

Wollongong Local Planning Panel Assessment Report | 7 May 2024

WLPP No.	Item No. 4
DA No.	DA-2020/1332
Proposal	Subdivision - Torrens title - creation of ten lots - six superlots, one environmental offset lot and three lots for future road provision
Property	Tallawarra Lands
Applicant	Cardno Pty Ltd (Stantec Pty Ltd)
Responsible Team	Development Assessment and Certification - City Wide Team
Development cost	\$0
Lodgement date	18 November 2020
Prior WLPP meeting	Not applicable

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to Local Planning Panel **for determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The application is for sensitive development for which the developer has offered to enter into a planning agreement and is therefore required to be determined by the Panel under Schedule 2, 4(f) of the Local Planning Panels Direction.

Proposal

The proposal is for the subdivision of the Tallawarra Lands into five superlots, one biodiversity offset lot and three lots for future road construction.

Permissibility

The Tallawarra Lands Concept Approval MP09_0131 was issued under Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) by the Department of Planning (the Department) on 23 May 2013, and was subsequently modified on 1 August 2017 (MOD 2) and 26 November 2020 (MOD 1).

Part 3A of the Act was repealed on 1 October 2011 however, the project became a transitional Part 3A project to which the savings and transitional provisions contained within Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulations 2017 now apply.

The subject application is the first development application for superlot subdivision identified and required by Condition A6 of the Concept Approval.

The proposal includes a Clause 4.6 Exception to Development Standard submission in relation to proposed Lot 6, which does not satisfy the minimum lot size requirements of Wollongong Local Environmental Plan 2009.

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan 2019 and did not receive any submissions.

Main Issues

The main issues are:

- Planning approval pathway

- Clause 4.6 Exception to Development Standard – Minimum Lot Size
- Satisfaction of the relevant requirements of the modified Concept Plan Approval
- Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd

CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the Terms of Approval of Concept Plan Approval MP09_131 MOD1, the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulations 2017 and the relevant provisions of Wollongong Local Environmental Plan 2009.

The application does request an exception to a development standard in relation to minimum lot size that is capable of support.

The Planning Agreement is being reported to the Ordinary Council meeting of 6 May with a recommendation for finalisation and execution by the General Manager under delegation.

The Panel will be further briefed regarding Council's resolution and influence on the current recommendation below. The proposal is in effect a paper superlot subdivision to facilitate changes to land ownership and guide future development in the Tallawarra Lands Urban Release Area.

RECOMMENDATION

It is recommended that the development application **DA-2020/1332** be approved subject to the conditions at **Attachment 4**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal, but only to the extent that they are consistent with the Concept Approval:

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009 (as relevant)

Other policies

- Wollongong City Wide Development Contributions Plan 2023
- Wollongong Community Participation Plan 2019

The proposal is generally consistent with the Concept Plan Approval and satisfactory with regard to the applicable planning controls as discussed in this report. The proposed exception to the minimum lot size for proposed Lot 6 is capable of support.

The proposal is **not** Integrated Development, and does not require further consideration under the following legislation:

- **Rural Fires Act 1997** – Section 43 of the Rural Fire Regulations 2013 (Section 46 of the Rural Fire Regulations 2020) excludes the following development from the requirement for a bush fire safety authority: subdivision for the purposes of consolidations of lots, or boundary adjustments on land where the number of lots is reduced, but only if an existing dwelling on the land complies with the requirements of Planning for Bush Fire Protection. The subdivision reduces the number of lots from 18 to ten.
- **Water Management Act 2000** – there are no works associated with the proposed development, and therefore a Controlled Activity Approval is not required.
- **National Parks and Wildlife Act 1974** – Heritage NSW acknowledged that the applicant was previously given advice from the then NSW Environment, Energy and Science that no works were sought by the superlot subdivision, Integrated Development provisions were not triggered and an Aboriginal Heritage Impact Permit was not required for the superlot subdivision. Heritage NSW further noted that the subject application does not propose to harm Aboriginal objects.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal is for the subdivision of the Tallawarra Lands into ten lots comprising six superlots, one environmental offset lot and three lots for future road provision.

Proposed Lot	Total Area	Description
1	64.36ha	Central Precinct (Bridgehill)
2	59.59ha	Environmental Lands/Buffer Lot (EnergyAustralia)
3	44.13ha	Northern Precinct (Bridgehill)
4	34.31ha	Tallawarra Power Station (EnergyAustralia)
5	4.554ha	Future land dedication to TfNSW for works associated with Albion Park Rail Bypass

6	36.10ha	Biodiversity Offset Lot (Bridgehill)
7	2.491ha	Future road connection from Yallah Bay Road to Cormack Avenue through Central Precinct – future land dedication to Council
8	4.042ha	North-South Road Link - future road connection between Yallah Bay Road and Haywards Bay - future land dedication to Council
12	1.392ha	East-West Link Road – future road connection between Northern Precinct and Central Precinct - future land dedication to Council
13	309.1ha	Southern Precinct known as Lakeside Precinct (EnergyAustralia)

Table 1: Proposed Lot creation

Condition A6 of the modified Concept Plan Approval requires the first application to Council to be for the superlot subdivision of the entire site and to be generally in accordance with the approved plan titled 'Proposed First Super Lot Subdivision Plan Rev 02', included at **Attachment 5**.

The configuration of the proposed superlots reflects the approved modified Concept Plan, with the addition of the provision of three lots to facilitate future road provision and one biodiversity offset lot.

The proposed lots for future road provision reflect the intent of the Condition A6 for the provision of road infrastructure delivery as required. The lots, in conjunction with the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd, form the mechanism required by Condition A6 that will assure the delivery.

Similarly, Condition A6 also requires mechanisms to be included in this first application for superlot subdivision to assure environmental measures and offsets in order to support development on the Northern and Central Precincts. Lot 6 is proposed to provide for a Biodiversity Stewardship Agreement, with the timing detailed in the *Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd*. Proposed Lot 6 does not meet the minimum lot size under WLEP 2009 and as such, a Clause 4.6 Exception to Development Standard submission was included in the application. This is discussed further under Section 2.2.6 below.

There are no physical works proposed by the subject application.

The approved modifications to the Concept Approval enable the delivery of the Northern and Central Precincts independently, and in advance, of the Southern Precinct. Accordingly, the Concept Plan Approval includes requirements for further environmental assessment of each Precinct prior to future subdivision of the superlots. This is particularly true for the Southern Precinct which contains significant areas of environmental concern. These matters are required to be addressed by the proponent at the relevant development application stage as detailed by the Concept Plan Approval.

1.3 BACKGROUND

The site has been used for power generation since the 1950s, with additional rural uses continuing over portions of the site. In 2003 the former coal-fired power station site was sold to a private energy company (TruEnergy). The company constructed the current Tallawarra A gas-fired power station which occupies 32.5ha and is now operated by EnergyAustralia. A second gas-fired power station, Tallawarra B, is currently under construction.

Between 2006 and 2008, a draft Local Environmental Study was prepared to guide future outcomes for the balance of the site. Given the large area and proximity to the Princes Highway and Power Station, employment generating land uses were considered a priority. The conservation of the environmental qualities of the site were also identified as a priority.

In 2010, as part of the Wollongong Local Environmental Plan (LEP) 2009 the site was rezoned to a mix of employment, residential and conservation zones.

In May 2013, the Tallawarra Lands Concept Plan (MP 09_0131) was approved by the NSW Department of Planning and Environment under the former Part 3A (Major Infrastructure and Other Projects) provisions within the Environmental Planning and Assessment Act 1979. The Concept Approval MP09_131 gave consent for:

A1 Development description

Concept approval is granted to the development as described below;

- (a) Three residential precincts accommodating up to 1,010 lots - the Northshore Precinct, Central Precinct and the Lakeside (southern) Precinct;
- (b) Lands for a neighbourhood centre within the Central Precinct; (c) Lands for a future tourism facility on the eastern headland of the Central Precinct;
- (d) Lands within the central and southern precincts for industrial, light industrial and business purposes;
- (e) An internal road network, a network walkways, cycle paths, share paths; and
- (f) Open space, public recreation areas and conservation lands.

Modification 2 (MP09_131 MOD2) was subsequently issued on 1 August 2017 to extend the lapsing date of the approval to 23 May 2021. The application would lapse beyond this date unless a Development Application was submitted to Council for approval to carry out all or part of the project the subject of the Concept Plan Approval. The subject development application was lodged on 18 November 2020. As such, the application has not lapsed.

Modification 1 (MP09_131MOD1) was issued on 26 November 2020, and gave consent to increase the residential capacity within the Northern and Central Precincts on the site by reducing lot sizes and expanding the urban footprint. The modified consent gave approval for:

Concept approval is granted to the development as described below;

- (a) Three residential precincts accommodating up to ~~1,010~~ **1,257** lots - the ~~Northshore~~ **Northern** Precinct, Central Precinct and the Lakeside (southern) Precinct;
- (b) Lands for a neighbourhood centre within the Central Precinct;
- (c) Lands for a future tourism facility on the eastern headland of the Central Precinct;
- (d) Lands within the central and southern precincts for industrial, light industrial and business purposes;
- (e) An internal road network, a network walkways, cycle paths, share paths; and
- (f) Open space, public recreation areas and conservation lands.

The Department's Assessment Report for the modified Concept Approval indicates that the original Concept Plan as approved envisaged the development of the site to be carried out by one developer, with major environmental works and the delivery of infrastructure to be resolved prior to subdivision or any development on the site.

The proposed modifications to the Concept Plan Approval sought to change the super lot subdivision arrangements and the timing and responsibility for various requirements under the approval. This enables the Northern and Central Precincts to be developed in advance, and independently of, the Southern Precinct, noting the Southern Precinct remains under separate ownership, contains more significant contamination issues and potentially a delayed future development timeframe.

A commercial arrangement exists between Energy Australia and Bridgehill P/L whereby Bridgehill will gain ownership of all land in the identified northern and central precincts as well as the biodiversity offset lot. EnergyAustralia will retain all land associated with energy generation north of Yallah Bay Road, the immediately adjoining environmental lot and all land within the southern precinct. Lots designated for future public roads in all precincts will come under the control of Council. The proposed subdivision includes the creation of a lot for future dedication to TfNSW for the purposes of the Albion Park Rail Bypass connection. Refer **Table 1: Proposed Lot creation**.

As there will be two landowners on the site following the first super lot subdivision application, each with different responsibilities and timing requirements for resolution of outstanding matters in the

approval, the modified approval ensures requirements for infrastructure delivery and environmental mitigation measures on land retained by Energy Australia, but necessary to support development of the Northern and Central Precincts, will still be met.

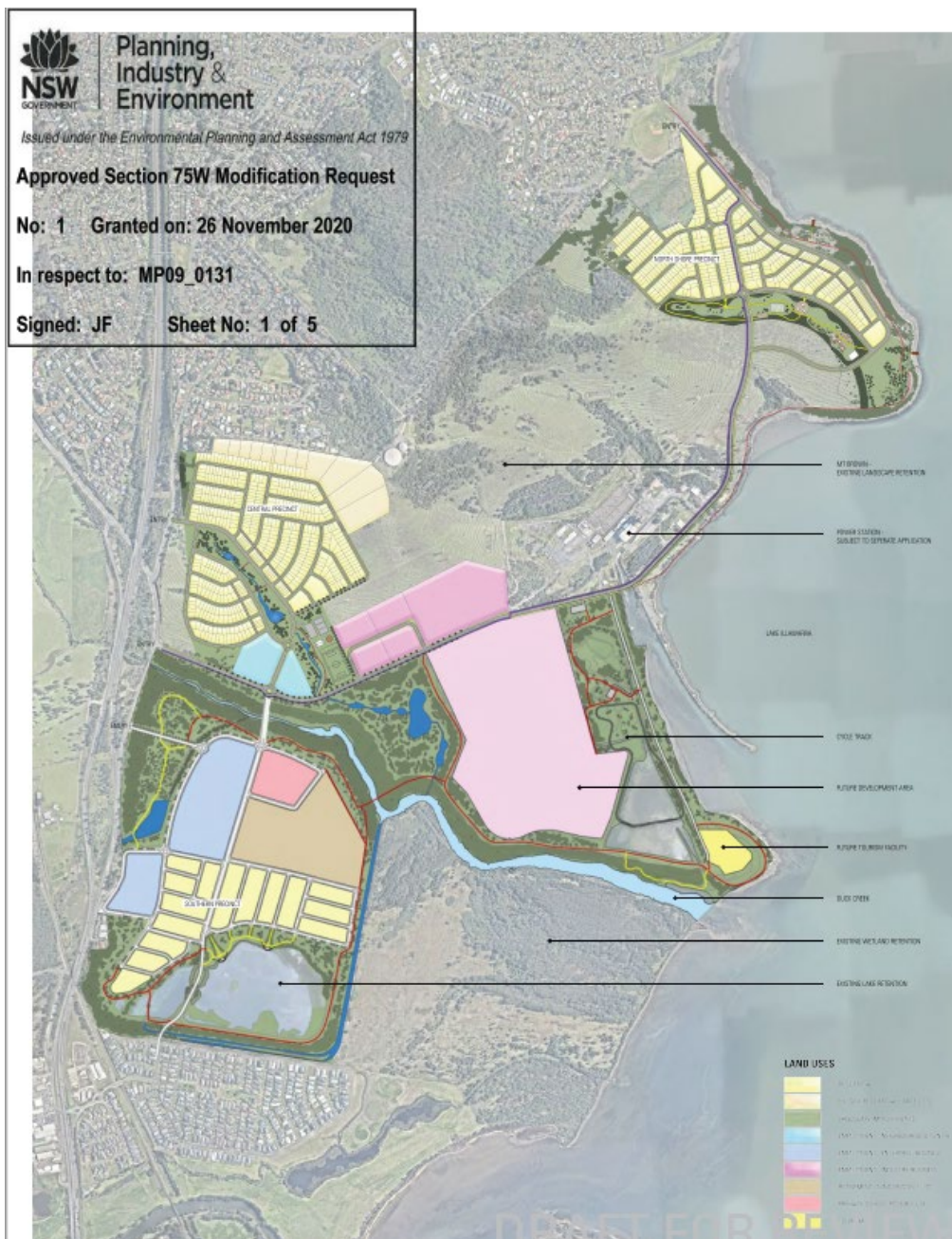


Figure 1: Concept Plan

1.4 SITE DESCRIPTION

The site is located at Tallawarra and is known as Tallawarra Lands. The title references are:

- Lot 1 DP 551658
- Lots 30 and Part 31 DP 1175058
- Part Lot 31 DP 117508
- Lot 20 DP 633211
- Lot 102 DP 716727
- Lot 151 DP 628980
- Lot 1 DP 543285
- Lots 10 and 11 DP 552933
- Lots 1 and 2 DP 792664
- Lots 7 and 8 DP 1049520

- Lots 1 and 3 DP 109795
- Lot 15 DP 1050255
- Lot 1 DP 1146409
- Lot 1092 DP 1140369

The Tallawarra Lands area is a 535.9ha precinct, located on the western side of Lake Illawarra. The site is bound by Lake Illawarra shoreline to the east, Haywards Bay to the south, The Princes Highway and Cormack Avenue to the west and Carlyle Avenue / Mount Brown Reserve / Wyndarra Way / Hector Harvey Park to the north, as per below:

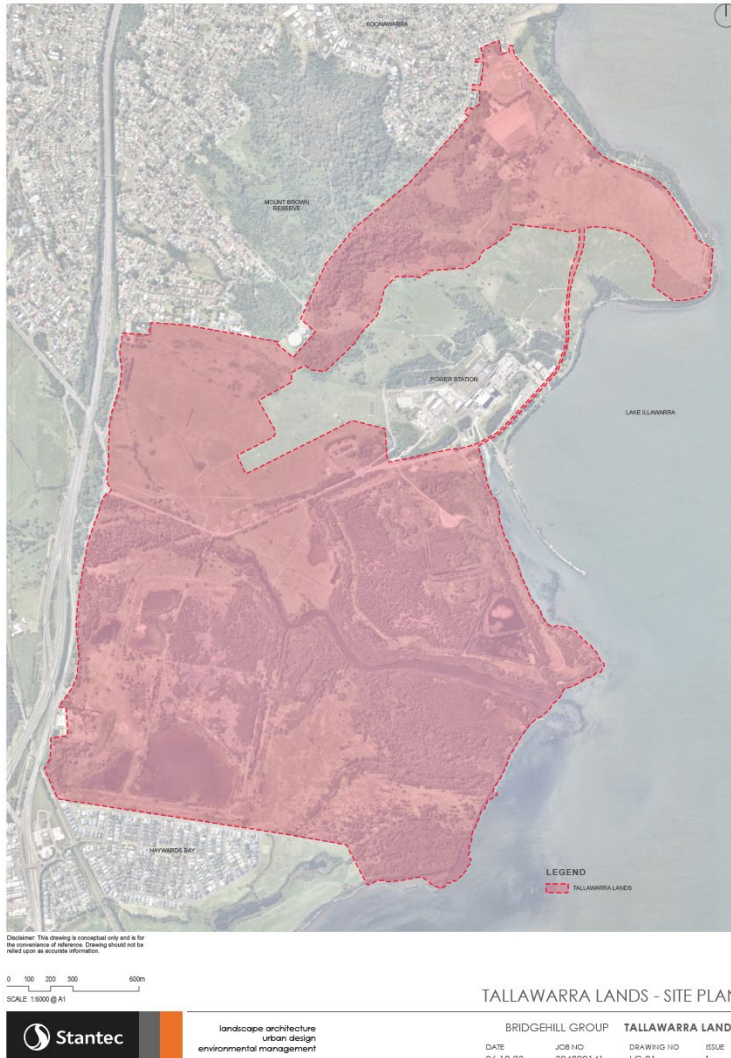


Figure 2: Tallawarra Lands

Adjoining development is as follows:

- North: Low Density Residential development
- East: Lake Illawarra
- South: Haywards Bay including Low Density Residential development
- West: M1 Princes Motorway

The site slopes its northern parts and is flat over the southern section. It is currently used for the purpose of power generation and grazing. The southern part of the site is subject to significant contamination arising from the historical use of the site for a coal fired power station and associated ash ponds

Property constraints

Council records identify the land as being impacted by the following constraints:

- Contamination: the site is identified as being subject to contamination, arising from historic power generation activities
- Acid sulphate soils: No earthworks are proposed and therefore no concerns are raised in this regard.
- Flooding: The site is identified as being located within low, medium and high flood risk precincts. A floodplain risk assessment and management plan has been provided in accordance with Future Environmental Assessment Requirement (FEAR) 4 of the Concept Approval.
- Bushfire: The land is bushfire prone as a result of vegetation at Mt Brown to the north of the site, and vegetation across the southern portion of the land
- Easements
- 88b restriction: There are a number of 88b Restrictions across the site however, these have limited relevance to the works being proposed and relate mainly to restrictions associated with the existing power plant.
- Heritage: The site has both Aboriginal and European heritage significance. Future Environmental Assessment Requirement (FEAR) 8 with respect to Aboriginal and non Aboriginal heritage items over the northern part of the site has been satisfied.
- Coastal Hazard(s): the site is impacted by the following coastal hazards: geotechnical risk, ocean inundation at the 2010, 2050 and 2100 timelines.



Figure 3: Aerial photograph

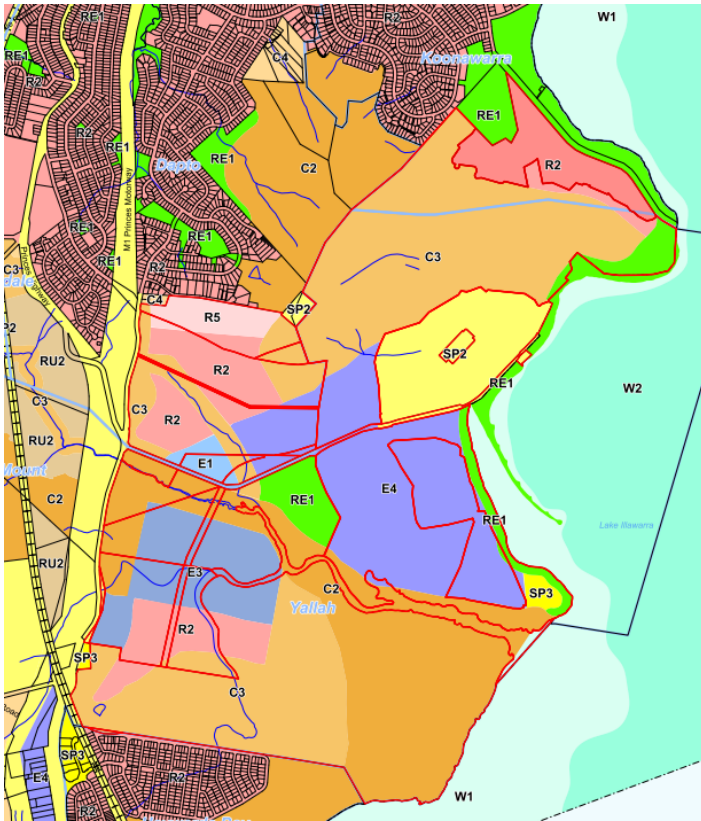


Figure 4: WLEP 2009 zoning map

1.5 SUBMISSIONS

The application was exhibited in accordance with Council’s Community Participation Plan 2019. No submissions were received following the notification.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Subdivision Engineer

Council’s Subdivision Officer has reviewed the application and recommended conditions.

Stormwater Engineer

Council’s Stormwater Engineer has reviewed the application and recommended conditions.

Traffic Engineer

Council’s Traffic Engineer has reviewed the application and provided a satisfactory referral response. No specific conditions were recommended.

Strategic Planning Officer

Council’s Strategic Planning Officer acknowledged the requirement for the preparation of development guidelines in accordance with Condition A5 of the Concept Plan Approval, and advised that it would be preferable for the DCP Chapter to be addressed prior to the determination of the subject application. The draft DCP Chapter is being reported to Council on 6 May 2024 following its prior exhibition.

Environment Officer

Council’s Environment Officer has reviewed the application and recommended conditions.

1.6.2 EXTERNAL CONSULTATION

Transport for NSW

Transport for NSW (TfNSW) were consulted with, particularly in relation to proposed Lot 5- required to be dedicated to TfNSW, the provision of a road corridor through the Southern Precinct and the timing for delivery of that road. A conditionally satisfactory response was provided on 18 November 2022.

Heritage NSW

Heritage NSW were consulted and provided a conditionally satisfactory response on 27 October 2023.

Sydney Trains

The proposal was referred to Sydney Trains as the rail authority for the South Coast heavy rail corridor. Sydney Trains responded on 22 February 2021 with a conditionally satisfactory response, requiring the referral of future development applications on the site to them as the delegated authority to the operational heavy rail corridor.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.1 LEGISLATIVE BACKGROUND

The Tallawarra Lands Concept Approval MP09_0131 was issued under Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) by the Department of Planning (the Department) on 23 May 2013, and was subsequently modified on 1 August 2017 (MOD 2) and 26 November 2020 (MOD 1).

Part 3A of the Act was repealed on 1 October 2011, however the project became a transitional Part 3A project to which the savings and transitional provisions contained within Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulations 2017 now apply.

MODIFICATION OF CONCEPT PLAN APPROVAL MP 09_0131

Assessment of the subject application against the modified Concept Plan Approval is included at **Attachment 2**.

The proposed development is generally consistent with the Concept Plan Approval, as modified. Further consent conditions have been included as recommended by specialist Council officers, external referral groups and to provide further clarity and certainty with respect to future applications for subdivision as required.

The draft conditions are included at **Attachment 4**.

2.2 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.2.1 COASTAL MANAGEMENT AMENDMENT ACT 2021

The Wollongong Coastal Zone Management Plans (CZMP) ceased certification under the Coastal Management Act 2016 on 31 December 2023

The Coastal Management Programme (CMP) for Wollongong LGA (open coast and estuaries excluding Lake Illawarra) is in development and is currently in Stage 2 (technical study stage). The process to develop this CMP requires significant technical studies to be undertaken and comprehensive community engagement, including with First Nations peoples. It is anticipated that, at best, the new CMP could be completed by 2026.

Chapter 2 Coastal management

2.1 Aim of Chapter

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

2.3 Land to which Chapter applies

This Chapter applies to land within the coastal zone.

2.5 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before or after the commencement of this Chapter, this Chapter prevails to the extent of the inconsistency.
- (2) This Chapter does not apply to land within the Lease Area within the meaning of State Environmental Planning Chapter (Three Ports) 2013.

Part 2.2 Development controls for coastal management areas

Division 1 Coastal wetlands and littoral rainforests area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- (1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent—
 - (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - (c) the carrying out of any of the following—
 - (i) earthworks (including the depositing of material on land),
 - (ii) constructing a levee,
 - (iii) draining the land,
 - (iv) environmental protection works,
 - (d) any other development.

Comment: The subject site is identified within the SEPP maps as containing coastal wetlands areas.

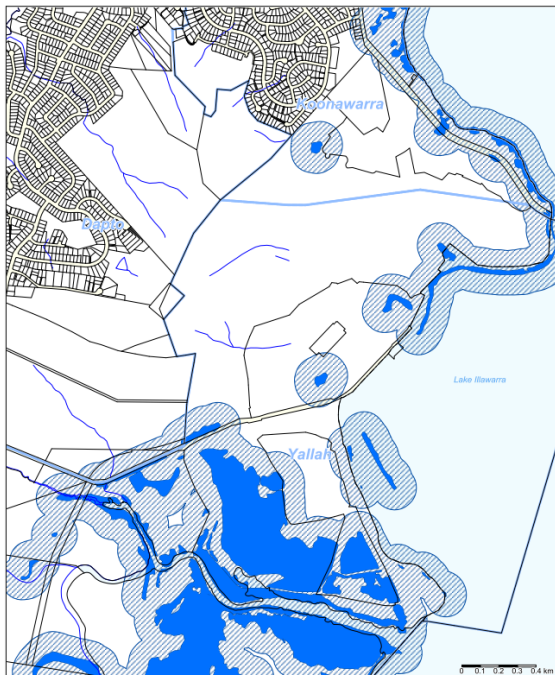


Figure 5: Coastal Wetlands and Proximity to Coastal Wetlands Mapping Extents (SEPP Hazards and Resilience)

As such, this part applies to the assessment of the subject development.

- (2) Development for which consent is required by subsection (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.

Comment: The proposed superlot subdivision does not include the undertaking of any works on land mapped as coastal wetland and is therefore not designated development.

- (4) A consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

Comment: There are no physical works associated with the proposed development and therefore the consent authority can be satisfied that sufficient measures are in place in relation to the protection of the wetlands.

Future development applications for subdivision of the superlots will require further environmental assessment with respect to the wetlands, and in this regard the consent authority can be further satisfied that measures will be put in place for the protection of the wetlands.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—
 - (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment: As above, the subject site is identified as being within the proximity area of the coastal wetland areas. As no works are proposed, the consent authority can be satisfied that the development will not impact the coastal wetlands in relation to the biophysical, hydrological or ecological integrity of the adjacent wetland or the quantity and quality of surface and ground water flows to and from the adjacent wetland.

Division 2 Coastal vulnerability area

Comment: At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified. As such, this part does not apply to the subject development.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.

Comment: The subject site is located within the overlapping Coastal Environment and Use areas. As there are no physical works associated with the proposed development, the development will not result in adverse impacts on the integrity and resilience of the ecological environment, the coastal environmental values, natural processes, water quality, marine vegetation, habitats or headlands or rock platforms, public open space and access to that public open space, aboriginal cultural heritage or the use of the surf zone.

- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment: Adjustments to development standards and zonings were made as part of the modified Concept Plan to ensure the overall development was consistent with the requirements of this Chapter as well as the Coastal Management Act 2016, and as such, the proposal has been designed and sited to avoid potential impacts to the coastal environment area.

(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Comment: The subject site is not located within the Foreshores and Waterways Area.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:

(a) has considered whether the proposed development is likely to cause an adverse impact on the following:

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
- (iv) Aboriginal cultural heritage, practices and places,
- (v) cultural and built environment heritage, and

(b) is satisfied that:

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment: The proposed development is not likely to cause an adverse impact on access to the foreshore area, any overshadowing of the foreshore area, impacts on the visual amenity of the coast, Aboriginal cultural heritage or cultural or built environmental heritage.

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Comment: The subject site is not located within the Foreshores and Waterways Area.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment: For development assessment purposes coastal hazards have already been defined for the LGA and remain notated on planning certificates. In this instance the subject site is noted as being at risk from Coastal Geotechnical risk and Ocean Inundation.

The consent authority can be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the subject land or any other land.

2.13 Development in coastal zone generally - coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

The Wollongong Coastal Zone Management Plans (CZMP) ceased certification under the Coastal Management Act 2016 on 31 December 2023. See also comments section 2.2.1 above.

2.15 Hierarchy of development controls if overlapping

Comment: The subject site is located within the overlapping Coastal and Environment Use areas. There is no inconsistency between the controls as discussed above.

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this Chapter and the matters outlined for consideration.

2.2.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala habitat protection 2021

Part 4.1 Preliminary

4.4 Land to which Chapter applies

The chapter applies to the land the subject of this development application.

Part 4.2 Development control of koala habitats

4.9 Development assessment process—no approved koala plan of management for land

The proposed superlot subdivision does not propose any physical works, including tree removal, and as such further consideration under this Chapter is not required.

2.2.4 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

The subject site has areas of significant contamination, particularly over the Southern Precinct area of the site, which is identified as an area of Environmental Concern. The Department's Assessment Report for the modified Concept Approval notes that superlot subdivision does not give rise to any purpose such as approval of future land uses nor approval of any physical works. Therefore, it is not necessary to consider contamination and remediation of the Southern Precinct in order to subdivide the site. This also applies to the northern and central precincts and as such, as the consent authority, the Panel does not need to further consider the requirements of section 4.6.

However, Future Environmental Assessment Requirements (FEARS) 11 and 12 of the modified Concept Plan Approval required further environmental assessment in relation to the Northern and Central superlots and the east-west collector road corridor. Satisfaction of these FEARS is further discussed at **Attachment 2**.

2.2.5 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

2.118 Development on proposed classified road

The western portion of the site adjacent to Yallah Bay Road and the M1 Princes Motorway/Princes Highway is land that is reserved for the purposes of a classified road. Comments were provided by TfNSW in relation the superlot that is required to be dedicated to TfNSW for the Albion Park Rail Bypass (APRB) project, being proposed Lot 5.

