

## ITEM 5 ALBION PARK RAIL BYPASS PROJECT

This report provides recommendations on the Property Divestment Strategy (the Strategy) for negotiation with Roads and Maritime Services (RMS) on its proposed acquisition of Council owned properties (the Properties) for the Albion Park Rail bypass project (the Project).

### RECOMMENDATION

- 1 Council approves the Property Divestment Strategy (Attachment 1) for the proposed divestment of the Properties.
- 2 Council enters into a Deed of Agreement with RMS to set out the following:
  - a the compensation framework (being the delivery of the Yallah Road deviation in lieu of monetary compensation).
  - b the scope and timeframe for delivery of the Yallah Road deviation.
- 3 No objection be made by Council to RMS's compulsorily acquiring the Properties on the basis that RMS commits to deliver the Yallah Road deviation at no cost to Council.
- 4 Authority be granted to affix the Common Seal of Council to the transfer documents, compulsory acquisition documents and any other documentation required to give effect Council resolution.
- 5 The General Manager be delegated the authority to negotiate terms necessary to complete the proposed divestment of the Properties.

### REPORT AUTHORISATIONS

Report of: Peter Coyte, Manager Property and Recreation  
Authorised by: Jenny Thompson, Director Community Services - Creative and Innovative City (Acting)

### ATTACHMENTS

- 1 Property Divestment Strategy RMS Albion Park Rail Bypass
- 2 Plan of Acquisition Lot 20 and Lot 100
- 3 Plan of Acquisition Lot 134
- 4 Proposed Lease Area Map
- 5 Yallah Road Cost Estimate

### BACKGROUND

In the 1990s the then Roads and Traffic Authority undertook a study which identified a preferred route for the Albion Park Rail bypass. To reserve land for this bypass route, a road corridor was included in the Wollongong and Shellharbour City Council LEPs. This road corridor protects the route from development and reserves land for the road. In 2013, RMS reviewed the road corridor and confirmed the reserved corridor is suitable for a bypass of Albion Park Rail.

The corridor impacts on various parcels of Council lands as shown in Attachments 2, 3 and 4.

The NSW Government has committed funding to allow construction of the Project to start by early 2019. RMS is the lead agency responsible for the Project delivery and is proposing to work with Council to facilitate the delivery of fair and reasonable outcomes to all parties.

One parcel impacted is Lot 100 DP 21676 in Yallah which is bounded by Yallah Road and the Princes Highway. Yallah Road is to be deviated through this parcel. RMS proposes to construct the Yallah Road deviation in exchange for the transfer of the Properties (refer summary) owned by Council [Note: nil consideration applicable to the proposed acquisition/transfer].

CURRENT LOT/DP	AREA (CURRENT)	AREA (TO BE ACQUIRED)	CLASSIFICATION
Lot 20 DP 1075828	4.044ha	2,677sqm	Community Land
Lot 100 DP 216769	10.12ha	4.034ha	Operational Land
Lot 134 DP 1015310	3,703sqm	220.9sqm	Community Land
Lot 100 DP 216769	10.12ha	TBC*	Operational Land

\*Proposed lease for the construction of the Yallah Rd deviation.

### Project Profile

RMS is working on a future extension of the M1 Princes Motorway between Yallah and Oak Flats to bypass Albion Park Rail. The bypass would complete the 'missing link' for a high standard road between Sydney and Bomaderry.

### Proposed Acquisition and Temporary Lease

#### a Permanent Acquisition for Freeway Corridor

In relation to the proposed freeway, the delivery of the Project in the location necessitates partial acquisitions of land. The relevant lots for acquisition are shown on attached Plan of Acquisition (Attachment B).

RMS proposes to compulsorily acquire the properties on the following basis given that some of the Properties are classified as Community Land:

- Via agreement as to the process whilst the acquisition is to be completed in line with the Compulsory Acquisition methods. The intention is to ensure clear title passes to RMS.
- Works in lieu of monetary compensation for the land to be acquired.

#### b Temporary Lease for Yallah Road Deviation

In relation to the proposed deviation of Yallah Road, the delivery of the Project in that location necessitates temporary lease agreement over part of the land owned by Council. The proposed lease area is shown on attached map (Attachment 4).

