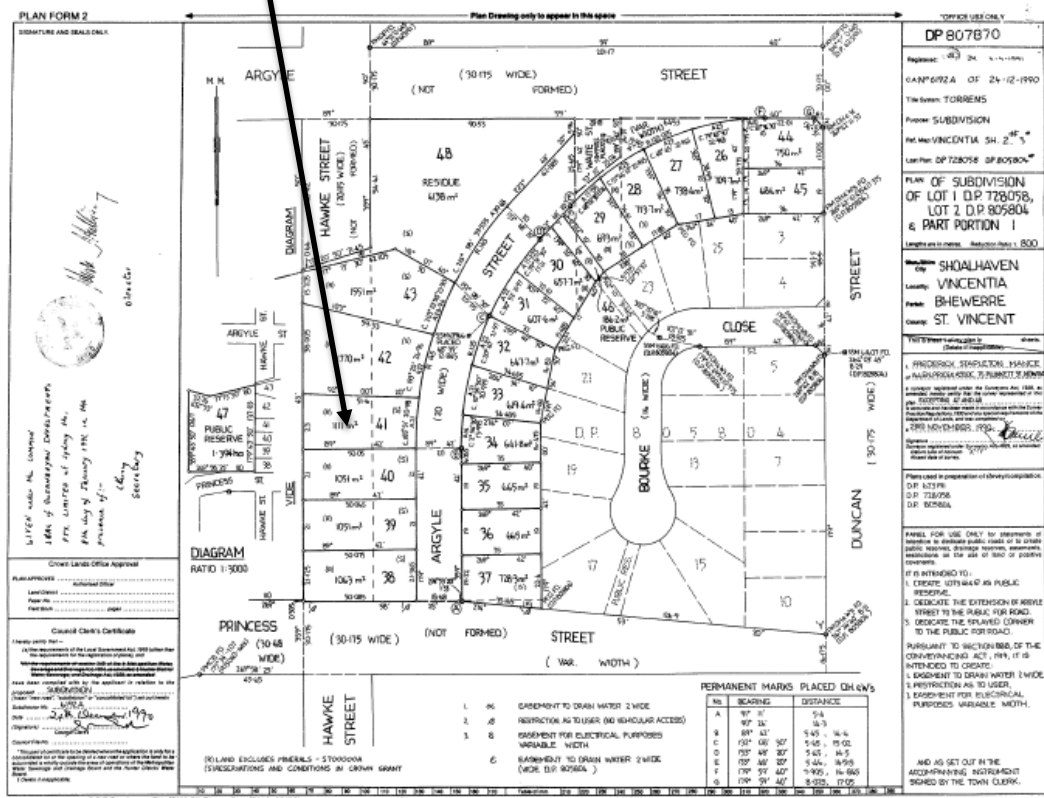


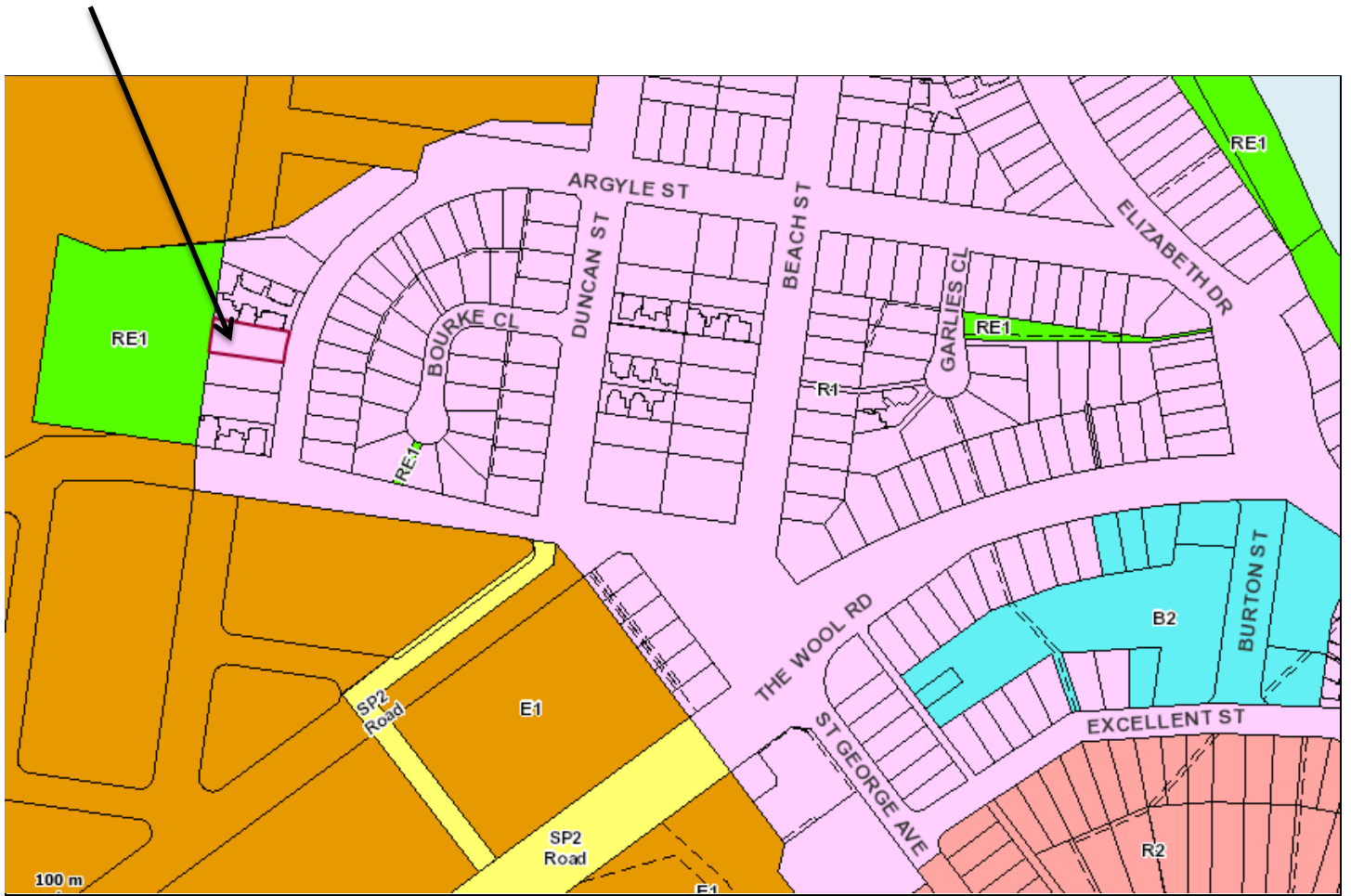
SUBJECT LAND



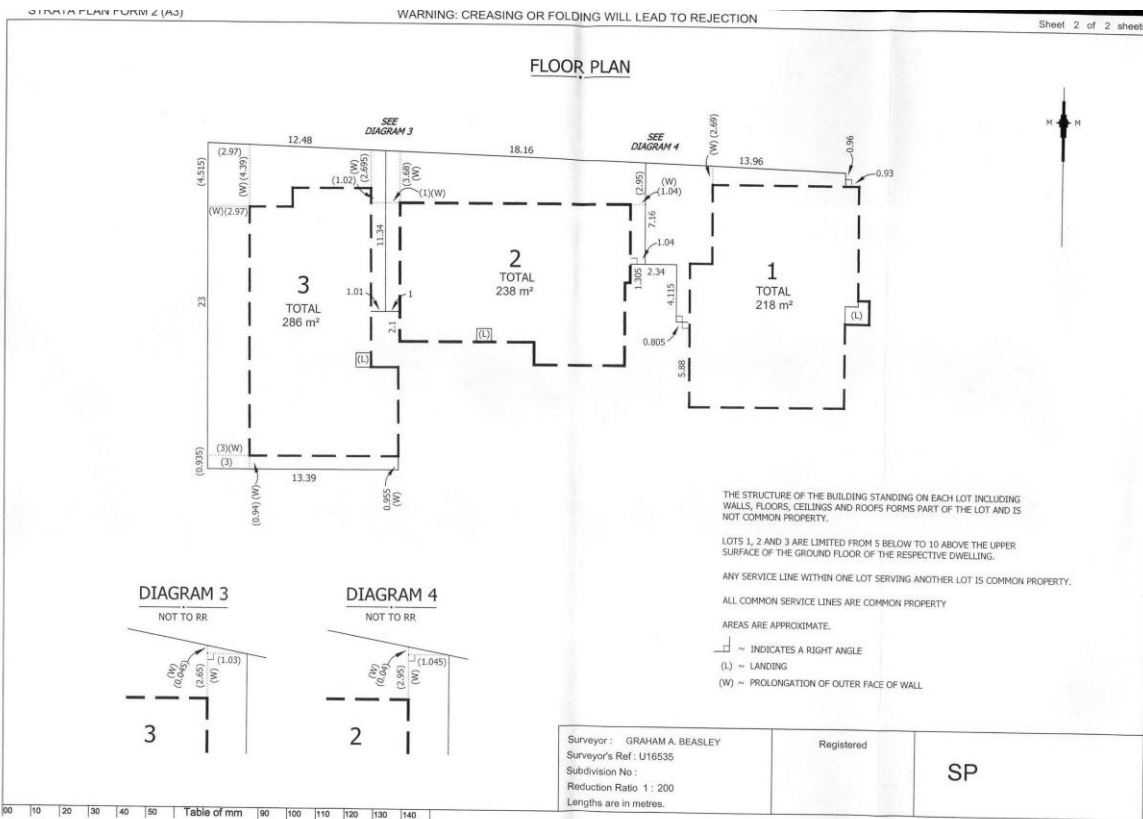