2.119 Development with frontage to classified road

Tallawarra Lands has frontage to the M1 Princes Motorway, a classified road. As discussed above, the proposal was referred to TfNSW who provided comments in relation Cl 2.119.

Noting the likely future provision of an off ramp from the Albion Park Rail Bypass (M1 Motorway), the Concept Approval requires that only one direct access from the development to the Princes Highway is permitted and that the physical closure of the existing junction of Cormack Avenue with the Princes Highway occurs. This will ensure that the new development does not compromise the effective and ongoing operation and function of classified roads, with details to be provided as part of the first development application for the development of the Central Precinct.

Further consideration of this matter under this application is not required.

2.2.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Assessment of the subject application against the Wollongong Local Environmental Plan 2009 is included at **Attachment 3**.

Clause 4.6 Exceptions to development standards

Section 4.6 of WLEP *Exceptions to development standards* provides that development consent may, subject to this Section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Section 4.1 Minimum subdivision lot size. An exception to a development standard request statement has been provided by the applicant addressing Section 4.6 of WLEP 2009 and relates to Proposed Lot 6 intended for a Biodiversity Stewardship Site. A copy is provided at **Attachment 6**.

The development departure is dealt with as follows.

WLEP 2009 Clause 4.1 Minimum subdivision lot size	
Development departure	<p>Clause 4.1 Minimum subdivision lot size</p> <p>Section 4.1(3) states that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</p> <p>The Lot Size Map identifies that part of the subject site as having a minimum lot size of 39.99ha.</p> <p>Proposed Lot 6 has a lot size of 36.10ha, a variation of 10% the minimum lot size requirement.</p>
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
4.6 (4) (a) Consent authority is satisfied that:	

the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

The applicant's written request provides justification that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as follows:

The Objectives of the development are achieved:

The objectives of the minimum lot size clause are:

(a) to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,

(b) to ensure lots are of a sufficient size and shape to accommodate development.

The C3 portion of land situated between the Northern and Central Precincts and the Tallawarra Power Station is approximately 95.69 ha in area and has sufficient area to be subdivided into 2 lots under clause 4.1 of WLEP 2009. The proposal does not seek to increase the number of C3 zoned lots being created.

Provision of the Biodiversity Stewardship Site lot (proposed lot 6) ensures that the impacts of clearing and development that will occur as a result of future development in the Northern and Central precincts will be appropriately offset, implementing a method of securing the environmental offset land in perpetuity. The buffer lot is the minimum area required for the purposes of maintaining uninterrupted operation of the Power Station. Therefore, the proposal will maintain the intended character of the location, and will be an appropriate size and shape to accommodate the intended use of the C3 lots. Therefore, it is considered that the objectives of the minimum lot size development standard are achieved, notwithstanding the non-compliance

The underlying objective of the development standard is not relevant to the development:

While the objectives of the development standard are achieved (refer above), the underlying objectives of the minimum lot size development standard are not considered to be relevant to the development in the circumstances of the site. This is because the Concept Plan Approval envisages (by way of specific conditions) that this portion of the site is to be retained as environmental lands for the purpose of offsetting development in the Northern and Central precincts, and for buffering the Tallawarra Power Station from residential development.

The 39.99ha minimum lot size requirement is not the standard by which vegetation offsetting and environmental conservation is measured.

	<p><i>Would the underlying objective or purpose be defeated or thwarted if compliance was required?</i></p> <p><i>As provided above under b), the underlying objectives of Clause 4.1 (WLEP 2009) are not considered to be relevant to the development.</i></p> <p><i>Has the development standard been abandoned?</i></p> <p><i>N/A</i></p> <p><i>Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</i></p> <p><i>No. The zoning of the subject land is considered appropriate and valuable (given the existing native vegetation located in this portion of the site) allowing for the provision of an area for offsetting future clearing of native vegetation as a result of future development in the northern and central precincts, providing ecological connectivity to other parts of the site and a buffer to the Tallawarra Power Station operations from future residential development.</i></p> <p><i>The applicant's written request provides justification that there are sufficient environmental planning grounds to justify contravening the development standard as follows:</i></p> <p><i>The impacts of clearing and development across the site will be appropriately offset by the improved outcome of a BSS. There is an ongoing management regime for this area in perpetuity (managed under a Planning Agreement) ensuring that any vegetation works or offset arrangements proposed which will offset the impacts of development in the Northern and Central Precincts are carried out in conjunction with the development of those precincts as appropriate.</i></p> <p><i>Additionally, condition B4 of the original Concept Plan Approval requires that woodland revegetation proposed along the southern boundary of the northern precinct is to comprise a continuous vegetated corridor providing ecological connectivity to facilitate movement of native fauna between the Mount Brown Reserve and the foreshore of Lake Illawarra. The creation of the BSS and provision of additional EEC plantings as a result of offsetting further ensures the environmental outcomes of condition B4 are achieved. The proposed Biodiversity Stewardship Site is assessed as being of sufficient area to accommodate all offset arrangements resulting from the development of the northern and central precincts serving to appropriately protect the environmental and biodiversity value of native vegetation and fauna within the broader Tallawarra Lands site. The proposal meets the Section 1.3 (a, b, c and e) objects of the Environmental Planning and Assessment Act 1979 and approval of the variation will be in the public interest because it is consistent with the</i></p>
--	---

	<p><i>objectives for development within the zone in which it is proposed to be carried out and complies with the relevant condition of the Concept Plan Approval.</i></p> <p>Comment: The applicant’s submission adequately demonstrates the matters required to be addressed by 4.6(3).</p> <p>The subject application is the first superlot application identified by the modified Concept Plan Approval, and as such, is subject to a number of conditions that relate to environment measures and requirements for environmental offsets against the future development of the superlots.</p> <p>The creation of the lot further assists in the delineation of responsibilities for environmental measures and offsets between the owners of the Tallawarra Lands following the superlot subdivision of the land.</p> <p>The minimum lot size is proposed on a lot within the E3 Environmental Management Zone and the lot is to be utilised for the purpose of a Biodiversity Stewardship Agreement. The size of the allotment is not inconsistent with the objectives of the development standard, which essentially seek to control density and accommodate development that is appropriate to the land. The lot is of a sufficient size to provide for environmental offsets against development in the Northern and Central precincts of the Tallawarra Lands development.</p> <p>The provision of the lot is part of a mechanism required to ensure the satisfaction of Condition A6 of the Concept Plan Approval and as such, is consistent with the Approval.</p>
<p>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</p>	<p>The proposed development, inclusive of the exception to minimum lot size, is considered to be in the public interest. The development has strategic significance within the Illawarra, particularly through its anticipated provision of housing and employment lands.</p> <p>The Concept Plan Approval acknowledges the importance of the environmental lands upon which the lot is proposed to be created, and these C3 Environmental Management zoned lands, in association with their location adjoining the Mt Brown reserve, are a logical location for the provision of the Biodiversity Stewardship Site.</p>
<p>4.6 (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if -</p>	
<p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for</p>	<p>Proposed Lot 6 is created from existing Lot 31, which currently has an area of 118ha. The remainder of the original lot that will create Lot 2 is proposed to be 59.59ha.</p>

such lots by a development standard, or	
(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.	The undersized proposed Lot 6 is 90% of the minimum lot size.
the concurrence of the Secretary has been obtained.	In accordance with Planning Circular PS 20-002 dated 5 May 2020 <i>Variations to development standards</i> , a consent authority may assume the concurrence of the Secretary where development standards will be contravened, except where it is proposed to vary lot size standards for dwellings in rural areas.

In consideration of applicant's request for an exception to a development standard, proposed Lot 6 will result in improved environmental outcomes that are also consistent with Terms of Approval of the modified Concept Plan Approval and as such is capable of support.

2.3 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable

2.4 DEVELOPMENT CONTRIBUTIONS

2.4.1 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The Wollongong City-Wide Development Contributions Plan applies to the subject land. This Plan levies a contribution based on the estimated cost of development. The cost of carrying out the proposed superlot subdivision does not require the levying of a contribution as the estimated development cost is \$0.

2.4.2 NSW HOUSING AND PRODUCTIVITY CONTRIBUTION LEVY

The NSW Housing and Productivity Contribution Levy was introduced on 1 October 2023. The Levy does not apply to this application as detailed in Schedule 5 of the Ministerial Order in relation to Saving and Transitional arrangements, which states that the Order does not apply to a development granted to a "pending" development application.

2.5 SECTION 4.15(1)(A)(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

Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd.

This Planning Agreement is identified as being the mechanism required by Condition A6 to ensure the timing and delivery of required infrastructure, revegetation works and environmental offsets.

On 7 September 2023, the applicant provided a Letter of Offer to enter into a Planning Agreement under Section 7.4 of the Environmental Planning and Assessment Act 1979 under which the developer has proposed to deliver transport, open space, and environmental outcomes for development on the land, including -

- An East-West Link Road to provide a connection between the northern precinct and the proposed employment lands to the west and will join the existing Yallah Bay Road.
- A North-South Link Road to provide an eventual connection through the proposed southern precinct between Yallah Bay Road in the north and Haywards Bay Road in the south.

- An upgrade of Yallah Bay Road between Princes Highway and the East-West Link Road.
- Cormack Avenue Link Road to provide access for residents from Koonawarra through the proposed central precinct to the wider local road network.
- A multi-purpose playing field of 5 to 5.5 hectares in area.
- Open space at Tallawarra Point.
- A number of shared use pathways.
- Upgrade works to Hector Harvey Park.
- A cycling facility.
- Environmental outcomes for two identified sites including a Biodiversity Stewardship Agreement and Vegetation Management Plans.

The draft Planning Agreement was reported to Council on 27 November 2023 for exhibition and subsequent delegation to the General Manager to determine, finalise and execute subject to no submissions objecting to the proposal that could not be resolved.

However, following exhibition from 17 February 2024 to 17 March 2024, 25 submissions were received, and the Planning Agreement is now to be further reported to Council on 6 May 2024.

Proposed condition 20 at **Attachment 4** requires execution of the planning agreement prior to the release of the Subdivision Certificate for the proposed development.

2.6 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Environmental Planning and Assessment Regulation 2021

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

There are no additional matters requiring further consideration under the Environmental Planning and Assessment Regulation 2000.

2.7 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal is considered acceptable with regard to the likely impacts. This first development application for superlot subdivision on the Tallawarra Lands was anticipated and is a requirement under the terms of the Concept Plan Approval. The application will facilitate the submission of further development applications for future development of the site in accordance with the Concept Plan. The proposed development is a “paper subdivision”- it is noted that further assessment of environmental matters associated with the broader site will be significant and important, however these will be dealt with under future development applications associated with the development of each Precinct as envisaged by the Concept Plan Approval.

2.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is consistent with the Concept Approval as modified and as such, facilitates future development of the Tallawarra Lands within an urban land release context.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposed superlot subdivision.

2.9 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

No submissions were received following exhibition of the proposed development. State agencies have provided conditionally satisfactory referral responses as detailed above in Section 1.4.

2.10 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The subject application is required to facilitate the overall development of the Tallawarra Lands in accordance with the Concept Plan Approval. The Concept Plan Approval provides for the development of Tallawarra Lands in such a manner that is consistent with regional and local strategic planning objectives, particularly those for the provision of housing and employment generation. The Terms of the Approval include infrastructure provision and environmental mitigation measures, noting that the majority of these relate to future development applications for further subdivision of the superlots. The superlot subdivision proposed under this application is generally consistent with the Concept Plan Approval and is therefore considered to be in the public interest.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the Terms of Approval of Concept Plan Approval MP09_131 MOD1, the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulations 2017 and the relevant provisions of Wollongong Local Environmental Plan 2009.

The application requests an exception to the development standard in relation to minimum lot size which has been considered and is capable of support.

The Planning Agreement is being reported to the Ordinary Council meeting of 6 May with a recommendation for finalisation and execution by the General Manager under delegation.

The Panel will be further briefed regarding Council's resolution and influence on the current recommendation below of the subject application, which in effect is a paper superlot subdivision to guide future subsequent development in the Tallawarra Lands Urban Release Area.

4 RECOMMENDATION

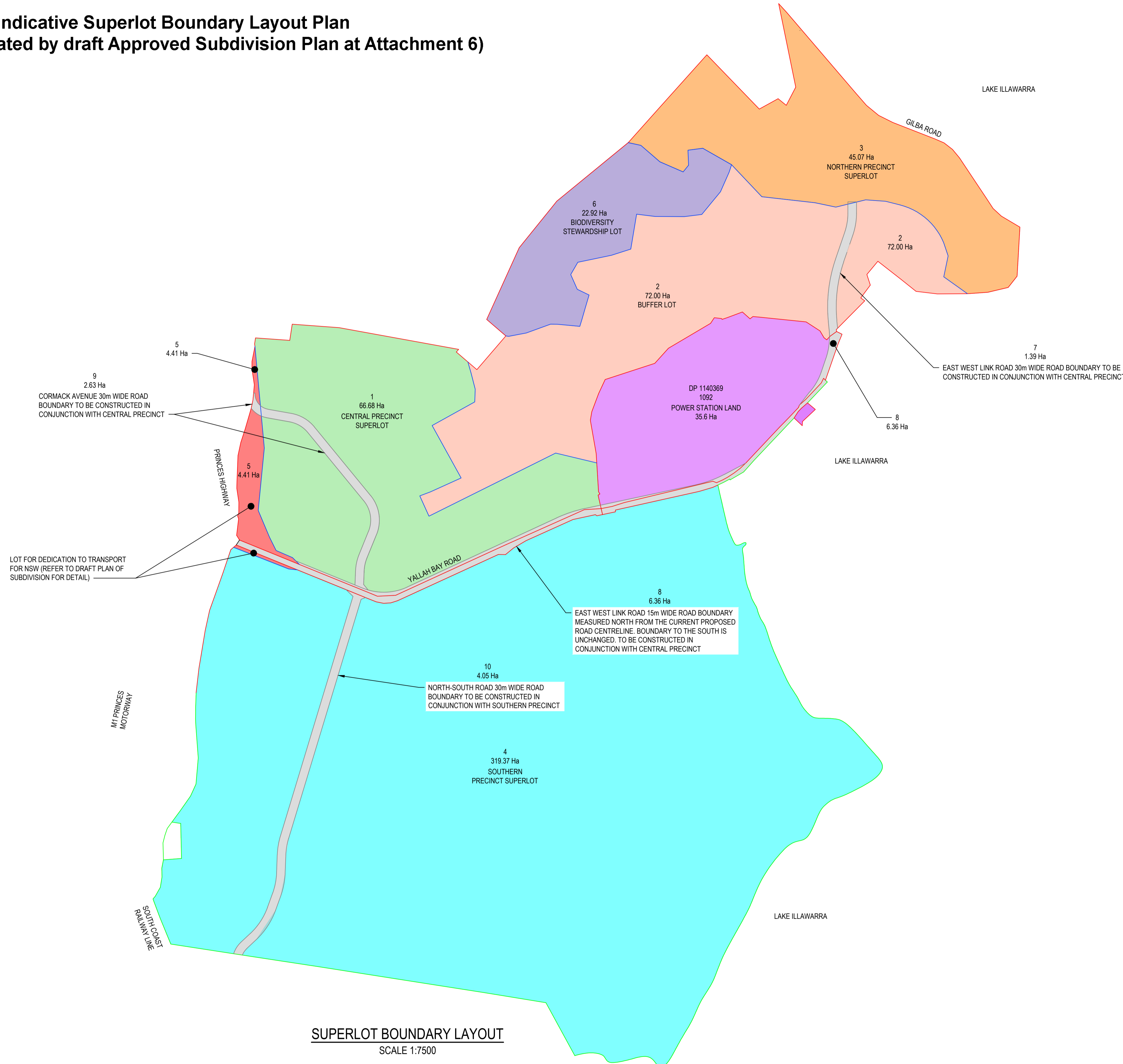
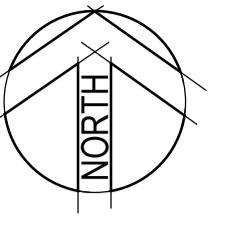
It is recommended that the development application be approved subject to appropriate conditions, as detailed at **Attachment 4**.

5 ATTACHMENTS

- 1 Indicative Superlot Boundary Layout Plan (Lots sizes updated by Attachment 6)
- 2 Assessment against modification of Concept Plan Approval
- 3 Assessment against WLEP 2009
- 4 Draft conditions
- 5 Plans referenced or approved by modified Concept Plan Approval
- 6 Draft Subdivision Plan
- 7 Clause 4.6 Exception to Development Standard (by applicant) Proposed Lot 6

DATE PLOTTED: 11 October 2022 5:48 PM BY: LACHLAN BROAD

Attachment 1- Indicative Superlot Boundary Layout Plan (lots sizes updated by draft Approved Subdivision Plan at Attachment 6)



9
2.63 Ha
CORMACK AVENUE 30m WIDE ROAD
BOUNDARY TO BE CONSTRUCTED IN
CONJUNCTION WITH CENTRAL PRECINCT

5
4.41 Ha

1
66.68 Ha
CENTRAL PRECINCT
SUPERLOT

6
22.92 Ha
BIODIVERSITY
STEWARDSHIP LOT

2
72.00 Ha
BUFFER LOT

3
45.07 Ha
NORTHERN PRECINCT
SUPERLOT

2
72.00 Ha

7
1.39 Ha

EAST WEST LINK ROAD 30m WIDE ROAD BOUNDARY TO BE
CONSTRUCTED IN CONJUNCTION WITH CENTRAL PRECINCT

8
6.36 Ha

DP 1140369
1092
POWER STATION LAND
35.6 Ha

LOT FOR DEDICATION TO TRANSPORT
FOR NSW (REFER TO DRAFT PLAN OF
SUBDIVISION FOR DETAIL)

M1 PRINCES
MOTORWAY

YALLAH BAY ROAD

8
6.36 Ha

EAST WEST LINK ROAD 15m WIDE ROAD BOUNDARY
MEASURED NORTH FROM THE CURRENT PROPOSED
ROAD CENTRELINE. BOUNDARY TO THE SOUTH IS
UNCHANGED. TO BE CONSTRUCTED IN
CONJUNCTION WITH CENTRAL PRECINCT

10
4.05 Ha

NORTH-SOUTH ROAD 30m WIDE ROAD
BOUNDARY TO BE CONSTRUCTED IN
CONJUNCTION WITH SOUTHERN PRECINCT

4
319.37 Ha
SOUTHERN
PRECINCT SUPERLOT

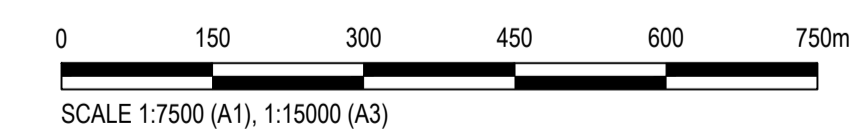
RAILWAY COAST
LINK

SUPERLOT BOUNDARY LAYOUT
SCALE 1:7500

NOTE
1. THIS PLAN SHOWS AREAS AND DIMENSIONS WHICH MAY BE
SUBJECT TO CHANGE, FOR EXAMPLE BY COUNCIL APPROVALS,
SERVICES APPROVALS OR DEPARTMENT OF LAND AND PROPERTY
APPROVALS AND REGISTRATION OF ANY FINAL SUBDIVISION PLAN

LEGEND

- SURVEYED BOUNDARY DEFINITION
- PROPOSED SUPERLOT BOUNDARY DEFINITION
- EXISTING CADASTRAL BOUNDARIES
- FUTURE ROAD BOUNDARY ALLOTMENT
- CENTRAL PRECINCT SUPERLOT
- NORTHERN PRECINCT SUPERLOT
- SOUTHERN PRECINCT SUPERLOT
- ROAD BOUNDARY LOT
- BIODIVERSITY STEWARDSHIP LOT
- LOT 2
- POWER STATION LAND
- TNSW DEDICATION LOT



XREFS: XR-82017142-05-G1-TITLE; 2022 09 26 - Boundary Definition Working
CAD File: U:\FY17\142_05_Tallawarra Lands Northern Precinct\Drawings\Build\Sketches\82017142-05 SK002.dwg

Rev.	Date	Description	Des.	Verif.	Appd.
3	11/10/2022	REVISED AREAS AND REISSUED FOR APPROVAL	LAB	BRH	BRH
2	30/09/2022	REVISED AREAS AND REISSUED FOR APPROVAL	LAB	BRH	BRH
1	27/09/2022	ISSUED FOR APPROVAL	LAB	BRH	BRH



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Drawn	LAB	Date	26/9/2022
Checked	BRH	Date	30/09/2022
Designed	LAB	Date	26/9/2022
Verified	BRH	Date	30/09/2022
Approved	BRH	Date	30/09/2022

Client	BRIDGEHILL
Project	TALLAWARRA LANDS
Title	SUPERLOT BOUNDARY LAYOUT PLAN

Status	FOR INFORMATION ONLY			
NOT TO BE USED FOR CONSTRUCTION PURPOSES				
DATUM	GDA	Scale	Size	
AHD	2020	1:7500	A1	
Drawing Number				Revision
82017142-05 SK002				3

Attachment 2

Assessment against Modification of Concept Plan Approval

Schedule 2

Part A

Project approval condition	Satisfied	Comments
<p>A2 <i>Development in Accordance with Plans and Documentation</i></p> <p>The development shall be undertaken generally in accordance with:</p> <ul style="list-style-type: none">(a) the Environmental Assessment dated February 2011 prepared by DFP Planning Consultants, except where amended by the Preferred Project Report dated June 2012 prepared by DFP Planning Consultants including the supplementary Flood Risk Assessment Report prepared by Bewsher (ref J1898L_2), dated 10 January 2013;(b) <u>the MOD 1 Environmental Assessment titled 'Tallawarra Lands Concept Plan Approval Modification' prepared by Cardno NSW / ACT Pty Ltd dated 31/05/2018, as amended by the Response to Submissions (MOD 1 RtS) titled 'Tallawarra Lands Response to Submissions' prepared by Cardno NSW / ACT Pty Ltd dated 13/05/2019, as amended by the Addendum Response to Submissions (MOD 1 Addendum RtS) titled 'Tallawarra Lands Mixed Use Development (MP 09 0131) Modification Final Response V2' prepared by Cardno NSW / ACT Pty Ltd dated 12/11/2019 as amended by the additional information submitted on 25/06/2020 by email titled 'Tallawarra Lands Final ACHAR' and AR Reports and including updated Aboriginal Archaeological Assessments and Cultural Heritage reports;</u>(c) the <u>modified</u> Statement of Commitments prepared by DFP Planning Consultants; <u>Cardno NSW / ACT Pty Ltd submitted with the MOD 1 Addendum RTS</u> and(d) the following drawings:	Yes	The first development application for superlot subdivision is generally consistent with the approved plans and documents and terms of approval of the modified Concept Plan Approval.

Author, Drawing No./ Report	Name of Plan	Date		
Warren Lee Urban Design	TRUenergy – Tallawarra Lands Concept Plan	7 May 2012		
Corkery Consulting, Landscape Plan Report, Figure 30, PPR Appendix K	The Street Hierarchy*			
Cardno L1000	<u>Landscape: Concept Plan</u>	<u>10.09.19</u>		
Cardno Figure 5-7	<u>Proposed Road Hierarchy – Central & Northern Precincts</u>	<u>09.09.2019</u>		
Cardno Figure 7-1	<u>Proposed Transmission Line</u>	<u>09.09.2019</u>		
Cardno Figure 7-4	<u>Proposed Development Controls Plan - North</u>	<u>12.09.2019</u>		
Cardno Figure 7-5	<u>Proposed Development Controls Plan - Central</u>	<u>09.09.2019</u>		
<p><i>*note: this plan applies only to the Southern Precinct</i></p>				
<p>except for as modified by the following pursuant to Section 750(4) of the Act.</p>				
<p>A5</p>	<p><i>Development guidelines</i></p> <p>The proponent shall develop a site specific set of development guidelines which incorporate the information contained in the Environmental Assessment except as amended by the Preferred Project Report <u>except as amended by Modification 1 including the documents and plans listed at Condition A2(b)</u></p> <p>The guidelines shall be formatted so as to be capable of being inserted as a site-specific chapter in</p>		<p>Yes</p>	<p>A site specific set of development guidelines in the form of a chapter capable of being incorporated into Wollongong Development Control Plan 2009 has been prepared for</p>

<p>Section D of Wollongong City Council’s Residential Development Control Plan 2009 and shall be capable of being read in conjunction with other relevant components of that plan.</p> <p><u>The guidelines must be designed to provide guidance for future residential development in the Northern and Central Precinct and to ensure that future residential development in the Northern and Central Precinct would achieve the objectives of WDCP 2009 with respect to residential development and ecologically sustainable development.</u></p> <p><u>The guidelines must include guidance for future residential development on sites adjoining Carlyle Close, including building envelope, siting and height controls to ensure that future development on these sites would minimise impacts to views of the ridgeline and would minimise view loss impacts from Carlyle Close.</u></p>		<p>Tallawarra Lands. The development guidelines are consistent with the Tallawarra Lands Concept Approval, as modified.</p> <p>The draft Chapter was reported to Council for public exhibition on 8 May 2023 and Council subsequently exhibited the draft Chapter from 13 November to 13 December 2023. Four submissions were received following exhibition, and the draft Chapter will be further reported to Council on 6 May 2024.</p>
<p>A6 First Future Application</p> <p>The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land use boundaries provided in the Concept Plan <u>the plan titled ‘Proposed First Super lot Subdivision Plan Rev 02’ prepared by Bridgehill and dated 07 October 2020, with the land identified to be dedicated to TfNSW as a separate lot.</u> In addition to other requirements of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.</p> <p><u>The application must address the interrelationship between the proposed sites created by the subdivision, and specifically how infrastructure delivery, revegetation, environmental measures and offsets that may be required to be provided on the Environmental Land lot or Southern Precinct lot in order to support development on the Northern lot or Central lot would be assured.</u></p>	<p>yes</p>	<p>The subject development application, DA-2020/1332, proposes the subdivision of the entirety of Tallawarra Lands generally reflecting the ‘Proposed First Super lot Subdivision Plan Rev 02’ plan, and taking into account</p>

In this regard, the timing for delivery of the east-west collector road and north- south collector road on the site must be determined in conjunction with the Superlot Subdivision, having regard to traffic impacts, connectivity requirements and flood safety. Where it is found that roads are required to be delivered in conjunction with the development of the Northern or Central Precincts, the approval is to include appropriate mechanisms (such as a binding agreements, easements, or creation of separate lots for any required roads) to enable and ensure delivery of the roadway(s).

Similarly, responsibilities and timing for any revegetation of land or transfer of environmental land as offset for the proposed Northern and Central precincts is to be addressed and as necessary, mechanisms incorporated to enable and ensure delivery of any required works or offsets.

the Terms of Approval of the modified Concept Plan Approval.

Superlots are proposed to facilitate the future development of land in the three development precincts of Tallawarra, being the Northern, Central and Southern (Lakeside) Precincts.

The proposed subdivision plan also identifies the land to be dedicated to TfNSW as a separate lot (proposed Lot 5).

In addition, and in order to satisfy the requirements of Term of Approval A6, three lots have been created to ensure future road delivery, and one further lot created to ensure the provision of environmental offsets through a Biodiversity Stewardship Agreement.

		The Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd will be the mechanism to ensure the timing and delivery of the roads and required environmental works and biodiversity offsets.
A7	Limits of this Approval <u>This Concept Plan does not approve:</u> <ul style="list-style-type: none"> <u>any works or any future works on any adjacent foreshore lands owned or managed by Crown Lands</u> <u>any works other than roadworks required under this approval on the land identified to be transferred to TfNSW for the Albion Park Rail Bypass</u> 	Yes The subject application does not propose work on lands owned or managed by Crown Lands or on the land identified to be transferred to TfNSW.
<i>Part B Modifications</i>		
B1	<i>Land Use</i> The Primary school (possible use) and Retirement living (possible use) must be deleted from the Concept Plan.	Yes The subject application does not seek consent for these land uses.
B2	<i>Access Road to the Lakeside (Southern Precinct) from the Princes Highway</i>	Yes The subject application does not seek consent for a southern access

<p>The proposed southern access road from the Princes Highway to the Lakeside Precinct must be deleted from the Concept Plan. Clause 8N(2)(b) of the <i>Environmental Planning and Assessment Regulation 2000</i> prevents the Minister from being able to approve this roadway.</p> <p>This modification is also required to address the concerns of Roads and Maritime Services (insufficient acceleration length on the southern approach to the F6 freeway) and the Office of Environment and Heritage (unacceptable impact on the Illawarra Lowlands Grassy Woodland endangered ecological community and <i>Chorizema parviflorum</i> an endangered species).</p>		<p>road from the Princes Highway to Lakeside Precinct.</p>
<p>B3 Access Road and Bridge over Duck Creek to the Lakeside (Southern Precinct) from Yallah Bay Road</p> <p>The access road and bridge over Duck Creek from Yallah Bay Road to the Lakeside Precinct must be deleted from the Concept Plan. Clause 8N(2)(b) of the <i>Environmental Planning and Assessment Regulation 2000</i> prevents the Minister from being able to approve this roadway.</p> <p><u>(Note: The granting of approval for this road under Part 5 of the EP & A Act is not inconsistent with the terms of this approval).</u></p>	<p>Yes</p>	<p>The subject application does not seek consent for the construction of the access road and bridge over Duck Creek from Yallah Bay Road.</p>
<p>B4 Environmental Corridor</p> <p>The proposed Wwoodland revegetation is to be provided along the ridgeline on the southern edge of the Northshore Northern precinct (identified in the Landscape Plan, prepared by Corkery Consulting, May 2012) shall comprise and is to be designed to provide a continuous vegetated corridor providing ecological connectivity such that the movement of native fauna species between Mount Brown Reserve and the foreshore of Lake Illawarra is facilitated.</p> <p><u>Plans demonstrating the provision of the Environmental Corridor are to be submitted with the first future application for superlot subdivision.</u></p>	<p>Yes</p>	<p>The updated Vegetation Management Plan for the Northern Lands of Tallawarra has been provided that outlines a general approach to the restoration and management of the proposed riparian lands. It also identifies an environmental corridor that runs from proposed Lot 6 (created for environmental offsets) extending to</p>



the Lake Illawarra foreshore, as well as a riparian corridor and environmental lands in the Central Precinct.

