



**WRITTEN REQUEST PREPARED PURSUANT TO
CLAUSE 4.6 OF CAMPBELLTOWN LOCAL
ENVIRONMENTAL PLAN 2015 IN RELATION TO A
VARIATION WHICH IS SOUGHT TO THE
DEVELOPMENT STANDARDS CONTAINED IN
CLAUSE 40(4)(a) OF SEPP (HOUSING FOR SENIORS
OR PEOPLE WITH A DISABILITY) 2004**

**Submitted in support of a Development Application
for a seniors housing development near the corner
of Copperfield Drive and Julius Road, Rosemeadow**

**Prepared for
Land and Housing Corporation NSW**

**by
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1. INTRODUCTION

1.1 The proposed development

This Clause 4.6 request accompanies a Development Application (“DA”) for the construction of a new seniors living development comprising 45 independent living units near the corner of Copperfield Drive and Julius Road, Rosemeadow (“the site”). The location of the site is shown on **Figure 1** and the site boundaries and local area are shown on **Figures 2** and **3**.

The development comprises a new part two and part three storey development (divided across three building blocks), with basement car parking for 45 cars, and associated works including earthworks, pedestrian access, landscaping, site services, stormwater drainage, and other ancillary works.

1.2 The site

The site is located in the south-east corner of the Rosemeadow Renewal project, an urban renewal project transforming around 165 social housing properties into a contemporary mixed community including both private and social housing. The project will deliver around 240 new lots and housing of which up to 30% will be social housing homes, including 45 new seniors independent living units. The redevelopment of Stages 1 and 2 was completed in 2016 with planning approval for Stage 3 obtained in late 2018. Subdivision works for Stage 3, within which the site is located are soon to commence. This includes the creation of the lot on which the proposed development is located.

The site for the purposes of this DA is the site on completion of subdivision and associated subdivision works being undertaken by LAHC in accordance with an activity approval under Part 5 of the EP&A Act for the Stage 3 subdivision. Works being undertaken under this activity approval includes subdivision of land, construction of a new road (Road No 2), provision of utility services, removal of buildings and vegetation, changes to ground levels to create a suitable building platform including a new retaining wall on the eastern side of the site adjacent to a proposed drainage reserve, stormwater drainage works and landscaping.

The land to which this development relates is Lot 194 in the proposed plan of subdivision of Lot 90 in DP 1166578 and Lot 33 and Lot 34 in DP 700703. A copy of this proposed plan of subdivision is provided as **Appendix 1**. The site in its condition following completion of these works is detailed in the survey plan contained in **Appendix 2**. The site is also shown on **Figures 1** and **2**.

The site is an irregular, rectangular shaped parcel of land and has a total area of 5,105m². It has a west facing frontage of 80.7 metres to proposed Road No. 02 and a variable depth of approximately 63 metres.

The eastern frontage is approximately 100 metres and adjoins a proposed drainage reserve which separates the site from Copperfield Drive. The site is approximately 15 metres from Copperfield Drive.

The site is owned by the NSW Land and Housing Corporation (“LAHC”).

1.3 Site zoning and permissibility

The site is located within the R2 Low Density Residential Zone pursuant to Campbelltown Local Environmental Plan 2015 ("the LEP") (see **Figure 4A**). The objectives of this zone are as follows:

- *"To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a domestic scale.*
- *To minimise overshadowing and ensure a desired level of solar access to all properties.*
- *To facilitate diverse and sustainable means of access and movement."*

Development permitted without consent in the R2 Low Density Residential zone includes as follows:-

"Home occupations"

Development permitted with consent in the R2 zone includes as follows:-

"Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; Home businesses; Home industries; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (outdoor); Respite day care centres; Roads; Schools; Semi-detached dwellings; Tank-based aquaculture"

Development prohibited in the R2 zone includes as follows:-

"Any development not specified in item 2 or 3"

Pursuant to the Campbelltown Local Environmental Plan 2015, development for the purposes of "seniors housing" is prohibited in Zone R2 (Low Density Residential) within which the site is located. Thus development consent is sought pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

1.4 DA lodged pursuant to the Seniors Housing SEPP

The DA for the proposal has been lodged pursuant to, and relies upon, the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("the Seniors Housing SEPP").

Clause 4 states that the SEPP applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes if:

- *"(a) development for the purpose of any of the following is permitted on the land:*
 - (i) dwelling-houses,*
 - (ii) residential flat buildings,*
 - (iii) hospitals,*

- (iv) *development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*
- (b) *the land is being used for the purposes of an existing registered club.”*

Dwelling houses are permitted with consent in the R2 Zone. In this regard, the SEPP applies to the site in that it is zoned primarily for urban purposes.

The development application has been lodged pursuant to Chapter 3 of the Seniors SEPP which enables consent to be granted to the proposed seniors housing development.

Council has requested that any variation to a development standard in the Seniors Housing SEPP is to be accompanied by a written request pursuant to clause 4.6.

1.5 Clause 4.6 of Campbelltown LEP 2015

Clause 4.6 of Campbelltown Local Environmental Plan 2015 allows approval to be granted, notwithstanding non-compliance with a development standard. Clause 40(4) of the Seniors SEPP contains development standards. Clause 4.6 of the LEP allows approval to be granted to a DA even though a proposed development contravenes a development standard in the SEPP or in any other environmental planning instrument. This includes the Seniors Housing SEPP. This written request addresses the requirements of Clause 4.6 of Campbelltown LEP 2015.

1.6 Principle and relevant authorities

The principles and relevant authorities which have been considered in the preparation of this Clause 4.6 variation request are those found in :-

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827 (“Wehbe”);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (“Four2Five No 1”);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (“Four2Five No 2”);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 248 (“Four2Five No 3”);
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7;
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118; and
- *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245.

2. RELEVANT DEVELOPMENT STANDARD

Clause 40(4) of the Seniors SEPP relevantly states:

40 Development standards—minimum sizes and building height

- (1) **General** A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.
- (2)

(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

(5) Development applications to which clause does not apply Subclauses (2), (3) and (4)(c) do not apply to a development application made by any of the following—

(a) the Department of Housing,

(b) any other social housing provider.

Under the Seniors SEPP:

- **ground level** means the level of the site before development is carried out pursuant to this Policy.
- **height in relation to a building**, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

The NSW Land and Housing Corporation is a social housing provider. Therefore, in accordance with clause 40(5), subclause 2, 3 and 4(c) do not apply to the development to which this clause 4.6 request applies and are not discussed further.

Residential flat buildings are not permitted in the R2 Low Density Residential zone in which the site is located. Therefore, subclause 40(4)(a) and 40(4)(b) apply in this instance. The maximum building height is 10.03 metres (towards the south-eastern corner of the site) which does not comply with the maximum building height of 8 metres. The non-compliance is 2 metres.

3. EXCEPTIONS TO DEVELOPMENT STANDARDS (Clause 4.6)

Clause 4.6 of Campbelltown LEP 2015 permits consent to be granted for development even though the development would contravene a development standard imposed by the LEP or another environmental planning instrument, including the Seniors SEPP.

