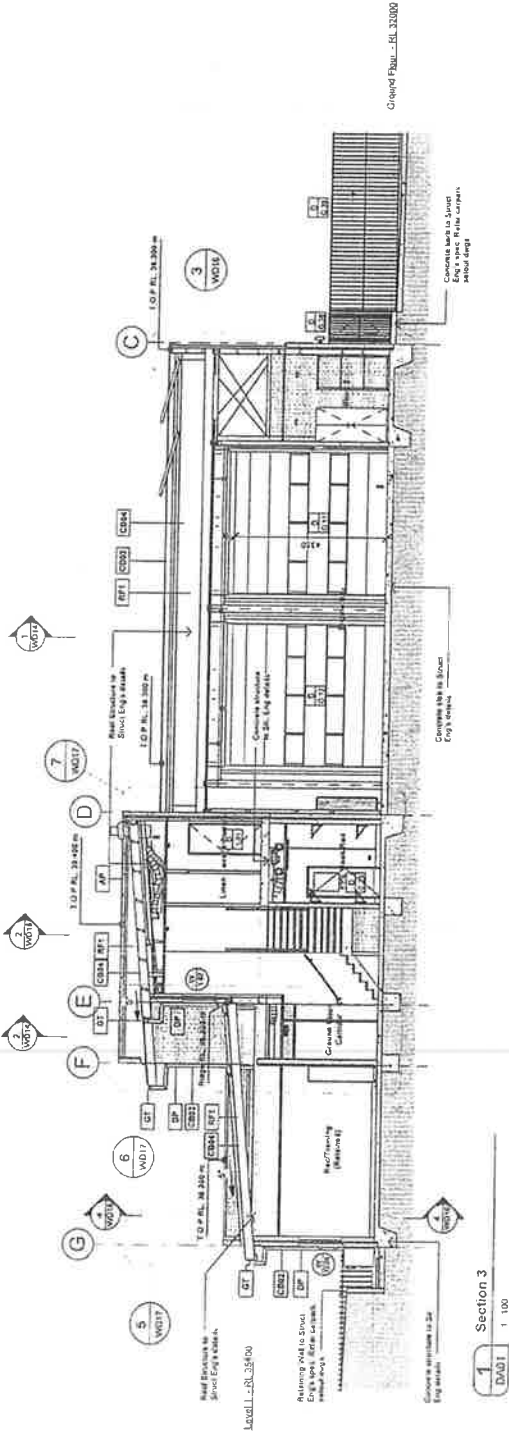
Client's Declaration
 I, the Client, declare that I am a duly qualified person under the Architectural Act 2006 and I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006.



Architect's Declaration
 I, the Architect, declare that I am a duly qualified Architect under the Architectural Act 2006 and I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006.

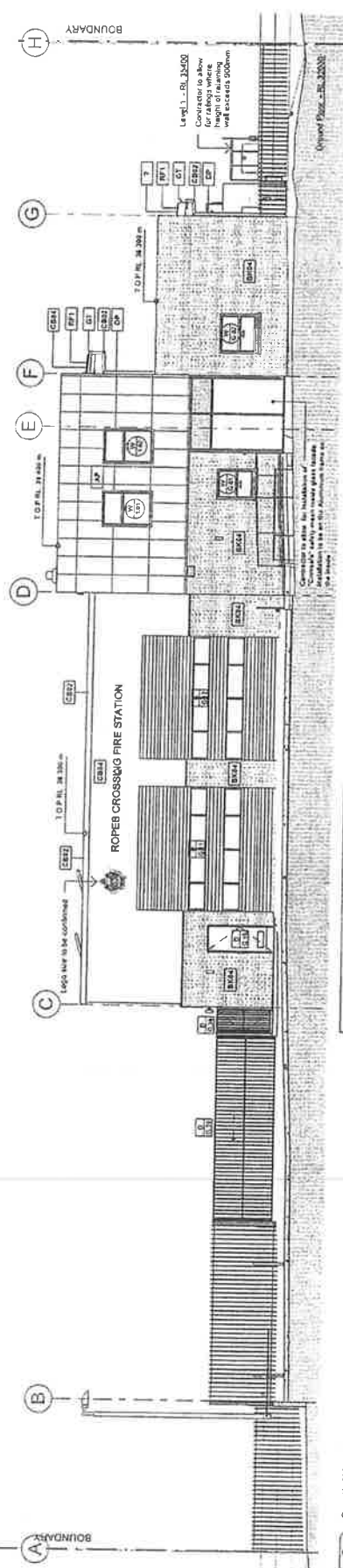
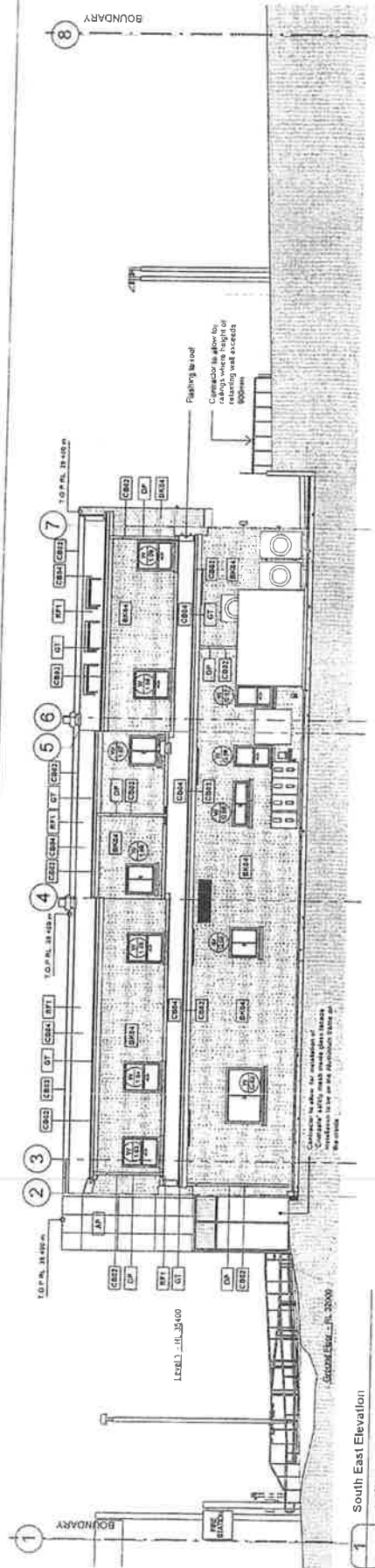
Client's Declaration
 I, the Client, declare that I am a duly qualified person under the Architectural Act 2006 and I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006. I declare that I am not a disqualified person under the Architectural Act 2006.

Keynote Legend

AP	Aluminum Panels. Finish as per schedule.
CB	Concrete Blockwork. Finish as per schedule.
CE	Concrete External. Finish as per schedule.
CF	Concrete Floor. Finish as per schedule.
CG	Concrete Gable. Finish as per schedule.
CH	Concrete Half. Finish as per schedule.
CI	Concrete Internal. Finish as per schedule.
CJ	Concrete Jamb. Finish as per schedule.
CK	Concrete Keel. Finish as per schedule.
CL	Concrete Lintel. Finish as per schedule.
CM	Concrete Masonry. Finish as per schedule.
CP	Concrete Panel. Finish as per schedule.
CQ	Concrete Quarter. Finish as per schedule.
CR	Concrete Roof. Finish as per schedule.
CS	Concrete Sill. Finish as per schedule.
CT	Concrete Top. Finish as per schedule.
CU	Concrete Under. Finish as per schedule.
CV	Concrete Veneer. Finish as per schedule.
CW	Concrete Wall. Finish as per schedule.
CX	Concrete Window. Finish as per schedule.
CY	Concrete Yoke. Finish as per schedule.
CZ	Concrete Zone. Finish as per schedule.
DA	Decorative Aluminum. Finish as per schedule.
DB	Decorative Brick. Finish as per schedule.
DC	Decorative Concrete. Finish as per schedule.
DD	Decorative Glass. Finish as per schedule.
DE	Decorative Iron. Finish as per schedule.
DF	Decorative Metal. Finish as per schedule.
DG	Decorative Paint. Finish as per schedule.
DH	Decorative Stone. Finish as per schedule.
DI	Decorative Tile. Finish as per schedule.
DJ	Decorative Wood. Finish as per schedule.
DK	Decorative Zinc. Finish as per schedule.
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JAGS/CECC		 NORDON JAGO ARCHITECTS 174-176 NORTON STREET, SYDNEY NSW 1540 TEL: 02 9550 1234 FAX: 02 9550 1235 WWW.NORDONJAGO.COM.AU		 Fire & Rescue NSW 200 Victoria Road Sydney NSW 1540 Tel: 02 9550 1234 Fax: 02 9550 1235 www.fire.nsw.gov.au		Project: Ropes Crossing Fire Station Client: Fire & Rescue NSW Address: 200 Victoria Road, Sydney NSW 1540 Drawn: WD15 E		Project No: 120	
1. General Comments		2. Section Details		3. Section Details		4. Section Details		5. Section Details	
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1.3. General Comments		2.3. Section Details		3.3. Section Details		4.3. Section Details		5.3. Section Details	
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BUSHFIRE REQUIREMENTS: WINDOWS

BUSH-FIRE REQUIREMENTS: ROOF, ROOF PENETRATION, EAVES LINING, FASCIA

Keynote Legend

They may find it completely pointless, even actively harmful. And, contrary to what you might think, it's not always the case that the company will be able to do anything about it. For example, if you're a shareholder in a company with 100 employees, with 99.9% of the shares held by 100 other shareholders, you're unlikely to be able to do anything about it. If you're a shareholder in a company with 100 employees, with 99.9% of the shares held by 100 other shareholders, you're unlikely to be able to do anything about it.

the replacement disk and leading to the earliest finish of repaving to closing devices. In the case of a replacement device, minor guards will not be used.