A condition has been included in the draft consent outlining the future requirements for the environmental corridor that must be addressed with the first development application for subdivision in the Northern Precinct.

This is consistent with the agreed provision of a VMP at this stage as detailed in the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd.

B5 *deleted*

Future Environmental Assessment Requirements

<p>1 Access road and bridge across Duck Creek can be constructed</p> <p>The first application for development within the Lakeside (Southern Precinct) must be accompanied by documentation which demonstrates to the satisfaction of Wollongong City Council that an access road and bridge across Duck Creek, linking the northern boundary of the Precinct with Yallah Bay Road can and will be constructed at no cost to Council prior to the development of that Precinct.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only</p>
<p>2 Stormwater management</p> <p>Future applications shall be accompanied by a detailed stormwater management plans prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council which addresses the following:</p> <ul style="list-style-type: none"> a details on how a reduction of rubbish or hydrocarbon pollutants will be achieved prior to discharge to Lake Illawarra; and b any structural works, including works for stormwater capture and treatment are required to be located outside riparian areas. 	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only</p>
<p>3 Stormwater Management Masterplan</p> <p>The first future application to Council for superlot subdivision must include stormwater management masterplan consistent with the requirements of Wollongong City Council’s LEP, DCP and relevant Australian Standards for stormwater amendment. <u>The plan must also set out measures for long term stormwater quality monitoring and independent auditing.</u></p>		<p>A Stormwater Management Masterplan was provided with the subject application and has been considered by Council’s Stormwater Officer.</p> <p>Council’s Stormwater Engineer has recommended the provision of a <i>final</i> Stormwater Management Masterplan that includes a plan(s)</p>

		that details (spatially) all precinct wide Water Sensitive Urban Design (WSUD) and water conveyance measures required to facilitate the development of the overall concept approval area, prior to the issue of the Subdivision Certificate.
<p>4 Floodplain Risk Assessment and Management</p> <p>The first future application to Council for superlot subdivision must include a floodplain risk assessment and management plan consistent with the requirements of Wollongong City Council's LEP, DCP, Duck Creek Flood Study (2012) and the NSW Floodplain Development Manual (2005).</p>	Yes	The submitted Floodplain Risk Assessment and Management Plan was considered by Council's Stormwater Officer. The Plan is considered to satisfy the requirements of FEAR 4.
<p>5 Acoustic impacts - Residential</p> <p>Future applications that propose to create residential allotments must be accompanied by an acoustic assessment which demonstrates that it will be possible for future dwellings on the proposed allotments to comply with the noise level standards specified in <i>State Environmental Planning Policy (Infrastructure) 2007</i> and with the requirements of the <i>Development near Rail Corridors and Busy Roads - Interim Guideline, 2008</i>.</p> <p><u>Where future assessments in relation to the Central Precinct demonstrate the need for acoustic mitigation due to road noise, this must be provided as an acoustic barrier along the western boundary of the Precinct. The barrier must be designed to minimise visual impacts and consideration must be given to an acoustic wall within a landscaped setting or a landscaped</u></p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only

<p>acoustic mound. The barrier may not encroach into land to be transferred to TfNSW along this boundary.</p> <p>Future applications that propose to create residential allotments that may be affected by noise from the Tallawarra Power Station are to demonstrate that future dwellings on those sites would be located outside of the 52dB(A) L_{Amax} contour.</p>		
<p>6 Acoustic impacts - Industrial uses</p> <p>Future application for industrial developments shall be accompanied by an acoustic assessment which provides:</p> <ul style="list-style-type: none"> a Details of on-going noise management during operation of the site for the life of the development to ensure adequate amenity levels for all users of the site; b Mitigation measures to minimise noise disturbance to residential a buildings on the site and to adjoining or adjacent properties; and c Compliance with the NSW Industrial Noise Policy is achieved at the boundary of nearby residential lots. 	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only
<p>7 Per lot industrial noise contribution calculations</p> <p>The first future application for subdivision of the industrial zoned lands shall be accompanied by a noise management plan that includes industrial noise contribution calculations and allocates a sound power levels to each lot within the industrial zoned areas of the site, such that acceptable noise levels are not exceeded within residential areas, the Central Precinct Neighbourhood Centre, and other sensitive receivers. The industrial noise contribution calculations shall be prepared by an appropriately qualified acoustic expert.</p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only
<p>8 Cultural Heritage Management Plan</p> <p>The first future application to Council (refer to Condition A6) for shall be accompanied by a A Cultural Heritage Management Plan (CHMP) that details how impacts on Aboriginal and non-Aboriginal heritage across the entire site will be minimised and managed is to be provided in two parts:</p> <p>(i) Part 1 of the plan shall apply to Yallah Bay Road and all land north of Yallah Bay Road and is to</p>	Yes	HeritageNSW has confirmed that they consider the revised Cultural Heritage Management Plan and Heritage Interpretation Plan meet

<p><u>include specific consideration of the entire Northern and Central Precincts and the collector road which will connect the two sites and is to be submitted with the first application for super lot subdivision</u></p> <p>(ii) <u>Part 2 is to apply to the Southern Precinct and shall be submitted with the first application within the Southern Precinct following the approval of the first future lot subdivision. Where a collector road is proposed to be delivered in advance of all other development in the Southern Precinct, Part 2 may be delivered in two sub-parts: one for the road reserve and one for all remaining lands</u></p> <p>The plan <u>CHMP is to be based on detailed archaeological investigations and the findings of an Aboriginal Cultural Heritage Assessment Report (ACHAR)</u> and shall include, but not necessarily be limited to:</p> <ul style="list-style-type: none"> a Specific measures to be applied to works undertaken in close proximity to identified Aboriginal and non-Aboriginal heritage items to minimise and avoid impacts on these items; b How heritage items (Aboriginal objects and relics or works) discovered during the construction of the project will be considered and managed. This shall include a component within the site induction program for construction workers on Aboriginal and non-aboriginal heritage within the project area; c Stop-work and notification procedures to be implemented should any unexpected impact archaeological deposits and/or State significant relics not previously identified be discovered; d A procedure for continued consultation with the relevant Aboriginal stakeholders; and e Procedures to be followed should non-compliance against any of the provisions of the management plan occur f <u>A Heritage Interpretation Strategy for the site</u> <p>All future applications must demonstrate how they will implement the CHMP.</p> <p><u>In addition to documentation provided as part of MOD 1, the following is required in support of Part 1 of the plan:</u></p> <ul style="list-style-type: none"> • <u>archaeological investigations for the Central Precinct and within the proposed east-west road corridor connecting the precincts, in areas that have moderate or high archaeological potential</u> 		<p>the intent and requirements of FEAR 8</p>
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<p><u>for Aboriginal Heritage.</u></p> <ul style="list-style-type: none"> • <u>additional assessment and investigations in relation to sites TH2 and TH3 with respect to European Heritage. Where archaeological potential is confirmed, impacts to these areas should be avoided or where impacts are unavoidable, detailed archaeological assessments are to be provided</u> • <u>the ACHAR and CHMP is to apply to all relevant land, noting that reports provided with MOD 1 have excluded the eastern part of the Central Precinct.</u> 		
<p>9 Transfer of environmentally sensitive land and open space into public ownership and the Securing of Environmental Offsets</p>		
<p>Future applications which include lands proposed to be transferred to public ownership on the "Conceptual Tallawarra Land Ownership Plan" (Figure 37 of the Environmental Assessment), must include details on the proposed ownership arrangements for the land nominated for transfer.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, no transfer of lands proposed under subject application</p>
<p>In the event that a public authority is unwilling to accept transfer of the lands zoned open space, the proponent shall retain and maintain these lands as publicly accessible privately owned open space.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, no transfer of lands proposed under subject application</p>
<p>In the event that a public authority is unwilling to accept transfer of the lands zoned for environmental purposes or lands required as an environmental offset, the proponent must implement an alternative method of securing the identified lands in perpetuity, such as establishing a bio bank agreement.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, no transfer of lands proposed under subject application. Proposed Lot 6 created for environmental offset and subject to future BSA, as detailed in Draft Tallawarra Planning Agreement - Wollongong City</p>

		Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd.
<p>10 Amended Vegetation Management Plan</p> <p><u>An amended Vegetation Management Plan, is to be provided in two parts:</u></p> <p>i <u>Part 1 of the plan shall apply to all land north of Yallah Bay Road and is to be submitted with the first application for super lot subdivision</u></p> <p>ii <u>Part 2 is to apply to the Southern Precinct and shall be submitted with the first application within the Southern Precinct following the approval of the first future lot subdivision</u></p> <p>which includes the following requirements:</p> <p>a <u>Commitment to</u> inspection of revegetated and weed managed areas by an appropriately qualified environmental expert at the end of the initial five-year establishment period to ascertain whether the works are self-sustaining. If they are self-sustaining, develop an ongoing management regime for these areas in perpetuity; and/ or</p> <p>b <u>Commitment to</u> the provision of a vegetation condition report prepared by an appropriately qualified environmental expert at the end of the initial five-year establishment period. The condition report shall outline additional management measures to be undertaken if after five years it is determined that the revegetated areas are not self-sustaining. The condition report shall also outline recommendations for the management in perpetuity of the areas covered by the VMP</p> <p>c <u>Details of the woodland revegetation necessary to create the environmental corridor required by Modification B4</u></p> <p>d <u>Outline the proposed timing for delivery of works under the plan and outline which parties will be responsible for delivering the works and what arrangement will be in place, having regard to landownership, to ensure the works are completed in accordance with the plan.</u></p>	Yes	<p>An updated Vegetation Management Plan for the Northern Lands (Northern and Central precincts) of Tallawarra was provided in support of the subject application that outlines a general approach to the restoration and management of the proposed environmental and riparian lands. The updated VMP is consistent with the requirements of FEAR 10, identifying an environmental corridor that runs from proposed Lot 6 (created for environmental offsets) extending to the Lake Illawarra foreshore as well as a riparian corridor and environmental lands in the Central Precinct.</p>

		<p>The timing and delivery of works is subject to the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd and development application submission for the northern and southern precincts.</p>
<p>11 Further Investigation of the Areas of Environmental Concern and engagement of a Site Auditor accredited under the Contaminated Land Management Act 1997</p> <p>Future applications that include those lands nominated as Areas of Environmental Concern (AECs) in the Coffey Environments Report (December 2010) <u>The following development applications</u> must be accompanied by a further environmental assessment report.</p> <ul style="list-style-type: none"> i <u>The first future superlot subdivision application to Council (refer to Condition A6) must include a further environmental assessment report in relation to the northern and central super lots and the east-west collector road corridor; and</u> ii <u>Any application for the further subdivision of the superlot containing the Southern Precinct (as identified in Condition A6) must include a further environmental assessment report in relation to the whole of the Southern Precinct</u> iii <u>Despite (ii) above, an application that seeks to create the north-south collector road in the Southern Precinct ahead of all remaining development in that precinct must only include a further environmental assessment report in relation to the proposed road corridor</u> <p>In addition to adopting the recommendations contained in Section 12 of the Coffey Environments</p>	<p>Yes</p>	<p>Further environmental assessments have been provided by way of Detailed Site Investigations provided in relation to the Northern and Central superlots dated 22 April 2020 and 26 May 2020, a Remedial Options Assessment dated 23 April 2020, a Detailed Site Investigation for the East-West Collector Road dated 26 April 2024.</p> <p>The Site Auditor has provided advice in relation to the adequacy</p>

Groundwater Modelling Assessment report, the further investigations must consider, **where relevant:**

- the potential for contaminants present in the soil and groundwater in the vicinity of the ash ponds to be mobilised and transported to the adjacent shallow aquifer, Duck Creek and ultimately to the receiving waters of Lake Illawarra, and measures to address this including the feasibility of remediation of contaminated soils and/ or the containment of the sources of contamination;
- measures to ensure that the environmental attributes of conservation lands on the site are not adversely impacted on by contaminants present in the soil and groundwater;
- recommendations for the ongoing management of contaminated groundwater; the potential for the contamination present in soil and groundwater in the vicinity of the ash ponds to adversely affect groundwater dependent ecosystems on the site; and
- any risks to human health or the environment.

Following the completion of the further investigations, the proponent must engage a Site Auditor accredited under the *Contaminated Land Management Act 1997* to verify the adequacy of the investigations (and any proposed remediation). **Prior to the issue of any Subdivision Certificate (other than for the first superlot subdivision) the Proponent must obtain a site Audit Statement to and certify that the site is suitable for its proposed use. No building may be erected on land prior to the issue of a Site Audit Statement certifying that the land is suitable for the proposed building and associated use.**

Note: For the purposes of this condition “Building” means a building that is development to which clause 7 of State Environmental Planning Policy No. 55 applies

of the investigations, noting that some data gaps remain. The advice provides additional detail as to what further investigations will be required prior to the issue of the Site Auditors Statement and Report.

Under this FEAR, confirmation that the Site is suitable for its intended use is required prior to the issue of the Subdivision Certificate for future development applications relating to further development of the superlots. As such, the data gaps and remediation works can be addressed as part of those future applications.

The Site Auditor also confirms their engagement.

The requirements of FEAR 11 are therefore satisfied.

<p>12 Engagement of a site auditor to verify the adequacy of asbestos soil sampling and asbestos contamination investigations</p> <p>The first future superlot subdivision application to Council (refer to Condition A6) must include, in relation to the Northern and Central superlots, a verification from a Site Auditor accredited under the <i>Contaminated Land Management Act 1997</i> as to the adequacy of the investigations and asbestos soil sampling undertaken by Douglas Partners (July 2010) and any further investigations subsequently undertaken by the Proponent and certification of the suitability of the site for the proposed use that the northern and central super lots can be made suitable for their proposed use.</p> <p><u>Any application to further subdivide or carry out any works on the Southern Precinct (as defined on the Super Lot Subdivision Plan and Condition A6) must include a verification from a Site Auditor accredited under the Contaminated Land Management Act 1997 to as to the adequacy of the investigations and asbestos soil sampling undertaken by Douglas Partners (July 2010) and any further investigations subsequently undertaken by the proponent and certification that the whole of the Southern Precinct can be made suitable for its proposed use.</u></p> <p><u>Note: For the purposes of this condition “Works” means works that are development to which clause 7 of State Environmental Planning Policy No. 55 applies.</u></p>		<p>Interim advice has been provided by a Site Auditor, dated 1 May 2024.</p> <p>The advice specifically deals with the Northern Precinct and the East West Collector Road, and confirms that the site is capable of being made suitable for the proposed mixed use land uses, subject to:</p> <ul style="list-style-type: none"> • the completion of additional works to address data gaps • the preparation of remedial action plans • Long-Term Environmental Management Plans to address any residual contamination • the issue of Site Audit Statements and Site Audit Reports. <p>As such, FEAR 12 has been satisfied with respect to the Northern</p>
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		<p>superlot and the East-West Collector Road.</p> <p>Auditor's confirmation that the Central Precinct can be made suitable for their proposed use remains outstanding against this FEAR. A condition has been included to ensure that this matter is addressed prior to the issue of the Subdivision Certificate for the subject application. This ensures consistency with the FEAR.</p> <p>There are no works proposed under this application and it is noted that future works in the Southern precinct superlot will be subject to significant further environmental assessment, including any future roadworks that may be required to be carried out under Part 5 of the EP&A Act.</p>
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<p>13 Soil and water management</p> <p>All soil and water management on site should be undertaken in accordance with the requirements of the "Blue Book", Landcoms "Soils and Construction" manual. Soil and Water Management Plans, ongoing maintenance and monitoring and reporting requirements shall be provided at construction certificate stage, including those stages relating to bulk earthworks.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only. Relevant to future further subdivision of superlots.</p>
<p>Roads and Maritime Services Requirements</p>		
<p>14 Only one direct access from the development to the Princes Highway is permitted</p> <p>Future applications for road works must demonstrate that only one direct access from the development to the Princes Highway is proposed. The access shall be at the existing junction of the Princes Highway and Yallah Bay Road</p>	<p>Yes</p>	<p>The proposal is for superlot subdivision and does not propose works, however the plans do not indicate any additional access points to the Princes Highway.</p>
<p>15 Upgrade of the junction of the Princes Highway and Yallah Bay Road to a roundabout</p> <p>The first future application which includes works (refer to Condition A6) must be accompanied by an approved design for the upgrade of the junction of the Princes Highway and Yallah Bay Road.</p> <p>The intersection must be upgraded to a roundabout consistent with the approved design for the roundabout in this location under the approved Albion Park Rail Bypass project. The submitted design must be to the satisfaction of and have been approved by Roads and Maritime Services TfNSW and Wollongong City Council.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only and does not propose any roadworks</p>
<p>16 Requirement for a Concept Design for the Closure of Cormack Avenue</p> <p>The first future application to Council (refer to Condition A6) for superlot subdivision for works or subdivision within the Central Precinct following super lot subdivision must include a concept design for the physical closure of the existing junction of Cormack Avenue with the Princes Highway.</p> <p>The submitted design must be to the satisfaction of and have been approved by Roads and Maritime</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only.</p>

<p>Services <u>TfNSW</u> and Wollongong City Council.</p> <p>The road closure is to be implemented in conjunction with the development of the Central Precinct.</p>		<p>This matter will be addressed under the first development application submitted for the central precinct.</p>
<p>17 Requirement for a Concept Design for Traffic calming of Gilba Road</p> <p>The first future application for subdivision of the northern residential precinct must include a concept design for the traffic calming of Gilba Road, where it provides access to the northern residential precinct. The proponent shall obtain design criteria from Wollongong City Council.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only.</p> <p>This matter will be addressed under the first development application submitted for the northern precinct.</p>
<p>18 Requirement for a Concept Design for Road works and Lighting on the Princes Highway</p> <p>The first future application which involves works on the Princes Highway must be accompanied by a concept design for all required road works on the Princes Highway. The concept design shall comply with Ausroads Guide to Road Design. Any required lighting on the Princes Highway shall be upgraded/provided in accordance with AS/NZS1158. The plan must be to the satisfaction of and approved by Roads and Maritime Services.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only.</p>
<p>19 Road Network - Design of roads, footpath crossings, footpaths and cycleways</p> <p>All future application that include roads, footpath crossings, footpaths and cycleways, must demonstrate that these elements have been designed to satisfy or exceed the requirements of Wollongong City Council.</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only</p>
<p>20 Road link with Haywards Bay required to be traffic calmed and to accommodate two-way movement of buses</p> <p>The future application which includes the Haywards Bay road link, shall demonstrate that the link</p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision. However noted that a</p>

<p>can accommodate the two-way movements of buses and that it is traffic calmed to the satisfaction of Wollongong City Council.</p>		<p>width of 30 metres is available for future road provision to enable limited bus services. Council's Traffic Engineer has noted that the proposed road reserve for the north/south (and east west) link roads are shown sufficiently wide to allow access to the subdivision precincts as per the proposed ultimate development layout.</p>
<p><i>Rai/corp requirements</i></p>		
<p><i>21 Future development applications to be referred to Railcorp</i></p> <p>Future development applications in close proximity to the rail corridor shall demonstrate that liaison has occurred with Railcorp, to determine their requirements for development, including drainage requirements.</p>	<p>Yes</p>	<p>The proposal was referred to Sydney Trains, who are the delegated authority for the South Coast Heavy Rail Line. Sydney Trains did not object to the proposal and provided conditioning similar to FEAR 21 for future development on Tallawarra Lands.</p>

		Sydney Trains requirements have been included in the consent.
Sydney Water Requirements		
<p>22 Options Report and the endorsement of a Preferred Servicing Strategy</p> <p>The first development application to Council (refer to Condition A6) submitted to Wollongong City Council must be accompanied by a Preferred Servicing Strategy endorsed by Sydney Water.</p>	Yes	Sydney Water has published the Yallah-Marshall Mount & Tallawarra Lands Detailed Planning and Concept Design Planning and Scheme Report (April 2016), thus satisfying FEAR 22.
Rural Fire Service Requirements		
<p>23 Location of buildings and facilities on Bushfire Protection Prone Land to consider the requirement for Asset Protection Zones</p> <p>Future applications which include Bushfire Prone land must be accompanied by a bushfire assessment report which demonstrates that the development meets the requirements of <i>Planning for Bushfire Protection-2006 2019, including the provision of Asset Protection Zones</i></p> <p><u>Future applications for subdivision are to demonstrate the provision of perimeter roads around residential areas in accordance with the requirements of Planning for Bushfire Protection 2019 and in accordance with the requirements of the Rural Fire Service</u></p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only
<p>24 Bushfire protection for the access to the tourist facility</p> <p>Future applications for the tourist facility are to include a bushfire assessment report that demonstrates that development complies with Section 4.2.7 of <i>Planning for Bushfire Protection 2006 2019</i>, including asset protection zones and roads</p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only

<p>25 Satisfactory Arrangements for the provision of designated State public infrastructure</p> <p>The first development application to Council (refer to Condition A6) must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009.</p> <p>Following the first development application to Council (refer to Condition A6):</p> <p>(a) <u>the first development application to Council for development in the Northern and Central Precincts must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure as it relates to the Northern and Central Precincts and in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009.</u></p> <p>(b) <u>the first development application to Council for development in the Southern Precinct must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure as it relates to the Southern Precinct and in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009.</u></p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, being the first development to Council as described in Condition A6.</p>
<p>26 Road Reserve Widths</p> <p><u>The width of road reserves shown on the plans accompanying MOD 1 are not approved. Roads associated with the development of the Northern and Central Precincts are to be designed in accordance with the requirements, including road reserve widths, of equivalent roads in the Wollongong Development Control Plan 2009.</u></p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only. Noted that lots are of sufficient width to provide for road reserve widths identified in WDCP 2009.</p>
<p>27 Road and Subdivision Layout</p> <p><u>The road and subdivision layouts of the precincts as shown on the approved plans are indicative only. Final road and subdivision design is to be determined as part of future subdivision applications and is to address the following matters:</u></p> <p>(a) <u>The western part of the Northern Precinct within the E3 Environmental Management zone should be redesigned to ensure that the road and subdivision design would not encroach into</u></p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only</p>

<p><u>riparian zones established by this approval, would avoid impacts to threatened or endangered ecological communities within the E3 zone, and would not result in any unacceptable impacts to the adjoining wetland or proximity area in accordance with provisions that would apply to the assessment of future DAs.</u></p> <p>(b) <u>The provision of roads and road reserves in accordance with Condition 26</u></p> <p>(c) <u>Any necessary amendments in order to provide the environmental corridor required by condition B4</u></p> <p>(d) <u>Any necessary amendments in order to provide perimeter roads as required by Condition 23</u></p> <p>(e) <u>Any necessary amendments to provide an acoustic barrier in accordance with condition 5</u></p> <p>(f) <u>Any necessary amendments to preserve heritage values identified in the CHMP required by condition 8</u></p> <p>(g) <u>The incorporation of a pedestrian link to Hector Harvey Park</u></p>		
<p>28 Slope Instability</p> <p><u>Future applications that relate to areas of slope instability identified in the Coffey Environments Report 2010 are to be prepared having regard to the findings of that report and the requirements of WDCP 2009 Chapter E12: Geotechnical Assessment of Slope Instability</u></p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only
<p>29 Lots Fronting Carlyle Close</p> <p><u>Future Applications which would create lots fronting Carlyle Close are to give consideration to the traffic impacts of the proposal to Carlyle Close and if found to be necessary or appropriate, should include road widening to accommodate the additional impact of the proposal on that road.</u></p> <p><u>Future Applications which would create lots fronting Carlyle Close are to give consideration to imposing restrictions on the title to ensure the height, siting and envelope requirements established by the design guidelines under Term of Approval A5, would be applied to future buildings on those sites.</u></p>	Not applicable	Not applicable to DA-2020/1332, first application for superlot subdivision only

<p>30 Traffic Impacts and Road Works</p> <p><u>Traffic Impact Assessments are required to be submitted as part of future applications to assess the impact of the proposal on the surrounding road network. In addition to roadworks required under this approval, should any future application result in on overall worsening of performance of intersections adjacent to the site, which would result in intersections operating at a level of service D or worse, an intersection upgrade (designed in consultation with TfNSW and Council) must be incorporated as part of the application.</u></p>	<p>Not applicable</p>	<p>Not applicable to DA-2020/1332, first application for superlot subdivision only</p>
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Statement of Commitments (SoC)

No	Subject	Commitment	Timing	Comments
1	Local Infrastructure	The landowners commit to consulting with Wollongong City Council to put in place satisfactory arrangements for the provision of local infrastructure.	A Letter of Offer to be submitted as part of a future development application which seeks consent to subdivide the Tallawarra Lands site into a series of superlots generally consistent with the plan titled 'Proposed First Superlot Subdivision Plan' prepared by Bridgehill Group Drawing Reference BH-002 Rev.01 dated 06/09/2019	The Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd includes satisfactory arrangements for the provision of local infrastructure.
1	Roads / Bridge in E2 Zone	The landowners commit to offering to enter into an agreement with Wollongong City Council whereby approval under Part 5 of the EP&A Act would be sought for the proposed roads and bridge in the E2 zone in accordance with Clause 94(1) of SEPP Infrastructure 2007. This process would put in place arrangements for the provision of the proposed roads and bridge in the E2 zone by or on behalf of Council. This	Arrangements to be submitted as part of a future development application(s) relating to carry out road works for those parts of the site.	The Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd provides for the delivery of the entire North-South Road, including that section identified by SoC 1.

No	Subject	Commitment	Timing	Comments
		includes the bridge across Duck Creek and the length of road either side of the bridge		
2	State/ Regional Infrastructure	The landowners commit to consulting with the State Government to put in place satisfactory arrangements for the provision of State/Regional infrastructure.	<p>Arrangements to be submitted as part of a future development applications which seeks consent to further subdivide the Tallawarra Lands Precincts and after the first future superlot subdivision.</p> <p>The timeframe for delivery of the works will be detailed in the agreement when it is prepared.</p>	Not applicable to DA-2020/1332, first application for superlot subdivision only
3	Superlot subdivision	The landowners commit to lodging a development application with Wollongong City Council to carry out a superlot subdivision generally in the manner illustrated in the indicative superlot plan titled 'Proposed First Superlot Subdivision Plan' prepared by Bridgehill Group Drawing Reference BH-002 Rev.01 dated 06/09/2019 The landowners commits to preparing more detailed subdivision plans.	Subject DA-2020/1332 responds to this Statement	SoC 3 is considered to be satisfied through the lodgement of DA-2020/1332
4	Landscape Design	Future Development Applications will reference the Landscape Plan and adopt the Landscape Principles prepared by Corkery Consulting and the Landscape Concept Plan prepared by Cardno NSW/ACT Pty Ltd for the ridgeline park in the Northern Precinct to guide the design and treatment of the following:	Landscape plans to be further refined during the preparation of subsequent applications for the development of the super lots (or part of the super lots)	N/A - no works are proposed by the superlot subdivision. Relevant to future development of individual precincts

No	Subject	Commitment	Timing	Comments
		<ul style="list-style-type: none"> • the residential precincts areas, employment lands, and neighbourhood centre components of the Concept Plan, including the principles of visual amenity, function, ESD principles and biodiversity. • the open space zones (e.g. boundary zones, riparian zones, drainage lines and stormwater quality ponds, recreational areas) of each Precinct, including the recommended planting schedule. • the street network. • cycling infrastructure. 		
5a	Geotechnical	The landowners commit to undertaking further geotechnical engineering assessment of those parts of the Concept Plan development footprint identified as being constrained in the Geotechnical, Contamination and Groundwater Investigation dated 30 July 2010, prepared by Coffey Environments.	To be undertaken on a stage by stage basis as part of future development applications on affected land for residential subdivision, road works or construction of buildings.	N/A - relevant to future applications
5b	Groundwater	The landowners commit to implementing the recommendations in Section 12 of the Groundwater Modelling Assessment Report dated 3 April 2012 prepared by Coffey Environments.	Recommendations to be implemented as per the timing set out in each recommendation and on a stage by stage basis.	N/A - relates to future development of the Southern (Lakeside) Precinct

No	Subject	Commitment	Timing	Comments
		ENAUWOLL04009AE R03 Modelling Report Finalx (windows.net)		
6	Land contamination	The landowners commit to continuing investigations into the areas of environmental concern (AECs) identified in the Geotechnical, Contamination and Groundwater Investigation dated 30 July 2010, prepared by Coffey Environments. The AECs to be further investigated are those parts of the site that fall within proposed development areas.	Further investigation to be undertaken on a stage by stage basis as part of future development applications on affected land.	N/A - relates to future development of the Southern (Lakeside) Precinct
6a		The landowners commit to managing land contamination in accordance with State Environmental Planning Policy No. 55 – Remediation of Land and the Managing Land Contamination: Planning Guidelines.	Further investigation to be undertaken on a stage by stage basis as part of future development applications on affected land.	N/A – this SoC relates to future development of the Southern (Lakeside) Precinct
7		The landowners commit to undertaking any requirements for remediation and management as part of the findings from the further investigations of the AECs.	Recommended remediation works to be carried out on a stage by stage basis at the time of (or just prior to) any earthworks for subdivision works in the AECs.	N/A - relevant to future applications
8		The landowners commit to implementing the recommendations detailed in the Preliminary Hydrogeological Assessment – Ash Ponds dated 23 November 2010, prepared by Coffey Environments.	To be undertaken on a stage by stage basis as part of future development applications on affected land.	N/A - relates to future development of the Southern (Lakeside) Precinct
9		The recommendations detailed in the Register of Hazardous Materials Report in Residences in Northern Precinct dated 15	To be undertaken in on a stage by stage basis accordance with the timing specified in the Register of Hazardous	N/A - relates to future development of the Northern Precinct

No	Subject	Commitment	Timing	Comments
		March 2010 prepared by Coffey Environments will be implemented.	Materials Report in Residences in Northern Precinct	
10	Urban design Strategies	<p>The urban design strategies recommended in the Richard Lamb and Associates Visual, Landscape and Scenic Resource Management Considerations will be reviewed and adopted for future development in the following areas of the Concept Plan site as identified in the Report:</p> <ul style="list-style-type: none"> • the large lot and central residential precinct in Visual Exposure Zone A and north shore residential precinct in Visual Exposure Zone B • the lakeside residential precinct in Visual Exposure Zone D the employment in Visual Exposure Zones A and D 	To be considered on a stage by stage basis during the preparation of future development applications for the identified zones only.	N/A - relevant to future applications
11	Traffic Management	<p>The landowners commit to consulting with Wollongong City Council to put in place satisfactory arrangements to deliver the following road improvements:</p> <ul style="list-style-type: none"> • the conversion of the intersection of Cormack Ave and the Princes Highway into a two lane circulating roundabout; 	Road improvements will be undertaken on a stage by stage basis. The timeframe for delivery of the road improvements will be detailed in discussion regarding the satisfactory arrangements.	<p>N/A - relevant to future applications.</p> <p>The timing and delivery of the roads that will support these improvements are detailed in the the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd.</p>

