

Wollongong Local Planning Panel Assessment Report | 17 October 2018

WLPP No.	Item 3
DA No.	DA-2017/1666
Proposal	Subdivision - Torrens title - seven (7) lots
Property	Lot 2 DP 1190049, 10 Hillside Crescent, Stanwell Park NSW 2508
Applicant	Mr Jed Gilmour, Mr Lee Mathew Gilmour, Mr Simon David Leslie and Mr Theodorus Willhemus Van Der Pavert, C/- Develop My Land
Responsible Team	Development Assessment and Certification - City Wide Planning Team (AK)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel - Determination

The Development Application has been referred to WLPP for determination pursuant to 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 of the Local Planning Panels Direction of 1 March 2018 as the development has received more than 10 unique submissions objecting to the proposal.

Proposal

The proposal comprises the subdivision of the subject lot into seven (7) Torrens title allotments. This subdivision includes the removal of trees, stormwater and drainage works, riparian works and construction of driveway infrastructure.

The proposed development is also considered Integrated Development as it requires a Controlled Activity Approval under the Water Management Act 2000.

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan 2009 (WLEP 2009). The proposal is categorised as a subdivision and is permitted via WLEP 2009 with development consent.

Consultation

The proposal was exhibited in accordance with Council's Notification Policy on two separate occasions being 18 December 2017 to 22 January 2018 (extended for Christmas Holidays) and 25 May 2018 to 29 June 2018. Twenty (20) submissions were received initially and a further ten (10) from the re-notification of additional information process. The submissions received are discussed at section 1.3.

Internal referrals from Council's Geotechnical, Stormwater, Landscape, Traffic, and Subdivision Officers have returned satisfactory advice. Concerns have been raised by Council's Environment and Heritage Officers regarding ecological impacts on the subject site and surrounding area. Sydney Water, NSW RFS and NRAR – Water have returned satisfactory advice.

Main Issues

The main issues arising from the development assessment process are:-

- Ecological impacts
- Coastal management impacts
- Natural Resource Sensitivity – biodiversity – WLEP 2009

- Subdivision layout compliance
- Planning for Bushfire compliance
- Requested modification and removal of existing 88B restrictions relating to restricted building zones for tree protection

RECOMMENDATION

Development Application DA-2017/1666 be determined by way of **refusal** for the reasons as identified at Attachment 3.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No. 71 – Coastal Protection
- SEPP (Vegetation in Non-Rural Areas) 2017
- SEPP (Coastal Management) 2016 (Draft at time of lodgement)

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City-Wide Development Contributions Plan (2018)

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the subdivision of the subject lot into seven (7) Torrens title allotments. This subdivision includes the removal of trees, stormwater and drainage works, riparian works and construction of driveway infrastructure.

The proposed development is also considered Integrated Development as it requires a Controlled Activity Approval under the Water Management Act 2000.

1.1 BACKGROUND

Previous relevant development history for the subject site consists of

- DA-2002/2186 for a two (2) lot subdivision which was approved on 30 June 2003
- DA-2015/834 for a nine (9) lot Torrens subdivision which was withdrawn on 29 October 2015.

PL-2016/136 was held prior to lodgement of this current development application.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.2 SITE DESCRIPTION

The site is located at Lot 2 DP 1190049, 10 Hillside Crescent, Stanwell Park NSW 2508. The site is 6407m² in size and is of an irregular shape with frontages to both Hillside Crescent and Park Parade. A riparian corridor traversing the site generally along a North South axis. The land rises up on either side of the riparian corridor and contains both cleared and vegetated areas.

The surrounding area consists predominately of low density residential dwellings to the East, West and North with Stanwell Park recreation area to the South.

Property constraints

- Filled land

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- The photograph shows a residential neighborhood with a large, irregularly shaped area outlined in red. This area is surrounded by houses and trees. A blue line runs along the eastern edge of the red-outlined area. The surrounding area is densely populated with houses and trees. Labels include 'The Drive', 'Hillsdale Crescent', 'Sea View Crescent', and various lot numbers and addresses.

Figure 1: Aerial photograph

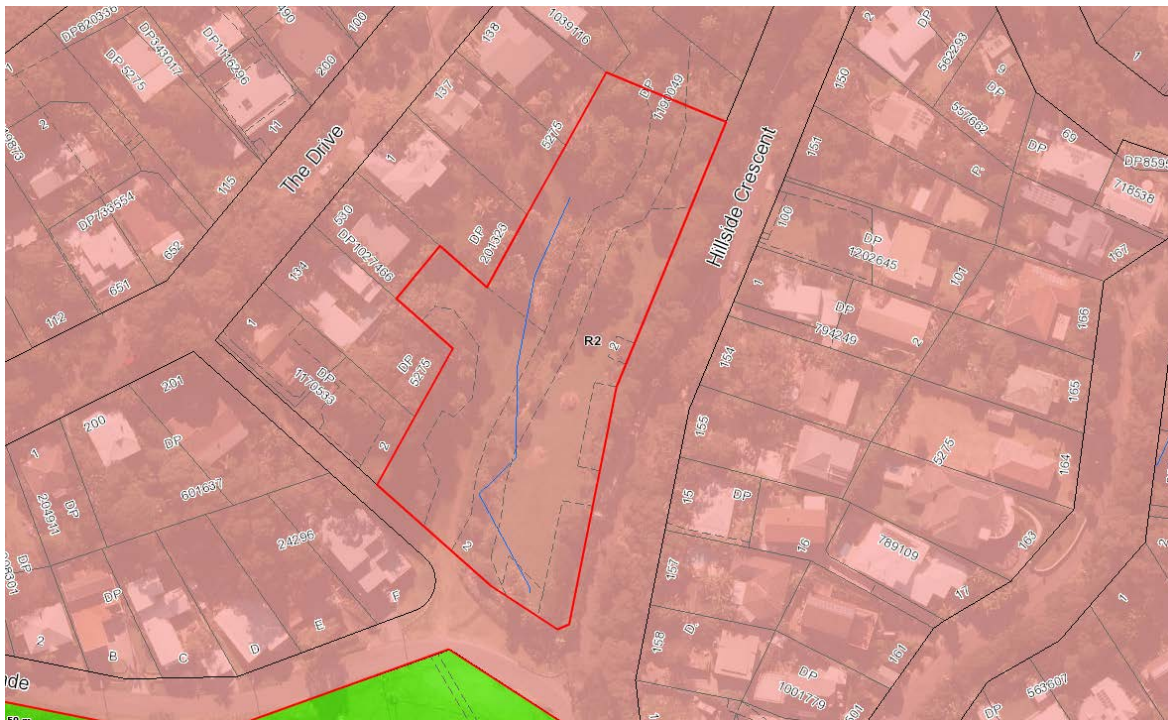


Figure 2: WLEP 2009 zoning map

Easements and Restrictions Onsite

A review of the Deposited Plan (DP1190049) and associated 88B Instrument has been undertaken and it is noted that the subject lot has three (3) restrictions relating to the site as follows:

- Numbered 1 - (E) Restriction on the use of the land (Flood) and;
- Numbered 2 - (F) Restriction on the use of the land (Restricted Building Zone)
- Numbered 3 – Footings and foundations by suitable qualified engineer

Restrictions numbered 1 and 3 are considered acceptable and have been reviewed by Council's Stormwater and Subdivision Officers.

However, the proposed works within the area identified as restriction numbered 2 (F) is not considered acceptable (See Figure 3). Restriction numbered 2 (F) was established as restricted building zones onsite for the retention of trees and vegetation as part of DA-2002/2186 for a 2 lot subdivision as outlined at Figure 4 below (RBZs marked in red). The 88b restriction from DP 1190049 below at figure 3 reads as follows:

Terms of Restriction on the use of land numbered 2 in the plan.

The area of this restriction has been positioned as being the dripline of existing trees located upon the land.

Within the area designated ' (F) Restriction on the use of land (Restricted Building Zone)' on the plan ', no building or other structure & no filling material shall be erected, placed or permitted to remain without the prior written consent of Wollongong City Council.

Figure 3: 88b Restriction No. 2 (Restricted Building Zone - dripline of existing trees)

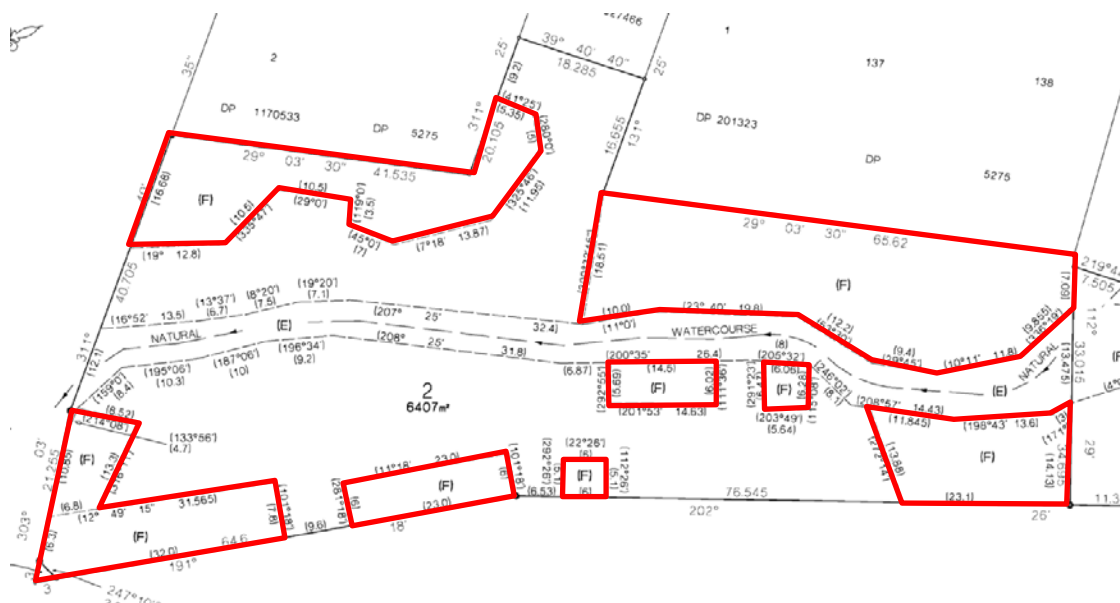


Figure 4: DP 1190049 - Restriction (F) (Restricted Building Zones shown in red)

The current application proposes a variety of works within these restricted building zones including building envelopes (one is non-compliant), driveways and turning heads, stormwater drainage lines, sub-surface drainage lines for geotechnical purposes, and tree removal. The application proposes the release and modification of these restricted building zones; however, this is in conjunction with a significant level of works as outlined above to facilitate the subdivision. As noted throughout this report the extent of works proposed within these established restricted building zones is considered inappropriate given the constraints of the site and the trees located within these areas. This is identified below in figure 5 extracted from the conditions of consent for DA-2002/2186, condition 29 iv, which established the restricted building zones for all trees onsite.

- 29 The developer must prepare a Section 88B Instrument for approval by the Principal Certifying Authority which incorporates the following easements and restrictions as to user:
- i Easement for services.
 - ii Easement to drain water.
 - iii Restricted building zone over the 1% AEP flood inundation area of the natural watercourse which prohibits the erection of structures, including fences, the placement of fill and the planting of trees.
 - iv Restriction as to user which defines a restricted building zone. In this regard, you are advised that all building envelopes must be clear of the canopy of all trees on the site and be in accordance with setback requirements.

Figure 5: DA-2002/2186 - Condition 29

As per the 88B restriction of DP 1190049 Council has the power to release, vary or modify restriction numbered 3. In this instance it is not considered that the restriction should be varied or released as the impacts on the trees within this area, to facilitate the proposed lots and associated works, is not appropriate in this instance.

Covenants

It is also noted that the subject lot, previously known as Lot 531 DP 1027466, is burdened by a number of covenants related to building works, fencing and sub-surface drainage lines, which benefitted the former parent lot and existing Lot 530 DP 1027466 directly to the northwest. Additional information lodged regarding these covenants has been reviewed and considered acceptable with the exception of the encroachment of the existing subsurface drainage easement over proposed lot 2 and into proposed lot 1. This matter has not been adequately addressed with regards to ownership and ongoing maintenance by the Applicant. As a result, the proposal cannot be supported in its current form.