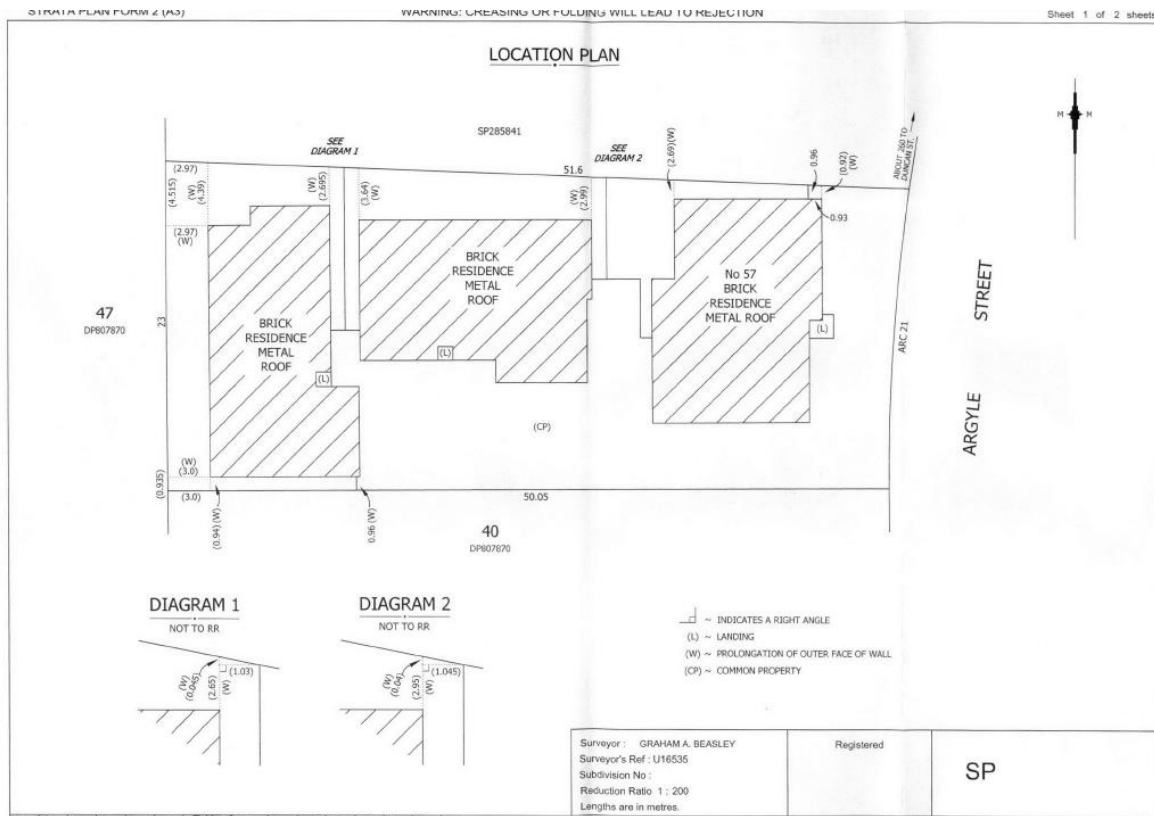
AMENDMENT'S AND/OR ADDITIONS MADE ON PLAN IN THE LAND TITLES OFFICE

