

Our Ref: P00031_L3_ Response to Transport for NSW.docx
3 March 2021

Ref: CR2020/005288&SF2020/208998

Peter Marler
Manager Land Use Assessment
Hunter Region
Transport for NSW
Locked Bag 2030
Newcastle NSW 2300

Dear Peter,

SUBJECT: RESPONSE TO SUBMISSION
PROJECT: MOD TO TINONEE PA (MP 05_0038 MOD 1)

1. Introduction

We are writing in response to your letter submission to the Department of Planning, Industry and Environment in relation to the proposed layout modification for Mod to Tinonee Project Approval (MP 05_0038 MOD 1) dated 24 November 2020. We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Adequacy of the proposed intersection treatments with the main subdivision entry and Urray Road.

Our response to the issues raised by Transport for NSW is provided below.

2. Main Subdivision Entry Treatment

The main subdivision entry treatment was constructed in October 2015 to a CHR/BAL treatment standard as required by Condition E35 of the Project Approval. Copies of the approved plans for construction are attached.

3. Urray Road Intersection Treatment

The Urray Road intersection will allow access to the proposed Stage 2 of the modified subdivision. The layout of Stage 2 as proposed in this modification incorporates changes required by the Project Approval and remains unchanged in lot numbers and configuration. It is therefore submitted that the proposed Stage 2 is in compliance with the current approval and could therefore be constructed in accordance with that approval. The proposed modification of this section of the site now relates only to the numbering of that stage.

It is still intended to construct the Urray Road intersection to a CHR/BAL treatment standard as required by Condition E35 of the Project Approval.

4. Requirement for New Traffic Impact Assessment

Given the fact that the main subdivision entry treatment was constructed in October 2015 and that the Stage 2 lot numbers and configuration remains unchanged and will be serviced by the Urray Road intersection to a CHR/BAL treatment standard, it is submitted that an updated Traffic Impact Assessment is not necessary.

The proposed CHR/BAL treatment standard as required by Condition E35 is appropriate for this rural location and a revised Traffic Impact Assessment would not result in any changes to the treatment types required for the subdivision.

5. Conclusion

It is submitted that this response to the issues raised by Transport for NSW adequately addresses those issues. Should any further discussion of these matters be required please do not hesitate to contact the undersigned.

Regards

Yours faithfully

PDA Planning

A signed copy can be provided upon request.

TONY FISH

Town Planner

CARTERS CREEK ROAD INTERSECTION WITH BUCKETTS WAY

Principal: RTS Super
Surveyors: McGlashan and Crisp

LOCALITY MAP



DRAWING SCHEDULE

SHEET No	DESCRIPTION
1	TITLE SHEET
2	BUCKETTS WAY GENERAL ARRANGEMENT PLAN AND LONGITUDINAL SECTION
3	CARTERS CREEK ROAD AND KERB RETURN PLAN AND LONGITUDINAL SECTIONS
4	BUCKETTS WAY CROSS SECTIONS, SHEET 1 OF 2
5	BUCKETTS WAY CROSS SECTIONS, SHEET 2 OF 2
6	PAVEMENT DETAILS
7	SIGNPOSTING AND LINEMARKING PLAN

GENERAL NOTES:

SURVEY ON GROUND DISTANCES MGA & AHD. ORIGIN SSM 158002. SURVEY PROVIDED BY GREATER TAREE CITY COUNCIL. LOCAL GOVERNMENT ENGINEERING SERVICES TAKES NO RESPONSIBILITY FOR ITS ACCURACY.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO LOCATE AND LEVEL ALL SERVICES ADJACENT TO OR OTHERWISE AFFECTING THE WORKS PRIOR TO THE COMMENCEMENT OF WORKS, WHETHER OR NOT THEY ARE INDICATED ON THE DRAWINGS. WHERE SERVICES CONFLICT WITH PROJECT WORKS THEY ARE TO BE RELOCATED ON APPROVAL FROM THE 'PRINCIPAL'S AUTHORISED PERSONNEL' (P.A.P.). THE CONTRACTOR, ON APPROVAL FROM THE P.A.P., SHALL MAKE ALL NECESSARY ARRANGEMENTS WITH THE RELEVANT AUTHORITY TO RELOCATE OR ADJUST AS FOUND NECESSARY.

EXISTING SIGNS TO BE REUSED PROVIDED THEY ARE IN A GOOD AND SERVICEABLE CONDITION TO THE SATISFACTION OF THE P.A.P.. OTHERWISE, REPLACE WITH A NEW, EQUIVALENT SIGN.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO SUPPLY AND IMPLEMENT CONTEMPORARY SITE-SPECIFIC EROSION AND SEDIMENT CONTROL MEASURES AS PART OF THEIR ENVIRONMENTAL MANAGEMENT PLAN FOR THE PROJECT. THE CONTROL MEASURES SHALL BE IN ACCORDANCE WITH COUNCIL SPECIFICATIONS AND 'THE BLUE BOOK'. THE CONTRACTOR SHALL, PRIOR TO COMMENCEMENT OF WORKS, PREPARE AND SUBMIT TO COUNCIL AN EROSION AND SEDIMENT CONTROL PLAN.

ALL DISTURBED AREAS ARE TO BE REGENERATED AND RESTORED TO PRE-EXISTING CONDITION. APPLY GRASS SEED AND EMULSION SPRAY AT 1.5L/m² TO BARE OR DISTURBED AREAS INCLUDING ALL GRAVEL BATTERS.

ALL WORKS SHALL BE CARRIED OUT IN ACCORDANCE WITH REGULATORY BODY REQUIREMENTS AND IN ACCORDANCE WITH THE CONTRACT DOCUMENTATION.

THE CONTRACTOR SHALL NOT ENTER UPON OR DO ANY WORK WITHIN ADJACENT LANDS WITHOUT PRIOR WRITTEN PERMISSION OF THE LAND OWNER.

THE CONTRACTOR SHALL AT ALL TIMES MAINTAIN IN A SAFE CONDITION AN ALL WEATHER ACCESS TO THE ROADWAYS AND PROPERTIES ADJACENT TO THE SITE TO THE SATISFACTION OF COUNCIL.

THE CONTRACTOR SHALL UNDERTAKE TRAFFIC CONTROL MEASURES IN ACCORDANCE WITH THE WORK HEALTH AND SAFETY ACT 2011.

THE CONTRACTOR SHALL CLEAR AND DISPOSE OF THOSE TREES THAT ARE LOCATED WITHIN THE EARTHWORKS, SERVICE LINES AND/OR AS IDENTIFIED BY THE P.A.P.. TREES TO BE RETAINED ON SITE SHALL BE PROTECTED BY THE ERECTION OF PROTECTIVE FENCING PRIOR TO COMMENCEMENT OF SITE WORKS.

CLEARING IS DEFINED AS: CUTTING DOWN, FELLING, THINNING, LOGGING OR REMOVING NATIVE VEGETATION; KILLING, DESTROYING, POISONING, RING BARKING, UPROOTING, OF NATIVE VEGETATION; SEVERING TOPPING OR LOPPING BRANCHES, LIMBS, STEMS OR TRUNKS OF NATIVE VEGETATION; OR SUBSTANTIALLY DAMAGING OR INJURING NATIVE VEGETATION IN ANY OTHER WAY.

ALL EXISTING CULVERTS ARE TO BE CLEANED AND VEGETATION TO BE REMOVED FROM INLET AND OUTLET TO RE-ESTABLISH A CLEAR WATERWAY.

ALL EXISTING CULVERTS ARE TO BE INSPECTED DURING CONSTRUCTION TO ENSURE THEY ARE STRUCTURALLY SOUND. DAMAGED SECTIONS OF CULVERTS MAY BE REPLACED UPON APPROVAL FROM THE P.A.P..

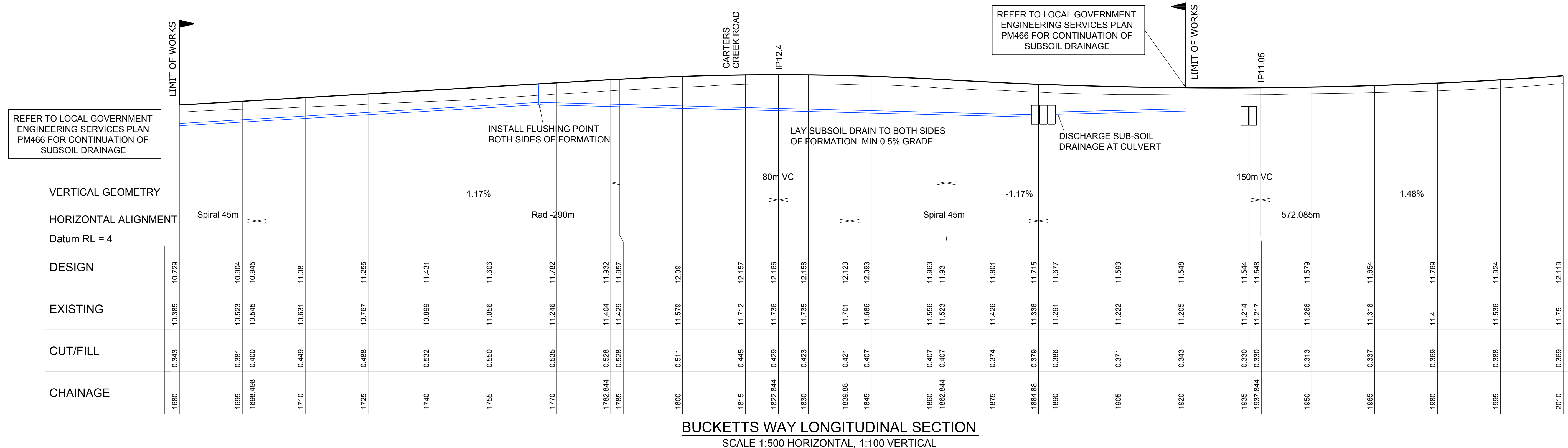
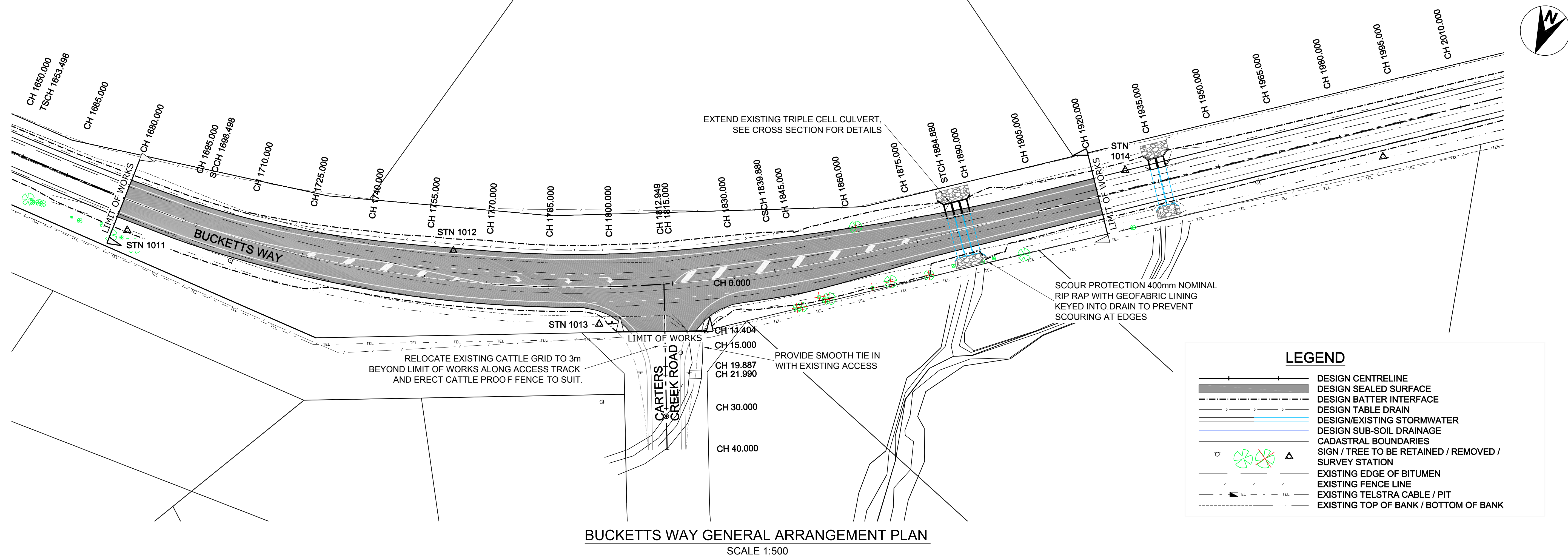
SUB-SOIL DRAINAGE TO BE CONSTRUCTED USING LEVEL EQUIPMENT AND TO BE INCLUDED IN WORK AS EXECUTED PLANS.