1.3 SUBMISSIONS

The proposal was exhibited in accordance with Council's Notification Policy on two separate occasions being 18 December 2017 to 22 January 2018 (Extended for Christmas Holidays) and 25 May 2018 to 29 June 2018. Twenty (20) objections were received initially and a further ten (10) from the re-notification of additional information process. These objections are discussed below:

Table 1: Submissions

Concern	Comment
<p>1. Traffic and parking impacts</p> <ul style="list-style-type: none">• Increased traffic on local roads• Additional on-street parking impacts• Additional driveways locations• Pedestrian safety/no footpath• Parking on each lot should be required	<p>Council's Traffic Officer has reviewed the application with regards to traffic generation, parking impacts and pedestrian safety and has raised no objection regarding these matters.</p> <p>However, it should be noted that the application has been recommended for refusal for a range of other associated reasons.</p>
<p>2. Riparian corridor</p> <ul style="list-style-type: none">• Future development will harm creek.• The proposed access road will impact creek.• It is unclear how long term management of the creek line is achieved via the VMP.• Care and management of the riparian corridor won't be achieved with multiple owners.• The 5m riparian corridor from each top of bank illustrated on the plans is inaccurate and if applied correctly would require amendments to the design creating further impacts.• Impacts of future residential fencing along creek line.	<p>A range of matters relating to the impacts and ongoing management of the riparian corridor have been raised during the assessment and throughout this report. A number of matters remain unresolved and form reasons why the proposal is not supported.</p>
<p>3. Flooding/Drainage Impacts</p> <ul style="list-style-type: none">• Flood waters will be polluted/contaminated by future development onsite	<p>Council's Stormwater and Flooding Officer has reviewed both the original and amended designs and associated documentation with conditionally satisfactory advice provided.</p> <p>However, it should be noted that the application</p>

Concern	Comment
<ul style="list-style-type: none"> • Western driveway will be impacted by flood waters • Drainage in surrounding streets is poor and the lower areas of the site flood. • The bin storage area proposed would be subject to flooding and would cause pollution. • The proposed lots on the western side (1, 2 & 3) would receive significant overland flow of water from dwellings located along The Drive. • The proposed access road will further exacerbate the drainage/flooding issues of the area. • Lot 3 could become isolated in the event of a flood. • Culvert under Park Parade should be upgraded as part of this application. • The flood documentation does not reflect the true flooding that occurs on this property. • Floodwaters will act to adversely erode the creek line. 	<p>has been recommended for refusal for a range of other associated reasons.</p>
<p>4. Tree Impacts</p> <ul style="list-style-type: none"> • Vegetation on the plans appears to be understated with regards to tree canopies. • Measures should be put in place to protect and manage Hillside Crescent road reserve, bushfire protection zone and riparian corridor. • Park Parade road reserve should be densely revegetated to offset loss of vegetation. • Insufficient attention has been given to the NSW threatened ecological communities on and adjacent the site. • The site is covered by the 10/50 vegetation clearing code which entitles the future dwelling owners to remove trees. • Proposed tree removal will impact site stability. • Tree removal will greatly impact the amenity value of the site. 	<p>The subject site contains over 100 trees which includes a variety of species in the form of Endangered Ecological Communities (EEC's), native remnants and weed species most of which are located within a NRS – bio area and/or within a restricted building zone established for tree retention onsite.</p> <p>The application originally provided inconsistent information regarding the extent of tree removal onsite and associated values. Additional information was lodged and a further review undertaken. In assessing the additional information it is considered that the extent of tree removal within the NRS – bio areas and the RBZs is not acceptable as it will have an impact on areas of ecological significance which are heavily constrained and where impacts cannot be satisfactorily mitigated. See Sections 2.1.4 and 2.3.1 for further details.</p> <p>It is considered that opportunities for dense revegetation along Park Parade is limited due to the area being a public road reserve and flooding</p>

Concern	Comment
	through the lower lying areas.
<p>5. LEP/DCP Compliance</p> <ul style="list-style-type: none"> • Other recent subdivisions have been below the minimum lot size which may also occur on the subject site in the future. • No consideration has been given to the future buildings onsite. • The indicative building envelopes shown on plan are not a realistic outcome for houses that will be proposed on the lots and will be unlikely to comply with WDCP 2009. • More information to address Clause 4.1.2 (number of storeys) should be provided for proposed lots 1, 2, & 3 demonstrating a realistic floor area can be achieved. • View sharing should be addressed at the subdivision stage to adequately consider adjoining and nearby residences and should be demonstrated in submitted documentation. • Maximum building height levels for each lot should be imposed to ensure existing views are shared, not just the maximum height limit as defined in WLEP 2009. • Lots 2 & 3 should be defined as battle-axe allotments and meet the requirements of WDCP 2009. • Lot 3 cannot achieve the 10m x 15m building envelope and the applicant's argument outlined in the SEE is not accepted. The building envelope is considered the minimum standard and it should be demonstrated how a realistic dwelling can be located on proposed lot 3. 	<p>Subdivision of the subject site only is proposed at this time. Matters in relation to future compliance of development applications regarding WLEP 2009 or Chapter B1 (Residential Development) of WDCP 2009 are not known at this time and cannot be assessed.</p> <p>The indicative building envelopes and the battle-axe layout of the subdivision has been assessed and considered further at Section 2.3.1 of this report below.</p>
<p>6. Lot Layout and driveway</p> <ul style="list-style-type: none"> • The layout should be amended to reduce impacts on vegetation and riparian areas. • Lots 1, 2, & 3 are irregularly shaped and impractical and are an obvious misuse of natural areas. • Bin collection for lots 2 and 3 appear inadequate, will result in devaluing of nearby property and will create localised 	<p>Noted. The proposed lot layout is considered unacceptable to Council as it results in a variety of adverse impacts on the ecological significant features of the site and does not respond to the constraints in an acceptable manner.</p> <p>A number of plans and documents submitted with the application contain inconsistencies which also do not allow a full and thorough assessment of the application to be undertaken.</p>

Concern	Comment
<p>waste problems.</p> <ul style="list-style-type: none"> • The indicative building envelope of lot 2 will result in amenity impacts (loss of views) for the property to the west. • Proposed lots 2 and 3 should be removed from the scheme and amalgamated with proposed lot 1. • Substantial cut/fill will be required to construct the proposed access driveway and would require retaining wall works in close proximity of the riparian corridor. • Accessing proposed lots 2 & 3 could be difficult in an emergency. • Access to proposed lots 1, 2 and 3 appears to be utilising the walking path along the southern boundary. 	
<p>7. Geotechnical Matters</p> <ul style="list-style-type: none"> • Geotechnical constraints on proposed lots 1, 2, & 3 make the development unsuitable. • The proposed development will increase the chances of landslip in Stanwell Park. • The recommendations of the Geotech report of 2009 and letter of 2017 must be considered now as part of the DA via Clause 7.6. 	<p>Council's Geotechnical Officer has reviewed the submitted geotechnical documentation and is satisfied. However, the civil works required to achieve the geotechnical requirements recommended in the reports submitted which includes sub-surface drainage lines will likely have adverse impacts within the site and is not supported for ecological and related planning reasons.</p>
<p>8. Notification Process</p> <ul style="list-style-type: none"> • The notification timeframes were too short to allow adequate time to consider the proposed development. 	<p>The development application has been exhibited on two separate occasions including the original round which was extended due to the Christmas holiday period.</p>
<p>9. Easements/Restrictions</p> <ul style="list-style-type: none"> • The existing easements benefitting Lot 530 DP 1027466 located on the subject site will be impacted by the indicative building envelopes and has not been addressed by the Applicant. • The existing drainage easement benefitting lot 530 is still to be located across proposed lot 1. The management of this easement across proposed lot 1 remains unresolved. • Building envelopes should be imposed on 88b instruments for each lot within the 	<p>A number of restrictions are located on the subject site and would require amendment or establishment on future deposited plans for the proposed lots. There still remains inadequate detail regarding existing drainage easement ownership and management onsite which benefits Lot 530.</p> <p>Restricted building envelopes established onsite for tree protection are considered relevant and should not be released or modified. See Section 1.2 of the report above.</p>

Concern	Comment
<p>subdivision.</p> <ul style="list-style-type: none"> The current 88b restricted building zones should not be varied. 	
<p>10. Bushfire Compliance</p> <ul style="list-style-type: none"> Proposed lot 3 does not have adequate fire hydrant coverage and is not in accordance with the DCP or Planning for Bush Fire Protection (PBFP). Proposed lots 2 & 3 do not achieve the minimum access requirements of PBFP, namely a driveway with a 12m outer radius turning circle is not provided. Proposed dwelling locations have not been included in the bushfire report. 	<p>A range of issues remain outstanding with regards to bushfire compliance and the supporting reports submitted. See Section 2.3.1 of the report below.</p>
<p>11. Flora and Fauna Impacts</p> <ul style="list-style-type: none"> The Vegetation Management Plan (VMP) is inadequate as it does not consider rainforest habitats. The Flora & Fauna report is inadequate as it does not adequately considered non riparian habitats, riparian vegetation, threatened ecological communities, and ongoing management and improvement of the site and surrounds. The SEE does not provide accurate information with regard to remnant vegetation, tree removal numbers, and threatened ecological communities. The comments provided in the Response table with regards to biodiversity are inadequate. 	<p>Council's Environment Officer has reviewed both the original submission and subsequent amendment. A range of issues remain unresolved and are outlined throughout the report. As such, the proposal is considered unacceptable in its current form and is recommended for refusal.</p>
<p>12. Arborist Report</p> <ul style="list-style-type: none"> The Arborist report is deficient and does not adequately considered existing trees in the vicinity of the site or pruning already undertaken. The Arborist report does not consider the bushfire report assessment impact on trees and remnant bushland. Impacts on the trees along Hillside Crescent are not adequately considered. 	<p>The Arborist report has been reviewed and is considered inadequate in clearly determining the extent of impacts on trees onsite and surrounding area. Inconsistencies between the amended layout and Arborist report remain. The Arborist report has not considered the updated layout design or the recommendations of the bushfire report to have the whole site, excluding the riparian corridor, managed as an inner protection area.</p> <p>As such, the proposal is considered unacceptable in its current form and is recommended for refusal.</p>

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Council's Geotechnical, Stormwater, Landscape, Traffic, and Subdivision Officers have reviewed the application submission and provided conditionally satisfactory advice.

Council's Heritage and Environment Officers have returned unsatisfactory referral advice which is outlined throughout the report.

1.4.2 EXTERNAL CONSULTATION

NSW Natural Resources Access Regulator (NRAR)

The proposal is integrated development as it requires a Controlled Activity Approval pursuant to Section 91 of the Water Management Act 2000. Details of the proposal were referred to the NSW NRAR and an unsatisfactory response was received by email on 12 March 2018. Amended plans were re-referred to NRAR and a satisfactory response was received on 23 July 2018 stating no objection to the proposal, subject to the imposition of a range of general terms of approval (GTAs).

Rural Fire Service

The proposed development was referred to the NSW Rural Fire Service and an unsatisfactory response was received on 5 February 2018. The NSW Rural Fire Service then reviewed amended plans and documents and issued a bushfire safety authority pursuant to s100B of the Rural Fires Act 1997 dated 1 May 2018.

Department of Planning and Environment

As the subject site is located with a Sensitive Coastal Environment pursuant to SEPP 71 and subdivision is proposed a Master Plan waiver is required to be issued prior to determination of any application. A waiver to the Master Plan was issued by the NSW Department of Planning & Environment on 16 December 2016.

Sydney Water

Stanwell Park was identified by Sydney Water as an area within a Priority Sewer Program Area due to the limited capacity of the infrastructure in this location. As such, a referral was sent to Sydney Water as an increased demand for services would potentially result from the proposed development. Sydney Water provided a response to this referral dated 19 June 2018 outlining that Stanwell Park is now located in a former Priority Sewer Program Area and normal requirements of Section 73 are to be imposed.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15 (1)(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. There are no substantial earthworks proposed and the proposal does not comprise a change of use. Council's Environment Officer has also reviewed the application and raised no concerns with regards to SEPP 55.

Consequently, no issues are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION

Clause 21 of SEPP (Coastal Management) 2018 states that the former planning provisions continue to apply (and this policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this policy applies. SEPP (Coastal Management) 2018 commenced on 3 April 2018. Given the lodgement date of 8 December 2017 of the subject application, SEPP 71 and clause 5.5 of WLEP 2009, being the former planning provisions with regard to development in the coastal zone, are therefore considered to apply to the subject application.

Additionally, as the subject site is located with a Sensitive Coastal Environment pursuant to SEPP 71 and subdivision is proposed a Master Plan waiver is required to be issued prior to determination of any application. A waiver to the Master Plan was issued by the NSW Department of Planning & Environment on 16 December 2016.

An assessment of the development against the aims and matters for consideration of the policy are provided below.

2 Aims of Policy

<i>Aim</i>	<i>Comment</i>
<i>a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</i>	The development would likely result in adverse impacts on the natural attributes of the NSW coast.

<i>b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	The development would not impact public access to the coastal foreshore.
<i>c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	The development would not provide for new opportunities for access to the coastal foreshore.
<i>d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</i>	The development would not be expected to result in any impacts on items of Aboriginal cultural heritage, or Aboriginal places.
<i>e) to ensure that the visual amenity of the coast is protected, and</i>	The development would not be considered to result in an adverse impact on the visual amenity of the coast.
<i>f) to protect and preserve beach environments and beach amenity, and</i>	The development would not be considered to result in adverse impacts on the beach area.
<i>g) to protect and preserve native coastal vegetation, and</i>	The development as proposed would likely result in adverse impacts on coastal vegetation.
<i>h) to protect and preserve the marine environment of New South Wales, and</i>	The development would not be expected to result in adverse impacts on the marine environment.
<i>i) to protect and preserve rock platforms, and</i>	The development would not be expected to result in adverse impacts on rock platforms.
<i>j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and</i>	The development is not considered contrary to the principles of ESD with regards to the coastal zone.
<i>k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i>	As discussed throughout this report, the subdivision is of a scale and form which is not considered appropriate to allow for the protection and improvement of the natural scenic quality of the area.
<i>l) to encourage a strategic approach to coastal management.</i>	The development is not considered inconsistent with regard to general coastal management.

8. Matters for consideration

The matters for consideration are the following:

Matters for consideration	Comment
(a) the aims of this Policy set out in clause 2,	As outlined above it is considered that the proposal is inconsistent with the aims of the policy set out at points (g) and (k) above.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	The proposal will not affect access to the coastal foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	The site is not in close proximity to the coastal foreshore.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	<p>The proposal does not demonstrate compliance with WLEP 2009 or WDCP 2009. The design also fails to adequately address the constraints of the site and its relationship with the surrounding ecologically sensitive location.</p> <p>There are likely adverse impacts on the amenity of the locality and the proposal is not considered suitable for the location in its current form.</p>
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	The proposal is not expected to detrimentally affect the coastal foreshore.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	The proposal is not expected to impact on the scenic values of the NSW coast.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	The proposed development does not adequately consider measures to conserve the ecologically sensitive nature of the site in relation animals or their habitat. Impacts to trees onsite and the riparian corridor have not been adequately considered as part of the application and would likely result in adverse impacts.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	There are not expected to be negative impacts on fish or marine vegetation and their habitats.