The objectives of clause 4.6 are:

- (a) “to provide an appropriate degree of flexibility in applying certain development standards to particular development,

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

Clause 4.6 of the LEP relevantly states:

- “(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Planning Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.”*

Accordingly, Clause 4.6 can be used to vary the development standards in Clause 40(4)(a) of the Seniors Housing SEPP.

4. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE AND ARE THERE SUFFICIENT PLANNING GROUNDS TO JUSTIFY CONTRAVENING THIS STANDARD?

4.1 Extent of non-compliance

Building height

The proposed two and three storey development includes three separate building blocks (divided into 5 core buildings A, B, C, D, E and F) which range in height from 6.2m (Building C and part of Building F) to 10.03m (Building A). The maximum non-compliance of 2m over the height standard relates to the south-eastern corner of the site, as identified in Diagrams 1 and 2 below.

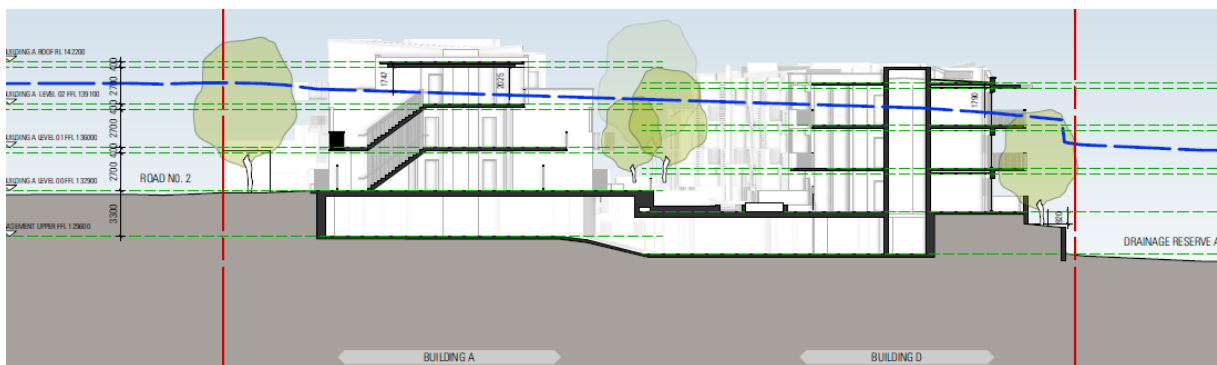


Diagram 1 – Section Buildings A and D showing building height standard non-compliance



Diagram 2 – East elevation showing the building height standard non-compliance

4.2 What is the objective of the maximum building height standard?

There is no specifically stated objective of the development standards expressed in Clause 40(4)(a) of the Seniors Housing SEPP. In considering the objectives of this standard, consideration can be given to the objectives of the building height development standard in Clause 4.3 of the Campbelltown LEP 2015 which are:

- “(a) to nominate a range of building heights that will provide a transition in built form and land use intensity across all zones,*
- (b) to ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity to business centres and transport facilities,*
- (c) to provide for built form that is compatible with the hierarchy and role of centres,*
- (d) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain.”*

This is an approach adopted by the Court (for example *Thompson Health Care Pty Limited v Ku-ring-gai Council* [2020] NSWLEC 1363). Having regard to the aims of the Seniors Housing SEPP, the objectives of the development standard are taken to be those above and the intent of the Seniors Housing SEPP to achieve building height compatible with the character of the streetscape and is appropriate in the locality.

4.3 Is compliance with the development standard unreasonable or unnecessary in the circumstance of the case

4.3.1 The proposal is consistent with the objective of the standard

The design of the development is consistent with the objective of this standard as outlined above in that:

- The height of the development is appropriate for the locality given the proximity of the site to a higher intensity centre comprising the shopping centre and other activities such as medical centres, community health centre, school, fire station. Taller buildings are appropriate near to activity centres such as the case with this development, transitioning to lower density development.
- The diversity of built form, building bulk and scale close to such activity centres can accommodate the proposed development in a manner consistent with the existing and emerging character of the locality given the proximity to the local centres and to transport facilities.
- The adjacent centre is zoned B1 Neighbourhood Centre. The height of the development being part 2 storeys and part 3 storeys is considered to be compatible with the hierarchy and role of centres.

The development has been designed to minimise opportunities for undesirable visual impact, disruption to views, loss of privacy, overshadowing impacts and loss of solar access to existing and future development and to the public domain. This is achieved in a number of ways including:

- the development is setback approximately 21 metres from Copperfield Road (including the drainage reserve) providing the opportunity for distance and landscaping to soften

the appearance of the building and reduce its bulk and scale when viewed from the public street;

- the development comprises a number of separate buildings and ranges in height from two to three storeys;
- impacts on adjoining sites such as overshadowing, overlooking and noise is managed to acceptable levels;
- solar access to future townhouses to the south of the site (the only site potentially affected by overshadowing) has been investigated in detail by the project architects having regard to a compliant development on the sites to the south. This analysis demonstrates that solar access to living areas and principal private open space areas will not be detrimentally impacted.
- the built form is highly modulated and articulated;
- upper level building setbacks are provided from Road No 2 frontage.

In further assessing consistency with the intent of the standard, consideration can be given to impacts on amenity of adjoining properties from overshadowing, loss of solar access, privacy and views and from the new building bulk.

Impact on properties to the north

The development is setback a minimum 3 metres from the northern boundary of the site with significant landscaping proposed within this setback. Buildings C and F adjacent to the northern boundary are two storeys in height to respond to the low-density detached housing planned to the north (as indicated on the proposed plan of subdivision accompanying the application).

The development has been designed to minimise potential for overlooking properties to the north.

Impacts on properties to the south

To the south, the development also presents as two separate elements of limited depth with the eastern building (Building A) of three storeys setback approximately 10.7 metres from southern boundary and the western building (Building D) of two storeys setback 6.8 metres.

This provides appropriate separation between buildings and prevents any loss of amenity resulting from overshadowing, overlooking or loss of view in relation to future adjoining townhouses. The setback is extensively landscaped in order to minimise any adverse impacts of bulk and scale and in terms of overlooking to the principal private open space of adjoining sites. Detailed consideration of shadow impacts confirms that the proposed development has been designed to ensure that future townhouse development to the south would receive adequate solar access to private open space and living areas adjoining private open space.

The building design and on site arrangement will result in development that is consistent with the emerging character of the locality in which it is placed and will not unreasonably impact on the amenity of adjoining or nearby future residential premises. The built form of the proposed development will be a known quantity, not a surprise, to future neighbours.

The surrounding area is undergoing urban change with a renewing of housing stock from a previously high concentration of social housing to a mix of private and social housing. Lot sizes are decreasing across the area, leading to an increase in density whilst keeping the residential

suburban feeling that comes with R2 – Low Density Residential zoning. It is also important to note that there are some existing townhouses located immediately to the south and south-west of the site.

Streetscape

The development presents as separate building elements to Road No. 2, a future residential street. This is achieved by providing significant building articulation in plan and elevation with the two separate buildings broken into a further 5 elements aligned with pedestrian entry points from the street. The bulk and scale to this street frontage is further reduced by:

- maintaining a two storey building height adjacent to the northern side boundary;
- highly modulated and articulated facades oriented to the street with well-proportioned façade elements including balconies, window openings and robust façade brickwork elements;
- elements of the upper level are setback further from the street;
- the provision of a generous setback from the street frontage.