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day: 27th August 1992

Subject Land



PROPOSED SUBDIVISION



APPLICANT'S SUBMISSION – CLAUSE 4.6 EXCEPTION*Justification:*

The two provisions in Clause 4.6 which are to be addressed are:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- The 350m² development standard, provided in Clause 4.1A(4) is considered to be unreasonable and unnecessary in the circumstances of this case as the land area is insufficient to achieve 3 x 350m² lots plus access. Further, this provision is in line with Torrens title land subdivision for integrated development to allow the creation of small lots with dwellings rather than strata subdivision.
 - Each lot proposed in this strata is less than 350m², with the smallest being 218m² (38% deficiency) and the largest 286m² (19% deficiency). This deficiency does not compromise the intent of the development standard and compliance is considered to be unreasonable and unnecessary.
 - Subdivision does not result in any further impacts upon the environment because of the inclusion of a notional boundary which allows the development containing three dwellings to be separately owned.
 - Notional boundary provision allowing separate ownership does not alter the development that exists on the property from one form of development to another.
 - The purpose of Clause 4.6 is to provide for flexibility in the development standard. This application demonstrates that there is not an adverse environmental impact as a result of this strata subdivision.
 - Complying with the 350m² minimum lot size does not result in any better environmental outcome for the adjoining residential area. There is no adverse impact on the amenity of the adjoining residential development through permitting separate title to these approved dwellings.
 - This variation is consistent with the provisions of Council's recently exhibited and adopted LEP Housekeeping Amendment 3A which would allow strata subdivision of an existing development without the variation.
 - If it were not for the location within 100m of a SEPP14 wetland, this proposal would have been complying development and a DA with a variation would not have been necessary as the 350m² development standard does not have any bearing on complying development.
 - The public interest is not compromised by this variation because there are no added adverse environmental or social implications arising from the subdivision of the land.
 - Public interest has been addressed and considered to be acceptable in the approval of the multi dwelling housing development application.
 - The public interest is not compromised because of utilising a clause which provides flexibility in applying the development standards.
 - The proposal is consistent with the zone and clause objectives.