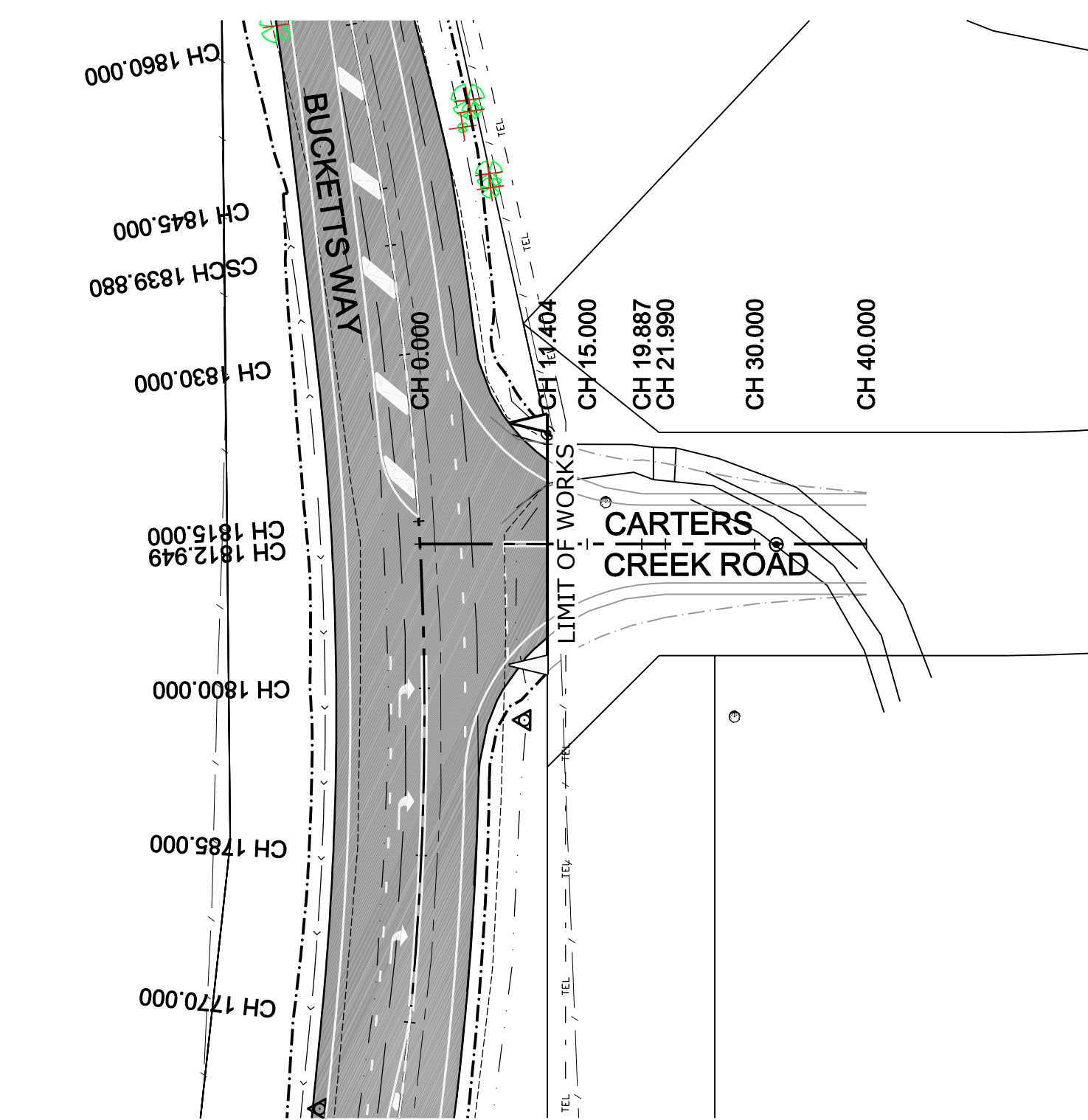
LEGS CERTIFY THE STRUCTURAL DETAILS PROVIDED WITHIN THESE DRAWINGS. LEGS IN NO WAY CERTIFY THE STRUCTURAL INTEGRITY NOR STRUCTURAL CAPACITY OF EXISTING STRUCTURES WITHIN THE WORKS. IF THE CONTRACTOR DEEMS AN EXISTING STRUCTURE TO BE STRUCTURALLY UNSOUND, CONTACT THIS OFFICE FOR FURTHER INVESTIGATION.



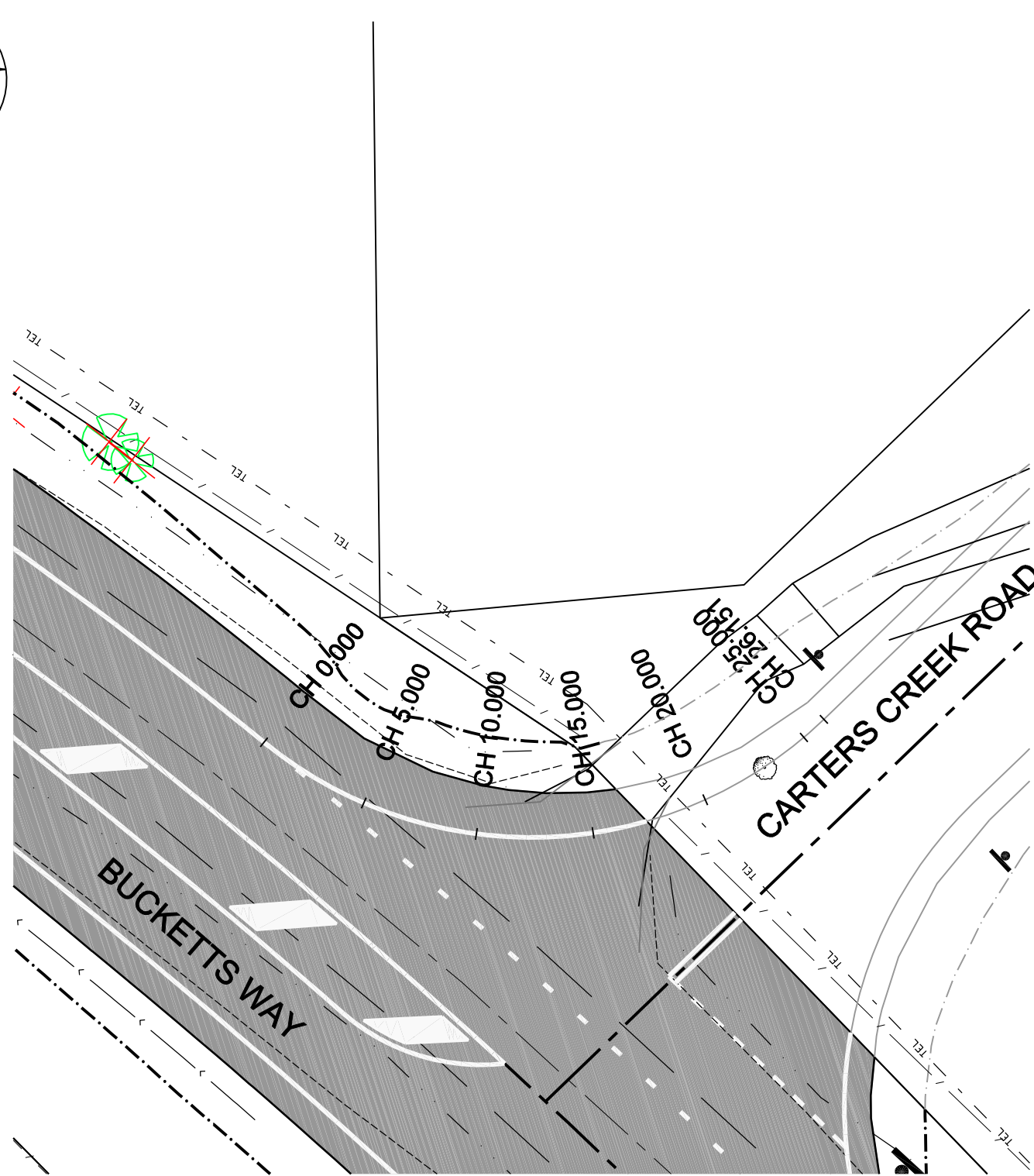
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Inverell
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Ph: 02-67225110 Fax: 02-67223918
Email: andrew@legs.com.au

JOB No.: PM488	ISSUE B	SHEET No. 1
DOCUMENT No.: D01		OF 7
STATUS: CONSTRUCTION		
REG. No.: -		

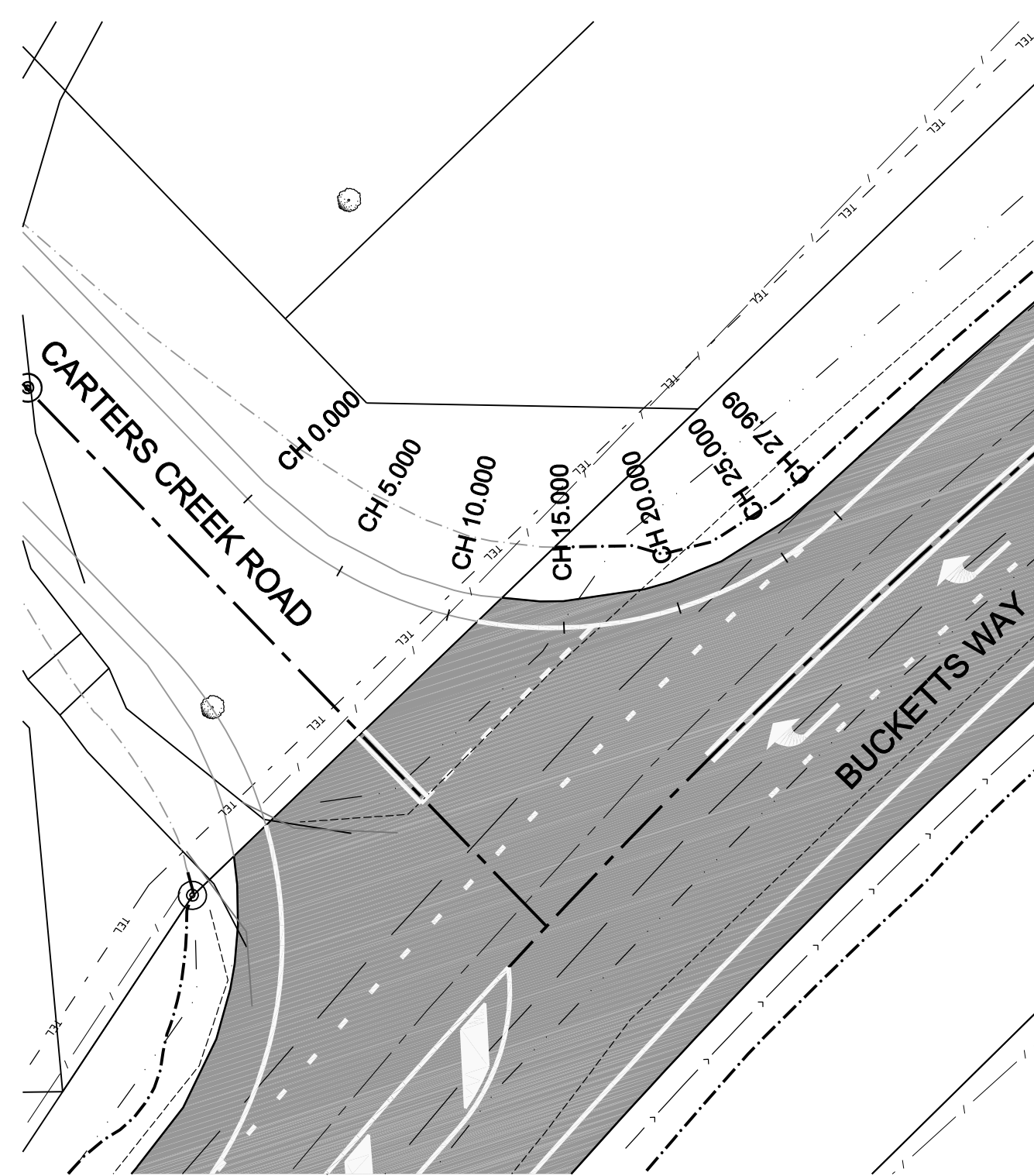
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CARTERS CREEK ROAD GENERAL ARRANGEMENT PLAN
SCALE 1:500

