

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-7 - WINGECARRIBEE - 20/0227 - 141 YARRAWA ROAD MOSS VALE 2577
DA Number	DA 20/0227
LGA	Wingecarribee Shire Council
Proposed Development	Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue business lot, and 1 residue lot, and proposed concept subdivision including approximately 1200 residential lots
Street Address	Lot 3 DP 706194 being "Coomungie" 141 Yarrawa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale
Applicant/Owner	Applicant: Prime Moss Vale Pty Ltd c/o Urbis Owner: Prime Moss Vale Pty Ltd
Date of DA lodgement	27 August 2019
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 7 • 7
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Proposed development has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<p>environmental planning instrument means an environmental planning instrument (including a SEPP or LEP but not including a DCP) made, or taken to have been made, under Part 3 and in force.</p> <ul style="list-style-type: none"> • List all of the relevant environmental planning instruments <ul style="list-style-type: none"> - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Koala Habitat Protection) 2021 - Wingecarribee Local Environmental Plan 2010 • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority There is no applicable proposed instrument that has been the subject of public consultation. • List any relevant development control plan Moss Vale Township Development Control Plan • List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

	<p>State VPA TfNSW</p> <ul style="list-style-type: none"> • List any relevant regulations e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Environmental Planning and Assessment Act Regulation 2000 applies to the development, but no particular clauses are relevant. 																							
<p>List all documents submitted with this report for the Panel's consideration</p>	<table border="1"> <thead> <tr> <th data-bbox="523 434 751 533">Plan Title / Supporting Document</th> <th data-bbox="751 434 979 533">Reference / Version</th> <th data-bbox="979 434 1187 533">Prepared By</th> <th data-bbox="1187 434 1394 533">Dated</th> </tr> </thead> <tbody> <tr> <td data-bbox="523 533 751 636">Overall Site Plan Stage 1</td> <td data-bbox="751 533 979 636">1429 DA02 Sheet 1 Rev H</td> <td data-bbox="979 533 1187 636">Civil Development Solutions</td> <td data-bbox="1187 533 1394 636">6/10/20</td> </tr> <tr> <td data-bbox="523 636 751 775">Plan of Proposed Subdivision Stage 1</td> <td data-bbox="751 636 979 775">1429 DA02 Sheet 2 Rev H</td> <td data-bbox="979 636 1187 775">Civil Development Solutions</td> <td data-bbox="1187 636 1394 775">6/10/20</td> </tr> <tr> <td data-bbox="523 775 751 1115">Figure 1 – Proposed site wide master plan (showing approximately 1200 lot concept component of the subdivision)</td> <td data-bbox="751 775 979 1115">Figure 1 within Master Plan Summary Report dated 11 July 2019 Revision B.</td> <td data-bbox="979 775 1187 1115">Arterra Design</td> <td data-bbox="1187 775 1394 1115">July 2019</td> </tr> <tr> <td data-bbox="523 1115 751 1180">Proposed Staging Plan</td> <td data-bbox="751 1115 979 1180">Dwg S-08 Rev G</td> <td data-bbox="979 1115 1187 1180">Arterra Design</td> <td data-bbox="1187 1115 1394 1180">2/3/21</td> </tr> </tbody> </table>				Plan Title / Supporting Document	Reference / Version	Prepared By	Dated	Overall Site Plan Stage 1	1429 DA02 Sheet 1 Rev H	Civil Development Solutions	6/10/20	Plan of Proposed Subdivision Stage 1	1429 DA02 Sheet 2 Rev H	Civil Development Solutions	6/10/20	Figure 1 – Proposed site wide master plan (showing approximately 1200 lot concept component of the subdivision)	Figure 1 within Master Plan Summary Report dated 11 July 2019 Revision B.	Arterra Design	July 2019	Proposed Staging Plan	Dwg S-08 Rev G	Arterra Design	2/3/21
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	Road and Drainage Design Plans	Project 19-34 Plans 000 Rev D, Plans 001 Rev D, Plans 002 Rev D, Plans 003 Rev D, Plans 100 Rev D, Plans 101 Rev D, Plans 200 Rev D, Plans 201 Rev D, Plans 202 Rev D, Plans 203 Rev D, Plans 204 Rev D, Plans 205 Rev D, Plans 206 Rev D, Plans 300 Rev D, Plans 301 Rev D, Plans 302 Rev D, Plans 303 Rev D, Plans 304 Rev D, Plans 305 Rev D, Plans 306 Rev D, Plans 307 Rev D, Plans 308 Rev D, Plans 309 Rev D, Plans 400 Rev D, Plans 401 Rev D, Plans 402 Rev D, Plans 403 Rev	Orion Consulting	30/9/2020
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		D, Plans 404 Rev D, Plans 405 Rev D, Plans 406 Rev D, Plans 500 Rev D, Plans 501 Rev D, Plans 502 Rev D, Plans 503 Rev D, Plans 504 Rev D, Plans 505 Rev D, Plans 506 Rev D, Plans 507 Rev D, Plans 508 Rev D, Plans 509 Rev D, Plans 510 Rev D, Plans 511 Rev D, Plans 512 Rev D, Plans 513 Rev D, Plans 514 Rev D, Plans 600 Rev D, Plans 601 Rev D, Plans 602 Rev D, Plans 603 Rev D, Plans 604 Rev D, Plans 605 Rev D, Plans 606 Rev D.		
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	Landscape Concept Plans	L-SD-01 Rev C, L-SD-02 Rev C, L-SD-03 Rev C, L-SD-04 Rev C, L-SD-05 Rev C, L-SD-06 Rev C, L-SD-07 Rev C, L-SD-08 Rev C, L-SD-09 Rev C, L-SD-10 Rev C, L-SD-11 Rev C, L-SD-12 Rev C, L-SD-13 Rev C, L-SD-14 Rev C, L-SD-15 Rev C, L-SD-16 Rev C, L-SD-17 Rev C, L-SD-18 Rev C.	Arterra Design Pty Ltd	6/10/20
	Statement of Environmental Effects (including Clause 4.6 variation request)	SA7462 SEE 23.7.19 FINAL	Urbis	23 July 2019
	Detailed Environmental Site Assessment	Ref: 201577	Harvest Scientific Services	13 October 2020
	Visual Impact Assessment	2200467	Ethos Urban	19 August 2020
	Geotechnical Investigation	40494.03	Douglas Partners	April 2020
	Historical Assessment	Project No: 28907	Aoyuan International	10 December 2019

	and Statement of Heritage Impact			
	Bushfire Risk Assessment Report	180807	Australian Bushfire Solutions	12 July 2019
	Flora and Fauna Assessment	2018-112	Ecoplanning	8 October 2018
	Traffic Impact Assessment Chelsea Gardens, Stage 1	8020024 Version 2	Cardno	27 April 2021
	Traffic Study	Rev 1 Ref 8201822101	Cardno	19 July 2019
Clause 4.6 requests	The proposed 21,303 square metre reserve is located in accordance with RE1 Public Recreation Wingecaribee Local Environmental Plan 2010 zoning. Compliance with a 40 hectare minimum lot size cannot be achieved, and is considered to be a development standard which is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's proposed variation to the 40 hectare standard is considered to be in the public interest and consistent with the objectives of the RE1 Public Recreation zone, and is therefore recommended for support.			
Summary of key submissions	<p>The proposed subdivision development was publicly advertised and neighbour notified to 106 properties for four weeks in accordance with Council's Notification of Development Proposals Policy. Seven submissions have been received. The issues raised from all seven submissions include the following concerns:</p> <ul style="list-style-type: none"> • Character / Visual impact • Flora and Fauna impacts • Traffic impacts • Light spill impacts • Heat generation impacts • Rural / Residential interface impacts • Public consultation concerns • Infrastructure / employment impacts • Drainage concerns • Name of subdivision concerns • Pedestrian / cycle link to Moss Vale concerns • Urban Design concerns 			
Report prepared by	Peter Malloy Senior Town Planner Wingecaribee Shire Council			
Report date	21 July 2021			

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No

Conditions

Have draft conditions been provided to the applicant for comment?
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

EXECUTIVE SUMMARY

Development Application 20/0227 seeks Integrated and Staged Concept approval for two components being:

- Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot and
- Proposed concept subdivision including approximately 1200 residential lots

at Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale.

While the site is currently pasture land with numerous dams and vegetated windbreaks, and contains two existing dwelling houses with ancillary sheds and outbuildings, the site is largely zoned R2 Low Density Residential, but also contains R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre zoned land under the *Wingecarribee Local Environmental Plan 2010*. The proposed development is permissible in these zones under Wingecarribee Local Environmental Plan 2010, subject to development consent. Proposed Lot 1181 which is 21,303 square metres in area within the RE1 Public Recreation zone fronting Yarrowa Road, which is subject to a 40 hectare minimum lot size, is subject to a Clause 4.6 variation request, which is recommended for support.

The proposed development is permissible within the R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre zones under WLEP 2010, and satisfies SEPP (Sydney Drinking Water Catchment) requirements. It is accepted that the site is suitable for the proposed use, satisfying the requirements of Clause 7 State Environmental Planning Policy No 55 - Remediation of Land. The proposal satisfies the provisions of SEPP (Koala Habitat Protection) 2021.

The proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot complies with the provisions contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan.

The proposed concept subdivision including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots is generally in accordance with the provisions contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan, with the exception of concerns regarding the visual impact of the concept subdivision in the higher portions of the site, and concerns regarding the concept subdivision's rural edge interface.

Moss Vale Sewerage Treatment Plant does not currently have the capacity to service the proposed development. Deferred Development Consent 21/0772 has been issued for the construction and operation of an interim Wastewater Treatment System to service Stage 1 Subdivision under DA 20/0227 at Lot 12 DP 866036, 32 Lovelle Street and Lot 3 DP 706194, 141 Yarrowa Road, Moss Vale. Deferred commencement condition 1 required the approval of DA 20/0227 to occur prior to general conditions of consent being activated.

Transport for NSW / Roads and Maritime Services, Water NSW, Natural Resources Access Regulator, Heritage NSW / Department of Planning Industry & Environment, Rural Fire Service have provided their respective comments, conditions, concurrence or general terms of approval.

Council's Development Engineer, Traffic and Transport Engineer, Water and Sewer Development Engineer, Drainage Engineer, Flora and Fauna Consultant, Parks and Property, Heritage Advisor, and Environmental Health Officer have provided their respective comments and conditions.

The proposed subdivision development was publicly advertised and neighbour notified to 106 properties for four weeks in accordance with Council's Notification of Development Proposals Policy. Seven submissions have been received.

The proposed Integrated and Staged Concept application for two components being Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot, and the concept residential subdivision of approximately 1200 lots in the remainder of the site (outside the Stage 1 subdivision - 177 lots), at Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale, is considered satisfactory in terms of s.4.15 EPA Act 1979, however particular care needs to be given to two components of the concept residential subdivision component being the subdivision of the higher portions of the site in the north and north east portions of the site, and the residential design rural edge interface along the eastern boundary of the property. This can be addressed by a condition of consent. The concept residential subdivision of approximately 1200 lots in the remainder of the site (outside the Stage 1 subdivision - 177 lots), is conceptual only - detailed subdivision proposals are to be the subject of a subsequent development application or applications, subject to the attached conditions of consent.

It is recommended that the development application be approved, subject to the attached conditions of consent.

Summary of relevant clauses in all applicable environmental planning instruments

- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 – Water NSW concurrence received subject to conditions, and form part of draft conditions;
- State Environmental Planning Policy No. 55 – Remediation of Land – The site satisfies the requirements of Clause 7;
- State Environmental Planning Policy (State and Regional Development) 2011 – The proposed development has a capital investment value of more than \$30 million;
- State Environmental Planning Policy (Koala Habitat Protection) 2021 - The proposed development is considered acceptable in terms of SEPP (Koala Habitat Protection) 2021;
- Wingecarribee Local Environmental Plan 2010
 - Clause 4.6 variation supported.
 - Clause 7.3 Earthworks – Majority of proposed fill within Stage 1 is between 0.5 metre to 1.0 metre depth, with a smaller area of 2.5 metres fill in the north western portion of the site adjoining Harper Collins. Majority of cut within Stage 1 is 0.5 metre to 1 metre, with an area of 2.5

metres cut in a portion of the site fronting Yarrawa Road, and to create ponds within the proposed open space area adjoining Moss Vale Golf Course. Within Stage 1, the volume of proposed cut is 87,600 cubic metres, the volume of proposed fill is 115,400 cubic metres, and the volume of proposed imported fill is 27,800 cubic metres. Proposed cut and fill is considered acceptable, subject to conditions.

- Clause 7.5 riparian land requirements, being land within 10 metres of top of bank of Category 3 stream, to the satisfaction of Council's Parks and Properties, and the Natural Resources Access Regulator, subject to conditions.
 - Clause 6.1(2) requires that prior to issue of development consent, that the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of public infrastructure. As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021;
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- Rural Fires Act 1997 - s.100B Authority and conditions have been issued by the Rural Fire Service, and form part of draft conditions;
 - Heritage Act 1977 – s.58 approval. General Terms of Approval are not required for Stage 1 as no recorded Aboriginal objects occur within this area. Future development applications for stages subsequent to Stage 1 that impact Aboriginal objects in the Concept Plan area must be submitted to Heritage NSW / Department of Planning Industry & Environment with a request for General Terms of Approval, as required by s4.46 of the Environmental Planning & Assessment Act 1979. This is addressed by draft conditions of consent;
 - Water Management Act 2000 – s.91 General Terms of Approval for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 have been issued by the Natural Resources Access Regulator, and are included within draft conditions of consent;
 - Biodiversity Conservation Act 2016 - Approximately 0.03 ha of Southern Highlands Shale Woodland CEEC will be impacted by this proposal. Flora and Fauna Assessment report addresses current legislative requirements, and draft conditions of consent included;
 - Environment Protection and Biodiversity Conservation Act 1999 - No matters of National Environmental Significance (MNES) will be impacted by the proposed subdivision;
 - Roads Act 1993 - Proposed new roundabout intersection to Yarrawa Road to access proposed Stage 1 subdivision triggers a.138 approval, which is addressed by draft condition of consent.

Summary of recommendations in relation to relevant s4.15 matters

- Clause 4.6 variation supported.
- Transport for NSW / Roads and Maritime Services, Water NSW, Natural Resources Access Regulator, Heritage NSW / Department of Planning Industry & Environment, and Rural Fire Service have provided their

respective comments, conditions, concurrence or general terms of approval, which are included within draft conditions of consent.

- Council's Development Engineer, Traffic and Transport Engineer, Water and Sewer Development Engineer, Drainage Engineer, Flora and Fauna Consultant, Parks and Property, Heritage Advisor, and Environmental Health Officer have provided their respective comments and conditions, which are included within draft conditions of consent.
- Following s.4.15 assessment of the Development Application, particular conditions of consent are recommended including conditions addressing visual impact of the concept subdivision in the higher portions of the site, the concept subdivision's rural edge interface, and the landscaping treatment of the 250 metre length of retaining wall on the north western boundary adjoining Lot 1 DP 842623, and conditions addressing traffic, roadworks, stormwater, geotechnical works, easements, lighting and services and water and sewer issues.

PURPOSE

Development Application 20/0227 seeks Integrated and Staged Concept approval for two components being:

- Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot
- Proposed concept subdivision including approximately 1200 residential lots

at Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale.