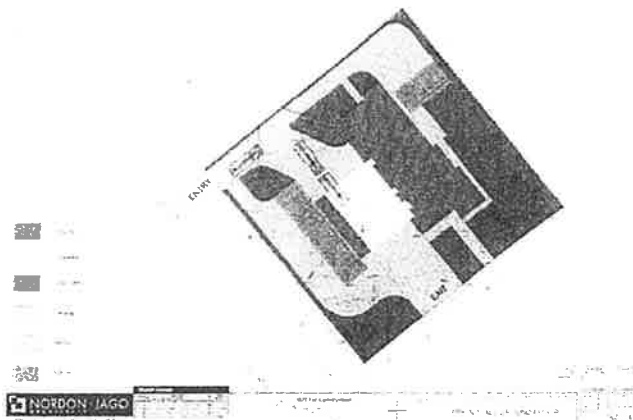
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As a starting point, a secondary form of antenna protection for the roof areas to account for minor DPM fail may develop in three roofing

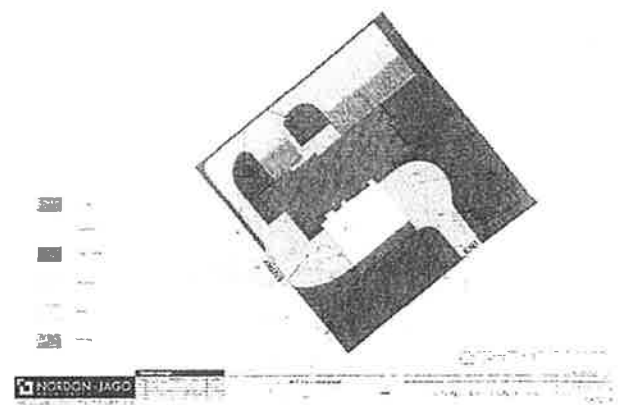
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4	М.М. Козлов	18.10.2015
5	Л.Л. Соколов	19.10.2015
6	В.В. Морозов	20.10.2015
7	Н.Н. Смирнов	21.10.2015
8	К.К. Павлов	22.10.2015
9	А.А. Сидоров	23.10.2015
10	И.И. Петров	24.10.2015
11	С.С. Иванов	25.10.2015
12	М.М. Козлов	26.10.2015
13	Л.Л. Соколов	27.10.2015
14	В.В. Морозов	28.10.2015
15	Н.Н. Смирнов	29.10.2015
16	К.К. Павлов	30.10.2015
17	А.А. Сидоров	31.10.2015
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21	Л.Л. Соколов	04.11.2015
22	В.В. Морозов	05.11.2015
23	Н.Н. Смирнов	06.11.2015
24	К.К. Павлов	07.11.2015
25	А.А. Сидоров	08.11.2015
26	И.И. Петров	09.11.2015
27	С.С. Иванов	10.11.2015
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29	Л.Л. Соколов	12.11.2015
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84	М.М. Козлов	06.01.2016
85	Л.Л. Соколов	07.01.2016
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88	К.К. Павлов	10.01.2016
89	А.А. Сидоров	11.01.2016
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92	М.М. Козлов	14.01.2016
93	Л.Л. Соколов	15.01.2016
94		