### Estimated Construction Costs, Yallah Road Deviation

RMS provided that the construction costs for the Yallah Road deviation is estimated to be in the range of \$13M – \$31M taking into account contingencies (Attachment 5). The wide range reflects various design options as indicated below.

OPTION	BASE COST	CONTINGENCY	TOTAL COST
Option 1, Final Concept Design (two lanes)	\$10,591,579	29%	\$13,663,137
Option 2, The Final Concept Design widened to four lanes at a later date with separate bridge	\$21,258,695	32%	\$28,061,477
Option 3, The Final Concept Design widened to four lanes at a later date with widened bridge	\$23,678,968	32%	\$31,256,238
Option 4, The Final Concept Design widened to four lanes at a later date with widened bridge up front	\$20,129,566	32%	\$26,571,027

## Value of Council-owned Land for Construction

The value of the Properties is estimated to be in the range of \$2M – \$3M as indicated below [Note: final valuation reports are yet to be received].

Compared to the estimated construction costs, the valuation figures suggest that there is a substantial financial benefit to Council in pursuing compensation via the delivery of the Yallah Road deviation (in lieu of monetary compensation).

CURRENT LOT/DP	AREA	WCC VALUATION	RMS VALUATION
Lot 20 DP 1075828	2,677 sqm	\$29,520	\$10,000
Lot 100 DP 216769	4.034 ha	\$2,000,000	\$3,030,000
Lot 134 DP 1015310	220.9 sqm	\$7,070	\$22,000
<b>TOTAL</b>		<b>\$2,036,590</b>	<b>\$3,062,000</b>

## PROPOSAL

It is proposed that Council adopts the Strategy to facilitate the transfer of the Properties to RMS and the delivery of the Yallah Road deviation to Council in lieu of monetary compensation.

### Summary of Strategy

- Construction of the Yallah Road deviation (and transfer to Council) in exchange for the transfer of the Properties to RMS.
- No objection be made by Council to RMS's proposal to compulsorily acquire the Properties.
- Council and RMS enter into a Deed of Agreement to set out (a) the compensation framework (being the delivery of the Yallah Road deviation in lieu of monetary compensation) and (b) the scope and timeframe for the delivery of the Yallah Road deviation.
- Deed of Agreement to be prepared to set out the following:
  - Delivery methodology: Design (RMS) – Build (RMS) – Transfer (RMS/WCC)
  - Scope/timeframe for the proposed deviation works
  - Construction costs for the proposed deviation works
  - Market valuation reports
  - Proposed lease for the proposed deviation works (Lot 100 ONLY)
  - Third party report on the development feasibility for the remainder portions (Lot 100 ONLY)
  - RMS's commitment to delivering the proposed deviation works (with set timeframe)
  - RMS's commitment to providing monetary compensation as per the market valuation reports in the event that the proposed deviation works does not eventuate in compliance with the set scope and timeframe

Upon securing Council resolution, the final terms and conditions of Deed of Agreement will be negotiated in accordance with the above framework. The method of negotiation will have regard to the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

### Expected Outcomes

Once implemented, the Strategy is expected to facilitate the negotiation with RMS and protect Council's interests in the unlikely event that RMS is unable to deliver the Yallah Road deviation in accordance with agreed scope and timeframe.

## CONSULTATION AND COMMUNICATION

RMS provided in-principle agreement to enter into Deed of Agreement with Council as follows:

*“Roads and Maritime agree in principle to use the proposed Deed of Agreement as the method to set out the terms and conditions of the transfer of the required land to RMS from Council, and will contain details of what works in lieu of compensation will be carried out, as well as agreeing to Compulsorily acquire the required land on agreed terms, and any necessary Lease agreement to allow the works to be completed on adjoining lands.”*

### **Planning and Environment, Wollongong City Council**

Planning and Environment as with other Council staff have continually advocated for increased certainty to be provided by RMS demonstrating that the State (being RMS) is responsible for construction of the Yallah Road deviation and minimum two lane construction. The RMS design and RMS construction should also allow for future Council works to be undertaken efficiently for upgrading the road to four lanes.