It is considered that the development is consistent with objectives of the standard.

4.3.2 The extent of the non-compliance is acceptable and reasonable

For the reasons given above, the extent of non-compliance is acceptable and reasonable because the underlying objective or purpose of the development standard is met notwithstanding the apparent contravention of the standard. Non-compliance with the building height standard in Clause 40(4)(a) of the Seniors Housing SEPP is acceptable and reasonable in the circumstances of the case for the following reasons.

- the development will be visually attractive and sympathetic to the existing and emerging character of the area;
- the development will maintain the neighbourhood amenity and character of the local area;
- the development is part two and three storeys in height which has been designed to be compatible with the expected neighbouring development to the south and transitions in height to future low density residential sites to the north;
- the development reflects the desired future character of the Rosemeadow Urban Renewal area;
- the development is setback 21 metres from Copperfield Drive and has an attractive and appropriate presentation to this street;
- the bulk and scale of the building is considered appropriate in this location and on this large site and creates no significant amenity impacts resulting from overshadowing or loss of privacy;
- the site is of sufficient size to accommodate the proposed development; and
- the proposed seniors living development will meet an important social need in providing independent living units in the local community close to essential services and shops and public transport.

4.3.3 The non-compliance results in a better planning outcome

The non-compliance results in a better planning outcome in that it facilitates the provision of seniors housing in an accessible location. It enables seniors who are tenants of LAHC to live in an accessible location close to urban facilities and services in a well-designed and accessible building that suits the characteristics of the site and its context.

On this basis the proposal, notwithstanding its non-compliance with the height limits results in a better planning outcome. Following the decision in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, it can be noted that Clause 4.6 does not require that a proposed development which relies on a variation to development standards must have a better (or neutral) environment planning outcome than one which is compliant with the standard.

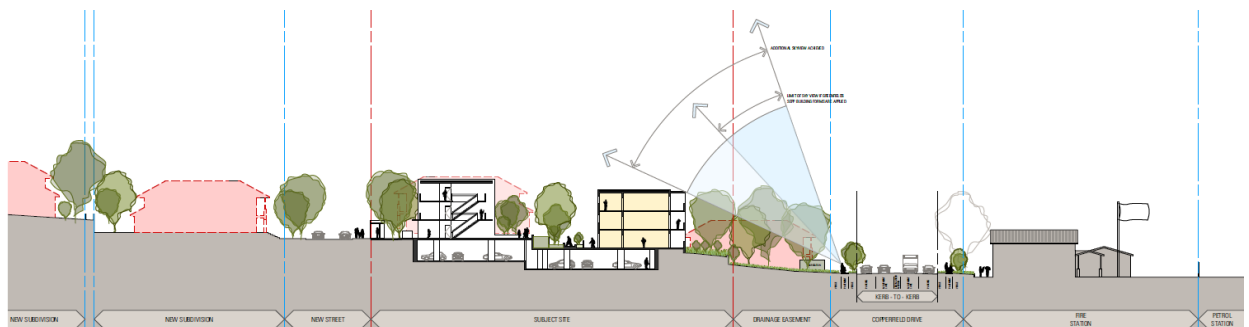
4.3.4 There is an absence of significant adverse impact

There is an absence of significant adverse impacts for the reasons set out above in 4.3.1 and 4.3.2 above.

4.4 Are there sufficient environmental planning grounds to justify contravening the building height standard?

The focus of this question is on the element of the development that contravenes the development standard, in this case the height of elements of the building. The contravention of the building height development standard is justified on environmental planning grounds specific to this development for the following reasons (and for the reasons outlined in 4.3 above):

- The bulk and scale of the proposal is compatible with the emerging character of the Rosemeadow Urban Renewal area and expected future development on adjoining sites including the future low density residential area to the north and future medium density townhouses to the south.
- The elements of the development exceeding the height controls front a new street and the drainage reserve adjoining Copperfield Drive such that the higher building elements adjacent to this road are acceptable on environmental planning grounds because of the separation provided to adjacent future development and the compatibility with the emerging character of the streetscapes and locality. The particular relationship to the drainage reserve and Copperfield Drive can be seen in the section provided with the development application drawings and reproduced below.



- The additional height provides no limitations or restrictions on how the adjoining site to the south would develop in the future due to the proposed landscaped setback.
- The additional height is acceptable in that the proposed building setbacks have been designed to reduce perceived bulk, scale and overshadowing as required, and the form and configuration of the proposal is sympathetic to the land form.
- Perimeter deep soil landscaping is proposed along the site boundaries, providing an appropriate built form transition from those parts of the building that exceed the height limit and maintaining privacy to properties adjacent to the site as well as future residents of the site.
- The extent to which the buildings exceed the maximum building height does not change the relationship of the development to adjoining land to any significant extent.
- There will be no significant adverse amenity impacts arising from the extent to which the buildings exceed the maximum building height development standard in relation to overlooking, overshadowing, obstruction of light or air, obstruction of views or any other such impacts on nearby existing or future residential properties as a result of the height of the buildings.

The proposal is considered to be consistent with the objectives of the relevant planning instruments and will result in no significant adverse environmental planning impacts. The inherent characteristics of the site including its size, nature of surrounding development, and being part of the Rosemeadow Urban Renewal area in which significant growth and change is occurring, make the proposal suitable and entirely justifiable on environmental planning grounds.

4.5 Has this written request adequately addressed the matters required to be demonstrated by sub-clause 4.6(3)?

Yes. As discussed in Sections 4.3 and 4.4 above, there are proper planning grounds to vary the standards in the circumstances of this case.

5. IS THE DEVELOPMENT IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE HEIGHT STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT?

5.1 Consistency with the objectives of the standard

The proposal is consistent with the objectives of the height standards for the reasons set out in Section 4.3.1 above and having regard to all other relevant considerations is therefore in the public interest.

5.2 Consistent with the objectives of the zone

The site is located within a R2 Low Density Residential Zone. The objectives of this zone are as follows:

- *“To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a domestic scale.*
- *To minimise overshadowing and ensure a desired level of solar access to all properties.*
- *To facilitate diverse and sustainable means of access and movement.”*

The development is consistent with the zone objectives in that:

- the independent living units meet community needs for seniors within a low density residential environment;
- it provides independent living units in close proximity to a shopping centre and essential support services to meet the day to day needs of residents;
- it provides excellent solar access to all independent living units and a desired level of solar access to adjoining properties; and
- it provides high level of access and movement within the complex.

The site forms part of the Rosemeadow Urban Renewal project, a small-scale neighbourhood redevelopment transforming around 165 social housing properties into a contemporary mixed community including both private and social housing. The project will deliver around 240 new lots and housing of which up to 30% will be social housing homes, including 45 new seniors independent living units. The redevelopment of Stages 1 and 2 was completed in 2016 with planning approval for Stage 3 obtained in late 2018. Subdivision works for Stage 3 are planned to start in 2020 and will take around 12 months to complete.