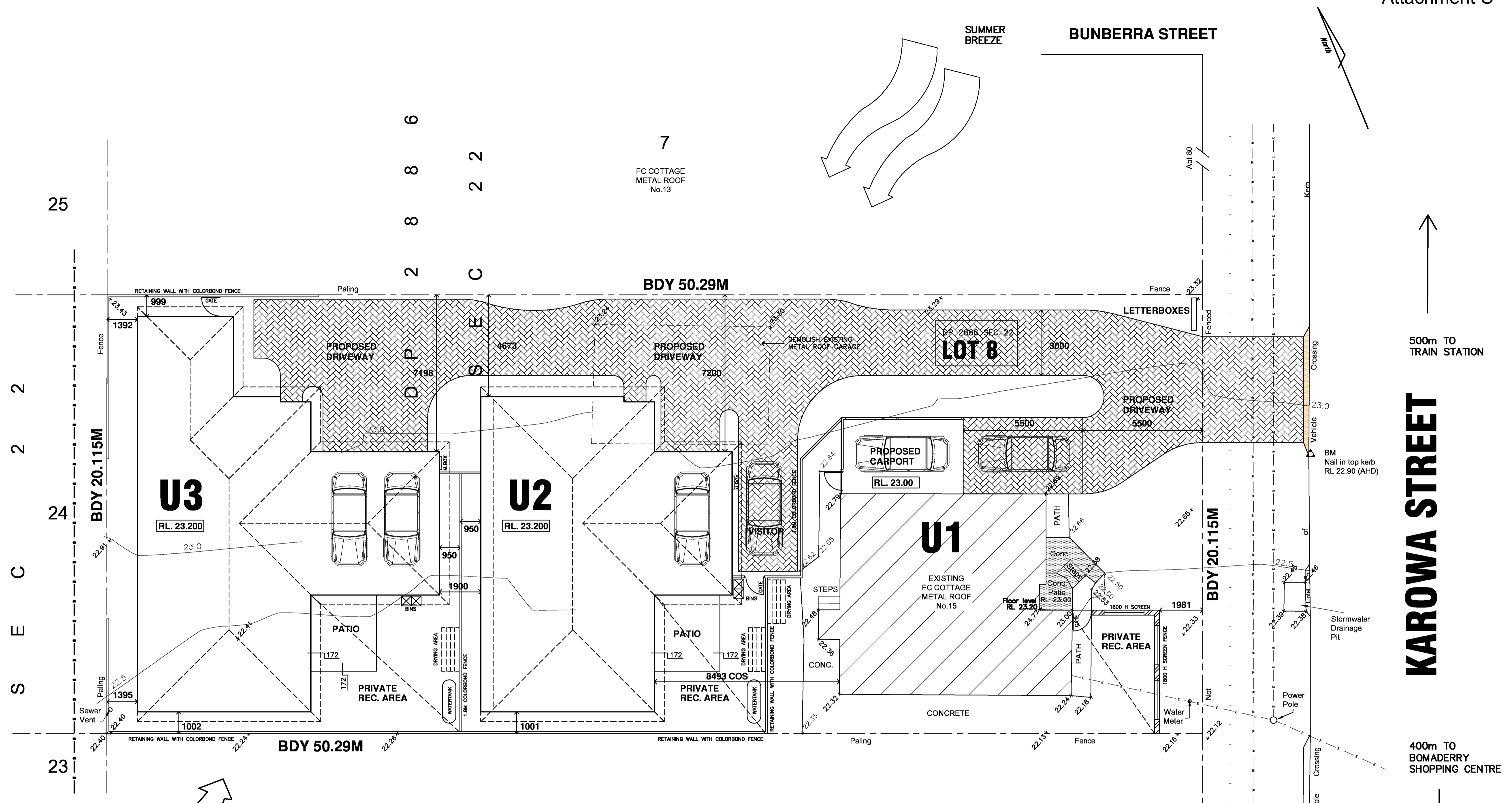
ATTACHMENT B

SLEP14 Zone



- CAUTION**
- Please note that no boundary definition survey has been undertaken for this plan and no boundaries have been marked.
The boundary position and dimensions as shown on the plan have only been taken from a copy of the deposited plan and not verified by field survey. The dimensions can only be verified by undertaking a comprehensive boundary definition survey to establish the available dimensions of the property.
 - Bearing and distances of the boundaries shown on the plan are as obtained from the Title and/or Deed only. They have not been verified by field survey. The dimensions can only be verified by undertaking a comprehensive boundary definition survey to establish the available dimensions of the property.
 - All apparent visible evidence of utility services has been located by field survey. If not able to be so located, services have been plotted from the records of local authorities where readily available and have been noted accordingly on this plan. A full Dial-Before-You-Dig search has been obtained.
We advise that prior to any demolition, excavation or construction work on the site a full up-to-date Dial-Before-You-Dig search must be obtained and any other relevant service authorities should be contacted for sub-surface utility service location information. In addition, any sub-surface footings or foundations adjacent to any boundaries or any underground services must be carefully exposed to establish their extent, depth and location. This should be undertaken under the supervision of the relevant authorities.
Note that locations of sub-surface services shown hereon are INDICATIVE ONLY & that the relevant service authority should be contacted to locate services accurately prior to any demolition, excavation or construction work on or around the site.
 - The locations of any improvements shown on the plan are diagrammatic only as they have not been accurately determined. Confirmation of their accurate location should be made by further boundary definition survey if it is required for purposes other than that of this topographical survey or at a greater scale accuracy than 1:100.
 - The north point orientation shown hereon has been taken from underlying cadastral plans only. No attempt has been made to determine its relationship to either current magnetic north or true north. It should be regarded as approximate only.
 - The contours shown give an approximate representation only of the shape and level of the ground surface. They do not represent the exact level at any particular point.
 - The tree spreads shown are indicative only and may need to be investigated further if required for purposes other than this topographical survey.
 - These notes are an integral part of this plan/data. Reproduction of this plan or any part of it without this note being included in full will render the information shown on such reproduction invalid and unsuitable for use.
 - Except to the extent required by the Trade Practices Act or similar consumer protection legislation no responsibility can be accepted by Allen Price & Scarratts for any damage caused to any underground service or any loss or injury suffered.

