

Changes to proposal resulting from Planning Panel Determination

The purpose of this document is to review the reasons set out in the Council report and the Planning Panel Determination in refusing the earlier subdivision application, and how the current application addresses and responds to the issues.

The items listed below are taken from Council report dated 20 June 2023 and the Planning Panel Determination of 4 July 2023. The same numbering system has been used.

Councils' reasons for refusal

1 a	<p>The proposed development is inconsistent with the following clauses of the <i>Clarence Valley Local Environmental Plan 2011</i>:</p> <p>a. 1.2 Aims of the Plan – “(e) to provide adequate access and services to development carried out in accordance with this Plan”, as the proposal has not satisfactorily demonstrated the proposal incorporates adequate stormwater management and sewer services to the development.”</p>	<p>The stormwater management of the has been significantly upgraded and is now more than the Council and Northern Rivers Development and Design Manual requirements. This has involved increasing areas and capacity for stormwater treatment and detention as set out in the Stormwater Management report and the response for Request for Additional information dated 14 May 2024.</p> <p>The proposal for a gravity sewer has been removed from the application which now proposed a pressure sewer system in accordance with Council requirements.</p> <p>See attached Executive summary Item 1 a and 1 b.</p> <p><u>Outcome</u> - Stormwater management and sewer provision comply with Council requirements.</p>
1 b	<p>7.8 Essential Services – “Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required”. Clause D5.20(4) of Part D5 NR Design Guidelines as</p>	<p>This issue was with respect to the north west catchment of the site which discharges stormwater onto neighboring rural land. This catchment has been removed from the application and is shown as a balance lot in the application. There is no development proposed in this catchment and therefore no change to the drainage which would require any agreement with the neighbours.</p>

	<p>referred to by the DCP in Clause J10.2 item (f), specifies that “At points of discharge of gutters or stormwater lines or at any concentration of stormwater from one or on to adjoining properties, either upstream or downstream, Council will require the Developer to enter into a Deed of Agreement with the adjoining owner(s) granting permission to the discharge of stormwater drainage and the creation of any necessary easements with the cost of the easement being met by the Developer.” A Deed of Agreement with the adjoining owner has not been obtained and easement not provided. Insufficient information and assessment of Council’s existing sewer system has been provided for Council to accept the proposed gravity sewer network to service the proposal.</p>	<p>The north east and south east catchments discharge into a lawful point of discharge being James Creek Road.</p> <p>The south east catchment discharges to Austons Lane however there is no drainage infrastructure proposed to be located external to the site within this land.</p> <p>The question has been raised that Crown Land, the owner of Austons Lane, should be providing owners consent because of stormwater drainage directed to the land. This matter has been responded to by removing all infrastructure from Austons Lane as was shown in earlier plans. Furthermore, application has been made to Crown land for owners consent.</p> <p><u>Outcome</u> – All infrastructure has been removed from Austons lane and owners consent from Crown Land has been applied for.</p>
2 a	<p>The proposal is inconsistent with the following Parts of the Clarence Valley Residential Zones Development Control Plan 2011:</p> <p>a. C3 Site Assessment Requirements - Clause C3 requires consideration of the existing site conditions and an assessment of the impact of the proposed development on the surrounding area. The proposal presents a stark change in character and density from its surroundings. A refined subdivision proposal which incorporates greater integrated housing outcomes, fosters a stronger sense of place and community, incorporates larger setbacks along its edges, lower density and facilitates a sensitive transition into the surrounding rural and large-lot residential context is warranted.</p>	<p>The previous design approach was to salt and pepper density throughout the development and to maximise the usage of the zoned land. This has been reviewed extensively by the current proposal with the following changes.</p> <ul style="list-style-type: none"> • The project vision has been changed to focus on the creation of a village core and to follow the land use distribution in the planning scheme. • Density has been located within that area of the site zoned R3 Medium density residential. • This area now contains a townhouse site, small lot housing sites and duplex lots. Because of the design detail this creates an integrated housing opportunity as requested. • The community will benefit from the commercial zoned land, a child care centre, highly developed parks incorporating community infrastructure, and an integrated housing area in the R3 zone. • Larger setbacks to the north, east and western boundaries of 50m have been provided. These setbacks will be extensively landscaped but

		<p>usable by the community as open space in addition to their visual and buffering function.</p> <ul style="list-style-type: none"> • The southern boundary includes a 5.0m densely planted buffer incorporating visual linkages to within the site to assist the transition from large lot residential land to the south to the development within the R1 Low density residential zone. • All of the residential lots on the edges of the developed area have a minimum lot size of 600m². <p>See attached Executive summary Items 2 a [three pages]</p> <p><u>Outcome</u> - Extensive changes have been made to the layout addressing the points raised in the decision.</p>
2 b	<p>C5 Building Design Requirements - Clause C5.2 limits cut and fill to a maximum height of 1.2m. The subdivision design indicates typical retaining wall detail with a maximum height of 2.0m. Insufficient information has been provided to justify a variation of this control.</p>	<p>The site has been reengineered to reduce the need for extensive retaining walls while retaining the best practice outcome of all lots draining to the street, thereby avoiding inter allotment drainage.</p> <p>In achieving this, where retaining walls are used, they will have a maximum height of 1.5m and generally lower than this, noting the DCP allows retaining walls to 1.2m without the need for a variation.</p> <p>The revised plan has a maximum of 6.7% of lots where retaining wall heights between 1.2m and 1.5m apply. [refer Geolink drawing C136]</p> <p>Details of this approach are contained in the Application to Request to Vary Development Control Plan dated 16 February 2024 which forms part of the application.</p> <p>See attached Executive summary Item 2 b [two pages]</p> <p><u>Outcome</u> - Application to vary the DCP is included in the application.</p>
2 c	<p>C24 Provision of Essential Services - Council's Pressure Sewer Policy 2008 notes areas where Council has resolved that pressure sewerage will provide the centralised reticulation. This currently includes James Creek. A conventional gravity sewer</p>	<p>The pressure sewer system will be used on site in accordance with Councils requirements.</p>

	<p>system with pump stations is proposed to service the proposed development. Insufficient information and assessment of Council's existing system has been provided for Council to accept the proposed gravity sewer network to service the proposal.</p>	<p><u>Outcome</u> - Complies</p>
2 d	<p>J10 Stormwater Management - In accordance with J10.2(f) stormwater design shall be in accordance with Section D5 of the NR Design Manuals. Specifically, Section D5 requires: <i>5. At points of discharge of gutters or stormwater drainage lines or at any concentration of stormwater from one or on to adjoining properties, either upstream or downstream, Council will require the Developer to enter into a Deed of Agreement with the adjoining owner(s) granting permission to the discharge of stormwater drainage and the creation of any necessary easements with the cost of the easement being met by the Developer.</i> A Legal Point of Discharge and Easement for discharge of stormwater on downstream private property has not been obtained.</p>	<p>See 1 b above. With the current application we have removed all infrastructure has been removed from Austons Lane and owners' consent from Crown Land has been applied for. The NE and SE catchments have a lawful point of discharge.</p> <p><u>Outcome</u> - Downstream discharge rights not required.</p>
3.	<p>The proposed development is inconsistent with the Local Strategic Planning Statement objective to "<i>Protect agricultural land and increase opportunities for access to locally produced fresh food and economic growth</i>" and State Government policy, such as the '<i>Right to Farm Policy</i>', published by the NSW Department of Primary Industries. The proposed subdivision does not incorporate appropriate land use buffers in response to the adjoining rural character and amenity of the locality to ensure a suitable edge/interface is achieved and potential land use conflict is mitigated. A 50m buffer treatment should be</p>	<p>The current application has adopted the Councils position of providing 50m buffers to the north, east and western boundaries. This has been supported by a LUCRA report [dated 11 April 2024] which addresses the interface issues.</p> <p><u>Outcome</u> - The 50m buffer has been provided</p>

	applied to all boundaries adjacent to rural zoned land (the north, east and west).	
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Planning Panel reasons for refusal

Number	Reasons for refusal	Response to issue
1.	The development application was refused for the reasons attached to the Council's assessment report.	See comments above.
2.	The Panel agrees with the Council assessment that the proposed inward facing urban structure, density and proposed lot design relates poorly to the existing topographical form and presents a stark change to surrounding rural and semi-rural setting and character.	<p>The redesign now has all of the lots on the north, east and western boundaries facing outwards located behind a 50m landscaped buffer. This design work has been carried out in consultation with Council officers. The site is topographically suited to residential development. There is a high point in the middle creating four stormwater catchments. The road layout uses as its primary structure following the contours of the site and, with the site works proposed, the land will continue to be gently undulating and retaining the basic existing topography.</p> <p>This redesign also brings the proposal more closely into alignment with the principles underpinning the plans accompanying the original rezoning approval for the land.</p> <p>See attached Executive summary Item 1 a & b and 2 a [three pages]</p> <p><u>Outcome</u> – these reasons for refusal have been at the core of the replanning of the proposal and were used to address and overcome the issues raised.</p>
3.	The Panel considers there is inadequate social infrastructure and services to support the proposed development including bus services and given the distances to shops and facilities.	<p>The social infrastructure proposed has been enhanced by</p> <ul style="list-style-type: none"> • the addition of a proposed child care centre, • the inclusion of community pavilions and additional carparking in the park.