As a result, the surrounding area is undergoing urban change with a renewing of housing stock from a previously high concentration of social housing to a mix of private and social housing. Lot sizes are decreasing across the area, leading to an increase in density whilst keeping the residential suburban feeling that comes with R2 – Low Density Residential zoning.

The site is in a locality characterised by a high school, a neighbourhood centre, open space and low density residential housing. The proposed development is considered to be in keeping with this character and has a streetscape appearance compatible with the emerging urban form of the area which is undergoing significant change.

6. THE ‘FIVE PART TEST’

In addition to the above requirements, a consent authority may choose to not only use the principles of Clause 4.6 but also the ‘five part test’ established by the Land and Environment Court. (See *Wehbe v Pittwater Council* [2007] NSWLEC 827)

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded. The ‘five part test’ is outlined as follows:-

- “1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.”*

In relation to point (1):-

The test is satisfied for the reasons set out in Section 4.3.1 above. The underlying objectives are met in that the development has an appropriate bulk and scale in the streetscape and protects the amenity of the rear yards of potential future adjoining properties with no significant loss of solar access, privacy or outlook and with an improvement to the landscape quality of the area.

In relation to point (2):-

No reliance is placed on this point. When assessed against the underlying objective of the standard, the proposal satisfies the intent in terms of suitability in relation to neighbourhood amenity and character with no adverse impacts.

In relation to point (3):-

If strict compliance was to be required with the building height standards then the building would not be sufficiently responsive to the site context and benefits of the development would not be achieved.

In relation to point (4):-

No reliance is placed on this point.

In relation to point (5):-

No reliance is placed on this point.

In *Initial Action*, the Chief Judge clarified that an applicant does not need to establish all of the 5 elements above but that if more than one part of the 5 part test was relevant, this would suggest that compliance with a development standard is certainly unreasonable or unnecessary. In this regard, the Chief Judge said:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that ‘compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways.

In this case, multiple parts of the 5-part *Wehbe* test as met, indicating that compliance with the development standard in Clause 40(4)(a) of the Seniors Housing SEPP is unreasonable and unnecessary.

7. CONCLUSION

Compliance with the building height development standards in Clause 40(4)(a) of the Seniors Housing SEPP is unreasonable and unnecessary in the circumstances of this case.

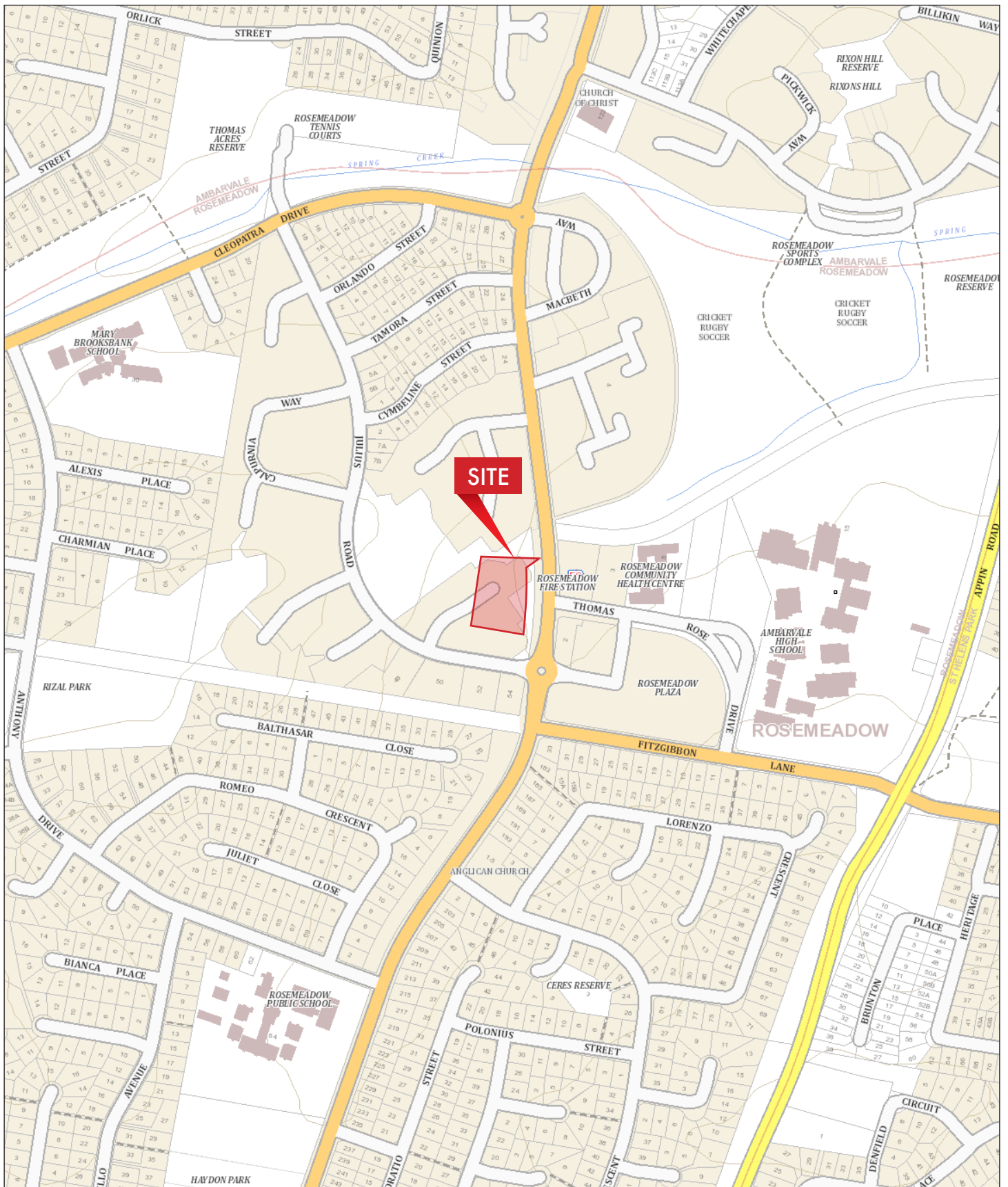
There are sufficient environmental planning grounds to justify the non-compliance, and the proposal is in the public interest because it is consistent with the objectives of the height standard and the zoning of the land.

Further, consistently with the objectives of clause 4.6, it is considered that strict adherence to the development standards to this particular development is not warranted and relaxing the standards results in a better development.

The objection to the standard in Clause 40(4)(a) of the Seniors Housing SEPP is well founded for the following reasons:

- the development is appropriate in this location;
- the development does not undermine the underlying objectives of the standard;
- the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general, or on the amenity of nearby future residential properties in particular; and
- the scale of the proposal, notwithstanding the non-compliance, is compatible with the desired future character of the Rosemeadow Urban Renewal area and is appropriate in the current context.