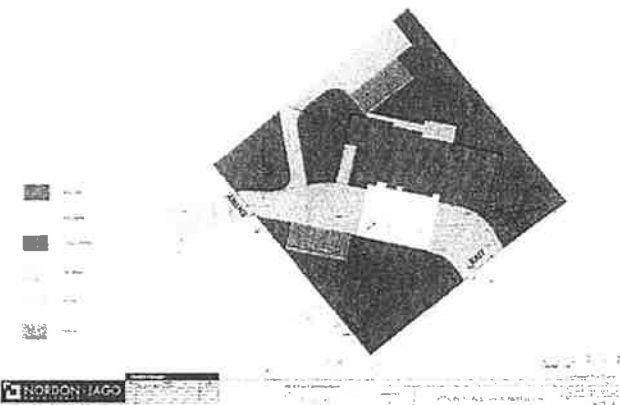
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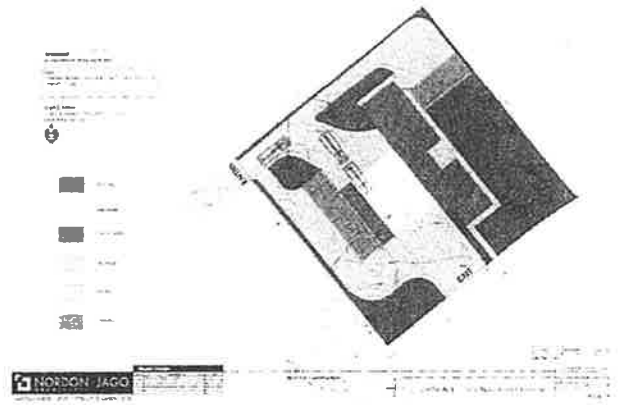
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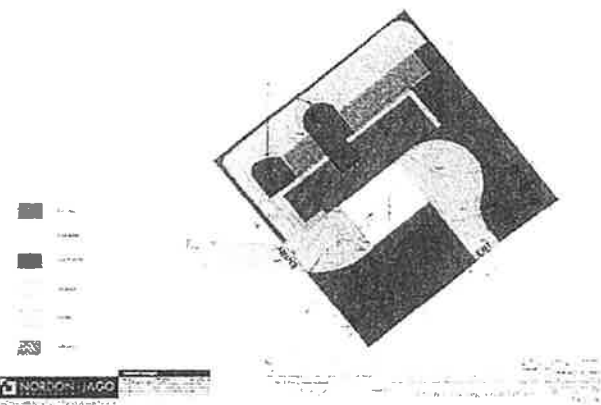
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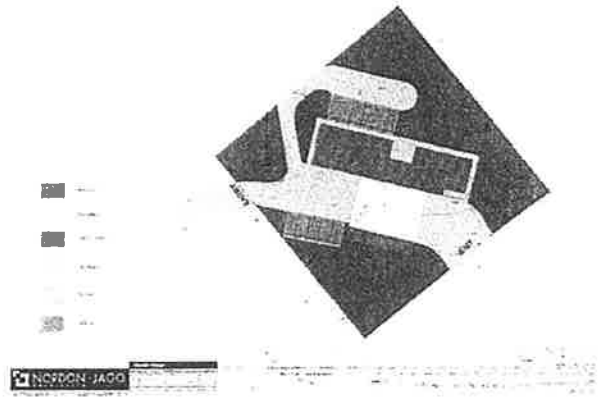
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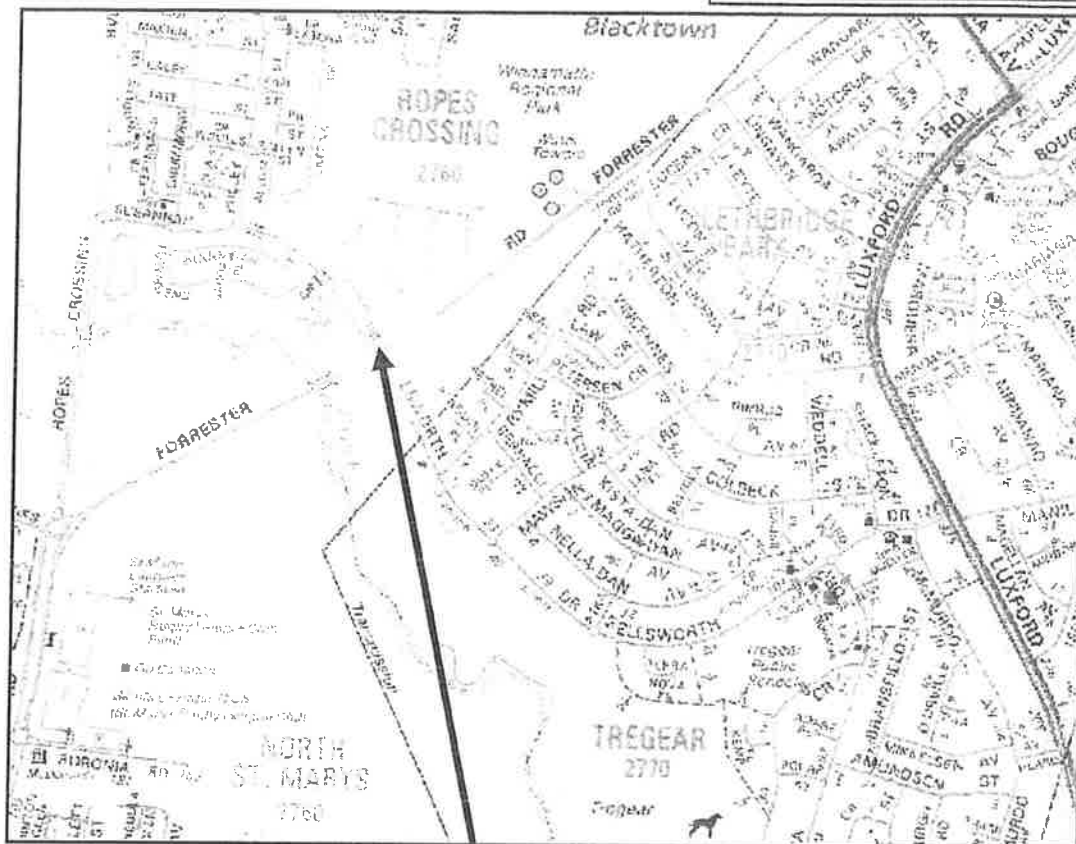
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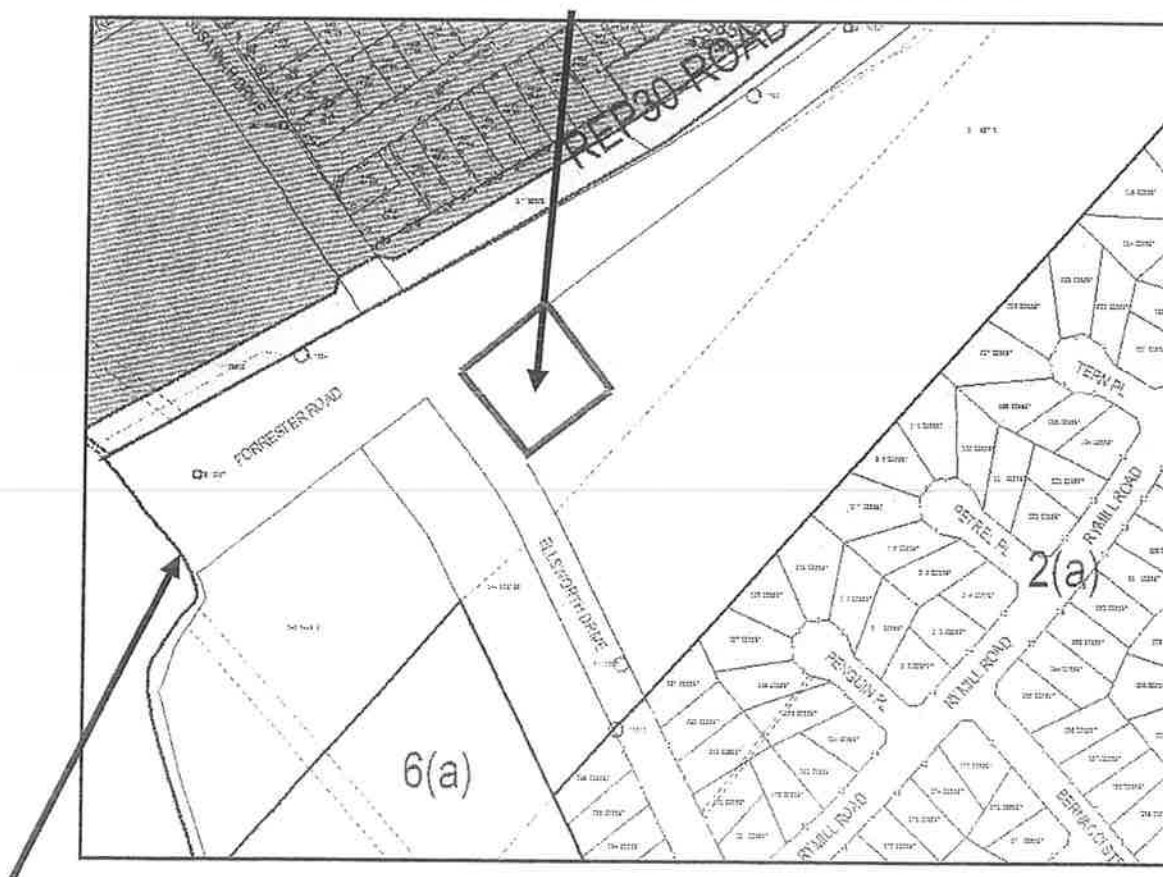
Option 5



Option 6



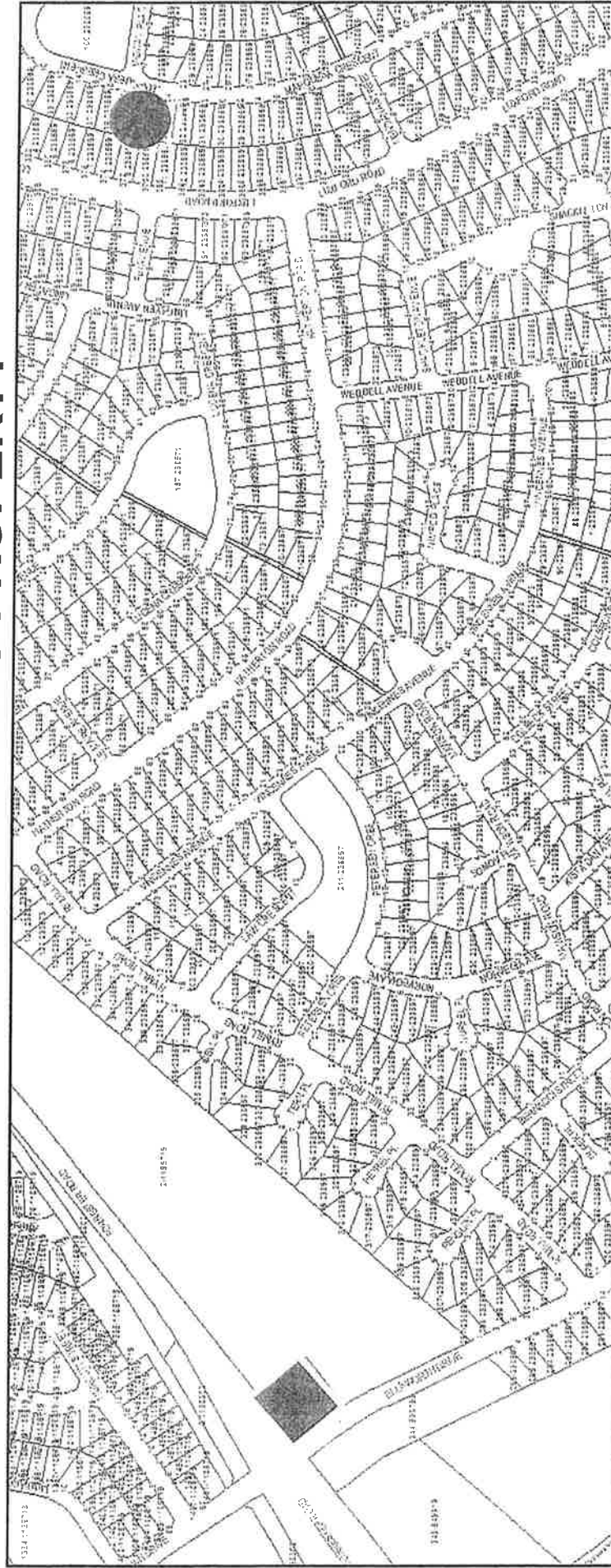
LOCATION OF SUBJECT SITE



Penrith LGA
boundary

Note: The subject site is located 150m from the LGA boundary

LOCATION OF OBJECTOR'S PROPERTY



Subject site



Location of objector/person who lodged the significant tree nomination

The other 3 objectors include:

- The Blacktown and District Environment Group
- The author of the original Aboriginal Heritage Information Management System (AHIMS) registration
- A specialist in urban conservation and hollow ecology.

These 3 objectors do not live in the local area and therefore have not been shown on the above map.