The site is largely zoned R2 Low Density Residential, but also contains R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre zoned land under the *Wingecarribee Local Environmental Plan 2010*. The proposed development is permissible in these zones under Wingecarribee Local Environmental Plan 2010, subject to development consent.

As this development has a value exceeding \$30 million, it is regionally significant development in accordance with Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, therefore the application is presented to the Southern Regional Planning Panel for determination.

SITE DESCRIPTION

The site is known as Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale. The site is 124 hectares in area, bordered by Yarrowa Road to the south and south west, Hill Road to the north, and Lovelle Street to the north west. The western portion of the site adjoins Moss Vale Golf Course. The site location is shown in Figures 1 and 2.

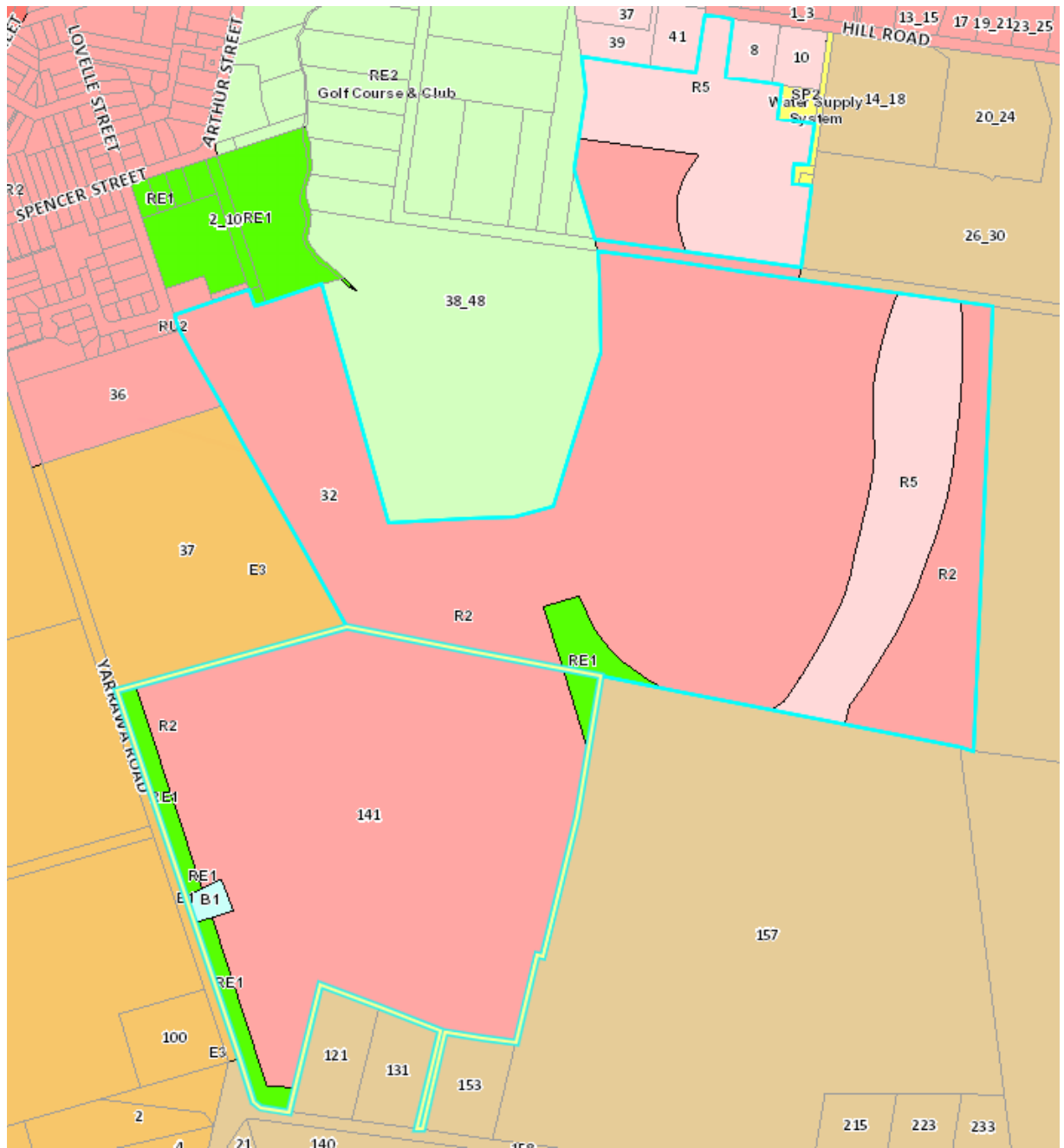


Figure 1: Location of Site



Figure 2: Aerial photograph of Site Location

The northern and north eastern portions of the site is steep land rising to a maximum height of 752 metres AHD. The majority of the site is undulating paddock area. The north western portion of the site is the lowest, containing tributaries to Whites Creek at a height of 686 metres AHD. Therefore there is a maximum 66 metre difference in height levels across the site. Figure 3 shows location of three Category 3 / Riparian Land Streams in the site.

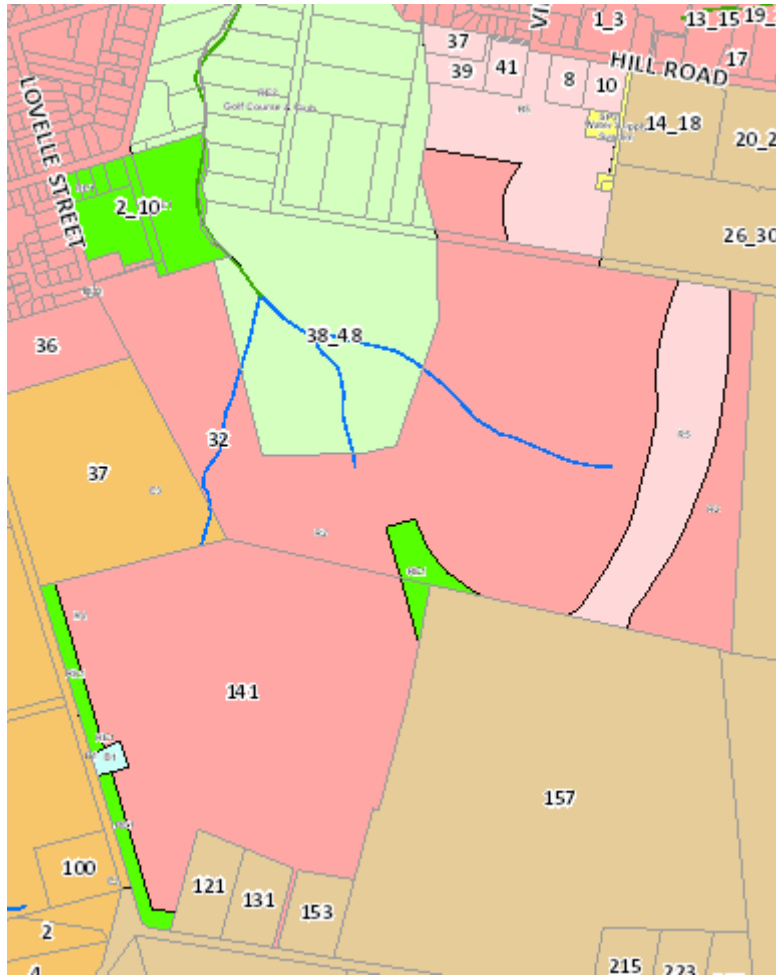


Figure 3: Three Category 3 / Riparian Land Streams marked blue in the site

The site is currently pasture land with numerous dams and vegetated windbreaks, and contains two existing dwelling houses with ancillary sheds and outbuildings.



Southern view from Lovelle Street, across rear of Harbison and Harper Collins sites in foreground to development site.



North eastern view from Lovelle St portion of site, looking across Moss Vale Golf Course to hill on eastern boundary



Eastern view across site at the proposed location of new intersection / roundabout of Stage 1 subdivision to Yarrowa Road



Eastern view over the adjoining Harper Collins site towards the side boundary of proposed Stage 1 subdivision



Northern view of site from Mt Broughton Road



North western view across site from dwelling at 141 Yarrowa Road looking towards Harper Collins site and Moss Vale Golf Course



Northern view across site from dwelling at 141 Yarrowa Road looking towards Moss Vale Golf Course and Hill Road



Southern view across site from Hill Road



South eastern view from Hill Road portion of site looking to eastern boundary hill



Southern view from Hill Road portion of site with Moss Vale Golf course to the west (right)

HISTORY

The site was rezoned by Amendment No. 43 to the WLEP 2010 on 27 October 2017 to predominantly R2 - Low Density Residential, a portion of R5 - Large Lot Residential, a small area of B1 - Neighbourhood Centre, and RE1 - Public Recreation zones, and introduced minimum lot size controls on site, including 450 square metre minimum lot size concentrated in the centre of the site, 2000 square metre minimum lot size situated on the higher portions of the site, 600 square metre minimum lot size across the majority of the site, and a 40 hectare minimum lot size in the RE1 - Public Recreation portion of the site fronting Yarrowa Road.

Moss Vale Township Development Control Plan was amended October 2019 with the introduction of Section 22: Chelsea Gardens Coomungie Precinct.

SUBJECT DEVELOPMENT PROPOSAL

Development Application 20/0227 was originally submitted seeking Integrated and Staged Concept approval for two components being:

- Proposed Stage 1 subdivision (188 lots) being 182 residential lots, 2 open space / drainage lots, and 4 residue lots
- Proposed concept subdivision including approximately 1200 residential lots

at Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale.

During the assessment process of the application, (including that the originally submitted plan showed 22 lots located in the minimum 600 square lot size area which did not comply with the minimum 600 square metre lot size), the proposal has been marginally reduced to:

- Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot
- Proposed concept subdivision including approximately 1200 residential lots

at Lot 3 DP 706194 being "Coomungie" 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale.

Proposed Stage 1 subdivision

Proposed Stage 1 subdivision (177 lots) comprises 173 residential lots ranging in size from 450 square metres to 1404 square metres, 1 residue business lot of 1809 square metres, a 21,303 square metre open space lot fronting Yarrowa Road, a 37040 square metre open space / drainage lot in the western portion of the site adjoining Moss Vale Golf Course, and 1 residual lot of 883,697 square metres covering the remainder of the site. Proposed Stage 1 subdivision covers an area of approximately 24.3 hectares and includes:

- Three sub-stages 1A, 1B and 1C to facilitate staged construction and subdivision certificate.

- Landscaping works including a new Open Space buffer zone along Yarrawa Road frontage (to be dedicated to Council upon completion of Stage 1) and street trees.
- Construction of roads, kerbs, gutters and paths (to be dedicated to Council)
- Construction and installation of essential services and ancillary infrastructure.
- Stormwater and drainage infrastructure, including detention basins and swales, and restoration of Whites Creek riparian corridor that traverses a portion of Stage 1 of the site, including pools and riffles within a new park reserve area.
- Earthworks across the Stage 1 site. The majority of proposed fill within Stage 1 is between 0.5 metre to 1.0 metre depth, with a smaller area of 2.5 metres fill in the north western portion of the site adjoining Harper Collins. Majority of cut within Stage 1 is 0.5 metre to 1 metre, with an area of 2.5 metres cut in a portion of the site fronting Yarrawa Road, and to create ponds within the proposed open space area adjoining Moss Vale Golf Course. Within Stage 1, the volume of proposed cut is 87,600 cubic metres, the volume of proposed fill is 115,400 cubic metres, and the volume of proposed imported fill is 27,800 cubic metres. Proposed cut and fill is considered acceptable, subject to conditions.
- Road works to Yarrawa Road comprising road widening and new intersection at the entrance to Stage 1 adjoining the Harper Collins site in the western corner of the site .
- 1 residue business lot of 1809 square metres

Plans showing proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 3 business lots, with one public road access to Yarrawa Road, located immediately to the south of the Harper Collins site can be found in **Figures 4, 5, 6 and 7** below, and in **Attachment 2**. It is noted that correspondence from the applicant dated 15 July 2021 has requested that approval is no longer sought for proposed Lots 1301, 1302 and 1303 as 3 lots, but approval is sought for one consolidated residue B1 Neighbourhood Centre lot containing the area of 1301, 1302 and 1303 in one 1809 square metre lot. This can be addressed as a condition of consent, should development consent be granted.

Proposed earthworks cut and fill in the Stage 1 portion of the site is shown in **Figure 8** below, and in **Attachment 6**.