D P S E C T O R I A L



CALCULATIONS

SITE : LOT 8 DP 2886 SEC 22
15 KAROWA STREET, BOMADERRY

SITE AREA: 1011.85 SQM

DENSITY: 3 X 3 BED UNITS

UNIT AREAS: UNIT 1 - 88.69 SQ.M
UNIT 2 - 104.37 SQ.M
UNIT 3 - 118.76 SQ.M

= 311.82 SQ.M ÷ 3 = 103.94 SQ.M
AVERAGE UNIT

FLOOR SPACE RATIO REQUIRED = 1011.85x0.35 = 354.14 SQ.M
GROSS FLOOR AREA PROPOSED = 311.82 SQ.M

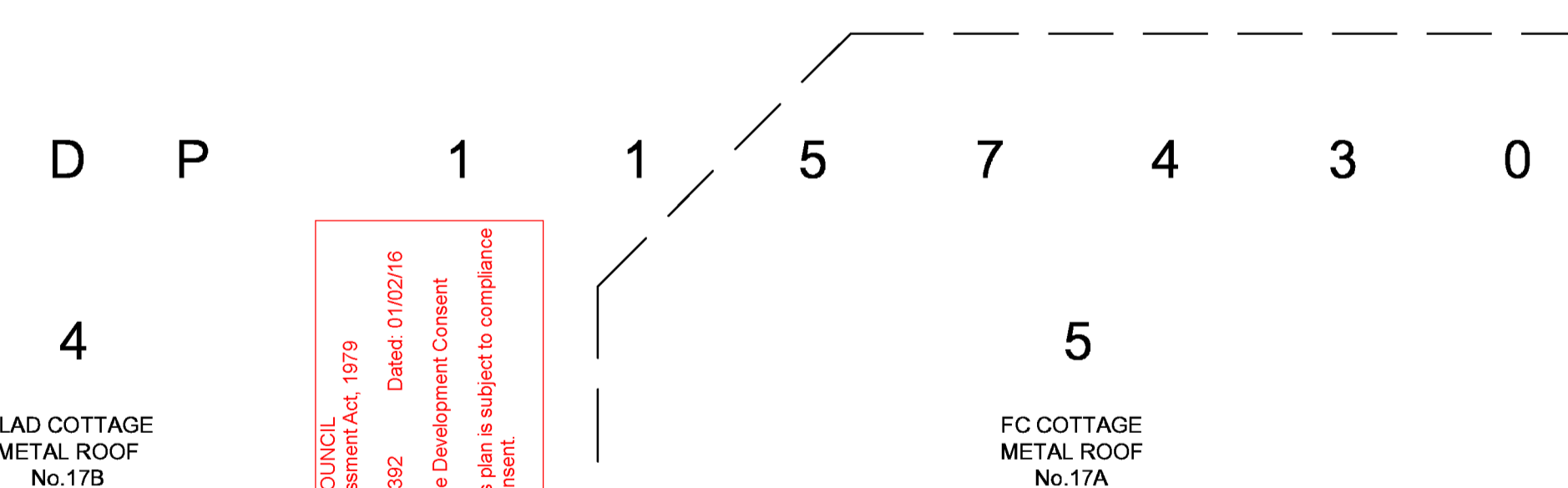
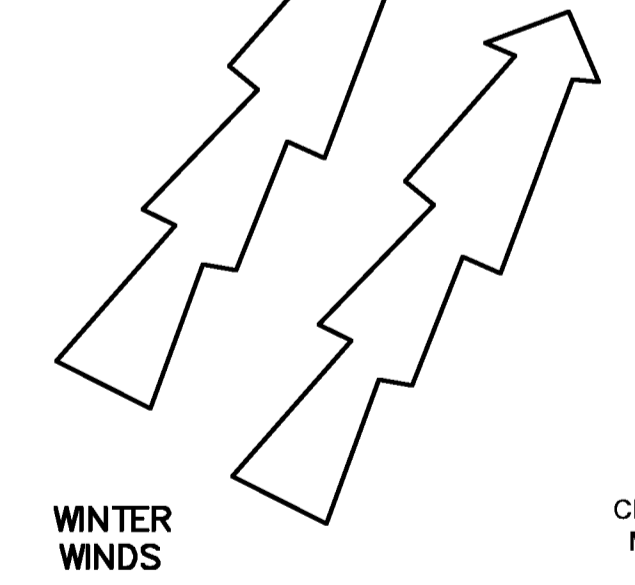
TOTAL FOOTPRINT AREA OF UNITS = 420.70 SQ.M
TOTAL AREA OF DRIVEWAYS = 235.90 SQ.M

LANDSCAPING

LANDSCAPING AREA REQUIRED = 0.35x1011.85 = 354.14 SQ.M
TOTAL LANDSCAPING AREA PROVIDED = 355.25 SQ.M (0.35:1)

CARPARKING

NO. OF SPACES REQUIRED = 6 SPACES
NO. OF SPACES PROVIDED = 6 SPACES



SITE AND SITE ANALYSIS PLAN

SCALE : 1 : 100

CONTOUR INTERVAL 0.5 METRES

SHOALHAVEN CITY COUNCIL
Environmental Planning & Assessment Act, 1979
DEVELOPMENT CONSENT NO. DA1592392 Dated: 01/02/16
These are the plans referred to in the above Development Consent
Note: Approval of the works shown on this plan is subject to compliance with the conditions of the Development Consent.

- - - - - DENOTES APPROXIMATE POSITION OF SEWER MAIN PLOTTED FROM SHOALHAVEN CITY COUNCIL RECORDS
- - - - - DENOTES APPROXIMATE POSITION OF TELECOMMUNICATIONS LINE PLOTTED FROM TELSTRA RECORDS
- - - - - DENOTES APPROXIMATE POSITION OF WATER MAIN PLOTTED FROM SHOALHAVEN CITY COUNCIL RECORDS
- - - - - DENOTES APPROXIMATE POSITION OF OVERHEAD ELECTRICITY LINE



UNDERGROUND SERVICES SEARCH SHOULD BE UNDERTAKEN PRIOR TO ANY EXCAVATION TAKING PLACE UPON THE SITE

SURVEY NOTE:
LEVELS, SERVICES AND ADJOINING BUILDINGS SHOWN ON THIS DRAWING HAVE BEEN INTERPOLATED FROM PLANS PREPARED BY ALLEN, PRICE & ASSOC. LAND & DEVELOPMENT CONSULTANTS, DATED 27.07.2015 REF: 26491-01.