No	Subject	Commitment	Timing	Comments
		<ul style="list-style-type: none"> • two lane circulating roundabouts at each of the two access points to the site from the Princes Highway; • the provision of a roundabout at the site access point off Cormack Avenue; • Upgrade Yallah Bay Road to a collector road; • Construction of the north-south collector road; and • Consequential works to facilitate the site access points. 		
12	Ecologically Sustainable Development	Precinct scale and other major development applications consistent with the Concept Plan will demonstrate how they address the relevant desired sustainability outcomes contained in the Sustainability Report prepared by Urbis and dated 18 October 2010.	Details of the response to be submitted on a stage by stage basis with the relevant development application(s).	N/A - relevant to future applications
13	BASIX	Future residential development will achieve potable water and greenhouse gas reductions equivalent to BASIX +10% (2010 = 50% reduction).	Compliance to be demonstrated on a stage by stage basis in the development application submissions.	N/A - relevant to future applications
14	Sustainability for commercial and retail	Future commercial and retail development will aspire to a target of a 40% reduction in: <ul style="list-style-type: none"> • operational greenhouse gas 	Compliance to be demonstrated on a stage by stage basis in future development application submissions.	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		<p>emissions associated with energy use; and</p> <ul style="list-style-type: none"> operational potable water use in comparison to similar types of development in NSW. 		
15	Utilities infrastructure	The landowners commit to implementing the utilities servicing strategies identified in the Report on Siteworks and Utilities Infrastructure, prepared by Northrop.	Further investigations to be undertaken on a stage by stage basis with development applications.	N/A - relevant to future applications
16	Aboriginal Heritage	The landowners commit to implementing the recommendations of the Aboriginal Archaeological Assessment.	To be implemented on a stage by stage basis with the relevant development application.	N/A - relevant to future applications
17	European Heritage	<p>The landowners commit to implementing the management recommendations in Section 7.2 of the <i>Statement of Heritage Impact: Tallawarra Lands Part 3A</i>, prepared by Biosis Research, dated September 2010.</p> <p>The landowners commit to obtaining assessments of significance / assessments of archaeological potential in relation to sites TH2, TH3, TH4, TH5, TH9 and TH10.</p> <p>The landowners commit to ensuring that if substantial intact archaeological deposits and/or State significant relics not previously identified are discovered, work will cease in the affected area(s), the Heritage Council will be notified and the required</p>	To be implemented on a stage by stage basis with the relevant development application.	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		assessment / approval will be sought prior to works continuing in the affected area(s).		
17a	Heritage	<p>The landowners commit to preparing a Heritage Management Plan detailing how construction impacts on Aboriginal and non- Aboriginal heritage will be minimised and managed. The Plan shall include, but not necessarily be limited to:</p> <p>(i) Specific measures to be applied to works undertaken in close proximity to identified Aboriginal and non-Aboriginal heritage items and “Defined Areas of Aboriginal Sensitivity” to minimise and avoid impacts on these items;</p> <p>(ii) How heritage items (Aboriginal objects and relics or works) discovered during the construction will be considered and managed.</p> <p>This shall include a component within the site induction program for construction workers on Aboriginal and non- Aboriginal heritage within the site area;</p> <p>Stop-work and notification procedures to be implemented compliant with Heritage Office and OEH guidelines should any unexpected intact archaeological deposits and/or State significant relics not previously identified be discovered; and</p>	Details to be provided on a stage by stage basis and submitted with the relevant construction involving site excavation works	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		(iv) The procedure for continued consultation with the relevant Aboriginal stakeholders.		
18	Ecology	<p>The landowners commit to implementing the mitigation measures detailed in Table 12 of the Ecological Assessment report dated 4 March 2011 (Appendix 9 of the EA).</p> <p>Tallawarra Lands > ecological assessment - part 2 of 2 (windows.net)</p>	<p>Mitigation measures to be implement on a stage by stage basis in accordance with the timing requirements contained in Table 12.</p> <p>The mitigation measures detailed in Table 12 should be included in any conditions of consent issued in relation to future development applications.</p>	N/A - relevant to future applications
18a	In perpetuity security of biodiversity outcomes	<p>The landowners commit to entering into discussions with relevant authorities, or recognised private conservation land managers such as Bush Heritage Australia, to arrange for transfer of ownership of the areas of retained vegetation; and/or;</p> <p>dedicating the conservation lands to Wollongong City Council as reserves to be administered under the <i>Local Government Act</i>; and/or;</p> <p>establishing an in-perpetuity Property Vegetation Plan under the <i>Native Vegetation Act 2003</i>; and/or</p> <p>applying for Conservation Agreement under the <i>National Parks and Wildlife Act 1974</i>; and/or</p>	<p>To be undertaken on a stage by stage basis prior to completion of relevant works under the Vegetation Management Plan referred to in Commitment No. 19</p> <p>Relevant authority or recognised conservation land manager Wollongong City Council Catchment Management Authority NPWS/DECCW Nature Conservation Trust of NSW.</p>	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		<p>establishing a conservation covenant under <i>Nature Conservation Trust Act</i>; and/or</p> <p>securing in perpetuity the biodiversity outcomes of the retained vegetation of the E2 lands through other appropriate legal mechanism(s).</p>		
18b		<p>The landowners commit to holding discussions with the relevant authorities (such as Lake Illawarra Authority and Wollongong City Council) about entering into possible Voluntary Planning Agreements (VPAs) involving future land ownership transfers, infrastructure provision, site remediation and implementation of the Vegetation Management Plan. Any VPAs entered into will specify the works to be undertaken, the party responsible for carrying out the works and the timeframe within which the works will be undertaken.</p>	<p>Prior to determination of the superlot subdivision DA.</p>	<p>Addressed by the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd</p>
19	Ecology	<p>The landowners commit to implementing the Vegetation Management Plan prepared by Eco Logical dated 4 February 2011, unless other arrangements are made arising out of VPA discussions referred to in Commitment 18b.</p> <p>Tallawarra Lands > vegetation management plan (windows.net)</p>	<p>Implementation of the Vegetation Management Plan to occur on a stage by stage basis and should be required as a condition of consent on future DAs.</p>	<p>N/A – relevant to future applications for Precincts.</p> <p>As discussed above, two VMPs agreed to be provided by Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd for</p>

No	Subject	Commitment	Timing	Comments
				<p>the northern and southern areas of the site.</p> <p>Conditioning for implementation of VMP not appropriate to subject application as proposal is for subdivision only, not involving works.</p>
20		<p>The landowners commit to implementing the Environmental Management Strategy prepared by Eco Logical dated 4 February 2011.</p> <p>Tallawarra Lands > environmental management strategy (windows.net)</p>	<p>Implementation of the Environmental Management Strategy to occur on a stage by stage basis and should be required as a condition of consent on future DAs.</p>	<p>N/A - relevant to future applications</p>
21		<p>The landowners commit to the recommendations detailed at Section 5.1 of the GDE Risk Assessment prepared by Eco Logical Australia dated 19 April 2012.</p>	<p>Compliance with the recommendations of the GDE Risk Assessment to occur on a stage by stage basis and may be regulated via the conditions of consent on future DAs.</p>	<p>N/A - relevant to future applications</p>
22	Bushfire	<p>The landowners commit to implementing the recommendations and management measures contained in the Bushfire Planning Assessment prepared by Eco Logical Australia dated 4 February 2011</p> <p>Tallawarra Lands > bushfire assessment (windows.net)</p>	<p>The recommendations are to be implemented on a stage by stage basis as required as part of the assessment of future DAs.</p>	<p>N/A - relevant to future applications</p>
23	Climate change	<p>The landowners commit to implementing the 'adaptation considerations' contained in</p>	<p>To be implemented on a stage by stage basis at the appropriate time of the</p>	<p>N/A - relevant to future applications</p>

No	Subject	Commitment	Timing	Comments
		the Climate Change Assessment report prepared by BMT WBM.	design development as per the Climate Change Assessment report.	
24	Access	The landowners commit to working with the Lake Illawarra Foreshore Authority to facilitate public access to the foreshore.	Timing will be determined as part of the VPA discussions referred to in Commitment 18b, if such discussions reach an agreement.	<p>The Lake Illawarra Foreshore Authority is no longer in existence.</p> <p>The proponent has advised that it is their intent to enhance Lake Illawarra foreshore public access as negotiated with Crown Lands, and will likely occur via a Planning Agreement or similar should agreement be reached.</p> <p>A draft condition has been included to ensure proposed details of the facilitation of public access to the Lake Illawarra Foreshore shall be provided with the Stage 2 development application for the Northern Precinct, given this Precinct is the first for residential development in Tallawarra Lands and also includes the Tallawarra Point Open Space area that must be completed prior to the Stage 2 Subdivision Certificate stage, as agreed in the Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd</p>

No	Subject	Commitment	Timing	Comments
25	Demolition	The landowners commit to undertaking demolition activities in accordance with AS 2601- 2001: <i>The Demolition of Structures</i> .	At the time of demolition and on a stage by stage basis.	N/A - relevant to future applications
26		The landowners commit to employing licensed contractors to remove all contaminated material and to requiring them to comply with the provisions of the <i>Occupational Health & Safety Regulation 2001</i> .	Prior to commencement of works associated with removal of contaminated material and on a stage by stage basis.	Noted
27		The landowners commit to ensuring that demolition activities will only be carried out between 7am and 5pm Monday to Saturday and that no demolition activities will be carried out at any time on a Sunday or a public holiday.	On going during construction	Noted
28	Flood Risk Management	<p>Future DAs will adopt the following flood risk management principles. It is noted that these principles exceed, or are equal to, those currently applied by Wollongong City Council in respect of the West Dapto Release Area:</p> <ul style="list-style-type: none"> • All access roads to development precincts to be at or above 100 year flood level after allowing for year 2100 climate change impacts. • Filling for development areas to be at a minimum level of the 100 year flood level allowing for 	Design to be incorporated into future development applications and on a stage by stage basis.	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		<p>year 2100 climate change impacts.</p> <p>Development floors levels for each land use to be at the flood planning levels set by Wollongong City Council's DCP (Chapter E13).</p>		
29	Flood Management Risk	<p>Future DAs will adopt the following flood risk management principles:</p> <p>(a) All future development decisions will be based on the most up-to-date flood model available at the time of the future DA and include all components of the project which may influence flood behaviour (e.g. changes to riparian vegetation, filling adjacent to the floodplain, new bridges, etc.). It is recognised that flood models need revision over time as new data becomes available or Government policies alter. This includes the imminent revisions to the rainfall intensity-frequency-duration data published by the Bureau of Meteorology, and changes in Government policy and/or accepted practice concerning the impacts of climate change on sea levels and rainfall intensities. Further, flood levels within development areas remote from the main waterways will be modelled having regard to the capacity of the drainage system of the development area and its overland flow routes.</p>	Design to be incorporated into relevant future development applications and on a stage by stage basis.	N/A - relevant to future applications

No	Subject	Commitment	Timing	Comments
		<p>(b) Land to be filled will be at sufficient height and grade to allow free-drainage of the filled area into the surrounding waterway.</p> <p>(c) When stormwater concept designs are developed for proposed fill areas, potential flood hazard areas will be analysed and managed in accordance with best practice and the requirements of the Floodplain Development Manual and Council's DCP (Chapters E13 and E14).</p> <p>No filling of floodplain land will occur which produces off-site impacts in accordance with the "flood affectation" requirements of Chapter E13 of Council's DCP.</p> <p>(e) All future housing will be serviced by at least one road route providing egress offsite and at a height for the entire route which is no lower than the 100 year ARI flood level after allowing for year 2100 climate change impacts. Where future housing areas are isolated in a PMF, facilities (e.g. high ground or elevated building floors) will be provided for safe refuge above the PMF level, within the isolated area.</p> <p>(f) The existing old railway bridge across Duck Creek provides significant constriction to flood flows, raising flood levels upstream in major flood events. The Proponent</p>		

No	Subject	Commitment	Timing	Comments
		<p>commits to the following measures to mitigate flooding impacts:</p> <ul style="list-style-type: none">• designing the new bridge to provide less constriction to achieve lower upstream flood levels for the 100 year ARI and larger events; and• setting the levels of new roads, landfill and habitable floors levels of proposed buildings based on flood modelling consistent with Council's Blockage Policy.		

Attachment 3

Wollongong Local Environmental Plan 2009

The proposed modified Concept Approval overrides some of the WLEP 2009 planning controls that would otherwise have applied to the assessment of future applications on the site including minimum lot size controls, building height and floor space ratio (FSR). It is noted that the changes to minimum lot size controls apply to land zoned R2 Low Density Residential and R5 Large Lot Residential.

Further, the Regulations state that the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned:

R2 Low Density Residential	E1 Local Centre
R5 Large Lot Residential	E3 Productivity Support
C2 Environmental Conservation	E4 General Industrial
C3 Environmental Management	W1 Natural Waterways
RE1 Public Recreation	SP3 Tourist

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size and Clause 4.1A Minimum lots sizes for certain split zones

The superlot application proposes the following lot sizes:

Lot	Mapped min lot size	Zone	Total Lot Area
Lot 1 - Central Precinct	200m ²	R2 Low Density Residential	64.36ha
	299m ²		
	1999m ²	E4 General Industrial	
	3999m ²	R5 Large Lot Residential	
	39.99ha	C3 Environmental Management	
Lot 2 – Environmental Lands	39.99ha	C3 Environmental Management	59.59ha
Lot 3 – Northern Precinct	200m ²	R2 Low Density Residential	44.13ha
	299m ²		
	39.99ha	C3 Environmental Management	
Lot 4 – Energy Australia plant	N/A	SP2 Infrastructure	34.31ha
Lot 5 - future dedication to TfNSW	39.99ha	C3 Environmental Management	4.554ha

Lot 6 - biodiversity offset lot	39.99ha	C3 Environmental Management	36.10ha
Lot 7 - future road	39.99ha N/A	C3 Environmental Management E1 Local Centre	2.491ha
Lot 8 - future road	39.99ha 2999m ² 449m ²	C2 Environmental Conservation C3 Environmental Management E3 Productivity Support R2 Low Density Residential	4.042ha
Lot 12 – future road	N/A 39.99ha	SP2 Infrastructure Environmental Management	1.392ha
Lot 13 - Southern Precinct	39.99ha 2999m ² 449m ²	C2 Environmental Conservation C3 Environmental Management E3 Productivity Support R2 Low Density Residential	309.1ha

The proposed lot sizes are not consistent with Clauses 4.1 and 4.1A of the WLEP, however the lots are being created in accordance with Condition A6 of the modified Concept Plan Approval, which requires superlot subdivision of the entire site in accordance with the plan “Proposed First Super lot Subdivision Plan Rev 02” prepared by Bridgehill and dated 07 October 2020 (Attachment 5) including the land identified to be dedicated to TfNSW indicated as a separate lot. The proposed superlots are generally consistent with this plan.

Similarly, the creation of proposed Lots 7, 8 and 12 for future road provision and proposed Lot 6 for biodiversity offsets will result in lots that do not satisfy the requirements of either Clause 4.1 or 4.1A. These lots are largely located over land that for which the minimum lot sizes contained within WLEP 2009 would apply (being C2 and C3 zoned lands).

Proposed Lots 7, 8 and 12

In this regard, Condition A6 also requires this first application for superlot subdivision to address the provision of infrastructure delivery, environmental measures and offsets, including the mechanisms to enable and ensure the delivery of the roadways and environmental offsets. Condition A6 envisages that the creation of lots may be required as the mechanism, or part thereof, to ensure the delivery of roads as follows:

A6 First Future Application

*The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land use boundaries provided in the Concept Plan **the plan titled ‘Proposed First Super lot Subdivision Plan Rev 02’ prepared by Bridgehill and dated 07 October 2020, with the land identified to be dedicated to TfNSW as a separate lot.** In addition to other requirements of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.*

The application must address the interrelationship between the proposed sites created by the subdivision, and specifically how infrastructure delivery, revegetation, environmental measures and

offsets that may be required to be provided on the Environmental Land lot or Southern Precinct lot in order to support development on the Northern lot or Central lot would be assured.

In this regard, the timing for delivery of the east-west collector road and north-south collector road on the site must be determined in conjunction with the Superlot Subdivision, having regard to traffic impacts, connectivity requirements and flood safety. Where it is found that roads are required to be delivered in conjunction with the development of the Northern or Central Precincts, the approval is to include appropriate mechanisms (such as a binding agreements, easements, or creation of separate lots for any required roads) to enable and ensure delivery of the roadway(s).

Similarly, responsibilities and timing for any revegetation of land or transfer of environmental land as offset for the proposed Northern and Central precincts is to be addressed and as necessary, mechanisms incorporated to enable and ensure delivery of any required works or offsets

Draft Tallawarra Planning Agreement - Wollongong City Council and Bridgehill (Tallawarra) Pty Ltd and EnergyAustralia Tallawarra Pty Ltd as detailed under Section 2.4 of the Assessment Report, along with the creation of Lots 6, 7, 8 and 12, is proposed to satisfy Condition A6 and support the execution of the Planning Agreement.

Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulations 2017 identifies that the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan. As detailed above, the Terms of Approval consider that these lots were a possible outcome of the satisfaction of Condition A6, and as such, Clauses 4.1 and 4.1A do not have effect.

Proposed Lot 6

In relation to proposed Lot 6, the Biodiversity Offset lot, Condition A6 does not necessarily contemplate the creation of a lot for environmental offsets, but does similarly require mechanisms to be in place for environmental measures and offsets. As this first application for superlot subdivision is required to enable land division and changes to ownership, the creation of the biodiversity offset lot is a logical response to ensuring that environmental measures and offsets are occurring on land that is in the same ownership as the development site. As Condition A6 does not specifically identify lot creation as an identified mechanism for environmental measures and offsets, a submission under Clause 4.6 Exceptions to Development Standards has been provided by the application. The submission can be found at **Attachment 6**, and is considered under **Section 2.3.4** in the assessment report. The proposed exception is capable of support.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The site contains both Aboriginal and non-Aboriginal heritage. FEAR 8 of the Concept Plan Approval required a Cultural Heritage Management Plan (CHMP) that details how impacts on Aboriginal and non-Aboriginal heritage across the entire site will be minimised and managed, addressing the northern part of the site. The proposed development was referred to HeritageNSW who provided a conditionally satisfactory referral response and advised that the requirements of FEAR 8 had been satisfied, as relevant to the first application for superlot subdivision.

Clause 5.21 Flood planning

FEAR 4 of the Concept Plan Approval required the subject application to include a floodplain risk assessment and management plan. The assessment and plan were considered by Council's Stormwater Engineer, who provided a conditionally satisfactory referral response.

Concerns were raised in relation to staging of the development and the ability to provide flood free access. The staging has been resolved to ensure each development will achieve flood free access to the Site based on the requirements for the provision of road infrastructure contained within the Concept Plan Approval and the associated planning agreement for the land.

Part 6 Urban release areas

6.1 Arrangements for designated State public infrastructure (since repealed)

Condition 25 of the Concept Plan Approval addresses requirements for the arrangements of State public infrastructure, and requires satisfactory arrangements to be demonstrated with the first application for each Precinct.

6.2 Development control plan

The Concept Approval directs that under 75P(2)(c1), Clause 6.2 of the WLEP 2009 does not have effect in relation to the carrying out of the Tallawarra Project under Part 4 of the EP&A Act 1979.

Regardless, Condition A5 of the Concept Plan Approval requires development guidelines be formulated for Tallawarra Lands. Such guidelines have been drafted, exhibited and are to be reported to the Ordinary meeting of Council for finalisation on 6 May 2024.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

FEAR 22 of the Concept Plan Approval required the provision of a Preferred Servicing Strategy endorsed by Sydney Water. Subsequent to the original concept plan approval, Sydney Water published the Yallah-Marshall Mount & Tallawarra Lands Detailed Planning and Concept Design Planning and Scheme Report (April 2016) which is considered to suitably address the FEAR and public utility infrastructure relevant to this stage of the Tallawarra Lands development.

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by “Natural Resource Sensitivity – Biodiversity”. The Concept Plan Approval includes a number of Terms of Approval and FEARs that relate to both biodiversity offsets and revegetation that must be satisfied under this first application for superlot subdivision, including:

- Term of Approval A6 – assurance of revegetation, environmental measures and offsets
- Term of Approval B4 – provision of Environmental Corridor
- FEAR 10 – Amended Vegetation Management Plan (VMP)
- Statement of Commitment 18b – mechanisms for in perpetuity security of biodiversity outcomes

The application was referred to Council’s Environment Division to assess likely impacts of the proposal in this regard. Conditionally satisfactory referral advice was received in this regard.

Clause 7.4 Riparian lands

The Riparian Land Map indicates the site contains riparian land. The updated Vegetation Management Plan for the Northern Lands of Tallawarra has been provided that outlines a general approach to the restoration and management of the proposed riparian lands in the northern area of the site.

Clause 7.5 Acid Sulfate Soils

There are no works proposed under this first development application for superlot subdivision.

Clause 7.7 Foreshore building line

The proposal is located within the foreshore building line and the clause restricts development within the foreshore area. However , this Clause does not have effect as it is inconsistent with the Terms of the Approval of the Concept Plan.

Clause 7.9 Airspace operations

The proposed development is for subdivision only and as such, does not penetrate the Limitation or Operations Surface of the Illawarra Regional Airport.

Clause 7.16 Tallawarra Power Station buffer area

The subject application does not propose buildings on the land and as such, the provisions of the Clause are not relevant.

Attachment 4 DRAFT CONDITIONS

GENERAL CONDITIONS

Conditions				
1. Approved Plans and Supporting Documentation				
Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.				
Plan No	Revision No	Plan Title	Drawn By	Dated
304100403 DP-01 Sheet 1 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023
304100403 DP-01 Sheet 2 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023
304100403 DP-01 Sheet 3 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023
304100403 DP-01 Sheet 4 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023
304100403 DP-01 Sheet 5 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023
304100403 DP-01 Sheet 6 of 6		Plan of Subdivision of Lot 1 & 3 in DP 109795, Lot 1 in DP 543285, Lot 1 in DP 551658, Lot 10 & 11 in DP 552933, Lot 151 in DP 628980, Lot 20 in DP 633211, Lot 102 in DP 716727, Lot 1 & 2 in DP 792664, Lot 7 & 8 in DP 1049520, Lot 15 in DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058	Matthew Cleary	8/12/2023

		DP 1050255, Lot 1 in DP 1146409, Lot 1092 in DP 1140369 & Lot 30 & 31 in DP 1175058		
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In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

2. Environmental Corridor

The updated Vegetation Management Plan and proposed Subdivision Plans required to be submitted with the first future development application for subdivision works in the Northern Precinct shall include the Environmental Corridor required by FEAR 4 of MP09_131 MOD 1. The following detail shall be included with the development application:

- a. The location and dimensions of the corridor as being 30m wide and continuous along the southern edge of the Northern precinct (to be confirmed on a plan).
- b. The future planting details of the corridor to be established with the first future development application for subdivision works in the northern precinct and planting to occur as part of the approved works with that development application.
- c. The corridor is intended for wildlife movement and should be fenced from public access and will be fenced from any livestock.
- d. A Restriction on the title for the continuous environmental corridor to remain in perpetuity and that Council be an interested party to the restriction such that it can't be changed without Council approval.
- e. Planting and maintenance of the environmental corridor to continue until the vegetation is self-sustaining (determined by way of sign-off / verification from a bush regeneration expert and copy submitted to Council).

Reason:

To ensure that the Environmental Corridor is consistent with the modified Concept Plan Approval MP09_131 MOD 1.

3. Facilitation of Public Access to the Lake Illawarra Foreshore

Details of the proposed facilitation of public access to the Lake Illawarra Foreshore shall be provided with the first future development application for subdivision works in the Northern Precinct.

Reason:

To address Statement of Commitment 24 in the modified Concept Plan Approval MP09_131 MOD1.

4. Vegetation Management Plan

A Vegetation Management Plan (VMP) for the Northern and Central Precincts is to be prepared and lodged with the first DA application for subdivision in the Northern Precinct. The VMP must meet the requirements of Condition B4 and FEAR 10 of MP-09_0131 MOD 1 and be to Council's satisfaction.

Reason:

To satisfy the Terms of Approval of the modified Concept Plan Approval MP09_131 MOD1.

5. Transport for NSW Conditions

The recommendations contained in the Attachment 1 of the correspondence from Transport for NSW dated 18 November 2022 as attached to this consent shall form part of the conditions of consent for this application.

Reason:

To ensure the requirements of State Agencies are included in the proposed development.

6. Heritage NSW Conditions

The recommendations contained in the letter from Heritage NSW dated 27 October 2023 as attached to this consent shall form part of the conditions of consent for this application.

Reason:

To ensure the requirements of State Agencies are included in the proposed development.

7. Sydney Trains Conditions

The recommendations contained in the letter from Sydney Trains dated 22 February 2021 as attached to this consent shall form part of the conditions of consent for this application.

Reason:

To ensure the requirements of State Agencies are included in the proposed development.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Conditions

8. Stormwater Management Masterplan

A *final* Stormwater Management Masterplan (SMM) for the overall concept approval area shall be provided prior to the release of a Subdivision Certificate. This SMM shall outline the proposed water management strategy for the overall concept approval area (MP09_0131) and include a plan(s) that detail (spatially) all precinct wide Water Sensitive Urban Design (WSUD) and water conveyance measures required to facilitate the development of the overall concept approval area. This SMM shall be consistent with the requirements of Wollongong City Council's LEP, DCP and relevant Australian Standards for stormwater amendment, and must set out measures for long term stormwater quality monitoring and independent auditing. Evidence that these requirements have been satisfied shall be submitted to the Principal Certifier prior to the release of a Subdivision Certificate.

Reason:

To ensure holistic water management across the overall concept plan approval area.

9. Creation of Easements to Facilitate Final Stormwater Management Masterplan before the Issue of an Occupation Certificate

An appropriate drainage easement / easement to drain water shall be created over all parts of any super lot through which water from another super lot will be conveyed, as indicated on the final Stormwater Management Masterplan (SMM), that is required under this consent to be provided prior to the release of a Subdivision Certificate. This is to ensure that the overall concept plan area can be developed in a holistic and coordinated manner. Evidence that this requirement has been satisfied shall be submitted to the Principal Certifier prior to the release of a Construction Certificate.

Reason:

To ensure holistic water management across the overall concept plan approval area.

10. Natural Watercourse

The natural watercourse must be chartered on the final subdivision plan.

Reason:

To comply with Council's Development Control Plan.

11. Existing Easements

All existing easements must be acknowledged on the final subdivision plan.

Reason:

To comply with Council's Development Control Plan.

12. Existing Restriction as to Use

All existing restrictions on the use of land must be acknowledged on the final subdivision plan.

Reason:

To comply with Council's Development Control Plan.

13. Encroaching Pipes

A minimum one (1) metre wide easement to drain water shall be created over any encroaching drainage pipes.

For all drainage easements proposed over the subject lots, a Works-As-Executed/survey plan of all stormwater drainage within the site is to be submitted with the Subdivision Certificate Application to confirm this.

Reason:

To comply with Council's Development Control Plan.

14. Encroaching Services

A minimum one (1) metre wide easement for services must be created over any encroaching utility service.

Reason:

To comply with Council's Development Control Plan.

15. Section 88B Instrument

The submission of a Final Section 88B Instrument to Council/Principal Certifier, which incorporates (but is not necessarily limited to) the following restrictions, easements and covenants, where applicable:

- a. easement for services;
- b. easement for drainage;
- c. drainage easement over overflow paths;
- d. restriction-as-to-user over bund walls which prohibits its alteration and/or removal;
- e. easement for encroachment;
- f. rights of access;
- j. restricted building zone over the 1% AEP flood inundation area of the natural watercourse which prohibits the erection of structures, fences, pools, ancillary buildings, the placement of fill and the planting of trees;
- k. restriction as to user which defines a restricted building zone;
- l. restriction as to user defining minimum floor levels for any lots which have any part of the lot below the 1% AEP flood level + 0.5 metres freeboard. Habitable floor levels are to be set at the 1% AEP flood level . This shall be accompanied by the 1% flood profile of the natural watercourse with superimposed lot boundary locations.

Reason:

To comply with Council's Development Control Plan.

16. 88B Instrument Easements/Restrictions

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with

the standard format for easements and restrictions as accepted by NSW Land Registry Services.

Reason:

To satisfy the requirements of the legislation.

17. Final Documentation Required Prior to Issue of Subdivision Certificate

The submission of the following information/documentation to the Principal Certifier, prior to the issue of a Subdivision Certificate:

- a. Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;
- b. Administration sheet prepared by a registered surveyor;
- c. Section 88B Instrument covering all necessary easements and restrictions on the use of any lot within the subdivision;
- d. Final plan of subdivision prepared by a registered surveyor plus one (1) equivalent size paper copy of the plan;
- e. Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water;
- f. Original Notification of Arrangement from an Endeavour Energy regarding the supply of underground electricity to the proposed allotments;
- g. Original Compliance Certificate from Telstra or another Telecommunications Service Provider which confirms that the developer has consulted with the Provider with regard to the provision of telecommunication services for the development;
- h. Payment of Development Contribution fees (Pro rata) (if applicable).

Reason:

To satisfy the requirements of the legislation.

18. Proposed Lots 7, 8 and 12

A Restriction on the Use of Proposed Lots 7, 8 and 12 shall be created to ensure that the future use of the land is for road provision only. The terms of the Restriction cannot be varied, modified, or released without the written consent of Wollongong City Council.

Reason:

To ensure the land is identified for the future provision of road infrastructure.

19. Site Auditor Verification

Verification from a Site Auditor accredited under the Contaminated Land Management Act 1997 on the adequacy of the investigations and asbestos soil sampling undertaken by Douglas Partners (July 2010) and any further investigations subsequently undertaken by the Proponent, as well as certification that the central super lot can be made suitable for its proposed use as referred to in Further Environmental Assessment Requirement 12 of MP09_131 MOD1, must be submitted prior to the issue of Subdivision Certificate.