Figure 4: Proposed Stage 1 subdivision in south west corner of the site

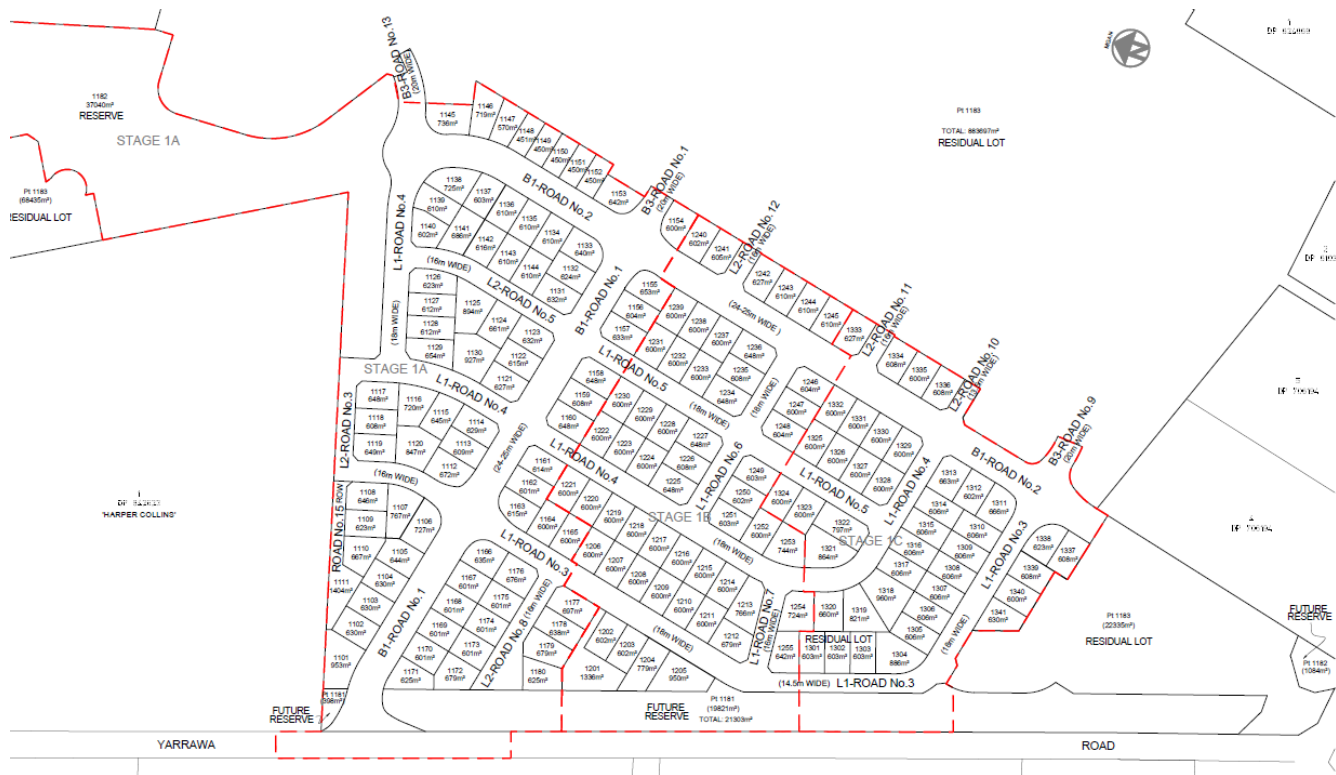


Figure 5: Proposed Stage 1 subdivision in south west corner of the site



Figure 6 : Proposed Stage 1 Landscaping

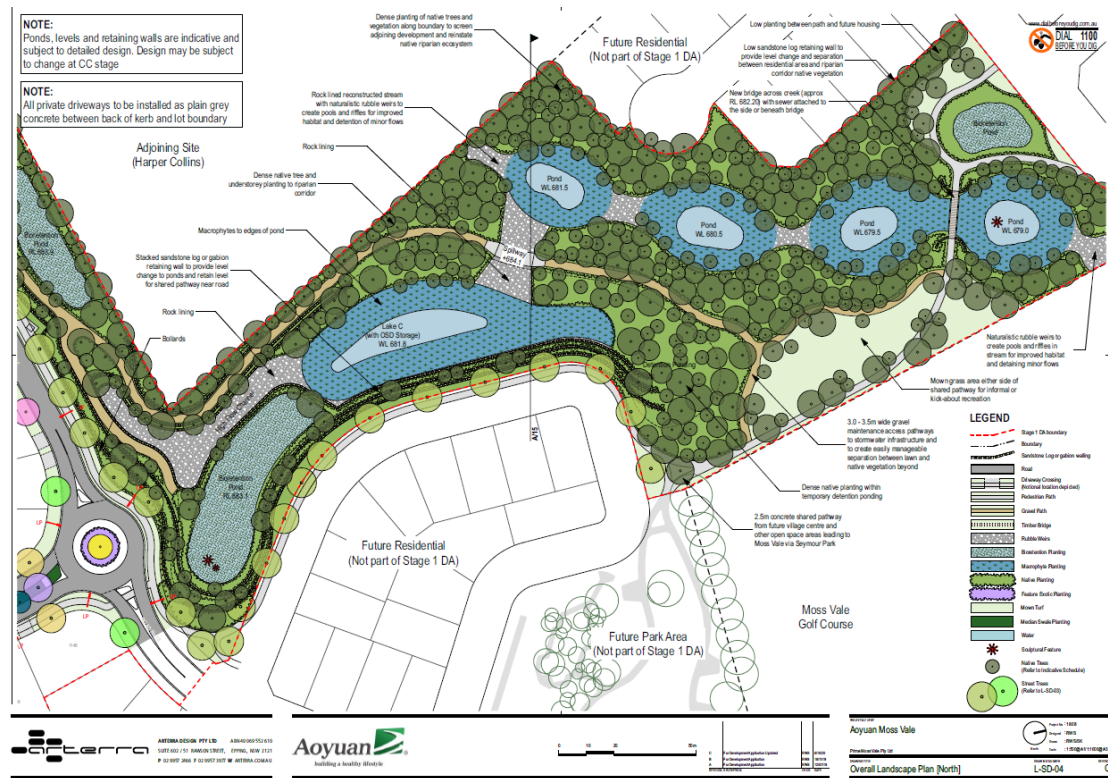
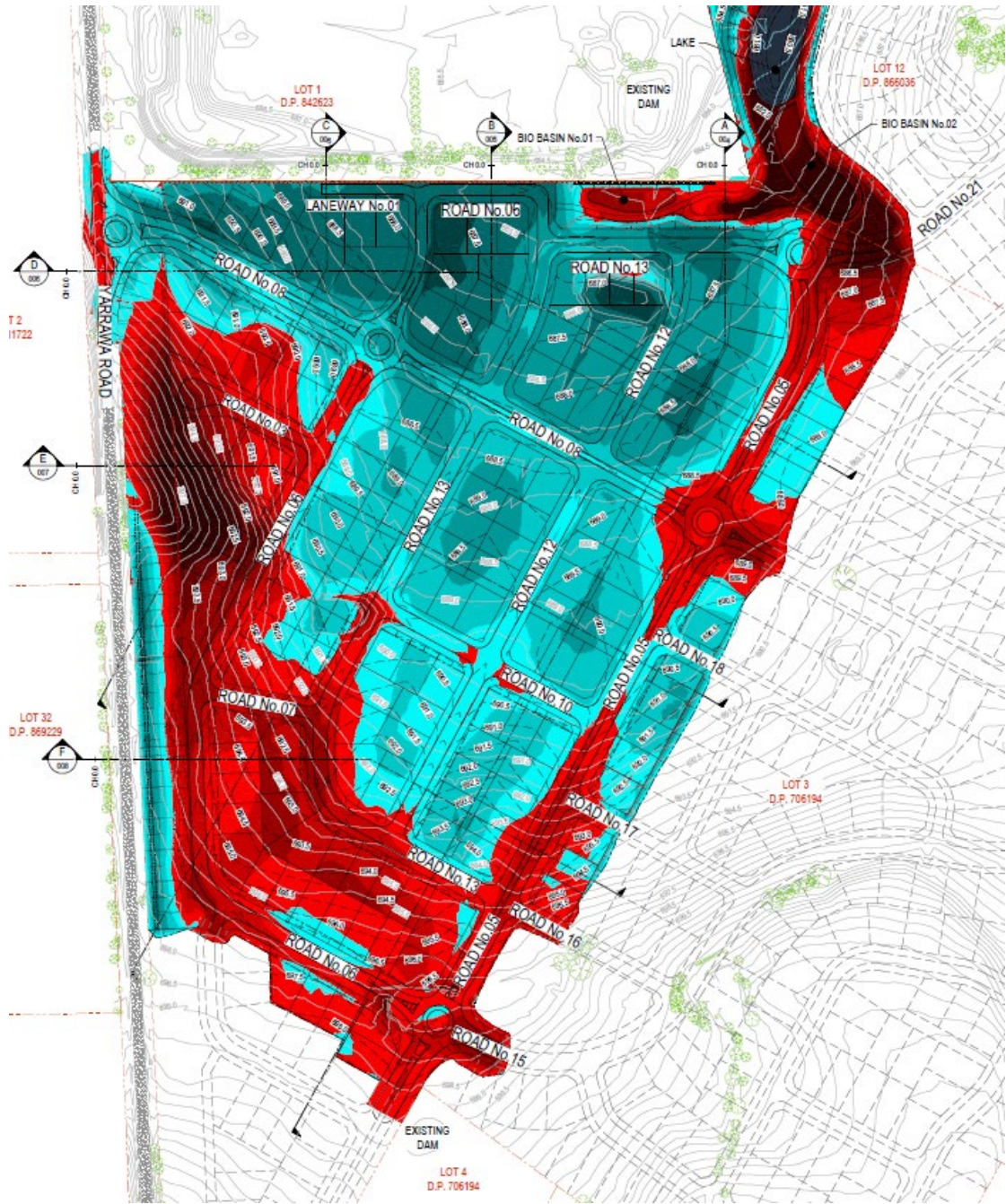


Figure 7 : Proposed Stage 1 Landscaping / Open Space / Ponds and Drainage Reserve to the north west adjoining main Stage 1 subdivision



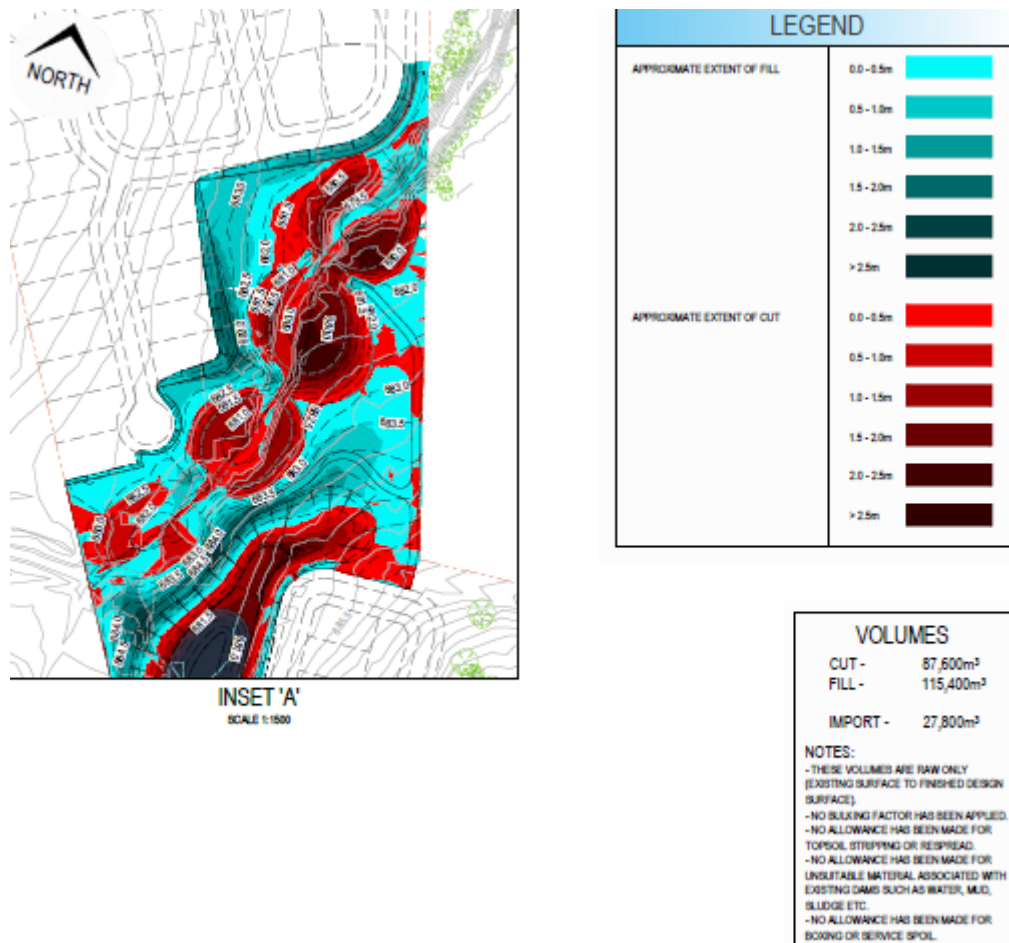


Figure 8 – Proposed cut and fill within Stage 1 subdivision

Proposed Concept subdivision

The proposed concept subdivision including approximately 1200 residential lots contains lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots, and covers the portion of the site which is largely zoned R2 Low Density Residential, but which also contains R5 Large Lot Residential and RE1 Public Recreation zones. The RE1 Public Recreation zones include three Category 3 / riparian land streams, being land within 10 metres from the top of bank of a Category 3 stream, in the western portion of the site, as shown in **Figure 3**. The smaller 450 square metre and 600 square metre lots are located within the lower portions of the site. The proposed 2000 square metre lots are located within the higher northern and eastern portions of the site. Four additional road accesses are proposed to the concept subdivision, at Yarrawa Road / Mount Broughton Road intersection at the south of the site, at Lovelle Street to the west of the site, at Hill Road to the north of the site, and to the Fitzroy Road road reserve area to the north east of the site, connecting to Illawarra Highway.

Plans showing proposed concept subdivision including approximately 1200 residential lots can be found in **Figure 9** below and in **Attachment 3**. Indicative plans showing staging of the concept component of the application is shown in **Figure 10** below and in **Attachment 4**. While this is indicative only, concept component conditions of consent make reference to stages for road upgrading works and provision of water services for certain stages. Therefore while the indicative staging plans of the concept subdivision component may be viewed as premature at this

point, it assists in the understanding of concept subdivision component conditions of consent.

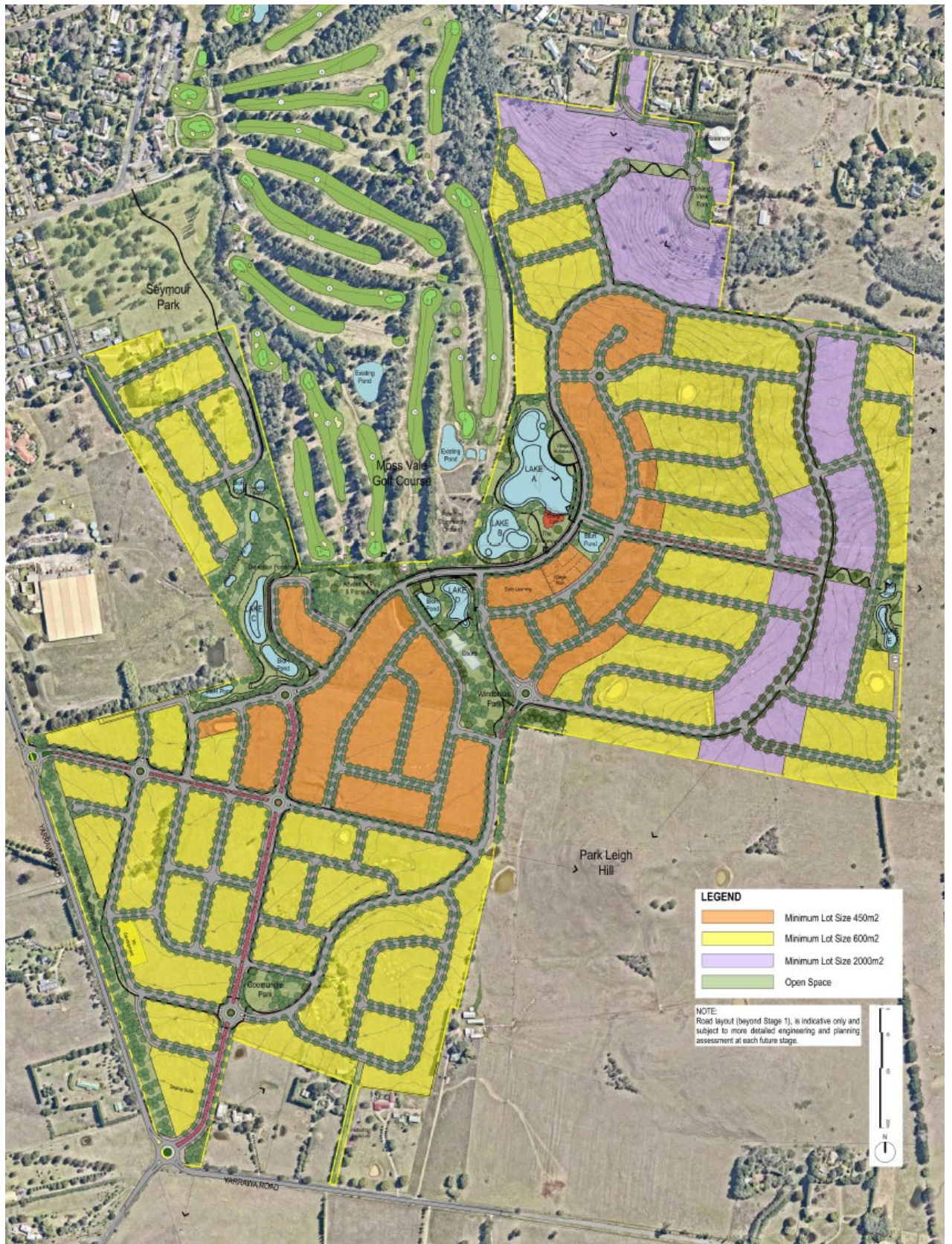


Figure 9: Proposed concept subdivision including approximately 1200 residential lots as submitted with Development Application 20/0227