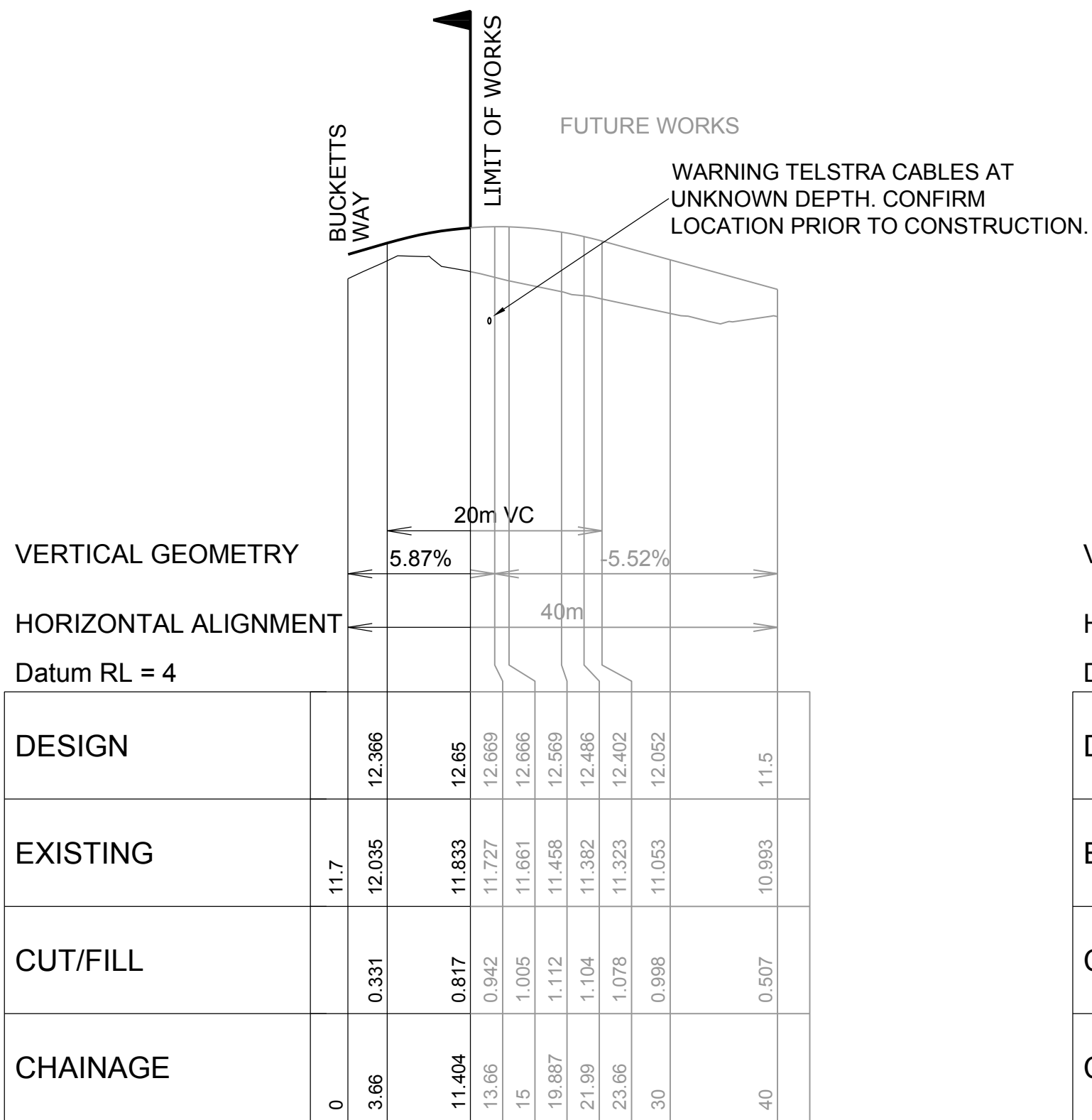


KERB RETURN 1 DETAIL PLAN
SCALE 1:250

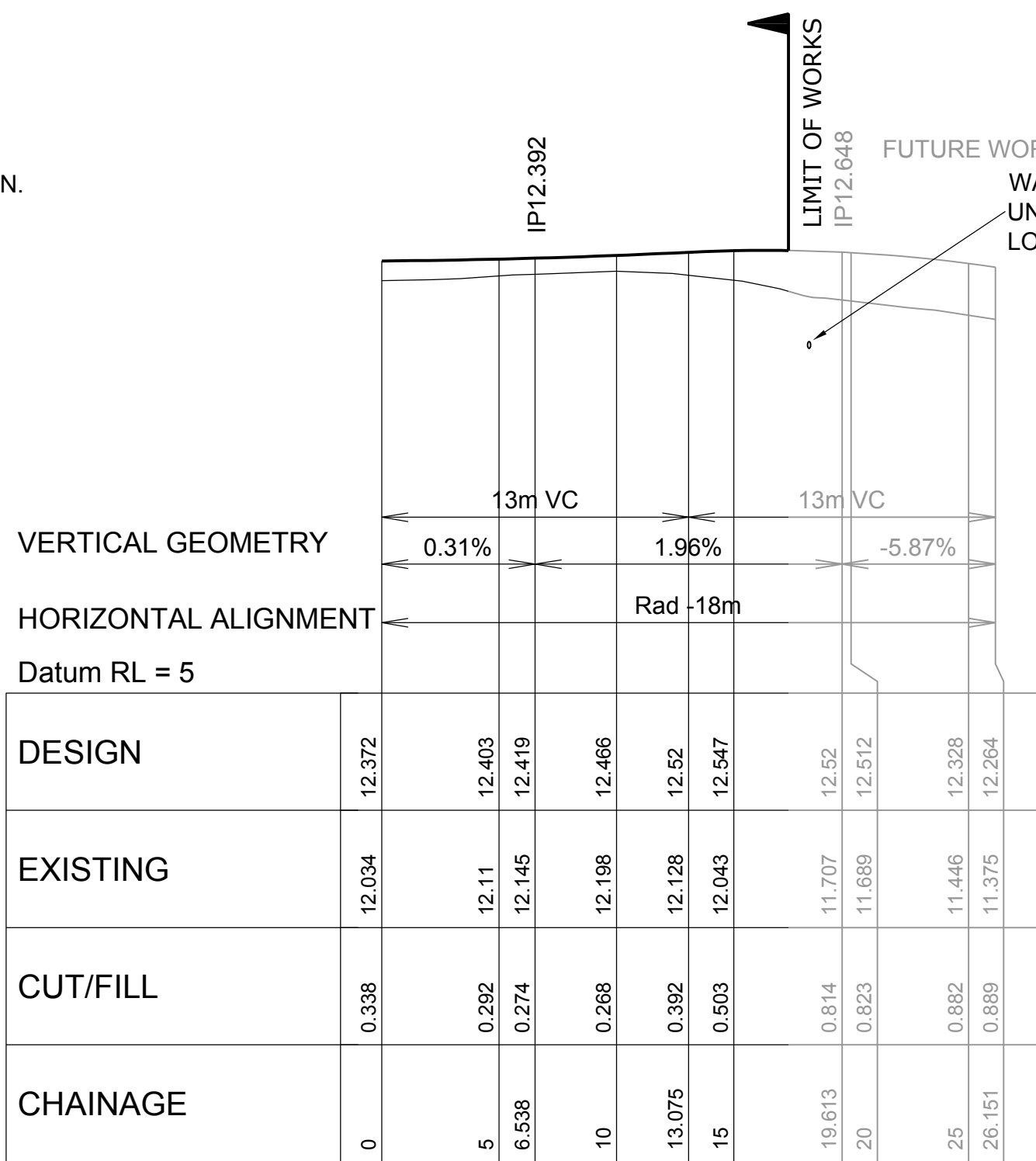


KERB RETURN 2 DETAIL PLAN
SCALE 1:250

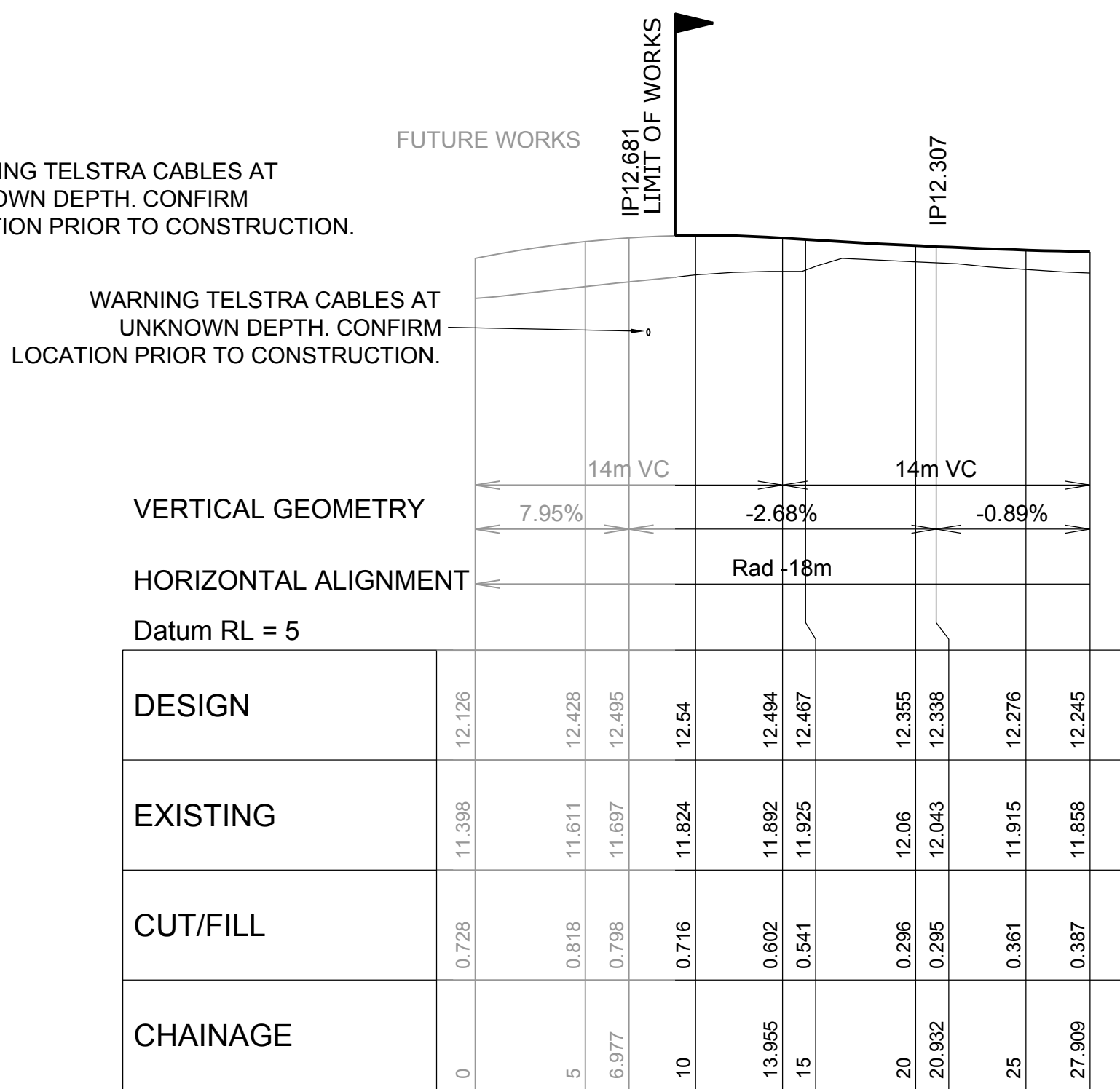
LEGEND	
	DESIGN CENTRELINE
	DESIGN SEALED SURFACE
	DESIGN BATTER INTERFACE
	DESIGN TABLE DRAIN
	DESIGN/EXISTING STORMWATER
	DESIGN SUB-SOIL DRAINAGE
	CADASTRAL BOUNDARIES
	SIGN / TREE TO BE RETAINED / REMOVED / SURVEY STATION
	EXISTING EDGE OF BITUMEN
	EXISTING FENCE LINE
	EXISTING TELSTRA CABLE / PIT
	EXISTING TOP OF BANK / BOTTOM OF BANK