Figures



Source: <http://maps.six.nsw.gov.au>



STATEMENT OF ENVIRONMENTAL EFFECTS

Land on the Corner of Copperfield Drive and

FIGURE 1
Location

Prepared For - NSW Land and Housing Corporation



Source: <http://maps.six.nsw.gov.au>

STATEMENT OF ENVIRONMENTAL EFFECTS

Land on the Corner of Copperfield Drive and Julius Road, Campbelltown

FIGURE 2
Site

Prepared For - NSW Land and Housing Corporation

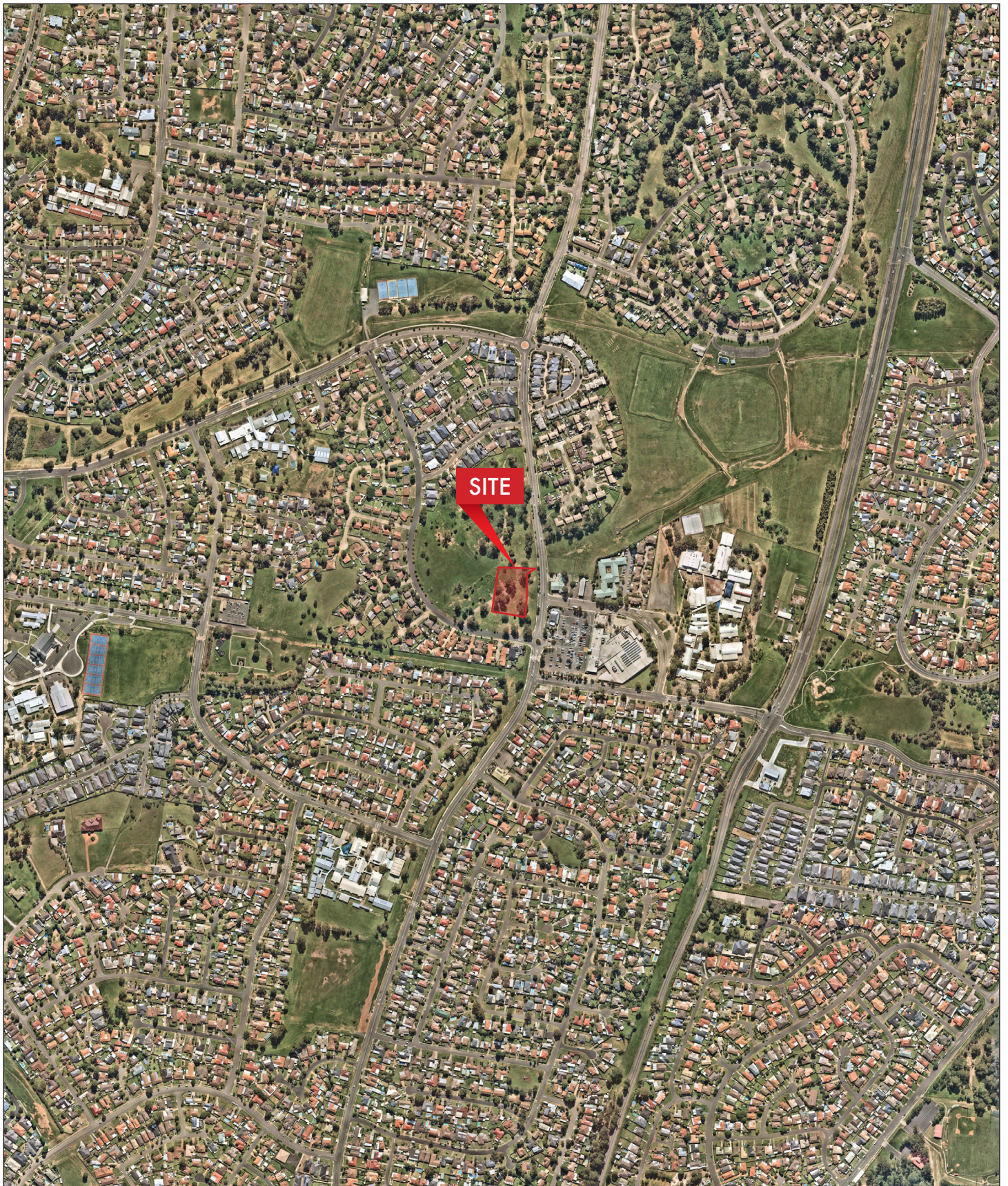


Source: NearMap 22 Mar 2020

STATEMENT OF ENVIRONMENTAL EFFECTS
Land on the Corner of Copperfield Drive and Julius Road, Campbelltown

FIGURE 3A
Aerial Photo - Detail

Prepared For - NSW Land and Housing Corporation

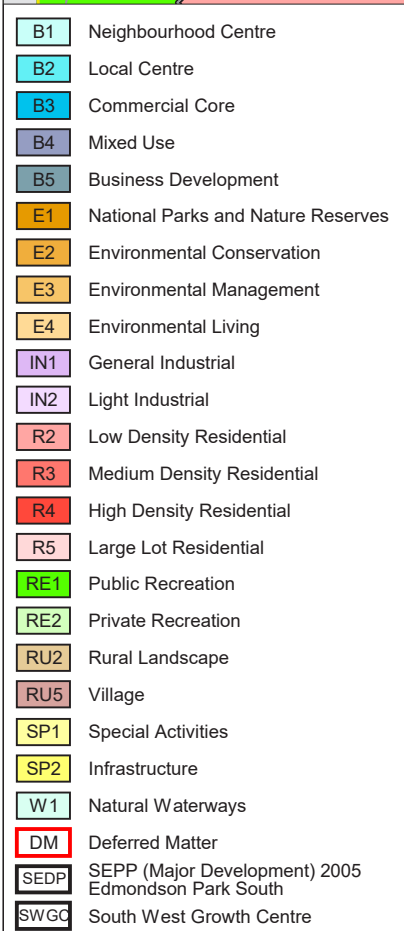


Source: NearMap 22 Mar 2020

STATEMENT OF ENVIRONMENTAL EFFECTS
Land on the Corner of Copperfield Drive and Julius Road, Campbelltown