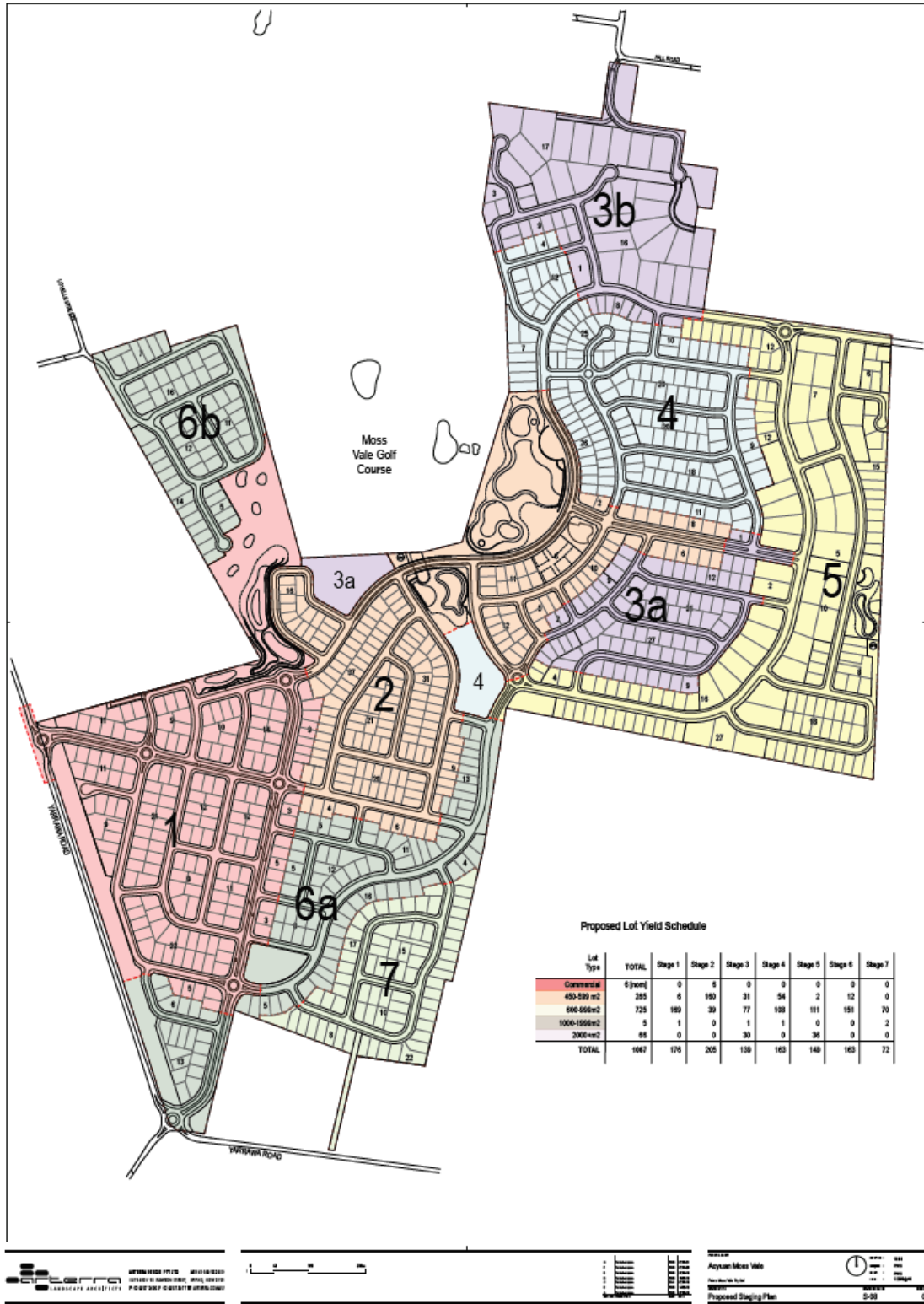


Figure 10 Indicative Staging Plan

DEFERRED DEVELOPMENT CONSENT 21/0772

Deferred Development Consent 21/0772 has been issued for the construction and operation of an interim Wastewater Treatment System to service Stage 1 Subdivision under DA 20/0227 at Lot 12 DP 866036, 32 Lovelle Street and Lot 3 DP 706194, 141 Yarrowa Road, Moss Vale. Deferred commencement condition 1 required the approval of DA 20/0227 to occur prior to general conditions of consent being activated.

SURROUNDING DEVELOPMENT

The site adjoins numerous land uses, including rural, residential, private recreation, and industrial uses.

Farmland within the RU2 Rural Landscape zone adjoins the site to the east and south of the site, largely containing 40 hectare lots with dwellings and farm buildings. Smaller lots of 2 hectares area containing dwellings are located at 121, 131 and 153 Yarrowa Road, directly south of the subject property. Smaller lots of between 4 -14 hectares containing dwellings are located to the north east of the subject property.

Residential land adjoins the site to the north and north west of the site, containing dwelling houses on lots of 700 square metres to 2000 square metres in area.

Private recreation land being Moss Vale Golf Course adjoins the site to the north west.

Farmland within the E3 Environmental Management zone adjoins the site to the south west, largely containing 40 hectare lots with dwellings and farm buildings.

A light industrial development being Harper Collins Publishers is located within E3 Environmental Management zone directly to the west of the subject property.

STATUTORY PROVISIONS

Relevant SEPPs

SEPP (Sydney Drinking Water Catchment) 2011

As the site is within the Warragamba Catchment area, the provisions of SEPP (Sydney Drinking Water Catchment) 2011 must be taken into consideration in the assessment of the application.

Water NSW concurrence has been provided with conditions of consent provided addressing Part A of the development (being the 177 lot urban subdivision) including conditions of consent addressing wastewater management, sewer pumping station, subdivision and access roads, stormwater management, riparian revegetation of the drainage reserve and construction activities.

Water NSW concurrence has been provided with conditions of consent provided addressing Part B of the development (being the Concept Master Plan for a 1200 lot subdivision) including conditions of consent addressing wastewater, stormwater, and erosion hazard.

SEPP 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) addresses remediation of contaminated land by requiring consideration of whether the land is contaminated and, if it is contaminated, whether it can be made suitable for the proposed purpose.

Council's Environmental Health Officer has considered the Stage 2 Detailed Site Investigation (DSI) Report *Detailed Environmental Site Assessment Chelsea Gardens, Moss Vale* by Harvest Scientific Services (Ref 201577, dated 13/10/2020) and advises that the report has been prepared by a suitably qualified environmental consultant in accordance with applicable NSW EPA Guidelines and National Environment Protection (Assessment of Site Contamination) Measure. Council's Environmental Health Officer advises that taking into account that the Stage 2 Detailed Site Investigation (DSI) Report recommends (sub-chapter 12.5) that the site is suitable for the proposed residential subdivision, and that there is no impediment to the subject development on land contamination grounds.

It is therefore accepted that the site satisfies the requirements of Clause 7 SEPP 55.

SEPP (STATE AND REGIONAL DEVELOPMENT) 2011

The estimated cost of works within the concept proposal is \$74,217,639 (including GST). In accordance with Clause 21 and Schedule 7(2) of the *State Environmental Planning Policy (State and Regional Development) 2011*, as the cost of works for the entire master plan exceeds \$30 million, the application will be must be presented to the Southern Regional Planning Panel for determination.

SEPP (Koala Habitat Protection) 2021

Of the trees on site, only two *Eucalyptus radiata* are listed as a Koala use tree species in Schedule 2 of *SEPP (Koala Habitat Protection) 2021*. These two *Eucalyptus radiata* trees cover an area of approximately 300 square metres, are not proposed to be removed, and no Koala Plan of Management is required. The proposed development is considered acceptable in terms of *SEPP (Koala Habitat Protection) 2021*.

The two *Eucalyptus radiata* trees are located within the concept 1200 lot subdivision portion of the site, one located adjoining the southern boundary of Moss Vale Golf Course, and the second adjoining the north eastern boundary of the site, as shown below in **Figure 11**.

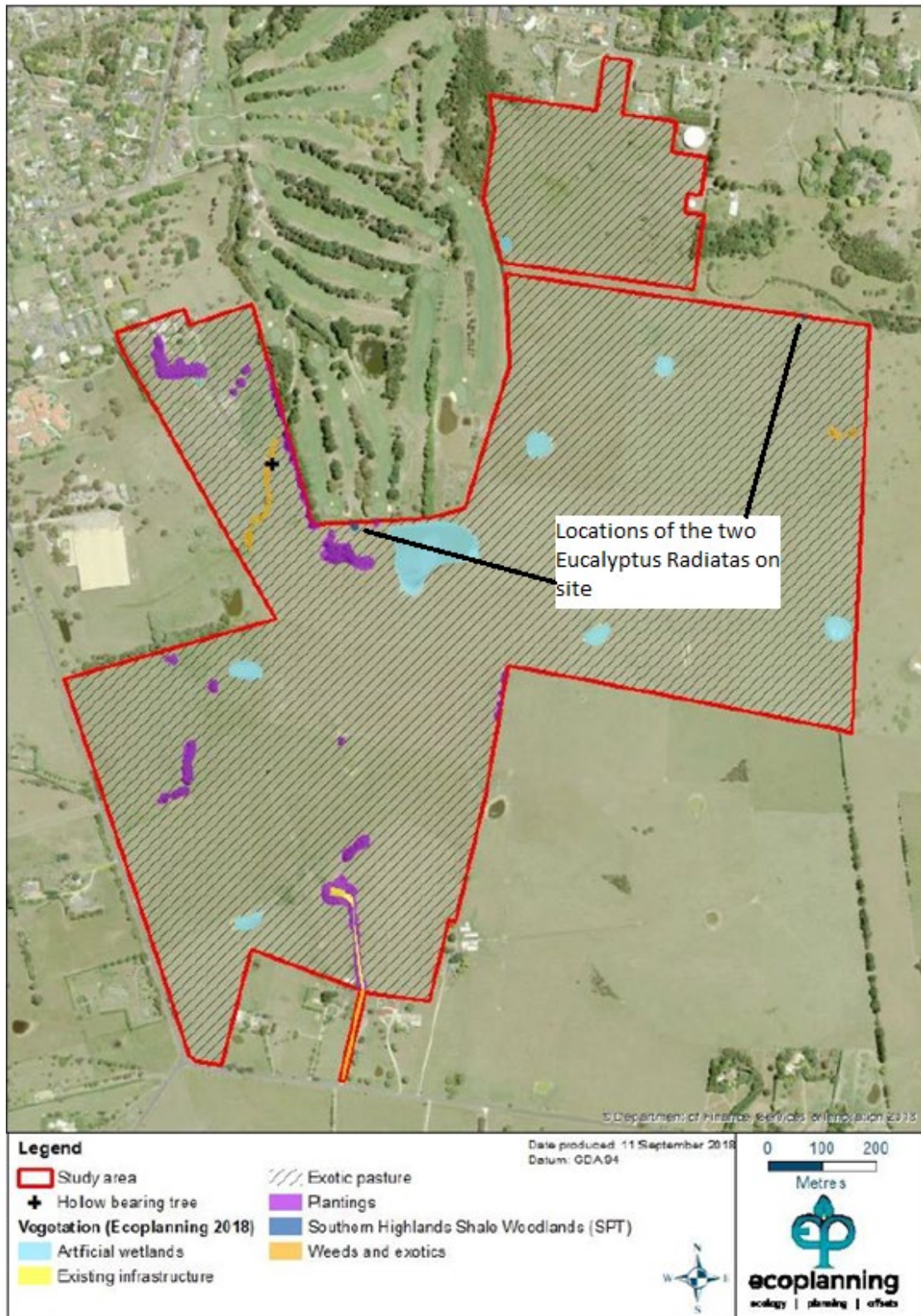


Figure 11 Locations of the two Eucalyptus Radiata on site

WINGECARRIBEE LEP 2010

Zoning

The site is largely zoned R2 Low Density Residential, but also contains R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre zoned land under the *Wingecarribee Local Environmental Plan 2010* as shown in **Figure 1** of this report. The site contains three Category 3 / riparian land streams, being land within 10 metres from the top of bank of a Category 3 stream, in the western portion of the site, as shown in **Figure 3**.

The site does not contain an item of heritage and is not within a heritage conservation area under *Wingecarribee Local Environmental Plan 2010*. The site does not contain land identified as "Regional Wildlife Habitat Corridor" or land identified as "Natural Waterbodies" under *Wingecarribee Local Environmental Plan 2010*.

The proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot covers the portion of the site which is largely zoned R2 Low Density Residential, but which also contains an RE1 Public Recreation zone and a small B1 Neighbourhood Centre zone fronting Yarrowa Road. The proposed Stage 1 subdivision satisfies the minimum lot sizes in these zones (see **Figure 12**), with the exception of proposed Lot 1181 which is 21,303 square metres in area within the RE1 Public Recreation zone fronting Yarrowa Road, which is subject to a 40 hectare minimum lot size, and which is subject to a Clause 4.6 variation request. The proposed Stage 1 subdivision is permissible in these zones under *Wingecarribee Local Environmental Plan 2010*, subject to development consent, and satisfies the objectives of these respective zones.

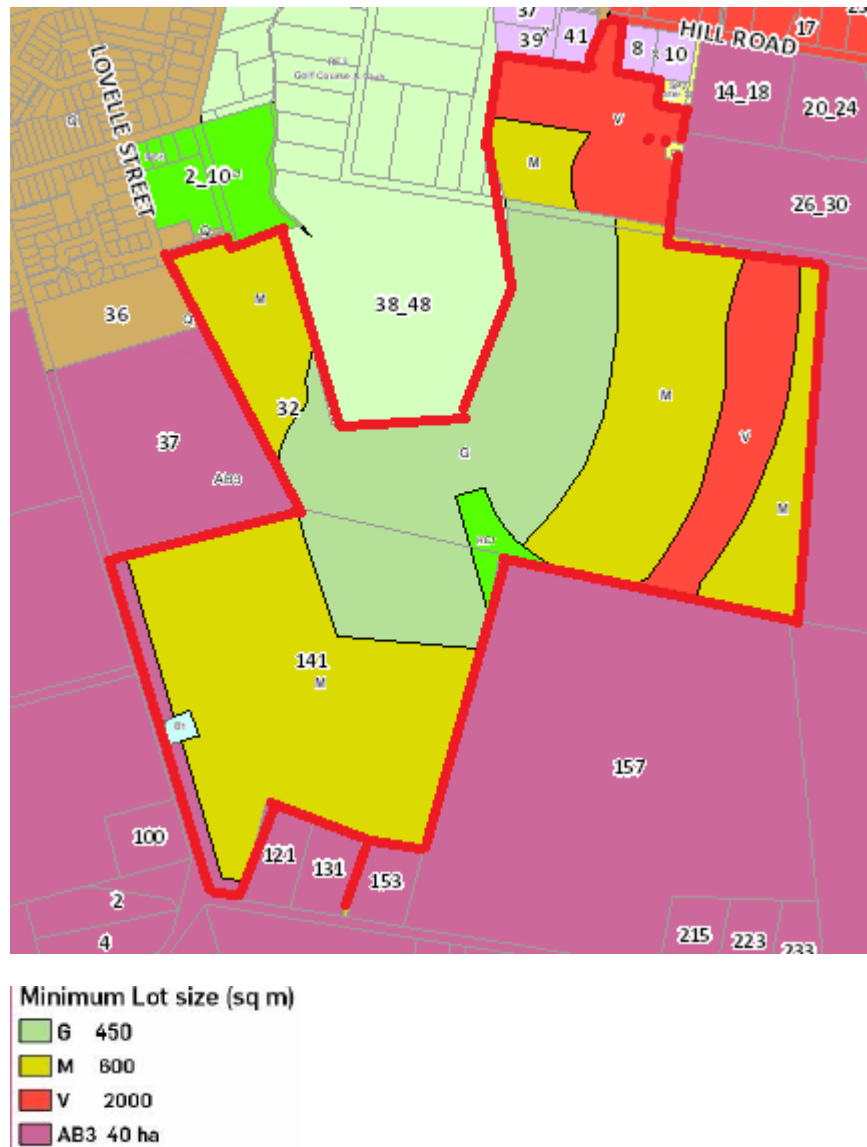


Figure 12 – Minimum Lot Sizes Wingecarribee Local Environmental Plan 2010

The proposed concept subdivision plan including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots, covers the portion of the site which is largely zoned R2 Low Density Residential, but which also contains R5 Large Lot Residential and RE1 Public Recreation zones. The proposed concept subdivision is permissible in these zones under Wingecarribee Local Environmental Plan 2010, subject to development consent, and satisfies the objectives of these respective zones.