CARTERS CREEK ROAD LONGITUDINAL SECTION
SCALE 1:500 HORIZONTAL, 1:100 VERTICAL



KERB RETURN 1 LONGITUDINAL SECTION
SCALE 1:250 HORIZONTAL, 1:100 VERTICAL



KERB RETURN 2 LONGITUDINAL SECTION
SCALE 1:250 HORIZONTAL, 1:100 VERTICAL

ISSUE	REVISION	DATE
B	ISSUED FOR CONSTRUCTION	23/04/15
A	ISSUED TO CLIENT FOR REVIEW	21/04/15

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Email: andrew@legs.com.au

McGlashan & Crisp
SURVEYORS

CLIENT	MCGLASHAN AND CRISP SURVEYORS
PROJECT	CARTERS CREEK ROAD INTERSECTION WITH BUCKETTS WAY CARTERS CREEK ROAD, AND KERB RETURN PLAN AND LONGITUDINAL SECTION

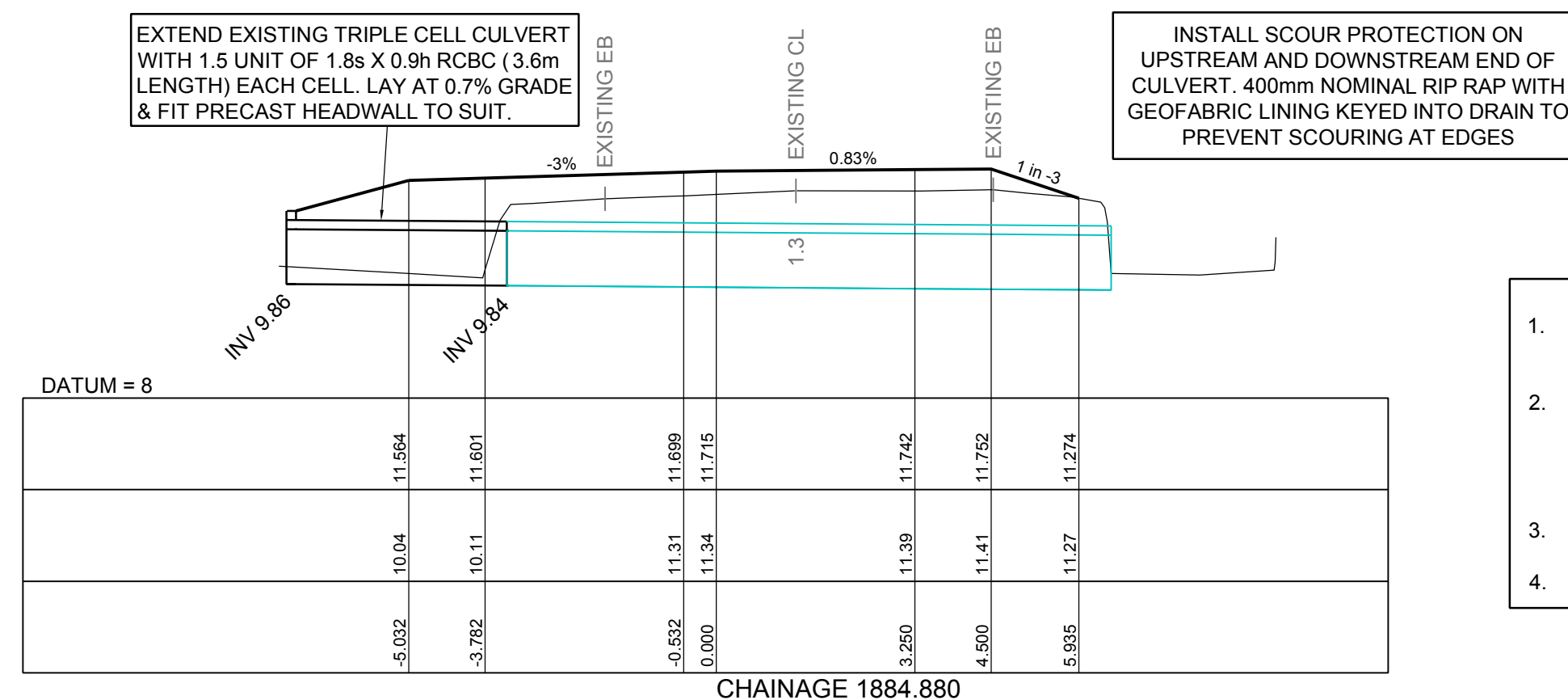
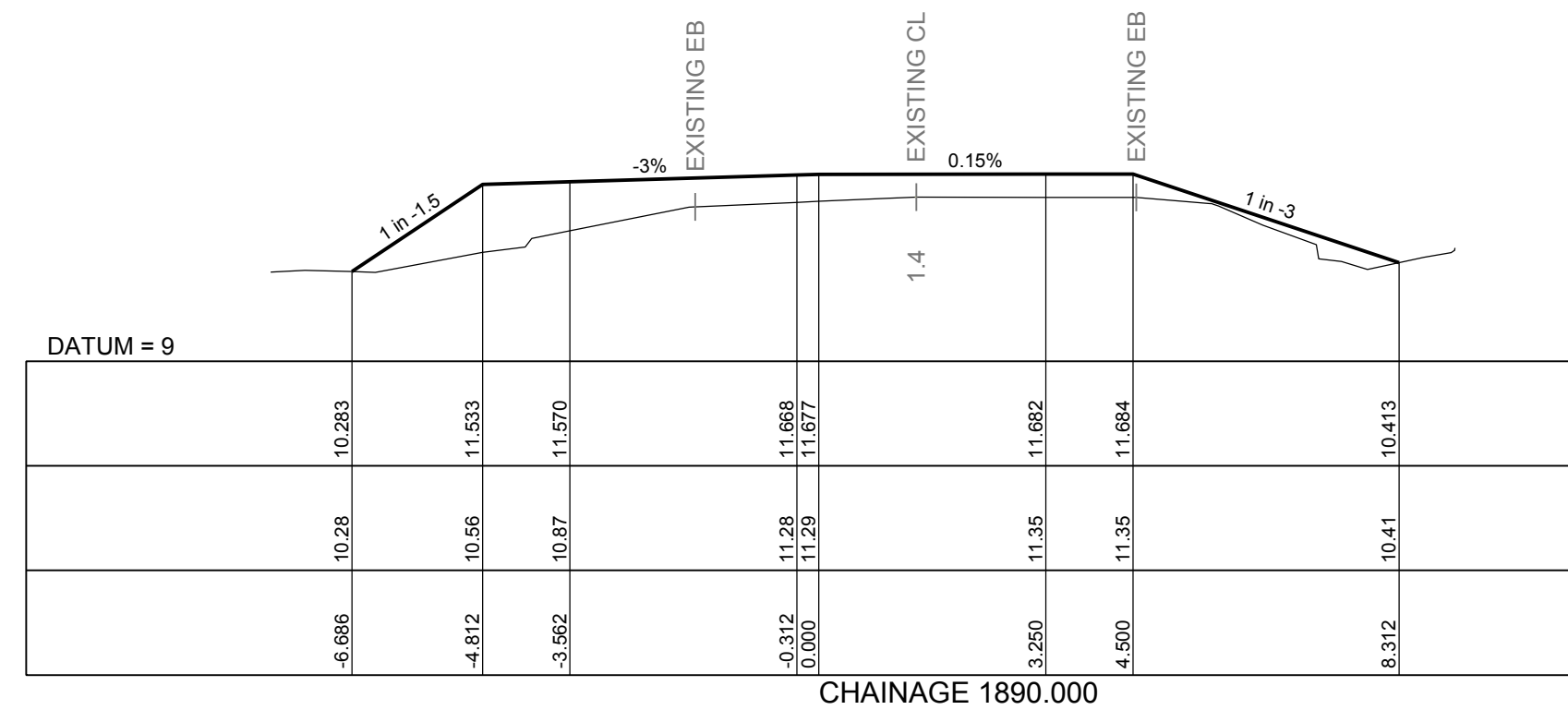
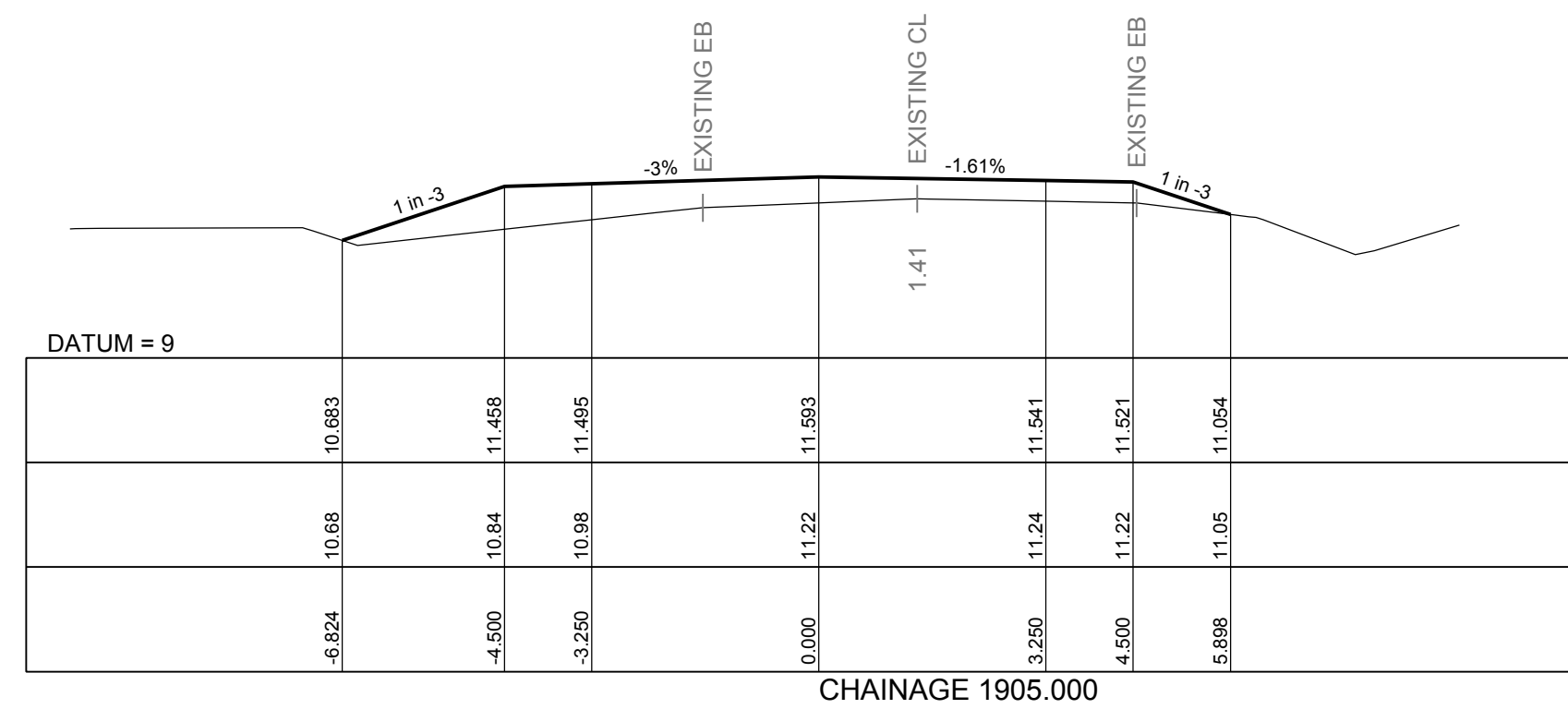
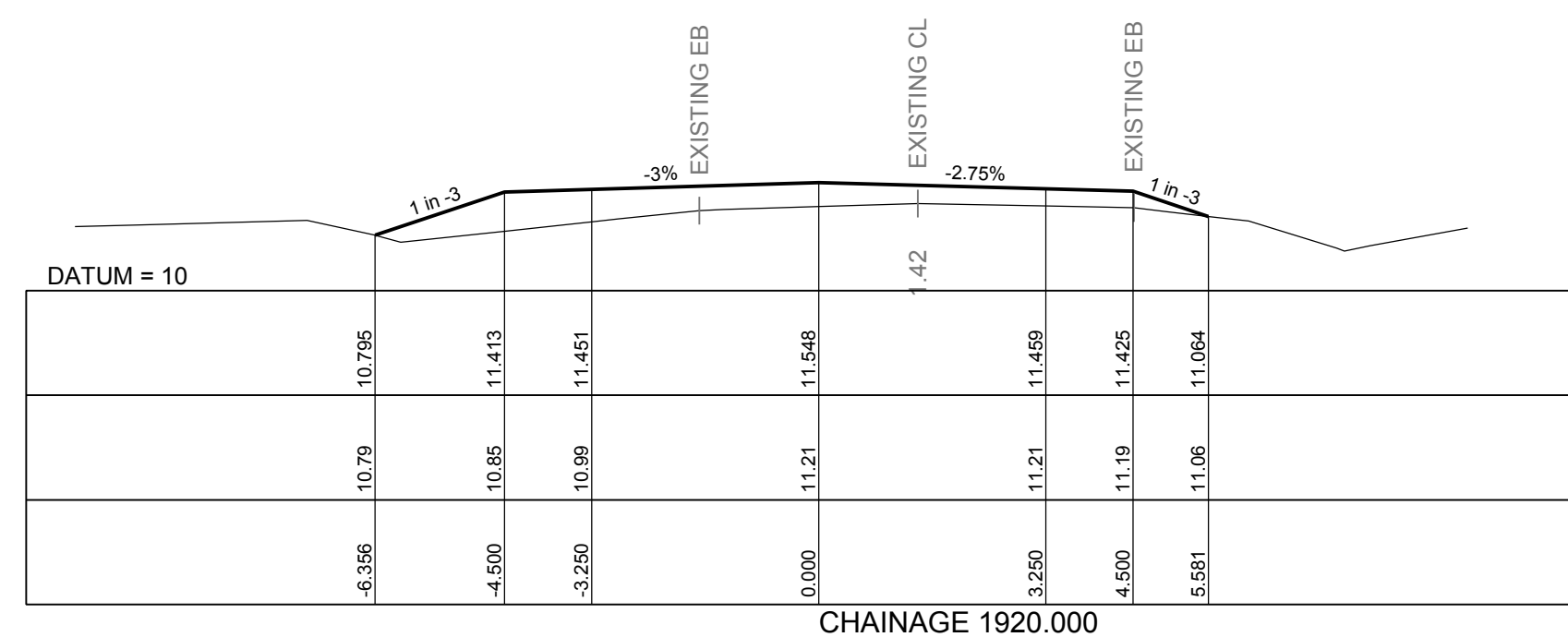
SCALES