### **Infrastructure and Works, Wollongong City Council**

In general, the scope for Yallah Road deviation reflects the agreed position between Council and RMS although the following clarifications on the scope and delivery of Yallah Road deviation are required:

- The scope doesn't specify that, if a bridge over the M1 is the selected option, it will be constructed as a two lane or four lane structure as part of the bypass works. However, based on the scope plan provided it is assumed that a two lane structure is inferred by the identification of two lanes generally for Yallah Road [Note: Council's position is that the preferred solution is a bridge over the M1 (as opposed to an underpass of the M1) due to the flood access benefits of the bridge option (it would allow 1% AEP flood access to both West Dapto and Calderwood for emergency services)].
- Should the bypass works only allow for a two-lane bridge on Yallah Road over the M1, it is not clear if RMS will construct abutments to allow for a four-lane bridge in the future when required. It is assumed that this would be the case as it allows more efficient future upgrade to a four lane bridge structure.
- Should the bypass works only allow for a two-lane bridge on Yallah Road over the M1, there is no commitment given by RMS to provision and funding of the structural upgrade to a four-lane bridge deck, and whether this will be delivered when required for traffic capacity (currently anticipated before 2031). It is considered that in the event the bypass alignment is requiring the need for an overpass on Yallah Road, then the State (RMS) should be responsible for providing the four-lane bridge capacity required as a result of planned urban release development. Council would be responsible for widening the road approaches.
- Within the identified scope geographical area, it is assumed that any earthworks for Yallah Road embankments/batters will be carried out as part of these up-front works to allow for the simple widening of the road pavement to allow for four traffic lanes on both east and west approaches to the bridge (or underpass) in the future.

Council will seek to resolve the above issues with RMS in discussions regarding the scope for the Yallah Road deviation and incorporate the scope in the proposed Deed of Agreement.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2028 Goal 5 “We are a healthy community in a liveable city”. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2021	Annual Plan 2018-19
Strategy	3 Year Action	Annual Deliverables
5.1.5 The long term needs of the community, including our people and our places, are effectively planned for	5.1.5.2 Carry out commercial business management of Councils operational lands	Implement Property Strategy

Under Section 47F (2) Local Government Act 1993, Community Land may be dedicated for the purpose of a road that is subject of an order under Division 1 of Part 5 of the Roads Act 1993. Princes Motorway is a declared highway by order published in the Gazette.

## RISK ASSESSMENT

There is a risk that Council may transfer the Properties without receiving due compensation if the Yallah Road deviation is not delivered in accordance with scope and timeframe agreed between Council and RMS (ie delay to the deviation works, change of the scope).

To mitigate the risk, the proposed Deed of Agreement will include the following clause:

‘RMS commits to providing monetary compensation as per the market valuation reports in the event that the proposed deviation work does not eventuate in compliance with the set scope and timeframe’.

## FINANCIAL IMPLICATIONS

There is a substantial financial benefit to Council in pursuing compensation via the delivery of the Yallah Road deviation (in lieu of monetary compensation) given that the construction costs are expected to outweigh the valuation figures as indicated below.

- Construction costs for the Yallah Road deviation      \$13M – \$31M
- Value of the Properties      \$2M – \$3M

It is expected that no GST will be payable by Council on the compensation (being the transfer of the Yallah Road deviation); however, Property and Recreation will request RMS to agree to reimburse Council in the event that the compensation is later held to be subject to GST.

## CONCLUSION

The Strategy has been prepared to facilitate upcoming negotiations with RMS on the proposed compulsory acquisition of the Properties owned by Council. Once implemented, the Strategy is expected to secure RMS’s commitment to the delivery of the Yallah Road deviation to Council while mitigating the risk associated with the potential default. In the event that RMS is unable to deliver the Yallah Road deviation in accordance with the set scope and timeframe, Council will receive monetary compensation as per the market valuation.