		<ul style="list-style-type: none"> • an extensively landscaped park having a village green function. • housing intended to provide a variety of accommodation styles designed to be integrated including small lots, duplex dwellings and townhouse development. • Inclusion of the neighbourhood centre site to be developed as soon as practicable. • Construct approximately 50% of the pathway from the site to Townsend and to plan [with Council] the full extent of the connecting pathway. [refer SEE and Additional information letter dated 14 May 2024 [pages 7-8] <p>See attached Executive summary Item 2a Urban design principles – village core.</p> <p><u>Outcome</u> – the range of social and community facilities will create a well services development which will support the needs of residents and the surrounding community.</p> <p>Additionally, we have reached out to TransportNSW and local bus providers. Their response is that bus routes will be reviewed when the development is occurring and will change if a suitable critical mass off users is achieved. Build it and they will come is their approach so no set timing can be obtained at this time.</p> <p><u>Outcome</u> – Public transport will be provided in time when the development has advanced, and people are living in their homes on the land.</p>
4.	The Panel also concluded there was insufficient consideration of flood evacuation, but notes the verbal advice provided by	A revised Flood Emergency Plan has been prepared and provided to SES who have written by letter dated 14 May 2024 supporting the plan with minor

	<p>Council staff of an offer by the Applicant to upgrade Gardiners Road to enable evacuation in a 1:100 year flood event.</p>	<p>qualifications which have been incorporated into the revised plan. This document by Water Engineering Plus is dated 17 May 2024.</p> <p>In addition, we have incorporated into the current application an undertaking to have Gardiners Road upgraded to Q100 plus climate change levels incorporating a pathway to Townsend as part of the works. [refer Additional information response 14 May 2024]</p> <p><u>Outcome</u> – the project now satisfies the requirements of SES and Council and the James Creek community including existing residents will have the benefit of flood free access as a result of the development.</p>
5.	<p>The Panel agrees with Council's view that additional information and design amendments which might result in a more integrated 'village' style settlement may resolve these and other issues addressed in Council's assessment report.</p>	<p>The current application results from a detailed review of the reasons for refusal and discussions with Council officers to resolve design issues. The current design is now markedly different to the previous application. In particular much has been done to reflect the existing zoning of the land and its setting, and to create a core of related social and community facilities including the child care centre, commercial site, integrated housing, pathways, park facilities including pavilions and active playgrounds. This colocation of compatible activities creates a village style settlement.</p> <p><u>Outcome</u> – a comparison of the previous proposal and this changed application will show a number of significant differences which result from the reasons for refusal of the earlier application.</p>

EXECUTIVE SUMMARY- illustrations
Changes to application
Response to Clarence Valley Council and Planning Panel
Determination July 2024

KEY PRINCIPLES

Contents

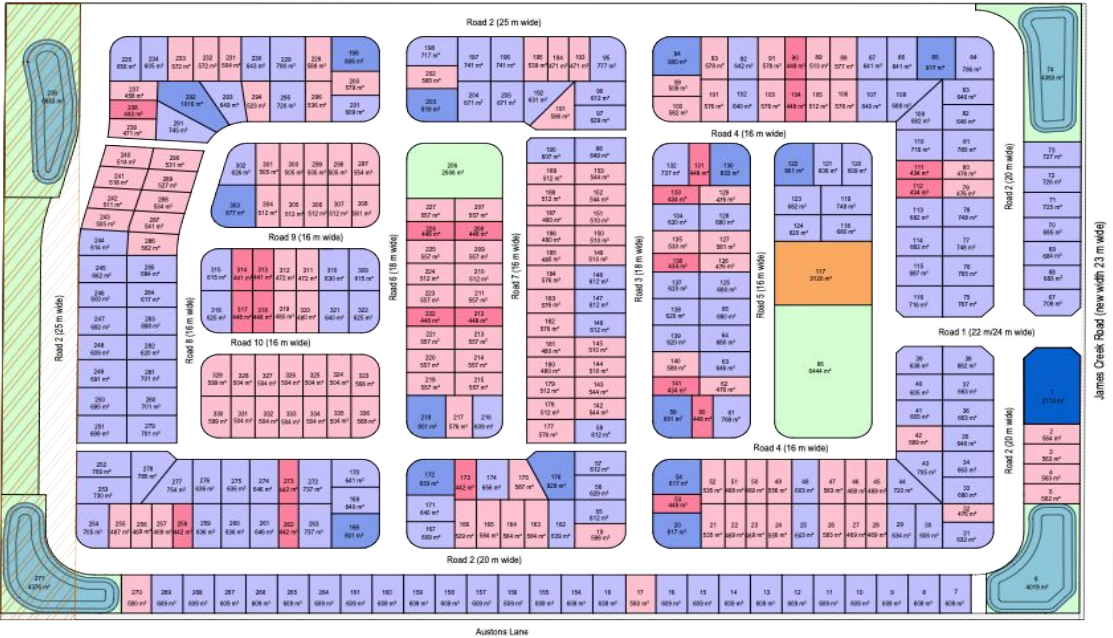
1	cover/ contents
2	comparison of previous to current- masterplans
3	item 1a, 1b- Principle- stormwater design/ flood management
4	item 1a, 1b- Principle- stormwater design/ flood immunity Gardiners Road
5	item 2a- Principle- urban design- R1 and R3 zones
6,7	item 2a- Principle- urban design- village core
8	item 2a- Principle- urban design- social interaction
9	item 2a- Principle- urban design- setbacks/ edges
10,11,	item 2a- Principle- urban design- Austin Lane edge
12	item 2a- Principle- retaining wall- max height 1.5
13	item 2b- Principle- topographical layout

The purpose of this document is to review the reasons set out in the Council report and the Planning Panel Determination in refusing the earlier subdivision application, and how the current application addresses and responds to the issues. (graphical summary)

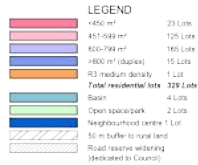
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Previous development application



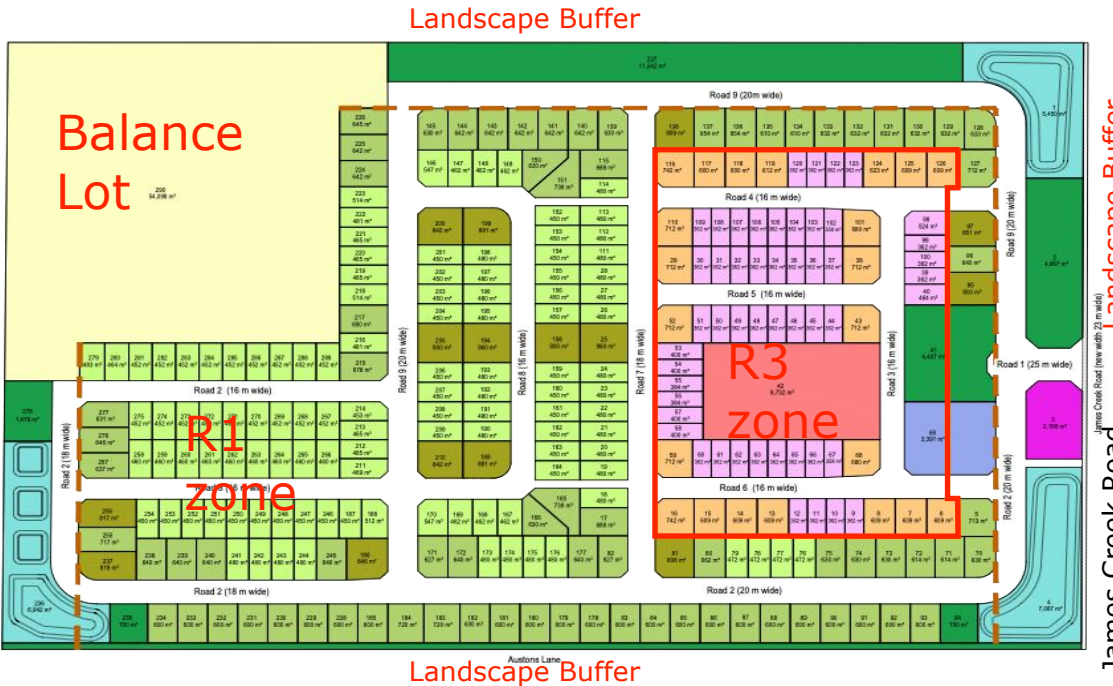
Previous DA application



PRELIMINARY



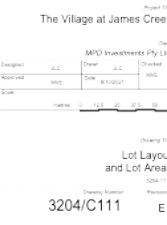
Extract from civil engineering report version b



Plan- revised masterplan illustrating extent of design changes



DEVELOPMENT APPLICATION



Extract from civil engineering report version e

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JOB NUMBER:	2853
AMENDMENT:	Issue 24_07_15

CLIENT:	MPD
PROJECT:	village @james Creek
TITLE:	Response to Refusal reasons -Executive Summary -illustration -analysis of previous / revised application