GENERAL NOTES:
BUILDERS ARE TO CHECK ALL DIMENSIONS, SITE LEVELS AND WINDOW NOMINATIONS PRIOR TO COMMENCEMENT OF WORK AND OR MATERIAL ORDER.
ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE.
CRAIG WHITE BUILDING DESIGN SHALL NOT BE RESPONSIBLE FOR ANY MISCONSTRUCTIONS. DO NOT SCALE FROM THIS DRAWING.
THIS DRAWING IS A COPYRIGHT DOCUMENT AND REMAINS THE PROPERTY OF CRAIG WHITE.

GENERAL CONSTRUCTION NOTES:
ALL TIMBER FRAMING, TIE DOWNS & BRACING TO BE IN ACCORDANCE WITH THE CURRENT SAA TIMBER FRAMING CODE AS 1684 (AS AMENDED).
ALL STRUCTURAL STEEL, REINFORCED CONCRETE SLABS/FOOTINGS AND BRACING TO ENGINEERS DETAIL.
ALL EXTERNAL STEELWORK & FITTINGS TO BE HOT DIPPED GALVANISED OR STAINLESS STEEL AS REQUIRED.
PREVENTION OF TERMITES TO BE IN ACCORDANCE WITH AS 3660.1:2014. (AS AMENDED)

GENERAL NOTES:
ALL SELECTED WINDOWS AND DOORS TO SUIT DESIGNATED WIND TERRAIN CATEGORY.
ALL EXTERNAL STEELWORK & FITTINGS TO BE HOT DIPPED GALVANISED OR STAINLESS STEEL AS REQUIRED.
ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO COMMENCEMENT OF CONSTRUCTION & OR MATERIAL ORDER.
ALL DRAWINGS TO BE CHECKED AND CERTIFIED BY A PRACTISING STRUCTURAL ENGINEER PRIOR TO COMMENCEMENT OF CONSTRUCTION.

AMENDMENTS:
DATE - AMENDMENT

craig white building design

76 BERRY STREET
NOWRA, NSW.
TEL : 44 215796
em : craig@cwbd.com.au

c w b d

PROJECT:
PROPOSED MEDIUM DENSITY DEVELOPMENT
AT
LOT 8 DP 2886 SEC 22
15 KAROWA STREET
BOMADERRY
FOR
STEPHEN MILLIGAN
JOB NO. 3005 DATE 02/10/15

DWG NO. **1**

ATTACHMENT D



Shoalhaven City Council
24 May 2016
Page 2

Therefore a variation to the lot size development standard is requested pursuant to the provisions of Clause 4.6 of the Shoalhaven Local Environmental Plan, 2014.

Clause 4.6 – Exceptions to Development Standards

This application proposes a community title subdivision of the approved multi-unit housing development in an R1 zone. Council has advised that Clause 4.1(4) cannot be used for the creation of allotments under a strata or community title scheme and that the purpose of this clause is to permit the subdivision of existing strata or community title allotments. Therefore a variation to the 350m² development standard contained in Clause 4.1A(4) is necessary as the proposed lots do not comply with that standard.

The minimum lot size development standard pertinent to the subdivision of multi-unit housing in the R1 zone is 350m². This community title subdivision proposes 3 individual allotments which have a minimum area of 225m² surrounding each unit, with the community association property having an area of 200m². Thus all of the four lots proposed are below the development standard.

The deficiencies are:-

Lot 1 (community property) - 43%; Lot 2 - 36%; Lot 3 - 7% and Lot 4 – 26% .

These deficiencies in area do not affect the amenity of each unit as sufficient open space and landscaping areas are achieved in the development, as outlined in the statement of environmental effects in the approved development application DA14-1951

The objectives of clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Compliance with this development standard is considered to be unreasonable and unnecessary in the circumstances of this case, for the following reasons.

- The objective of this clause, which is to encourage housing diversity without adversely impacting on residential amenity is not compromised by the size of the proposed allotments surrounding the dwellings.
- The potential impacts associated with construction of multi-unit dwelling developments relate to streetscape, amenity and privacy effects on adjoining residential properties, traffic generation, height and bulk of buildings and character of the locality. The ability to subdivide the development to create individual titles to each dwelling does not exacerbate any impact associated with the built development, character of the locality or streetscape.
- Minimum allotment sizes do not add any additional beneficial outcome, either environmental or amenity related. The density of this development has already been determined under DA15/2392.



Shoalhaven City Council
24 May 2016
Page 3

- The community association lot provides for the parking of visitor's vehicles, manoeuvring opportunities to allow vehicles to exit in a forward direction; and landscaped areas. The provision of a community association allotment (by necessity in this type of subdivision) impacts upon the area of land available for development, thus impacting upon resultant allotment sizes for the individual dwellings.
- Strata title subdivision can be undertaken by a landowner as complying development under the provisions of SEPP (Exempt & Complying Development Codes) 2008 without the requirement to comply with Shoalhaven Local Environmental Plan, 2014 development standards. Community title subdivision results in the same outcome as a complying development strata subdivision would achieve for this site.
- DCP 2014 Chapter G11 Control 5.15 provides controls for the subdivision of medium density / multi-unit housing development, such that communal areas are limited to driveways. This is achieved in this proposal.