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1:250 (A1) 1:500 (A3)
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FILE NAME: PM488_D.dwg

DRAWN	DATE	JOB No.:	ISSUE	SHEET No.
LW	14/04/2015	PM488	B	3
DESIGNED	DATE	DOCUMENT No.:		
LW	14/04/2015	PM488_D		
APPROVED	DATE	STATUS:		
JC	14/04/2015	CONSTRUCTION		
DATUM: -		REG. No.:		
		-		



- | | |
|---|--|
| <p align="center">CULVERT NOTES:</p> <p>1. INSPECT CONDITION OF EXISTING CULVERTS DURING CONSTRUCTION. REPLACE ANY DAMAGED SECTIONS UPON COUNCILS APPROVAL.</p> <p>2. ALL CULVERTS ARE TO BE CLEANED AND VEGETATION TO BE REMOVED FROM INLET AND OUTLET TO RE-ESTABLISH A CLEAR WATERWAY. SHAPE AND GRADE AREAS ADJACENT TO CULVERTS TO ALLOW DRAINAGE OF STRUCTURES.</p> <p>3. ADJUST BATTERS LOCALLY OVER HEADWALLS TO SUIT CULVERT EXTENSIONS</p> <p>4. ANY EXISTING HEADWALL RETAINED MUST NOT PROTRUDE INTO PAVEMENT.</p> | |
|---|--|

B	ISSUED FOR CONSTRUCTION	LW	23/04/15
A	ISSUED TO CLIENT FOR REVIEW	LW	21/04/15
ISSUE	REVISION	AUTH	DATE

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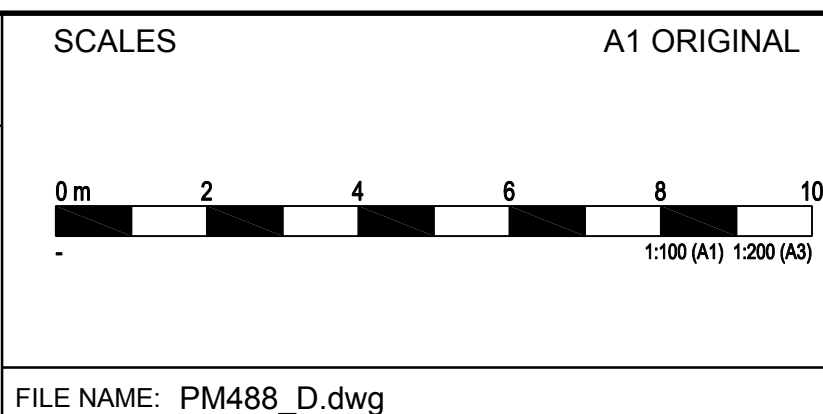
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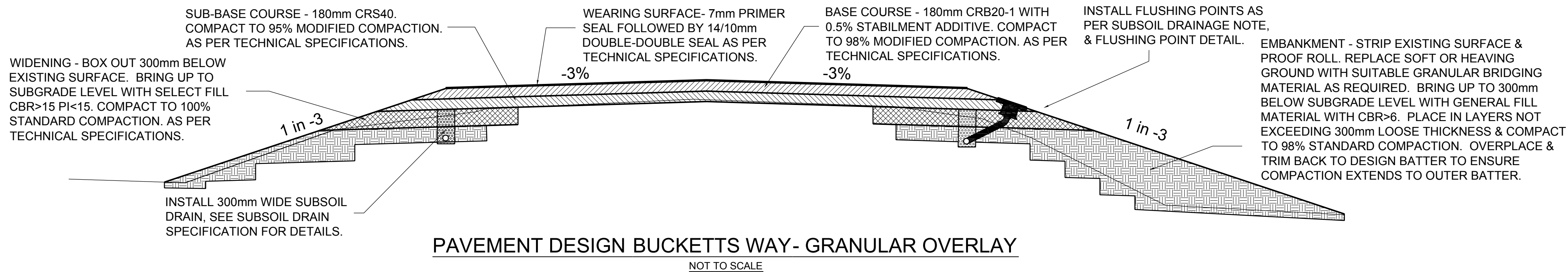
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Email: andrew@legs.com.au



CLIENT	MCGLASHAN AND CRISP SURVEYORS
PROJECT	CARTERS CREEK ROAD INTERSECTION WITH BUCKETTS WAY BUCKETTS WAY CROSS SECTIONS SHEET 2 OF 2