Matters for consideration	Comment
(i) existing wildlife corridors and the impact of development on these corridors,	Impacts to flora and fauna onsite have not been adequately considered as part of the development. It is considered that adverse impacts would likely result.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The proposal is not expected to impact on or be affected by coastal processes or hazards.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	The proposal is not expected to result in any conflicts between land and water based coastal activities.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	The proposal is not expected to impact on items of cultural importance.
(m) likely impacts of development on the water quality of coastal waterbodies,	The proposal is not expected to impact on the water quality of coastal waterbodies.
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	Nearby items of local heritage significance have not been adequately considered.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	Not applicable.
(p) only in cases in which a development application in relation to proposed development is determined:	
(i) the cumulative impacts of the proposed development on the environment, and	The cumulative impacts of the proposal are considered inappropriate and will likely result in adverse impacts on the established environment of the subject site and surrounding area.
(ii) measures to ensure that water and energy usage by the proposed development is efficient.	The proposal will not result in excessive energy or water usage.

Conclusion

The application is not considered to be consistent with aims (a), (g) and (k) and matters for consideration (a) (d), (g) (i) and (n), (p) (i) with regard to the suitability of the development for the site, given the likely impacts on areas of ecological significance and associated flora and fauna.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

Under Clause 7 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 a person must not clear any vegetation in any non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.

Clause 9 of Part 3 indicates that this Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.

The subject site is zoned R2 Low Density Residential, a non-rural area. It is considered that the vegetation proposed to be removed is vegetation declared by a development control plan, WDCP 2009 Chapter E17 Preservation and Management of Trees and Vegetation, to which Part 9 would apply. As such, the proposed development is considered against the controls of Chapter E17 as presented at Section 2.3.1 of this report and being unsatisfactory.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

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.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Whilst the proposed development is not inconsistent with the objectives of the R2 zone it is considered that it does not adequately address the existing constraints of the site. As such, the proposed development is not supported and is recommended for refusal.

Clause 1.4 Definitions

subdivision of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition.

Clause 2.6 Subdivision—consent requirements

Clause 2.6 of WLEP 2009 allows for subdivision of land only with development consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

The minimum lot size required pursuant to Clause 4.1 of WLEP 2009 is 550m² for the subject site. Each proposed lot has an area greater than the minimum lot size required.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone (now repealed)

As discussed at section 2.1.2 above, the savings provisions within the SEPP (Coastal Management) 2018 require that the previous provisions apply to development lodged but not determined prior to 3 April 2018. As such, this clause continues to apply, in conjunction with SEPP 71 as the previous provisions to the now in force SEPP (Coastal Management) 2018.

<i>(1) The objectives of this clause are as follows:</i>	
<i>(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,</i>	The ecological impacts likely from the development are considered unacceptable
<i>(b) to implement the principles in the NSW Coastal Policy, and in particular to:</i> <i>(i) protect, enhance, maintain and restore the coastal environment, its associated</i>	It is considered that the proposed development

<p><i>ecosystems, ecological processes and biological diversity and its water quality, and</i></p> <p><i>(ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and</i></p> <p><i>(iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and</i></p> <p><i>(iv) recognise and accommodate coastal processes and climate change, and</i></p> <p><i>(v) protect amenity and scenic quality, and</i></p> <p><i>(vi) protect and preserve rock platforms, beach environments and beach amenity, and</i></p> <p><i>(vii) protect and preserve native coastal vegetation, and</i></p> <p><i>(viii) protect and preserve the marine environment, and</i></p> <p><i>(ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i></p> <p><i>(x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and</i></p> <p><i>(xi) protect Aboriginal cultural places, values and customs, and</i></p> <p><i>(xii) protect and preserve items of heritage, archaeological or historical significance.</i></p>	<p>would likely have adverse impacts on ecological biodiversity of the coastal area and would not allow its protection, enhancement and restoration as outlined throughout the report.</p>
<p><i>(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:</i></p>	
<p><i>(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</i></p> <p><i>(i) maintaining existing public access and, where possible, improving that access, and</i></p> <p><i>(ii) identifying opportunities for new public access, and</i></p>	<p>No changes to the public access to the foreshore are proposed as part of the subject application.</p>
<p><i>(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</i></p> <p><i>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</i></p> <p><i>(ii) the location, and</i></p> <p><i>(iii) the bulk, scale, size and overall built</i></p>	<p>The proposal is considered unsuitable for the site based on the information submitted and the existing site constraints, as discussed throughout this report. Concerns are raised with regard to the impact on NRS – Bio areas, tree removal and inconsistency with the character of the surrounding area.</p> <p>The application submission has not adequately demonstrated that the development would not result in adverse impacts on the surrounding area and its scenic quality.</p>

<i>form design of any building or work involved, and</i>	
<i>(c) the impact of the proposed development on the amenity of the coastal foreshore including: (i) any significant overshadowing of the coastal foreshore, and (ii) any loss of views from a public place to the coastal foreshore, and</i>	The development would not be expected to result in direct impacts on the amenity of the coastal foreshore.
<i>(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and</i>	The development would not be expected to result in direct impacts on the scenic quality of the coast.
<i>(e) how biodiversity and ecosystems, including: (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, can be conserved, and</i>	The ecological impacts likely from the development proposal are considered unacceptable
<i>(f) the cumulative impacts of the proposed development and other development on the coastal catchment.</i>	The likely impacts from the development proposal when considered cumulatively are considered unacceptable in the coastal catchment.
<i>(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:</i>	
<i>(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and</i>	The proposal is not considered likely to result in change in the way people access the public foreshore, given the grade of the site.
<i>(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</i>	Effluent disposal is available via connection into the existing reticulated systems.
<i>(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</i>	It remains unclear what treatment measures are proposed to ensure the proposal will not result in the discharge of untreated stormwater into the sea.
<i>(d) the proposed development will not: (i) be significantly affected by coastal hazards, or (ii) have a significant impact on coastal hazards, or (iii) increase the risk of coastal hazards in</i>	The proposed development is not considered likely to be impacted by or impact upon coastal hazards.

Clause 5.10 Heritage conservation

Council's Heritage Officer has reviewed the application submission and identified that the proposed development is located within the vicinity of a number of heritage items as outlined in figure 5 below:



Figure 5: Heritage Items - Schedule 5 WLEP 2009

Schedule 5 of WLEP 2009 identifies that Heritage Item No. 6503 (Wet sclerophyll forest) which relates to the road reserves Old Coast Road, Park Parade, The Drive and Chellow Dene Avenue is of local significance.

Schedule 5 also identifies heritage items 6128 and 6129 which are houses located on The Drive which are both of local significance. In particular heritage item 6128 directly adjoins the subject site to the northwest as identified in the mapping above.

Council's Heritage Officer has raised concerns with regards to the increased traffic flow from the proposed 7 lots and the construction of a new access road onto Park Parade, which is within the curtilage of the adjoining Wet Sclerophyll Forest Riparian Corridor, which is considered to have a significant impact on the retention of the already fragmented Riparian Corridor.

Consequently, the proposed development is not considered to satisfy the objectives of the clause.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

Relevant conditions of consent could be recommended requiring approval from the relevant authorities for the connection of electricity, water and sewage to service the site if the development were to proceed.

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by “Natural Resource Sensitivity – Biodiversity” as outlined below in figure 6:



Figure 6: Natural Resource Sensitivity - Biodiversity Area

As such, the relevant provisions of Clause 7.2 are as follows:

- (1) *The objective of this clause is to protect, maintain or improve the diversity and condition of the native vegetation and habitat, including:*
 - (a) *protecting biological diversity of native flora and fauna, and*
 - (b) *protecting the ecological processes necessary for their continued existence, and*
 - (c) *encouraging the recovery of threatened species, communities, populations and their habitats.*

Comment: - The application proposes a variety of works within the Natural resource sensitivity – biodiversity area which is further enhanced by the restricted building zone (tree) restrictions previously established via subdivision on DP 1190049 and associated 88B instrument. These works include driveways and associated retaining walls, sub-surface drainage lines, stormwater drainage lines, and tree removal within these restricted building zones. A lack of detail has been provided regarding the proposed driveways, retaining walls and subsurface drainage lines required.

Works required to facilitate the creation of proposed lots 1, 2 & 3 within the Natural resource sensitivity – biodiversity area are considered excessive and inconsistent with the provisions of sub-clause 1 objectives above. It is further noted that tree removal within both the restricted building zone and biodiversity area is proposed and that the proposed building envelope of lot 3 does not comply with the minimum dimensions of Chapter B2 of WDCP 2009.

The proposed development has been assessed against the objectives of Clause 7.2 and it is considered it does not adequately act to protect, maintain or improve the diversity and condition of native vegetation and habitat including the protection of native flora and fauna, ecological processes necessary for continued existence or encourages the recovery of threatened species communities, populations and their habitats. As such, the proposed development is not supported.

- (2) *This clause applies to land that is identified as “Natural resource sensitivity—biodiversity” on the Natural Resource Sensitivity—Biodiversity Map.*

Comment: - As outlined in the mapping above the majority of the site is identified as natural resource sensitivity – biodiversity.

(3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the development on:*

- (a) native terrestrial flora and fauna and its habitat, and*
- (b) native aquatic flora and fauna and its habitat, and*
- (c) the ecological role of the land, waterways, riparian land or wetland, and*
- (d) threatened species, communities, populations and their habitats.*

Comment: - Council has considered the impact of the proposed development on the provisions of sub-clause 3 and is not satisfied that it meets the objectives of the clause or the provisions of sub-clause 4 below.

(4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is consistent with the objectives of this clause and:*

- (a) the development is designed, sited and managed to avoid potential adverse environmental impact, or*
- (b) if a potential adverse environmental impact cannot be avoided, the development:*
 - (i) is designed and sited so as to have minimum adverse environmental impact, and*
 - (ii) incorporates effective measures so as to have minimal adverse environmental impact, and*
 - (iii) mitigates any residual adverse environmental impact through the restoration of any existing disturbed or modified area on the site.*

Comment: - Works proposed in these ecologically sensitive areas includes driveways and associated retaining walls, sub-surface drainage lines, stormwater drainage lines, and tree removal within restricted building zones established for tree protection. These works are required to facilitate the creation of building envelopes on proposed lots 1, 2 and 3, however, inadequate details have been provided with regards to driveways, retaining walls and subsurface drainage lines proposed. It is further noted that the indicative building envelope for proposed lot 3 cannot be achieved due to the constraints of the lot and associated civil works required.

It is not considered that the proposed works and subdivision layout are designed, sited or managed in a manner which avoids potential adverse environmental impacts. Additionally, it is considered that the proposal has also not adequately avoided or been designed or sited in a manner to have minimal adverse impacts. It does not incorporate effective measures to have minimal adverse impact and does not adequately demonstrate that mitigation of these impacts has been achieved to existing or modified areas of the site.

Council's Environment Officer has also reviewed the proposed development and identified that the proposal does not demonstrate compliance with Clause 7.2 for a number of reasons including the following:

- The site includes areas of endangered ecological communities Illawarra Subtropical Rainforest and Littoral Rainforest in areas mapped also as NRS – Bio. It was also identified that the site provides small areas of foraging and roosting habitat for the grey-headed flying fox (listed as vulnerable under both the Threatened Species Conservation Act 1995 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999) and limited

foraging habitat for the Powerful Owl (listed as vulnerable under the Threatened Species Conservation Act 1995).

- The proposal would result in the removal of native vegetation from areas mapped as NRS – Bio, including from areas identified as Illawarra Subtropical Rainforest and Littoral Rainforest.
- The proposed subdivision, access way and drainage and subsequent driveways and dwellings would result in potential adverse environmental impact as some native vegetation, including some native vegetation in areas of the threatened ecological communities Illawarra Subtropical Rainforest and Littoral Rainforest are proposed to be removed.
- The subdivision as proposed (seven lots) is not considered to have been designed to have minimum adverse environmental impact. Opportunity would exist to design the subdivision to further reduce adverse environmental impacts, particularly on the western side of the subject lot.

Overall, it is considered that the proposed layout does not adequately observe the ecologically significant features of the site. The required civil works and tree removal within the Natura Resource – Biodiversity area has not been satisfactorily resolved as inconsistencies in the plans and documents remain and variations to Council’s development control plans remain unresolved as outlined in the report.

Consequently, the proposed development does not comply with the provisions of Clause 7.2 and is not supported.

Clause 7.3 Flood planning area

A review of Council records indicates the subject sites are flood affected. Council’s Stormwater Officer has assessed the application in this regard and is satisfied. Conditions could be recommended if the development were to proceed.

Clause 7.4 Riparian lands

(1) The objective of this clause is to ensure that development does not adversely impact upon riparian lands.

(2) This clause applies to land shown as “riparian land” on the Riparian Land Map.

(3) Despite any other provision of this Plan, development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land.

The Riparian Land Map indicates the site contains riparian lands in the form of a category 3 watercourse (bank stability and water quality). The riparian corridor is also located in an area of Natural resource sensitivity – biodiversity owing to its ecological significance. Council’s Environment Officer has reviewed the application submission and has identified that as a category 3 watercourse a minimum 10m wide riparian corridor from top of bank is required. However, a 5m wide corridor is proposed which does not comply with Chapter E23 (Riparian land management) of WDCP 2009. It is further noted that this non-compliant 5m wide riparian corridor has the driveway servicing proposed lots 1, 2, and 3 encroaching into this corridor which is then proposed to be offset on the eastern side of the corridor. The submitted Vegetation Management Plan submitted in support of this application fails to acknowledge this offset and the latest subdivision plan.

It is also noted that the riparian corridor is located across two proposed lots which is considered to create ongoing maintenance issues resulting in adverse impacts on the restoration and enhancement of the corridor overtime.

As such, the proposed development is not considered to be consistent with the objectives of Clause 7.4(1) as the riparian corridor width and ongoing ownership management remains unresolved.

The proposal is considered Integrated Development as it requires a controlled activity approval pursuant to Section 91 of the Water Management Act 2000. Details of the original proposal and amended design were referred to the NSW Natural Resources Access Regulator (NRAR) and a response was received on 23 July 2018 raising no objection subject to the imposition of general terms of approval (GTAs).

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulfate soils. Council's Environment Officer has reviewed the application with regards to acid sulfate soils and is satisfied.

Clause 7.6 Earthworks

The proposal comprises earthworks to facilitate driveway access, retaining walls and sub-surface drainage lines. The earthworks could be expected to result in unreasonable impacts on the environmental functions and processes, neighbouring properties or features of the surrounding land when undertaken with regards to Council's Geotechnical Officers advice.