FIGURE 3B
Aerial Photo - Wider Area

Prepared For - NSW Land and Housing Corporation

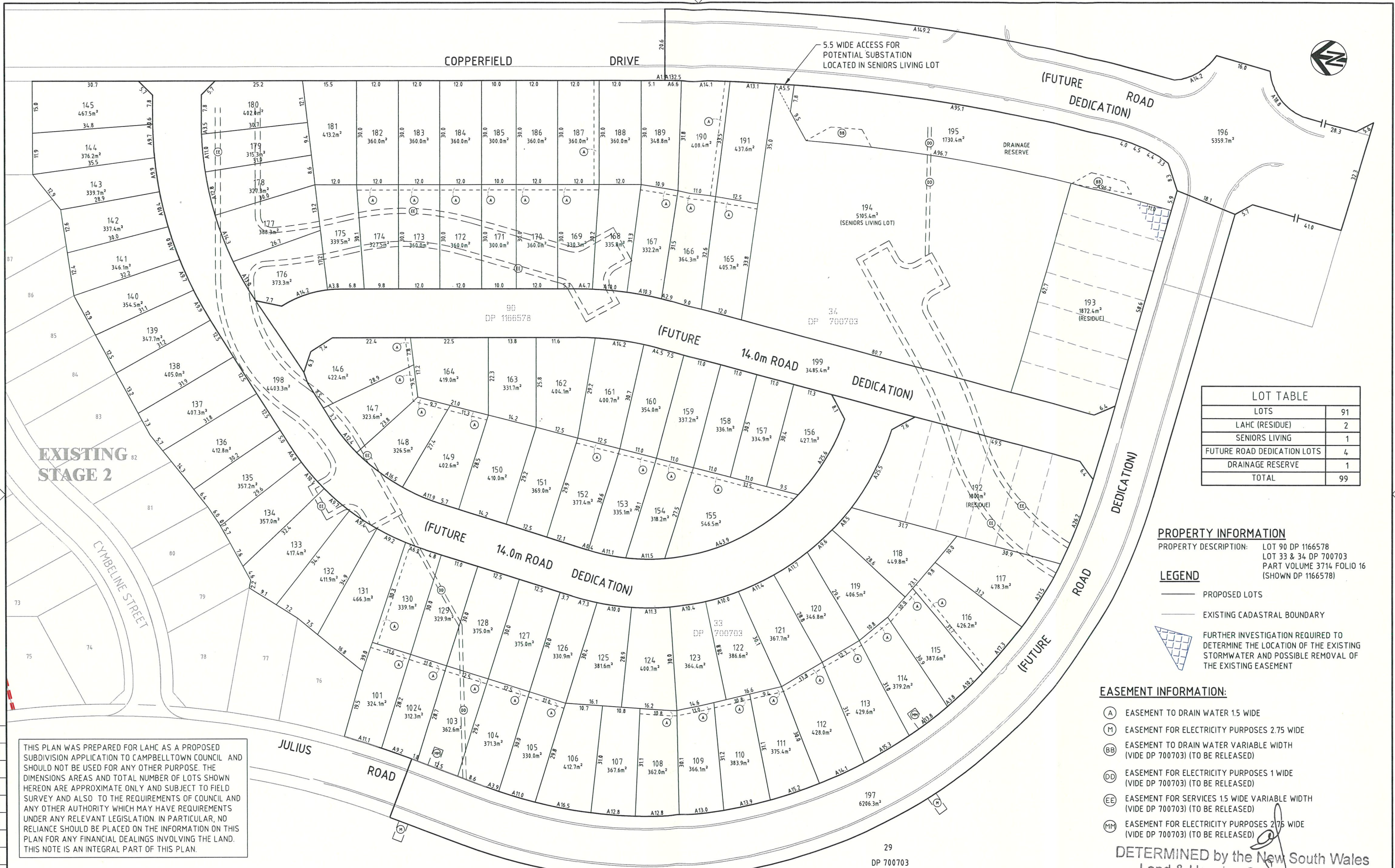


Land on the Corner of Copperfield Drive and Julius Road, Campbelltown

FIGURE 4A
Zoning Map - Campbelltown LEP 2015

Prepared For - NSW Land and Housing Corporation

Appendix 1



LOT TABLE	
LOTS	91
LAHC (RESIDUE)	2
SENIORS LIVING	1
FUTURE ROAD DEDICATION LOTS	4
DRAINAGE RESERVE	1
TOTAL	99

PROPERTY INFORMATION
PROPERTY DESCRIPTION: LOT 90 DP 1166578
LOT 33 & 34 DP 700703
PART VOLUME 3714 FOLIO 16
(SHOWN DP 1166578)

LEGEND
— PROPOSED LOTS
— EXISTING CADASTRAL BOUNDARY
[Symbol] FURTHER INVESTIGATION REQUIRED TO DETERMINE THE LOCATION OF THE EXISTING STORMWATER AND POSSIBLE REMOVAL OF THE EXISTING EASEMENT

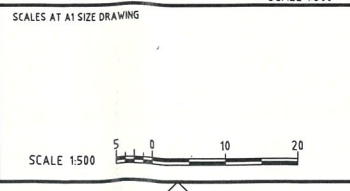
- EASEMENT INFORMATION:**
- (A) EASEMENT TO DRAIN WATER 1.5 WIDE
 - (M) EASEMENT FOR ELECTRICITY PURPOSES 2.75 WIDE
 - (BB) EASEMENT TO DRAIN WATER VARIABLE WIDTH (VIDE DP 700703) (TO BE RELEASED)
 - (DD) EASEMENT FOR ELECTRICITY PURPOSES 1 WIDE (VIDE DP 700703) (TO BE RELEASED)
 - (EE) EASEMENT FOR SERVICES 1.5 WIDE VARIABLE WIDTH (VIDE DP 700703) (TO BE RELEASED)
 - (MM) EASEMENT FOR ELECTRICITY PURPOSES 2.75 WIDE (VIDE DP 700703) (TO BE RELEASED)

DETERMINED by the New South Wales
Land & Housing Corporation on:
7/11/18

THIS PLAN WAS PREPARED FOR LAHC AS A PROPOSED SUBDIVISION APPLICATION TO CAMPBELLTOWN COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. THE DIMENSIONS AREAS AND TOTAL NUMBER OF LOTS SHOWN HEREON ARE APPROXIMATE ONLY AND SUBJECT TO FIELD SURVEY AND ALSO TO THE REQUIREMENTS OF COUNCIL AND ANY OTHER AUTHORITY WHICH MAY HAVE REQUIREMENTS UNDER ANY RELEVANT LEGISLATION. IN PARTICULAR, NO RELIANCE SHOULD BE PLACED ON THE INFORMATION ON THIS PLAN FOR ANY FINANCIAL DEALINGS INVOLVING THE LAND. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

PLAN OF PROPOSED SUBDIVISION

DRAWING FILE LOCATION / NAME						PLOT DATE		TIME					
J:\70thousands\77343.5\11. CAD\DWG\Planning\77343.05.P03.dwg						30 Aug 2018		17:05:19					
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						04	09/11/17	AMEND LOTS 101-130		008	CH	DRAFTING CHECK	G. FLEMING
						05	11/01/18	AMEND LOTS 101-130		010	CH	DESIGNER	L. RYAN
						06	16/05/18	SUBSTATION LOCATION		011	JE	DESIGN CHECK	G. FLEMING
						07	04/06/18	AMEND LOTS		012	BS	DESIGN CHECK	G. FLEMING
						08	10/07/2018	REVERT LOTS AND AMEND SUBSTATION LOCATION		013	G.F	PROJECT MANAGER	C. MILLER
						09	11/07/2018	ADD FUTURE ROAD DEDICATION LOTS		014	G.F	PROJECT MANAGER	C. MILLER
						10	30/08/2018	ADD FUTURE ROAD DEDICATION LOTS		015	G.F	PROJECT DIRECTOR	G. FLEMING



DESIGNER

SMEC

SMEC AUSTRALIA PTY LTD
© ABN 47 055 475 149
LEVEL 1 178-180 QUEEN STREET
CAMPBELLTOWN NSW, 2560
PH 02 4640-8222 FAX 02 4628-1058
SMEC PROJECT No. 300177343.5