45 Austin Avenue, North Curl Curl 2099
 M: 0419 438672, Ph: 9939 5129
 ecology@ecology.net.au
 www.ecology.net.au

Leigh Cashel
 Project Manager Property Services
 Fire and Rescue NSW
 PO Locked Bag 13
 Greenacre NSW 2190

Issue date: 18th March 2015

Re: Response to Ecological Parts of Submissions

Letter by Dr Adrian Davis

In reply to Dr Adrian Davis's submission to Council dated 9th March 2015,

With regards to Dr Davis's statement that 'the tree is part of the critically endangered **Cumberland Plain Woodland-Shale Plain Woodland Community**, which is protected under the Environmental Protection and Biodiversity Conservation Act 1999.'

This tree species is one of the 112 species listed in the determination for Cumberland Plain Woodland (CPW), this species is also very common in many other vegetation types in this area and is a very common species in Blacktown LGA.

The site does not meet the EPBC Act definition of Cumberland Plain Woodland due to it's high level of disturbance due to decades of grazing and cropping that have resulted in a lower than required level of projected foliage cover of native species in the tree canopy. This site cannot be classified as CPW CEEC under the EPBC Act. In addition the EPBC Act is a Federal Act and assessment of the impact under this Act is not the responsibility of Council and does not need to be considered when determining DA assessments.

With regards to Dr Davis's statements regarding the loss of **tree hollows**;

Tree 1 is a large hollow-bearing tree, which provides habitat to fauna, however this habitat feature is not uncommon in the immediate vicinity of the site. There is a larger tree with hollows immediately adjacent to the site to the east, and another tree of similar size as tree 1 with many hollows and nesting birds immediately across Ellsworth Drive. See marked trees A and B respectively on the Map below. There are many other large trees in the vicinity that are also likely to contain hollows. The application proposes to retain most of the hollows by translocating two large sections of the tree to elsewhere within the site. These translocated sections contain many hollows of various sizes and dimensions.

With regards to Dr Davis's concerns regarding **fauna**; Very little fauna habitat will be lost due to the proposal, as there is only one hollow bearing tree and most of the hollows in tree 1 will be retained on-site.

With regards to Dr Davis's concerns regarding the **effectiveness of relocating hollows**; Dr Davis' letter states that the application proposes to relocate two of the hollows. The flora and fauna report by GIS Environmental Consultants dated February 2015 states 'During tree removal two high habitat value sections will be selected on site by an ecologist for translocation. Tree number 1 (See Map 5) has fauna habitat hollows that are to be relocated on the property. Sections of trunk/major branch that contain particularly good habitat hollows be carefully detached and retained elsewhere (see Map 6) on the site to retain current and future fauna habitat value. During tree removal two high habitat value sections (See Appendix B) will be selected on site by an ecologist for translocation.' Appendix B is a diagram of tree 1 indicating the sections of the tree that are to be retained on-site.

Nest boxes could also be used to further supplement the amount of hollows on site if Council considered it necessary.

Letter by Wayne Olling

In reply to Mr Wayne Olling's submission to council dated 9th March 2015, With regards to Mr Olling's concerns regarding 'minimal impact on trees':

The proposal will only remove one tree and 10 trees will be retained. Other locations on this site would remove more trees.

In reply to Mr Wayne Olling's second submission to council dated 10th March 2015,

With regards to Mr Olling's concerns regarding the fate of the fauna inhabiting the hollows;

The tree is most likely to be translocated in the winter when there is not likely to be breeding fauna using the tree. A qualified ecologist will be onsite to relocate and fauna in the hollows on the day. This pre tree removal clearance is common practice.

Letter by Daniel Taylor

In reply to Mr Daniel Taylors submission to council dated 3rd March 2015, With regards to Dr Davis's concerns regarding the loss of **tree hollows**;

Tree 1 is a large hollow-bearing tree, which provides habitat to fauna, however this habitat feature is not uncommon in the immediate vicinity of the site. There is a larger tree with hollows immediately adjacent to the site to the east, and another tree of similar size as tree 1 with many hollows and nesting birds immediately across Ellsworth Drive. See Map below. There are many other large trees in the vicinity that are also likely to contain hollows. The application proposes to retain most of the hollows by translocating two large sections of the tree to elsewhere within the site. These translocated sections contain many hollows of various sizes and dimensions.

With regards to Mr Taylors concerns regarding **fauna**; Very little fauna habitat will be lost due to the proposal, as there is only one hollow bearing tree and most of the hollows in tree 1 will be retained on-site. The tree is most likely to be translocated in the winter when there is not likely to be breeding fauna using the tree. A qualified ecologist will be onsite to relocate and fauna in the hollows on the day. This pre tree removal clearance is common practice.

With regards to Mr Taylors concerns regarding the **effectiveness of relocating hollows**;

Mr Taylors letter states that the application proposes to relocate two of the hollows. The flora and fauna report by GIS Environmental Consultants dated February 2015 states 'During tree removal two high habitat value sections will be selected on site by an ecologist for translocation. Tree number 1 (See Map 5) has fauna habitat hollows that re to be relocated on the property. Sections of trunk/major branch that contain particularly good habitat hollows be carefully detached and retained elsewhere (see Map 6) on the site to retain current and future fauna habitat value. During tree removal two high habitat value sections (See Appendix B) will be selected on site by an ecologist for translocation.' Appendix B is a diagram of tree 1 indicating the sections of the tree that are to be retained on-site. The sections to be retained are large sections of branches that contain many hollows.

Nest boxes could also be used to further supplement the amount of hollows on site if Council considered it necessary.

In reply to Mr Daniel Taylors submission to council dated 3rd March 2015,

With regards to Mr Taylors concerns regarding the **significance of Tree 1**;

My table describing the significance registration of Tree 1 and the Arborists and heritage consultants reply describe the age of this tree.

With regards to Mr Taylors concerns requiring a year long survey;

A 12 month survey of the fauna of the site is unreasonable and not needed as the species using the site can be determined by other means such as habitat assessment and other indicators.

With regards to Mr Taylors concerns regarding the rarity of tree with hollows;

Tree 1 is a large hollow-bearing tree, which provides habitat to fauna, however this habitat feature is not uncommon in the immediate vicinity of the site. There is a larger tree with hollows immediately adjacent to the site to the east, and another tree of similar size as tree 1 with many hollows and nesting birds immediately across Ellsworth Drive. See Map below. There are many other large trees in the vicinity that are also likely to contain hollows. The application proposes to retain most of the hollows by translocating two large sections of the tree to elsewhere within the site. These translocated sections contain many hollows of various sizes and dimensions.

The proposal will retain the 10 trees on the site which will in time contain hollows.

With regards to Mr Taylors concerns regarding moving the proposal;

The proposal will remove only one tree and will retain the remaining 10 trees on the site. Moving the proposal to any other location on the site will remove more trees.

In reply to Mr Daniel Taylors submission to council dated 9th March 2015, With

regards to Mr Taylors concerns regarding the **EPBC Act**;

The site does not meet the EPBC Act definition of Cumberland Plain Woodland due to it's high level of disturbance due to decades of grazing and cropping that have resulted in a lower than required level of projected foliage cover of native species in the tree canopy. This site cannot be classified as CPW CEEC under the EPBC Act. In addition the EPBC Act is a Federal Act and assessment of the impact under this Act is not the responsibility of Council and does not need to be considered when determining DA assessments.

With regards to Mr Taylors concerns regarding **fauna**; Very little fauna habitat will be lost due to the proposal, as there is only one hollow bearing tree and most of the hollows in tree 1 will be retained on-site. In reply to Mr Daniel Taylors third submission to council dated 10th March 2015, With regards to Mr Taylors concerns regarding the EPBC Act;

The site does not meet the EPBC Act definition of Cumberland Plain Woodland due to it's high level of disturbance due to decades of grazing and cropping that have resulted in a lower than required level of projected foliage cover of native species in the tree canopy. This site cannot be classified as CPW CEEC under the EPBC Act. In addition the EPBC Act is a Federal Act and assessment of the impact under this Act is not the responsibility of Council and does not need to be considered when determining DA assessments.

Letter by Peter Ridgeway

In reply to Mr Peter Ridgeway's submission to council dated 9th March 2015,

With regards to Mr Ridgeway's concerns regarding remnant vegetation and EEC. The site does not contain Cumberland Plain Woodland as defined by the NSW Threatened Species Conservation Act due to the high level of disturbance over many decades which has reduced the number of characteristic species to a level that the site can no longer be considered to be Cumberland Plain Woodland (CPW) CEEC. Four standard sized 20x20m quadrants were recorded for presence of the 112 characteristic CPW species listed in the determination and local native species. The highest abundance of CPW species found was only 10% of the characteristic species which is an insufficient number for the site to be considered CPW CEEC. See summary table below.



