

**Date** 29/06/2021  
**To** Terry Lu (Tony Owen Partners)  
**From** Nathan Banks (Arcadis)  
**Copy to** Kate Carroll (Arcadis)  
**Subject** Biodiversity Advice – 164 & 170 Croatia Ave, Edmondson Park

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Arcadis have been engaged by Tony Owen Partners to make an assessment of the proposed development at 164 & 170 Croatia Avenue to determine whether the requirements of the *Biodiversity Conservation Act 2016* should be considered.

Tony Owen Partners is in the process of applying for concept Development Consent for a mixed-use development spanning across 164 and 170 Croatia Avenue, Edmondson Park (Proposal site, Figure 1). The development is set to include 676 residential apartments, 2000sqm of retail floor space, a childcare centre and supporting roads and infrastructure (the 'Proposal'). The Proposal is set to be constructed in two stages. This concept Development Application (DA) forms part of the Edmondson Park town centre project.

The Proposal (Stage 1 and Stage 2) will be mostly constructed on lands zoned B4 – Mixed Use with minor encroachments occurring on lands zone RE1- Public Recreation. The majority of the Proposal footprint is situated within lands that have been subject to biodiversity certification as a result of the Growth Centres SEPP (2006) and associated Sydney Growth Centres biodiversity certification order (hereafter 'the order')(2007). A small portion of the Proposal which includes a pedestrian footpath, landscaping, roadway and a roundabout extends beyond the certified lands into areas zoned RE1 – Public Recreation. Non-biodiversity certified lands within the Proposal site are also subject to the planning provisions of the Conservation Agreement (2009) in relation to the development of the Edmondson Park Precinct under the *Environment Protection and Biodiversity Conservation Act 1999*.

A Statement of Environmental Effects (SEE) for the Proposal was recently submitted to Liverpool City Council (LCC). LCC provided comments on 26 April 2021 outlining the requirement for biodiversity investigation for non-biodiversity certified land that will be impacted by the Proposal:

*The SEE assumes that the entire site is biocertified (as noted on page 66), and therefore consideration of ecological matters was not required. However, Geocortex indicates that the RE1 zoned portion of the site is not biocertified.*

*The SEE notes that the pedestrian path and tree planting within the Bernera Road reserve would extend into the RE1 zoned land, which is not biocertified. Further, it appears that the temporary turning heads (and associated batters) on the perimeter road may potentially impact upon land that is not biocertified.*

*It is therefore recommended that the extent of impacts in relation to the extent of biocertified land is clarified.*

*If impacts extend into land that is not biocertified, further information should be submitted to demonstrate whether the Biodiversity Offsets Scheme has been triggered. The evidence should include, but is not limited to:*

- *details on any potential impacts (both direct and indirect) to areas identified on the Biodiversity Values Map (which is maintained by the NSW Department of Planning, Industry and Environment, and is available from <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap> ),*

- *the extent of native vegetation to be cleared, and*
- *test of significance for threatened species and ecological communities that are known, or potentially occur, within the area of impact (as detailed within section 7.3 of the Biodiversity Conservation Act 2016).*

*If any of the triggers for the Biodiversity Offsets Scheme apply, a Biodiversity Development Assessment Report (BDAR) is required. The BDAR is to be prepared by an accredited assessor. A list of accredited assessors is available from <https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor> .*

*Further details on the Biodiversity Offsets Scheme, and the associated report and assessment requirements, are available from <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/how-it-works#developers>*