DATE:	July 24
SCALE:	nts
ISSUE:	v3
DRAWING:	2



Comparison between previous and current Previous application

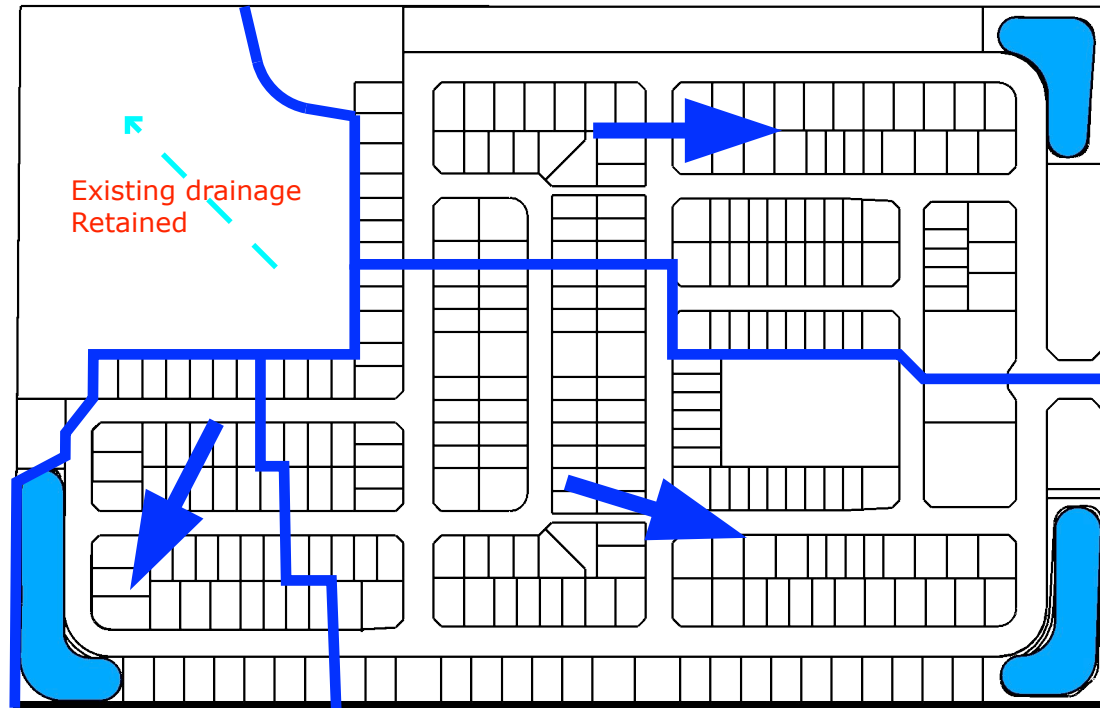
The previous design approach was to salt and pepper density throughout the development and to maximise the usage of the zoned land.

Revised application Over arching principle -design changes



- consolidated density to create village community
- add child care (additional social infrastructure)
- located medium density site
- village square
- diversity of residential types
- sense of arrival and community
- soft landscape open frontage to James Creek Road

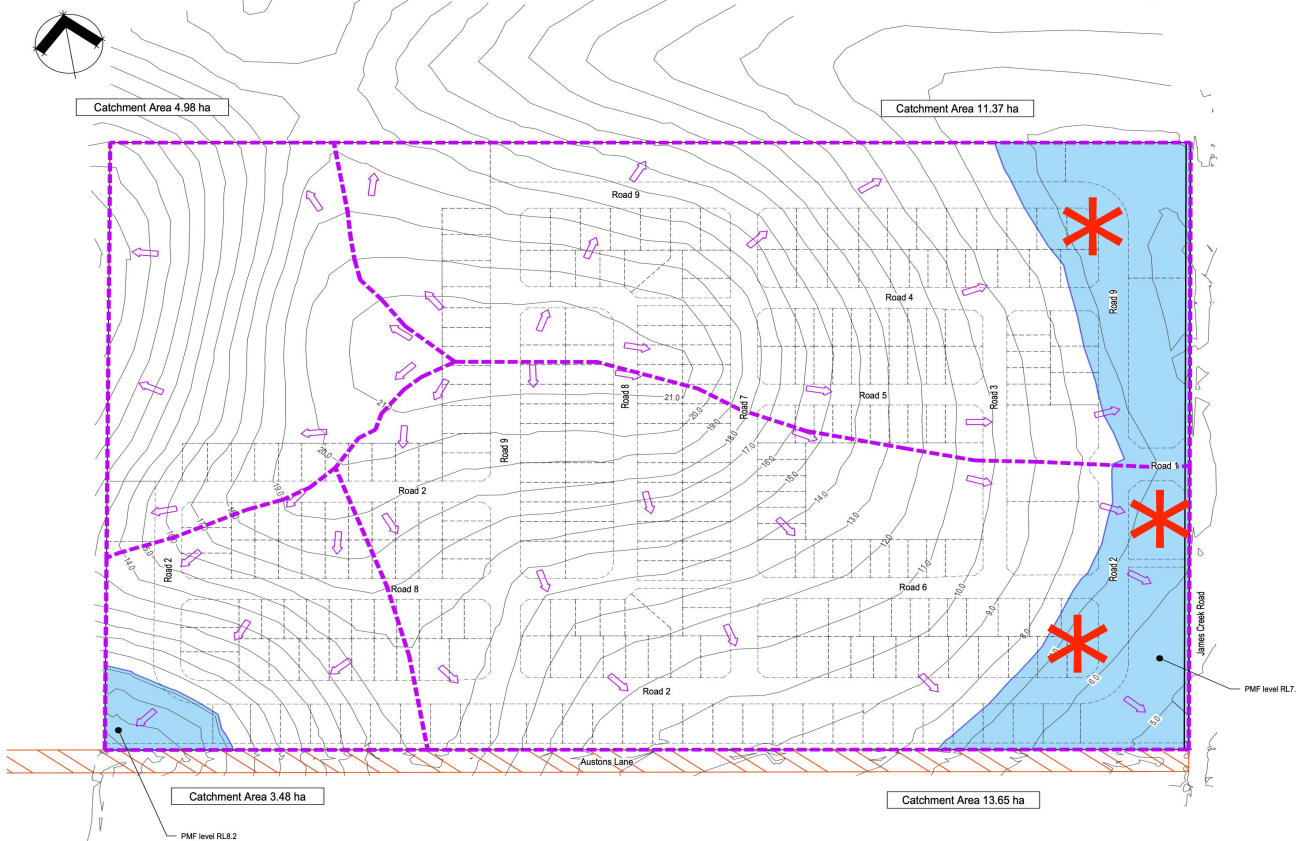
- traditional R1 zone location
 - Residential lot>450m2
 - Residential lot>800m2 duplex
- current R3 zone location retained
 - Medium density site
 - R3 residential lot >350m2
- other
 - Balance lot excluded -previously full site used
 - Landscape setback or screening
 - Commercial site
 - Child care site

1a,b Principle- stormwater / flood management

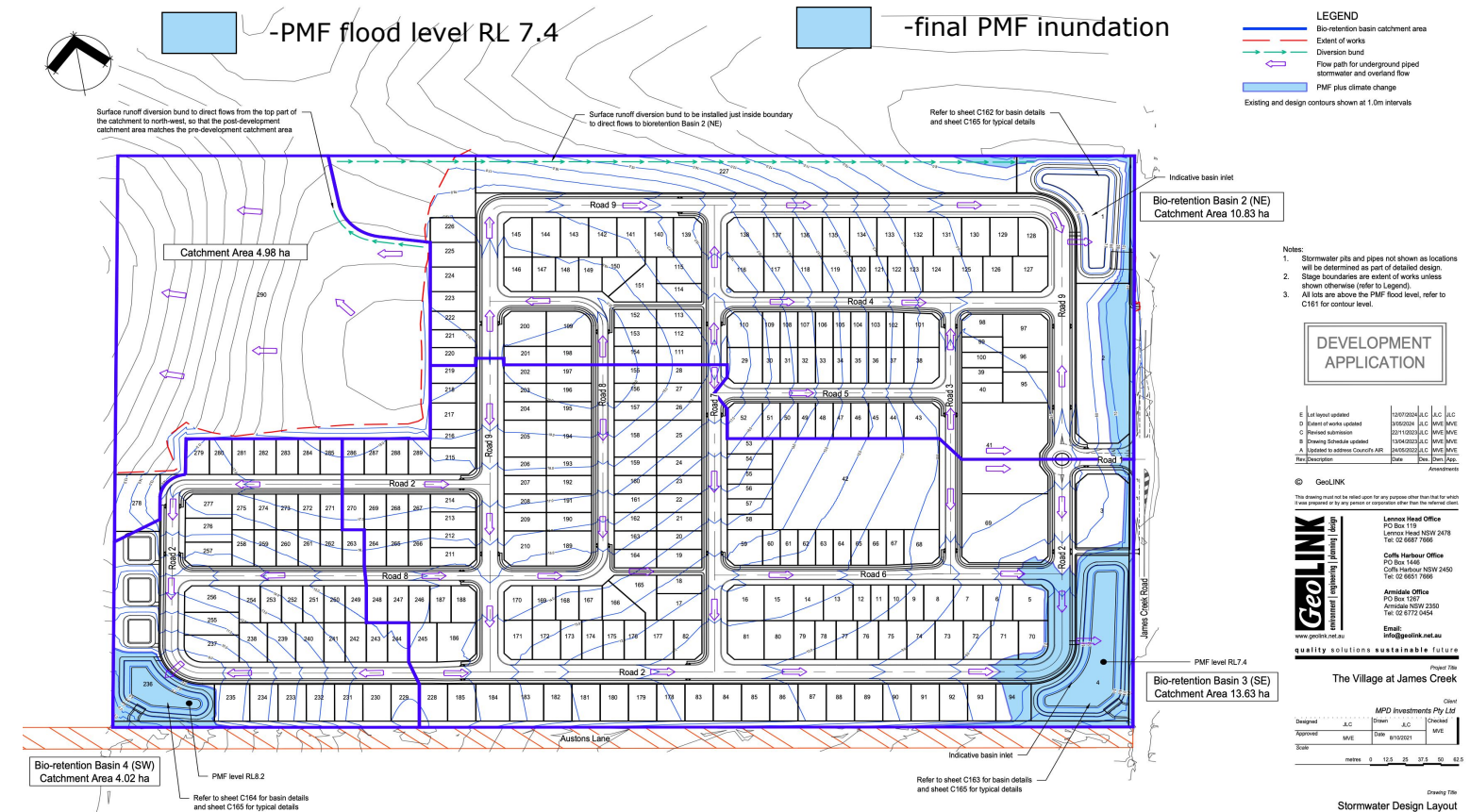


Plan- principle- site stormwater run off (existing shown below) and final (above) similar