However, inadequate information has been provided regarding any required retaining walls for the turning head with proposed lot 3 which will likely have adverse impacts on trees located in close vicinity nor has the transect of required sub-surface drainage lines been identified.

Consequently, the proposed development does not comply with the provisions of Clause 7.6 and is not supported.

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

State Environmental Planning Policy (Coastal Management) 2018

As discussed at 2.1.5 above, SEPP (Coastal Management) 2018 came into force on 3 April 2018. Clause 21 of SEPP (Coastal Management) 2018 states that the former planning provisions continue to apply (and this policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this policy applies. SEPP (Coastal Management) 2018 commenced on 3 April 2018. Given the lodgement date of 8 December 2017 of the subject application, SEPP 71 and clause 5.5 of WLEP 2009, being the former planning provisions with regard to development in the coastal zone, are therefore considered to apply to the subject application.

Despite not being a proposed instrument, consideration of the now in force SEPP (Coastal Management) 2018 is relevant in this case. The subject site is wholly impacted by the Coastal Environment Area as identified in figure 7 below.



Figure 7: Coastal Management – Coastal Environment Area (whole site blue shading)

Division 3 Coastal environment area

14 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:

*(a) is not likely to cause **adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and***

(b) is not likely to significantly impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and

(c) is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and

(d) is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and

(e) will not adversely impact Aboriginal cultural heritage and places, and

(f) incorporates water sensitive design, including consideration of effluent and stormwater management, and

(g) will not adversely impact on the use of the surf zone.

(2) In this clause, sensitive coastal lake means a body of water identified in Schedule 1.

Comment: - Proposed works within the coastal environment area include driveways and associated retaining walls, sub-surface drainage lines, stormwater drainage lines, and tree removal within restricted building zones. Council as consent authority cannot be satisfied that the proposed development will not have adverse impacts on the biophysical, hydrological and ecological environment of the subject site and surrounds or on the native vegetation and fauna and associated habitats. As such, the proposed development is not supported with regards to the considerations of the Coastal Management SEPP 2016.

A review of Council's associated CZMP coastal hazard mapping extents identifies that the subject site is not impacted by any coastal geotechnical risk or inundation constraint.

2.3 SECTION 4.15 (1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

Considerations of compliance with relevant Chapters of the WDCP 2009 are presented at Attachment 2.

In summary several non-compliances are apparent with the development and as such the proposal is not supported.

2.3.2 WOLLONGONG CITY-WIDE DEVELOPMENT CONTRIBUTIONS PLAN (2018)

The estimated cost of works is >\$100,000 (\$500,000) and a levy of 1% is applicable under this plan as the threshold value is \$100,000.

2.4 SECTION 4.15 (1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F

There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.

2.5 SECTION 4.15 (1)(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

No demolition is proposed and the site is not located within the coastal zone.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable.

2.6 SECTION 4.15 (1)(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT

Repealed.

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

Context and Setting:

The subject site is zoned R2 – Low Density Residential and consists of both cleared areas and vegetated areas containing a variety of trees considered of ecological significance including the endangered ecological communities Illawarra Subtropical Rainforest and Littoral Rainforest. The majority of the subject site is constrained by the Natural Resource Sensitivity – Biodiversity mapping as a result of its ecological significance. A riparian corridor also traverses the site from north to south and is identified as a category 3 watercourse for bank stability and water quality. The site is also constrained by restricted building zones established for the retention of trees on DP1190049 and the associated 88b instrument. The area surrounding the site is best described as low density residential development in the form of one and two storey dwellings generally of an environmentally sensitive nature owing to the ecological significance of the wider Stanwell Park area. In close proximity to the subject site is also a variety of heritage items listed in Schedule 5 of WLEP 2009 which relate to heritage dwellings and Wet Sclerophyll Forest Riparian Corridors located within the road reserves of

Old Coast Road, Park Parade, The Drive and Chellow Dene Avenue which are of local significance.

Therefore, the existing context and setting is one of environment significance containing low density dwellings which responds to the prevailing topography and ecology of the surrounding area.

The proposed seven (7) lot subdivision will likely result in adverse impacts on the existing context and setting. The proposed works to facilitate the subdivision will result in tree removal within NRS Bio areas, endangered ecological communities and within restricted building zones (trees).

Access, Transport and Traffic:

Council's Traffic Engineer has assessed the application submission and raised no objection. However unresolved related matters remain in relation to entry point on Park Parade and manoeuvring within the site to satisfy the requirements of NSW RFS.

Public Domain:

The proposed subdivision works will likely adversely impact the public domain. The proposal requires the removal of a significant number of trees which have previously been identified for retention via restricted building zones. The trees in these areas have a positive impact on the surrounding area and public domain as a whole. It is also noted that Stanwell Park Recreation Area is located to the south and views to the subject site and its ecologically significant features are available. As such, removal of ecologically significant trees will have adverse impacts on the public domain.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply.

Heritage:

Council's Heritage Officer has reviewed the application submission and identified that the proposed development is located within the vicinity of a number of heritage items. Schedule 5 of WLEP 2009 identifies that Heritage Item No. 6503 (Wet sclerophyll forest) which relates to the road reserves Old Coast Road, Park Parade, The Drive and Chellow Dene Avenue is of local significance.

Schedule 5 also identifies heritage items 6128 and 6129 which are houses located on The Drive which are both of local significance. In particular heritage item 6128 directly adjoins the subject site to the northwest as identified in the mapping above.

Council's Heritage Officer has raised concerns with regards to the increased traffic flow from the proposed 7 new lots and the construction of a new access road onto Park Parade, which is within the curtilage of the adjoining Wet Sclerophyll Forest Riparian Corridor, which is considered to have a significant impact on the retention of the already fragmented Riparian Corridor.

Consequently, concerns with regards to impacts on established heritage has been identified and has not been adequately addressed in the application submission.

Other land resources:

The proposal is not envisaged to adversely impact upon any valuable land resources.

Water:

Likely impacts on water resources relating to the site could be adequately managed through the implementation of appropriate construction controls relating to sediment and soil erosion measures. It is also noted that NRAR has imposed General Terms of Approval which also include management requirements for the riparian corridor to be imposed on any consent granted.

Soils:

The subject site is identified as potentially containing acid sulfate soils. Council's Environment Officer

has reviewed the application and has raised no concerns with regards to acid sulfate soils. As such, no concerns are raised with regards to the soils of the subject site or surrounding area, however this is subject to resolution of sub-surface drainage lines transects.

Air and Microclimate:

The proposal is not expected to have negative impact on air or microclimate.

Flora and Fauna:

The subject site contains a variety of flora and fauna which is considered of ecological significance in the form of threatened ecological communities Illawarra Subtropical Rainforest and Littoral Rainforest and potential foraging and roosting habitat for the grey-headed flying fox (listed as vulnerable under both the Threatened Species Conservation Act 1995 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999) and limited foraging habitat for the Powerful Owl (listed as vulnerable under the Threatened Species Conservation Act 1995). The application submission does not adequately consider the likely impacts on the flora and fauna of the subject site as reports do not adequately consider amended subdivision layouts, additional tree removal, civil works required to facilitate geotechnical requirements or drainage.

As such, inadequate information has been provided to allow a full and through assessment of the proposal and the proposed tree removal is considered unacceptable due to the established restricted building zones for tree retention and areas identified as natural resource sensitivity – biodiversity established to ensure flora and fauna is protected, maintained and improved consistent with the provisions of Clause 7.2 of WLEP2009 outlined above.

Waste:

Conditions could be attached to any consent granted that waste generated during the construction is appropriately managed onsite and disposed of correctly.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition could be attached to any consent granted that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

Council records list the site as being flood affected, bushfire prone, unstable land, and acid sulfate soil affected. Council Officers have reviewed the natural hazards and are satisfied. However, as outlined in section 2.3.1 – Chapter E16 Bushfire Management matters regarding bushfire compliance required by the NSW RFS have not been adequately addressed in the amended plans lodged. This relates predominately to management of the site outside of the riparian corridor as an inner protection area which may further impact trees and the carriageway width for proposed lots 2 and 3 which does not currently comply.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

Safety, Security and Crime Prevention:

This application does not result in opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to create a negative social impact.

Economic Impact:

The proposal is not expected to create negative economic impact.

Site Design and Internal Design:

The application does request a number of variations to Council's development control plans as outlined above. As such, it is considered that the proposed development is considered not to have been designed to adequately consider the existing constraints of the site or would result in the orderly development of the lot for subdivision.

Construction:

Conditions of consent can be recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition can be attached to any consent granted that all works would need to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal in its current form is expected to have negative cumulative impacts and is not supported.

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

Does the proposal fit in the locality?

Due to the non-compliances outlined above the proposal is not considered to fit the locality within which it is proposed to be located.

Are the site attributes conducive to development?

The constraints of the site are coastal zone, bushfire, uncategorised flood risk precinct, filled land, unstable land, acid sulfate soils, ecological sensitive land and easements/restrictions. The application has been assessed and Council has identified a number of non-compliances with SEPP 71, Coastal Management SEPP, WLEP 2009 and WDCP 2009 which are identified throughout this report. As such, it is considered that the site attributes are no conducive to the proposed development and it is therefore not supported.

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

See Section 1.3 above.

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

It is considered that the proposed development is not in the public interest as it does not comply with a range of controls in SEPPs, WLEP 2009 and WDCP 2009 as outlined above in this report. The proposal is considered inappropriate with consideration to site constraints, contrary to the relevant planning controls and in the current form, approval would not be considered to be in the public interest.

3 CONCLUSION

This application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

It is considered that the proposed development will likely have adverse impacts on the ecologically significant characteristics of the subject site and does not comply with provisions of WLEP 2009 or

WDCP 2009. The applicant has also not provided adequate justification for the modifications sought to restricted building zones established previously on DP1190049 and associated 88b instrument.

Internal referrals from Council's Geotechnical, Stormwater, Landscape, Traffic, and Subdivision Officers have returned satisfactory advice. Concerns have been raised by Council's Environment and Heritage Officers regarding ecological impacts on the subject site and surrounding area. Sydney Water, NSW RFS and NRAR – Water have returned satisfactory advice.

Several matters including those identified within submissions remain unresolved.

It is not considered that the proposed development has not been designed appropriately given the constraints and characteristics of the site, is inconsistent with the existing and desired future character of the locality and has the potential to result in significant adverse impacts on the ecological significance of the subject site and surrounding area.

4 RECOMMENDATION

This application has been assessed as unsatisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

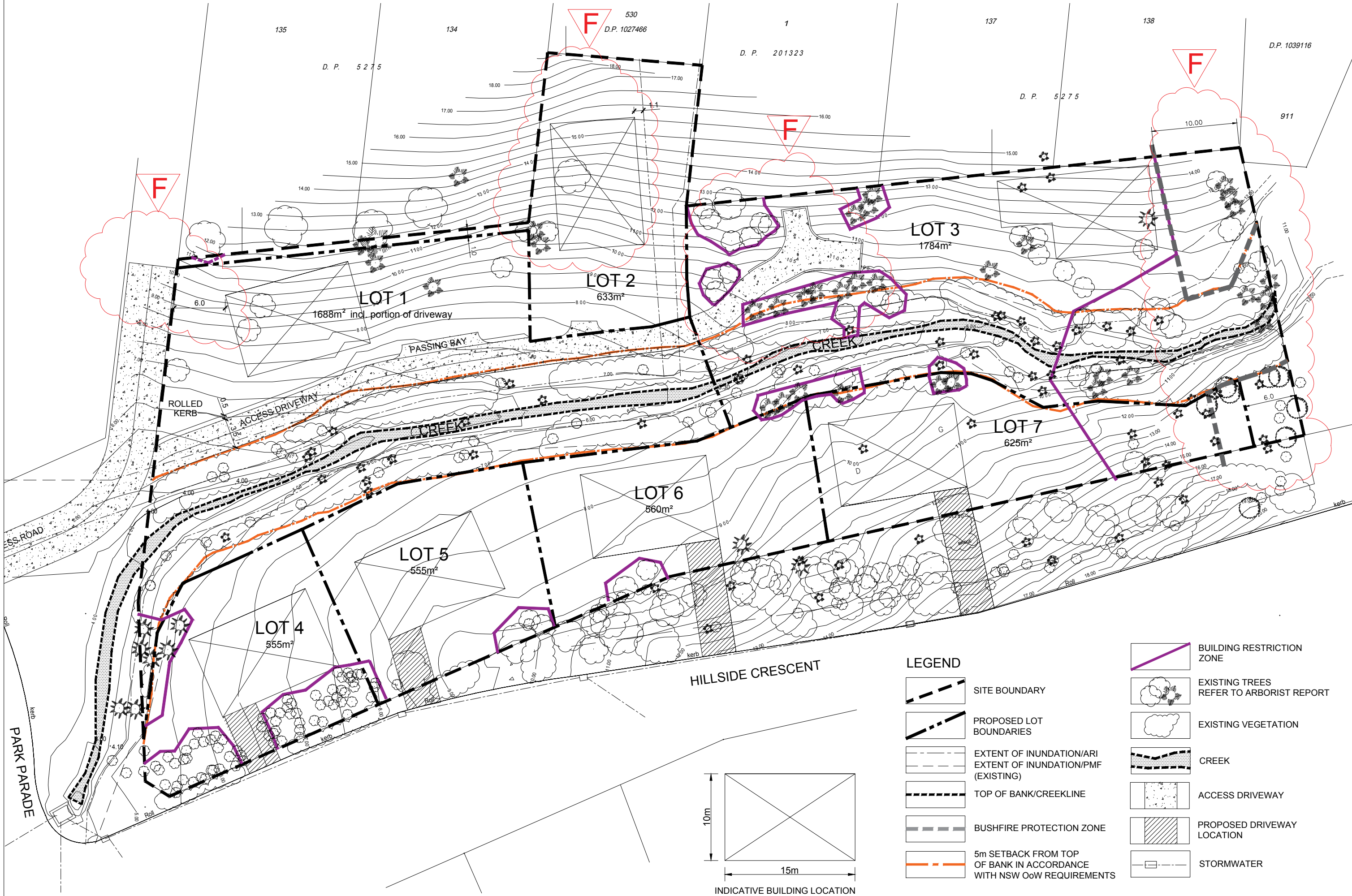
Having regard to the above information, the application is considered to be unsatisfactory and is recommended for **refusal** for the following reasons:

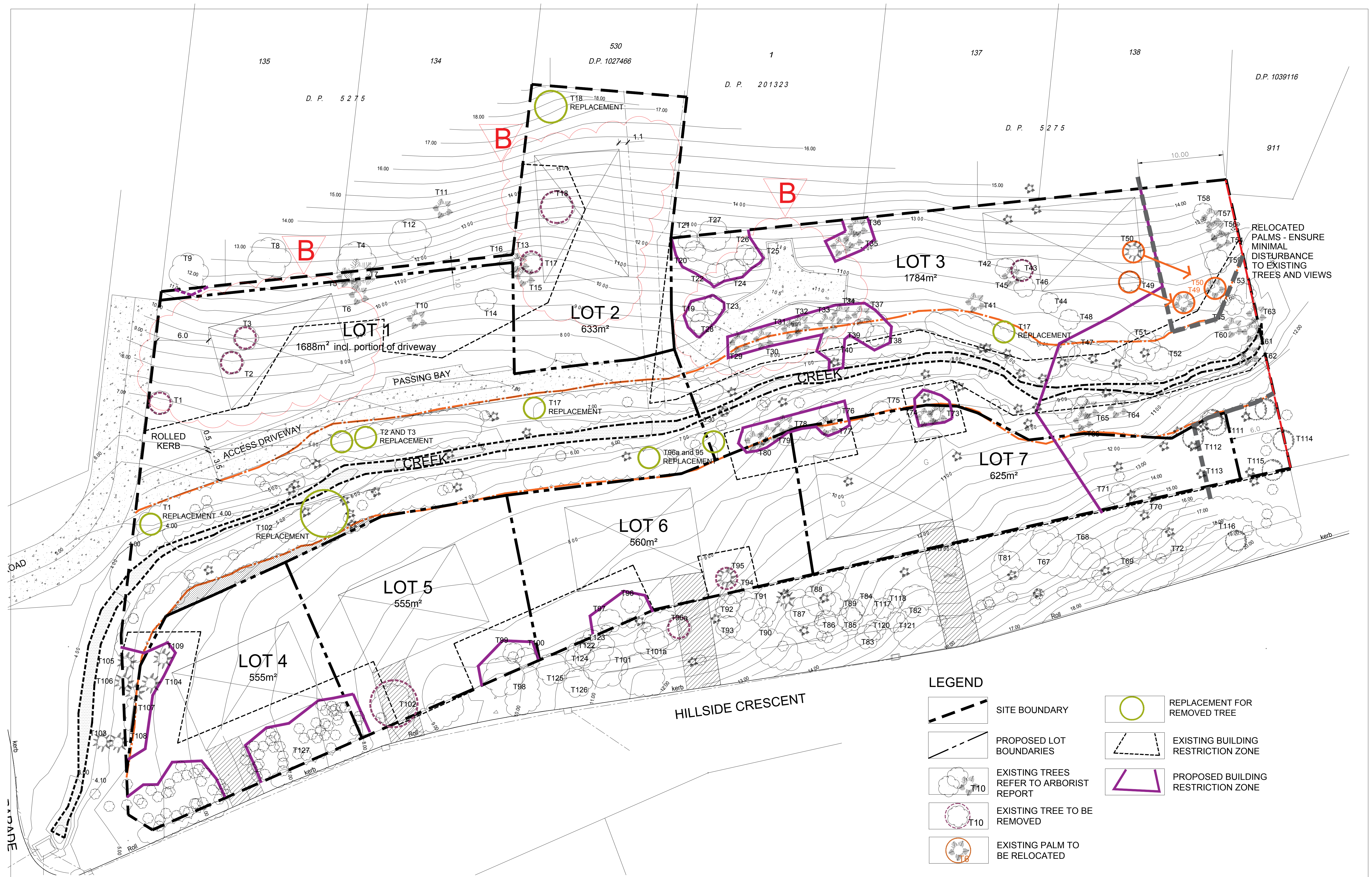
1. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with:
 - State Environmental Planning Policy No. 71
2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with Wollongong Local Environmental Plan 2009:
 - Clause 5.5 Development within the coastal zone
 - Clause 5.10 Heritage conservation
 - Clause 7.2 Natural resource sensitivity – biodiversity
 - Clause 7.4 Riparian lands
 - Clause 7.6 Earthworks
3. Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with:
 - State Environmental Planning Policy (Coastal Management) 2018
4. Pursuant to the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal fails to demonstrate consistency with the provisions of the Wollongong Development Control Plan 2009:
 - Chapter B2: Residential Subdivision;
 - Chapter E3: Car Parking Access and Traffic Management
 - Chapter E11: Heritage Conservation;
 - Chapter E16: Bushfire Management;
 - Chapter E17: Preservation and Management of Trees and Vegetation;
 - Chapter E18: Threatened Species; and
 - Chapter E23: Riparian Land Management
4. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate that the likely impacts of the development will not be adverse.

5. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate that the site is suitable for the development
6. Pursuant to the provisions of Section 4.15 (1)(d)&(e) of the Environmental Planning and Assessment Act, 1979, it is considered that having regard for the relevance of submissions received and in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore, not in the public interest.

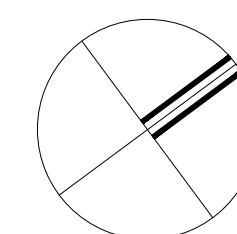
5 ATTACHMENTS

- 1 Plans
- 2 Compliance table for WDCP 2009
- 3 Reasons for refusal





Revision A: Revised for DA 13.03.2017
Revision B: Revised for Council RFI 10/05/18



Develop My Land
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PO Box 119, Thirroul, NSW, 2515. Tel. 0449 255488 e. steve@developmyland.com.au

PROJECT: Proposed 7 Lot Sub Division, Lot 2 DP 1190049 Hillside Crescent, Stanwell Park			
Drawing Name:	PROPOSED BUILDING RESTRICTION ZONE MODIFICATIONS	Job No. 1167	Dwg.No 1167.03
CLIENT:	Messrs Pavert, Leslie & Gilmour	Scale 1:800 (A3)	Date 10.05.2018
		Rev. B	



Tree protection plan

MOORE TREES



Tree to be retained



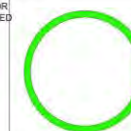
Tree to be removed



Areas of sapling vegetation to three (3) metres in height
All vegetation in these areas to be retained.



Palm possible to relocate

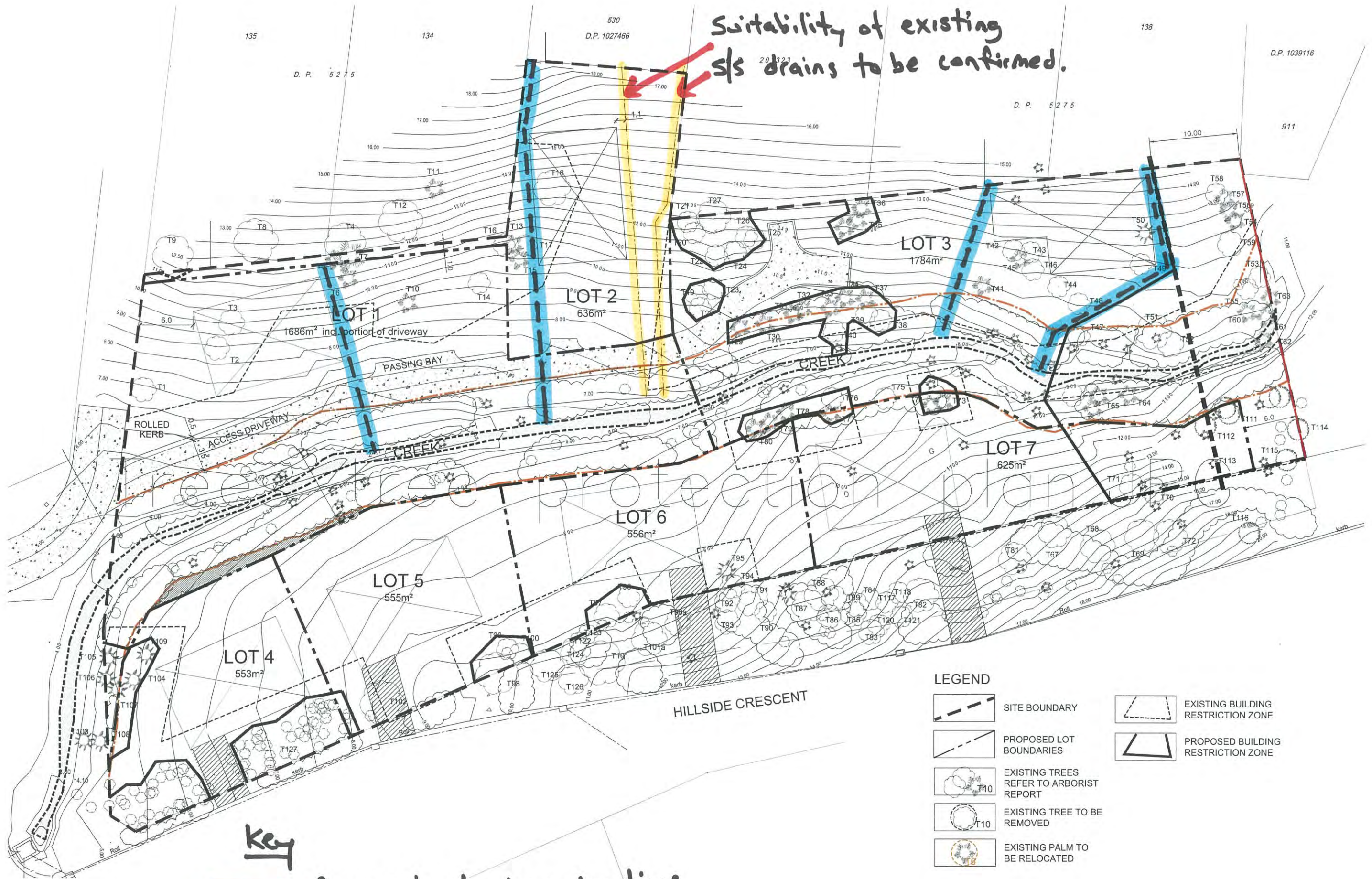


Canopy Protection Zone (CPZ). No part of the canopy to be pruned or damaged except for approved reduction pruning.



Fence. Implementation of tree protection zone (TPZ). All tree protection works should be carried out before the start of demolition or building works. It is recommended that high visibility fencing is installed to a minimum height of 800mm around the specified tree or group of trees.

Date: 19.6.2018
Drawn: P. Vezgoff
Site Address: Lot 2 of Lot 910 DP 1039116
Hillside Crescent
Stanwell Park NSW



on A: Revised for DA 13.03.2017

Key
 --- Proposed s/s drain locations for the lot layout & building envelopes.



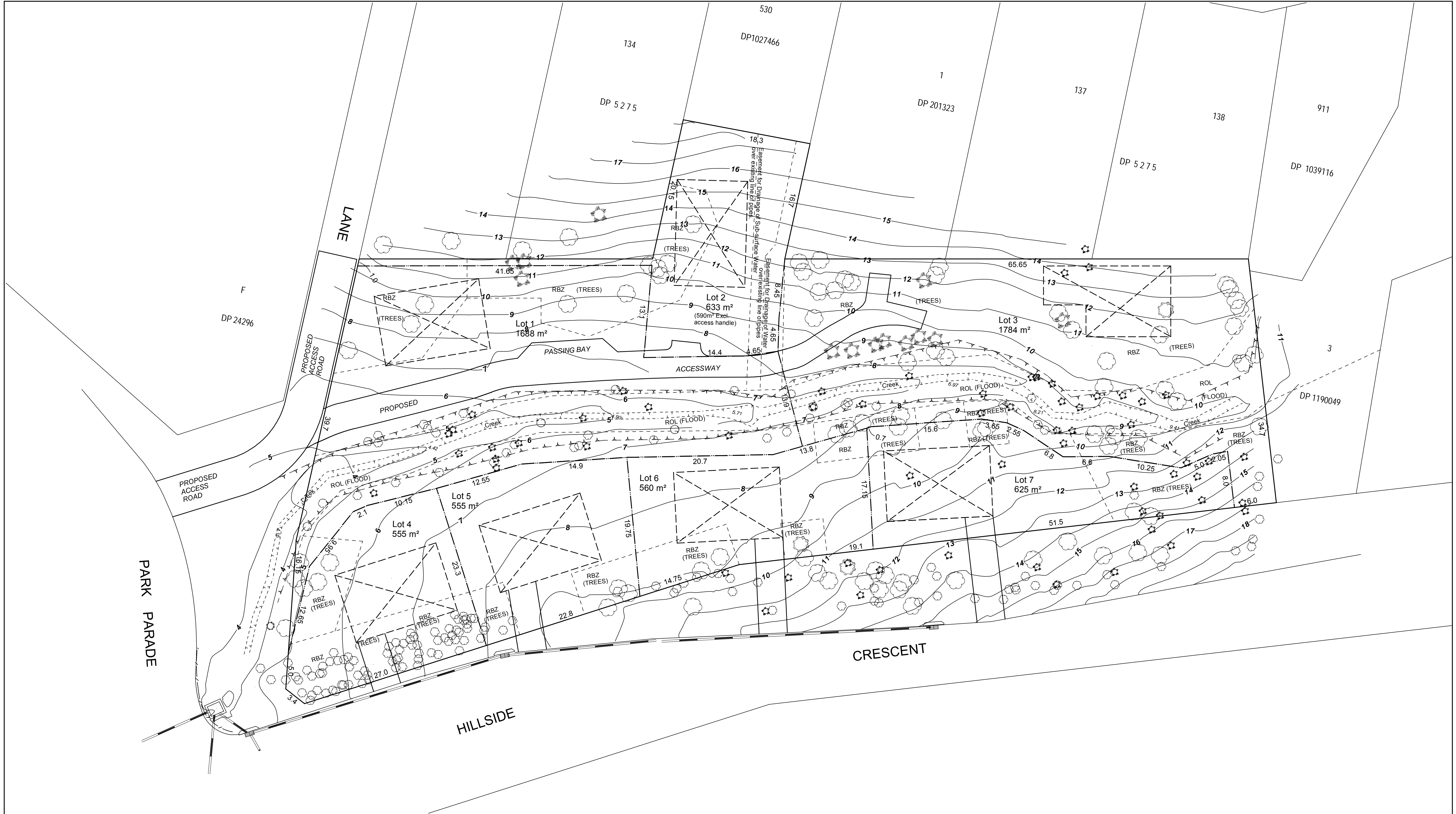
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PROJECT: Proposed 7 Lot Sub Division, Lot 2 DP 1190049
 Hillside Crescent, Stanwell Park

Drawing Name: PROPOSED BUILDING RESTRICTION
 ZONE MODIFICATIONS

Job No.
 1167

Dwg.No
 1167.03



EXISTING EASEMENTS
RBZ (TREES) - RESTRICTION ON THE USE OF LAND (RESTRICTED BUILDING ZONE).
ROL (FLOOD) - RESTRICTION ON THE USE OF LAND (FLOOD).