# Attachment 1 Divestment Strategy, RMS Albion Park Rail Bypass

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## Divestment Strategy

- Construction of the Yallah Rd deviation in exchange for the transfer of Council-owned properties (below list) to RMS [Note: nil consideration applicable, say in lieu of monetary compensation].
  - Lot 20 DP 1075828            Community Land            Partial Acquisition
  - Lot 100 DP 216769           Operational Land           Partial Acquisition and Lease
  - Lot 134 DP 1015310        Community Land            Partial Acquisition
- No objection be made by WCC to RMS's proposal to compulsorily acquire the Council-owned properties.
- WCC and RMS enter into a Deed of Agreement to set out (a) the compensation framework (being the delivery of the Yallah Rd deviation in lieu of monetary compensation) and (b) the scope and timeframe for the delivery of the Yallah Rd deviation.
- Deed of Agreement to be prepared to set out the following:
  - Delivery methodology: Design-Build-Transfer<sup>1</sup>
  - Scope/timeframe for the proposed deviation works (i.e. road width, number of lanes, underpass or overpass)
  - Construction costs for the proposed deviation works (with QS confirmation)
  - Market valuation reports<sup>2</sup>
  - Proposed lease (Lot 100 ONLY)
  - Third party report on the development feasibility for the remainder portions (Lot 100 ONLY)
  - RMS's commitment to delivering the proposed deviation works (with set timeframe)
  - RMS's commitment to providing monetary compensation as per the market valuation report in the event that the proposed deviation works does not eventuate in compliance with the set scope and timeframe<sup>3</sup>
- It is expected that no GST will be payable by Council on the transfer of the Yallah Rd deviation given the nature of compulsory acquisition; however, Council will request RMS to agree to reimburse Council in the event that the transfer of the Yallah Rd deviation is later held to be subject to GST.

## Consultation and Communication

### Internal

Planning + Environment

Infrastructure + Works

### External

RMS

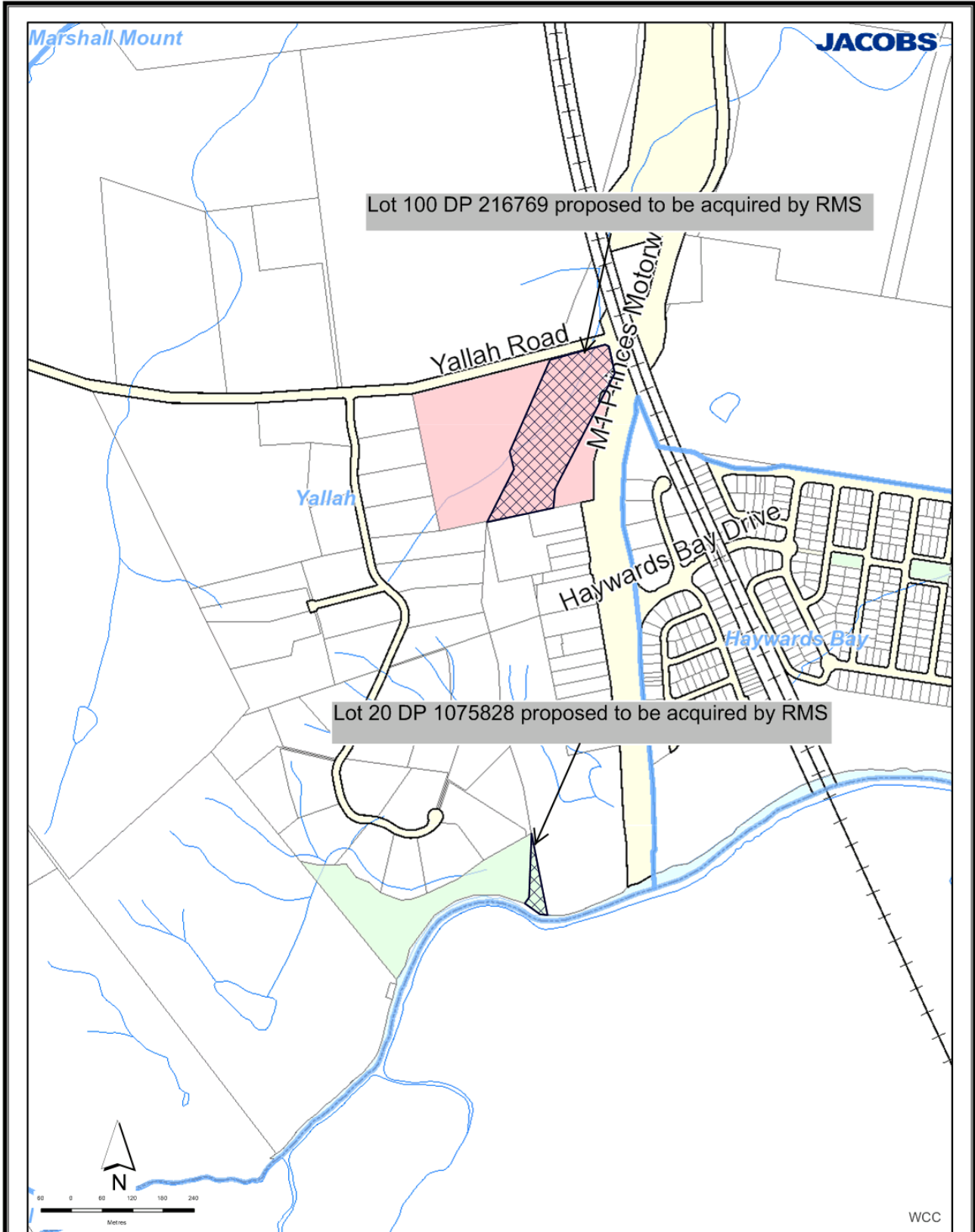
Both the internal and external stakeholders have been consulted on the proposed Deed of Agreement and provided in-principle support.