Reason:

To satisfy the Terms of Approval of the Concept Plan Approval MP09_131 MOD1.

20. Planning Agreement

The Proponent is required to enter into a planning agreement consistent with the terms of the offer dated 7 September 2023. Evidence of the execution of the planning agreement with Council shall be provided prior to the release of the Subdivision Certificate.

Reason:

To ensure the provision of infrastructure and satisfaction of Terms of Approval of Concept Plan Approval MP 09_131 MOD1.

Attachment 1 – Transport for NSW conditions contained in letter dated 18 November 2022

Attachment 1

Conditions

1. Prior to the issuing of the Subdivision Certificate the developer must comply with the following:
 - a) the land that is required for future works associated with the Albion Park Rail Bypass shall be created as a separate lot and shall align with what is identified as PT Lot 5 on the updated Subdivision Plan with Surveyors Ref: 304100403 DP-01, dated 1 September 2022 (refer to **Attachment 2**)/Lots 204, 205, 206, and 207 in DP1235464. The subdivision plan to be registered with NSW Land Registry Services shall ensure that the land that is required for future works associated with the Albion Park Rail Bypass is shown accurately, as per the above documents, and contains a notation that the purpose of Pt Lot 5/the lot being created is 'land to be acquired for the purpose of the *Roads Act 1993*'; and
 - b) the land that is required for the north-south road corridor with a width of 30m (shown as Lot 8 on the updated Subdivision Plan with Surveyors Ref: 304100403 DP-01, dated 1 September 2022 - refer to **Attachment 2**) is to be shown accurately on the subdivision plan to be registered with NSW Land Registry Services. This must show that the road corridor has a minimum width of 30m and include a provision that the north-south road/Lot 8 cannot be varied, modified, or released without the written consent of Wollongong City Council.
2. The land that is required for future works associated with the Albion Park Rail Bypass (shown as PT Lot 5 on the updated Subdivision Plan with Surveyors Ref: 304100403 DP-01, dated 1 September 2022 - refer to **Attachment 2**) shall not be impacted by development or activities on the adjacent lots that are being created (e.g. PT Lot 1, Lot 7) without the prior approval of TfNSW.

OFFICIAL

Level 4, 90 Crown St (PO Box 477 2520) Wollongong NSW 2500
193-195 Morgan Street (PO Box 484) Wagga Wagga NSW 2650

ABN 18 804 239 602
transport.nsw.gov.au

3 of 4

Attachment 2 – Heritage NSW conditions contained in letter dated 27 October 2023

ATTACHMENT A: Recommended Conditions of Consent for Yallah Bay Road, Yallah. DA: DA-2020/1332, CNR-18340.

If Council consider approving the Development Application, Heritage NSW recommend the following conditions to ensure the protection of known Aboriginal sites and ensure that no additional harm is caused should Aboriginal cultural heritage be encountered:

- No Aboriginal objects may be harmed without an approval from Heritage NSW under the *National Parks and Wildlife Act 1974*.
- Works should be guided by 'Tallawarra North Precinct, Central Precinct and Collector Road Heritage Management Plan' (Biosis, 12 September 2023) and 'Tallawarra Lands Heritage Interpretation Strategy' (Biosis, 12 September 2023).
- If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
 - Not further harm the object(s)
 - Immediately cease all work at the particular location
 - Secure the area so as to avoid further harm to the Aboriginal object(s)
 - Notify Environment Line as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location
 - Not recommence any work at the particular location unless authorised in writing by Heritage NSW.
- If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) must be prepared and submitted to Heritage NSW before work may continue.
- In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

Attachment 3 – Sydney Trains conditions contained in letter dated 22 February 2021



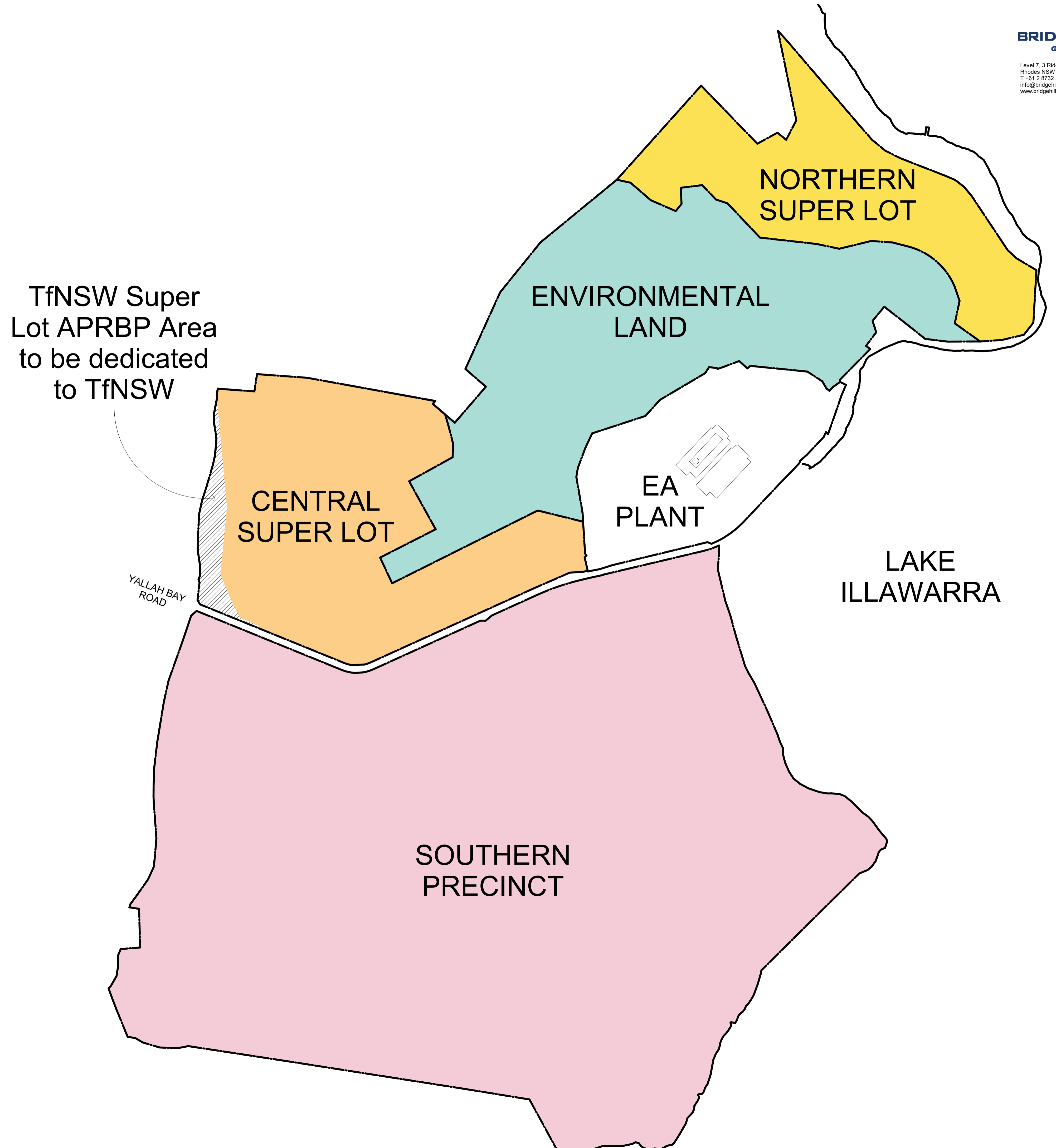
Attachment A

- *Any future development application(s) will need to be referred to Sydney Trains for review as the delegated authority to the operational heavy rail corridor. In this regard, it is advised that prior to lodgement of any future applications, the Applicant/Developer seek consultation with Sydney Trains.*

-000-

Proposed First Super Lot Subdivision

DRAWING: BH - 001
REV: 02
DATE: 07/10/2020





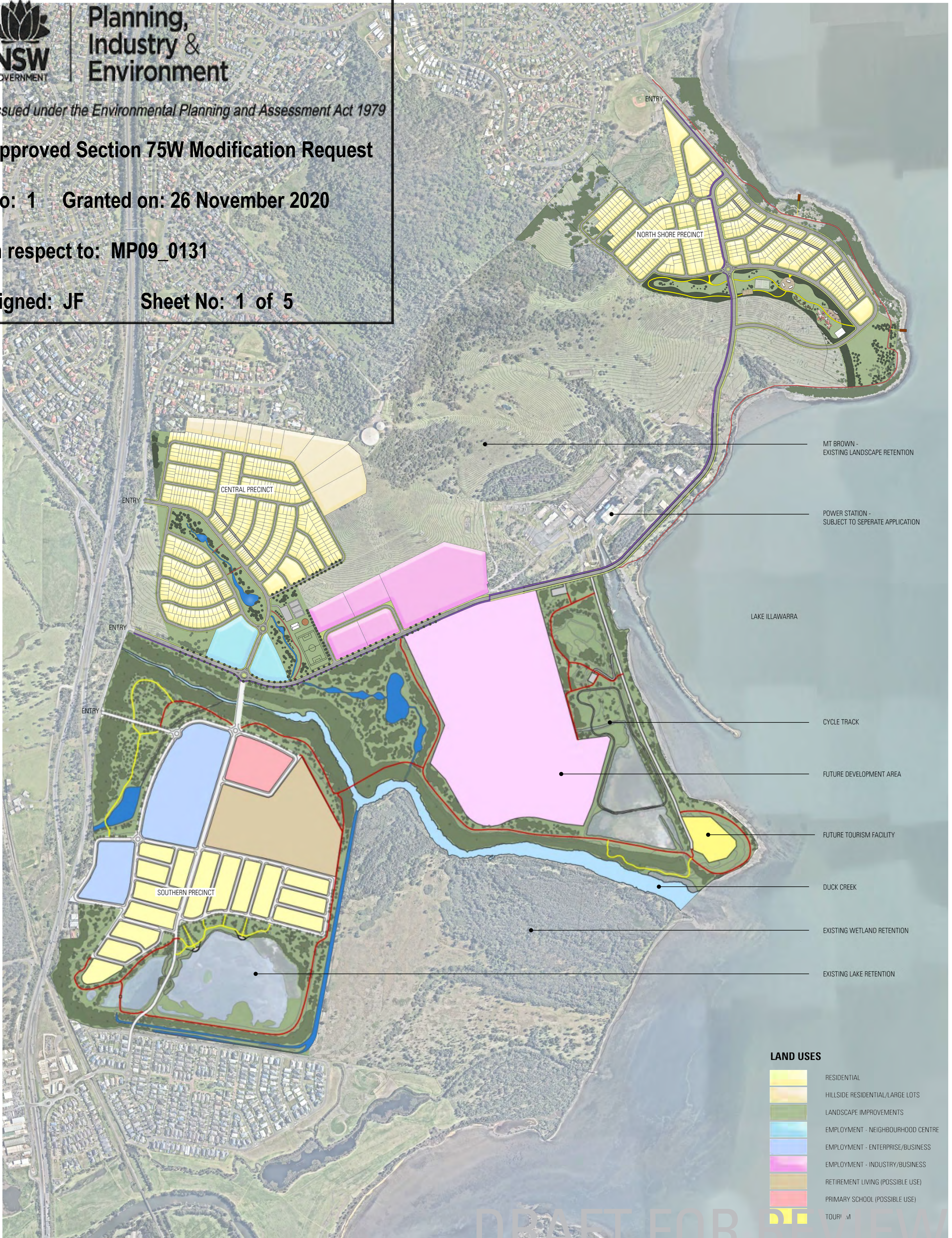
Issued under the Environmental Planning and Assessment Act 1979

Approved Section 75W Modification Request

No: 1 Granted on: 26 November 2020

In respect to: MP09_0131

Signed: JF Sheet No: 1 of 5



DRAFT FOR REVIEW

0 100 200 300 600m
SCALE 1:6000 @ A1, 1:12000 @ A3



FIGURE 7-5 LANDSCAPE: CONCEPT PLAN



landscape architecture
urban design
environmental management

BRIDGEHILL GROUP PTY LTD TALLAWARRA LANDS

DATE	PROJECT NO.	DRAWING NO	ISSUE
10.09.19	82019142-02	L1000	DRAFT



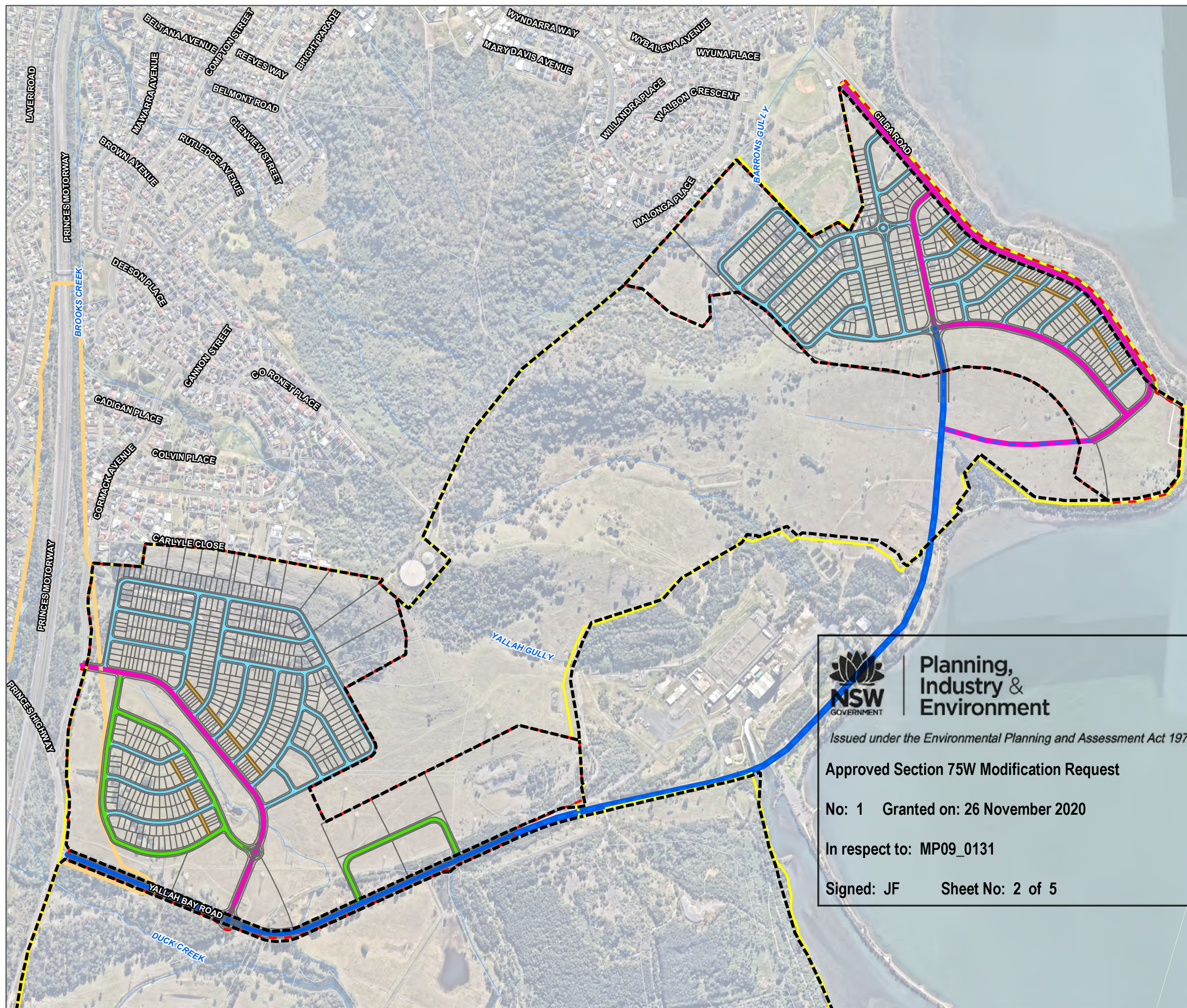
BRIDGEHILL
GROUP

Proposed Road Hierarchy - Central & Northern Precincts

TALLAWARRA LANDS

Legend

- Concept Plan Boundary
 - Lot Layout
 - Collector Road
 - Watercourse (LPI)
 - Proposed Superlot Boundary
 - Modification Boundary
 - APRB SPIR Footprint
 - Cadastre (DFSI-SS, 2018)
- ### Proposed Road Hierarchy
- Collector Road - Minor / Major (22.4m)
 - Collector Road - Minor (20.4m)
 - Local Street - Major (17.0m)
 - Local Street - Minor (14.5m)
 - Access Lane (8.0m)



**Planning,
Industry &
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No: 1 Granted on: 26 November 2020

In respect to: MP09_0131

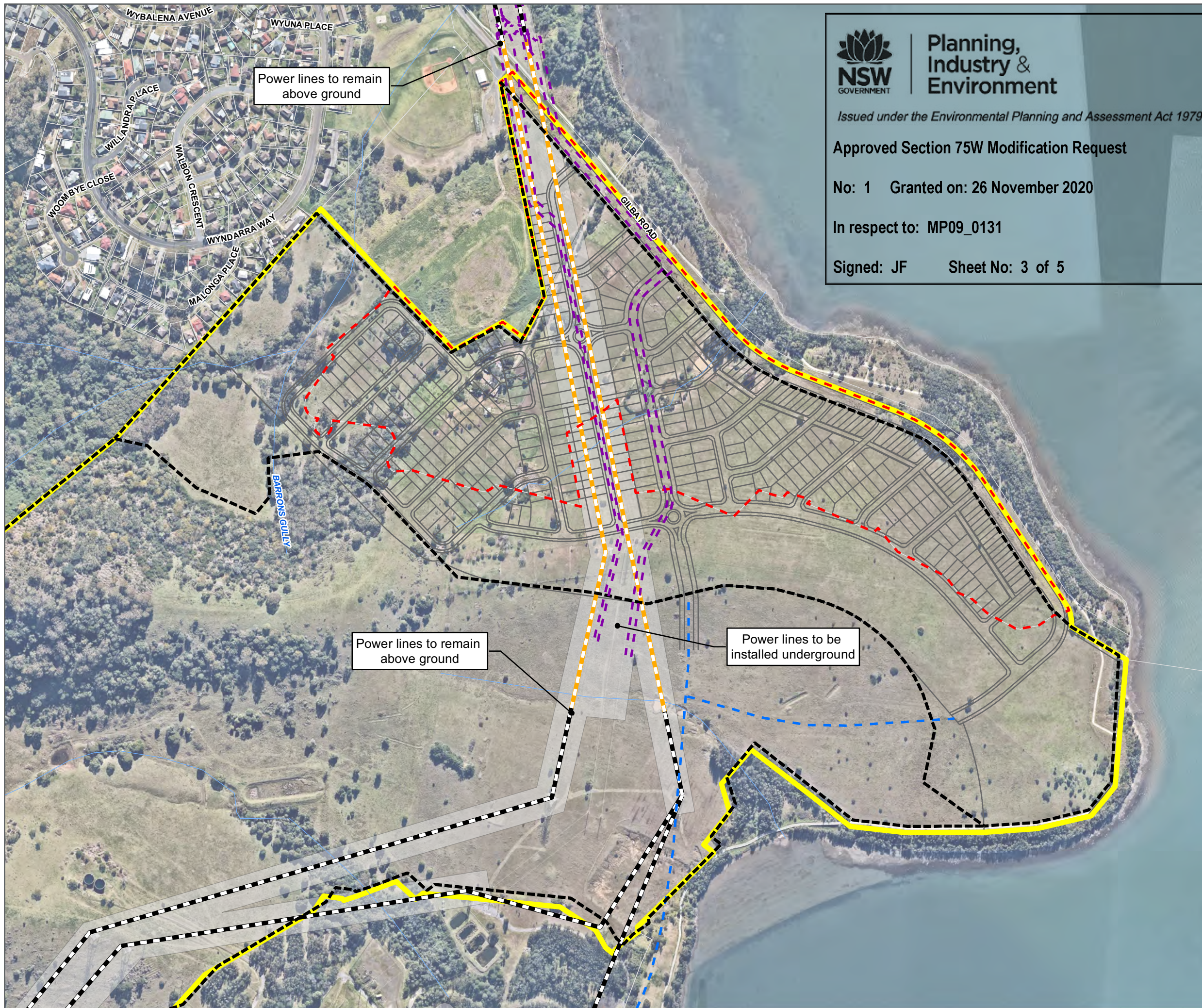
Signed: JF Sheet No: 2 of 5

FIGURE 5-7

1:9,000 Scale at A3



Map Produced by Cardno NSW/ACT Pty Ltd (WOL)
 Date: 2019-09-09 | Project: 8201714201
 Coordinate System: GDA 1994 MGA Zone 56
 Map: 82017142-01-GS-058-ProposedRoadHierarchy.mxd 09
 Aerial imagery supplied by nearmap (July, 2019)



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Environment

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Approved Section 75W Modification Request

No: 1 Granted on: 26 November 2020

In respect to: MP09_0131

Signed: JF Sheet No: 3 of 5



BRIDGEHILL
GROUP

Proposed Transmission Line

TALLAWARRA LANDS

Legend

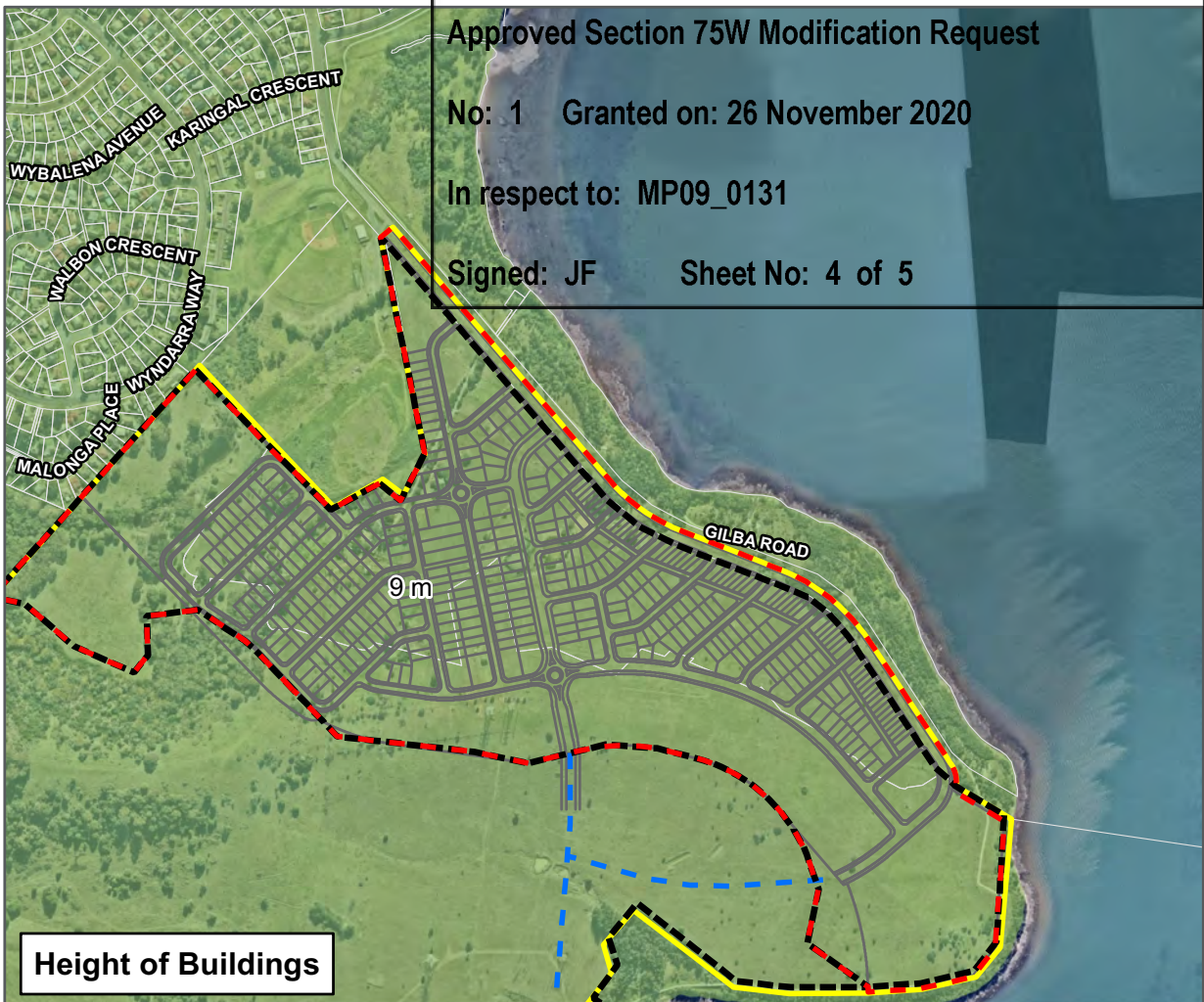
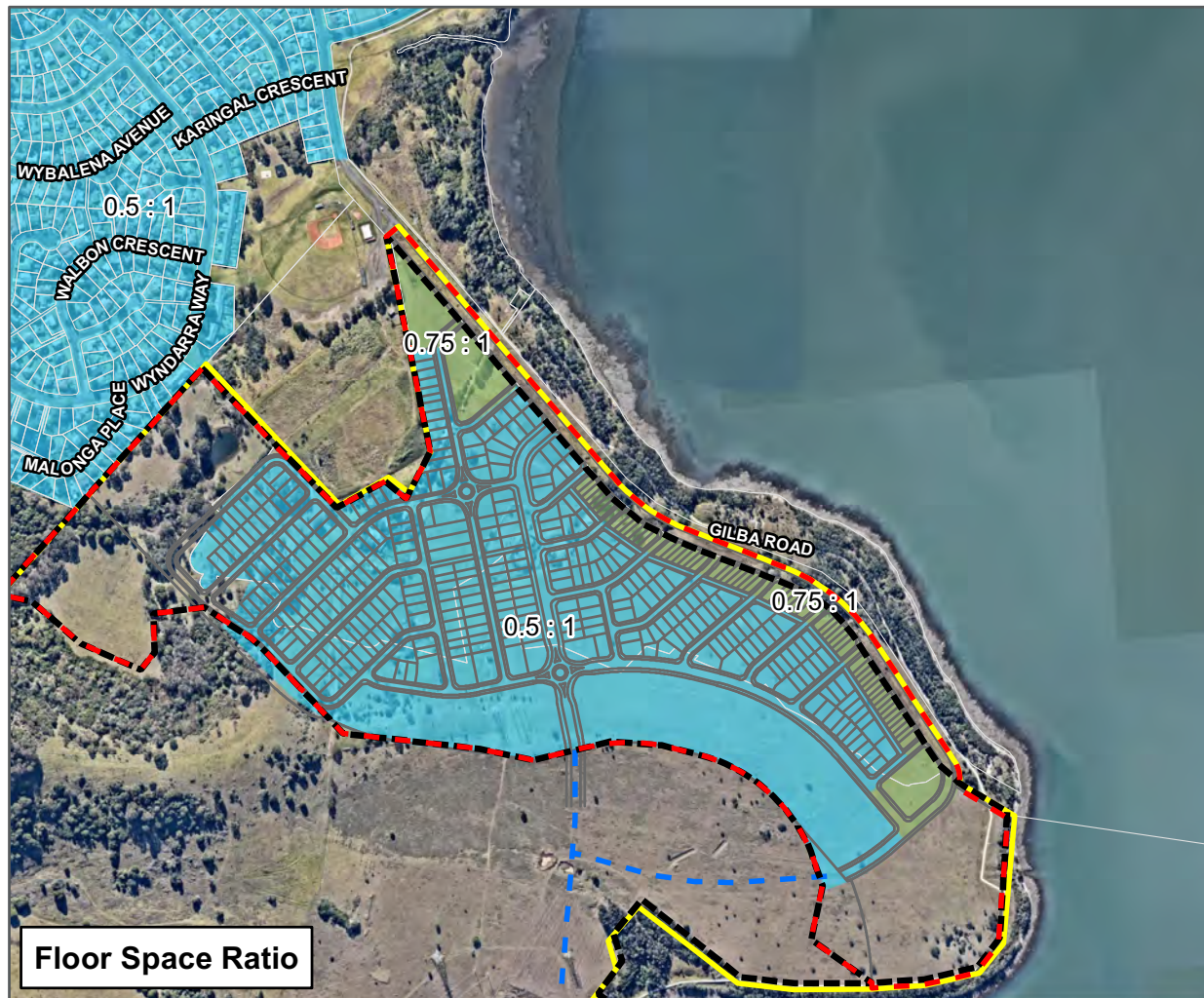
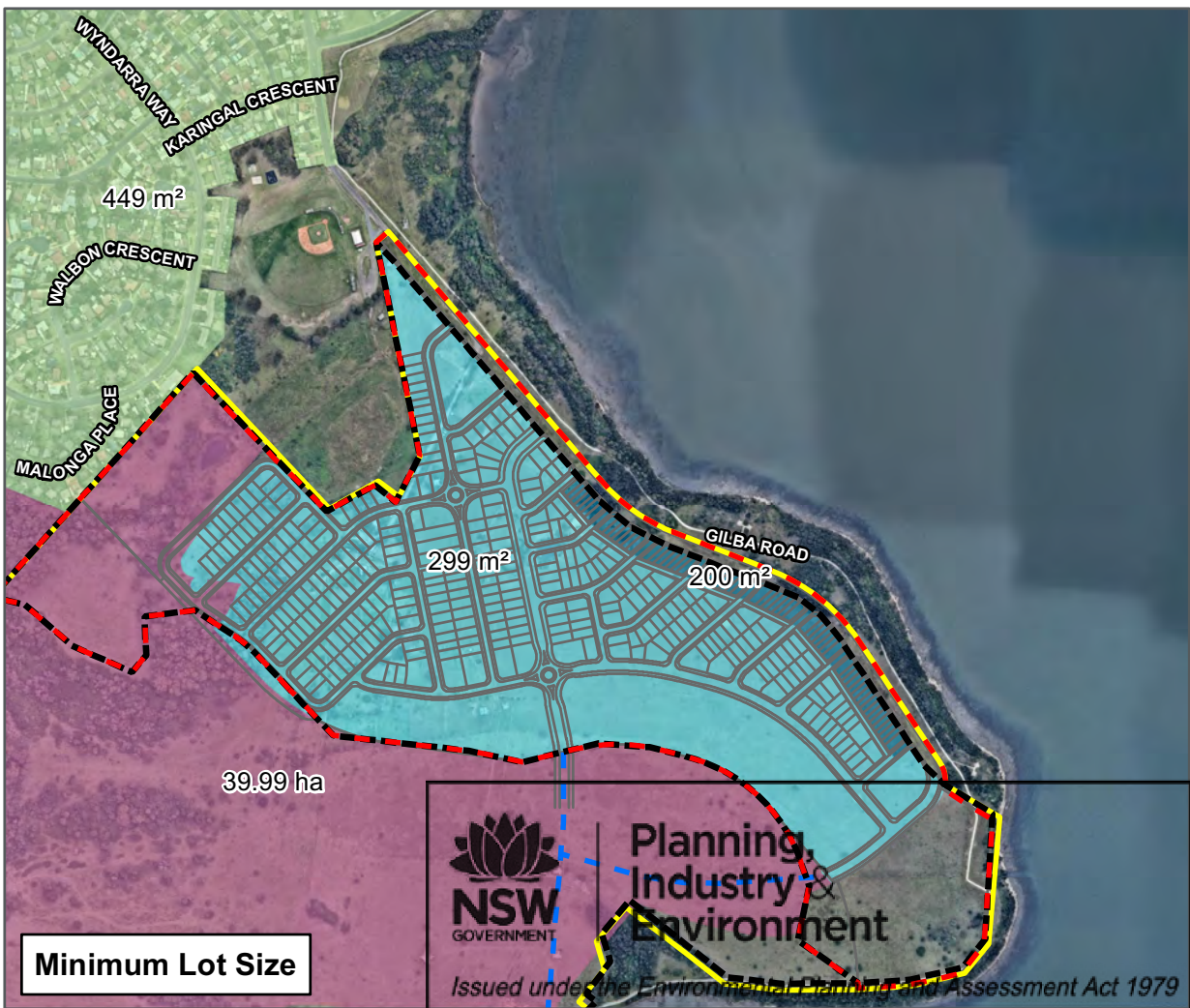
- Concept Plan Boundary
- Lot Layout
- Watercourses (LPI)
- Collector Road
- Proposed Superlot Boundary
- Proposed Underground Transmission
- Existing Overhead Electricity Transmission Line (LPI)
- Extent of Existing Overhead Electricity Transmission Line to be moved underground
- Easement (LPI)
- Cadastre (DFSI-SS, 2018)
- Concept Approval Boundary