-  -proposed Bio Retention basin locations
-  -direction of drainage as per Civil Engineering advice
- Significant increases in bio retention basins sizes
 - SW basin post development <90% of pre development peak discharge
 - there is no reliance on rainwater tanks for retention.
 - rainwater tanks contribute to the stormwater pollutant load reduction and also the longer term water balance by removing stormwater that is reused.
- Flooding (below)
 - site above PMF, except for localised area of site. these areas will be raised .5 to 1.0m to clear PMF levels.
 - Gardiners Road level> Q100
 - SES Approved FEP
- * -lots raised locally above PMF



Plan- site flooding-existing shown- extent of PNF inundation shown.



Plan- flooding- final extent of PMF inundation shown at competition of subdivision

Extract from civil engineering report version e

Extract from civil engineering report version e

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JOB NUMBER: 2853
AMENDMENT: Issue 24_07_15

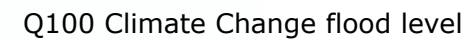
CLIENT: MPD
PROJECT: village @james Creek
TITLE: Response to Refusal reasons -Executive Summary
-illustration
-principle stormwater

DATE: July 24
SCALE: nts
ISSUE: v3
DRAWING: 3

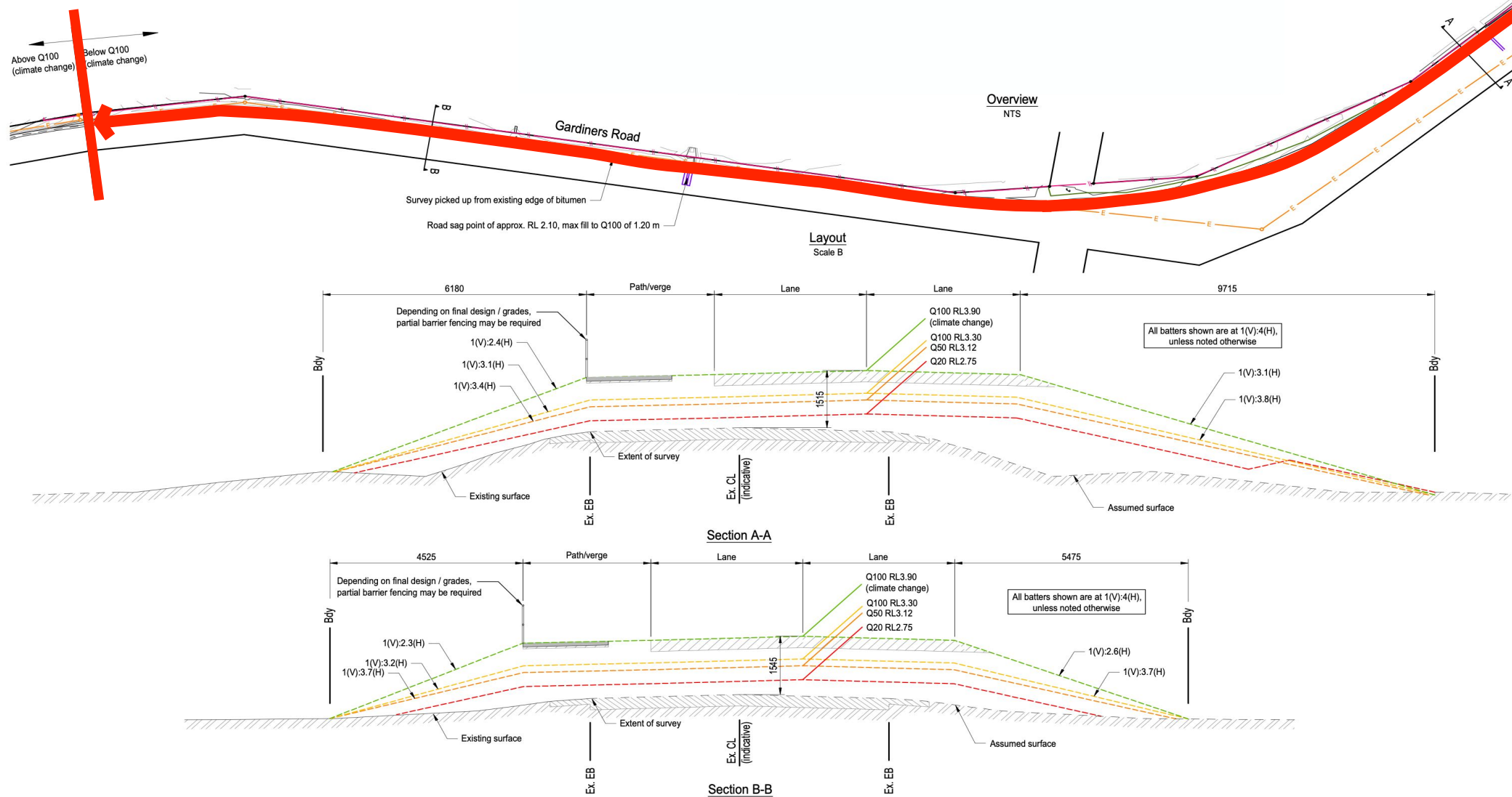
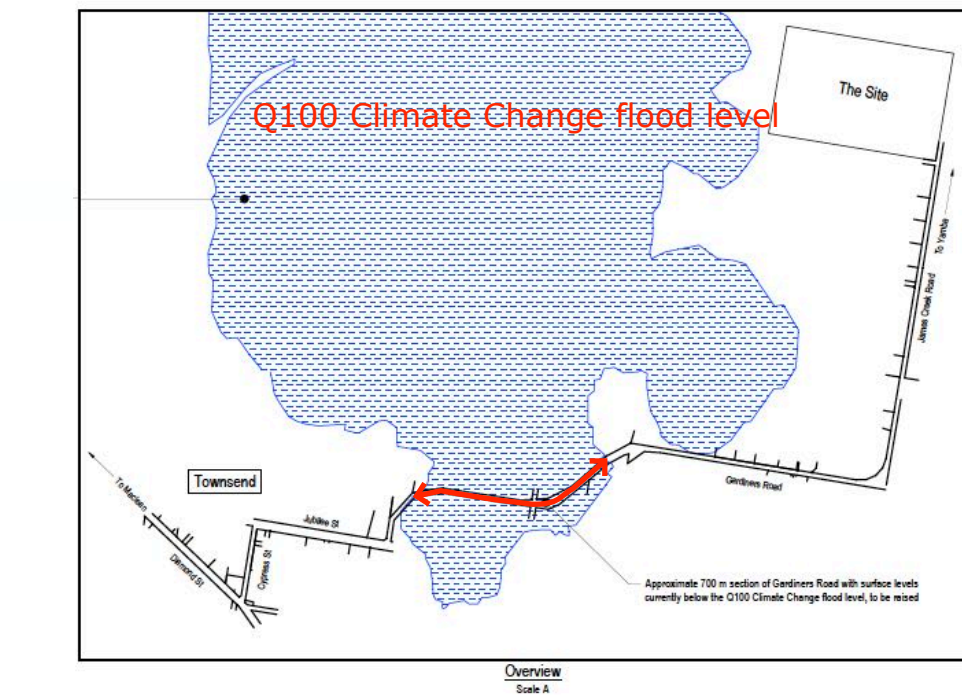
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Proposed concept for flood immunity for Gardners Road

- The road formation is to include provision for a future pathway (pedestrian/ Bikeway)



Approx 700m section of road highlighted (red)



E	Lot layout updated	4/07/2024	JLC	JLC	JLC
D	Extent of works updated	3/05/2024	JLC	MVE	MVE
C	Not included in this revision	22/11/2023	JLC	MVE	MVE
B	Not included in this revision	13/04/2023	JLC	MVE	MVE
A	Not included in this revision	24/05/2022	JLC	MVE	MVE
Rev.	Description	Date	Des.	Dwn.	App.