 CULTURAL RESOURCE ASSESSMENT, PLANNING AND MANAGEMENT

16/3/15

Penny Goldin
 Team Leader and Environmental Planner
 NSW Public Works
 Department of Finance & Services
 Level 14 McKell Building, 2-24 Rawson Place
 Sydney NSW 2000

Dear Ms Goldin,

Re: Submission of Mr Wayne Olling regarding Aboriginal Heritage matters in relation to the proposed Ropes Crossing Fire Station (DA 14-2393)

In reply to Mr Wayne Olling's submission to Council dated 9 March 2015,¹ we make the following general and specific comments in relation to matters raised concerning Aboriginal heritage:

General Comments

Much of Mr Olling's submission relates to technical assessment of a stone suggested to be an Aboriginal artefact, and perceived inadequacies of the assessment of the proposed Ropes Crossing Fire Station site undertaken by MDCA in 2014.² Specific points made by Mr Olling are addressed below but some general comments about both of these matters are made here.

Technical Assessment of Aboriginal Artefacts

The evaluation of pieces of stone as humanly flaked is technical and objective, and based on established criteria that distinguish humanly made and natural scars on stone pieces. In addition, the context of the find may assist in this evaluation. In the current case, a silcrete stone located within the proposed Ropes Crossing Fire Station site was determined by MDCA not to be an Aboriginal artefact. This was based on a technical, objective assessment of the stone and its context, based on the archaeological training and experience of our team. To provide further clarity on this matter, MDCA Associate Emeritus Professor Richard Wright, a distinguished and experienced stone artefact analyst, has prepared the appended report which illustrates why scars on the stone, which may initially appear to be evidence of human working, are not evidence of Aboriginal flaking. We note that no technical criteria have been provided by Mr Olling or others to support the idea that the stone is humanly flaked.

¹ A further submitted email from Mr Olling dated 10/3/15 is not considered in this response as it does not relate to Aboriginal heritage issues.

² MDCA 2014. *Re: Due Diligence Aboriginal Heritage Assessment Ropes Crossing Fire Station, Corner of Forrester Road and Ellsworth Drive* (Report to Fire and Rescue NSW).



Knowledge of Current Aboriginal Heritage Regulation and Policy

While Mr Olling's submission refers to perceived inadequacies with the MDCA Due Diligence Aboriginal Heritage Assessment, it does not refer to the current legislation, regulation or policy that forms the context of that assessment. As noted in relation to further specific points below, the assessment undertaken by MDCA was conducted entirely in accordance with current policy requirements. The arguments put forward in relation to this matter are the opinions of non-specialists in Aboriginal heritage and archaeology, and are assertions of an imagined ideal process that do not relate to the actual regulated processes to be considered by Council. In short, most of the assertions in the submission, while well-intentioned, are not relevant to the consideration of this matter by Council.

The MDCA assessment was undertaken in accordance with the Office of Environment & Heritage (OEH) 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, which is the current policy applicable to the initial investigation of Aboriginal heritage in relation to proposed development impacts. The purpose of Due Diligence Assessment is to determine whether further archaeological investigation or Aboriginal Heritage Impact Permits may be required in relation to a particular proposed activity. The *Due Diligence Code of Practice* does not require any consultation with any Aboriginal community members. MDCA undertakes some Aboriginal community consultation as part of our Due Diligence Assessments out of the ethical obligations of our profession³, and in recognition of the statutory implications of the Land Rights Act and Native Title Act, rather than any prescribed requirement of the Due Diligence Process.⁴ In some cases, local Councils require that consultation be undertaken with specific local Aboriginal groups, or in accordance with a specific policy. In the current assessment, it is noted that Blacktown City Council has not proposed that consultation take place with any specific Aboriginal groups. It is further noted that on a recent, similar project within the Blacktown LGA, it was determined in consultation with Council that Council deferred to the policy requirements of the Office of Environment & Heritage for such matters.

³ <http://www.aacai.com.au/about-aacai/code-of-ethics/>

⁴ Aboriginal Land Rights Act 1983, s52(4)(a).



Specific Responses

ISSUE 1 - Inadequacy of consultation

"It is not without some relevance that the consultant did not engage widely with the indigenous community claiming attachment to land on the Cumberland Plain.

Blacktown City Council acknowledges Darug Tribal Aboriginal Corporation but the consultant, it seems, does not.

Is it of concern to Blacktown City Council that Darug Tribal Aboriginal Corporation did not have a representative involved in the site assessment?"

ISSUE 1 – MDCA Response

As noted in the general comments above, there is no requirement under current NSW government policy, or Blacktown City Council policy, to consult with the local Aboriginal community in relation to initial Due Diligence Aboriginal heritage assessments. The Deerubbin Local Aboriginal Land Council was consulted in this matter as a matter of principle by MDCA, and in recognition of the specific legislative responsibilities of land councils 'to take action to protect the culture and heritage of Aboriginal persons in the Council's area' (s52(4)(a), NSW Land Rights Act 1983). MDCA takes the same approach to Registered Native Title Claimants relevant to particular areas, and notes that there are no current Registered Native Title claims relevant to the study area. In the event that Aboriginal Heritage Impact Permits or further archaeological investigations may be identified, further Aboriginal community consultation is then required by Regulation to be undertaken, which includes public and direct notifications. This was not the case in the current assessment. It is further noted that 'recognition' of particular Aboriginal organisations by Council is an entirely separate matter to a Council requirement to consult with that organisation. MDCA is unaware of any direction from Blacktown City Council to require consultation in this matter with a particular Aboriginal organisation.

ISSUE 2 - The identification of the 'core stone' as an Aboriginal artefact

"The retired Geologist confirmed it was Silcrete but said more. He proffered his opinion that it was an indigenous 'core stone'. After the meeting I took the stone to Darug Tribal Aboriginal Corporation and an elder asserted it was a 'core stone' and should be returned to the place of finding. This I did. It followed that, on the basis of the Darug elder assertion, that the site should be AHIMS registered. This, it seems, has proven to be an inconvenience to the desires of the Aboriginal Heritage Assessment consultant commissioned for this project.

It is not within the capacity of Blacktown & District Environment Group Inc to say what consequence a 'core stone' on the site has to the development proposal. We leave that to the experts. "



ISSUE 2 – MDCA Response

The MDCA 2014 assessment report clearly outlines the reasons for the determination that the silcrete stone located within the subject land is not an Aboriginal artefact, as it does not contain diagnostic features that demonstrate that it has been worked by Aboriginal people. The appended report by Emeritus Professor Richard Wright provides a further illustrated explanation of this determination.

MDCA acknowledge that, at first glance, the stone does appear a possible candidate to be an Aboriginal artefact. It is a large, cobble-sized stone made of silcrete, which occurs in the local area and was frequently used by Aboriginal people as a raw material for stone artefact manufacture. Apart from identifying the raw material, and stating (in the initial AHIMS Registration #45-5-4478) that the stone was 'faceted', no specific technical information has been provided to date as to why the stone should be considered to be an Aboriginal artefact. On the other hand, the MDCA report (and the appended further illustrated report), prepared by qualified and experienced archaeologists, explicitly places the supposed artefact against objective criteria and assessed that it was actually a piece of non-artefactual silcrete.

The suggestion that a 'Darug elder assertion' should negate this explicit, technical and objective assessment by qualified archaeologists does not form adequate grounds for determining whether the stone should be protected under existing Aboriginal heritage legislation (National Parks & Wildlife Act 1983 s.86). Differences of opinion can arise between archaeologists and Aboriginal community representatives, but ultimately what defines a piece of stone as humanly worked or not, can be ascertained with reference to objective flaking properties rather than overall appearance.

With respect to AHIMS Registration, it is noted that registration of a particular piece of stone as an 'Aboriginal site' on the OEH AHIMS Aboriginal Site Register does not automatically provide legal protection to that item. The NPW Act provides legal protection to all Aboriginal *objects* (as defined in the act) irrespective of their registration or status on the AHIMS Aboriginal Sites Register. This implies that if the stone was indeed an Aboriginal 'object', it would be protected whether or not it was registered on AHIMS, or de-registered as in the current case.

ISSUE 3 - The perceived inadequacy of the Due Diligence Report

"We are concerned, however, about what presents as a narrow approach to consultation and, consequently a potentially less than satisfactory report on significance of the site to our indigenous community."

ISSUE 3 – MDCA Response

As discussed in the general and specific comments above, the MDCA 2014 Due Diligence Assessment report provided more than meets the requirements of the OEH 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, and Blacktown Council has provided the proponent with no additional requirements in relation to Aboriginal heritage assessment of the subject land.