FIGURE 7-1

1:5,000 Scale at A3



Map Produced by Cardno NSW/ACT Pty Ltd (WOL)
Date: 2019-09-09 | Project: 82017142
Coordinate System: GDA 1994 MGA Zone 56
Map: 82017142-01-GS-070-PropTransmissionLine.mxd 07
Aerial imagery supplied by nearmap (July, 2019)



NSW GOVERNMENT
Planning Industry & Environment
 Issued under the Environmental Planning and Assessment Act 1979

Approved Section 75W Modification Request
 No: 1 Granted on: 26 November 2020
 In respect to: MP09_0131
 Signed: JF Sheet No: 4 of 5

BRIDGEHILL GROUP

Proposed Development Controls Plan - North

NORTH SHORE PRECINCT
TALLAWARRA LANDS

Legend

- Concept Plan Boundary
- Lot Layout
- Collector Road
- 5m Contours (LPI LiDAR, 2013)
- Proposed Superlot Boundary
- Modification Boundary
- Cadastre (DFSI-SS, 2018)

Proposed Maximum Floor Space Ratio (n:1)

- 0.5
- 0.75

Proposed Maximum Building Height (m)

- 9m

Proposed Minimum Lot Size

- 200 m²
- 299 m²
- 449 m²
- 39.99 ha

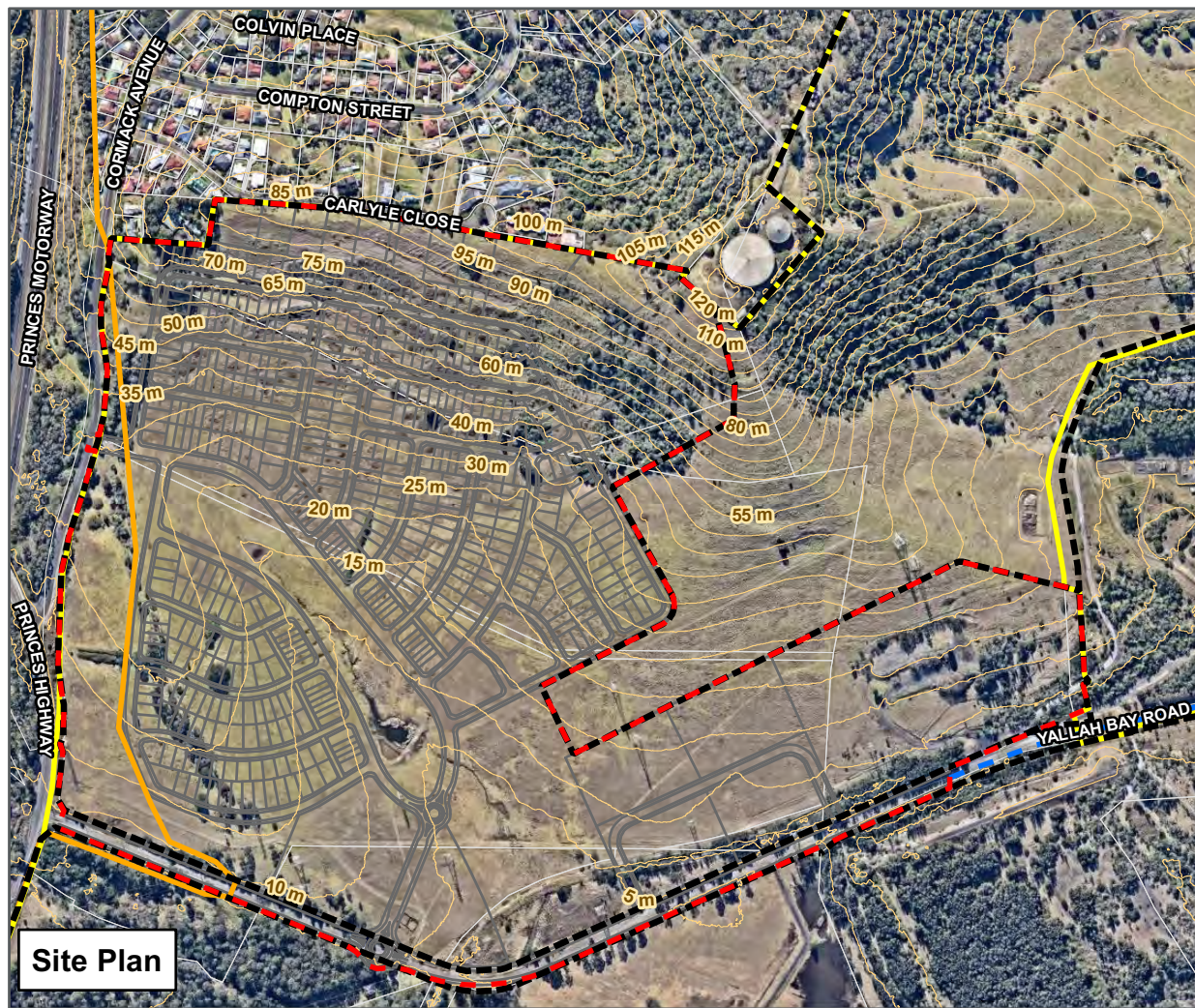
FIGURE 7-4

1:10,000 Scale at A3

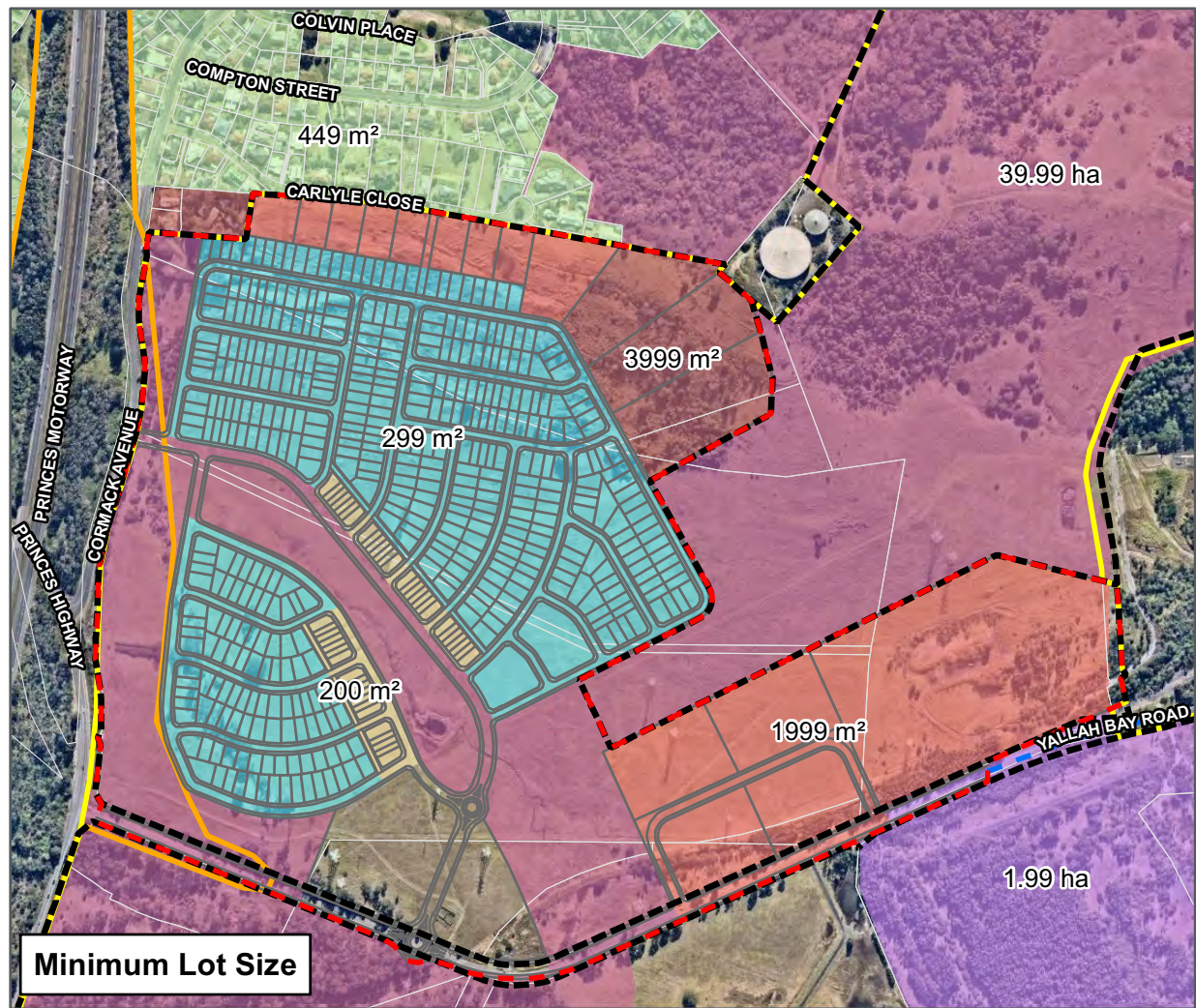
Metres
0 100 200 300 400

Cardno

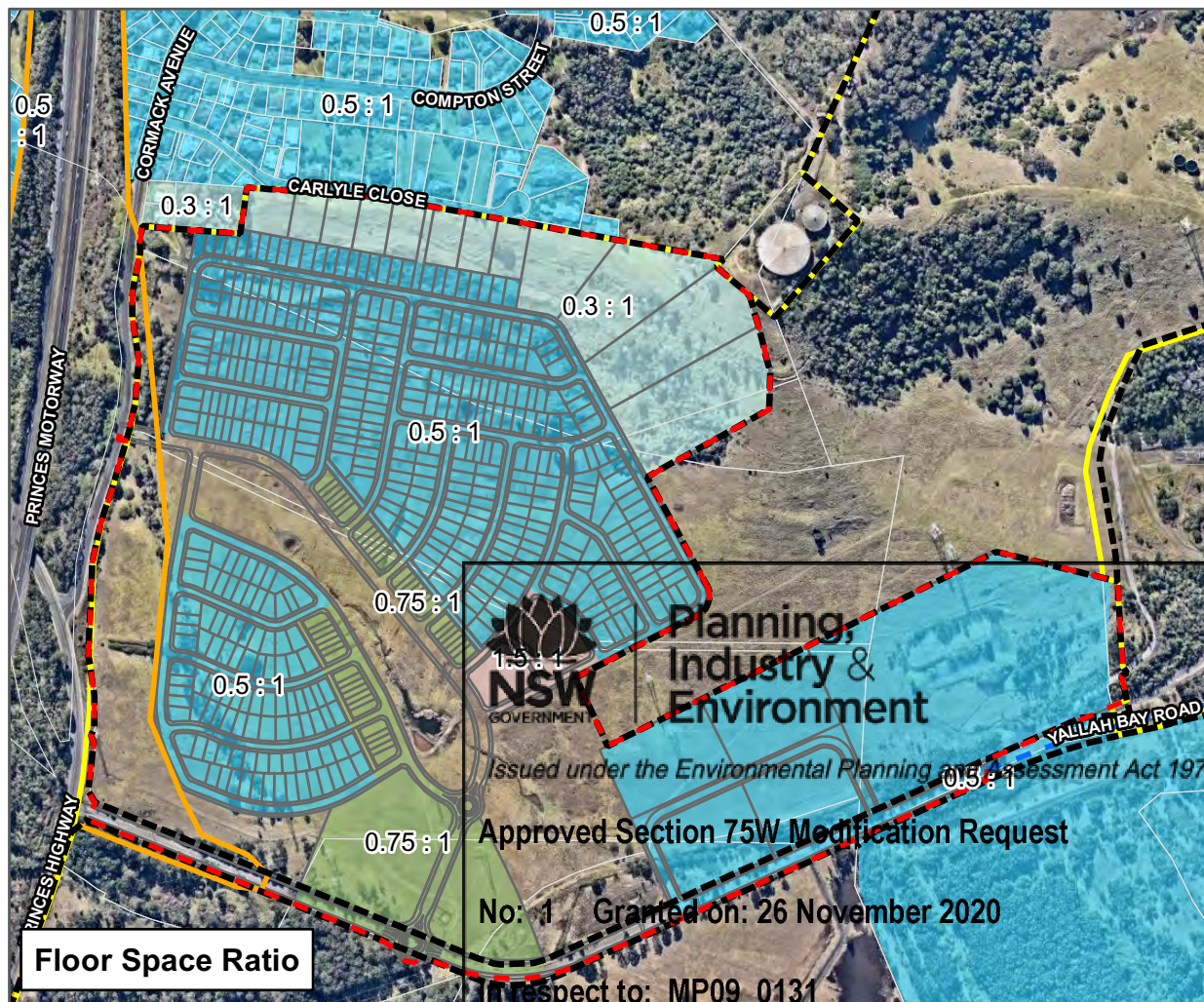
Map Produced by Cardno NSW/ACT Pty Ltd (WOL)
 Date: 2019-09-12 | Project: 82017142
 Coordinate System: GDA 1994 MGA Zone 56
 Map: 82017142-01-GS-034-ProposedLEPControlNorth.mxd 12
 Aerial imagery supplied by nearmap (July, 2019)



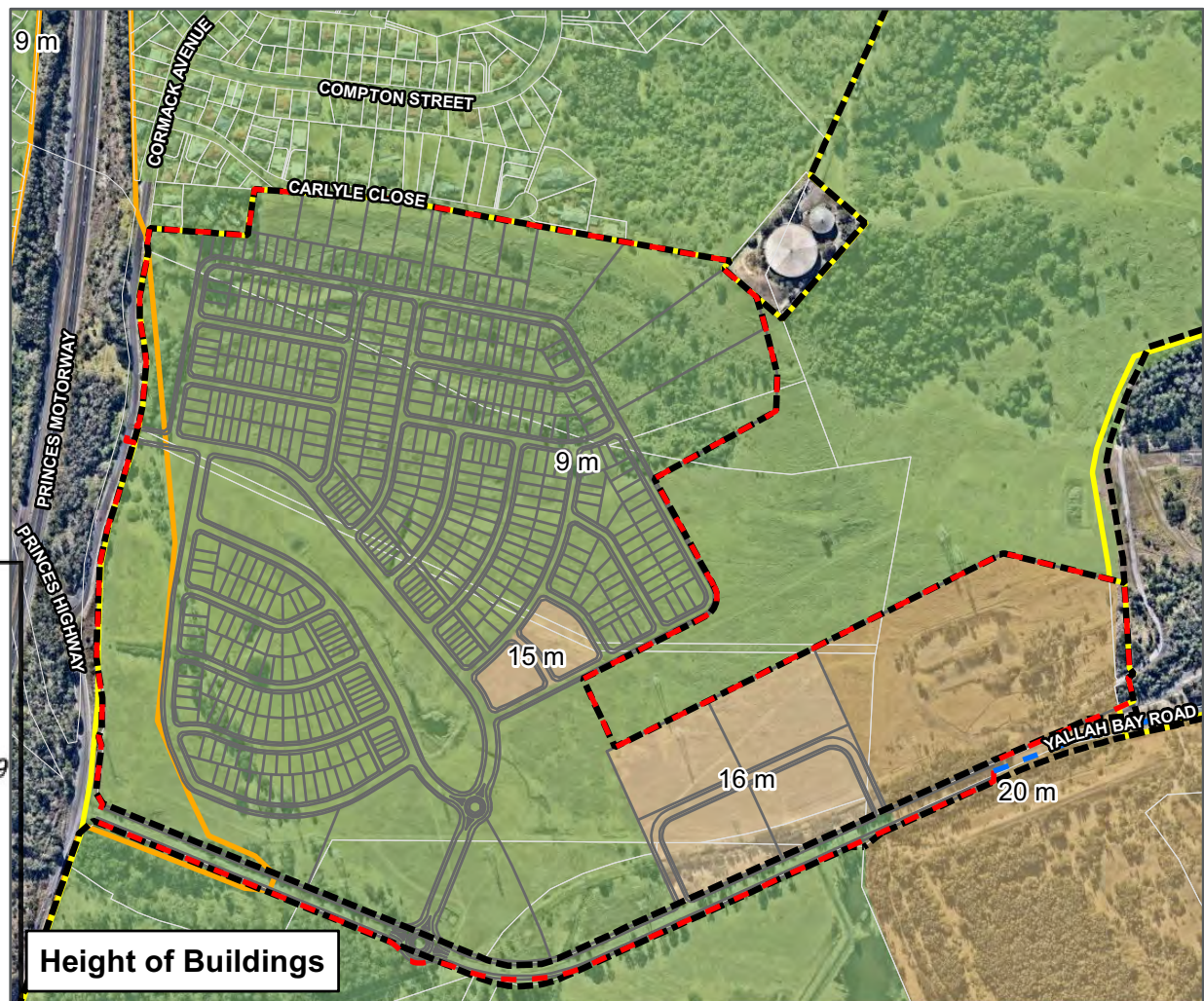
Site Plan




Minimum Lot Size



Floor Space Ratio



Height of Buildings



BRIDGEHILL
GROUP

Proposed Development Controls Plan - Central

CENTRAL PRECINCT
TALLAWARRA LANDS

Legend

- Concept Plan Boundary
- Lot Layout
- Collector Road
- 5m Contours (LPI LiDAR, 2013)
- Proposed Superlot Boundary
- Modification Boundary
- APRB SPIR Footprint
- Cadastre (DFSi-SS, 2018)

Proposed Maximum Building Height (m)

- 9m
- 15m, 16m
- 20m

Proposed Maximum Floor Space Ratio (n:1)

- 0.3
- 0.5
- 0.75
- 1.5

Proposed Minimum Lot Size


- 200m²
- 299 m²
- 449 m²
- 1999 m²
- 3999m²
- 1.99 ha
- 39.9 ha

FIGURE 7-5

1:9,000 Scale at A3

Metres

0 100 200 300 400



Map Produced by Cardno NSW/ACT Pty Ltd (WOL)
Date: 2019-09-09 | Project: 82017142
Coordinate System: GDA 1994 MGA Zone 56
Map: 82017142-01-GS-035-ProposedLEPControlCentral.mxd 11
Aerial imagery supplied by nearmap (July, 2019)


**Planning,
Industry &
Environment**
 Issued under the Environmental Planning and Assessment Act 1979
Approved Section 75W Modification Request
 No: 1 Granted on: 26 November 2020
 In respect to: MP09_0131

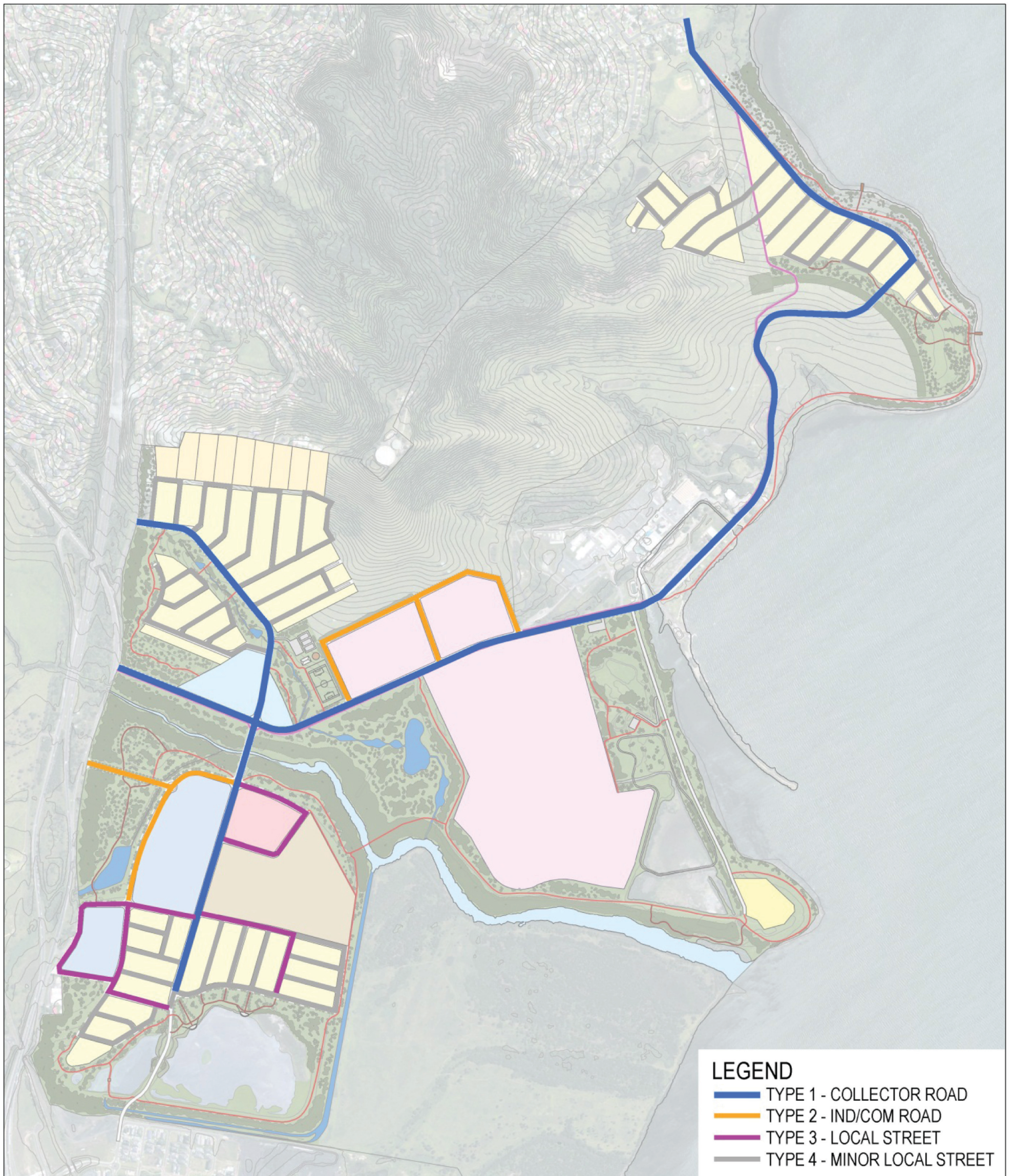


FIGURE 30 – THE STREET HIERARCHY

MARK	M.G.A. CO-ORDINATES		CLASS	PU	METHOD	HEIGHT SCHEDULE				
	EASTING	NORTHING				AHD VALUE	CLASS	PU	HEIGHT DATUM VALIDATION	STATE
TS 1190	297905.87	6177899.82	2A	0.02	SCIMS	33.996	LB	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 16800	298891.497	6179346.675	B	0.02	SCIMS	2.827	LC	0.08	SCIMS ADOPTED	FOUND
PM 36914	298686.881	6178964.999	B	0.02	SCIMS	12.487	LB	0.09	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54549	298135.09	6177394.253	B	N/A	SCIMS	13.908	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54580	298553.161	6177418.616	B	N/A	SCIMS	6.758	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54600	299504.922	6178348.117	B	N/A	SCIMS	23.381	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54620	299268.192	6178130.839	B	N/A	SCIMS	5.659	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54621	298861.848	6177433.37	B	N/A	SCIMS	1.312	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
PM 54932	297763.434	6177416.556	B	N/A	SCIMS	20.795	LC	N/A	FROM SCIMS-DATUM VALIDATION	FOUND
SSM 58841	297142.962	6178026.893	B	0.02	SCIMS	60.668	B	N/A	FROM SCIMS-DATUM VALIDATION	FOUND

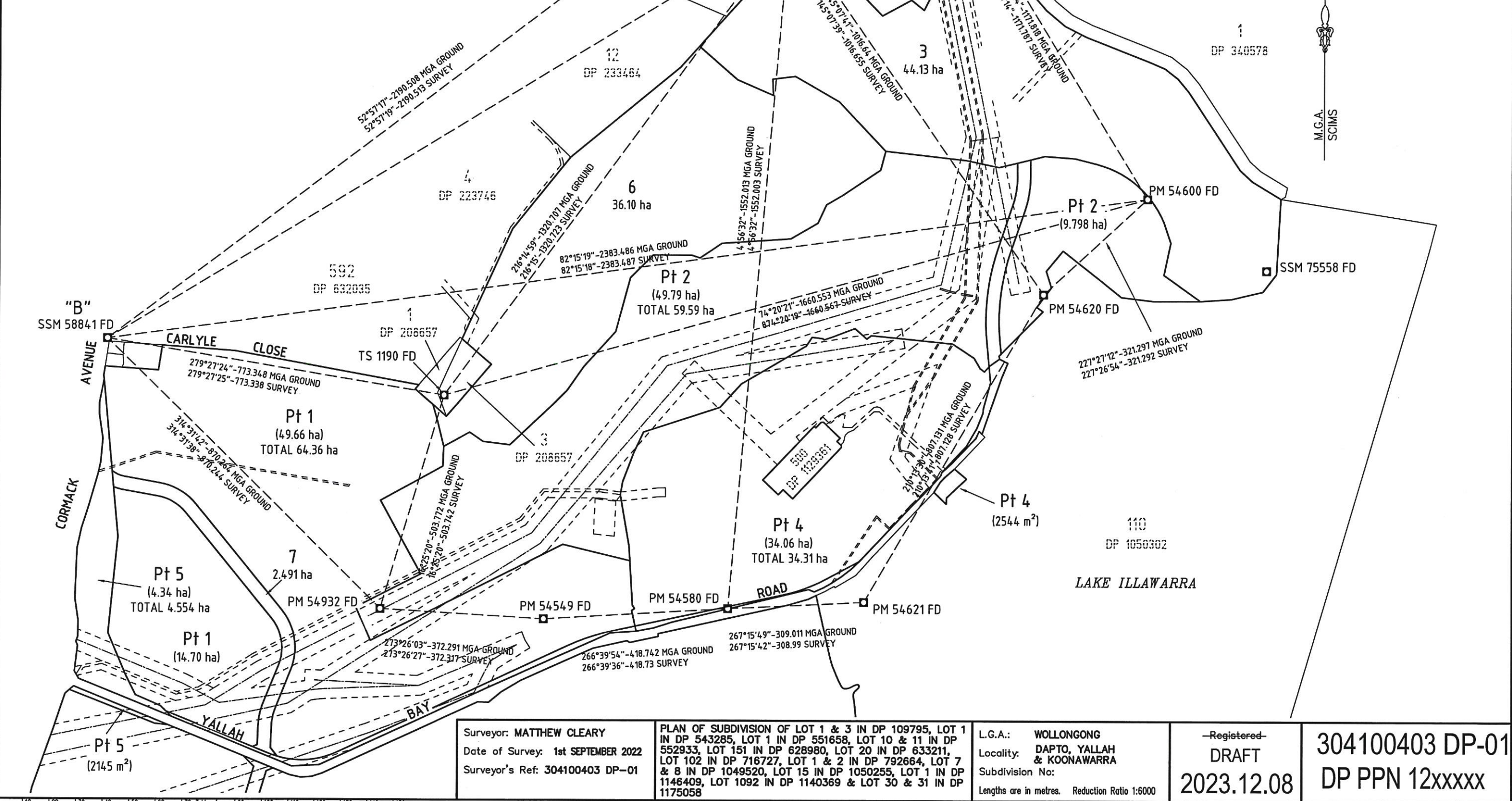
DATE OF SCIMS COORDINATES AND SCIMS AHD VALUE 1ST SEPTEMBER 2022
 HEIGHT DATUM: AHD71
 MGA ZONE: 56 MGA DATUM: GDA2020 COMBINED SCALE FACTOR (CSF)= 1.000091

Attachment 6 - Draft Subdivision Plan

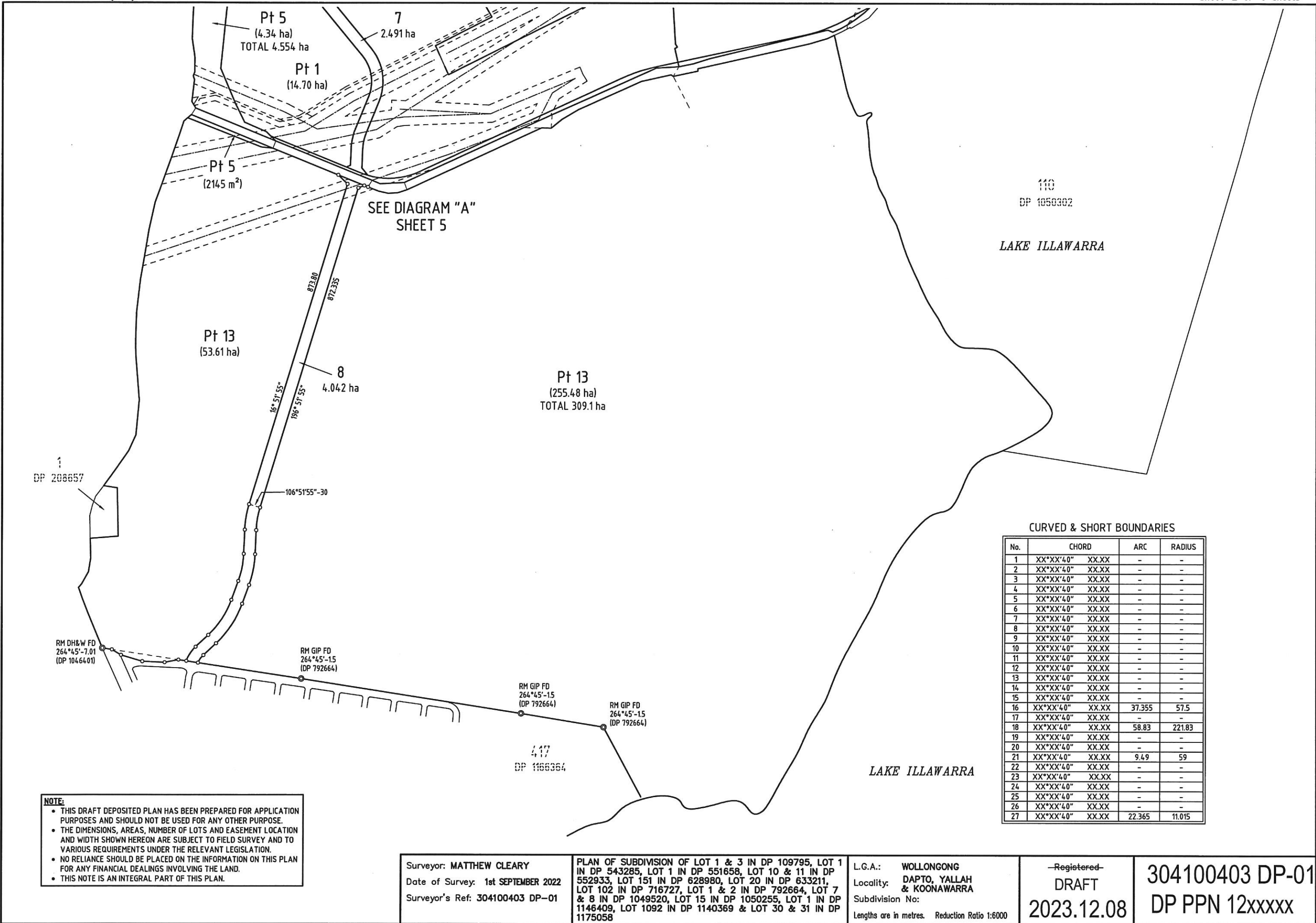
"A" - "B" 238° 43' 00" - 1806.415 MGA GROUND
 PM 36914 - SSM 58841 238° 43' 00" - 1806.422 SURVEY

NOTE:

- THIS DRAFT DEPOSITED PLAN HAS BEEN PREPARED FOR APPLICATION PURPOSES AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.
- THE DIMENSIONS, AREAS, NUMBER OF LOTS AND EASEMENT LOCATION AND WIDTH SHOWN HEREON ARE SUBJECT TO FIELD SURVEY AND TO VARIOUS REQUIREMENTS UNDER THE RELEVANT LEGISLATION.
- 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.