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quality solutions sustainable future

Project Title
The Village at James Creek

					Client		
					MPD Investments Pty Ltd		
Designed	JLC	Drawn	JLC	Checked	MVE		
Approved	MVE	Date	8/10/2021	MVE			
Scale							
A	metres	0	200	400	600	800	1000
B		0	10	20	30	40	50
C		0	0.5	1.0	1.5	2.0	2.5

Gardiners Road Concept Flood Immunity Overview and Layout

Drawing Number	Revision
3204/C132	E

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JOB NUMBER:	2853
AMENDMENT:	Issue 24 07 15

CLIENT:	MPD
PROJECT:	village @james Creek
TITLE:	Response to Refusal reasons -Executive Summary -illustration -principle -flood immunity Gardiners Road

DATE:	July 24
SCALE:	nts
ISSUE:	v3
DRAWING:	4

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2a Principle-urban design R1 and R3 zone Location- layout- relationship

R3 zone location

- Consolidated density to create village community
 - add child care (additional social infrastructure)
 - located medium density site
 - village square
 - diversity or residential types
 - sense of arrival and community

-Current R3 zone location retained




-To align with the Clarence Valley Council's policy principles for "*less expensive*" housing, with the village core features a diverse mix of housing options arranged in an orderly layout.

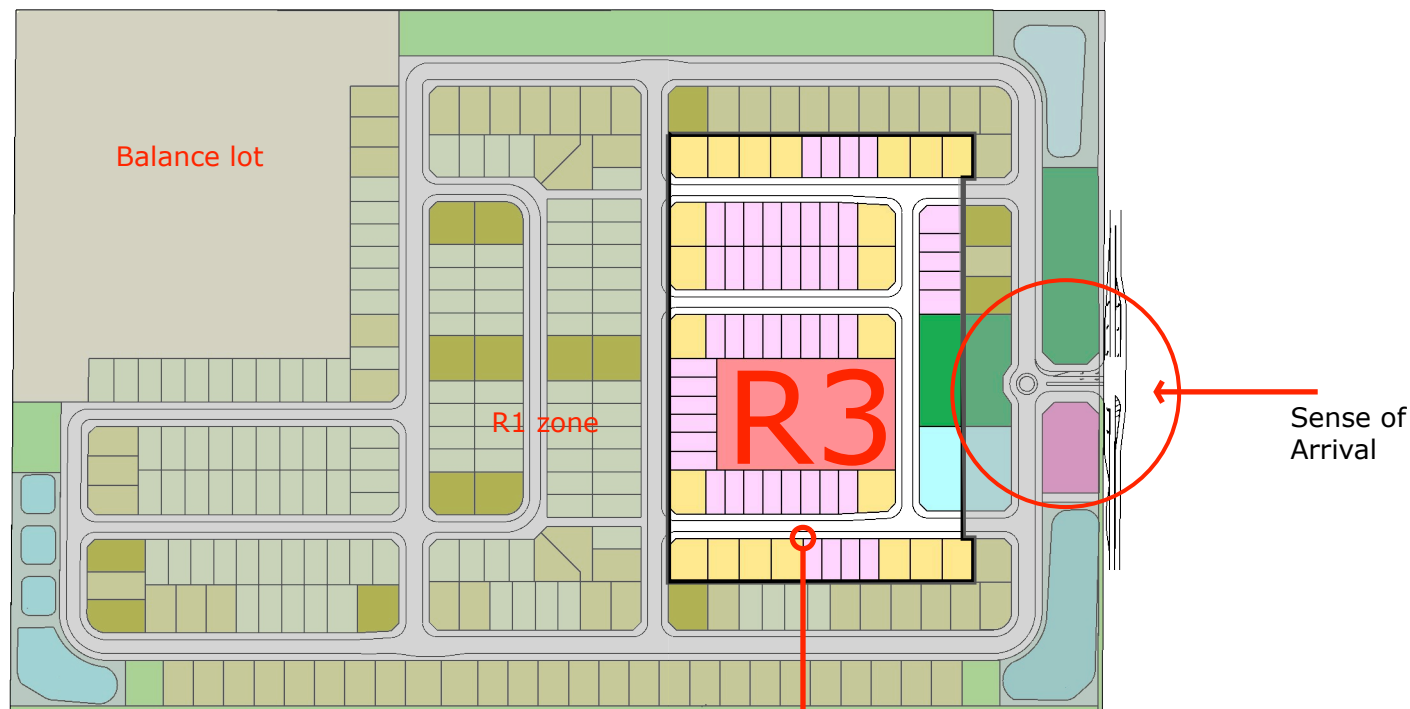
-Including *a diverse range* of small houses on smaller lots, multi-residential units, and dual occupancy all integrated to create a cohesive "safe" community *sympathetic to the character and amenity of proposal*.

-This diversity not only promotes environmental sustainability but also fosters social inclusion and economic vitality.-"*village @James Creek*"

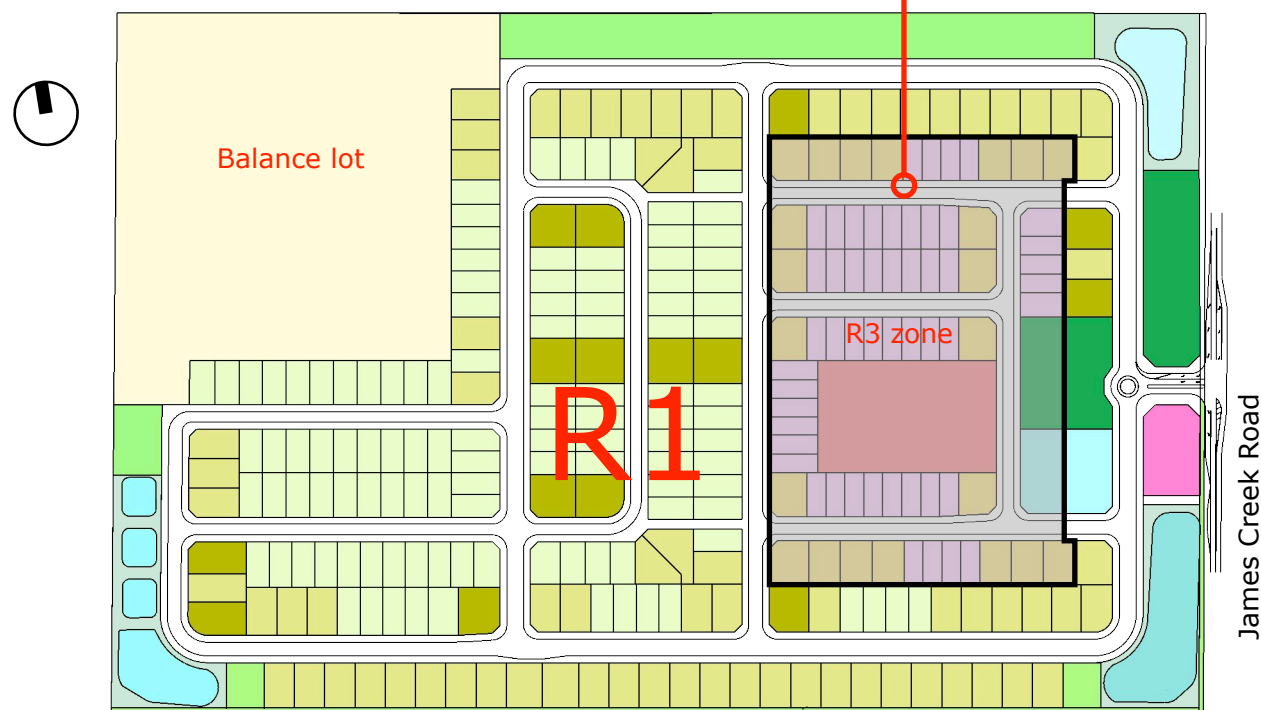
- | | | | |
|--|----------------------|--|-----------------|
|  | Medium density site |  | R3 zone area |
|  | Village green space |  | Commercial site |
|  | Landscape open space |  | Child care site |

R1 zone location

- | | |
|---|---|
|  | - larger wider lots to perimeter
-more rural in appearance |
|  | -balance lot excluded
-previously full site used |
|  | -residential R1 lots for houses and duplexes |