Mr Olling's statement is well-intentioned and aspirational, but does not reflect the reality of Aboriginal heritage management as currently regulated within the planning framework within NSW. It has also been noted above that MDCA on principle, work with Local Aboriginal Land Councils and, if applicable, Registered Native Title Claimants on Due Diligence assessments even although this is not required by OEH.

16/3/15

Penny Goldin
Team Leader and Environmental Planner
NSW Public Works
Department of Finance & Services
Level 14 McKell Building, 2-24 Rawson Place
Sydney NSW 2000

Dear Ms Goldin,

Re: Submission of Mr Peter Ridgeway regarding Aboriginal Heritage matters in relation to the proposed Ropes Crossing Fire Station (DA 14-2393)

In reply to Mr Peter Ridgeway's submission to Council dated 9 March 2015, we make the following general and specific comments in relation to matters raised concerning Aboriginal heritage:

General Comments

Much of Mr Ridgeway's submission relates to technical assessment of a stone suggested to be an Aboriginal artefact, and perceived inadequacies of the assessment of the proposed Ropes Crossing Fire Station site undertaken by MDCA in 2014.¹ Specific points made by Mr Ridgeway are addressed below but some general comments about both of these matters are made here.

Technical Assessment of Aboriginal Artefacts

The evaluation of pieces of stone as humanly flaked is, for the most part, technical and objective, and based on established criteria that distinguish humanly made and natural scars on stone pieces. In addition, the context of the find may assist in this evaluation. In the current case, a silcrete stone located within the proposed Ropes Crossing Fire Station site was determined by MDCA not to be an Aboriginal artefact. This was based on a technical, objective assessment of the stone and its context, based on the archaeological training and experience of our team. To provide further clarity on this matter, MDCA Associate Emeritus Professor Richard Wright, a distinguished and experienced stone artefact analyst, has prepared the appended report which illustrates why scars on the stone, which may initially appear to be evidence of human working, are not evidence of Aboriginal flaking. We note that no technical criteria have been provided by Mr Ridgeway or others to support the idea that the stone is humanly flaked.

¹ MDCA 2014. *Re: Due Diligence Aboriginal Heritage Assessment Ropes Crossing Fire Station, Corner of Forrester Road and Ellsworth Drive* (Report to Fire and Rescue NSW).



Knowledge of Current Aboriginal Heritage Regulation and Policy

While Mr Ridgeway's submission refers to perceived inadequacies with the MDCA Due Diligence Aboriginal Heritage Assessment, it does not refer to the current legislation, regulation or policy that forms the context of that assessment. As noted in relation to further specific points below, the assessment undertaken by MDCA was conducted entirely in accordance with current policy requirements. The arguments put forward in relation to this matter are the opinions of non-specialists in Aboriginal heritage and archaeology, and are assertions of an imagined ideal process that do not relate to the actual regulated processes to be considered by Council. In short, most of the assertions in the submission, while well-intentioned, are not relevant to the consideration of this matter by Council.

The MDCA assessment was undertaken in accordance with the Office of Environment & Heritage (OEH) 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, which is the current policy applicable to the initial investigation of Aboriginal heritage in relation to proposed development impacts. The purpose of Due Diligence Assessment is to determine whether further archaeological investigation or Aboriginal Heritage Impact Permits may be required in relation to a particular proposed activity. The *Due Diligence Code of Practice* does not require any consultation with any Aboriginal community members. MDCA undertakes some Aboriginal community consultation as part of our Due Diligence Assessments out of the ethical obligations of our profession², and in recognition of the statutory implications of the Land Rights Act and Native Title Act, rather than any prescribed requirement of the Due Diligence Process.³ In some cases, local Councils require that consultation be undertaken with specific local Aboriginal groups, or in accordance with a specific policy. In the current assessment, it is noted that Blacktown City Council has not proposed that consultation take place with any specific Aboriginal groups. It is further noted that on a recent project within the Blacktown LGA, it was determined in consultation with Council that Council deferred to the policy requirements of the Office of Environment & Heritage for such matters.

² <http://www.aacai.com.au/about-aacai/code-of-ethics/>

³ Aboriginal Land Rights Act 1983, s52(4)(a).



Specific Responses

ISSUE 1 – Perceived inadequacy of the Due Diligence report and site inspection

"The Archaeological report provides very limited data and indicates extremely limited field investigation. Neither report are sufficient to inform a development determination. "

ISSUE 1 – MDCA Response

As discussed in the general comments above, the MDCA 2014 Due Diligence Assessment report provided more than meets the requirements of the OEH 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, and Blacktown Council has provided the proponent with no additional requirements in relation to Aboriginal heritage assessment of the subject land.

The subject land is small in size, and the MDCA 2014 Due Diligence Assessment report describes a site inspection of the entire extent of the subject land by a team of three experienced people that was exhaustive, well-documented and considered all aspects of surface visibility, historical disturbance and observed site features to support the report's assessment of the archaeological evidence and archaeological potential of the subject land.

It is not clear from Mr Ridgeway's letter what additional data could be obtained, but it is noted that the level of detail provided not only meets current state government requirements but is more than adequate to characterise the Aboriginal archaeological potential of the subject land.

ISSUE 2 - Archaeological assessment negating the opinion of 4 independent experts

"The Archaeological consultant's assessment is in contradiction to the assessment of four independent experts:

- Professional ecologist & tree dating expert (myself)
- Professional geologist John Mail
- Recognised local Aboriginal elder Uncle Gordan [sic] Workman
- The applicants consulting Arborist

The Deerubbin Local Aboriginal Land Council (DLALC – page 15) also considered the artefact as an Aboriginal site ('flaked cobble stone' p 15). "

ISSUE 2 – MDCA Response

The only aspect of this assertion that is relevant to the Aboriginal heritage assessment is in relation to the contested status of the silcrete stone located within the subject land.

The assertion that the MDCA report contradicts the assessment of 'a Professional ecologist & tree dating expert (Mr Ridgeway)' and the 'applicants consulting Arborist' relates to a statement in the MDCA report that the existing trees within the subject land appear to be regrowth rather than remnant. While this issue can be debated, the only fact relevant to the current assessment is whether these or any other trees within



the subject land, irrespective of their age, retain Aboriginal cultural significance in some form, most notably as Aboriginal objects. The MDCA report explicitly considers this issue (p9) and determined that no trees within the subject land contain evidence of cultural modification (scars from bark removal or tree carving). The age and regrowth status of trees would be specifically relevant to this assessment only if such evidence of human modification had been noted and would therefore form part of an assessment of the likelihood of the 'scar' observed to be of human origin.⁴ As no such evidence was documented by the MDCA assessment, or has been proposed at any time in relation to the subject land, including by the 'independent experts' noted by Mr Ridgeway, the age and regrowth/remnant status of trees within the subject land is not relevant to the assessment of the Aboriginal heritage qualities of the subject land.

The other 'independent experts' listed by Mr Ridgeway include 'professional geologist John Mail' and 'local Aboriginal elder Uncle Gordon [sic] Workman'. Mr Mail's ability to correctly identify the local geological origin of the silcrete stone is not disputed, but the further assertion that Mr Mail 'confirmed nature of working of core for flakes' (AHIMS Site Card #45-5-4478) is contested. Mr Ridgeway provides no evidence as to Mr Mail's qualifications to assess a stone piece as humanly worked, nor are any specific observations in support of his assessment provided. Similarly, no specific reasons are provided for Mr Workman's assertion that the stone is a humanly worked core.

As noted above, it is conceded that the stone looks on first glance to be a possible stone artefact. In further discussion with Deerubbin Local Aboriginal Land Council representative Mr Steve Randall (pers. comm. 13/3/15), this general appearance contributed to the Land Council's reluctance to categorically dismiss the possibility of the stone as artefactual in their formal response to the MDCA assessment. However Mr Randall noted that the Land Council regards the ultimate determination of the stone as artefact or not to be a scientific issue, and are comfortable with the matter proceeding on this basis. As discussed above, the application of diagnostic criteria by MDCA, as explicitly outlined in the assessment report (and the appended illustrated report), demonstrates why a closer consideration of the stone does not support the assertion that it has been worked by Aboriginal people. Consequently, the stone would not be considered to be afforded legal protection under the NPW Act.

ISSUE 3 - Failure to use the "precautionary principle"

"I broadly agree with the consultant in regard to the attributes of the artefact in question. I agree with their assessment that these attributes include elements consistent with Aboriginal use but that other 'typical' attributes are limited or absent. Unless definitive evidence is provided against Aboriginal use the precautionary principle must be applied to artefacts demonstrating attributes consistent with Aboriginal use. The consultant has not observed this principle."

ISSUE 3 – MDCA Response

As discussed above, and detailed in the MDCA assessment report and appended illustrated report, the identification of the stone as non-artefactual is based on there being no attributes of Aboriginal use and the presence of many attributes aligned with natural processes and possible recent damage.