CLIENT: LAND AND HOUSING CORPORATION

NSW GOVERNMENT

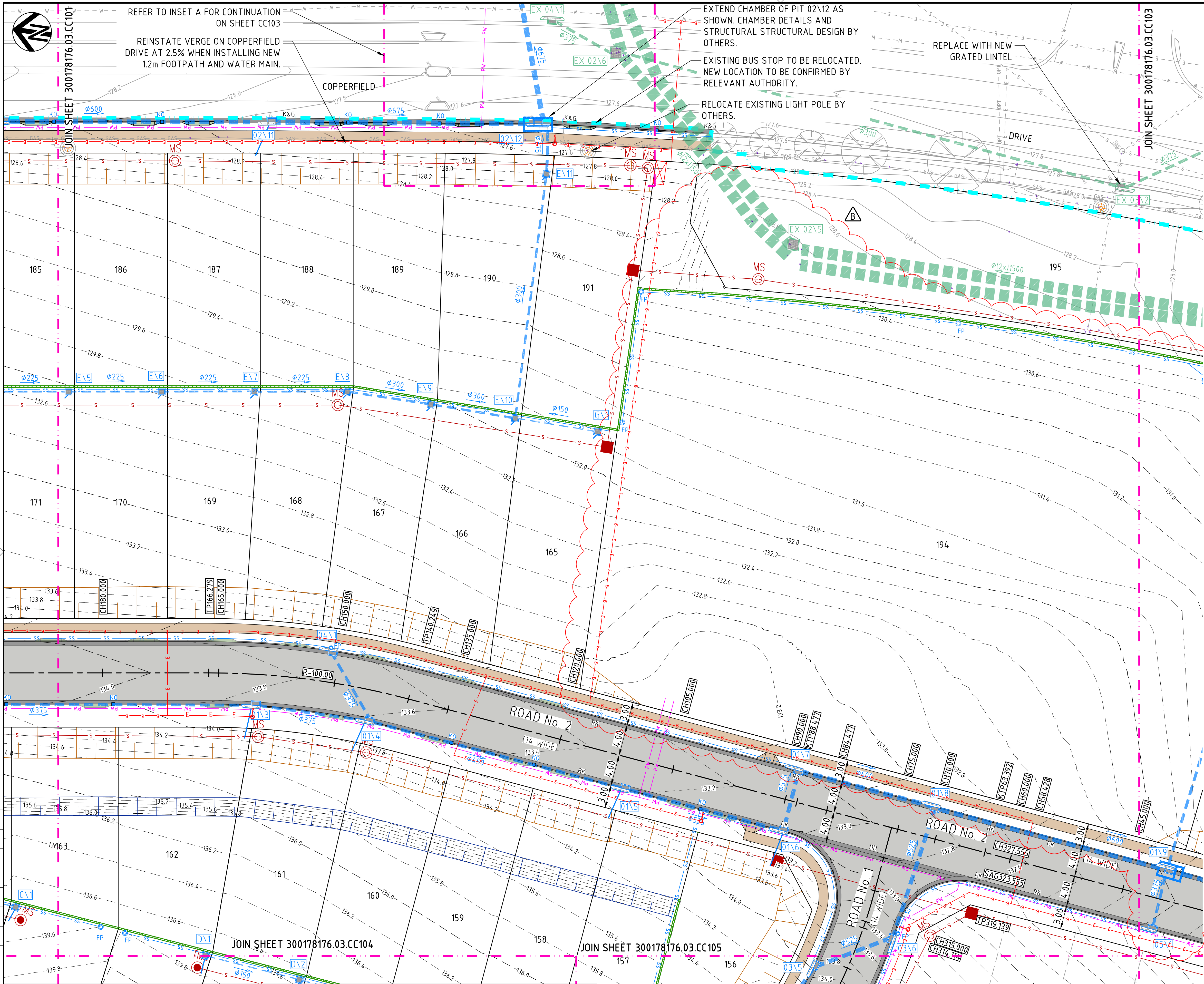
Family & Community Services

PROJECT TITLE		SCALE		PHASE		PROJECT / DRAWING No.		REVISION	
CAMPBELLTOWN CITY COUNCIL ROSEMEADOW - STAGE 3 PLAN OF PROPOSED SUBDIVISION		1:500		PRELIMINARY		77343.05.P03		10	

Appendix 2

150 mm ON ORIGINAL

A1



LEGEND

- EXISTING CADASTRAL BOUNDARY
- EXISTING CONTOUR
- DESIGN CONTOUR
- EXISTING ELECTRICITY
- EXISTING SEWER
- EXISTING GAS LINE
- EXISTING WATER LINE
- EXISTING OPTUS LINE
- EXISTING LOT BOUNDARY
- PROPOSED LOT BOUNDARY
- FUTURE LOT BOUNDARY
- ROAD CENTRELINE
- GROSS POLLUTANT TRAP (GPT)
- DRAINAGE PIPE WITH PIT
- DRAINAGE PIPE WITH PIT (EXISTING)
- SUBSOIL WITH FLUSHING POINT
- KERB OUTLET
- SEWER
- POTABLE WATER
- ELECTRICAL
- K&G / RK / DD
- BLOCKWORK RETAINING WALL
- FOOTPATH
- PRAM RAMP
- BATTER (1:4 MAX)
- MID LOT BENCHING (1.2m MAX)
- VEHICLE CROSSING (K&G)
- DRIVE WAY (INDICATIVE LOCATION RK)
- LOT DESIGN PADS
- STAGE 3 BOUNDARY
- EXISTING SUBSTATION
- PROPOSED SUBSTATION

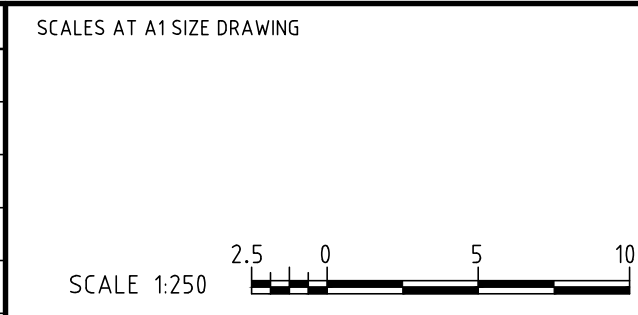
NOTES:

- RETAINING WALL ELEVATIONS AND SETOUT TO BE DONE BY OTHERS.
- STRUCTURAL PIT DESIGN TO BE DONE BY OTHERS.
- ELECTRICAL DESIGN BY BY ARAELECT, URS242237 REV A 28/05/2020.



THE ESSENTIAL FIRST STEP. LEGALISED 1ST JULY 2010, NSW.
FINE UP TO \$22,000 FOR INDIVIDUALS & \$440,000 FOR CORPORATIONS.
MAX. 5 YEARS JAIL SENTENCE.