The proposed subdivision of the approved development (DA15/2392) does not exacerbate the impacts of the development. Overall, the variation of the lot size development standard contained within Clause 4.1A(4) in the circumstances of this case does not undermine Council's established planning principles or the objectives of the zone.

This proposal does not contravene any of the relevant provisions of the Shoalhaven Local Environmental Plan, 2014 other than the lot size variation which is sought. We believe this variation has been justified and that the intent of the objectives within the SLEP are not compromised.

We ask Council to assess this proposal on its merit as it is unlikely to have a significant impact upon the surrounding residential environment.

Should you have any queries about this correspondence, please do not hesitate to contact our office.

Yours faithfully
ALLEN PRICE & SCARRATTS

A handwritten signature in black ink, appearing to read 'Debbi Szota'.

Debbi Szota
Encl



DOC16/063274

Reference to authorities and stakeholders via email:

Shoalhaven City Council	council@shoalhaven.nsw.gov.au
Endeavour Energy	geoff.riethmuller@endeavourenergy.com.au
Telstra	william.oxby@hsf.com
Transgrid	skye.shanahan@transgrid.com.au lauren.vine@transgrid.com.au
DPI - Geological Survey NSW	landuse.minerals@industry.nsw.gov.au
NSW National Parks and Wildlife Services Roads/access team	OEH.Roads@environment.nsw.gov.au
NSW Office of Water	information@water.nsw.gov.au
Roads and Maritime Services - Wollongong	stephen.waugh@rms.nsw.gov.au

Dear Sir/Madam,

Aboriginal Land Claim 25422, 25858 and 26700 at Ulladulla

Aboriginal Land Claim 25422 was lodged by the Ulladulla Local Aboriginal Land Council on 3 June 2010 over Crown land identified as Lot 234 DP 755967 shown by green edge on the attached diagram.

The same land is also subject to Aboriginal Land Claim 25858 lodged by the New South Wales Aboriginal Land Council on behalf of Ulladulla Local Aboriginal Land Council on 8 June 2010 shown by red edge on the attached diagram. Adjacent land, Lot 7003 DP 1059895, is also subject to land claim 26700 lodged by New South Wales Aboriginal Land Council on behalf of Ulladulla Local Aboriginal Land Council on 24 June 2010 shown by yellow edge on the attached diagram.

Available records indicate the claimed land was subject to the following Reserves:

Reserve	Purpose	Lot/DP	Manager of the Trust
755967	Future public requirements	234/755967	No trust
56477	Public recreation	7300/1059895	Shoalhaven City Council

The Crown Lands Minister is responsible for determining Aboriginal land claims. The Aboriginal Land Claims Investigation Unit (ALCIU), Crown Lands, NSW Department of Primary Industries assesses claims and makes recommendations to the Crown Lands Minister.

The Minister's decision is subject to appeal to the Land & Environment Court. It is important all information relevant to the claimed land be made available to the ALCIU to ensure the claim is properly and thoroughly assessed.

To assist in determining whether or not the claimed land was claimable Crown land please provide comment on whether or not the claimed land was:

- lawfully used and occupied;
- needed or likely to be needed for an essential public purpose.

Any comment, assertion or statement you make should be as at the date of the claim, 3 June 2010 (ALC 25422), 8 June 2010 (ALC 25858) or 24 June 2010 (ALC 26700), and should be supported by documented evidence. Attached is an information sheet for your reference. The document also provides a definition of the assessment criteria mentioned above.

Please note, if the claimed land is subject to multiple claims, your response should address each claim and should provide evidence as at the date of each claim.