Notes:
This plan has been prepared from field survey and existing records for the purpose of 1:250 general planning and should not be used for any other purpose. Accurate location of improvements in relation to the boundaries has not been investigated and all critical improvement dimensions should be confirmed by survey.

Although the latest available information has been adopted from the Department of Lands, boundary investigation for the purpose of critical definition has not been made; therefore, any stated bearing, distance and/or area could be subject to change with further investigation. If boundary critical excavation/construction or design of buildings/extensions are to be undertaken further investigation is recommended.

Contours shown are interpolated at 1m intervals from existing spot levels and are an indication of land form only.

No services are shown on this plan. The relevant authority should be contacted and all services accurately located prior to any excavation/construction works or design of buildings/extensions. Please call 1100 or visit www.1100.com.au for 'Dial Before You Dig' service location plans.

AMENDED 10/5/2018 - CREEKLINE DETAILED, ACCESSWAYS EXTENDED, BLD ENV LOT 2 SHIFTED.
AMENDED 28/11/2017 - ACCESS ROAD & ACCESSWAY WIDENED.
AMENDED 8/6/2017 - NOMINAL BLD ENV ON LOT 3 MOVED.
AMENDED 21/12/2016 - EXISTING EASEMENTS/RESTRICTIONS ADDED.

DENNIS
SMITH
SURVEYS

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PLAN: SUBDIVISION LAYOUT PLAN
ADDRESS: 10 Hillside Cres STANWELL PARK.
TITLE: 2/1190049
CLIENT: LESLIE/PAVERT/GILMOUR

ORIENTATION:
Map Grid of Australia
Origin: DP1190049
DATUM: A.H.D.
Origin: PM17245

P.R.: 8009-15
SCALE 1: 250
DATE: 25/11/2016
SHEET 1 of 1 (A1)
Drawn: MB Check: MS

Attachment 2 - Compliance Table for WDCP 2009

CHAPTER B2 – RESIDENTIAL SUBDIVISION

The relevant controls of Chapter B2 as relates to the proposed development are addressed below:

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
5 Topography & natural landform		No
<p>(a) To ensure the design of any proposed residential subdivision takes into account inherent site constraints and natural landform features.</p> <p>(b) To ensure that the design of any proposed residential subdivision takes into account any significant trees or other vegetation upon the subject site, including any endangered ecological community or threatened species.</p>	<p>Due to the comparatively large size of the subject lot in relation to Stanwell Park and its prevailing topography it is considered that the site is capable of being developed to accommodate a small scale residential subdivision. However, the proposed lot layout and required civil works are not considered to adequately account for the inherent site constraints, natural landform features, significant trees and other vegetation including endangered ecological communities or threatened species as outlined in the objectives of Clause 5.1.</p>	
6 Subdivision layout – aspect & solar access orientation		Yes
<p>(a) To ensure residential lots are well designed to take into account aspect, orientation, slope issues and optimal solar access.</p> <p>(b) To provide residential lots which maximises solar access and energy efficiency opportunities for future dwellings and private open space areas.</p>	<p>The lots are capable of being arranged in such a way that solar access can still be reasonably achieved by future dwellings noting the existing vegetation and escarpment nearby.</p> <p>It is noted that the majority of lots are of an irregular shape which is a result of the topography of the area, riparian corridor, and the irregular road reserve along Hillside Crescent.</p>	
7 Minimum allotment size requirements		Yes
<p>(a) To ensure the subdivision of residentially zoned land is consistent with the objectives and minimum subdivision lot size requirements of the relevant LEP.</p> <p>(b) To ensure any subdivision of land is sympathetic to the surrounding subdivision pattern and the amenity of the residential neighbourhood in that particular locality is maintained.</p> <p>(c) To ensure any subdivision of land provides sufficient site area to cater for the future intended housing.</p> <p>(d) To ensure the design of any proposed residential subdivision takes into account inherent site constraints and minimises any potential adverse environmental impacts.</p>	<p>WLEP 2009 requires that the minimum lot size for the subject site is 550m².</p> <p>Each lot of the proposed development achieves the minimum lot size required.</p>	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
8 Lot width & depth requirements		No
<p>(a) To ensure residential lots are designed to provide sufficient lot width and depth, to cater for a suitable range of dwelling styles having regard to any site constraints or environmental qualities of that land.</p> <p>(b) To ensure residential lots in low density residential areas provide sufficient site area to cater for detached dwelling-houses with sufficient rear private open space which gains appropriate sunlight access during mid-winter.</p>	<p>It is noted that all lots have an irregular shape owing to the constraints of the subject site. Compliance with the minimum lot width of 12m is considered acceptable in this instance.</p> <p>The minimum depth of a residential allotment is required to be 25m. Proposed lots 4, 5, 6, & 7 do not comply with this requirement. A variation has been sought to this control, outlined in the SEE, which identifies that the lot depth is determined by the riparian corridor at the rear of the lots and that the objectives of the control are still met as the proposed layout has regard to the site constraints, environmental qualities of the land, and sufficient site area to allow adequate solar access.</p>	Variation required to facilitate the proposal
9 Battle-axe allotments		No
<p>(a) To encourage conventional residential subdivisions with direct public road access, rather than a series of battle axe allotments one behind each other, in order to maintain the residential amenity and character of the locality.</p> <p>(b) To permit a maximum of two (2) battle axe allotments in a subdivision upon certain land where inherent site constraints such as slope or topography may otherwise prevent a conventional residential subdivision which would provide direct public road access to all lots.</p> <p>(c) To minimise the potential adverse streetscape and amenity impacts upon the locality arising from a number of battle axe lots sharing a common access corridors.</p> <p>(d) To ensure each battle axe lot has a sufficient site area with a suitable building envelope to accommodate a range of different dwelling styles, in order to minimise any potential amenity or privacy impacts upon adjoining residential properties.</p> <p>(e) To ensure each battle axe lot has a sufficient site area to provide satisfactory on-site parking with suitable vehicular access and manoeuvring areas.</p>	<p>Based on the amended plans submitted proposed lots 2 & 3 have been provided with direct access to a public road. Lot 2 via a 1m wide handle along the eastern boundary of the site, and lot 3 with a 6m wide handle across the riparian corridor.</p> <p>This subdivision layout approach is considered an inappropriate solution to the orderly development of the lots where this can be more easily achieved via a right of carriageway established over the proposed driveway. The Applicant has attempted to justify this alternate layout approach by indicating legal advice has advised it is appropriate. This legal advice has not been submitted in support of the layout proposed.</p> <p>It is considered that this approach has been proposed in an attempt to circumvent the battle-axe controls outlined in Clause 9 for which the proposal does not comply.</p> <p>For the purpose of this assessment proposed lots 2 & 3 are considered battle-axe allotments. However, no rights of carriageway have been demonstrated on the amended subdivision plan submitted.</p>	

Controls/objectives	Comment	Compliance
	<p>Consequently, the proposed subdivision layout fails to demonstrate compliance with Clause 9 (13), (14), (15), and (16) as lots 2 and 3 do not demonstrate:</p> <ul style="list-style-type: none"> the capacity for vehicular turning facilities and two (2) onsite parking spaces on each lot, compliant access corridors and suitable turning areas for fire fighting vehicles, that the maximum gradient for any access way does not exceed 25%, that the gradients for access handles are in accordance with NSW RFS requirements. <p>Consequently, the proposed development does not demonstrate adequate compliance with objectives and controls of Clause 9 and cannot be supported.</p>	
<u>10 Building envelopes</u>		No
<p>(a) To ensure each residential lot has a suitable building envelope to accommodate a range of different dwelling styles, in order to minimise any potential amenity or privacy impacts upon adjoining residential properties.</p> <p>(b) To ensure the building envelope for each residential lot, takes into account all relevant constraints of the site and / or any easement or other restrictions pertaining to the land.</p> <p>(c) To ensure the building envelope for each residential lot takes into account any area of the subject land which contains significant remnant trees or other significant vegetation (including riparian vegetation).</p> <p>(d) To ensure building envelopes are appropriately positioned to maximise solar access opportunities and energy efficiency for future dwellings and rear private courtyards for each residential lot.</p>	<p>Amended subdivision plans have been provided for assessment. Due to the heavily constrained nature of the site the plans include building envelopes for each proposed lot. The following issues have been identified with these building envelopes:</p> <ul style="list-style-type: none"> All of the building envelopes proposed for each lot are located within existing restricted building zones established for tree retention during previous subdivision. Due to the heavily constrained nature of the subject site the building envelopes of proposed lots 1, 2 & 3 all require tree removal within the restricted building zones established for tree retention. The building envelope for proposed lot 3 does not meet the minimum dimensions of 10m x 15m and still requires tree removal and relocation to achieve this noncompliant building envelope. 	