Clause 4.6 variation request

A 30 metre wide corridor of land fronting Yarrowa Road is zoned RE1 – Public Recreation under Wingecarribee Local Environmental Plan 2010, and covers an area of approximately 21,000 square metres (2.1 hectares). The purpose of zoning this corridor RE1 – Public Recreation was to provide a transition / buffer between the Residential zone and the E3 Environmental Management zone, at the southern entry to Moss Vale. However a 40 hectare minimum lot size was applied to this RE1 –

Public Recreation zone fronting Yarrowa Road, despite the zoned area only being approximately 2.1 hectares in area.

The proposed reserve (proposed Lot 1181) within Stage 1 of DA 20/0227 fronting Yarrowa Road is located consistent with the RE1 – Public Recreation zone identified under Wingecaribee Local Environmental Plan 2010. Proposed Lot 1181 is 21,303 square metres in area within the RE1 Public Recreation zone fronting Yarrowa Road, which is subject to a 40 hectare minimum lot size, therefore a Clause 4.6 variation request is triggered (**Attachment 5**).

The applicant's Clause 4.6 variation request (**Attachment 5**) includes the following justifications:

- *The proposal achieves the objectives of the development standard as provided in clause 4.1 of WLEP 2010 and is consistent with the objectives of development within the RE1 – Public Recreation zone.*
- *The proposal is compatible with the existing rural context and is consistent with the desired future character of the site as per the rezoning of the site in 2017, and the draft site specific DCP endorsed by Council in May 2019.*
- *The proposed master plan provides a desirable low scale residential area sympathetic to the landform of the site and the character of the area. The proposed landscaped master plan fronting Yarrowa Road provides an appropriate transition between the rural and residential land uses.*
- *An alternate scheme would still not comply with the minimum subdivision lot size development standard as the available RE1 zoned land is significantly smaller than the minimum requirement of 40 hectares.*
- *The proposal will result in significant social and economic benefits, including the provision of new housing choice contributing to the growth of the region.*
- *The proposal will deliver significant public benefits including public open space, improved pedestrian connections, community facilities and improved flood management in the area.*

The proposed 21,303 square metre reserve is located in accordance with RE1 Public Recreation zone under Wingecaribee Local Environmental Plan 2010. Compliance with a 40 hectare minimum lot size cannot be achieved, and is considered to be a development standard which is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's proposed variation to the 40 hectare standard is considered to be in the public interest and consistent with the objectives of the RE1 Public Recreation zone, and is therefore recommended for support.

Part 6 Urban Release Areas

Clause 6.1(2) requires that prior to issue of development consent, that the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of public infrastructure. As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021.

MOSS VALE TOWN PLAN DCP

Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan (the DCP) became effective 30 October 2019. The DCP includes numerous statements regarding desired vision and character of the precinct, including that development be thoughtfully designed, be true to Southern Highlands charm, be in harmony with nature, reflect the character of the Southern Highlands, be of a highly landscaped setting to enhance its rural setting, character and views, and be designed to identify existing site features that make a positive contribution to the site and local area.

The DCP also contains an Indicative Master Plan contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan.

The proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot complies with the provisions contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan.

The proposed concept subdivision plan including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots, as submitted with Development Application 20/0227 is identical to the Indicative Master Plan contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan (**Figure 9** and **Attachment 3**).

The proposed concept subdivision including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots is generally in accordance with the provisions contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan, with the exception of concerns regarding the visual impact of the concept subdivision in the higher portions of the site, and concerns regarding the concept subdivision's rural edge interface, which are discussed later in this report.

Moss Vale Township DCP (Part A) contains broader provisions relating to all land in Moss Vale, and a specific section (Section 21 Chelsea Gardens Coomungie Precinct) for the subject site.

The applicable sections of the Moss Vale Township DCP (Part A) are addressed below:

DCP Control	Comment
2 General Objectives	<p>The proposed development is considered to be in accordance with the general objectives of the Moss Vale Township DCP, including Residential Amenity, Residential Diversity, Environmental Sustainability, and Public Domain.</p> <p>Character and visual impact issues are discussed in the Discussion of Key Issues section of this report.</p>

DCP Control	Comment
<p>3 Biodiversity</p> <p>A3.2 Flora and Fauna Assessment Report</p>	<p>Council's Flora and Fauna Consultant considers the Flora and Fauna Assessment report addresses current legislative requirements. Overall, the site is mostly cleared and degraded, and has low biodiversity value. No threatened flora or fauna species were recorded or likely to occur. There is ~0.03 ha (300 square metres) of Southern Highlands Shale Woodlands within the subject site (comprising two trees), which is a critically endangered ecological community listed under the Biodiversity Conservation Act 2016.</p> <p>The two <i>Eucalyptus radiata</i> trees that are representative of the Southern Highlands Shale Woodlands community has been incorporated in both a proposed landscaped area and roadside verge area within the concept 1200 lot subdivision portion of the site. This is reinforced by a condition of consent.</p>
<p>4 Water Management</p> <p>A4.1 and A4.2 Vegetation Management Plan for Riparian Corridors</p> <p>A4.4 Water Cycle Management Study</p> <p>A4.5 Stormwater Management Plan</p> <p>A4.6 Erosion and Sediment Control Plans</p> <p>A4.7 Water Sensitive Urban Design</p>	<p>The riparian corridor within proposed Stage 1 subdivision (177 lots) is within a proposed public open space area, and is to the satisfaction of Natural Resources Access Regulator (NRAR) and Council's Parks and Properties. Natural Resources Access Regulator (NRAR) requires a Vegetation Management Plan as a condition of consent.</p> <p>Water NSW concurrence has been provided with conditions of consent provided addressing Part A of the development (being the 177 lot urban subdivision) including conditions of consent addressing wastewater management, sewer pumping station, subdivision and access roads, stormwater management, riparian revegetation of the drainage reserve and construction activities.</p> <p>Water NSW concurrence has been provided with conditions of consent provided addressing Part B of the development (being the Concept Master Plan for a 1200 lot subdivision) including conditions of consent addressing wastewater, stormwater, and erosion hazard.</p>
<p>5 Flood Liable Land</p>	<p>Council's Drainage Engineer accepts the Flood Report as submitted with the development application, and should development consent be granted for the proposed subdivision, conditions of consent would make reference to the submitted Flood Report.</p>
<p>6 Vegetation Management & Landscaping</p>	<p>The riparian corridor within proposed Stage 1 subdivision (177 lots) is within a proposed public open</p>

DCP Control	Comment
	space area, and is to the satisfaction of Natural Resources Access Regulator (NRAR) and Council's Parks and Properties. Natural Resources Access Regulator (NRAR) requires a Vegetation Management Plan as a condition of consent.
7 Subdivision	The proposed subdivision complies with minimum lot size (with the exception of proposed Lot 1181 in the RE1 Public Recreation zone), street tree, lighting, site analysis, and cut and fill requirements of the DCP.

The applicable sections of the Moss Vale Township DCP (Section 21 Chelsea Gardens Coomungie Precinct) are addressed below:

DCP Control	Comment
1.5 Indicative Master Plan	<p>Proposed Stage 1 subdivision (177 lots) comprising 173 residential lots ranging in size from 450 square metres to 1404 square metres, 2 open space / drainage lots, 1 residue business lot and 1 residue lot complies with the Indicative Master Plan contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan (Figure 9).</p> <p>The proposed concept subdivision plan including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space lots, as submitted with Development Application 20/0227 is identical to the Indicative Master Plan contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan (Figure 9).</p>
1.6 Overall Site Vision	<p>Proposed Stage 1 subdivision (177 lots) comprising 173 residential lots ranging in size from 450 square metres to 1404 square metres, 2 open space / drainage lots, 1 residue business lot and 1 residue lot is considered to be in accordance with the overall site vision.</p> <p>The proposed concept subdivision plan including approximately 1200 residential lots, containing lots varying in size between 450 square metres to 600 square metres to 2000 square metres, and open space</p>

DCP Control	Comment
	lots, is generally in accordance with the overall site vision, with the exception of key concerns regarding visual impact of the higher portions of the site, and rural /residential interface concerns, as discussed in the Discussion of Key Issues section of this report.
1.7 Desired Landscape Character	<p>Proposed Stage 1 subdivision (177 lots) including proposed open space areas and 30 metre wide landscaped corridor fronting Yarrowa Road, is considered to be in accordance with the desired landscape character requirements.</p> <p>The proposed concept subdivision plan including approximately 1200 residential lots, is generally in accordance with the overall desired landscape character, with the exception of key concerns regarding visual impact of the higher portions of the site, and rural /residential interface concerns, which are not considered to be sympathetic to existing conditions of the site and its surrounds, as discussed in the Discussion of Key Issues section of this report.</p>
2.2 Sustainability	<p>Proposed Stage 1 subdivision (177 lots) is considered to be in accordance with sustainability requirements, including sustainable water management, ecology, and transport.</p> <p>Water NSW concurrence has been received and stormwater generation, discharges, and stormwater quality is acceptable to Council's Development Engineer, subject to conditions of consent.</p> <p>Council's Parks and Properties officer accepts the proposed development subject to conditions of consent, including submission of a Vegetation Management Plan.</p> <p>A condition of consent for the concept component will require a Walking and Cycling Strategy Plan for the whole of the precinct for connection to Moss Vale Town Centre. The proposed streets within Stage 1 address the design requirements of this section of the DCP.</p> <p>The proposed concept subdivision plan is considered conceptually acceptable, however each future development application will need to particularly detail how sustainability requirements of the DCP are addressed.</p>
2.3 Subdivision	Proposed Stage 1 subdivision (177 lots) is considered to be in accordance with Section 2.3 subdivision requirements.

DCP Control	Comment
	<p>The proposed Stage 1 subdivision does include retaining walls 0.9 metres height, extending along the rear boundaries midblock of 28 lots, which combined together is a total length of approximately 400 metres. These proposed retaining walls comply with the maximum side boundary retaining wall height of 900 mm and maximum rear boundary retaining wall height of 1.5 metres.</p> <p>The proposed concept subdivision plan is considered conceptually acceptable, with the exception of key concerns regarding visual impact of the higher portions of the site, and rural /residential interface concerns, as discussed in the Discussion of Key Issues section of this report.</p>
2.4 Subdivision Land Use Interfaces	<p>Rural Edge Interface, Golf Course Interface and Landscape buffer areas are specifically identified in Figure 5 of the DCP (see Figure 13 of this report). Proposed Stage 1 subdivision (177 lots) does not have any areas of Rural Edge Interface, Golf Course Interface or Landscape buffer as identified in the DCP.</p> <p>Key concerns regarding rural /residential interface issues of the 1200 lot concept component of the development application are discussed in the Discussion of Key Issues section of this report.</p>
2.7 Street Tree Planting Strategy & 2.8 Open Space Network 2.9 Lake / Pond Treatment	<p>Proposed Stage 1 subdivision (177 lots) is considered to be in accordance with the Street Tree Planting Strategy, Open Space Network, and Lake / Pond Treatment requirements. Council's Asset Coordinator Parks and Buildings, and Council's Manager Open Space, Recreation & Building Maintenance raise no objection to the updated landscape plans submitted October 2020, which show street trees, planted medians, buffer landscaping to Yarrawa Road, drainage ponds, public open space areas, stone entry wall treatments, and water features for the proposed Stage 1 subdivision (177 lots) comprising 173 residential lots ranging in size from 450 square metres to 1404 square metres, 2 open space / drainage lots, 1 residue business lot, and 1 residue lot.</p> <p>The proposed concept subdivision plan is considered conceptually acceptable, however each future development application will need to particularly detail how these particular requirements of the DCP are addressed.</p>
2.10 Pedestrian & Cycleway Network	Proposed Stage 1 subdivision (177 lots) is considered to be in accordance with the Pedestrian & Cycleway

DCP Control	Comment
	Network requirements. A condition of consent for the concept component will require a Walking and Cycling Strategy Plan for the whole of the precinct for connection to Moss Vale Town Centre.
2.11 Water and Sewer Servicing Strategies	<p>Council's Water and Sewer Engineer advises that proposed Stage 1 subdivision (177 lots) can be serviced by reticulated water. Moss Vale Sewerage Treatment Plant does not currently have the capacity to service the proposed development. Deferred Development Consent 21/0772 has been issued for the construction and operation of an interim Wastewater Treatment System to service Stage 1 Subdivision proposed by DA 20/0227. Deferred commencement condition 1 of Deferred Development Consent 21/0772 required the approval of DA 20/0227 to occur prior to general conditions of consent being activated.</p> <p>For the 1200 lot concept subdivision component, water and sewer modelling will need to be undertaken for each subdivision development stage and submitted with the development application for each subdivision development stage. This is addressed by condition of consent.</p>
4.4 Special Character Area Controls	<p>Proposed Stage 1 subdivision (177 lots) is considered to be in accordance with Section 4.4 Special Character Area Controls requirements.</p> <p>The proposed concept subdivision plan is considered conceptually acceptable, with the exception of key concerns regarding visual impact of the higher portions within the Special Character Area of the site, and rural /residential interface concerns, as discussed in the Discussion of Key Issues section of this report.</p>

Relevant State Legislation

Rural Fires Act 1997

The proposed subdivision required approval under s.100B of the Rural Fires Act 1997. Rural Fire Service response is discussed in the External Referrals section of this report.

Heritage Act 1977

The proposed subdivision required approval under s.58 of the Heritage Act 1977. Office of Environment and Heritage / Department of Planning Industry & Environment response is discussed in the External Referrals section of this report.

Water Management Act 2000

The proposed subdivision required approval under s.91 of the Water Management Act 2000. Natural Resources Access Regulator response is discussed in the External Referrals section of this report.

Roads Act 1993

The proposed new roundabout intersection to Yarrowa Road to access proposed Stage 1 subdivision triggers a.138 approval, which is addressed by draft condition of consent.

Biodiversity Conservation Act 2016

There is ~0.03 ha (300 square metres) of Southern Highlands Shale Woodlands within the subject site (comprising two trees), which is a critically endangered ecological community listed under the Biodiversity Conservation Act 2016.

The two *Eucalyptus radiata* trees that are representative of the Southern Highlands Shale Woodlands community have been incorporated in both a proposed landscaped area and roadside verge area within the concept 1200 lot subdivision portion of the site. This is reinforced by a condition of consent.