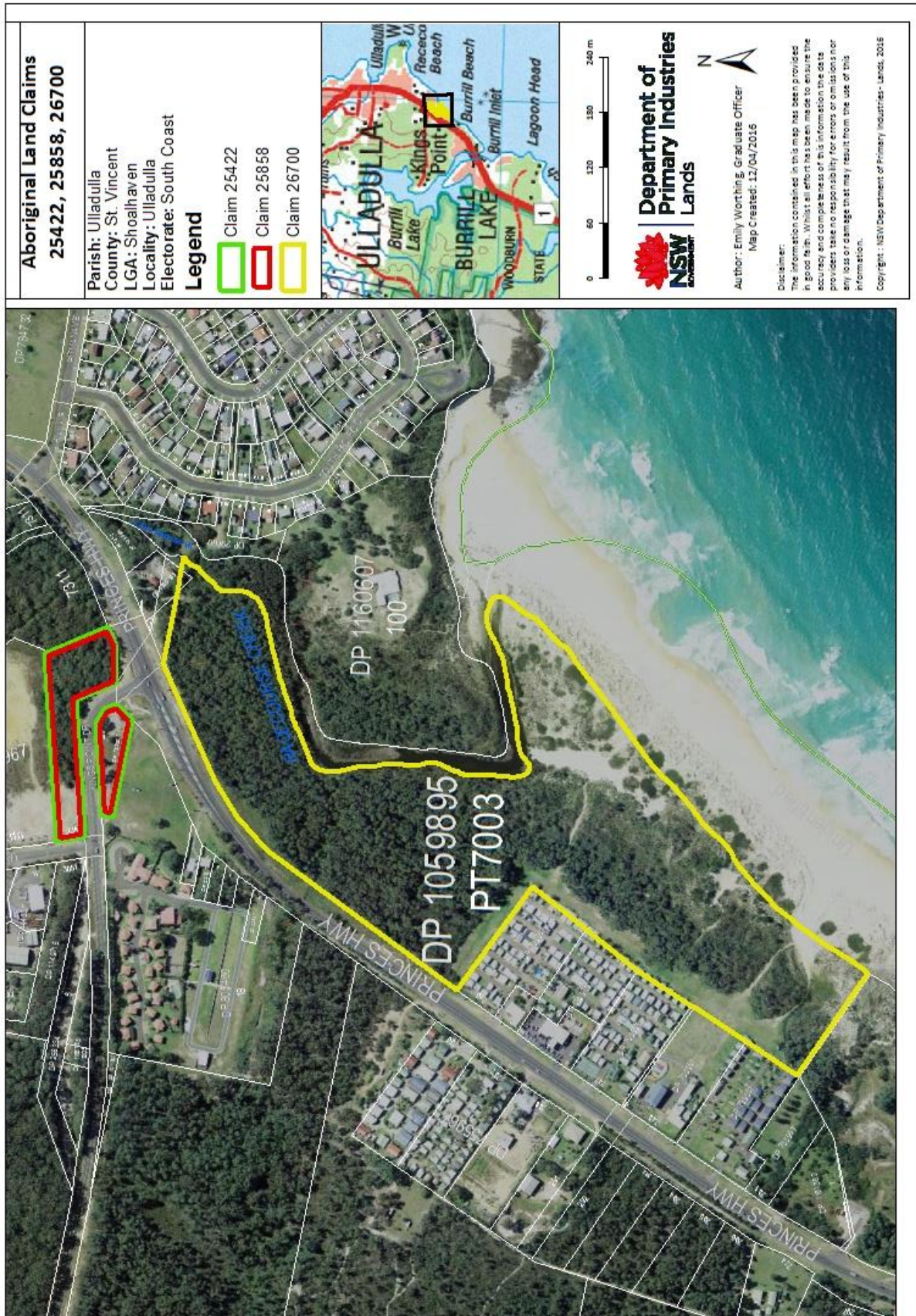
Could you please provide your response by 11 May 2016 or contact me on 02 6883 3396 or by email emily.worthing@crowland.nsw.gov.au to arrange an extension of time.

Yours sincerely



Emily Worthing
Graduate Officer
Aboriginal Land Claim Investigation Unit
DPI – Lands, Dubbo

13 April 2016





Information to assist you in your response

Lawful use and/or occupation

“*Lawful use*” of claimed lands occurs when use is to more than a notional degree. The lands need to be used for its specified public purpose or for a purpose that furthers or is ancillary to the public purpose. The use needs to be actual, not just contemplated or intended.

“*Lawful occupation*” encompasses legal possession, conduct amounting to actual possession and some degree of permanence. It involves an element of control, of preventing or being in a position to prevent the intrusion of strangers. Continuous physical presence on every part of the land is not required, however some physical occupancy is required, mere activities of maintenance are insufficient.

Examples of evidentiary materials supporting lawful use and occupation include, but are not limited to;

- Copies of tenure documents (licences, leases, permits etc.)
- Receipts
- Rosters, sign in books, attendance sheets etc.
- Photographs taken at time
- Documents that prove activity at the location
- Evidence of improvements made and/or maintenance undertaken
- Utilities bills
- Anything that establishes a presence upon the lands
- Diary entries
- Media material
- Statutory Declaration

If reference is made to a document in the course of providing a response, it would be appreciated that the entire document be provided as an annexure/attachment to support the response.

Needed or likely to be needed for an essential public purpose

“*Needed*” means required or wanted. Where lands are needed for an essential public purpose, a manifestation of political will is required to establish need. Where lands are likely to be needed for an essential public purpose, it is a question as to whether it is likely that there will in the future be a government requirement; and if this addressed by considering a trajectory, then the trajectory needs to be towards a requirement at the appropriate government level at the specified time in the future.

“*Likely*” is a real or not remote chance, a real chance or possibility, not more probable than not (possibility being a lower legal standard than probability). The essentiality of the need has to be sufficient to counteract the beneficial intent of the *Aboriginal Land Rights Act*. A 25 to 30 year time frame is appropriate when establishing a likely need.

“*Essential public purposes*” are those that are required and created by the government of the country, or purposes of the administration of the government of the country. To be essential, the purpose must be indispensable, or at least material and important. The use of the word essential sets a high standard. Public purposes may be served by private interests. Purposes carried out under statutory authority or requirement, for example, the *Local Government Act* (Shire Councils) can be public purposes.

Examples of evidentiary materials supporting the need or likely need for an essential public purpose include, but are not limited to;

- Government materials stating the lands are required for the essential public purpose
- Material illustrating a trajectory towards the land being developed for the essential public purpose
- Any documentation relating to the development of the land in general
- Documentation supporting the lack of development of the kind proposed
- Documentation showing the lack of other suitable lands in the area
- Documentation illustrating why the purpose proposed is important and indispensable
- Documentation proving that the intended use for the claimed lands existed as at the date of claim lodgement

Again, if reference is made to a document in the course of providing a response, it would be appreciated that the entire document be provided as an annexure/attachment to support the response.

If you have any questions regarding this information please contact the Aboriginal Land Claim Investigation Unit on 02 6883 3396 or email cl.alc@crowmland.nsw.gov.au.