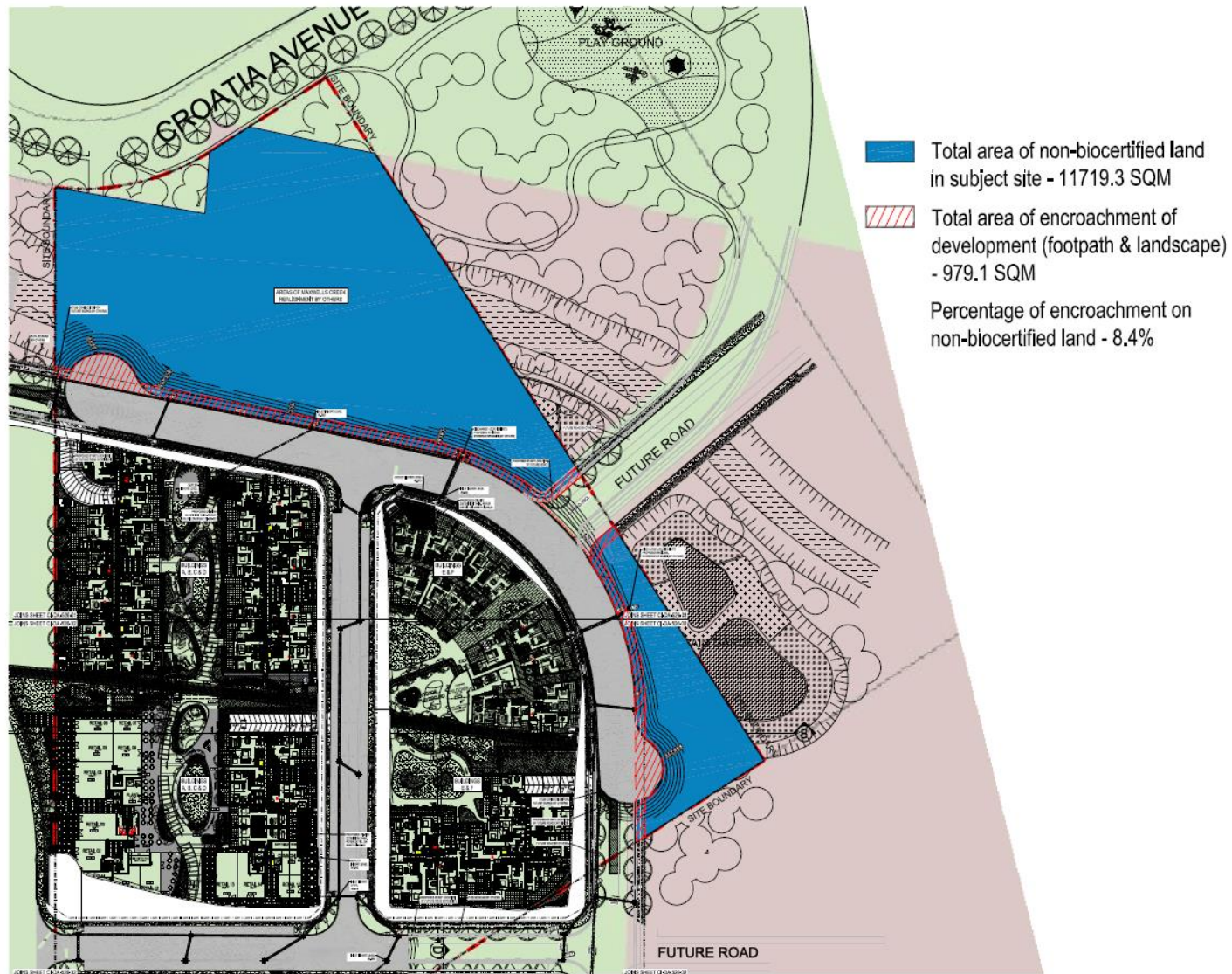


Figure 1. Proposed development with encroachment into non-certified lands identified

## Proposal development stages

The Proposal is set to be constructed in two stages (Figure 2). The development components of each stage include:

- Stage 1: Construction of: Buildings C, D, G and H; road reserve/access to construction areas; and an interim Gross Pollutant Trap (GPT) and bioretention basin.
- Stage 2: Construction of: Buildings A, B, E and F; Macdonald road; bioretention basin D13 and D14.

Stage 1 of the Proposal is located entirely within lands zoned B4 – Mixed Use, which has been subject to biodiversity certification under the order (2007). No impacts to native vegetation will occur outside of certified lands. Any storm water structures (retention basins and outlets) will be designed to avoid impacts to lands mapped as biodiversity values and areas of native vegetation within RE1 – Public recreation zoned lands.