Controls/objectives	Comment	Compliance
	<ul style="list-style-type: none"> The building envelope for proposed lot 2 appears to encroach into the sub-surface drainage line required as outlined in the plan for the geotechnical comments letter dated 8 May 2018. <p>The proposed building envelopes do not demonstrate compliance with the minimum standards or the inherent site constraints of the site as outlined above. Additionally, the proposal does not demonstrate compliance with objectives (b) and (c) of Clause 10 which require building envelopes to take into account all relevant site constraints, easements or other restrictions, and significant remnant trees or other significant vegetation including riparian vegetation.</p> <p>Consequently, the proposed development cannot be supported.</p>	
<u>11 Staging of major residential subdivisions</u>		NA
<p>(a) To ensure the staging of a major residential subdivision is well planned and that all relevant roads, drainage and other infrastructure services are provided for each stage in the subdivision.</p> <p>(b) To ensure the staging of the development minimises any potential adverse noise or amenity conflicts, arising from construction equipment and plant operating on later subdivision stages upon residents in early release stages.</p>	No staging is proposed.	
<u>12 Superlots in residential subdivisions for integrated housing or medium density housing</u>		NA
<p>The objectives of this clause are as follows:</p> <p>(a) To ensure large residue lots or superlots for future dual occupancy or medium density housing are well planned and are strategically placed to reflect future traffic management conditions and other environmental conditions.</p> <p>To encourage large residue lots to be earmarked for medium density housing early in the residential subdivision process.</p>	No superlots proposed	
<u>13 Cut and fill land re-shaping works</u>		Yes
The objectives of this clause is to ensure all completed residential lots are provided with a satisfactory fall towards the stormwater drainage system, in order to guarantee satisfactory stormwater run-off from each lot	All lots will have a minimum fall of 2% to allow run-off to be disposed of in accordance with Council's stormwater policy.	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
and to ameliorate against any potential water ponding impacts within the subdivision.		
<u>14 Public reserves</u>		NA
<p>(a) To provide public open space (ie both active and passive) within reasonable proximity for all residential lots within existing urban areas and new release areas.</p> <p>(b) To ensure the provision and embellishment of public open space is consistent with Council's planned requirements, to meet the recreational needs of the community.</p> <p>(c) To preserve remnant native bushland including endangered ecological communities within public open space buffers, where possible.</p> <p>(d) To limit the amount of land proposed to be dedicated to Council for public open space, to only lands zoned RE1 Public Recreation, under the relevant LEP or other lands previously identified by Council as being required for public open space.</p> <p>(e) To minimise costs of on-going maintenance of public open space.</p>	No dedicated public reserves are proposed.	
<u>15 Pedestrian and cycle way networks</u>		NA
<p>(a) To ensure residential subdivisions provide adequate pedestrian and cycleway linkages to facilities and services within the surrounding locality.</p> <p>(b) To ensure the road network adequately caters for the safety of pedestrians, cyclists and motorists through the provision of adequate sight lines at critical locations such as intersections, driveway crossings, bus stops and crossing points.</p> <p>(c) To ensure all pedestrian footpaths and shared pathways / cycle ways are designed in accordance with relevant Australian Standards and AUSTROADS.</p> <p>(d) To ensure all pedestrian footpaths and cycle ways are designed to incorporate Crime Prevention through Environmental Design (CPTED) principles by minimising any potential hiding places.</p>	No pedestrian and cycleway are proposed as part of the development.	
<u>16 Acoustic fencing</u>		NA
The objectives of this clause is to ensure appropriate acoustic fencing is provided for subdivisions which are subject to potential adverse noise impacts, in order to provide a	Not applicable.	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
pleasant acoustic environment for all residential lots within the subdivision.		
<u>17 Street tree planting</u>		NA
(a) To provide suitable street trees within residential subdivisions, in order to improve the streetscape character of the locality. (b) To improve the general residential amenity of the subdivision. (c) To ensure the planting of street trees in new subdivisions is appropriate and compatible with existing street tree planting within certain suburbs in the city.	No street trees are proposed as part of the application.	
<u>18 Entry statements</u>		NA
(a) To ensure entry statements are appropriately designed and constructed to enhance the streetscape character of the residential estate. (b) To ensure all entry statements and supporting structures (including night lighting) are contained wholly within the private realm of the subdivision, rather than within any existing or proposed future public road reserve. (c) To ensure all entry statements are well designed to minimise any potential obstructions to motorists, pedestrians and cyclists and to prevent any potential adverse traffic visibility impact and / or visual distraction to motorists.	No entry statement is proposed as part of the application.	
<u>19 Road connectivity, permeability and legibility</u>		NA
(a) To establish a legible and well-connected road network that promotes safe pedestrian and bicycle movement as well as convenient vehicular access. (b) To provide improved road, pedestrian and cycleway connections linking residential areas with public reserves, business centres, public services and facilities.	No public roads proposed as part of the application	
<u>20 Road network - road hierarchy</u>		NA
(a) To provide a defined hierarchy of roads, in order to provide an acceptable level of access, safety and convenience for all road users, (b) To ensure that the design features of each residential road within a subdivision reflects the role of the road within the overall road network. (c) To provide an acceptable level of access, safety and convenience for all road users	No public roads proposed as part of the application	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<p>within existing urban areas and new release areas, whilst ensuring acceptable levels of amenity and minimising traffic management issues in the particular locality.</p> <p>(d) To provide appropriate road access for larger and special purpose vehicles including garbage and recycling trucks, fire trucks, delivery trucks etc.</p>		
<u>21 Road design requirements - road types and characteristics of roads in residential road networks</u>		NA
<p>The objectives of this clause are as follows:</p> <p>(a) To ensure sufficient road carriageway and verge widths are provided for each road type, in order to enable all roads to perform their designated function within the road network.</p> <p>(b) To ensure that the road reserve adequately caters for all required functions including the safe and efficient vehicular and pedestrian movement throughout the road network, provision of on-street parking and the provision of street tree planting and other landscaping, where appropriate.</p> <p>(c) To ensure road verges are of sufficient width to physically accommodate all necessary infrastructure assets and utilities.</p> <p>(d) To provide road geometry that is consistent with the designated function of the specific road as well as the physical characteristics of the locality.</p> <p>(e) To ensure the road network is simple and safe for all road users, including motor vehicles, pedestrians and cyclists.</p> <p>(f) To ensure that appropriate vehicle speed limits are incorporated into the road design to enhance the safety of pedestrians and cyclists, the young and people with a disability.</p> <p>(g) To ensure new release areas are designed to provide for safe, convenient and efficient bus routes.</p> <p>No public roads proposed as part of the application</p>		
<u>22 Requirements for new road, drainage works and infrastructure construction</u>		Yes
The objective is to ensure all residential lots have suitable, safe and efficient access to and from public roads and that all road and stormwater drainage infrastructure works are properly constructed.	The internal driveways for the subdivision have been assessed by Council's Traffic, Stormwater and Subdivision Engineers who are satisfied.	
<u>23 Requirement for upgrading of poorly constructed or unformed public roads</u>		
The objective is to ensure all residential lots have suitable, safe and efficient access to and from public roads and that all road and stormwater drainage infrastructure works are properly constructed.	<p>It is noted that proposed lots 1, 2, & 3 gain access to Park Parade via a currently unsealed laneway leading uphill to The Drive. As part of this application a portion of the Lane would be constructed to allow sealed access.</p> <p>Council's Subdivision, Traffic and Stormwater Engineers have reviewed this proposal and are satisfied.</p>	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>24 Bus routes</u>		Yes
<p>The objectives of this clause are as follows:</p> <p>(a) To encourage bus services to link existing urban areas (especially business centres) with new residential subdivisions within new release areas.</p> <p>(b) To ensure residential subdivisions within new release areas are designed to ensure safe, convenient and efficient bus routes within reasonable walking distance to the majority of residential lots in a subdivision.</p> <p>To provide safe and convenient bus stops along the planned bus route.</p>	<p>The closest bus route currently services Stanwell Park Village which is a short walking distance.</p>	
<u>25 Residential cul-de-sacs & turning heads</u>		No
<p>The objectives of this clause are as follows:</p> <p>(a) To restrict the length of cul-de-sacs within a residential subdivision to improve accessibility to public transport facilities such as bus stops and provide more direct vehicular access arrangements for emergency vehicles.</p> <p>(b) To ensure cul-de-sacs and turning heads are designed to provide safe and efficient vehicular access for cars, waste collection and recycling trucks, removalist trucks, emergency vehicles etc.</p> <p>(c) To ensure all new residential lots are capable of being either accessed or serviced by emergency vehicles and other non-passenger vehicles such as waste and recycling collection trucks and removalist trucks, without adversely affecting the performance or safety of the surrounding road network.</p> <p>(d) To restrict "T" or "Y" turning heads to smaller cul-de-sacs which serve a limited number of residential lots within a subdivision.</p>	<p>Inadequate details have been provided regarding the newly proposed turning head on proposed lot 3. Due to the steep slope in this location it is considered that retaining walls would be required around the majority of the turning head to retain cut and fill to achieve compliant gradients. This may impact on the manoeuvring ability of both domestic vehicles and emergency vehicles required to utilise this turning head.</p> <p>As it remains unclear how a variety of vehicles safely utilise the turning head on proposed lot 3 and the absence of a turning head on lot 2 the proposed development does not adequately demonstrate compliance with the objective or controls of Clause 25 and cannot be supported.</p>	
<u>26 Roundabouts</u>		NA
<p>The objective of this clause is to ensure all roundabouts are safe and are designed in accordance with traffic engineering best practice.</p>	Not applicable	
<u>27 Road junction spacing</u>		NA
<p>The objective of this clause is to ensure road junctions are properly designed to minimise any potential traffic management or traffic safety issues.</p>	No public road junctions are proposed.	
<u>28 Traffic calming devices</u>		NA
<p>The objective of this clause is to provide appropriate traffic calming devices, in order to improve traffic management flows within large residential subdivisions.</p>	No traffic calming devices are required or proposed.	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>29 Traffic control devices & signs</u>		Yes
The objective of this clause is to provide appropriate traffic control devices and signs within residential subdivisions, in order to ensure traffic safety.	No traffic control devices are required. However, it is noted that a passing bay is proposed on the driveway servicing lots 2 and 3.	
<u>30 Splay corners</u>		NA
The objective of this clause is to provide appropriate splay corners at intersections within residential subdivisions, to ensure adequate sight line distances.	Not applicable.	
<u>31 Street lighting</u>		NA
<p>The objectives of this clause are as follows:</p> <p>(a) To provide effective street lighting along all roads within the subdivision, to maximise vehicular and pedestrian safety.</p> <p>(b) To provide appropriate street lighting at key intersections and pedestrian crossings as well as traffic calming device locations to maximise vehicular and pedestrian safety.</p> <p>(c) To provide appropriate lighting along all pedestrian pathways and / or shared pathways / cycle ways, in order to maximise pedestrian and cyclist safety.</p>	No street lighting is required or proposed.	
<u>32 Restricted access to arterial or sub arterial roads</u>		NA
<p>The objectives of this clause are as follows:</p> <p>(a) To restrict access to any arterial or sub-arterial road to maintain satisfactory traffic flows and</p> <p>(b) safety along such roads, where alternative public road access is available and practicable.</p>	Not applicable	
<u>33 NSW fire brigade access - fire hydrants</u>		No
<p>The objectives of this clause are as follows:</p> <p>(a) To provide fire hydrants within close proximity to all residential lots in a subdivision in accordance</p> <p>(b) with the relevant Australian Standard and the requirements of Sydney Water Corporation and NSW Fire Brigades.</p>	Lot 3 and potentially lot 2 cannot be serviced by fire hydrants. No existing fire hydrant locations are shown on survey plan or proposed subdivision plan as required by 33.2(1).	
<u>34 Bush fire protection</u>		Unresolved
<p>The objectives of this clause are as follows:</p> <p>(a) To ensure any residential subdivision upon land classified as bush fire prone land is designed to minimise the potential bush fire hazard risk.</p> <p>(b) To ensure any residential subdivision upon land classified as bush fire prone</p>	<p>The amended application has been assessed by the NSW Rural Fire Service pursuant to s100B of the Rural Fires Act 1997. A satisfactory response was received from the RFS on 1 May 2018.</p> <p>It should be noted that the RFS requirements included the entire</p>	

Controls/objectives	Comment	Compliance
<p>land is designed to provide an efficient and safe road network which minimises potential bottle-necks.</p> <p>(c) To ensure any residential subdivision upon bush fire prone land is designed to minimise the siting of future dwellings away from ridge tops and other steeply sloping land, especially upslope lands, within saddles or narrow ridge crests.</p> <p>(d) To provide public open space as an accessible public refuge area, wherever practicable.</p> <p>(e) To ensure each residential subdivision upon bush fire prone land is designed to provide satisfactory asset protection zone (APZ) separation distances from the bush fire hazard and guarantee that future dwellings are capable of achieving conformity with the "deemed-to-satisfy" requirements of the Building Code of Australia.</p>	<p>property of each lot, outside of the riparian corridor, shall be managed as an inner protection area. It should be noted that the implications of this requirement have not been considered in the amended Arborist report submitted in support of the application. This may result in additional tree removal/pruning which will have further adverse impacts on the ecological significance of the site which have not yet been considered.</p> <p>Additionally, it is noted that the RFS has required that an 88B restriction being created over all lots which prohibits construction of a dwelling outside of the proposed building envelopes.</p> <p>The RFS has also required that property access to lots 1, 2 and 3 shall comply with the performance criteria of section 4.1.3(2) of Planning for Bush Fire Protection 2006. This requires that a minimum 4m wide carriage way be created for fire fighting vehicles. However, the driveway proposed is 3.5m wide which does not comply. To achieve compliance this additional width will potentially impact the riparian corridor encroachment further and/or result in further retaining walls and driveway pavement in close proximity to trees onsite. This has not been considered in the latest Arborist report.</p>	
35 Stormwater drainage (including water sensitive urban design infrastructure)		No
<p>The objectives of this clause are as follows:</p> <p>(a) To minimise stormwater drainage run-off impacts upon downstream properties.</p> <p>(b) To limit post development discharges to pre-development levels.</p> <p>(c) To provide a sustainable stormwater drainage and water quality environment incorporating both natural and man-made landscape features and which is aesthetically pleasing.</p> <p>(d) To encourage water sensitive urban design initiatives for larger residential subdivisions, in order to maintain or enhance the water quality in watercourses.</p>	<p>Council's Stormwater Officer has reviewed the application submission with regards to stormwater drainage and is satisfied with regards to Clause 35.</p> <p>However, it is noted that the geotechnical letter prepared by Douglas Partners dated 8 May 2018 identifies that four (4) subsurface drainage lines are required to ensure geotechnical stability across proposed lots 1, 2, and 3. No detail regarding the design of these subsurface drainage lines has been submitted. Consequently, it remains unclear what extent of impact would be on existing trees onsite within</p>	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
	RBZs and NRS – Bio areas.	
36 Riparian land management		No
<p>The objectives of this clause are as follows:</p> <p>(a) To protect urban creeks and riparian corridors from further degradation and improve their environmental function.</p> <p>(b) To conserve, enhance and protect existing native riparian vegetation, wherever possible.</p> <p>(c) To maintain or enhance the stability of the bed and banks of a watercourse.</p> <p>(d) To minimize 'edge effects' at the riparian corridor / urban interface by the provision of a suitable riparian corridor width.</p> <p>(e) To ensure riparian land management measures are compatible with floodplain risk management objectives.</p>	<p>The Riparian Land Map indicates the site contains riparian lands in the form of a category 3 watercourse (bank stability and water quality). The riparian corridor is also located in an area of Natural resource sensitivity – biodiversity owing to its ecological significance.</p> <p>Council's Environment Officer has reviewed the application submission and has identified that as a category 3 watercourse a minimum 10m wide riparian corridor from top of bank is required. However, a 5m wide corridor is proposed which does not comply with Chapter E23 (Riparian land management) of WDCP 2009.</p> <p>It is further noted that this non-compliant 5m wide riparian corridor has the driveway servicing proposed lots 1, 2, and 3 encroaching into this corridor which is then proposed to be offset on the eastern side of the corridor. The submitted Vegetation Management Plan submitted in support of this application fails to acknowledge this offset and the latest subdivision plan.</p> <p>As such, the proposed development is not supported with regards to Clause 36.</p>	
37 Servicing arrangements		Yes
<p>The objectives of this clause are as follows:</p> <p>(a) To ensure the provision of infrastructure servicing / utilities is carried out in accordance with the requirements of Council and the relevant infrastructure servicing authority.</p> <p>(b) To maximise the opportunities for shared (common) trenching and to reduce constraints on landscaping within road reserve verges.</p>	<p>Servicing arrangements have been considered by Council's Subdivision Engineer and found to be satisfactory.</p> <p>Conditions could be imposed requiring the applicant to liaise with the relevant service providers such as Endeavour Energy and Telstra to obtain specific requirements.</p> <p>Sydney Water has provided referral in accordance with Section 78 of the Sydney Water Act 1994. They have stated that a Section 73 Certificate is required to be issued prior to any development commencement.</p>	
38 Monetary contributions towards the provision of public services and amenities		
The payment of monetary contributions will be required pursuant to Section 94A of the Environmental Planning and Assessment Act	See Section 2.3.2	

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
1979 for the provision of public services and amenities. The amount of contributions payable to Council will be determined by the Section 94A Contributions Plan.		
39 Road Naming		N/A
Council's policy is to give first preference to names with historical, zoological, botanical or geographic associations with Wollongong and the Illawarra Region, and if possible with the locality where the subdivision is proposed. Where more than one street exists within a subdivision, consideration should be given to a street naming "theme" to help create a distinct identity for the area.	No new roads are proposed.	
40 Street numbering		
Street / property numbering shall be clearly and permanently displayed on the kerb to identify the street number to essential / emergency services.	Street numbering would be determined at a future stage post registration of any subdivision.	