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<sup>1</sup> RMS to be responsible for all three phases with WCC being accountable for managing the Transfer phase.

<sup>2</sup> Both parties to agree to accept the market valuation.

<sup>3</sup> If required, a revised market valuation report is to be commissioned at a later date. In such event, the monetary compensation is to be whichever is higher of the two valuation figures.



## Attachment 2 - Lot 20 and Lot 100

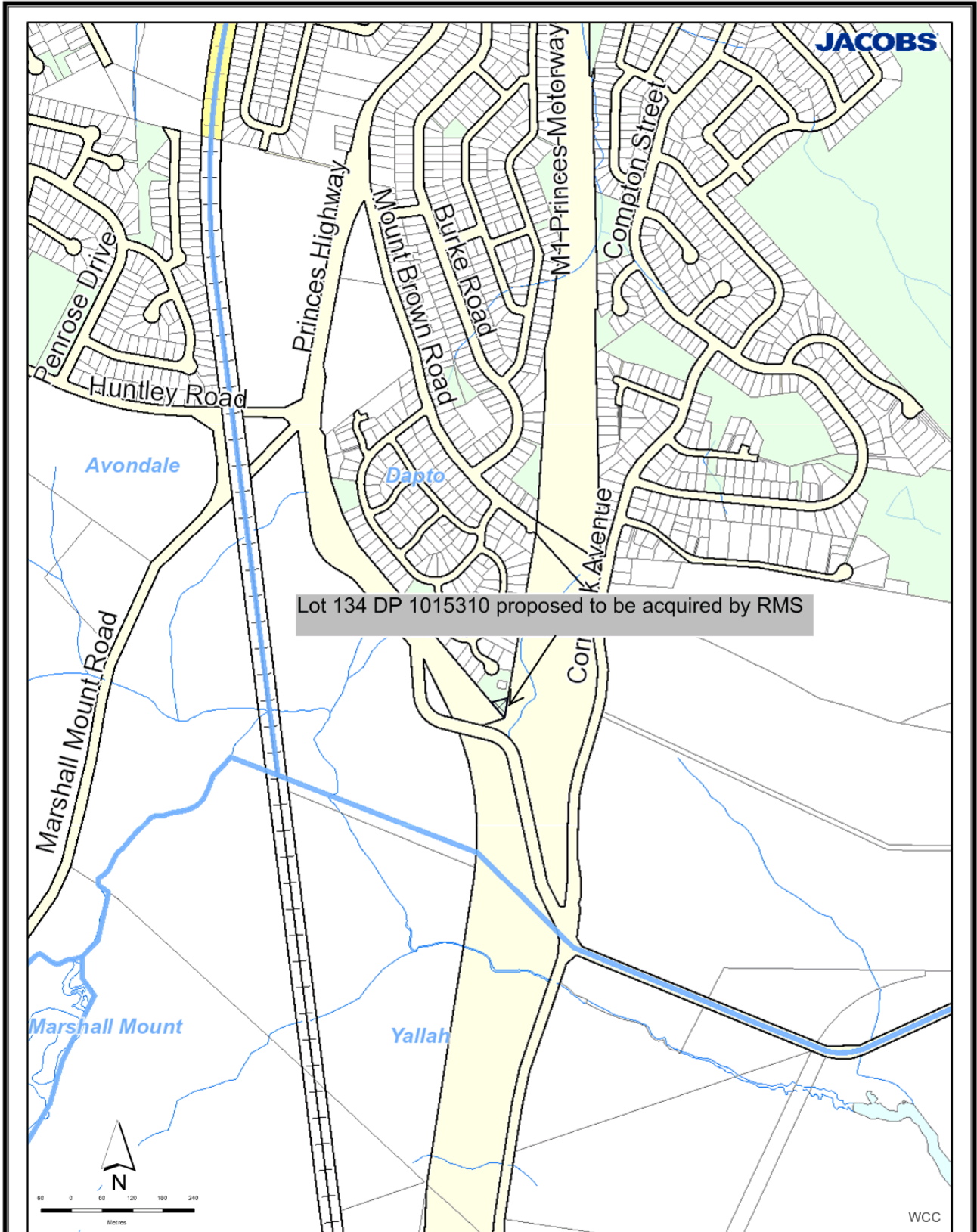
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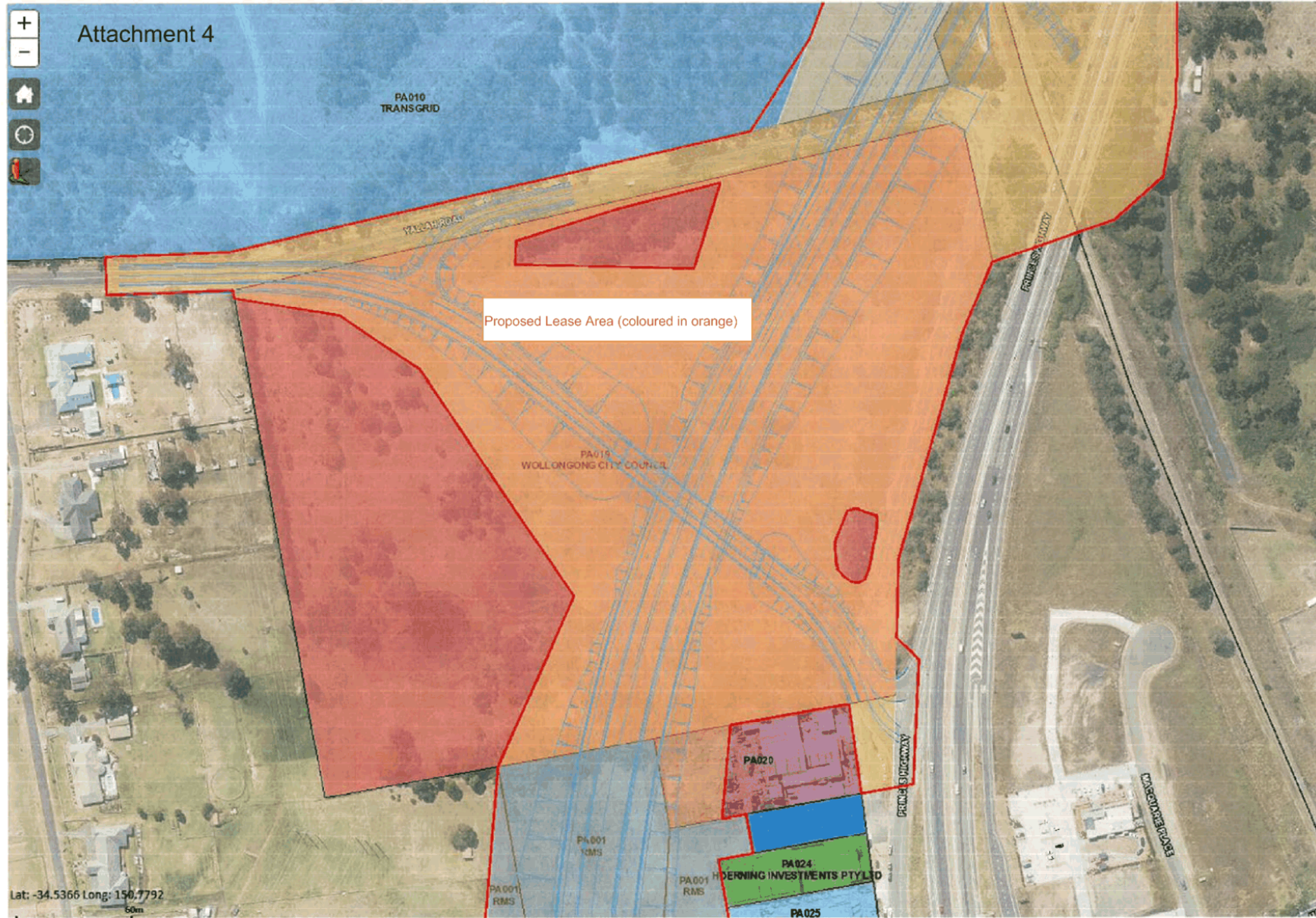
This automated map was produced using ESRI Australia's:





Lot 134 DP 1015310 proposed to be acquired by RMS





## YALLAH ROAD COST ESTIMATE VARIOUS DELIVERY OPTIONS

Option		Base Cost	Contingency	Total Cost (P90)	Outturn Cost (P90)	Outturn Comments
<b>Option 1 – Final Concept Design (2 lanes)</b> – extraction of costs from the final Stage 1 estimate just for this section of road and bridge	<b>Option 1</b>					
	<b>Total Costs</b>	<b>\$10,591,579</b>	<b>29%</b>	<b>\$13,660,315</b>	<b>\$15,000,000</b>	Assumes work completed by 2020 for project opening in 2021
<b>Option 2 – The Final Concept Design widened to 4 lanes at a later date, separate bridge</b> - earthworks and pavement widened at a later date - a new 2 lane bridge built next to the concept design bridge at a later date (i.e. concept design bridge not amended as part of these later works)	<b>Option 2</b>					
	<b>Additional Costs</b>	<b>\$10,667,116</b>	<b>36%</b>	<b>\$14,501,419</b>	<b>\$27,000,000</b>	Assumes work completed 10 years after Stage 1 opening date of 2021
<b>Option 2</b>						
<b>Total Costs</b>		<b>\$21,258,695</b>	<b>32%</b>	<b>\$28,161,734</b>	<b>\$42,000,000</b>	
<b>Option 3 – The Final Concept Design widened to 4 lanes at a later date, widened bridge</b> - earthworks and pavement widened at a later date - the concept design bridge widened at a later date to take 4 lanes (i.e. concept design bridge amended as part of these later works)	<b>Option 3</b>					
	<b>Additional Costs</b>	<b>\$13,087,389</b>	<b>35%</b>	<b>\$17,608,731</b>	<b>\$33,000,000</b>	Assumes work completed 10 years after Stage 1 opening date of 2021
<b>Option 3</b>						
<b>Total Costs</b>		<b>\$23,678,968</b>	<b>32%</b>	<b>\$31,269,046</b>	<b>\$48,000,000</b>	
<b>Option 4 – The Final Concept Design widened to 4 lanes at a later date, widened bridge up front</b> - earthworks and pavement widened at a later date - the bridge built to be 4 lanes + shared path up front	<b>Option 4</b>					
	<b>Additional Costs</b>	<b>\$9,537,987</b>	<b>35%</b>	<b>\$12,911,734</b>	<b>\$20,000,000</b>	Assumes earthworks and pavement completed 10 years after Stage 1 opening date of 2021, assumes bridge constructed at time of Stage 1 works
<b>Option 4</b>						
<b>Total Costs</b>		<b>\$20,129,566</b>	<b>32%</b>	<b>\$26,572,049</b>	<b>\$35,000,000</b>	