⁴ This would be one of many factors, as clearly established in archaeological practice. See for example Irish, P. 2004. "When is a scar a scar. Evaluating scarred and marked trees at Sydney Olympic Park", *Australian Archaeology* 59:59-61; Long, A. 2005. *Aboriginal scarred trees in New South Wales. A Field Manual* (Sydney; Department of Environment & Conservation).



The need for the use of a 'precautionary principle' was not considered warranted as the identification of the stone as non-artefactual was unambiguous.

ISSUE 4 – Perceived inadequacy of Aboriginal community consultation

"The consultant has failed to undertake suitable consultation on this matter. In particular:

- *The Aboriginal artefact has been previously confirmed by a recognised local Aboriginal elder. This person is identified in the AHIMS report. I understand this person was not contacted by the archaeological consultant. This is a serious oversight.*
- *The DLALC do not recognise the Dharug people or local associations representing them. Consultation with DLALC alone cannot satisfy the need to consult with local Aboriginal representatives. The opinion of such groups on the purported heritage artefact is highly relevant and important. "*

ISSUE 4 – MDCA Response

As noted in the general comments above, there is no requirement under current NSW government policy, or Blacktown City Council policy, to consult with the local Aboriginal community in relation to initial Aboriginal heritage assessments. The Deerubbin Local Aboriginal Land Council was consulted in this matter as part of MDCA ethical practice, and in recognition of the specific legislative responsibilities of land councils 'to take action to protect the culture and heritage of Aboriginal persons in the Council's area' (s52(4)(a), NSW Land Rights Act 1983). MDCA takes the same approach to Registered Native Title Claimants relevant to particular areas, and notes that there are no current Registered Native Title claims relevant to the study area. In the event that Aboriginal Heritage Impact Permits or further archaeological investigations may be identified, further Aboriginal community consultation is then required by Regulation to be undertaken, which includes public and direct notifications. This was not the case in the current assessment. It is further noted that 'recognition' of particular Aboriginal organisations is a separate matter to a Council requirement to consult with that organisation. MDCA is unaware of any direction from Blacktown City Council to require consultation in this matter with a particular Aboriginal organisation.

It was not considered necessary to contact Mr Workman further in relation to the current assessment, as there was sufficient documentation of his views in relation to the asserted Aboriginal artefact within the site record for AHIMS #45-5-4478, which was reviewed as part of the MDCA 2014 assessment.

ISSUE 5 – Perceived inadequacy of other consultation

'Similarly the consultants failed to consult with the person registering the site (myself) or the professional geologist also identified in the AHIMS report, both of whom report findings at odds with that of the consultant. These are serious oversights of consultation'

ISSUE 5 – MDCA Response

Previously registered 'site' records are reviewed routinely by all archaeologists as part of all assessments, and attempts to contact people involved in these registrations are generally only made where the level of information on the site record is insufficient or unclear. That was not the case in the current assessment, nor is there any requirement under current policy to consult with those responsible for recording or registering records on the AHIMS register.

As discussed above, Mr Ridgeway has not asserted his or Mr Mail's expert qualifications in relation to the identification of Aboriginal artefacts. After a detailed consideration of the properties of the stone, as detailed in the MDCA report, the non-artefactual status of the stone was evident on technical criteria, and further discussion was not considered warranted.

It is further noted that past recordings of Aboriginal 'sites' are routinely re-assessed by archaeologists, often applying technical criteria or a broader range of contextual information than that considered in the initial recording. Sometimes these re-assessments confirm the initial recording and other times they do not. This is a commonly performed part of Aboriginal archaeological assessment by qualified archaeologists.

ISSUE 6 - The opinion of 'local elders' should not be contradicted

"Artefacts recognised by local elders as of Aboriginal significance should be assessed as such ipso facto unless there is an extremely good case against such assessment; no such case has been made"

ISSUE 6 – MDCA Response

It is clear from Mr Ridgeway's statement that he acknowledges that there are certain cases when the opinions of 'local elders' may not be literally adopted; specifically where there is 'an extremely good case against such assessment'. While Mr Ridgeway does not consider that such a counter-case can be sustained in the current matter of the silcrete stone within the subject land, it is not clear on what basis this assertion is made.

As noted above, the MDCA assessment of the silcrete stone is precisely the reasoned case that Mr Ridgeway allows for in his assertion. There is no need for archaeologists and Aboriginal people to concur exactly on the values of particular items. A stone piece, worked or unworked, may for example have Aboriginal cultural values that are independent of whether the stone piece was created by Aboriginal people as a stone artefact. In the current case however, it is only the artefactual status of the stone that is at issue. The assessment of whether a particular piece of stone is a humanly worked artefact is measurable objectively. The MDCA assessment that it is not an Aboriginal stone artefact does not negate it having other cultural values to Aboriginal people, however these have not been asserted.



ISSUE 7 - The 'artefact' as being a result of soil disturbance

"The principle claim against Aboriginal nature of the artefact is the recent soil disturbance. The consultants agree that the material has not been recently introduced as fill. The claim that remnant soil is no longer present at the site is not substantiated as mature trees can be seen immediately beside the artefact in question, and these trees are not elevated above the surrounding soil level. Either the material is Aboriginal in origin (and recently disturbed) or it is not. In either case its origin cannot possibly be influenced by recent disturbance. "

ISSUE 7 – MDCA Response

This assertion is incorrect. The context of the stone in relation to soil disturbance is one part of a broader and explicit assessment of the non-artefactual status of the stone. The primary case for the stone not being an Aboriginal artefact is the objective assessment of the particular characteristics of the stone itself. However the context, and in particular the fact that the stone appears to have been upcast as a result of recent activity on the subject land is relevant, as it provides a possible explanation (machine damage) for some of the identified features of the stone. It is noted however that this observation is not essential to the conclusion that the stone is not humanly worked, for reasons explicitly outlined in the MDCA assessment and attached additional report. On this basis, the context of the stone could not be considered the 'principle claim'.

As Mr Ridgeway notes 'either the material is Aboriginal in origin...or it is not'. The MDCA assessment is that the apparent faceting on the stone is not of Aboriginal origin.

ISSUE 8 - Dismissal of Arborist's opinion

"The Archaeological report (p 9) dismisses the findings of the Arborist report (p3) that some trees located on site are remnant. This dismissal is employed as the basis for assessing the Aboriginal heritage value of the trees. However no evidence of any kind is presented by the Archaeological consultant to substantiate this serious rejection of expert advice. This is unacceptable. In the absence of evidence to the contrary this claim must be considered invalid.

I am a professional ecologist and the only expert to have undertaken scientific tree dating in the Cumberland Plain region. My assessment of the limited tree data provided concurs with the Arborist's conclusions that the trees in question are indeed remnant.

A valid Archaeological assessment of these trees value as Aboriginal heritage remains outstanding and the application cannot be legitimately progressed until this matter is rectified. "

ISSUE 8 – MDCA Response

The assertion that the MDCA report contradicts the professional assessment of Mr Ridgeway in relation to the regrowth/remnant status of certain trees within the subject land is noted. However, as discussed above, this is not, as Mr Ridgeway asserts, the basis for the assessment of the Aboriginal heritage value of the trees. This assessment was based on the fact that the trees do not contain evidence of cultural modification (scars from bark removal or tree carving). The age and regrowth



status of trees would be specifically relevant to this assessment only if such evidence had been noted and would therefore form part of an assessment of the likelihood of the 'scar' observed to be of human origin.⁵ As no such evidence was documented by the MDCA assessment, or has been proposed at any time in relation to the subject land, including by Mr Ridgeway, the age and regrowth/remnant status of trees within the subject land, is not relevant to the assessment of the Aboriginal heritage qualities of the subject land.

MDCA acknowledge that non-modified trees may retain Aboriginal cultural values, but note that this has not been asserted by anyone in relation to the subject land. We further note that legal protections for Aboriginal 'objects' can only apply to either a demonstrably culturally modified tree, or one that is demonstrated to retain other Aboriginal cultural values sufficient to provide such protections.

⁵ This would be one of many factors, as clearly established in archaeological practice. See for example Irish, P. 2004. "When is a scar a scar. Evaluating scarred and marked trees at Sydney Olympic Park", *Australian Archaeology* 59:59-61; Long, A. 2005. *Aboriginal scarred trees in New South Wales. A Field Manual* (Sydney; Department of Environment & Conservation).