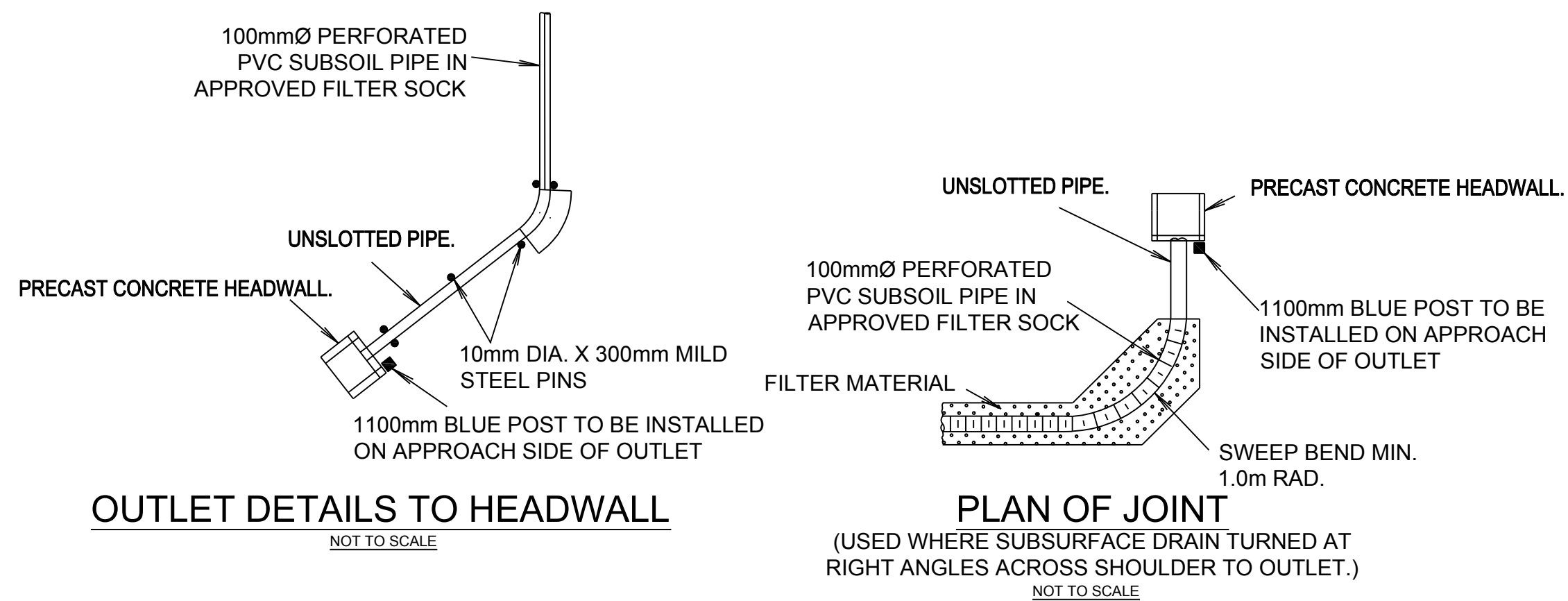
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LW	14/04/2015	PM488	B	5
DESIGNED	DATE	DOCUMENT No.:		
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APPROVED	DATE	STATUS:		
JC	14/04/2015	CONSTRUCTION		
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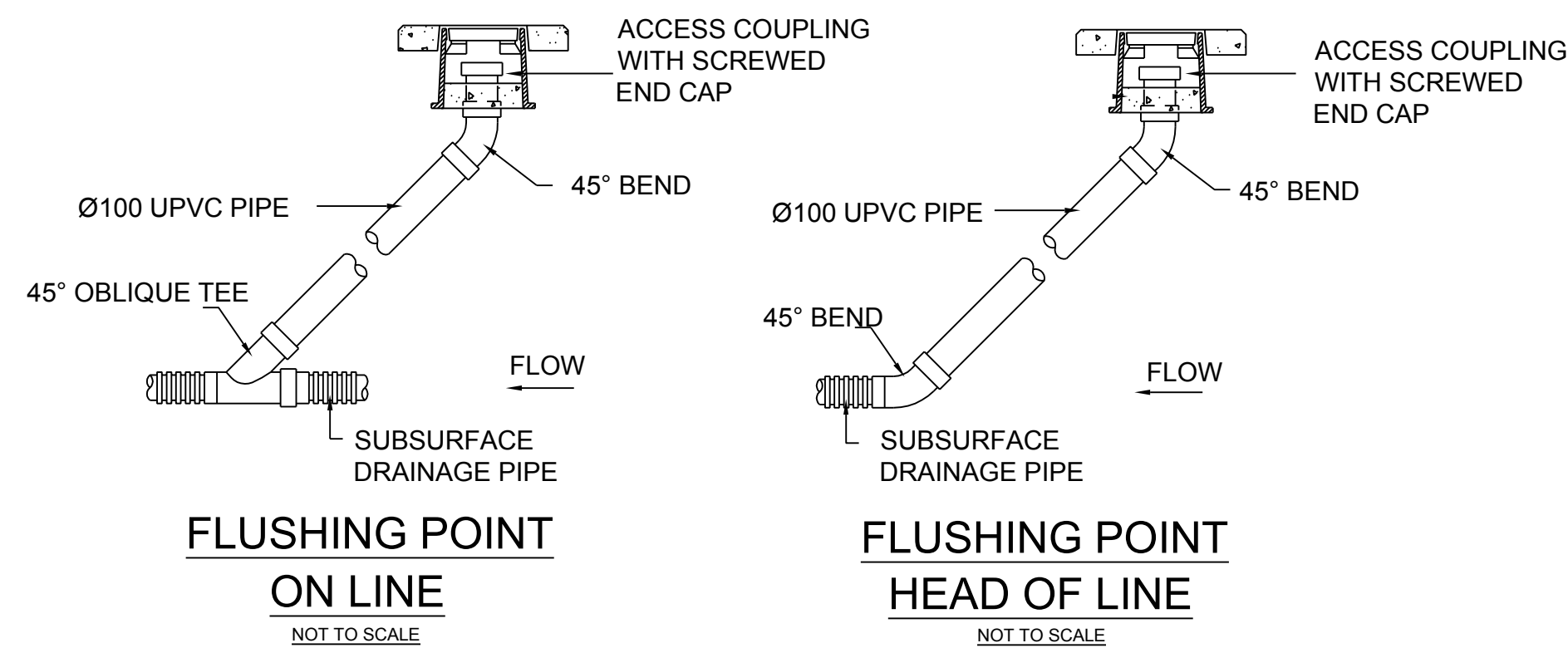
PAVEMENT DETAILS TO BE READ IN CONJUNCTION WITH REGIONAL GEOTECHNICAL SOLUTIONS REPORT RGS00857.1-AC DATED 19TH NOVEMBER 2014.

SUB-SOIL DRAIN SPECIFICATION:
INSTALL 300mm WIDE SUBSOIL DRAIN DIRECTLY BELOW SUBBASE TO 300mm BELOW SELECT FILL LAYER, AT EDGE OF FORMATION, MIN 0.5% GRADE. 100mmØ PERFORATED PVC SUBSOIL PIPE IN APPROVED FILTER SOCK. SURROUNDED BY APPROVED 7mm AGGREGATE FILTER MATERIAL AND FULLY ENCAPSULATED IN BIDIM A14 GEOTEXTILE FABRIC OR EQUIVALENT. INSTALL FLUSHING POINTS AT 50m CENTRES & AT THE HEAD OF EACH LINE. END CAP OF FLUSHING POINT TO BE LOCATED IN BATTERSLOPE, OUTSIDE HINGEPOINT OF FORMATION. DISCHARGE AS PER LOCATIONS SHOWN ON LONGITUDINAL SECTIONS. A 1100mm BLUE POST TO BE PROVIDED AT EACH OUTLET, BETWEEN OUTLET AND EDGE OF FORMATION. OUTLETS & FLUSHING POINTS TO BE CONSTRUCTED AS PER DETAILS THIS SHEET.

- PAVEMENT DESIGN METHODOLOGY:**
- BLADE OFF EXISTING PAVEMENT SEAL & UPPER SURFACE TO PROVIDE EVEN CROSSFALL TO DRAINAGE.
 - IDENTIFY LOCALISED AREAS WHERE EXCAVATION & REPLACEMENT OF FAILED SUBGRADE IS REQUIRED. EXCAVATE & REPLACE WITH CRS40 MATERIAL AS REQUIRED.
 - WHERE WIDENING IS TO BE UNDERTAKEN, BOX OUT TO MIN 300mm BELOW EXISTING PAVEMENT. PROOF ROLL TO HIGHLIGHT INDIVIDUAL AREAS REQUIRING FURTHER REPLACEMENT & BACK FILL TO 300mm BELOW DESIGN SUBGRADE WITH EMBANKMENT FILL, CBR>6. PLACE IN MAX 300mm THICK LOOSE LAYERS & COMPACT TO 98% STANDARD COMPACTION. FILL TO DESIGN SUBGRADE LEVEL USING SELECT QUALITY FILL (CBR>15, PI<15) & COMPACT TO 100% STANDARD COMPACTION.
 - PLACE 180mm OF CRS40. COMPACT FULL WIDTH OF FORMATION TO 95% MODIFIED COMPACTION.
 - PLACE 180mm OF CRB20-1 WITH 0.5% STABILMENT ADDITIVE. COMPACT FULL FORMATION TO 98% MODIFIED COMPACTION.
 - PLACE 7mm PRIMER SEAL.
 - PLACE 14/10 DOUBLE DOUBLE SEAL IN THE WARMER MONTHS OF THE YEAR (NOVEMBER TO APRIL).
 - ALL MATERIALS & PROCESSES TO BE AS PER TECHNICAL SPECIFICATIONS.



SUBSOIL DRAINAGE OUTLET DETAILS



SUBSOIL DRAINAGE FLUSHING POINT DETAILS

B	ISSUED FOR CONSTRUCTION	LW	23/04/15
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ISSUE	REVISION	AUTH	DATE

LG ES

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CLIENT	MCGLASHAN AND CRISP SURVEYORS
PROJECT	CARTERS CREEK ROAD INTERSECTION WITH BUCKETTS WAY PAVEMENT DETAILS

SCALES	A1 ORIGINAL	DRAWN	DATE	JOB No.:	ISSUE	SHEET No.
		LW	14/04/2015	PM488	B	6
		DESIGNED	DATE	DOCUMENT No.:		
		LW	14/04/2015	PM488_D		
		APPROVED	DATE	STATUS:		
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FILE NAME: PM488_D.dwg		DATUM: -		REG. No.:		
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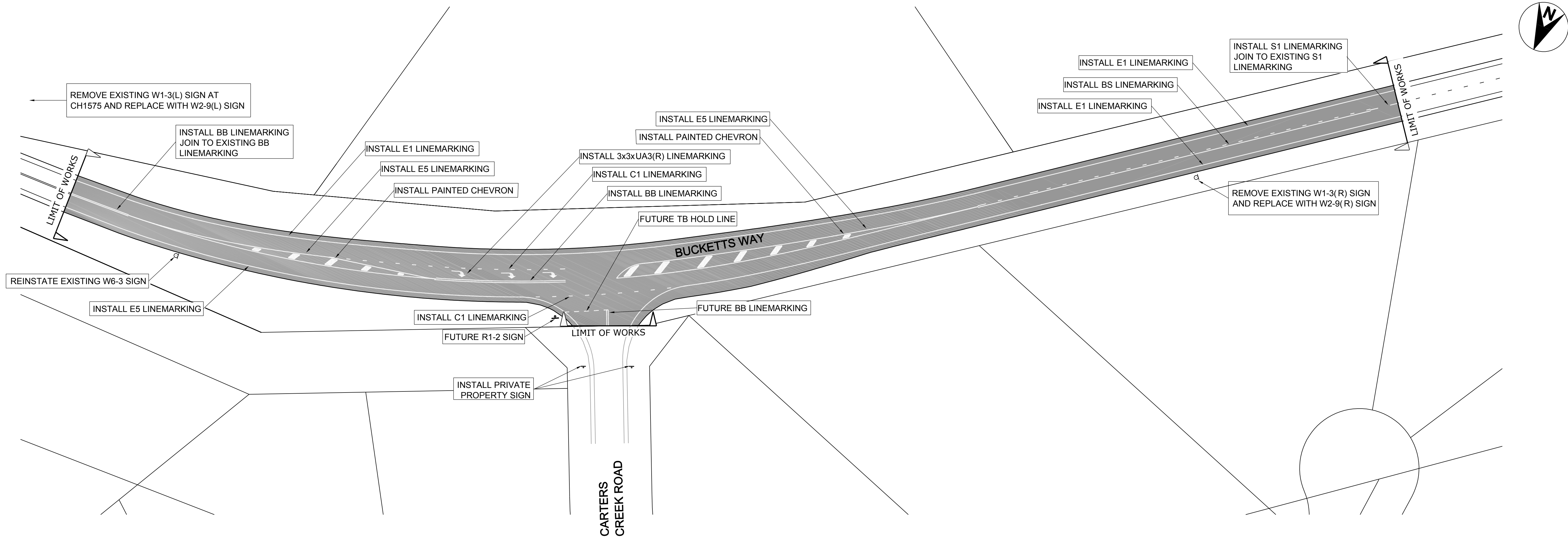
SIGNPOSTING SCHEDULE



R1-2



W2-9



NOTE:
ALL SIGNPOSTING AND LINEMARKING
TO BE IN ACCORDANCE WITH AS1742
AND THE RMS DELINEATION GUIDE.

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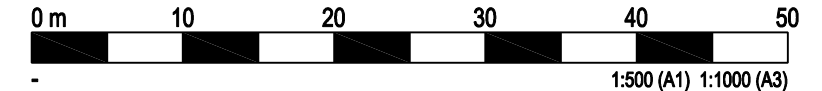


McGlashan & Crisp
SURVEYORS

CLIENT
MCGLASHAN AND CRISP SURVEYORS

PROJECT
CARTERS CREEK ROAD INTERSECTION
WITH BUCKETTS WAY
SIGNPOSTING AND LINEMARKING PLAN

SCALES
A1 ORIGINAL



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1:500 (A1) 1:1000 (A3)

FILE NAME: PM488_D.dwg

DRAWN
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14/04/2015

DESIGNED
LW
14/04/2015

APPROVED
JC
14/04/2015

DATUM: -

JOB No.: PM488
DOCUMENT No.: PM488_D

ISSUE
B

SHEET No.
7 OF 7

STATUS:
CONSTRUCTION

REG. No.: -

FW: Modification to Tinonee PA (MP 05-0038 MOD 1)

PP

Phillip Pitt <Phillip.Pitt@transport.nsw.gov.au>

Tue, 06 Apr 2021 3:16:20 PM +1000

To "tfish@pdaplanning.com.au" <tfish@pdaplanning.com.au>

Tags Security  TLS [Learn more](#)

Dear Tony,

In reference to your email below, please find attached a copy of the previous correspondence from Transport for NSW (TfNSW) dated 24 November 2020 regarding this matter.