Surveyor: MATTHEW CLEARY Date of Survey: 1st SEPTEMBER 2022 Surveyor's Ref: 304100403 DP-01	PLAN OF SUBDIVISION OF LOT 1 & 3 IN DP 109795, LOT 1 IN DP 543285, LOT 1 IN DP 551658, LOT 10 & 11 IN DP 552933, LOT 151 IN DP 628980, LOT 20 IN DP 633211, LOT 102 IN DP 716727, LOT 1 & 2 IN DP 792664, LOT 7 & 8 IN DP 1049520, LOT 15 IN DP 1050255, LOT 1 IN DP 1146409, LOT 1092 IN DP 1140369 & LOT 30 & 31 IN DP 1175058	L.G.A.: WOLLONGONG Locality: DAPTO, YALLAH & KOONAWARRA Subdivision No: Lengths are in metres. Reduction Ratio 1:6000	Registered DRAFT 2023.12.08	304100403 DP-01 DP PPN 12xxxxx
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110
DP 1050302
LAKE ILLAWARRA

CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
1	XX°XX'40" XX.XX	-	-
2	XX°XX'40" XX.XX	-	-
3	XX°XX'40" XX.XX	-	-
4	XX°XX'40" XX.XX	-	-
5	XX°XX'40" XX.XX	-	-
6	XX°XX'40" XX.XX	-	-
7	XX°XX'40" XX.XX	-	-
8	XX°XX'40" XX.XX	-	-
9	XX°XX'40" XX.XX	-	-
10	XX°XX'40" XX.XX	-	-
11	XX°XX'40" XX.XX	-	-
12	XX°XX'40" XX.XX	-	-
13	XX°XX'40" XX.XX	-	-
14	XX°XX'40" XX.XX	-	-
15	XX°XX'40" XX.XX	-	-
16	XX°XX'40" XX.XX	37.355	57.5
17	XX°XX'40" XX.XX	-	-
18	XX°XX'40" XX.XX	58.83	221.83
19	XX°XX'40" XX.XX	-	-
20	XX°XX'40" XX.XX	-	-
21	XX°XX'40" XX.XX	9.49	59
22	XX°XX'40" XX.XX	-	-
23	XX°XX'40" XX.XX	-	-
24	XX°XX'40" XX.XX	-	-
25	XX°XX'40" XX.XX	-	-
26	XX°XX'40" XX.XX	-	-
27	XX°XX'40" XX.XX	22.365	11.015

NOTE:

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Surveyor: MATTHEW CLEARY Date of Survey: 1st SEPTEMBER 2022 Surveyor's Ref: 304100403 DP-01	PLAN OF SUBDIVISION OF LOT 1 & 3 IN DP 109795, LOT 1 IN DP 543285, LOT 1 IN DP 551658, LOT 10 & 11 IN DP 552933, LOT 151 IN DP 628980, LOT 20 IN DP 633211, LOT 102 IN DP 716727, LOT 1 & 2 IN DP 792664, LOT 7 & 8 IN DP 1049520, LOT 15 IN DP 1050255, LOT 1 IN DP 1146409, LOT 1092 IN DP 1140369 & LOT 30 & 31 IN DP 1175058	L.G.A.: WOLLONGONG Locality: DAPTO, YALLAH & KOONAWARRA Subdivision No: Lengths are in metres. Reduction Ratio 1:6000	-Registered- DRAFT 2023.12.08	304100403 DP-01 DP PPN 12xxxxx
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CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
1	137°38"	4.155	-
2	207°24'30"	71.755	-
3	309°11'20"	36.655	-
4	61°19'	74.905	-
5	41°52'30"	91.81	-
6	41°52'30"	63.61	-
7	130°48'30"	115.03	-
8	113°33'20"	88.49	-
9	357°42'20"	36.89	-
10	82°54'40"	69.64	-
11	119°40'20"	115.76	-
12	101°55'55"	74.64	-
13	76°19'40"	43.315	-
14	76°19'40"	30.87	-
15	76°19'40"	33.16	-
16	94°08'25"	69.655	-
17	104°14'	52.155	-
18	310°51'40"	201.54	224.83
19	161°13'10"	48.565	-
20	191°59'30"	74.775	-
21	125°25'25"	101.825	-
22	266°03'20"	71.15	-
23	256°40'20"	73.35	-
24	218°06'	50.185	-
25	120°51'	75.47	-
26	132°30'10"	39.15	-
27	146°31'	45.26	-
28	140°15'10"	38.41	-
29	127°57'50"	37.2	-
30	112°57'50"	35.2	-
31	116°37'35"	55.49	-
32	129°31'50"	55.495	-
33	138°50'50"	58.455	-
35	310°42'30"	88.285	-
36	310°42'30"	41.445	-
37	40°42'30"	12.385	-
38	310°42'30"	53.04	-
39	163°36'40"	39.84	-
40	345°42'20"	58.805	-
50	32°59'10"	23.51	-
51	96°37'15"	25.255	-
52	140°25'10"	3.8	-
53	71°30'15"	18.96	-
54	69°29'30"	56.34	-
55	131°54'45"	35.755	-
56	51°35'45"	12.89	-
57	123°04'40"	57.965	-
58	149°32'50"	27.365	-
59	128°05'40"	12.095	-
60	43°21'40"	18.1	-

CURVED & SHORT BOUNDARIES

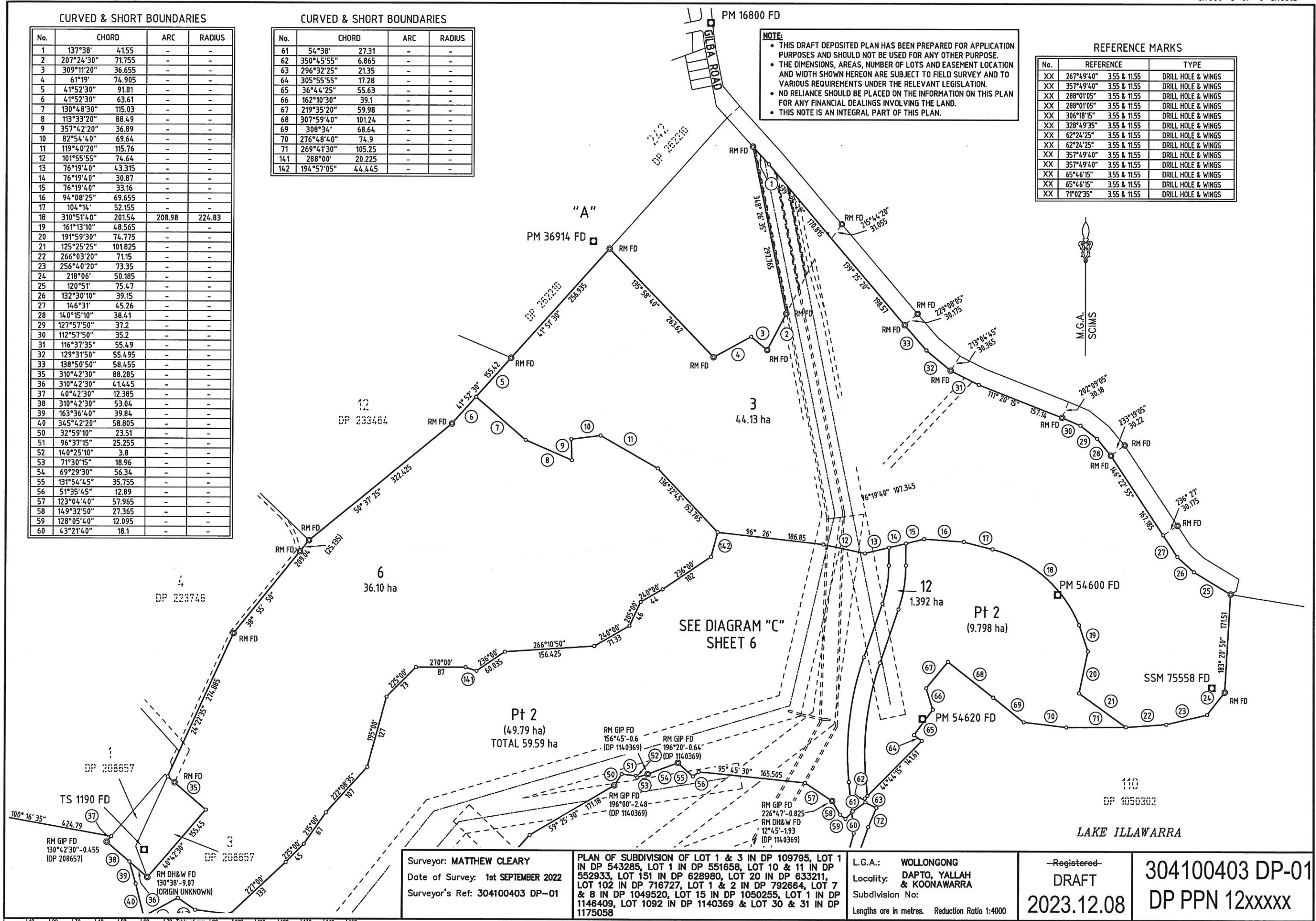
No.	CHORD	ARC	RADIUS
61	54°38"	27.31	-
62	350°45'55"	6.865	-
63	296°32'25"	21.35	-
64	305°55'55"	17.28	-
65	36°44'25"	55.63	-
66	162°10'30"	39.1	-
67	219°35'20"	59.98	-
68	307°59'40"	101.24	-
69	308°34'	68.64	-
70	276°48'40"	74.9	-
71	269°41'30"	105.25	-
141	288°00'	20.225	-
142	194°57'05"	44.445	-

REFERENCE MARKS

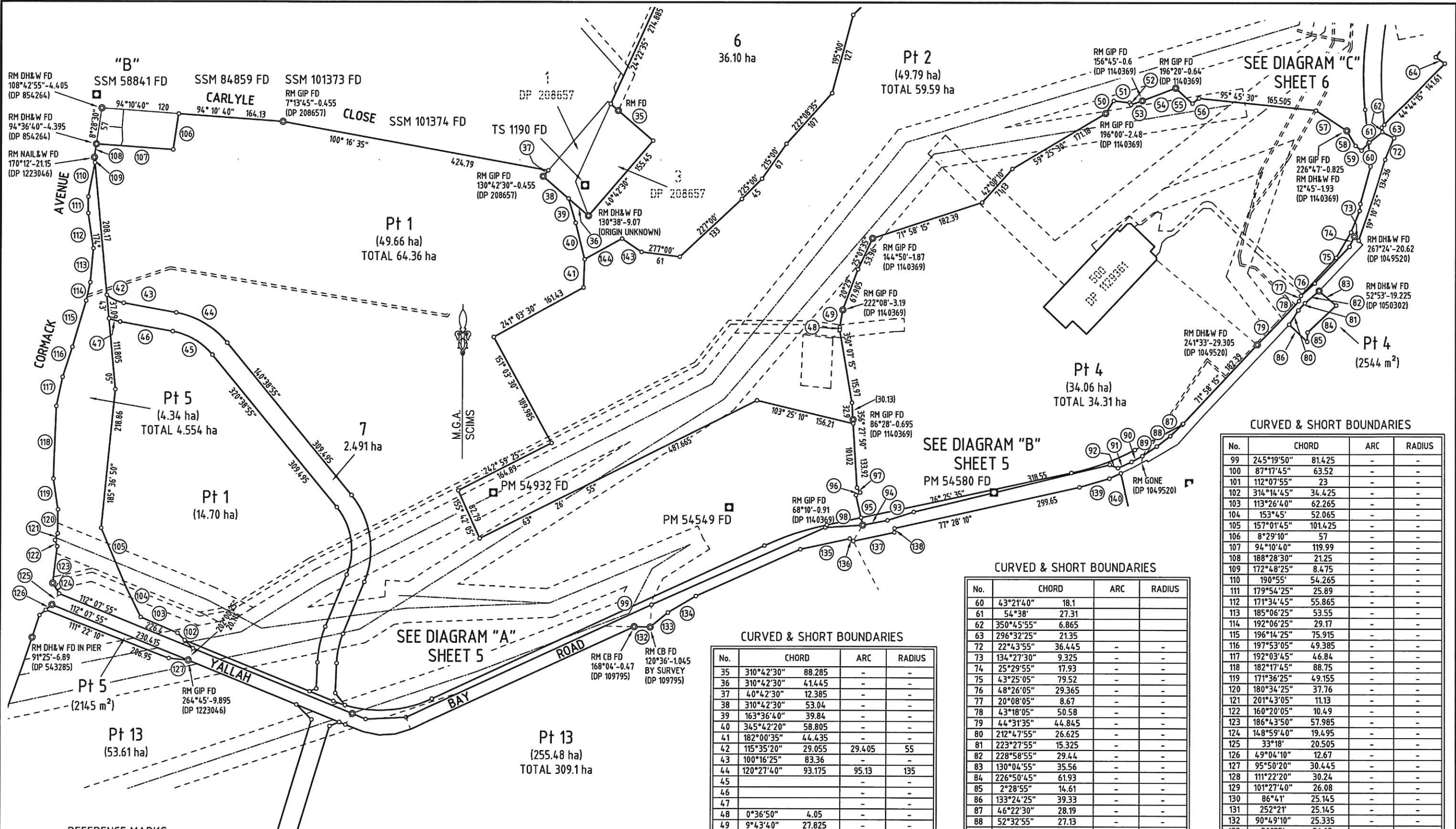
No.	REFERENCE	TYPE
XX	267°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	306°18'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	328°49'35" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	71°02'35" 3.55 & 11.55	DRILL HOLE & WINGS

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<p>Surveyor: MATTHEW CLEARY Date of Survey: 1st SEPTEMBER 2022 Surveyor's Ref: 304100403 DP-01</p>	<p>PLAN OF SUBDIVISION OF LOT 1 & 3 IN DP 109795, LOT 1 IN DP 543285, LOT 1 IN DP 551658, LOT 10 & 11 IN DP 552933, LOT 151 IN DP 628980, LOT 20 IN DP 633211, LOT 102 IN DP 716727, LOT 1 & 2 IN DP 792664, LOT 7 & 8 IN DP 1049520, LOT 15 IN DP 1050255, LOT 1 IN DP 1146409, LOT 1092 IN DP 1140369 & LOT 30 & 31 IN DP 1175058</p>	<p>L.G.A.: WOLLONGONG Locality: DAPTO, YALLAH & KOONAWARRA Subdivision No: Lengths are in metres. Reduction Ratio 1:4000</p>	<p>Registered DRAFT 2023.12.08</p>	<p>304100403 DP-01 DP PPN 12xxxxx</p>
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CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
99	245°19'50"	81.425	-
100	87°17'45"	63.52	-
101	112°07'55"	23	-
102	314°14'45"	34.425	-
103	113°26'40"	62.265	-
104	153°45'	52.065	-
105	157°01'45"	101.425	-
106	8°29'10"	57	-
107	94°10'40"	119.99	-
108	188°28'30"	21.25	-
109	172°48'25"	8.475	-
110	190°55'	54.265	-
111	179°54'25"	25.89	-
112	171°34'45"	55.865	-
113	185°06'25"	53.55	-
114	192°06'25"	29.17	-
115	196°14'25"	75.915	-
116	197°53'05"	49.385	-
117	192°03'45"	4.684	-
118	182°17'45"	88.75	-
119	171°36'25"	49.155	-
120	180°34'25"	37.76	-
121	201°43'05"	11.13	-
122	160°20'05"	10.49	-
123	186°43'50"	57.985	-
124	148°59'40"	19.495	-
125	33°18'	20.505	-
126	49°04'10"	12.67	-
127	95°50'20"	30.445	-
128	111°22'20"	30.24	-
129	101°27'40"	26.08	-
130	86°41'	25.145	-
131	252°21'	25.145	-
132	90°49'10"	25.335	-
133	50°35'	36.03	-
134	239°31'20"	50.935	-
135	257°42'	79.685	-
136	305°22'20"	6.74	-
137	77°54'15"	65.97	-
138	2°48'	6.355	-
139	73°35'40"	49.205	-
140	245°00'40"	41.69	-
143	304°00'	37.115	-
144	241°05'55"	67.03	-

CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
60	43°21'40"	18.1	-
61	54°38'	27.31	-
62	350°45'55"	6.865	-
63	296°32'25"	21.35	-
72	22°43'55"	36.445	-
73	134°27'30"	9.325	-
74	25°29'55"	17.93	-
75	43°25'05"	79.52	-
76	48°26'05"	29.365	-
77	20°08'05"	8.67	-
78	43°18'05"	50.58	-
79	44°31'35"	44.845	-
80	212°47'55"	26.625	-
81	223°27'55"	15.325	-
82	228°58'55"	29.44	-
83	130°04'55"	35.56	-
84	226°50'45"	61.93	-
85	2°28'55"	14.61	-
86	133°24'25"	39.33	-
87	46°22'30"	28.19	-
88	52°32'55"	27.13	-
89	56°30'55"	27.23	-
90	61°40'	19.335	-
91	65°24'35"	23.675	-
92	112°17'20"	14.12	-
93	252°22'55"	43.97	-
94	79°03'25"	39.465	-
95	347°09'15"	48.19	-
96	58°21'50"	7.775	-
97	326°39'50"	9.19	-
98	266°15'40"	59.085	-

CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
35	310°42'30"	88.285	-
36	310°42'30"	41.445	-
37	40°42'30"	12.385	-
38	310°42'30"	53.04	-
39	163°36'40"	39.84	-
40	345°42'20"	58.805	-
41	182°00'35"	44.435	-
42	115°35'20"	29.055	29.405
43	100°16'25"	83.36	-
44	120°27'40"	93.175	95.13
45	-	-	-
46	-	-	-
47	-	-	-
48	0°36'50"	4.05	-
49	9°43'40"	27.825	-
50	32°59'10"	23.51	-
51	96°37'15"	25.255	-
52	140°25'10"	3.8	-
53	71°30'15"	18.96	-
54	69°29'30"	56.34	-
55	131°54'45"	35.755	-
56	51°35'45"	12.89	-
57	123°04'40"	57.965	-
58	149°32'50"	27.365	-
59	128°05'40"	12.095	-

REFERENCE MARKS

No.	REFERENCE	TYPE
XX	267°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	306°18'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	328°49'35" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	71°02'35" 3.55 & 11.55	DRILL HOLE & WINGS

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 Date of Survey: 1st SEPTEMBER 2022
 Surveyor's Ref: 304100403 DP-01

PLAN OF SUBDIVISION OF LOT 1 & 3 IN DP 109795, LOT 1 IN DP 543285, LOT 1 IN DP 551658, LOT 10 & 11 IN DP 552933, LOT 15 IN DP 628980, LOT 20 IN DP 633211, LOT 102 IN DP 716727, LOT 1 & 2 IN DP 792664, LOT 7 & 8 IN DP 1049520, LOT 15 IN DP 1050255, LOT 1 IN DP 1146409, LOT 1092 IN DP 1140369 & LOT 30 & 31 IN DP 1175058

L.G.A.: WOLLONGONG
 Locality: DAPTO, YALLAH & KOONAWARRA
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1:4000

Registered
 DRAFT
 2023.12.08

304100403 DP-01
 DP PPN 12xxxxx

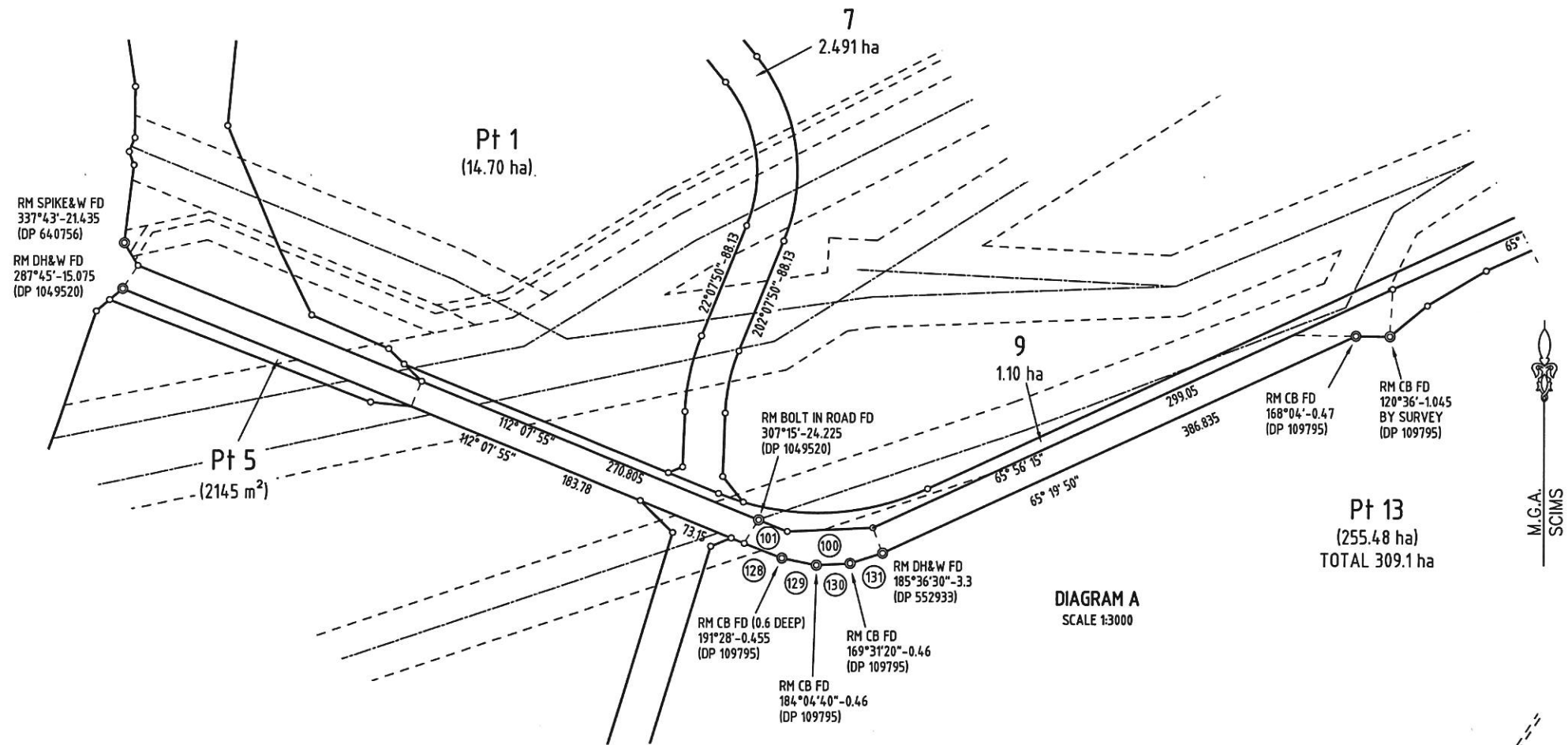


DIAGRAM A
SCALE 1:3000

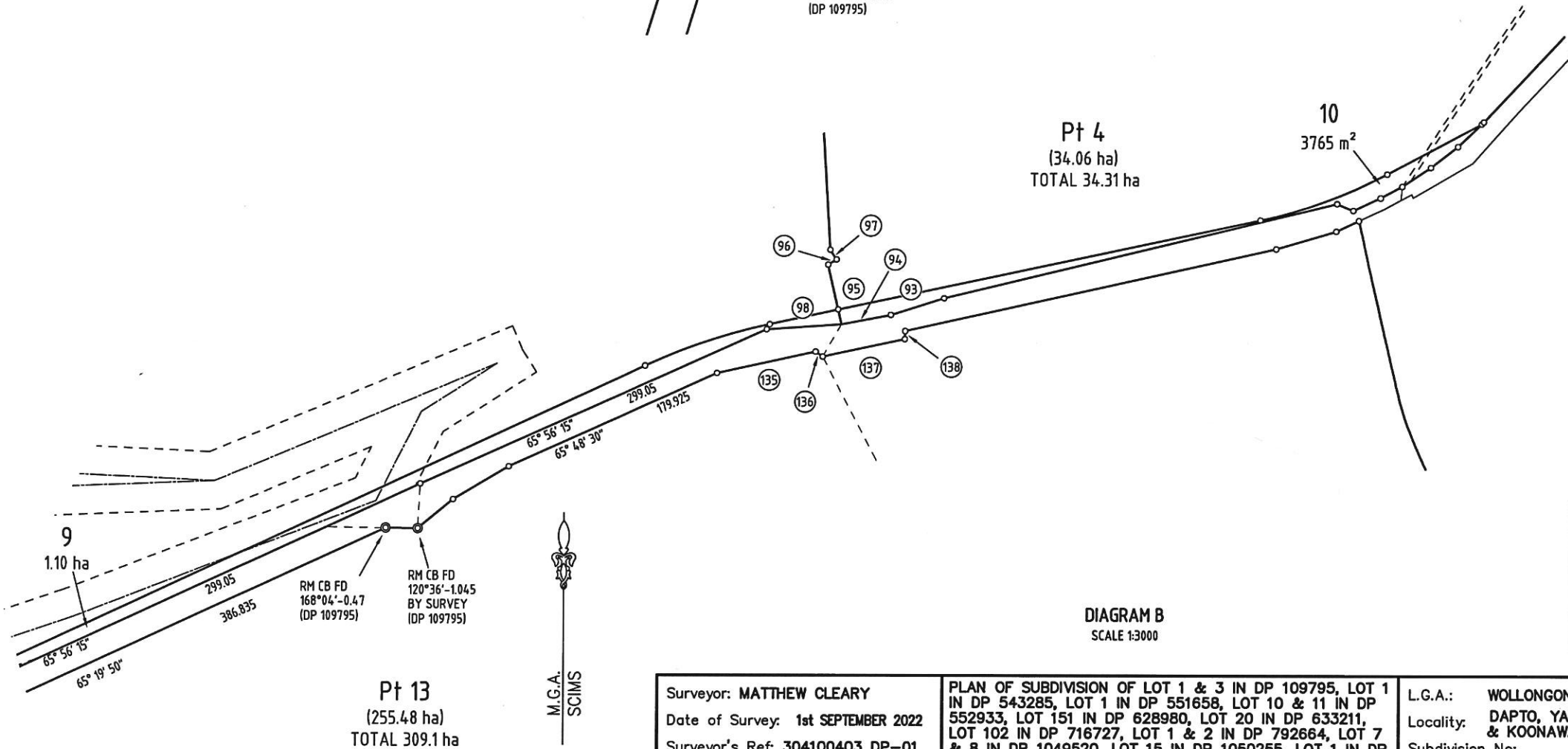


DIAGRAM B
SCALE 1:3000

CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
1	XX'XX'40" XX.XX	-	-
2	XX'XX'40" XX.XX	-	-
3	XX'XX'40" XX.XX	-	-
4	XX'XX'40" XX.XX	-	-
5	XX'XX'40" XX.XX	-	-
6	XX'XX'40" XX.XX	-	-
7	XX'XX'40" XX.XX	-	-
8	XX'XX'40" XX.XX	-	-
9	XX'XX'40" XX.XX	-	-
10	XX'XX'40" XX.XX	-	-
11	XX'XX'40" XX.XX	-	-
12	XX'XX'40" XX.XX	-	-
13	XX'XX'40" XX.XX	-	-
14	XX'XX'40" XX.XX	-	-
15	XX'XX'40" XX.XX	-	-
16	XX'XX'40" XX.XX	37.355	57.5
17	XX'XX'40" XX.XX	-	-
18	XX'XX'40" XX.XX	58.83	221.83
19	XX'XX'40" XX.XX	-	-
20	XX'XX'40" XX.XX	-	-
21	XX'XX'40" XX.XX	9.49	59
22	XX'XX'40" XX.XX	-	-
23	XX'XX'40" XX.XX	-	-
24	XX'XX'40" XX.XX	-	-
25	XX'XX'40" XX.XX	-	-
26	XX'XX'40" XX.XX	-	-
27	XX'XX'40" XX.XX	22.365	11.015