Stage 2 will be mostly constructed on lands zoned B4 – Mixed Use with minor encroachments occurring on lands zone RE1- Public Recreation. Stage 2 of the Proposal will be deferred until Maxwells Creek realignment works are completed by Liverpool City Council in the RE1 zoned lands. It is assumed that native vegetation in lands zoned RE1 – Public Recreation within the Property Site would be removed during the Maxwells Creek realignment works conducted by LCC.

## Proposed works by Liverpool City Council in RE1 land

Liverpool City Council (LCC) are in the process of re-designing the open space on lands zoned RE1 – Public Recreation at the northern extent of the Proposal site. This will occur as a separate project prior to the Proposal. It is anticipated that LCC will re-design Bernera Road reserve to include raingardens, re-align the existing Maxwells Creek and landscaping. LCC have recently engaged Civile to provide a design for the open space (letter of intention from LCC attached: Appendix A). LCC previously engaged Storm consulting (2014) to provide a concept design for modifications to the creek line which intersects the Proposal site (Appendix B).

It is assumed that native vegetation in lands zoned RE1 – Public Recreation within the Property Site would be removed during the re-design of Bernera Road reserve (including raingardens, Maxwells Creek realignment and landscaping) conducted by LCC.





## Biodiversity Offsets Scheme

Entry to the Biodiversity Offsets Scheme is triggered by developments, projects and activities that meet certain thresholds for significant impacts on biodiversity, or on an opt-in basis.

The Biodiversity Offsets Scheme (BOS) applies to local development (assessed under Part 4 of the Environmental Planning and Assessment Act 1979) that triggers the Biodiversity Offsets Scheme Threshold or is likely to significantly affect threatened species based on the test of significance in section 7.3 of the Biodiversity Conservation Act 2016

The Biodiversity Offsets Scheme Threshold is a test used for local developments to determine when it is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method (the BAM) to assess the impacts of a proposal. The threshold has two elements:

- whether the amount of native vegetation being cleared exceeds an area threshold based on minimum lot size or actual lot size of the lots subject to development (Table 1)
- whether the impacts occur on an area mapped on the Biodiversity Values Map published by the Environment Agency Head and maintained by the NSW Department of Planning, Industry and Environment (DPIE).

If clearing and other impacts exceeds either trigger, the Biodiversity Offset Scheme applies to the proposed development, including biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017.

Table 1. Area clearing threshold to trigger the BOS

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1000 ha or more	2 ha or more

The design for Stage 1 of the Proposal is situated entirely within areas subject to biodiversity certification under the order (2007) and subsequently does not require assessment against the *Biodiversity Conservation Act 2016* or Biodiversity Offset Scheme (BOS).

The current design for Stage 2 of the Proposal would trigger the Biodiversity Offset Scheme (BOS) due to the design intersecting an area mapped on the Biodiversity Values Map (DPIE 2021) nearest the north-eastern edge (see yellow hashed area in Figure 3).

An encroachment of 979.1 square metres into non-biodiversity certified lands does not trigger the clearing area threshold of 0.25 hectares for a minimum lot size of 300 square metres, as such Stage 2 of the Proposal does not trigger the BOS under this element.





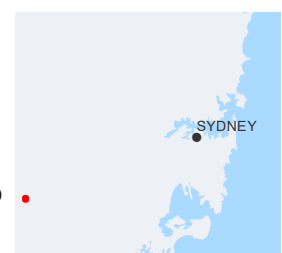
# Legend

- Proposal site boundary
- Proposed development
- Encroachment of development on non-biocertified land
- Encroachment of development on Biodiversity values land (148.6 m<sup>2</sup>)

- Biodiversity value mapping 11.6 (DPIE, 2021)
- Lot boundary

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 Coordinate System: GDA 1994 MGA Zone 56  
 Date issued: June 4, 2021  
 Aerial imagery supplied NSW LPI

1:2,000 at A4



## Conclusion

The design for Stage 1 of the Proposal is entirely situated within areas subject to biodiversity certification under the order (2007) and does not encroach on non-biodiversity certified lands in areas zoned RE1 – Public recreation. As such, Stage 1 does not require further assessment under the Biodiversity Conservation Act 2016 including the Biodiversity Offset Scheme (BOS).