Relevant Commonwealth Legislation

Environment Protection and Biodiversity Conservation Act 1999

No matters of National Environmental Significance (MNES) will be impacted by the proposed subdivision.

Section 4.15 Evaluation

(1) *Matters for consideration—general*

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

Comment: The proposed development is permissible within the R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre zones under WLEP 2010, and satisfies SEPP (Sydney Drinking Water Catchment) requirements. It is accepted that the site is suitable for the proposed use, satisfying the requirements of Clause 7 State Environmental Planning Policy No 55 - Remediation of Land. The proposal satisfies the provisions of SEPP (Koala Habitat Protection) 2021.

The proposed 21,303 square metre reserve fronting Yarrowa Road is located in accordance with RE1 Public Recreation zone under Wingecaribee Local Environmental Plan 2010. The RE1 Public

Recreation zone has a minimum 40 hectare lot size under Wingecaribee Local Environmental Plan 2010. Compliance with a 40 hectare minimum lot size cannot be achieved, and is considered to be a development standard which is unreasonable and unnecessary in the circumstances of the case. It is considered that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's proposed variation to the 40 hectare standard (**Attachment 5**) has been considered in accordance with Clause 4.6 of Wingecaribee Local Environmental Plan 2010, and the proposed variation is considered to be in the public interest and consistent with the objectives of the RE1 Public Recreation zone, and is therefore recommended for support.

Clause 4.2C Exceptions to minimum subdivision lots sizes for certain split zones – Proposed Lot 1182 (37040 sqm in area) covers 1084 square metres of RE1 Public Recreation zoned land at the southern corner of the site adjoining the Yarrawa Road / Mt Broughton Road intersection and 35858 square metres of R2 Low Density Residential zoned land in the western portion of the site adjoining Moss Vale Golf Course. While the 1084 square metre RE1 Public Recreation zoned portion of Lot 1182 does not comply with the 40 hectare minimum lot size, the 35858 square metre residentially zoned portion of Lot 1182 exceeds the minimum 450 sqm / 600 sqm minimum lot size, therefore complies with the requirements of Clause 4.2C Exceptions to minimum subdivision lots sizes for certain split zones.

Clause 7.3 Earthworks – The majority of proposed fill within Stage 1 is between 0.5 metre to 1.0 metre depth, with a smaller area of 2.5 metres fill on the north western boundary of the site adjoining Harper Collins at 37 Yarrawa Road. Majority of cut within Stage 1 is 0.5 metre to 1 metre, with an area of 2.5 metres cut in a portion of the site fronting Yarrawa Road, and to create ponds within the proposed open space area adjoining Moss Vale Golf Course. Within Stage 1, the volume of proposed cut is 87,600 cubic metres, the volume of proposed fill is 115,400 cubic metres, and the volume of proposed imported fill is 27,800 cubic metres. Proposed cut and fill is considered acceptable, subject to conditions.

Proposal addresses Clause 7.5 riparian land requirements, being land within 10 metres of top of bank of Category 3 stream, to the satisfaction of Council's Parks and Properties, and the Natural Resources Access Regulator, subject to conditions.

The application has been considered with regard to the relevant provisions of applicable environmental planning instruments (SEPPs and the LEP), as discussed above.

- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has*

been deferred indefinitely or has not been approved), and

Comment: Not applicable in this instance (no relevant draft plans).

(iii) any development control plan, and

Comment: The proposed development is generally in accordance with the provisions contained within Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan, with the exception of concerns regarding the visual impact of the concept subdivision in the higher portions of the site, and concerns regarding the concept subdivision's rural edge interface, in the 1200 lot concept component of the application, which are discussed later in this report.

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

Comment: The Planning Agreement provides that the Developer will make a development contribution by providing a Monetary Contribution of \$3,466.67 per Urban Lot created for the purpose of contributing to the provision of designated State public infrastructure in relation to each lot. Part of the Monetary Contribution payable may be offset by the completion of Road Work by the Developer (to the value of \$2,406,000). This Road Work will comprise the Intersection Upgrade Works. However, if the Intersection Upgrade Works cannot reasonably be carried out, a proposed modified roundabout design/alternative treatment or arrangement to the satisfaction of Transport for New South Wales may be undertaken (Proposed Modified Road Work). The parties to the Planning Agreement are the Minister for Planning and Public Spaces and Prime Moss Vale Pty Ltd.

As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

Comment: Not applicable.

(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,

Comment: The proposed development is considered consistent with the character of the locality, as discussed in the "Discussion of Key Issues"

section of this report, with the exception of concerns regarding the visual impact of the concept subdivision in the higher portions of the site, and concerns regarding the concept subdivision's rural edge interface, in the 1200 lot concept component of the application, which are discussed later in this report. The impacts of the development have been considered including impacts on the Aboriginal heritage, works within 40 metres of a defined watercourse, bushfire, water quality in the Sydney Drinking Water Catchment, and traffic impacts, with conditions and comments provided by Heritage NSW / Department of Planning Industry & Environment, Natural Resources Access Regulator, Rural Fire Service, Water NSW and Transport for NSW / Roads and Maritime Services.

(c) *the suitability of the site for the development.*

The proposed development will ensure the residential development of the land is achievable and therefore is considered suitable for the development as proposed.

(d) *any submissions made in accordance with this Act or the Regulations.*

Comment: Refer to Community Engagement section of this report.

(e) *the public interest.*

Comment: The proposed development is in accordance with the objectives of the relevant zones under WLEP 2010, and is considered to be in the public interest, with the exception of concerns regarding the visual impact of the concept subdivision in the higher portions of the site, and concerns regarding the concept subdivision's rural edge interface, in the 1200 lot concept component of the application, which are discussed later in this report.

CONSULTATION

EXTERNAL REFERRAL

Transport for NSW

Transport for NSW has completed an assessment of the Development Application, based on the information provided and focussing on the impact to the state road network. The key state roads are the Illawarra Highway and Argyle Street.

Concept development (Master plan)

Transport for NSW supports the identification of a road hierarchy as shown within the Statement of Environmental Effects, the identification of collector roads, and notes the lane widths for the collector roads should enable bus services consistent with guidelines. Transport for NSW also supports the inclusion of shared paths on all collector roads. Transport for NSW notes the road hierarchy includes a collector road connection from the development towards the proposed roundabout at the intersection of the Illawarra Highway and Fitzroy Street, and considers this

connection to be vital in achieving an appropriate road hierarchy and minimising unnecessary trips through the town centre. TfNSW requests that any future plans and/or planning controls ensure:

- the connection is referred to as a future link, not potential future link; and
- the road connection is of suitable width to function as a collector road, and accommodate bus movements.

Stage 1 Subdivision

Transport for NSW's primary concern with the Stage 1 DA is that satisfactory arrangements for State road infrastructure are finalised before this development is approved. Transport for NSW has reached agreement with the developer and the Department of Planning and Environment on the terms of a voluntary planning agreement (VPA) to achieve satisfactory arrangements, and advise that assuming the terms of the VPA remain relatively consistent with the current draft, Transport for NSW will have no objections to the Stage 1 subdivision proceeding once the VPA is executed. Beyond the VPA, Transport for NSW does not have any significant concerns with the DA. Transport for NSW recommends Council ensures buses can navigate and service the proposed collector roads.

As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021.

Water NSW

Water NSW concurrence has been provided with conditions of consent provided addressing Part A of the development (being the 177 lot urban subdivision) including conditions of consent addressing wastewater management, sewer pumping station, subdivision and access roads, stormwater management, riparian revegetation of the drainage reserve and construction activities.

Water NSW concurrence has been provided with conditions of consent provided addressing Part B of the development (being the Concept Master Plan for a 1200 lot subdivision) including conditions of consent addressing wastewater, stormwater, and erosion hazard.

Natural Resources Access Regulator

General Terms of Approval for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 have been issued by the Natural Resources Access Regulator, and are included within draft conditions of consent. The General Terms of Approval include conditions addressing erosion and sediment control, rehabilitation and maintenance, and reporting requirements.

Heritage NSW / Department of Planning Industry & Environment

On 1 July 2020, the Aboriginal cultural heritage regulation functions were transferred from DPIE to Heritage NSW in the Department of Premier and Cabinet. Heritage NSW is now the agency responsible for providing advice on this matter.

Heritage NSW / Department of Planning Industry & Environment has provided advice relating to the Aboriginal cultural heritage assessment and matters under the National Parks and Wildlife Act 1974 (NPW Act). The development is not being considered as integrated development in relation to the NPW Act. This is because there are no known Aboriginal objects within the Stage 1 footprint to which this development application applies. Aboriginal objects are recorded on adjacent land, which will be subject to subsequent stages of this residential subdivision and that separate development applications over that land are anticipated.

Heritage NSW / Department of Planning Industry & Environment comment in letter dated 27 November 2020 "We reiterate our previous advice to Council that based on the information provided to date, we are of the opinion that GTAs are not required for Stage 1 as no recorded Aboriginal objects occur within this area. This advice therefore does not constitute General Terms of Approval, as these are not required for the current DA. Future development applications for stages subsequent to Stage 1 that impact Aboriginal objects in the Concept Plan area must be submitted to us with a request for General Terms of Approval, as required by s4.46 of the Environmental Planning & Assessment Act 1979." This can be addressed by a condition of consent.

Heritage NSW / Department of Planning Industry & Environment comment in letter dated 23 April 2020 that harm to Aboriginal objects will occur through construction of Stages 2, 3a and 5 and that any future development applications for land within those stages are referred to Heritage NSW / Department of Planning Industry & Environment for advice and General Terms of Approval as applicable. This can be addressed by a condition of consent for the 1200 lot concept component of the development application.

Heritage NSW / Department of Planning Industry & Environment comment in letter dated 23 April 2020 that they "do not support construction of an adventure playground in the heritage conservation area. This matter must be addressed prior to seeking our General Terms of Approval for future development applications as relevant." This can be addressed by a condition of consent for the 1200 lot concept component of the development application.

Heritage NSW / Department of Planning Industry & Environment request in letter dated 23 April 2020 that the applicant address the following when future stage DAs are lodged:

- An Aboriginal cultural heritage management plan for the conservation area. The plan must be prepared in consultation with the Registered Aboriginal Parties.
- Justification for the extent of test excavation within the relevant DA area.
- Outcomes of ongoing consultation with the Registered Aboriginal Parties.
- Updated review of the regional and local archaeological record if a substantial period elapses between the current reporting and future development applications.

This can be addressed by a condition of consent for the 1200 lot concept component of the development application.

Heritage NSW / Department of Planning Industry & Environment stated in letter dated 2 March 2020 that an Aboriginal cultural heritage management plan must be prepared for the conservation area, which is located within the 1200 lot concept

component of the development application. This can be addressed by a condition of consent for the 1200 lot concept component of the development application.

Heritage NSW / Department of Planning Industry & Environment stated in letter dated 2 March 2020 that “The applicant must continue to update the Registered Aboriginal Parties during the development application process. AHIP applications must demonstrate continuous and ongoing consultation. Our guidelines suggest that breaks in consultation of over 6 months may not constitute continuous consultation. We recommend the applicant update the RAPs on the progress of this development every 6 months.” This can be addressed by a condition of consent for the 1200 lot concept component of the development application.

Rural Fire Service

Rural Fire Service has provided General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997, including conditions of consent addressing Asset Protection Zones, Access – Public Roads, Water and Utility Services, and Landscaping.

INTERNAL REFERRAL

Development Engineer

The application was referred to Council’s Development Engineer. Draft conditions of consent have been provided, including conditions addressing stormwater, roadworks, traffic, geotechnical works, easements, lighting and services.

Traffic and Transport Engineer

Council’s Traffic and Transport Engineer has provided conditions of consent addressing the Stage 1 subdivision component and the concept subdivision component of the application.

Stage 1 conditions include conditions addressing matters including public lighting, kerb gutters and drainage, footpaths and shared use paths, roads and roundabouts (including roundabout at the intersection of Yarrowa Road and subdivision road for access to Stage 1 of the development, and roundabout at the intersection of Yarrowa Road and Spencer Street).

Concept subdivision component conditions include conditions addressing Traffic Impact Assessment reports for the Development Applications for future stages, a Walking and Cycling Strategy Plan for the whole of the precinct for connection to Moss Vale Town Centre, a Bus Route Strategy Plan for proposed public bus routes within the precinct and its connection to the existing routes in the area, closure of Shelly Road to the Moss Vale Golf Course western boundary, construction of Fitzroy Road and associated drainage works from the intersection of Illawarra Highway and Fitzroy Road to the eastern boundary of Stage 5, and upgrades to the Local Road Network. Future development applications for subdivision within the concept residential subdivision component of the site (outside the Stage 1 subdivision area), shall address the local road network, including the performance of / need for upgrade of the following, at the appropriate stage as identified in the Traffic Impact Assessment Report for the whole of the development precinct:

- a) The intersection of proposed subdivision road, Villiers Road and Hill Road.

- b) The intersection of proposed subdivision road, Daylesford Drive and Lovelle Street.
- c) The intersection of Lovelle and Spencer Streets.
- d) The intersection of Arthur Street and Mack Street.
- e) The intersection of Mack Street and Kirkham Street.
- f) The intersection of Yarrowa Road and Mt Broughton Road.
- g) Fitzroy Road from Illawarra Highway to the eastern boundary of Stage 5.
- h) Construction / widening of Yarrowa Road from the existing end of kerb and gutter in the vicinity of 35 Yarrowa Road to its intersection with Mt Broughton Road.

Water and Sewer Development Engineer

Council's Water and Sewer Engineer advises that there is sufficient water supply capacity for the Stage 1 subdivision, and that water and sewer modelling will need to accompany future development applications within the 1200 lot concept component portion of the site. Draft conditions of consent have been provided, including conditions addressing the Sewage Pump Station for Stage 1,

Drainage Engineer

Council's Drainage Engineer accepts the Flood Report as submitted with the development application. Flooding will be contained within the proposed open space / riparian corridors in the site, and will not affect proposed residential lots.

Council's Flora and Fauna Consultant

Council's Flora and Fauna Consultant considers the Flora and Fauna Assessment report addresses current legislative requirements. Overall, the site is mostly cleared and degraded, and has low biodiversity value. No threatened flora or fauna species were recorded or likely to occur. There is ~0.03 ha (300 square metres) of Southern Highlands Shale Woodlands Critically Endangered Ecological Community within the subject site (comprising two trees), which is a critically endangered ecological community listed under the Biodiversity Conservation Act 2016.

The two *Eucalyptus radiata* trees that are representative of the Southern Highlands Shale Woodlands community have been incorporated in both a proposed landscaped area and roadside verge area within the concept 1200 lot subdivision portion of the site. This is reinforced by a condition of consent.

The only hollow bearing tree (*Salix* sp.) recorded within the subject site has been incorporated in a proposed landscaped / riparian area within the Stage 1 subdivision (177 lots).

Some of the riparian corridors and dams within the site are proposed for restoration, which would enhance biodiversity value.

An ecologist should be engaged to undertake preclearance surveys and clearance supervision of fauna habitat, including where there is proposed disturbance of creek banks that provide nesting habitat. The preclearing survey by the ecologist should determine if the *Salix* with the hollow is currently utilised as fauna habitat and if it should be:

- o retained with no modification

- o poisoned and pruned so the hollow is retained as a stag (dead) tree
- o removed and the hollow replaced by a nest box in a suitable tree in the area
- o removed and the hollow section of the tree is relocated in another suitable tree in the area.