Plan- R3 zone shown



Plan- R1 zone shown and balance lot

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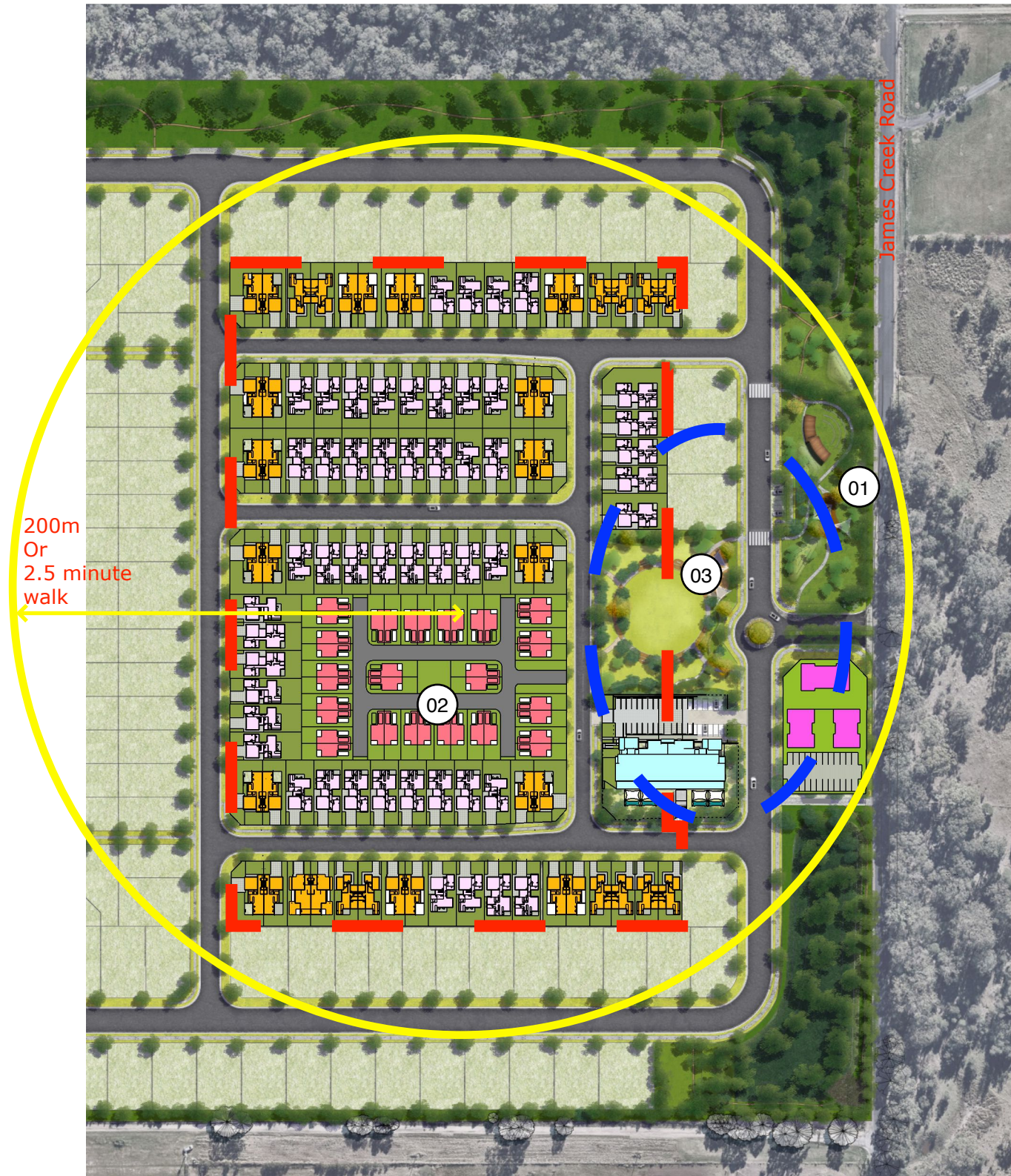
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JOB NUMBER: 2853
AMENDMENT: Issue 24_07_15

CLIENT: MPD
PROJECT: village @james Creek
TITLE: Response to Refusal reasons -Executive Summary
-illustration
-principle -urban design- R1 and R3 location

DATE: July 24
SCALE: nts
ISSUE: V3
DRAWING: 5

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1 Plan-part- village @ James Creek
Scale 1:2500 @ a3 page

2a Principle- urban design-village core

- Introducing the Village “core” principle to the design.
- Vibrant “village Green” surrounded by child care, commercial development and higher density

- Consolidated density to create village community
 - add child care (additional social infrastructure)
 - located medium density site
 - village square
 - diversity or residential types
 - sense of arrival and community
 - soft landscaping added to James Creek Road frontage

-Medium density housing is integrated housing design

-Current R3 zone location retained

- Key principle- community facilities
- R3 zone area- integrated housing
- Medium density residential- two level town houses
- Duplex site -single or two level>600m2
- Residential house site -single or two level >350m2 lot
- Commercial site-village shops and cafe
- Child care site
- Village green
- 01 Community pavilion and public car aprk
- 02 Medium density recreation space
- 03 Power and active play



Artist's impression street level view—village green- attribution Tremelling

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ISSUE: V3
DRAWING: 6



2a Principle- urban design-village core

- Introducing the Village “core” principle to the design.
- Vibrant “village Green” surrounded by child care, commercial development and higher density



Artist's impression-aerial view of village from James Creek Road - attribution Tremelling

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JOB NUMBER: 2853
AMENDMENT: Issue 24_07_15

CLIENT: MPD
PROJECT: village @james Creek
TITLE: Response to Refusal reasons -Executive Summary
-illustration
-principle—urban design- village core

DATE: July 24
SCALE: nts
ISSUE: V3
DRAWING: 7



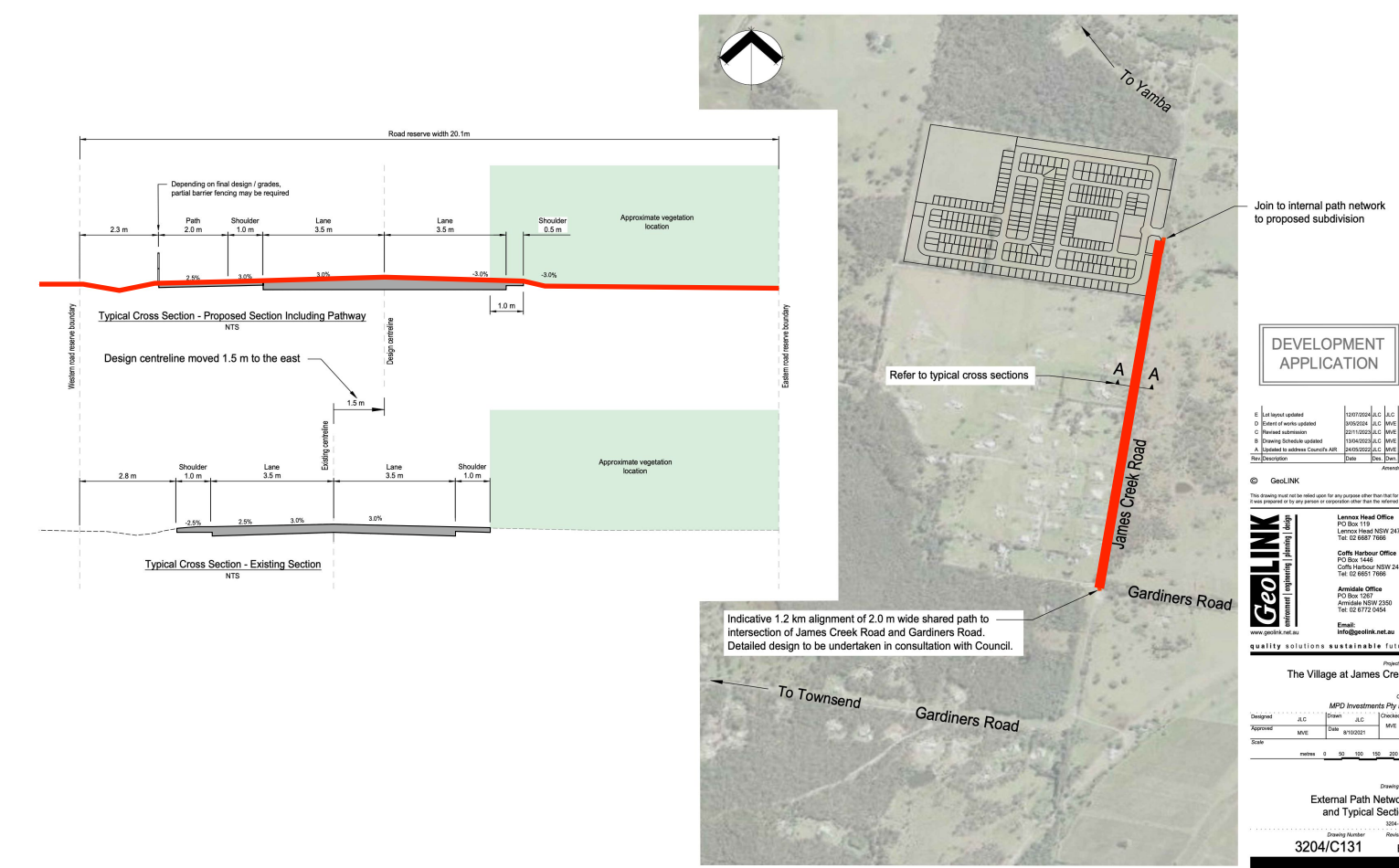
2a Principle- urban design-village core Social Infrastructure, integration into surrounding neighbourhood

 Pedestrian path

- The community will benefit from the commercial zoned land, a child care centre, highly developed parks incorporating community infrastructure, and an integrated housing area in the R3 zone.

Pedestrian Path Network

- Pedestrian path connection from Village Green along James Creek Road connecting to Gardiners road.



Plan- extent of external pedestrian path network



 Proposed internal Bus route (ultimate)

Proposed Internal Bus route

- We have reached out to TransportNSW and local bus providers. Their response is that bus routes will be reviewed when the development is occurring and will change if a suitable critical mass of users is achieved. Build it and they will come is the approach so no set timing can be obtained at this time.