Report on a silcrete stone from Ropes Crossing

Richard Wright¹

14 March 2015

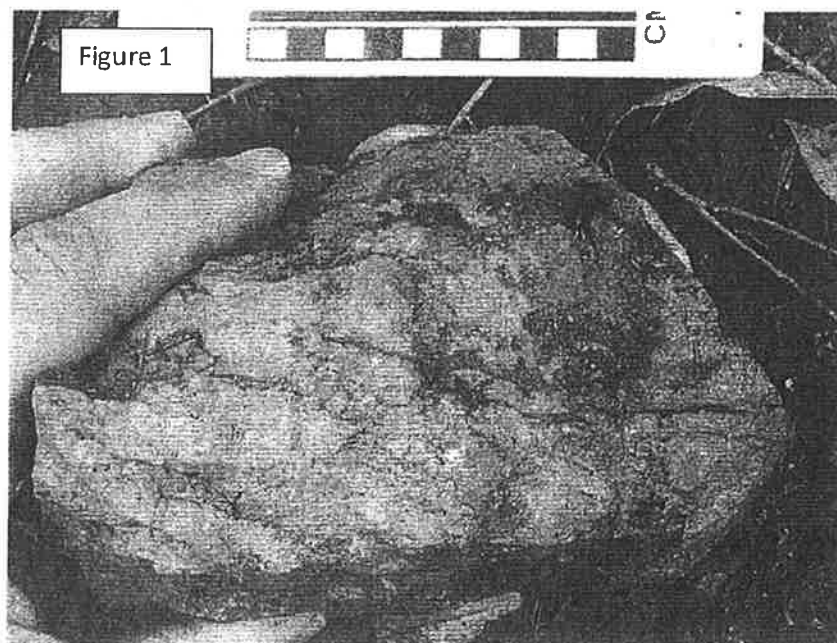
I was asked by MDCA to provide an illustrated discussion about the artefactual nature of a stone of silcrete that comes from the site of the proposed Ropes Crossing Fire Station. I have not seen the original specimen itself, but have examined a series of nine photographs showing its various aspects.

I call this a stone, because it shows no sign of being water worn. The word 'cobble' is normally associated with large pebbles that show rounding by water. However, although this stone is as large as some water worn cobbles, it appears to have come from some in situ, weathered silcrete deposit.

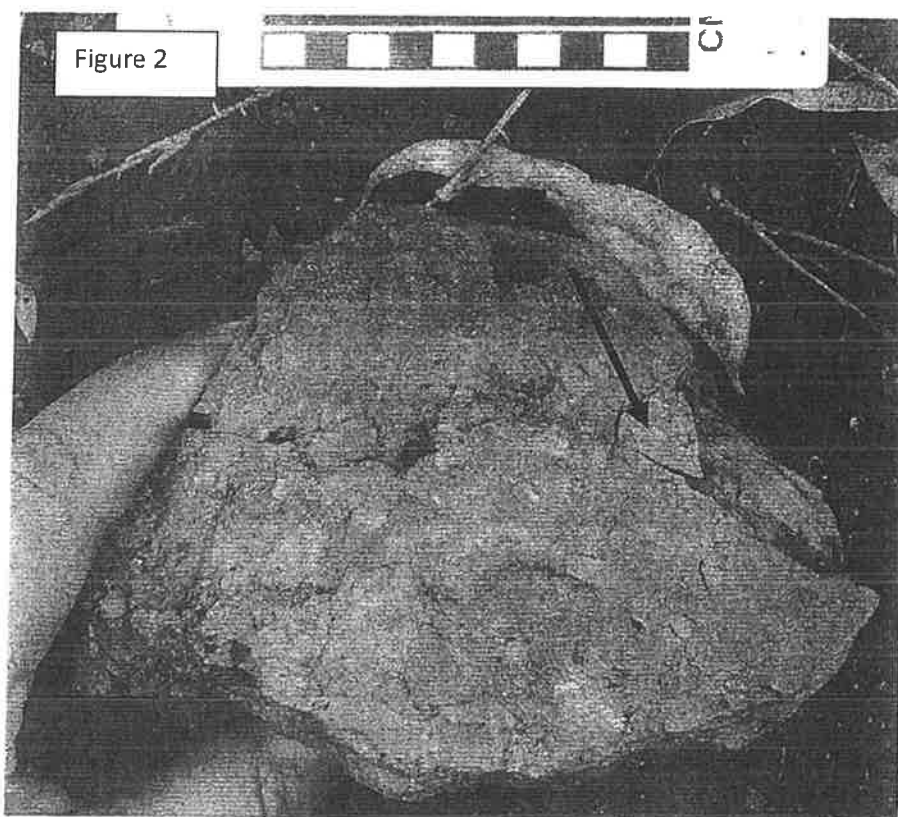
My observations and conclusions on this stone are as follows.

1. Cracks

The rock is riven with natural cracks, that can break open and form natural facets following further stress. These cracks are particularly evident in Figure 1 and Figure 2.



¹ Emeritus Professor Richard Wright AM, 72 Campbell Street, Balmain, NSW 2041. Phone +61 2 98181037. richwrig@tig.com.au.



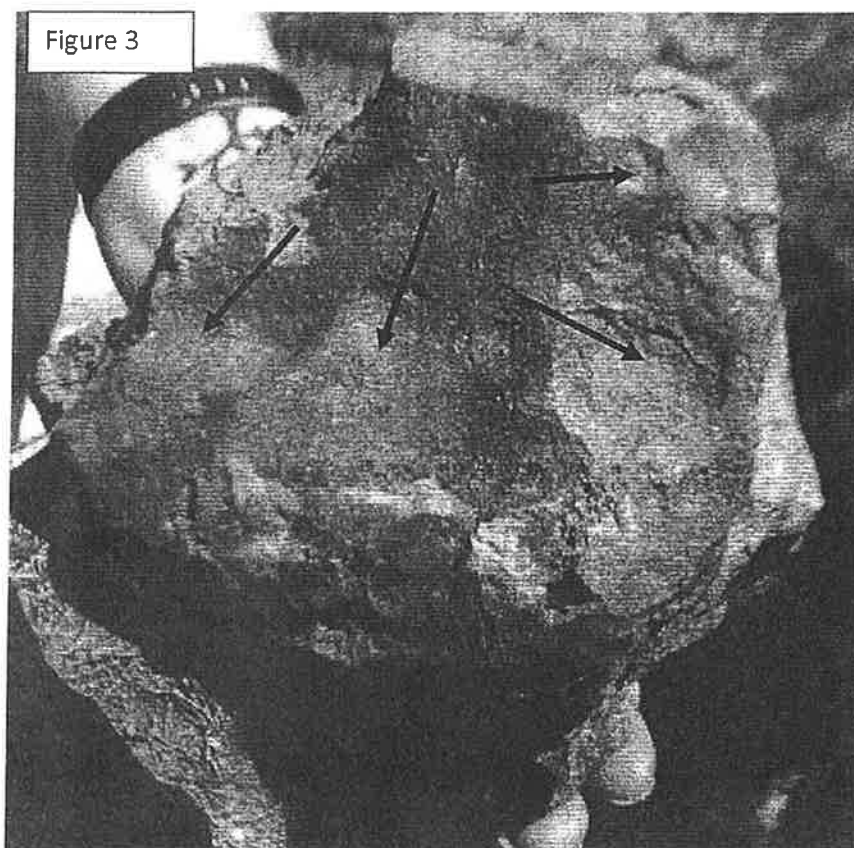
In the case of Figure 2, a natural pseudo-flake is ready to break off alongside these cracks (see arrow).

2. Thermal fractures

The surface shown in Figure 3 has what I interpret as thermal fractures. These are caused by intense stress on a silicious rock, following sudden temperature change. They are common on rocks that have been exposed to fire. The distinctive properties of thermal fractures is that they can be 'internalised', in that they often pop off a surface that is not in touch with an edge of a block. By contrast, humanly flaked fractures must always start, with a negative conchoidal fracture, at the edge of a block.

Some thermal fractures are marked by arrows in Figure 3.

The scar on the left does impinge on the edge of the stone, but has the same colour and surface texture as the other three thermal scars. I would need to have examined the original specimen to analyse this scar further, but I see no compelling reason to interpret it as a negative flake scar.



3. Flake scars.

I have examined all the other images to see whether I can recognise flake scars that would make this stone an Aboriginal artefact. I could not recognise any.

Even if I had recognised a flake scar, I have to note that the Aboriginal Site Recording Form for this stone (AHIMS #45-5-4478; Ellsworth Drive Artifacts) describes it as

"unearthed and cast aside when fencing contractors were digging holes for fence posts."

Contact of the stone with the steel fence digging instruments could well have knocked off a flake, though in this case it appears not to have done so.

Nevertheless, the general point remains as a caution. Facets and crushing on silicious objects dug up during engineering work have to be treated with great caution.

CONCLUSION

There are indications on the stone of naturally cracked facets and of thermal stress fracturing.

I can see nothing in the images that indicates to me that there has been deliberate flaking of the stone.

The stone might have suffered modification when it was dug up by fence post diggers, though I could not observe this on the photos I examined.

I therefore conclude that there are not grounds for identifying this stone as an Aboriginal artefact.

* * * * *