CHAPTER D1 – CHARACTER STATEMENTS

Stanwell Park

Existing Character

Stanwell Park is a seaside residential village which is nestled in a natural amphitheatre at the foot of the Illawarra escarpment.

Stanwell Park is characterised by a relatively low density residential suburb with single storey and two storey detached dwellings, including architecturally designed dwellings with a coastal architectural theme. Several pole homes are set amongst the forested (eucalypt and cabbage tree palm) valley floor, inland from the beach.

Stanwell Park contains a small village retail centre with a mini-supermarket and a small number of other food outlets and convenience shops as well several art galleries which provide for the daily convenience needs of the population and also attract the passing tourist trade.

Desired Future Character

Stanwell Park should retain its low density village character and any new residential development must not dominate the scenic environmental quality of the coastal headlands and the forested valley floors.

Views are an important aspect to the neighbourhood character of Stanwell Park. Whilst views to the coastline or escarpment are not owned or cannot be a right of law, the ability to glimpse the sea or the escarpment from living rooms or balconies is intrinsic to the 'sense of place' in this seaside area. Therefore, the siting, height and external form of new dwellings should be designed to maximise the view sharing opportunities for neighbouring properties.

Any new dwelling or major alterations and additions to existing dwelling should also be designed to minimise the scale and bulk of the development through the use of split-level building design 'stepping down' the site or by irregular floor layout plans such as pavilions with roofline forms to create well-articulated building forms. The rooflines for dwellings along the prominent coastal headlands should either be flat, curved or gently pitched to maximise view sharing opportunities for neighbouring dwellings.

The impact of upper storeys of a dwelling should also be minimised through a combination of additional front and side setbacks from the ground floor of the dwelling and the selective use of balconies and verandahs. Balconies should be lightly framed in steel and / or timber finishes, rather than of brick or masonry construction.

For new dwellings on sloping sites, the dwelling should also be stepped down the slope and suspended floors and decks should be used to minimise the disturbance of the natural contours of the site. Where front or rear facades of new dwellings are likely to be higher than neighbouring dwellings, the screening of balconies and additional setbacks may be necessary, to minimise any potential privacy or amenity impacts.

Lightweight architecturally designed coastal themed dwellings with weatherboard, rendered brickwork or colourbond walls with lightly coloured beige, light brown (sand) or light to mid grey or blue coloured finishes and colourbond sloping flat, curved or dutch gable pitched rooflines are preferred for buildings around the coastal headlands of the village.

Within the forested valleys of Stanwell Park further inland from the beach, dwellings should feature face brickwork or colourbond wall construction with pitched rooflines with muted brown to green finishes preferred. All new dwellings and major external alterations and additions to existing dwellings must be designed and constructed in accordance with the NSW Rural Fire Service Planning for Bushfire Protection 2006 guidelines and Australian Standard AS 3959 – 1999 Construction of Buildings in Bushfire Prone Areas.

Environmentally sensitive dwelling-houses which are set amongst the forested valley floor are also encouraged for the area.

The Stanwell Park retail centre will remain a local convenience village centre with the possible enlargement of the existing small supermarket up to medium sized supermarket over the medium to long term. Other higher order retailing and business service functions will be provided to residents by either the Helensburgh town centre as well as Wollongong City Centre and the southern suburbs of Sydney, particularly Miranda and Sutherland.

Comment: - It is acknowledged that the character statement above relates predominately to the architectural design of dwellings within the suburb. As the proposed development relates to the subdivision of land and not dwelling construction Chapter D1 is considered of limited relevance.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Council's Traffic Engineer has assessed the application submission with regard to Chapter E3 has raised no objection. However unresolved related matters remain in relation to entry point on Park Parade and manoeuvring within the site to satisfy the requirements of NSW RFS

CHAPTER E6: LANDSCAPING

Council's Landscape Officer has assessed the application submission with regards to Chapter E6 and raised no objection. However, Council's Environment officer has identified unresolved matters as relates to the extent of tree removals identified in the Arborist report and those required to satisfy NSW RFS APZ requirements and consequent impacts on flora and fauna.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided and considered acceptable in this instance.

CHAPTER E10 ABORIGINAL HERITAGE

Council's Heritage Officer has reviewed the application submission and has raised no concerns with regards to Aboriginal heritage onsite or the immediate surrounding area.

CHAPTER E11 HERITAGE CONSERVATION

Council's Heritage Officer has reviewed the application submission and identified that the proposed development is located within the vicinity of a number of heritage items as outlined previously in section 2.1.4

Concerns with regards to the increased traffic flow from the proposed 7 lots and the construction of a new access road onto Park Parade, which is within the curtilage of the adjoining Wet Sclerophyll Forest Riparian Corridor, which is considered to have a significant impact on the retention of the already fragmented Riparian Corridor.

Consequently, the proposed development is not considered to satisfy the controls of Chapter E11.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Officer in relation to site stability and the suitability of the site for the development. No concerns are raised.

CHAPTER E13 FLOODPLAIN MANAGEMENT

Council's Stormwater Engineer has reviewed the application submission and is satisfied.

CHAPTER E14 STORMWATER MANAGEMENT

Council's Stormwater Engineer has reviewed the application submission and is satisfied.

CHAPTER E16 BUSHFIRE MANAGEMENT

The proposed development was referred to the NSW Rural Fire Service and an unsatisfactory response was received on 5 February 2018. The NSW Rural Fire Service then reviewed the amended plans and documents and issued a bushfire safety authority pursuant to s100B of the Rural Fires Act 1997 dated 1 May 2018. This authority can be attached to any consent granted.

It should be noted that the RFS requirements included the entire property of each lot, outside of the riparian corridor, be managed as an inner protection area. The implications of this requirement have not been considered in the amended Arborist report submitted in support of the application. This may result in additional tree removal/pruning which will have further adverse impacts on the ecological significance of the site.

Additionally, it is noted that the RFS has required that an 88B restriction be created over all lots which prohibits construction of a dwelling outside of the proposed building envelopes.

The RFS has also required that property access to lots 1, 2 and 3 shall comply with the performance criteria of section 4.1.3(2) of Planning for Bush Fire Protection 2006. This requires that a minimum 4m wide carriage way be created for fire fighting vehicles. However, the driveway proposed is 3.5m wide which does not comply. To achieve compliance this additional width will potentially impact the riparian corridor encroachment further and/or result in further retaining walls and driveway pavement in close proximity to trees onsite. This has not been considered in the latest Arborist report.

Consequently, it is considered that the proposed development does not adequately demonstrate compliance with the requirements of Planning for Bush Fire Protection 2006 as required by Chapter E16 and is not supported.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

An initial assessment of the application identified that seventeen (17) trees were proposed for removal within areas identified as Natural resource sensitivity – biodiversity and the established restricted building zones created for tree retention. It was further identified that some of these trees were required to be removed to facilitate the location of a non-compliant building envelope on proposed lot 3. Additionally, ten (10) of these trees identified as having SULE ratings of 1a were proposed for removal. The wholesale removal of trees proposed within the existing restricted building zones was not supported.

As a result, amended plans and documents have been submitted by the Applicant in response. An assessment of the submitted plans indicates that nine (9) trees are proposed for removal (trees 1, 2, 3, 17, 18, 43, 95, 96a, 102). Trees 43 and 95 are identified as being dead. However, a review of the

updated Arborist Report submitted to Council via email on 19 June 2018 (pg. 30) has raised the following further issues:

- Clause 4.2 of the report states that "Sections of lopped vegetation growing below the power lines along Hillside Crescent will have to be removed to allow access to Lots 4, 5 and 6". This area of vegetation requiring removal has been identified in the Applicant's Flora and Fauna Report as containing two (2) Magenta Lilly Pilly (Threatened Species), and the Hillside frontage as containing Warm Temperate Rainforest which the Flora and Fauna report has considered as the Endangered Ecological Communities (EEC) Illawarra Subtropical Rainforest and Littoral Rainforest. The Arborist report has not provided detail as to what extent of tree removal or pruning is required in these ecologically significant areas. As such, a full and thorough assessment of the potential impacts cannot be undertaken and as a result the application cannot be supported in its current form.
- Clause 4.2 of the report also identifies that tree 17 will need to be removed for drainage. The only drainage proposed in this location is the subsurface drainage lines outlined in the plan of Geotechnical letter of 8 May 2018. No further details of these proposed drainage lines have been submitted for assessment. When the tree protection plan (pg. 40) is reviewed in relation to the proposed location of the subsurface drainage line it appears further trees (13 & 15) would be required for removal which have not been considered in the Arborist report or on the layout plans submitted. These trees are located within the established RBZs and the NRS – Bio area. As such, the proposed development cannot be supported.
- Whilst the tree protection plan identifies the newly proposed turning head and retaining walls on lot 3 it does not provide details regarding what trees are impacted by these works. The plan actually locates tree protection fencing prior to the proposed location of the turning head. It appears that trees 23, 25, 28, 29 and 34 (all SULE value 1a) may be impacted by this turning head as they are located within close proximity. These trees are also located within a RBZ and the NRS – bio area. Due to the steep topography of the site in this location retaining walls will also be required to retain cut/fill for the turning head/driveway. The impact of these proposed works have not been considered in the Arborist report along with the NSW RFS requirement to extend the width of the driveway to 4m as outlined above. As such, a full and thorough assessment of the potential impacts cannot be undertaken and as a result the application cannot be supported in its current form.

Overall, the removal of numerous trees located in areas identified as Natural resource sensitivity – biodiversity and within restricted building zones established for tree protection is not considered acceptable. It is further noted that to achieve the subdivision layout some trees are required to be removed to demonstrate building envelopes for each lot, one of which is non-compliant. These building envelopes should be located outside of any site constraints or established restrictions. The removal of trees 13 to 17 for the construction of sub-surface drainage in NRS Bio areas and within the restricted building zone is also considered an unacceptable outcome and is not supported.

It is further noted that the restricted building zones established for tree protection (restriction numbered 2) via DP1190049 and associated 88B Instrument lists Council as the authority to release, vary or modify the restriction. In this instance it is not considered appropriate that the restriction be released, varied or modified. As such, the proposed development does not demonstrate compliance with the objectives or controls of Chapter E17 and is not supported.

CHAPTER E18 THREATENED SPECIES

Due to the ecologically significant nature of the subject site a Flora and Fauna Assessment of the site has been undertaken and submitted in support of the application. This report has been reviewed by Council's Environment Officer who has identified that the report has not been updated to consider the amended subdivision lot layout, does not provide adequate calculations regarding likely improvements and management of the riparian corridor to offset adverse impacts, and does not provide a plan of protection and management of the areas of threatened ecological communities Illawarra Subtropical Rainforest and Littoral Rainforest outside of the riparian corridor.

As such, this does not adequately demonstrate how impacts on threatened species can be adequately mitigated or managed into the future and the proposed development therefore does not comply with the objectives or controls of the Chapter and is not supported.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

The proposal comprises earthworks to facilitate driveway access, retaining walls and sub-surface drainage lines. The earthworks could be expected to result in unreasonable impacts on the environmental functions and processes, neighbouring properties or features of the surrounding land when undertaken with regards to Council's Geotechnical Officers advice.

However, inadequate information has been provided regarding any required retaining walls for the turning head with proposed lot 3 which will likely have adverse impacts on trees located in close vicinity nor has the transect of required sub-surface drainage lines been identified.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

See Section 2.1.1 above.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions of consent could be recommended in regard to appropriate sediment and erosion control measures to be in place during works.

CHAPTER E23: RIPARIAN LAND MANAGEMENT

The Riparian Land Map indicates the site contains riparian lands in the form of a category 3 watercourse (bank stability and water quality). The riparian corridor is also located in an area of Natural resource sensitivity – biodiversity owing to its ecological significance. Council's Environment Officer has reviewed the application submission and has identified that as a category 3 watercourse a minimum 10m wide riparian corridor from top of bank is required. However, a 5m wide corridor is proposed which does not comply with Chapter E23 (Riparian land management) of WDCP 2009. It is further noted that this non-compliant 5m wide riparian corridor has the driveway servicing proposed lots 1, 2, and 3 encroaching into this corridor which is then proposed to be offset on the eastern side of the corridor. The submitted Vegetation Management Plan submitted in support of this application fails to acknowledge this offset and the latest subdivision plan.

The proposal is also considered Integrated Development as it requires a controlled activity approval pursuant to Section 91 of the Water Management Act 2000. Details of the original proposal and amended design were referred to the NSW Natural Resources Access Regulator (NRAR) and a response was received on 23 July 2018 raising no objection subject to the imposition of a range of general terms of approval (GTAs).

Attachment 3 – Reasons for Refusal

1. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with:
 - State Environmental Planning Policy No. 71
2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with Wollongong Local Environmental Plan 2009:
 - Clause 5.5 Development within the coastal zone
 - Clause 5.10 Heritage conservation
 - Clause 7.2 Natural resource sensitivity – biodiversity
 - Clause 7.4 Riparian lands
 - Clause 7.6 Earthworks
3. Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate consistency with:
 - State Environmental Planning Policy (Coastal Management) 2018
4. Pursuant to the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal fails to demonstrate consistency with the provisions of the Wollongong Development Control Plan 2009:
 - Chapter B2: Residential Subdivision;
 - Chapter E3: Car Parking Access and Traffic Management
 - Chapter E11: Heritage Conservation;
 - Chapter E16: Bushfire Management;
 - Chapter E17: Preservation and Management of Trees and Vegetation;
 - Chapter E18: Threatened Species; and
 - Chapter E23: Riparian Land Management
4. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate that the likely impacts of the development will not be adverse.
5. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act, 1979, it is considered that the proposal fails to demonstrate that the site is suitable for the development
6. Pursuant to the provisions of Section 4.15 (1)(d)&(e) of the Environmental Planning and Assessment Act, 1979, it is considered that having regard for the relevance of submissions received and in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore, not in the public interest.