Plan- extent of proposed internal bus route

Extract from civil engineering report version e

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-principle—urban design- social infrastructure

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DRAWING: 8

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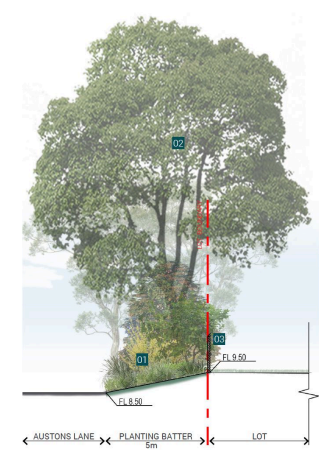
2a Principle- urban design-setbacks/edges

- Increased setback from boundaries
- Southern boundary incorporates visual linkages (30m wide) to assist the transition from rural-residential land south of Austin Lane
- Transition landscape buffer to all edges

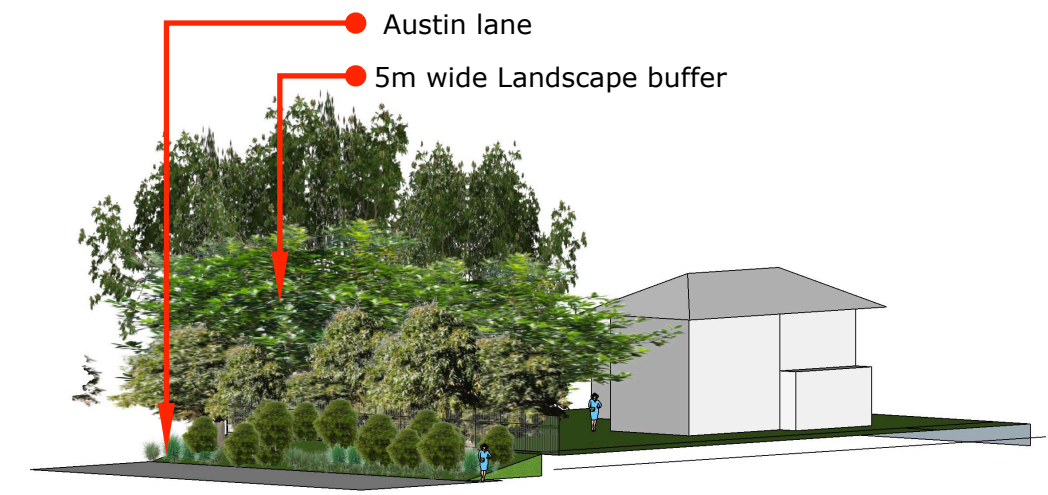
- landscape
 - consolidated
 - additional 800m2
 - landscape buffer on 4 sides
- increased setbacks to lots
 - 50m setback n,e+w bpondry
 - 5m setback to Auston Lane including dense vegetation screens

>50m

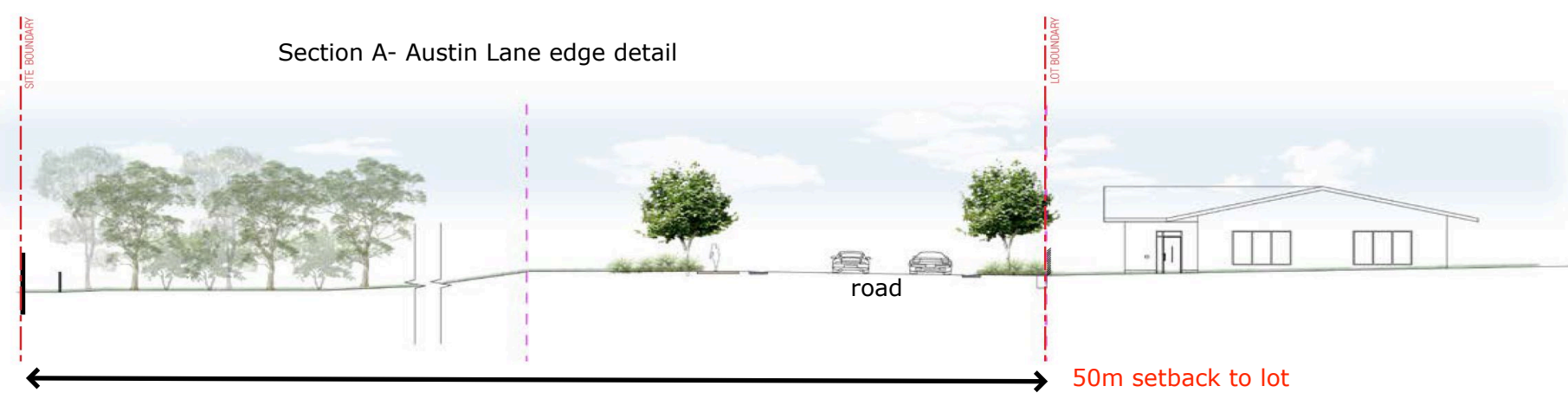
5m setback to Austin Lane
5m wide landscape buffer To Austin Lane



Section A- Austin Lane edge detail



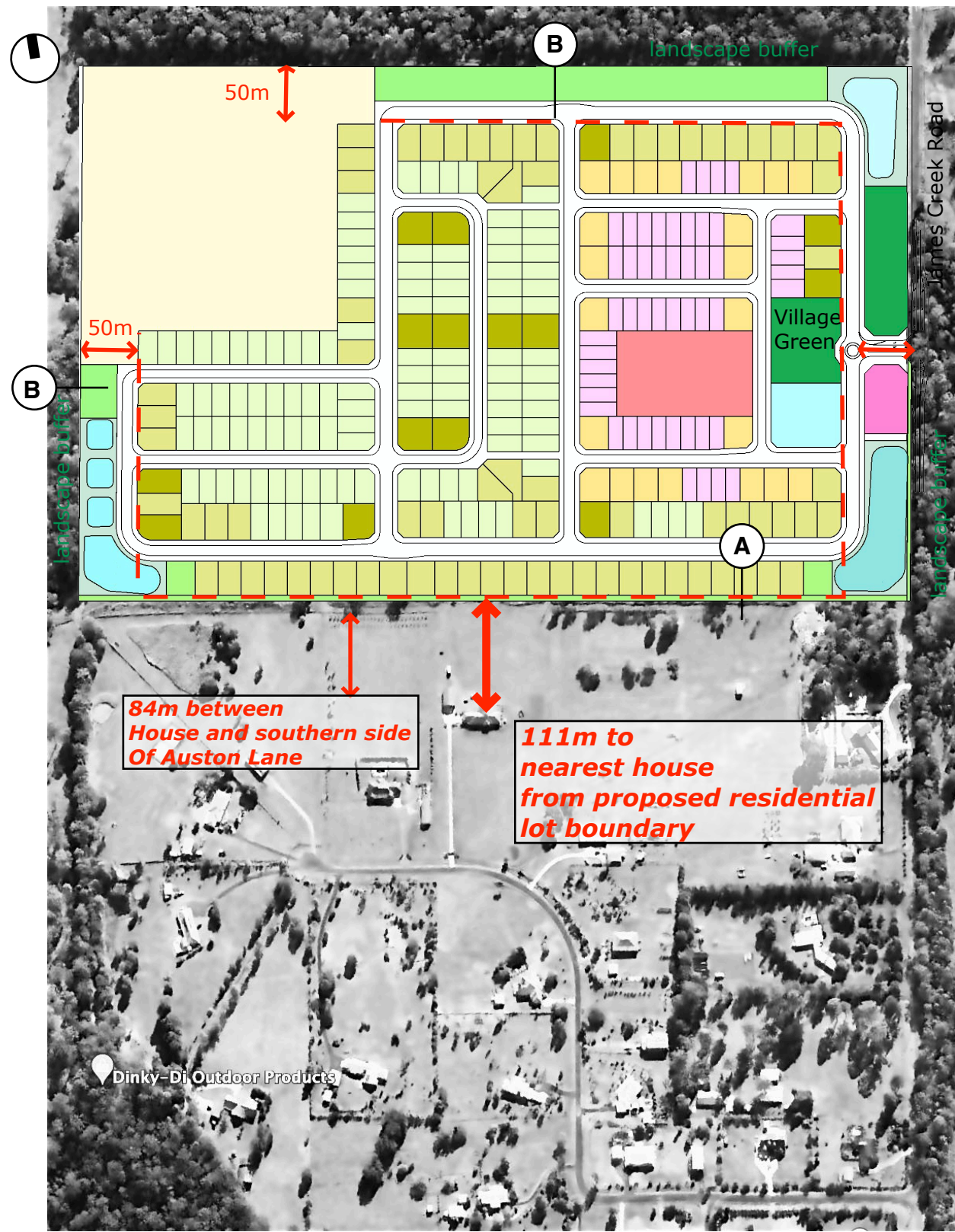
Axo View of 5m wide landscape setback to lot Austin Lane edge



Section B- typical 50m setback edge detail to western and northern boundary

Edge details

Extract from Landscape Architects report version e



Attribution- Google earth image

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			TITLE: Response to Refusal reasons -Executive Summary	ISSUE: V3	
			-illustration -principle-urban design- setbacks to boundaries	DRAWING: 9	

2a Principle- urban design- Auston Lane edge

- Landscape buffer provided to Auston Lane boundary
- Perspective study (illustrative view)- looking EAST along Auston Lane towards Jame Creek Road