The design for Stage 2 of the Proposal would currently trigger the BOS due to the design intersecting an area mapped on the Biodiversity Values Map (DPIE 2021). However, it is understood that all areas within lands zoned RE1 – Public Recreation within the Property Site would be cleared of native vegetation for the re-design of Bernera Road reserve by LCC prior to Stage 2 of the Proposal commencing. Assuming that all areas of native vegetation within the Property Site would be cleared, and the Biodiversity Values Map would be updated, Stage 2 of the Proposal would not have any impact on native vegetation or biodiversity values. Based on this assumption, the Proposal at 164 & 170 Croatia Avenue would not require further assessment under the *Biodiversity Conservation Act 2016* including the Biodiversity Offset Scheme.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'N Banks', with a stylized flourish at the end.

Nathan Banks

Ecologist

Arcadis



## **APPENDIX A. LIVERPOOL CITY COUNCIL LETTER (2021)**

01 June 2021

Owner and/or Resident  
164 CROATIA AVENUE  
EDMONDSON PARK NSW 2174

Dear Sir/Madam

**Re: Investigation and Design of Raingardens in Edmondson Park**

This is to advise you that Council has engaged Civile Pty Ltd to undertake the investigations and design for raingardens in Edmondson Park. Civile Pty Ltd and its sub-consultants, including engineers and surveyors will need to undertake site investigative works, which will require access to your land. Council seeks your permission to access your land under the provision of Clauses 191A, 192 & 193 of Local Government Act 1993. This will grant access to Council staff or authorised persons entering premises for carrying out site investigations in relation to drainage matters.

Furthermore, Civile Pty Ltd will contact you to schedule a mutually convenient time to enter your land to undertake one or more of the following tasks:

- Site inspection
- Utility service location
- Detailed site topographic survey
- Geotechnical investigation

Any ground disturbance will be restored to the satisfaction of the owner and Council.

Please find attached the request for permission to access your property to carry out the above work. Please return this signed permission to Council in the reply-paid envelope as early as possible. Also, note that no stamp is required.

Should you require any further information regarding this matter, please contact, Zeaul Hoque, Council's Floodplain Engineer on (02) 8711 7747.