The following points are considered in this response from TfNSW:

- The proposed development has been approved and is subject to the legislation as applicable at that time.
- The classification of the Bucketts Way has changed since the development was originally approved. The Bucketts Way is now classified as a local road. Pursuant to Clause 7 of the *Roads Act 1993* Mid Coast Council (Council) is the relevant Roads Authority.
- The previous TIA that was relied on to inform the approved development being MP 05-0038 was undertaken in 2007. Given the passage of time TfNSW considers that there is merit in requesting the TIA be updated, however this matter is deferred to Council as Roads Authority for confirmation.
- The proposed intersections will be constructed in accordance with the condition E35 on the development consent.
- The modification is required to cater for a number of aspects including “the adjustment of roads and infrastructure to achieve an improved subdivision layout that will meet current market demands”.
- The number of lots is reduced.

If you have any further queries in relation to this matter please contact the Development Services Team (Northern – Hunter Precinct).

From: Dipen Nathwani**Sent:** Friday, 12 March 2021 2:16 PM**To:** Development hunter <Development.hunter@rms.nsw.gov.au>**Subject:** RE: Modification to Tinonee PA (MP 05-0038 MOD 1)

Dear Dipen,

We have been advised by NSW DPIE to liaise directly with your organisation in relation to your recent response to the Modification to Tinonee PA (MP 05-0038 MOD 1).

Our submission to your response is attached for consideration.

Regards



Our ref: DOC21/305735-1

Your ref: P00031_L8_Response to BCD

Tony Fish

Town Planner
PDA Planning
tfish@pdaplanning.com.au

Dear Mr Fish

BCD response – Modification to Tinonee PA (MP 05_0038 MOD 1)

I refer to your correspondence dated 26 February in which you requested further consideration of the advice provided by Biodiversity and Conservation Division (BCD) on 4 December 2020 on the Tinonee Modification 1 project.

In BCD's previous advice, it was recommended that a Biodiversity Development Assessment Report (BDAR) is prepared to ensure additional impacts have been properly assessed and any required offset credits calculated, and that the BDAR includes survey/assessment of *Diuris flavescens*, which has been detected on the site.

In your response, you have indicated that the Ecological Assessment concludes that there is less impact on threatened species and ecological communities proposed as part of the modification than that of the original approval and therefore a BDAR is not required.

Section 5.2 of the Ecological Assessment states that the new plan requires much less 100% clearing, however more thinning to 85% cover is required for building envelopes and Asset Protection Zones. Table 4 provides a summary of the clearing proposed under the approved project and the modification proposal and indicates that under the modified subdivision there will only be 25.34 hectares of vegetation retained, whereas under the previously approved project 29.06 hectares of vegetation was to be retained. This indicates that the modification will result in an increase of 3.72 hectares of vegetation clearance. A comparison of Figure 8 within the Ecological Assessment, which shows the modified subdivision plan and Figure 6, which shows the approved subdivision plan also appears to show an increase in the area proposed to be impacted, particularly in proximity to the old proposed Lot numbers 501, 503 and 508. These areas of additional impact are also in proximity to the *Diuris flavescens* records, which would require additional assessment.

Section 7.17 of the *Biodiversity Conservation Act 2016* outlines that a BDAR is required for modifications to development consents unless the modification will not increase the impact on biodiversity values.

Given that the Ecological Assessment indicates that there is likely to be an increase in the impact on biodiversity values associated with the modification, BCD's previous recommendations outlined in our letter dated 4 December 2020 remain valid and should be applied.

If you have any further questions in relation to this matter, please contact Brendan Mee, Senior Conservation Planning Officer, on 4904 2730 or via email at huntercentralcoast@environment.nsw.gov.au

Yours sincerely

A handwritten signature in dark ink, appearing to be 'SC', with a long horizontal stroke extending to the right.

10 May 2021

STEVEN COX
Senior Team Leader Planning
Hunter Central Coast Branch
Biodiversity and Conservation Division

Our Ref: P00031_L8_ Response to BCD.docx

Your Ref: DOC20/928713-14

26 February 2021

Steven Cox
Senior Team Leader Planning
Biodiversity and Conservation Division
Planning Industry and Development
Locked Bag 1002
DANGAR NSW 2309

Dear Steven,

SUBJECT: RESPONSE TO SUBMISSION
PROJECT: MOD TO TINONEE PA (MP 05_0038 MOD 1)

1. Introduction

We are writing in response to your letter submission to the Department of Planning, Industry and Environment in relation to the proposed layout modification for Mod to Tinonee Project Approval (MP 05_0038 MOD 1) dated 4 December 2020. We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Recommendation for a Biodiversity Development Assessment Report (BDAR) and
- Concerns of impacts on *Diuris flavescens*.

Our response to the issues raised by the Biodiversity and Conservation Division is provided below.

2. Request for BDAR

The request for the Biodiversity Development Assessment Report appears to come from the statement in Attachment B to your submission that "*there appears to be a significant increase in the level of impact being proposed under the modification.*"

The proposed modification was specifically designed to reduce the potential impact of clearing and other impact on threatened species and ecological communities on the site. The extent of the changes and the consequences of those changes on threatened species and ecological communities is documented in detail in the Ecological Assessment submitted with the proposed modification. In section 5.3 of the Ecological Assessment it is concluded that:

The impact of the modified subdivision on threatened species and ecological communities is likely to be less than the approved subdivision. This is due to the lower intensity of the development (less human presence and associated anthropogenic impacts) and the flexibility in retaining habitat features in the thinning areas versus complete removal with the approved subdivision. The updated road design which features more cul-de-sacs is also likely to reduce driver speeds which will see a lower risk of road strike for the Koala and other fauna species.

On the basis of the conclusion of the Ecological Assessment it is submitted that the proposed modification in fact has less impact on threatened species and ecological communities on the site than the original approval and as such a BDAR is not required.

3. Potential impacts on the endangered flora species *Diuris flavescens*

Condition B1 of the original project approval required adjustment to the lot boundaries in the then Stage 5 (now Stage 2) in order to protect the endangered flora species *Diuris flavescens* (see attached). The layout of Stage 2 as proposed in this modification incorporates those changes and remains unchanged in lot numbers and configuration. It is therefore submitted that the proposed Stage 2 is in compliance with the current approval and could therefore be constructed in accordance with that approval. The proposed modification of this section of the site now relates only to the numbering of that stage.

It should also be noted that Condition B4 (6) of the Project Approval requires the preparation of an Orchid Habitat Management Plan (OHMP) for the Stage 2 lands and is proposed to be retained in the modified consent. The preparation of this plan will require further survey for the species at that time.

On this basis it is therefore submitted that no further survey is required for *Diuris flavescens* for this proposed modification and the Condition B4 (6) is adequate to ensure the protection and conservation of this species in the future.

4. Conclusion

It is submitted that this response to the issues raised by the Biodiversity and Conservation Division adequately addresses those issues. Should any further discussion of these matters be required please do not hesitate to contact the undersigned.

Regards

Yours faithfully
PDA Planning

A signed copy can be provided upon request.

TONY FISH
Town Planner

Our Ref: P00031_L5_ Response to NRAR.docx

Your Ref: OUT 20/14037

12 March 2021

Alistair Drew
Acting Senior Project Officer, Assessments
Water-Knowledge
NSW Department of Planning, Industry and Environment

Email: landuse.enquiries@dpie.nsw.gov.au

Dear Alistair,

SUBJECT: RESPONSE TO SUBMISSION
PROJECT: MOD TO TINONEE PA (MP 05_0038 MOD 1)

1. Introduction

We are writing in response to your letter submission to the Department of Planning, Industry and Environment in relation to the proposed layout modification for Mod to Tinonee Project Approval (MP 05_0038 MOD 1) dated 10 November 2020. We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Consideration of Guidelines for Controlled Activities on Waterfront Land (NRAR 2018);
- Detail of how the riparian zones will be re-established and managed.

Our response to the issues raised by Department of Planning, Industry and Environment is provided below.

It should be noted that the proposed modification seeks to achieve improved environmental outcomes of the site instead of those contained in the original Project Approval issued in 2009. The current subdivision layout is approved and has physical commencement and could be constructed with significant consequences for the riparian corridors as explained further below.

2. Consideration of Guidelines for Controlled Activities on Waterfront Land

It is noted that these Guidelines did not exist when the original Project Application was being assessed and ultimately approved.

As shown on the attached plans of the original “approved” subdivision and the proposed modification, the extent of intrusion into the Vegetated Riparian Zone (VRZ) has significantly decreased with the proposed modification. This will result in a significant environmental benefit. The proposed modification has less intrusion into the VRZ, eliminates one riparian crossing and still allows for appropriate offsetting.

In regard to the provision of Asset Protection Zones, such zones were approved as part of the original project and have not increased in areas where the riparian corridor exists. The original approval had 10 lots that were created over the 1st order watercourse and as such the impacts on this corridor was significant and included the provision of Asset Protections Zones that would not comply with current guidelines. The new modified layout, whilst including the APZ in part of the riparian corridor, achieves a significantly improved outcome for the riparian zones on the site.

Given the significant improvement for the riparian zone with the proposed modification it is submitted that no further work is required to demonstrate compliance with the Guidelines for Controlled Activities on Waterfront Land (NRAR 2018) prior to the approval of the proposed modification.

3. Riparian zones re-establishment and management

Condition B4 (4) of the original Project Approval (see attached) requires the preparation of a site-specific Vegetation Rehabilitation Plan and Condition B29 (see attached) requires a Landscape Master Plan for the rehabilitation of the riparian corridor.

It is submitted that these conditions could be modified to include reference to NRAR Guidelines for Vegetation Management Plans. Consequently, it is not necessary for such work to be carried out prior to the approval of the proposed modification.

4. Conclusion

It is submitted that this response to the issues raised by NRAR adequately addresses those issues. Should any further discussion of these matters be required please do not hesitate to contact the undersigned.

Regards

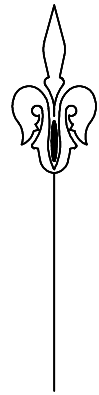
Yours faithfully

PDA Planning

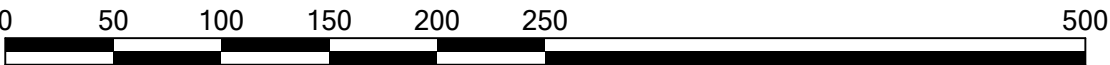
A signed copy can be provided upon request.