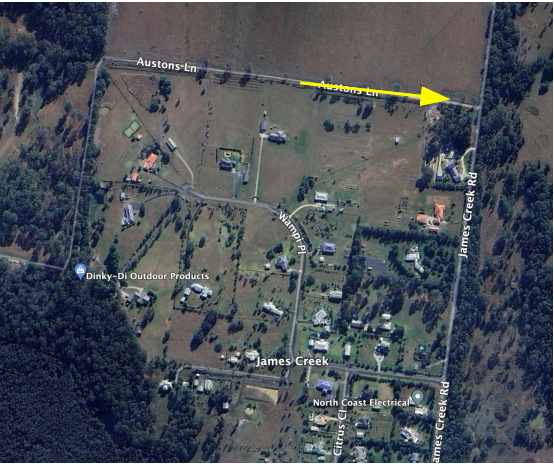
Before development



Vegetation buffer- precedent image example



After development- landscape buffer shown- >10m (up to 15m tall on maturity) high trees- ref landscape architect



Location and direction of view

Attribution- Google earth image

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			TITLE: Response to Refusal reasons -Executive Summary	ISSUE: V3	
			-illustration -principle- Austin Lane edge	DRAWING: 10	

2a Principle- urban design- Auston Lane edge

- Landscape buffer provided to Auston Lane boundary
- Perspective study (illustrative view)- looking NORTH from Wampi Place back to site



Before development



After development- landscape buffer shown- >10m (up to 15m tall on maturity) high trees- ref landscape architect



Vegetation buffer- precedent image example



Location and direction of view

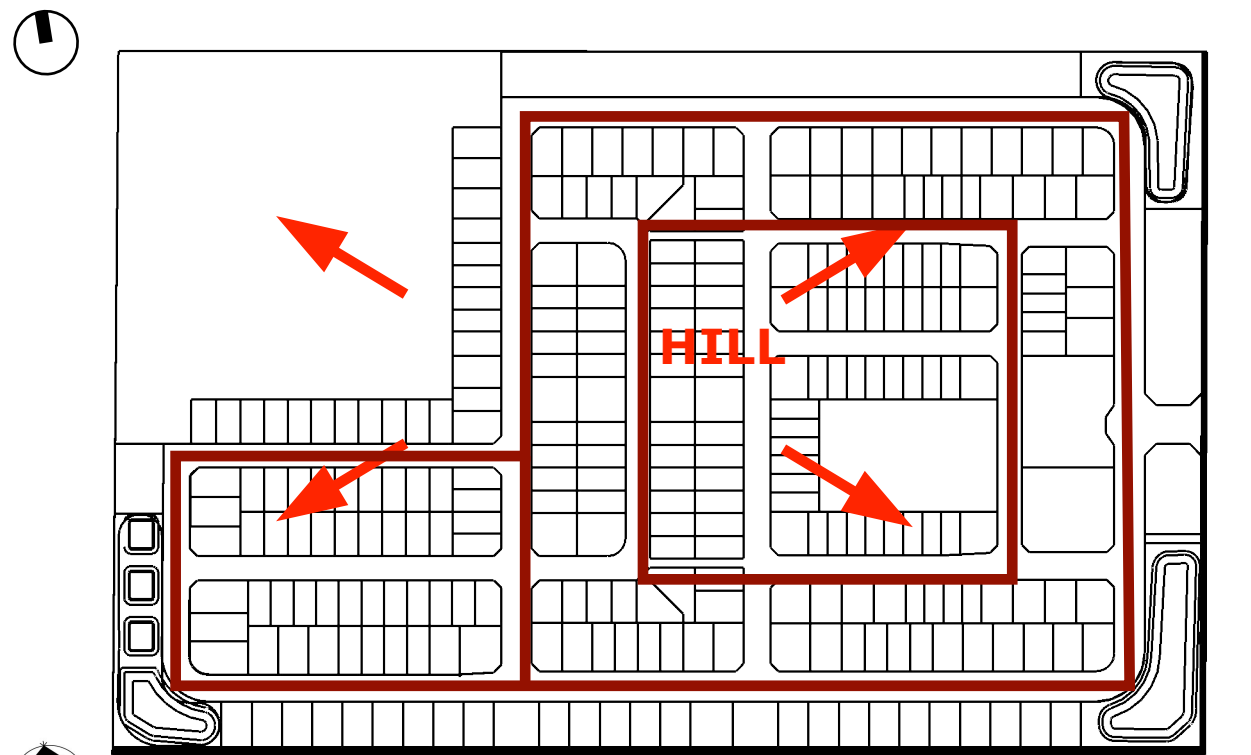
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				DRAWING: 11	

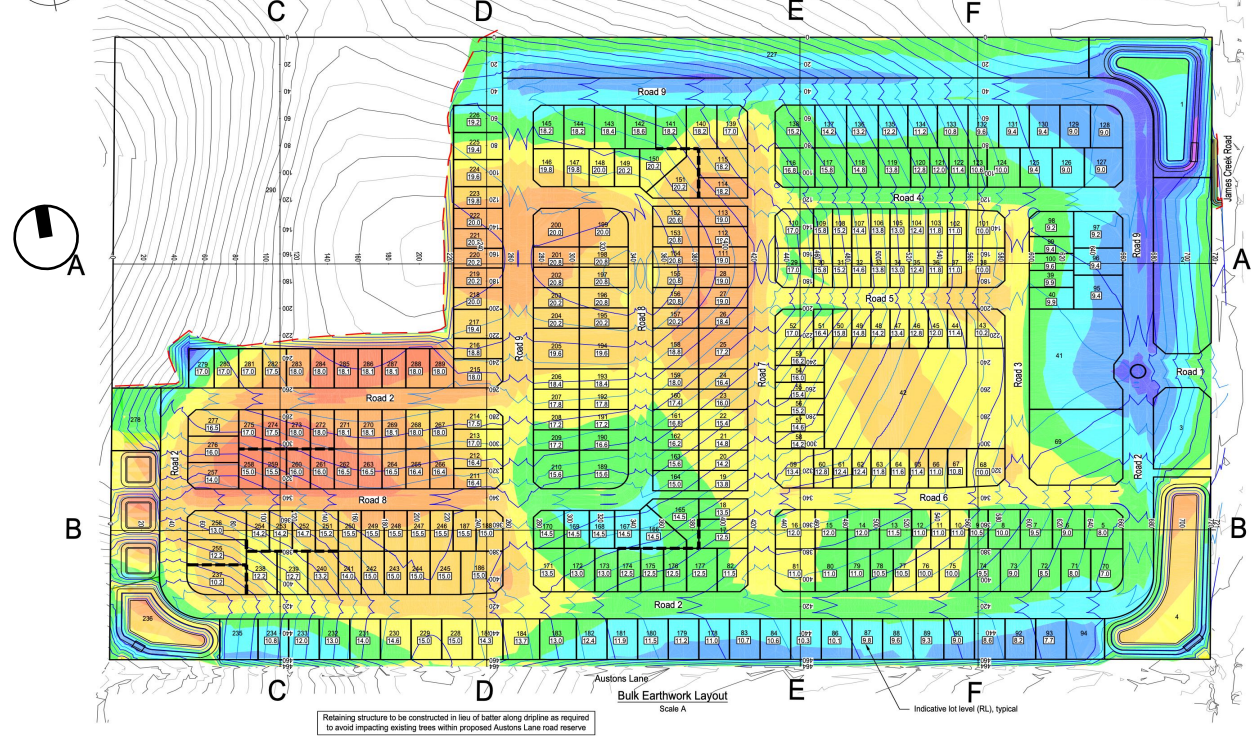
2b Principle-Topographical layout

- Careful integration of the natural slope constraint into the layout design
 - strategically located retaining walls
 - respect the contours and land form
 - lots drain to street
- Reconsidered civil engineering design
 - reduced extent and height of retaining walls
 - better relationship to existing topography
 - minimum localised in rear of lots (not seen)

The site is topographically suited to residential development. There is a high point in the middle creating four stormwater catchments. The road layout uses as its primary structure following the contours of the site and with the site works proposed the land will continue to be gently undulating and retaining the basic existing topography.

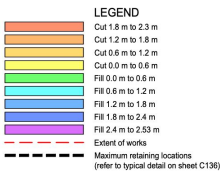


Plan- topographical layout principles- following land form



Bulk Earthworks Parameters						
Parameter	Base Surface	Comparison Surface	Total Area (m²)	Total Cut Volume (m³)	Total Fill Volume (m³)	Balance (m³)
Cut - Fill	Existing surface	Design surface	262,002	113,075	94,385	18690 (fill)

Notes:
1. Figures are approximate, design will be refined at detailed design stage to include more of a balanced earthworks.
2. Earthworks do not include material to be excavated for the pavement area.



Existing and design contours shown at 0.5 m intervals

Note:
1. Bulk earthworks shown is from the existing surface to the design surface.
2. Lot grading and retaining to be finalised with detailed design. Maximum height of walls will be 2.0 m.
3. Stage boundaries are extent of works unless shown otherwise (refer to Legend).

DEVELOPMENT APPLICATION

1. Last layout updated	10/07/2018	A.C.	A.C.
2. Extent of works updated	10/07/2018	A.C.	A.C.
3. Revised estimates	10/07/2018	A.C.	A.C.
4. Drawing Schedule updated	10/07/2018	A.C.	A.C.
5. Submitted to address Council's A/R	10/07/2018	A.C.	A.C.
6. Approved	10/07/2018	A.C.	A.C.

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quality solutions sustainable future

The Village at James Creek

Designed	Drawn	Checked	Client
Approved	DATE	DATE	DATE

Scale: 1:1000

Bulk Earthworks Layout

3204/C135

- slope direction
- road layout following contours

Extract from civil engineering report version e

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