This can be addressed by a condition of consent for Stage 1 subdivision (177 lots).

A Vegetation Management Plan (VMP) should be prepared that aims to protect and restore riparian corridors in accordance with the Water Management Act 2000. The VMP needs to be submitted to the Natural Resources Access Regulator (NRAR) with a Controlled Activity Approval application. This can be addressed by a condition of consent for Stage 1 subdivision (177 lots) and the 1200 lot concept component.

A Construction Environmental Management Plan should be prepared that includes erosion and sediment controls to avoid indirect impacts during construction. This can be addressed by a condition of consent for Stage 1 subdivision (177 lots).

Riparian restoration / landscaping shall occur including species characteristic of the Southern Highlands Shale Woodlands community. This can be addressed by a condition of consent for Stage 1 subdivision (177 lots) and the 1200 lot concept component.

Details regarding the protection or enhancement of downstream aquatic ecosystems during construction and in the longer term including adequate sediment and erosion controls are implemented during construction can be addressed by a condition of consent for Stage 1 subdivision (177 lots).

Engagement of an ecologist to prepare and implement a dam dewatering plan for dams subject to earthworks can be required by a condition of consent can be addressed by a condition of consent for Stage 1 subdivision (177 lots).

Parks and Property

Council's Asset Coordinator Parks and Buildings, and Council's Manager Open Space, Recreation & Building Maintenance raise no objection to the updated landscape plans submitted October 2020, which show street trees, planted medians, planted roundabouts, buffer landscaping to Yarrawa Road, drainage ponds, public open space areas, stone entry wall treatments, and water features for the proposed Stage 1 subdivision (177 lots) comprising 173 residential lots ranging in size from 450 square metres to 1404 square metres, 2 open space / drainage lots, 1 residue business lot, and 1 residue lot.

Heritage Advisor

While the site does not contain an item of heritage listed under Wingecarribee Local Environmental Plan 2010, as the development application was referred to Office of Environment and Heritage regarding Aboriginal heritage, the development application was also referred to Council's Heritage Advisor. Council's Heritage Advisor has not commented upon Aboriginal heritage, on the understanding that Office of Environment and Heritage has expertise in that area, but has provided the following comments:

"The real issue here from a heritage point of view is landscape - how to develop this site in a way to minimise the impact when viewed for example from the top of the hill in Hill Street and from the southern entrance to Moss Vale along the Yarrawa and Werai Roads.

My concern is that while the proponents have sought to mitigate the appearance of this massive development by increasing the lot size in critical hill areas, (presumably increase the likelihood of better tree cover), it is not clear that this will work to give the effect of a treed landscape.”

Character / Visual impacts of the development are discussed within the Discussion of Key Issues section of this report.

Environmental Health Officer

Council’s Environmental Health Officer has considered the Stage 2 Detailed Site Investigation (DSI) Report *Detailed Environmental Site Assessment Chelsea Gardens, Moss Vale* by Harvest Scientific Services (Ref 201577, dated 13/10/2020) and advises that the report has been prepared by a suitably qualified environmental consultant in accordance with applicable NSW EPA Guidelines and National Environment Protection (Assessment of Site Contamination) Measure. Council’s Environmental Health Officer advises that taking into account that the Stage 2 Detailed Site Investigation (DSI) Report recommends (sub-chapter 12.5) that the site is suitable for the proposed residential subdivision, and that there is no impediment to the subject development on land contamination grounds.

COMMUNITY ENGAGEMENT

The proposed subdivision development was publicly advertised and neighbour notified to 106 properties for four weeks in accordance with Council’s Notification of Development Proposals Policy. Seven submissions have been received. The issues raised from all seven submissions have been summarised and are considered below:

Issues	Response
<p>Character / Visual impact - Proposed development will become an eyesore and detract from both the town of Moss Vale and the rural nature of the Southern Highlands. Will detract from the current vista of the location from the Illawarra Highway, Nowra Road, Yarrowa Road and Mount Broughton Road. Mass expanse of backyard fences that will be predominantly colorbond. Visual pollution of street lights, power poles, roof glare. The proposed development will ultimately be enclosed by some kilometres of colorbond fencing as I am sure all future residents of the estate will want their rear yards enclosed. This will have an absolutely horrid visual impact not only to the neighbouring farms but for miles around. It will be visible from as far away as Nowra Road the Illawarra Highway and Hill Road. Lighting will reduce visibility of the night sky. Substantial buffer zone around the outside, consisting of established native vegetation to minimise the impact of the above issues. There needs to be a reserve around this whole subdivision so that the first thing that you see when you head down Mt Broughton Road is a parkland and not houses. Proposed lots should be increased in size - small block</p>	<p>Character / Visual impacts of the development are discussed within the Discussion of Key Issues section of this report.</p> <p>Council’s Asset Coordinator Parks and Buildings, and Council’s Manager Open Space, Recreation & Building Maintenance raise no objection to the updated landscape plans submitted October 2020, which show street trees, planted medians, planted roundabouts, buffer landscaping to Yarrowa Road, drainage ponds, public open space areas, stone entry wall treatments,</p>

Issues	Response
<p>sizes do not fit with the rest of the community. This green fields development is of concern to the wider Moss Vale community, and the shire. This is a type of urban development that you would see in Sydney. It looks just like "Spring Farm" near Camden.</p> <p>The landscape plan produced by the developer for this final stretch of Yarrowa Road is encouraging, particularly considering what we will be losing. This part of the project must be constructed and planted by the time the first houses are ready to move into. The roundabouts have to look excellent. This town can't afford another disrespectful, monstrosity like the the roundabout built on the intersection of Spring and Throsby streets.</p> <p>The size of this subdivision will change the face of Moss Vale forever. The key things about the Southern Highlands is its open spaces, beautiful gardens, large trees, decent size building blocks, sense of community, slower pace of life and the reality that people can sit in peace and quiet. The developer says that his subdivision incorporates what the Southern Highland is about. I disagree. If these aspects of the Highlands are to be incorporated in this subdivision then the number of small lots would need to be reduced with more larger blocks taking their place. Why can't larger blocks exist alongside smaller blocks? I know it might be a headache for zoning purposes but for the quality of life for everyone in this subdivision it would be beneficial. We need the large blocks to encourage the planting of trees to accommodate the birds native to this area. Larger trees on one block help protect and keep cooler the houses on the smaller blocks. Surely that is better for the environment all round. If this subdivision passes as it is then it will make the area a "hot house".</p> <p>Concerned with a lot of housing along Harper Collins, Harbison Retirement Village, Seymour Park and the Golf Course. These businesses and public areas need a buffer from these small blocks.</p>	<p>and water features for the proposed Stage 1 subdivision.</p> <p>Proposed lot sizes comply with the minimum lot size requirements under Wingecarribee Local Environmental Plan 2010, with the exception of the proposed 21,303 square metre reserve fronting Yarrowa Road, which is located in the RE1 Public Recreation zone which has a minimum 40 hectare lot size under Wingecarribee Local Environmental Plan 2010. A Clause 4.6 request for variation of minimum lot size development standard is discussed in this report.</p> <p>The proposed Stage 1 subdivision will result in increased housing along Harper Collins boundaries, but does not increase housing to the borders of Harbison Retirement Village, Seymour Park or Moss Vale Golf Course.</p>
<p>Flora and Fauna - No consideration has been given within the plan to the native animals that use this area as a migration corridor. Increased lights will have a significant impact on the local sugar glider colony, as there is evidence that these reside on our property. Applicant's Flora and Fauna report does not mention the mob of kangaroos that live on the Coomungie Chelsea Gardens site. There are some mature trees and at least two dams on the property. Their ecosystems are important and they provide water for bird life and a for frogs. Development needs to be</p>	<p>Council's Flora and Fauna Consultant considers the Flora and Fauna Assessment report addresses current legislative requirements. Overall, the site is mostly cleared and degraded, and has low biodiversity value. No threatened flora or fauna species were</p>

Issues	Response
<p>done in a way which home is sensitive to the area and doesn't wipe out all that exists in the soil such as worms, ants and other insects.</p>	<p>recorded or likely to occur. There is ~0.03 ha (300 square metres) of Southern Highlands Shale Woodlands within the subject site (comprising two trees), which is a critically endangered ecological community listed under the Biodiversity Conservation Act 2016.</p> <p>The two Eucalyptus radiata trees that are representative of the Southern Highlands Shale Woodlands community have been incorporated in both a proposed landscaped area and roadside verge area within the concept 1200 lot subdivision portion of the site. This is reinforced by a condition of consent.</p>
<p>Traffic - Corner of Yarrawa Road and Mount Broughton Road will also become a high-risk area due to the increased traffic flow. Main street of Moss Vale which already has significant traffic issues – proposed subdivision will increase existing problems. Currently traffic from Bundanoon and Exeter travels along Mount Broughton Road, onto Yarrawa Road, right into Spencer Street, left into Arthur Street, right into Mack Street, left again onto Kirkham Street and then right into Elizabeth Street skirting the Moss Vale commercial area to gain access to the Illawarra Highway and Bowral. In the medium term, a major road connection from the development through to Fitzroy Road and the Illawarra Highway will help to reduce traffic impacts from the development on Yarrawa Road, Throsby Street and the associated intersection of Arthur Street with Argyle Street (the Illawarra Highway), Moss Vale's main street. It will also provide an alternate route for heavy vehicles accessing the development from the Illawarra highway. This will be a significant benefit not just during the subdivision construction phase but also through the subsequent house construction phase.</p> <p>Concerned that access for the Exhibition home coming directly off Yarrawa Road will become one of the main access routes into the subdivision when a</p>	<p>Traffic impacts of the development are discussed within the Discussion of Key Issues section of this report.</p>

Issues	Response
<p>development application is lodged for the next stage of the subdivision. construction of Shelley Road, along the road reserve from the north east corner of the subdivision linking up with Fitzroy Road, a condition of the approval of the master plan for Chelsea Gardens.</p> <p>Access roads to and from Moss Vale and through Moss Vale are already burdened with excess vehicle traffic given its location between Wollongong and Goulburn together with increased traffic from new residential developments in the area. The required infrastructure simply does not exist.</p> <p>The proposed road connections for entering and leaving the Chelsea Gardens / Coomungie Lands development are inadequate for the increase in traffic caused by a development of this scale.</p> <p>Unless Yarrowa Road / Spencer Street intersection is made safer there is a likelihood of more accidents due to increased traffic from proposed subdivision. The vast majority of vehicles will, on a daily basis, create congestion on Yarrowa Road and the local roads - Spencer, Arthur and Mack – which form the main route to Moss Vale shops for all vehicles to and from Bundanoon and many from Exeter.</p> <p>In the event of fire, the vast majority of residents have only two points on Yarrowa Road by which they can leave. Suggest Hill Road be upgraded to a third "generous" access point to give residents a meaningful choice of exits in the case of fire. Such an upgrade will also provide practical options for traffic dispersal via Hill and Narellan Roads to Robertson Road. A "potential future east" access point should be immediately included in the development. If the Hill Street access point can't be designed to carry a greater load, and a direct access to the Illawarra Highway via Fitzroy Road is not locked in, than the development can't be approved as presented.</p>	
<p>Increase in lights as the cars travel over the hill from Werai will be a distraction to the corner, making it a greater risk at night.</p>	<p>Buffer landscaping within a 30 metre wide reserve adjoining Yarrowa Road will assist in softening impacts of residential lighting upon cars travelling from Werai to Moss Vale.</p>
<p>Heat that will be generate from the rooves will likely</p>	<p>The "heat island" effects of</p>

Issues	Response
<p>have a significant environmental impact. Less fog and dews in the area, which provide much needed moisture to the famers who rely upon this source of moisture.</p>	<p>the proposed development will be partially offset by the areas of proposed public open space interspersed throughout the development.</p>
<p>Rural / Residential interface - there is no buffer zone between the rural land and residential homes. Buffer needed to reduce impacts of farm management practices including chemical spraying and paddock cultivation (dust impacts). Cattle camping near houses will lead to more complaints with regard to odour and flies.</p> <p>Colorbond side boundary fence to rural property not suitable. Buffer zone could include a bike track.</p>	<p>Rural / Residential interface issues are discussed within the Discussion of Key Issues section of this report.</p>
<p>Public consultation - Proposed subdivision is a concern to the wider Moss Vale community and neither the developer, the State Government (the signatory to the rezoning of the land) nor Council has made the effort to convene a meeting with the wider community to discuss the issues and allay concerns. The particular Development Application is not on public exhibition on Wingecarribee Shire Council's website, and excludes many residents without access to computers/internet.</p>	<p>The proposed subdivision development was publicly advertised and neighbour notified to 106 properties for four weeks in accordance with Council's Notification of Development Proposals Policy. Council's DA Tracker contained plans and documents submitted with the application.</p>
<p>Infrastructure / employment – Proposed development will add 65% more to the population of Moss Vale. No jobs, schools full, medical practices barely cope, traffic / road network inadequate, difficult to find parking at the supermarkets. These existing factors were the reasons why Council rejected changing the zoning to this land in the first place.</p>	<p>The proposed subdivision will create an additional demand upon existing infrastructure and services in the area.</p>
<p>Drainage - the green space for ponds for water run off should be seen for what they are. A place for water to go because the block sizes are too small and there is nowhere for water to go except into drains which lead to the ponds. If there were larger lots run off would be lot less of a problem.</p>	<p>The proposed drainage system satisfies the requirements of Water NSW, Natural Resources Access Regulator, and Council's Development Engineers.</p>
<p>Name of subdivision – misappropriation of the name Chelsea Gardens for the Coomungie land development. The practice of misappropriation has been well documented as sellers seek to gain a perceived benefit from the use of another's authenticity when marketing an unknown quantity. In this case, it appears to be an attempt to trade on attributes that the development does not have and devalue those that it does. A change of name is an insult to First Nations</p>	<p>The two properties which are proposed to be subdivided have existing property names of "Chelsea Gardens" and "Coomungie". The marketing of the development as "Chelsea Gardens" or more recently</p>

Issues	Response
<p>people. It dishonours their past by insinuation that the name Coomungie is somehow inferior and needs to be changed. It is also ignores the history of Coomungie and its relevance to this area.</p> <p>In this respect, it's lazy marketing. I therefore submit that the use of Chelsea Gardens be dropped and due respect given to its actual and authentic name, Coomungie.</p>	<p>as "Ashbourne" is not a matter that Council can override. However, should the subdivision be approved, it is important that the subdivision form part of the Moss Vale township, and not have its own separate entity, and not have entry signage separating the subdivision as a separate estate to Moss Vale. This can be addressed by a condition of consent.</p>
<p>Pedestrian / cycle link to Moss Vale - The pedestrian and cycle link along Yarrowa Road between Stage 1 and the Spencer Street rise needs to go in concurrent with the realization of Stage 1. The pedestrian/cycle link between the estate and Arthur Street via Seymour Park needs to be part of Stage 1. The only significant pedestrian access is via Seymour park, Arthur Street and the Roy Baker walkway.</p>	<p>A condition of consent for the concept component will require a Walking and Cycling Strategy Plan for the whole of the precinct for connection to Moss Vale Town Centre. Stage 1 does not extend to Seymour Park, however submitted landscape plans show a 2.5 metre wide concrete shared pathway which will be connecting the Stage 1 subdivision through a later stage subdivision to Seymour Park.</p>
<p>Urban Design - From the development control plan there is an intention on the part of the developer to move away from a street scape of garage doors and concrete aprons. This aspect of the design really need to be asserted, the council and developer should explore any option that breaks the houses in a car park look that so many new estates still have. Suggest that semi-detached two storied houses make better use of smaller allotments. Again it would be necessary to ensure that garages are set well back beyond the building alignment of the house itself. It would be great to avoid sprawling single story houses crammed onto small blocks with 900mm setbacks and 1800 high boundary fences. The Coomungie Chelsea development represents something that on completion will be a third of the entire township of Moss Vale. This is where we get to choose our economic future and standing and our point of difference. We do need to be seeking and demanding something excellent. It's worth questioning the notion that larger allotments with bigger houses look better on the ridge lines and high</p>	<p>The existing Moss Vale Township Development Control Plan contains particular controls for the Chelsea Gardens Coomungie precinct, including provisions for desired landscape character, and desired residential character. Should development consent be granted for the proposed subdivision, future development of each lot is guided by the existing provisions of Moss Vale Township Development Control Plan (Chelsea Gardens Coomungie precinct).</p>

Issues	Response
ground. There are examples where that philosophy has been applied in Moss Vale and the out come has been poor. Large, mediocre, structurally invasive houses prominent in the landscape twenty, thirty years after construction. A big exposed house can destroy the scale of a hill. Close finer textured development may be both physically less invasive and aesthetically a lot more interesting. Thinking here of the suburbs of Hobart or Wellington NZ or even parts of Goulburn.	