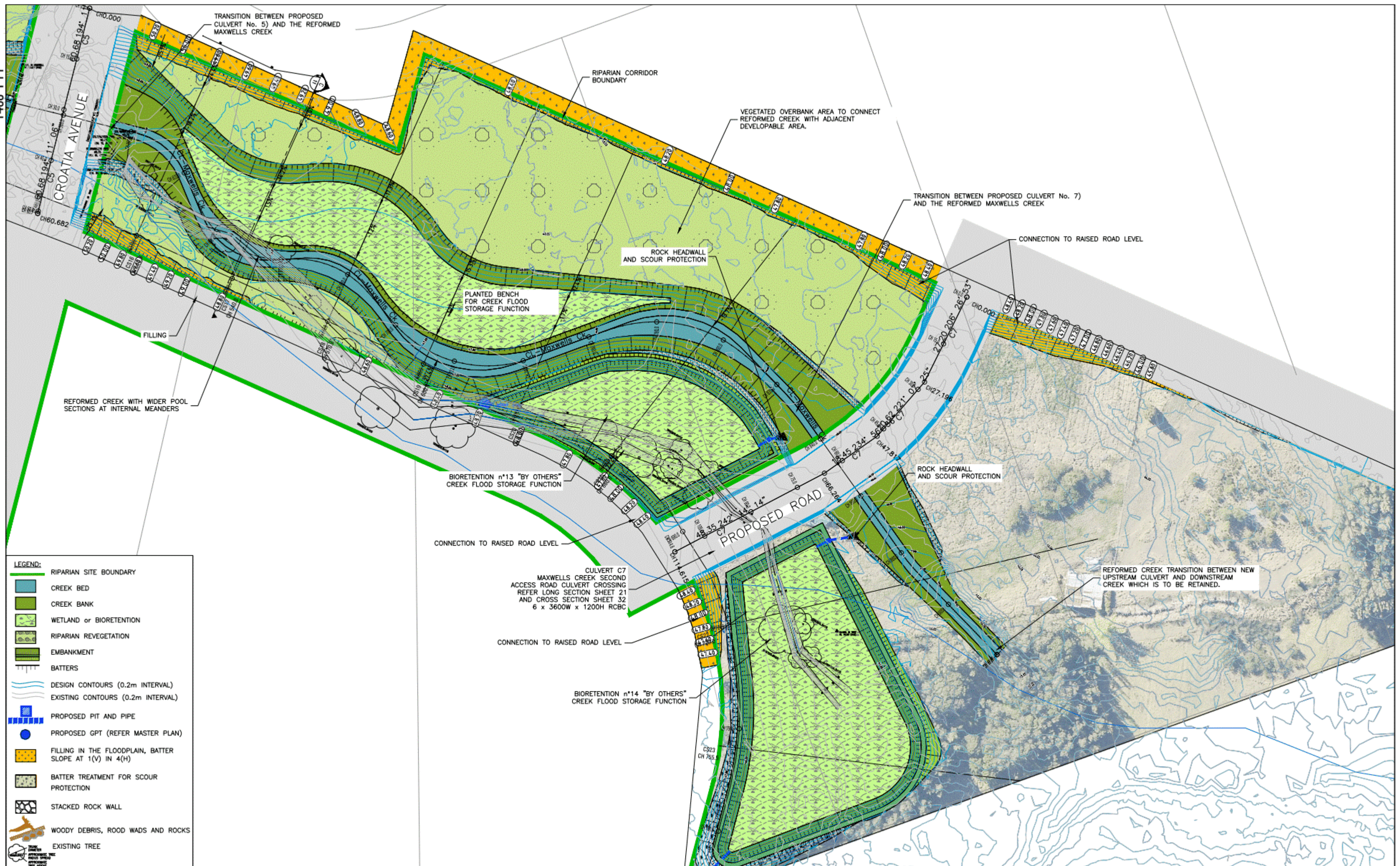
Yours sincerely



**Rinas Cook**  
Manager Technical Support

## **APPENDIX B. CONCEPT DESIGN: MODIFICATION OF CREEKS IN EDMONDSON PARK (STORM 2014)**





Rev.	Revision Description	Designed	Date
E	CONCEPT DETAILS FINAL	DH	24.07.14
D	CONCEPT DETAILS COUNCILS CHANGES	DH	06.05.14
C	CONCEPT DETAILS	DH	06.03.14
B	DRAFT CONCEPT DESIGN	DH/TH	09.01.14
A	PRELIMINARY CONCEPT	DH/TH	07.11.13

## CONCEPT DESIGN

STORM CONSULTING authorise the use of this drawing only for the purpose described by the status stamp shown above. This drawing should be read in conjunction with all relevant contracts, specifications, reports & drawings.

Designed: D. Hellot / T. Howe	Authorised: R. Wiese
Checked: T.H.	Approved: N/A
10 5 0 10 20	1:500
Original sheet size A1	North

SYDNEY  
MELBOURNE

**Storm**  
www.stormconsulting.com.au

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UNIT 7, 84 CHURCH ST, RICHMOND VIC 3121 P 03 9208 0111

CAD FILE: 1460 Edmondson Park CD

CLIENT:  
LIVERPOOL CITY COUNCIL  
LEVEL 2, 33 MOORE ST  
LIVERPOOL, NSW, 2170  
1300 36 2170

## MODIFICATION OF CREEKS IN EDMONDSON PARK

Concept Design  
Edmondson Park, NSW, 2174  
Maxwells Creek - Sheet 3 of 3

Date 07.11.13 Drawing No. 1460 P11

Sheet 11 of 41