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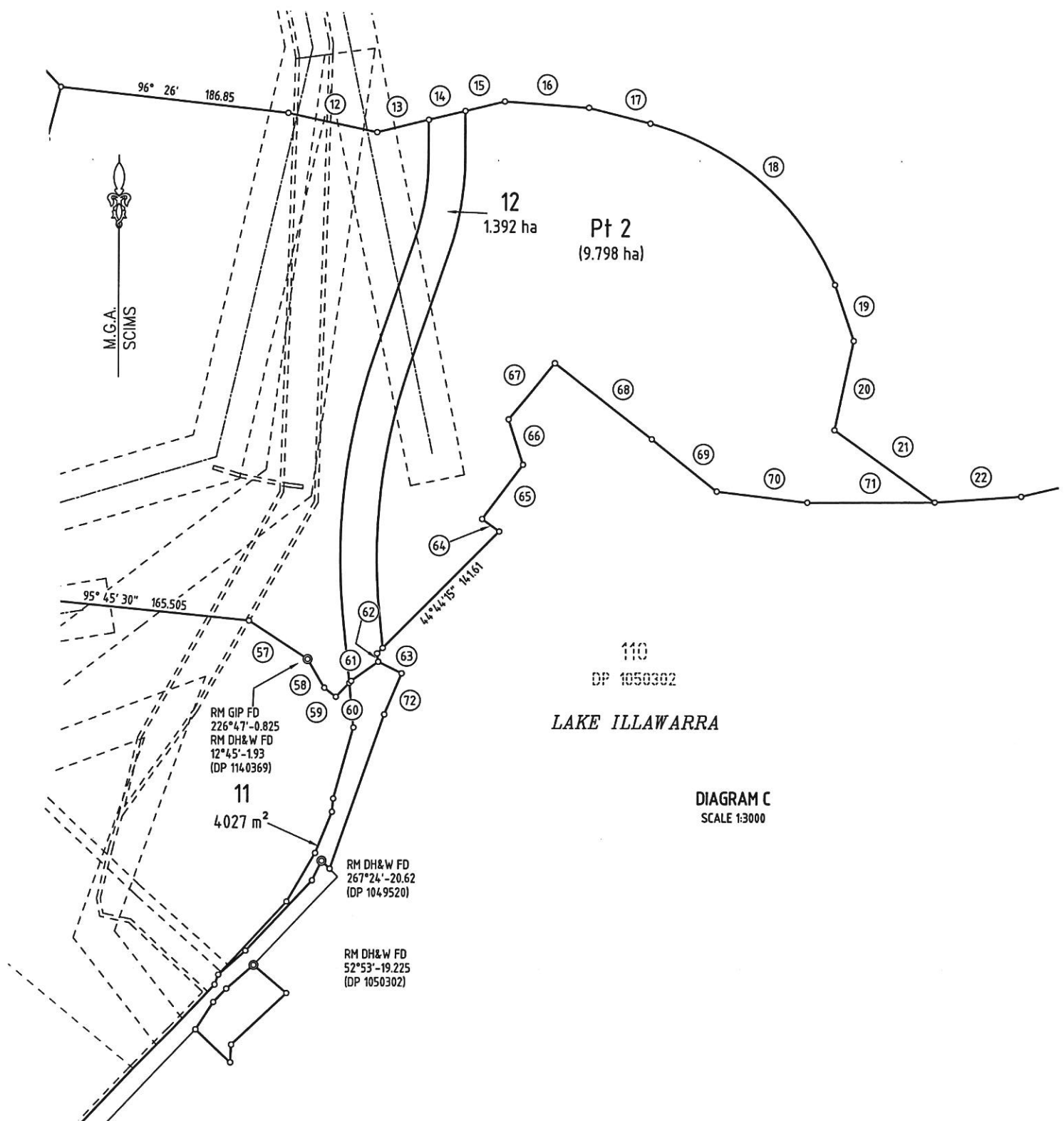
Surveyor: **MATTHEW CLEARY**
Date of Survey: **1st SEPTEMBER 2022**
Surveyor's Ref: **304100403 DP-01**

PLAN OF SUBDIVISION OF LOT 1 & 3 IN DP 109795, LOT 1 IN DP 543285, LOT 1 IN DP 551658, LOT 10 & 11 IN DP 552933, LOT 151 IN DP 628980, LOT 20 IN DP 633211, LOT 102 IN DP 716727, LOT 1 & 2 IN DP 792664, LOT 7 & 8 IN DP 1049520, LOT 15 IN DP 1050255, LOT 1 IN DP 1146409, LOT 1092 IN DP 1140369 & LOT 30 & 31 IN DP 1175058

L.G.A.: **WOLLONGONG**
Locality: **DAPTO, YALLAH & KOONAWARRA**
Subdivision No:
Lengths are in metres. Reduction Ratio 1:3000

Registered
DRAFT
2023.12.08

304100403 DP-01
DP PPN 12xxxxx



110
DP 1050302
LAKE ILLAWARRA

DIAGRAM C
SCALE 1:3000

REFERENCE MARKS

No.	REFERENCE	TYPE
XX	267°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	288°01'05" 3.55 & 11.55	DRILL HOLE & WINGS
XX	306°18'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	328°49'35" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	62°24'25" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	357°49'40" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	65°46'15" 3.55 & 11.55	DRILL HOLE & WINGS
XX	71°02'35" 3.55 & 11.55	DRILL HOLE & WINGS

CURVED & SHORT BOUNDARIES

No.	CHORD	ARC	RADIUS
1	XX°XX'40" XX.XX	-	-
2	XX°XX'40" XX.XX	-	-
3	XX°XX'40" XX.XX	-	-
4	XX°XX'40" XX.XX	-	-
5	XX°XX'40" XX.XX	-	-
6	XX°XX'40" XX.XX	-	-
7	XX°XX'40" XX.XX	-	-
8	XX°XX'40" XX.XX	-	-
9	XX°XX'40" XX.XX	-	-
10	XX°XX'40" XX.XX	-	-
11	XX°XX'40" XX.XX	-	-
12	XX°XX'40" XX.XX	-	-
13	XX°XX'40" XX.XX	-	-
14	XX°XX'40" XX.XX	-	-
15	XX°XX'40" XX.XX	-	-
16	XX°XX'40" XX.XX	37.355	57.5
17	XX°XX'40" XX.XX	-	-
18	XX°XX'40" XX.XX	58.83	221.83
19	XX°XX'40" XX.XX	-	-
20	XX°XX'40" XX.XX	-	-
21	XX°XX'40" XX.XX	9.49	59
22	XX°XX'40" XX.XX	-	-
23	XX°XX'40" XX.XX	-	-
24	XX°XX'40" XX.XX	-	-
25	XX°XX'40" XX.XX	-	-
26	XX°XX'40" XX.XX	-	-
27	XX°XX'40" XX.XX	22.365	11.015

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L.G.A.: WOLLONGONG
Locality: DAPTO, YALLAH & KOONAWARRA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:3000

Registered
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2023.12.08

304100403 DP-01
DP PPN 12xxxxx

Attachment 7 - Exception to Development Standard



Request To Vary a Development Standard

Request to vary clause 4.1 Minimum Subdivision Lot Size under Wollongong LEP 2009



Contents

Request To Vary a Development Standard	1
Request to vary clause 4.1 Minimum Subdivision Lot Size in Wollongong LEP 2009	1
Introduction & Background	3
The Site and Proposed Development	3
Describe The Site	4
Describe The Proposed Development	5
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1. What is the environmental planning instrument/s you are seeking to vary?	8
2. What is the site's zoning?	8
3. Identify the development standard to be varied.	8
4. Identify the type of development standard.	8
5. What is the numeric value of the development standard in the environmental planning instrument?	8
6. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?	9
7. Visual representation of the proposed variation (if relevant)	9
Justification For the Proposed Variation	10
How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?	10
a) Are the objectives of the development standard achieved notwithstanding the non-compliance? (Give details if applicable)	10
b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)	10
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	10
d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard? (Give details if applicable)	11
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary? (Give details if applicable)	11
11. Are there sufficient environmental planning grounds to justify contravening the development standard?	11
12. Is there any other relevant information relating to justifying a variation of the development standard? (If required)	11

Introduction & Background

This Clause 4.6 Variation Request ("the Request") has been prepared by Stantec Pty Ltd on behalf of Bridgehill (Tallawarra) Pty Ltd ("the Proponent") and is submitted in support of the Development Application for the super lot subdivision of the land at Tallawarra the subject of Major Project Approval MP 09_0131 Mod 1 DAXXX).

The Tallawarra Lands Concept Plan Approval (as modified) requires that where lands are required as an environmental offset, the Proponent must implement an alternative method of securing the identified lands and managing them in perpetuity under a mechanism such as a Biodiversity Stewardship Agreement.

In 2021, Stantec (on behalf of Bridgehill) commissioned Ecoplanning Pty Ltd to undertake a Biodiversity Stewardship Feasibility Assessment which explored the potential for existing or future landholders to enter into a Biodiversity Stewardship Agreement (BSA) to generate ecosystem credits and a Trust Fund Deposit to manage the site in perpetuity. The analysis has shown that a 36.10 hectare Biodiversity Stewardship Site would allow for the offset requirements of both the Northern and Central Precincts, leaving sufficient land (buffer zone) between the BSS and the Tallawarra Power Station for the purposes of maintaining uninterrupted operation of the Power Station. Bridgehill and Energy Australia (EA), the current landowner, have entered into negotiations regarding the BSA, the provision of which forms part of the terms Draft Planning Agreement between Wollongong City Council, Bridgehill and EA.

Commented [NP1]: Consistent terminology...BSA or BSS

The 36.10 ha Biodiversity Stewardship Site (BSS) is the subject of this variation request pursuant to clause 4.6 under Wollongong LEP 2009. This is because the allotment proposed to be created is less than the minimum lot size prescribed for the site under clause 4.1 of *Wollongong Local Environmental Plan 2009* (WLEP 2009). This report follows the Department of Planning, Housing and Infrastructure's template for varying a development standard under clause 4.6 of WLEP and should be read in conjunction with the Statement of Environmental Effects prepared by Cardno (now Stantec) and other supporting information provided under DA 2020/1332.

The Site and Proposed

Address: Yallah Bay Road, Yallah

The Tallawarra Lands site comprises 18 allotments legally identified as:

- Lot 1 DP 551658
- Lots 30 and 31 DP 1175058
- Lot 20 DP 633211
- Lot 102 DP 716727
- Lots 1 and 3 DP 109795
- Lot 15 DP 1050255
- Lot 151 DP 628980
- Lot 1 DP 543285
- Lots 10 and 11 DP 552933
- Lots 1 and 2 DP 792664
- Lots 7 and 8 DP 1049520
- Lot 1 DP 1146409; and
- (Southern) Part Lot 1092 DP 1140369

The lot to which the clause 4.6 variation specifically relates to is proposed Lot 6 within existing Lot 31 in DP 1175058 (the site).

Date: 30/01/24

Describe The Site

The Broader Site

The Tallawarra Lands Concept Approval site (the broader site) is located on the western foreshore of Lake Illawarra in the suburb of Yallah (known as Tallawarra Lands) and comprises 536 hectares of land that was previously used as a buffer zone to the former Tallawarra coal-fired power station **Figure 1** below shows the location of the broader Tallawarra Lands site.

The topography of the site comprises a mixture of steep ridges, undulating to flat land and low-lying flood affected areas. The site includes Duck Creek and critical habitat for threatened species and endangered ecological communities.

The western boundary of the site adjoins the Princes Highway/ Princes Motorway and the southern rail corridor. The eastern boundary adjoins the new Tallawarra Gas Turbine Power Station and Lake Illawarra. To the north of the site is Mount Brown and the residential areas of Koonawarra and Dapto and to the south Haywards Bay.

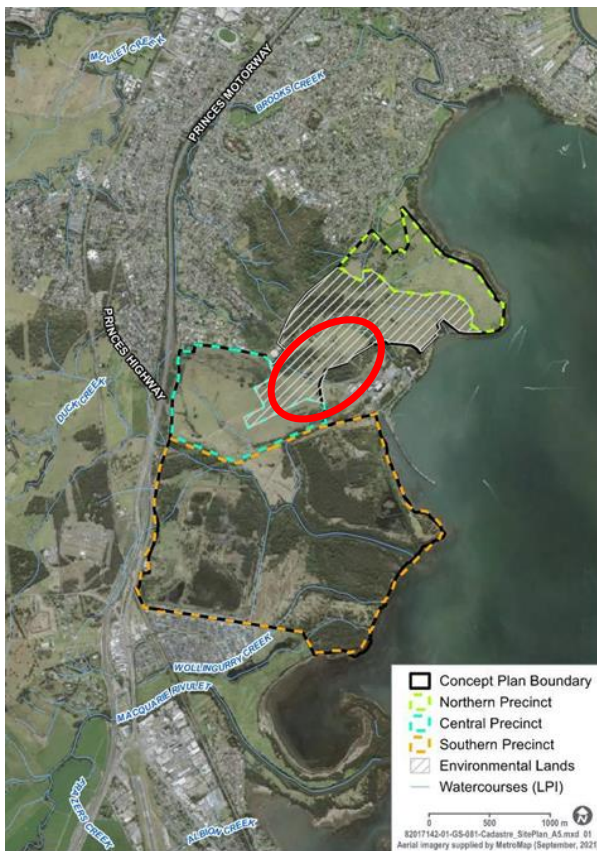


Figure 1 Location of the broader Tallawarra Lands site (divided into precincts). For context, the general location of The Site that is subject of the clause 4.6 variation is bounded in red.

The Site (subject of the clause 4.6 variation)

Proposed Lot 6 (BSS) relevant to this request to vary clause 4.6 (WLEP) is zoned C3 – Environmental Management and includes vegetation adjacent to Mt Brown Reserve.

The Concept Approval requires that where lands are required as an environmental offset, the Proponent must implement an alternative method of securing the identified lands and managing them in perpetuity under a Biodiversity Stewardship Agreement. This 36.10ha BSS provides substantial opportunity for generating biodiversity credits to offset any impacts resulting from the future development of the Northern and Central Precincts (with Bridgehill as future landowner and developer of these Precincts).

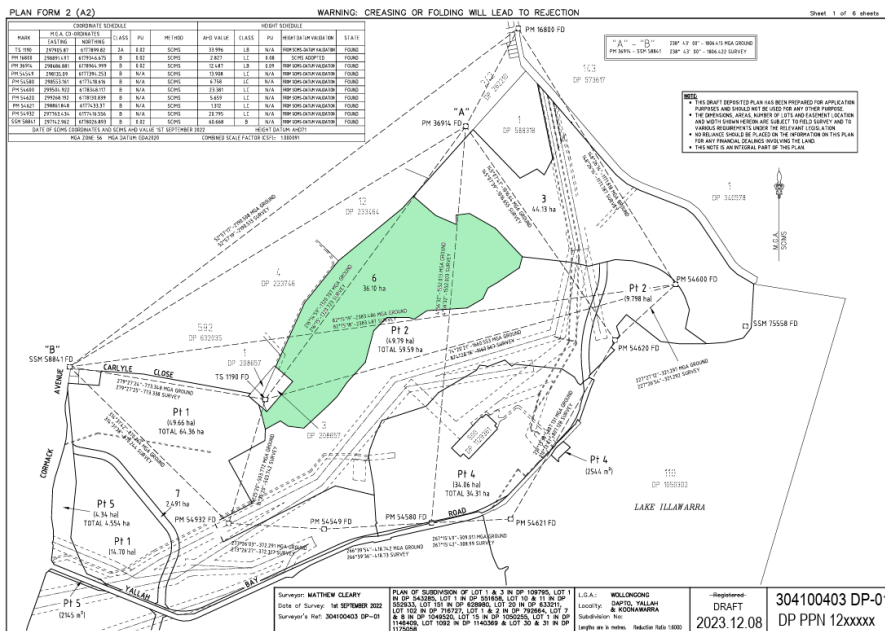


Figure 2: Proposed Lot 6 (Biodiversity Stewardship Site 36.10 hectares) shown in green.

Describe The Proposed Development

This Clause 4.6 variation request supports the Development Application (DA) for the super lot subdivision of the land at Tallawarra, the subject of Major Project Approval MP 09_0131 Mod 1.

The super lot subdivision DA does not propose any physical works nor does it seek to create any additional development entitlement. The super lot subdivision is necessary to facilitate acquisition of parts of the site by Bridgehill (Tallawarra) Pty Ltd from EnergyAustralia (Tallawarra) Pty Ltd (EA) and is the first critical step in the subsequent longer-term development of the site consistent with MP 09_0131 Mod 1.

Condition A6 of the Tallawarra Lands Concept Plan Approval as modified, requires that the Vegetation Management Plan (VMP) and first future subdivision application address the timing for works under the plan, to ensure that any vegetation works or offset arrangements proposed within the EA lands which will offset the impacts of the development in the Northern and Central Precincts will

be carried out in conjunction with the development of those precincts as appropriate. These requirements are highlighted in yellow in the excerpt of Condition A6, reproduced below.

A6 First Future Application

The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land-use boundaries provided in the Concept Plan the plan titled 'Proposed First Super lot Subdivision Plan Rev 02' prepared by Bridgehill and dated 07 October 2020, with the land identified to be dedicated to TfNSW as a separate lot. In addition to other requirements of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.

The application must address the interrelationship between the proposed sites created by the subdivision, and specifically how infrastructure delivery, revegetation, environmental measures and offsets that may be required to be provided on the Environmental Land lot or Southern Precinct lot in order to support development on the Northern lot or Central lot would be assured.

In this regard, the timing for delivery of the east-west collector road and north-south collector road on the site must be determined in conjunction with the Superlot Subdivision, having regard to traffic impacts, connectivity requirements and flood safety. Where it is found that roads are required to be delivered in conjunction with the development of the Northern or Central Precincts, the approval is to include appropriate mechanisms (such as a binding agreements, easements, or creation of separate lots for any required roads) to enable and ensure delivery of the roadway(s).

Similarly, responsibilities and timing for any revegetation of land or transfer of environmental land as offset for the proposed Northern and Central precincts is to be addressed and as necessary, mechanisms incorporated to enable and ensure delivery of any required works or offsets.

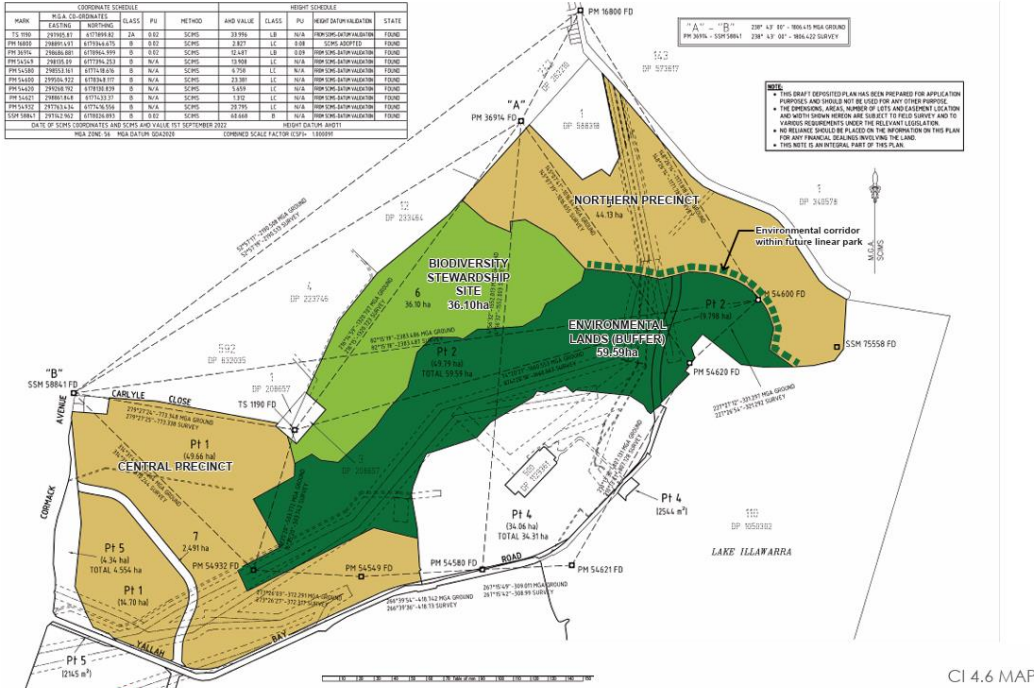
Concept Approval Condition B4 also requires that the developer demonstrate the provision of an environmental corridor along the southern edge of the Northern Precinct that is designed to provide a continuous vegetated corridor for ecological connectivity. Further, the requirement for an amended VMP that ensures appropriate land management outcomes across the site, including weed removal and revegetation, in conjunction with offsets required under future DAs (condition 9 of the Concept Plan Approval) ensuring that the impacts of clearing and development will be appropriately offset, implementing a method of securing the environmental offset land in perpetuity. To that end, Bridgehill in collaboration with EA, have an agreement in place (under the draft Tallawarra Lands Planning Agreement with WCC) to provide a 36.10 ha Biodiversity Stewardship Site as shown in **Figure 3** below.

The remainder of the C3 land between the northern and central precincts (labelled as environmental lands – buffer in **Figure 3** and the power station, is 59.59 ha in area and is the minimum size required to retain uninterrupted operation of the Tallawarra Power Station and provide the power station with appropriate levels of security. This area is to remain in EA ownership.

As previously stated, the mechanism that ensures the delivery of the BSA site is a Planning Agreement with Bridgehill, Wollongong City Council and Energy Australia as parties to the agreement. A Draft VPA has been prepared and will be publicly exhibited by Council in February 2024.

COORDINATE SCHEDULE				HEIGHT SCHEDULE					
MARK	HEA CO-ORDINATE	CLASS	PU	METHOD	AND VALUE	CLASS	PU	HEIGHT DATUM/REDUCTION	STATUS
TS 190	17170.81	A	0.02	SCPS	33.956	LB	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 3076	21080.41	A	0.02	SCPS	2.807	LC	0.00	SCPS ADPTED	FOUND
PM 3076	21080.80	A	0.02	SCPS	42.437	LB	0.00	NSM-DPM-DPM/VALETON	FOUND
PM 3076	21080.81	A	0.02	SCPS	19.058	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.31	A	0.02	SCPS	6.758	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.32	A	0.02	SCPS	23.300	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.33	A	0.02	SCPS	1.659	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.34	A	0.02	SCPS	1.332	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.35	A	0.02	SCPS	23.776	LC	N/A	NSM-DPM-DPM/VALETON	FOUND
PM 5458	21083.36	A	0.02	SCPS	88.838	LB	N/A	NSM-DPM-DPM/VALETON	FOUND

DATE OF SURVEY COORDINATE AND HEIGHT VALUES: 15 SEPTEMBER 2017
 HEA ZONE: 58
 MEASUREMENT: 6628202
 COMBINED SCALE FACTOR (CSF): 1.00000



CI 4.6 MAP

Figure 3: Plan showing the Biodiversity Stewardship Agreement Site and its relationship to the environmental corridor in the Northern Precinct and the environmental lands/buffer area.

Planning Instrument, Development Standard and Proposed Variation

1. What is the environmental planning instrument/s you are seeking to vary?

The relevant environmental planning instrument that this Request seeks to vary is the Wollongong Local Environmental Plan 2009 (WLEP 2009).

2. What is the site's zoning?

The Biodiversity Stewardship Site (the site) is zoned C3 Environmental Management.

3. Identify the development standard to be varied.

The development standard that is being sought to be varied is the Minimum Subdivision Lot Size of 39.99 hectares under Clause 4.1 of WLEP 2009 (and the relevant minimum lot size LEP maps).

The objectives of the minimum lot size clause are:

- (a) *to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,*
- (b) *to ensure lots are of a sufficient size and shape to accommodate development.*

4. Identify the type of development standard.

The minimum lot size standard as cited above is a numeric development standard.

5. What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.1(3) of WLEP 2009 requires that the size of any lot resulting from a subdivision of land to which this clause applies is not be less than the minimum size shown in the Lot Size Map in relation to that land. The below excerpt from the Approved Plans (MP09_0131 as modified) at **Figure 4** indicates minimum lot sizes in relation to the Northern Precinct. The minimum lot size indicated for the C3 zoned portion of land is 39.99ha (as per the Lot size map under WLEP).



Figure 4: Excerpt from Concept Plan Approval as modified (minimum lot size)

What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposed lot to be created (Lot 6, being 36.10 ha) has an insufficient area to meet the minimum 39.99 ha minimum lot size development standard (by 3.89ha), which is a percentage variation of 9.73%

6. Visual representation of the proposed variation (if relevant)

Refer to Figure 3 above.

Justification For the Proposed Variation

How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

- a) Are the objectives of the development standard achieved notwithstanding the non-compliance? (Give details if applicable)

The objectives of the minimum lot size clause are:

- (a) *to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,*
- (b) *to ensure lots are of a sufficient size and shape to accommodate development.*

Yes. The C3 portion of land situated between the Northern and Central Precincts and the Tallawarra Power Station is approximately 95.69 ha in area and has sufficient area to be subdivided into 2 lots under clause 4.1 of WLEP 2009. The proposal does not seek to increase the number of C3 zoned lots being created.

Provision of the BSS lot (proposed lot 6) ensures that the impacts of clearing and development that will occur as a result of future development in the Northern and Central precincts will be appropriately offset, implementing a method of securing the environmental offset land in perpetuity. The buffer lot is the minimum area required for the purposes of maintaining uninterrupted operation of the Power Station. Therefore, the proposal will maintain the intended character of the location, and will be an appropriate size and shape to accommodate the intended use of the C3 lots. Therefore, it is considered that the objectives of the minimum lot size development standard are achieved, notwithstanding the non-compliance.

- b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)

While the objectives of the development standard are achieved (refer above), the underlying objectives of the minimum lot size development standard are not considered to be relevant to the development in the circumstances of the site. This is because the Concept Plan Approval envisages (by way of specific conditions) that this portion of the site is to be retained as environmental lands for the purpose of offsetting development in the Northern and Central precincts, and for buffering the Tallawarra Power Station from residential development.

The 39.99ha minimum lot size requirement is not the standard by which vegetation offsetting and environmental conservation is measured.

- c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)

As provided above under b), the underlying objectives of Clause 4.1 (WLEP 2009) are not considered to be relevant to the development.

d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard? *(Give details if applicable)*

N/A

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary? *(Give details if applicable)*

No. The zoning of the subject land is considered appropriate and valuable (given the existing native vegetation located in this portion of the site) allowing for the provision of an area for offsetting future clearing of native vegetation as a result of future development in the northern and central precincts, providing ecological connectivity to other parts of the site and a buffer to the Tallawarra Power Station operations from future residential development.

11. Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. The impacts of clearing and development across the site will be appropriately offset by the improved outcome of a BSS. There is an ongoing management regime for this area in perpetuity (managed under a Planning Agreement) ensuring that any vegetation works or offset arrangements proposed which will offset the impacts of development in the Northern and Central Precincts are carried out in conjunction with the development of those precincts as appropriate.

Additionally, condition B4 of the original Concept Plan Approval requires that woodland revegetation proposed along the southern boundary of the northern precinct is to comprise a continuous vegetated corridor providing ecological connectivity to facilitate movement of native fauna between the Mount Brown Reserve and the foreshore of Lake Illawarra. The creation of the BSS and provision of additional EEC plantings as a result of offsetting further ensures the environmental outcomes of condition B4 are achieved. The proposed Biodiversity Stewardship Site is assessed as being of sufficient area to accommodate all offset arrangements resulting from the development of the northern and central precincts serving to appropriately protect the environmental and biodiversity value of native vegetation and fauna within the broader Tallawarra Lands site. The proposal meets the Section 1.3 (a, b, c and e) objects of the Environmental Planning and Assessment Act 1979 and approval of the variation will be in the public interest because it is consistent with the objectives for development within the zone in which it is proposed to be carried out and complies with the relevant condition of the Concept Plan Approval.

12. Is there any other relevant information relating to justifying a variation of the development standard? *(If required)*

In the circumstances of the proposed development, it is considered that the Concept Plan Approval provisions override the minimum lot size provisions of WLEP 2009. The relevant provisions from the EP&A Act 1979 and Reg 2017 are underlined below.

Clause 3B of Schedule 2 of the EP&A Reg 2017 outlines how Part 4 of the EP&A Act applies to any development application related to the Concept Approval. In summary, for the carrying out of development [Cl 3B(2)]:

(c) any development standard that is within the terms of the approval of the concept plan has effect,

(d) a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan.

(e) a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan.

(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

(4) For the purposes of determining whether development to which Part 4 applies is State significant development, a provision of this clause that permits the development to be carried out with development consent under Part 4 is taken to be a provision of an environmental planning instrument

In summary, the creation of Lot 6, while inconsistent with the minimum lot size development standard, is consistent with the requirements of the Concept Plan, as detailed in this report, and therefore WLEP 2009 should not have effect (and hence this Variation pursuant to Clause 4.6 may not be applicable).

However, for the avoidance of doubt this Clause 4.6 statement satisfactorily justifies the variation to the development standard, and Council's support is therefore requested.