DISCUSSION OF KEY ISSUES

Traffic

Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot, proposes road widening and new intersection to create one public road access to Yarrawa Road, located immediately to the south of the Harper Collins site in the western corner of the development site (**Figures 4 and 5** and in **Attachment 2**). No other road access to Yarrawa Road is proposed as part of the Stage 1 subdivision.

Traffic generated from the Stage 1 subdivision can be absorbed into the existing road network, subject to the provision of a roundabout at the Yarrawa Road / Spencer Street / Darran Road intersection. A roundabout at the at the intersection of Yarrawa Road and subdivision road for access to Stage 1 of the development is also required. This is addressed as a condition of consent.

Traffic generated by the concept residential subdivision of approximately 1200 lots in the remainder of the site (outside the Stage 1 subdivision - 177 lots) will access four additional road accesses at Yarrawa Road / Mount Broughton Road intersection at the south of the site, at Lovelle Street to the west of the site, at Hill Road to the north of the site, and to the Fitzroy Road road reserve area to the north east of the site, connecting to Illawarra Highway.

The traffic impacts of the concept residential subdivision component of the development upon Robertson Road / Illawarra Highway / Argyle Street have been considered by Transport for NSW, resulting in a Planning Agreement between the Minister for Planning and Public Spaces and Prime Moss Vale Pty Ltd.

The Planning Agreement provides that the Developer will make a development contribution by providing a Monetary Contribution of \$3,466.67 per Urban Lot created for the purpose of contributing to the provision of designated State public infrastructure in relation to each lot. Part of the Monetary Contribution payable may be offset by the completion of Road Work by the Developer (to the value of \$2,406,000). This Road Work will comprise the Intersection Upgrade Works. However, if the Intersection Upgrade Works cannot reasonably be carried out, a proposed modified roundabout design/alternative treatment or arrangement to the satisfaction of Transport for New South Wales may be undertaken (Proposed Modified Road Work).

Therefore these funds will be directed to intersection upgrades along Robertson Road / Illawarra Highway / Argyle Street to the agreement and satisfaction of Transport for NSW.

As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021.

Future development applications for subdivision within the concept residential subdivision component of the site (outside the Stage 1 subdivision area), shall address the local road network, including the performance of / need for upgrade of the following, at the appropriate stage as identified in the Traffic Impact Assessment Report for the whole of the development precinct:

- a) The intersection of proposed subdivision road, Villiers Road and Hill Road.
- b) The intersection of proposed subdivision road, Daylesford Drive and Lovelle Street.
- c) The intersection of Lovelle and Spencer Streets.
- d) The intersection of Arthur Street and Mack Street.
- e) The intersection of Mack Street and Kirkham Street.
- f) The intersection of Yarrowa Road and Mt Broughton Road.
- g) Fitzroy Road from Illawarra Highway to the eastern boundary of Stage 5.
- h) Construction / widening of Yarrowa Road from the existing end of kerb and gutter in the vicinity of 35 Yarrowa Road to its intersection with Mt Broughton Road.

This is addressed by conditions of consent.

Character / Visual Impact

Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan includes numerous statements regarding desired vision and character, including that development be thoughtfully designed, be true to Southern Highlands charm, be in harmony with nature, reflect the character of the Southern Highlands, be of a highly landscaped setting to enhance its rural setting, character and views, and be designed to identify existing site features that make a positive contribution to the site and local area.

While the site is currently viewed as rural farmland, it has been rezoned for residential purposes, therefore when developed there will be a change in character, particularly with dwellings, roof glare, street lights and power poles. The majority of the site is mid to low lying undulating land, therefore broader visual impacts of a residential subdivision are reduced. Public lighting in accordance with the requirements of Council's Development Engineering Standards and relevant Australian Standards for street lighting will need to be provided. The proposed Stage 1 subdivision does include retaining walls 0.9 metres height, extending along the rear boundaries midblock of 28 lots, which combined together is a total length of approximately 400 metres. These proposed retaining walls comply with the maximum side boundary retaining wall height of 900 mm and maximum rear boundary retaining wall height of 1.5 metres contained within the Moss Vale Township Development Control Plan: Section 21 Chelsea Gardens / Coomungie Precinct: Section 2.3 subdivision. It is considered that these retaining walls will largely not be visible from

public roads, due to their location at the rear of proposed lots. Measures such as buffer landscaping within a 30 metre wide reserve adjoining Yarrowa Road, street tree planting and open space areas will assist in softening the visual impacts of the subdivision.

However, the most visually prominent sections of the site are the two main ridgelines and hills located in the northern and eastern portions of the site shown in red below, as identified as “Special Character Areas” in Section 21 subsection 4.4 of the DCP.

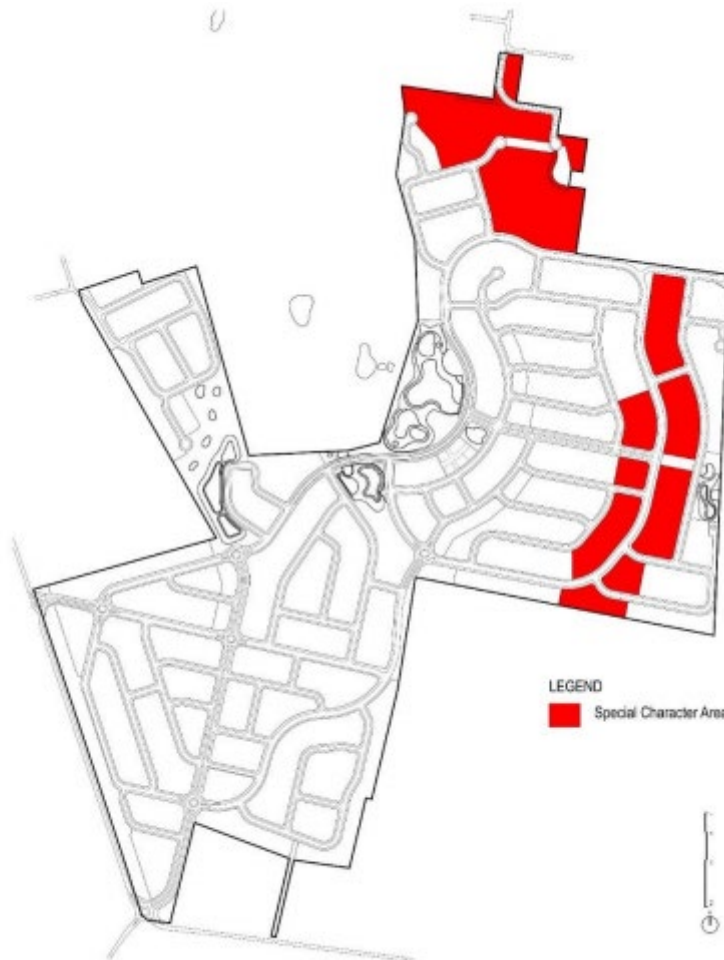


Figure 12 – Special Character Areas located in the higher eastern and northern portions of the site

The Visual Impact Assessment report prepared by Ethos Urban dated 19 August 2020, has assisted in the assessment of the visual impact of the concept subdivision within the higher portions of the site (shown in red above).

These two main ridgelines and hills on the property marked red above, are located within the “Special Character Area” identified in Part 4.4 of the Chelsea Gardens Coomungie Precinct of the Moss Vale Township DCP, and are subject to a 2000 square metre minimum lot size under Wingecarribee Local Environmental Plan 2010.

The 2000 square metre “minimum lot size” is stated as a minimum numerical standard. Compliance with a minimum numerical standard lot size does not equate to suitability or acceptability of a proposed subdivision.

As these higher portions of the site are considered visually prominent and geotechnically constrained, the development applications submitted in future for these higher visually prominent portions of the site shown in red above would be accompanied by a detailed Visual Impact Assessment report and Geotechnical Assessment report to enable careful consideration and assessment of the visual impacts and geotechnical constraints for subdivision of these portions of the site.

Therefore it is considered that should Development Application 20/0227 be approved, including the concept component, lot sizes may need to be greater than a 2000 square metre minimum within the areas marked red (which correlate with the higher portions of the site marked in purple as “minimum lot size 2000 sqm” as shown on Landscape Masterplan dated 11 July 2019 Rev C as contained within Landscape Master Plan Report prepared by Arterra Design Pty Ltd) , so that the visual impact of the subdivision within these higher portions of the site is reduced. Therefore should development consent be granted, it is considered appropriate that a recommended condition of consent of the 1200 lot concept component of the DA would clearly state:

Proposed Lot sizes within the subdivision of the higher portions of the site and within the Special Character Area (Lots > 2000m², Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township DCP) may need to be greater than 2000 square metres in area, and shall demonstrate that the visual impact of the subdivision within these higher portions of the site is satisfactory as part of future subdivision applications.

The treatment and design of the residential design rural edge interface along the eastern portion of the property (within the 1200 lot concept component of the development application) is an important consideration in the assessment of the application. The interface between residential and rural land needs to be carefully treated, so as to minimise adverse visual impacts, and provide a practical buffer to reduce conflicts between rural land uses and residential land uses.

The Rural Edge Interface on the eastern boundary of the property is shown in purple in **Figure 13** below.

Figure 5 – Rural Edge Interfaces



Figure 13 – Rural Edge Interface shown in purple

It is considered that should Development Application 20/0227 be approved, including the concept subdivision including approximately 1200 residential lots which contains the residential / rural interface, that to enable detailed assessment to occur with future development applications, it is considered appropriate that a recommended condition of consent would clearly state:

The interface of the proposed residential subdivision with adjoining rural land is an important component of the total subdivision. Subdivision applications for land adjoining the rural edge interface (figure 5, Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township DCP) shall show how the residential / rural interface is proposed to be designed and treated so as to address the provisions of Section 2.4.1 Residential Design Rural Edge Interface of Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township DCP. This may include either a) perimeter roads adjoining the

rural edge interface and landscaping along the rural edge interface maintaining existing rural fencing along the property boundaries, or b) provide details of rural style fence and landscape buffer at the boundary interfacing with rural land.

Concerns raised by submitters in the neighbour notification process included that there would be a mass expanse of backyard fences that will be predominantly colorbond. The existing development controls in Section 21 Chelsea Gardens Coomungie Precinct of the Moss Vale Township Development Control Plan state a preference for timber post and rail fencing. A condition of consent requiring no solid metal “colorbond” style fencing as a restriction within a s.88b instrument under the Conveyancing Act 1919 is considered appropriate.

Council’s Asset Coordinator Parks and Buildings, and Council’s Manager Open Space, Recreation & Building Maintenance raise no objection to the updated landscape plans submitted October 2020, which show street trees, planted medians, planted roundabouts, buffer landscaping to Yarrowa Road, drainage ponds, public open space areas, stone entry wall treatments, and water features for the proposed Stage 1 subdivision.

The proposed Stage 1 subdivision includes a 250 metre length of site boundary retaining wall (keystone wall), being a maximum of 2 metres height, on the north western boundary adjoining Lot 1 DP 842623 (Harper Collins site). Approximately 150 metres of the boundary wall length will exceed 1.5 metres in height. While there is vegetation on the adjoining Lot 1 DP 842623 (Harper Collins site) which will partially obscure the site boundary retaining wall, the development of the subject site should not rely upon vegetation on an adjoining property to soften the appearance of the boundary wall. Therefore it is considered appropriate that a condition of consent be imposed requiring suitable landscape treatment to soften the appearance of the boundary retaining wall, on the north western boundary adjoining Lot 1 DP 842623.

Draft conditions of consent

In accordance with Regional Planning Panel requirements, draft conditions of consent have been provided to the applicant, which has resulted some alterations and clarifications to conditions of consent.

The draft conditions of consent (Attachment 1) are now to the satisfaction of Council’s assessment officers and the applicant.

REVIEW AND APPEAL RIGHTS

The applicant can exercise rights of review under S8.2 of the EPA Act 1979 and also a right of appeal under Section 8.7 of the EPA Act 1979.

CONCLUSION

The proposed Integrated and Staged Concept application for two components being Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot, and the concept residential subdivision of approximately 1200 lots in the remainder of the site (outside the Stage 1 subdivision - 177 lots), at Lot 3 DP 706194 being “Coomungie” 141 Yarrowa Road Moss Vale, and Lot 12 DP

866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale, is considered satisfactory in terms of s.4.15 EPA Act 1979, subject to conditions of consent, including conditions addressing two components of the concept residential subdivision component being the subdivision of the higher portions of the site in the north and north east portions of the site, and the residential design rural edge interface along the eastern boundary of the property. The concept residential subdivision of approximately 1200 lots in the remainder of the site (outside the Stage 1 subdivision - 177 lots), is conceptual only - detailed subdivision proposals are to be the subject of a subsequent development application or applications, subject to the attached conditions of consent.

As at 21 July 2021 (being the deadline for submission of this report to Southern Regional Planning Panel meeting of 4 August 2021), a Satisfactory Arrangement Certificate has not been issued by the Department of Planning, Industry and Environment, however is expected to be issued prior to the Southern Regional Planning Panel meeting of 4 August 2021.

Assuming a Satisfactory Arrangement Certificate is issued by the Department of Planning, Industry and Environment prior to Southern Regional Planning Panel meeting of 4 August 2021, it is recommended that the development application be approved, subject to the attached conditions of consent.

RECOMMENDATION

THAT development consent be issued for

- Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot
- Proposed concept subdivision including approximately 1200 residential lots

at Lot 3 DP 706194 being "Coomungie" 141 Yarrawa Road Moss Vale, and Lot 12 DP 866036 being "Chelsea Gardens" 32 Lovelle Street, Moss Vale, subject to the attached conditions of consent.

ATTACHMENTS

Attachment 1: Draft conditions of consent

Attachment 2: Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue lot and 1 residue business lot)

Attachment 3: Proposed concept subdivision including approximately 1200 residential lots

Attachment 4: Indicative Staging Plan

Attachment 5: Clause 4.6 Variation request

Attachment 6: Proposed earthworks cut and fill