DRAWING FILE LOCATION / NAME				PLOT DATE		TIME	
V:_Vault\Projects_Urban\300178176-Rosemeadow\11. CAD\01_Dwg\03_CC\Stage_03\300178176.03.CC102.dwg				25 Sep 2020		15:51:21	
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				004	BS	DRAFTING CHECK	Z.KHALIL
						DESIGNER	Z. KHALIL
						DESIGN CHECK	B.STOKES
						PROJECT MANAGER	B.STOKES
						PROJECT DIRECTOR	G. FLEMING



DESIGNER

SMEC

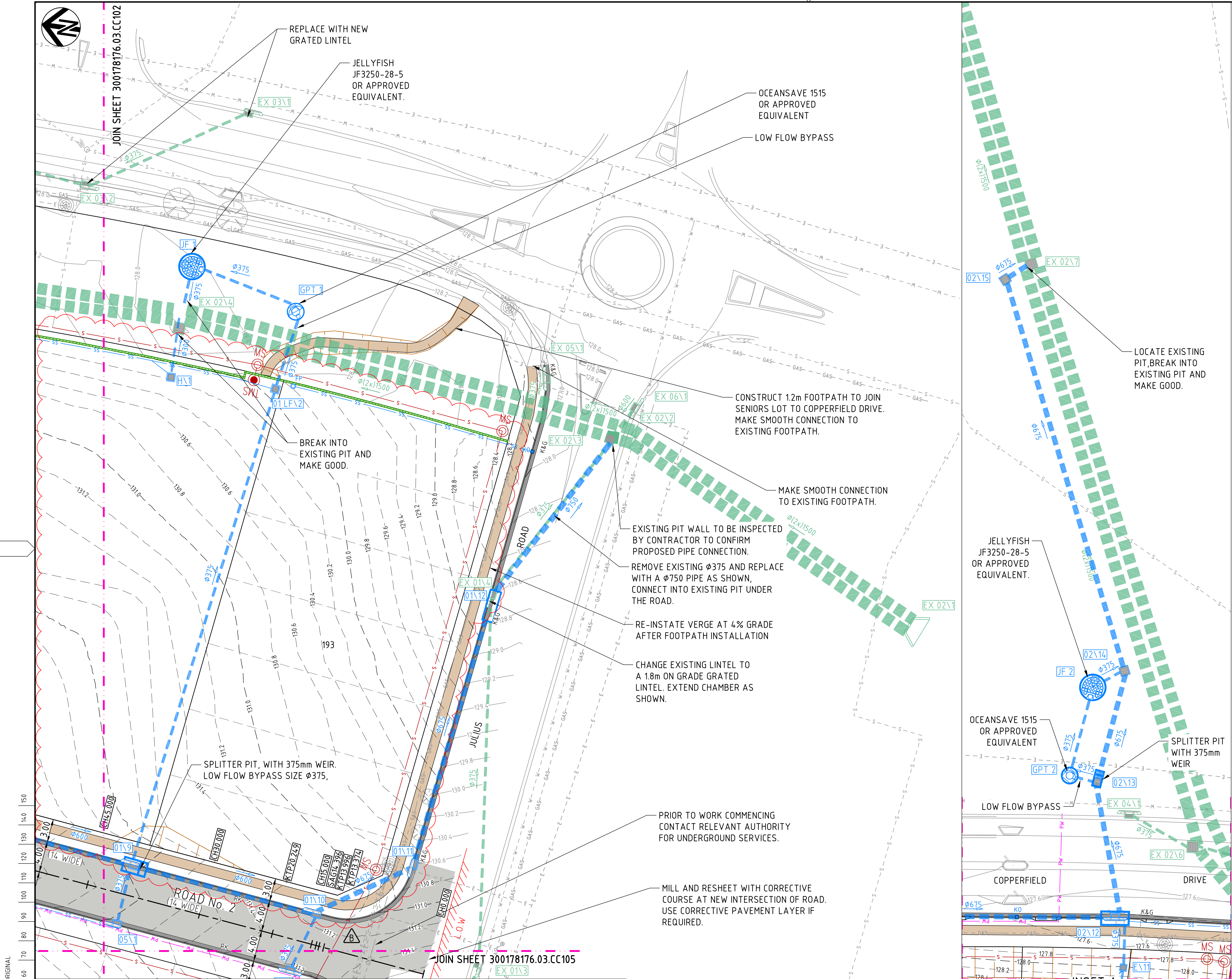
Member of the Surbana Jurong Group
© ABN 47 065 475 149
LEVEL 6, 3 HORWOOD PLACE
PARRAMATTA NSW, 2150
PH +61 2 9900 7100

SMEC PROJECT No. 300178176

CLIENT

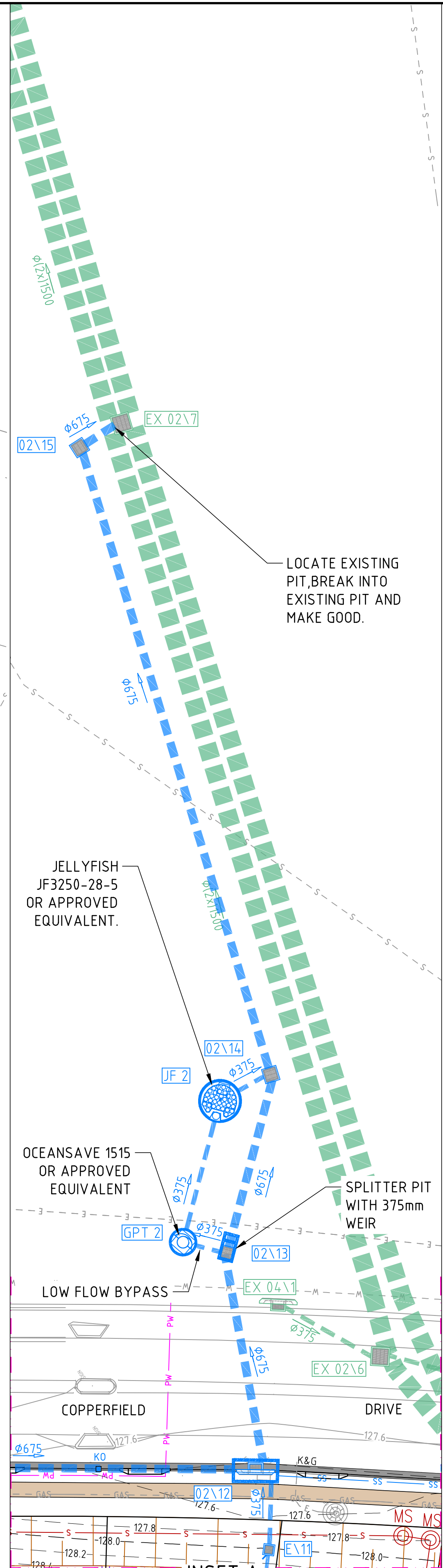
Family & Community Services
Land & Housing Corporation

PROJECT TITLE			
CAMPBELLTOWN CITY COUNCIL ROSEMEADOW - STAGE 3 CIVIL WORKS PLAN SHEET 2			
SCALE	PHASE	PROJECT / DRAWING No.	REVISION
AS NOTED	APPROVAL	300178176.03.CC102	B



- LEGEND**
- EXISTING CADASTRAL BOUNDARY
 - EXISTING CONTOUR
 - DESIGN CONTOUR
 - EXISTING ELECTRICITY
 - EXISTING SEWER
 - EXISTING GAS LINE
 - EXISTING WATER LINE
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