TONY FISH

Town Planner

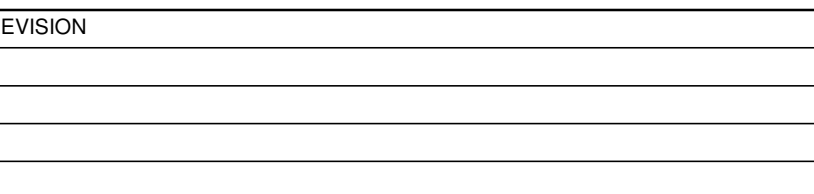
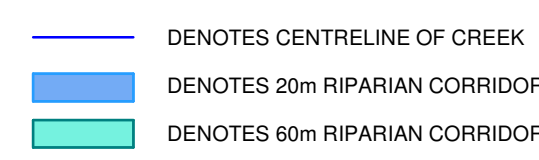


- DENOTES CENTRELINE OF CREEK
- DENOTES 20m RIPARIAN CORRIDOR
- DENOTES 60m RIPARIAN CORRIDOR



REVISION	SCALE: 1:3500 @ A2	CLIENT			McGLASHAN & CRISP Pty Ltd CONSULTING SURVEYORS 117 VICTORIA STREET, TAREE 2430. Ph:02 65521566. DX 7009 Email: admin@mcglashancrisp.com.au	PLAN	REFERENCE	
	DRAWN: GAC/LD	RTS SUPER					F57A/3513	
	DATE: 10.03.2021	DATUM:	L.G.A.				COMPUTER FILE	
		APPROXIMATE MGA & AHD	MID-COAST				Carters_Creek_2021.mjo	

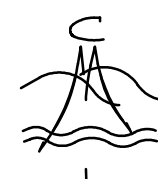
SHOWING RIPARIAN CORRIDOR
WITH OLD CONSENT LAYOUT
THE BUCKETTS WAY, TINONEE



SCALE: 1:3500 @ A2
DRAWN: GAC/LD
DATE: 10.03.2021

CLIENT	RTS
DATUM:	APPROXIMATE MGA & AHD

SUPER	
L.G.A.	MID-COAST



McGLASHAN & CRISP Pty Ltd
CONSULTING SURVEYORS
117 VICTORIA STREET, TAREE 2430. Ph:02 65521566. DX 7009
Email: admin@mcglashanncrisp.com.au

SHOWING RIPARIAN CORRIDOR
WITH MODIFIED LOT LAYOUT
THE BUCKETTS WAY, TINONEE

REFERENCE F57A/3513
COMPUTER FILE arters_Creek_2021.mjo

- (6) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service's *Planning for Bushfire Protection* 2006.

The plan must be submitted to the NSW Rural Fire Service for endorsement and to the Council for approval, prior to the issue of the first Construction Certificate.

This condition is imposed to ensure that significant vegetation is retained for habitat and amenity purposes.

B4 Habitat and Vegetation Management Plan

Habitat and Vegetation Management Plans (HVMPs) are to be prepared for the vegetation located within the following:

- Lots 308, 309, 310, 311, 312, 313, 314, 425, 502 and 509, or lot numbers as amended; and
- Any lot known to contain the *Diuris flavescens* orchid, based on the Vegetation Retention and Revegetation Plan PCB 13/10/2008.

The HVMPs are to be written by an appropriately qualified and experienced ecologist and shall include the following sub-plans by way of schedules:

- (1) A separate plan for each lot showing all environmental features to be retained (e.g. trees and understorey not required to be removed for APZs, *Diuris flavescens* locations), inner and outer asset protection zones, building envelopes, access trails and roads. The areas on each lot outside the Inner Protection Area (IPA) of the Asset Protection Zone (APZ)/Building envelope must be marked 'Habitat Protection Area' on the plan.
- (2) An Aboriginal Heritage Management Plan that details specific management and monitoring measures required to protect items or areas of Aboriginal Heritage importance. The management and monitoring measures should be based on recommendations provided within Appendix E of the Environmental Assessment.
- (3) A Threatened Species Management Plan (TSMP), incorporating a Koala Plan of Management that details how Koalas, Sugar Gliders, Brush-tailed Phascogales, Glossy-Black Cockatoos, Microchiropteran Bats, Powerful Owls and Red-backed Button Quails and their habitat are to be maintained, conserved and managed on site in the long-term. The proposed mitigation measures outlined in Table 8.1 and Section 6 of Appendix D (Flora and Fauna Assessment) of the Environmental Assessment and relevant conditions of this approval are to provide a basis for the TSMP, which is to include at a minimum:
 - (i) Detail on how threatened species and their habitat are proposed to be protected during construction;
 - (ii) Detail on long-term monitoring of threatened species known to use the site;
 - (iii) Educational information for residents (future and current) on the ecological values within their lots, and how their actions can impact those values; and
 - (iv) Clearly indicate long-term financial commitment to proposed conservation measures including mechanisms to achieve this.
- (4) A site-specific Vegetation Rehabilitation Plan (VRP) that details how to manage the vegetation that is to remain on the site. The VRP shall include:
 - (i) Details for the control of feral animals;
 - (ii) A requirement to retain all trees with hollows and all standing and fallen timber;
 - (iii) A requirement to re-use felled trees as habitat structures;

- (iv) Details on how weeds will be controlled in retained native vegetation;
- (v) A detailed weed map as a baseline from which site rehabilitation can be measured;
- (vi) A prohibition on cats and dogs;
- (vii) Details on the supplementary planting of local indigenous native vegetation species;
- (viii) A prohibition on any vehicular access to vegetated areas;
- (ix) Stormwater controls; and
- (x) Monitoring details;

The proponent is to undertake vegetation maintenance work as part of the VRP for five years from the date that works commence on the subject allotment. A monitoring report is to be submitted to Council annually detailing the works undertaken as part of the VRP.

All vegetation rehabilitation work funded by the proponent are to be supervised by an appropriately qualified and experienced person with minimum qualifications of TAFE Certificate III in Bush Regeneration or Conservation and Land Management - Natural Area Restoration and 4 years bush regeneration experience.

- (5) A site-specific Fire Management Plan written by an appropriately qualified and experienced ecologist with experience in fire management. This Plan shall:
 - (i) Refer to *Planning for Bushfire Protection 2006*;
 - (ii) Provide a Plan showing the delineation of APZ (Inner Protection Area and Outer Protection Areas) boundaries for each lot.
 - (iii) Describe in detail how each Lot owner can meet the requirements of Section 4.2 of *Planning for Bushfire Protection 2006* on each particular lot i.e. What height to keep the vegetation slashed to, how to dispose of the slashed material, approximately how often this will need to be done etc.
 - (iv) Detail the recommended fire regime that is to be applied to each lot. These recommendations are to be consistent with the relevant RFS District Bushfire Management Plan and the ecological requirements of vegetation communities and threatened species within the site.
 - (v) Detail management requirements for the proposed fire trails within proposed residential lots.
- (6) A site-specific Orchid Habitat Management Plan (OHMP) for the *Diuris flavescens* orchid populations shall be prepared by a DECC approved orchid ecologist.

The OHMP is to be included within an HVMP for each lot in which *Diuris flavescens* is known to occur and should provide species specific information on how to manage the orchid's habitat in order to ensure its long-term survival on site. Current advice is that this may require slashing of groundcover twice per year (once in August but no later than 1st September and once in the period between January and March).

Where possible, a 15 metre Orchid Protection buffer is to be imposed on each known orchid population to prevent disturbance to the soil surface or other disturbances to the orchids habitat occurring.

The OHMP shall be submitted to the Department of Environment and Climate Change (DECC) for its approval.

A monitoring report is to be submitted to DECC and Council annually detailing the works undertaken as part of the OHMP.

Landscaping

B29 Landscaping Works - Land dedicated to Council

A Landscape Masterplan for the Foreshore Reserve and the Northern, Central and Southern Drainage Reserve/EEC Rehabilitation Areas is to be prepared. The plan is to include:

1. Details on weed control;
2. Details of revegetation with appropriate locally endemic species;
3. An assessment of the bushfire risk associated with revegetation; and,
4. An assessment of the annual management costs associated with the works to be dedicated to Council;
5. Details of the dedication of the lands, which is to occur prior to the issue of the any subdivision certificate;
6. Details of the on-going maintenance of the lands which will occur for a period of 5 years from the time of dedication;

In relation to the Northern, Central and Southern Drainage Reserve/EEC Rehabilitation Areas, the Landscape Masterplan is to specifically address:

1. Details of appropriate site preparation, including weed control;
2. Details of measures to protect the Aboriginal scar tree/s and any other items of Aboriginal heritage located within the proposed reserve. Measures should be in accordance with the Aboriginal heritage management recommendations in Appendix E of the Environmental Assessment;
3. Details of appropriate indigenous local species found within the Subtropical Coastal Floodplain Forest EEC, with seedlings of local provenance;
4. Ensures configuration that reflects natural density and patchiness; and;
5. Ensures that stormwater runoff is managed to prevent impact on revegetated areas.

In relation to the Foreshore Reserve, the Landscape Masterplan is to:

1. Ensure the protection, conservation and appropriate management of the endangered ecological communities within the Foreshore Reserve;

The Landscape Masterplan shall be prepared in consultation with and approved by Council prior to the issue of any Construction Certificate.

B30 Plan of Management- Foreshore Reserve

A Plan of Management for the Foreshore Reserve is to be submitted to Council for approval, prior to the issue of any Construction Certificate.

Construction Management

B31 Construction Management Plan

Prior to the issue of a Construction Certificate for each stage, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work;
- (2) contact details of site manager;

RE: Modification to Tinonee PA (MP 05-0038 MOD 1)

TF Tony Fish <tfish@pdaplanning.com.au>
📧 Mon, 19 Apr 2021 11:38:38 AM +1000
To "DPI Landuse Enquiries Mailbox" <landuse.enquiries@dpi.nsw.gov.au>
Cc "Lauren Saunders" <Lauren.Saunders@planning.nsw.gov.au>
Tags 🏷

Hi Judy,

Please find attached the plan showing the lost VRZ and the offset as requested.

I can also confirm that the Vegetation Rehabilitation Plan conditioned with the approval will include the corridor as defined by green within the modified plan.

Regards

Tony Fish
Town Planner
PDA Planning
PO Box 468
Taree NSW 2430

m 0431133472
tfish@pdaplanning.com.au

www.pdaplanning.com.au

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----- On Mon, 15 Mar 2021 14:28:03 +1100 **DPI Landuse Enquiries Mailbox**
<landuse.enquiries@dpi.nsw.gov.au> wrote -----

Hi Tony,

I referred your email and response to NRAR and for their clarification and understanding can you:

- clearly show the areas of lost VRZ as a result of lot arrangement and the proposed offset locations on the proposed lot layout diagram. The lost VRZ area should be presented as an area in metres square and offset area highlighted on the map.
- It's NRARs expectation that the Vegetation Rehabilitation Plan conditioned with the approval will include the corridor as defined by green within the modified plan provided. Can you please confirm this?

The NRAR officer is happy to discuss further with you if required- contact is Jane Curran jane.curran@nrar.nsw.gov.au or 02 4275 9327

Regards,

Judy Court
Assistant Project Officer

Water Group|Department of Planning, Industry and Environment

T 9842 8126 | E judy.court@dpie.nsw.gov.au

4 Parramatta Square, 12 Darcy St, Parramatta

www.dpie.nsw.gov.au

Our Vision: Together, we create thriving environments, communities and economies

From: Tony Fish <tfish@pdaplanning.com.au>

Sent: Friday, 12 March 2021 1:01 PM

To: DPI Landuse Enquiries Mailbox <landuse.enquiries@dpi.nsw.gov.au>

Cc: Lauren Saunders <Lauren.Saunders@planning.nsw.gov.au>

Subject: Modification to Tinonee PA (MP 05-0038 MOD 1)

Dear Alistair,

We have been advised by NSW DPIE to liaise directly with your organisation in relation to your recent response to the Modification to Tinonee PA (MP 05-0038 MOD 1).

Our submission to your response is attached for consideration.

Regards

Tony Fish

Town Planner

PDA Planning

PO Box 468

Taree NSW 2430

m 0431133472

tfish@pdaplanning.com.au

www.pdaplanning.com.au

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1 Attachment

Riparian with Modified Layout.pdf

Move to Tag as Delete Mark as spam Archive Snooze

RE: RE: Modification to Tinonee PA (MP 05-0038 MOD 1)

JC Jane Curran <jane.curran@nrar.nsw.gov.au>

↩ ↶ → ▼

▶ Mon, 27 Sep 2021 12:18:42 PM +1000 • P0031

☑ To "Tony Fish" <tfish@pdaplanning.com.au>

Cc "Judy Court" <judy.court@dpie.nsw.gov.au>

Tags

Secu...  TLS [Learn more](#)



Hi Tony,

Thank you for providing this. I can see you have addressed both of NRARs requests made via email. NRAR has no further comments.

Kind regards,

Jane Curran

A/Manager Licensing & Approvals (East)

Natural Resources Access Regulator | Department of Planning, Industry and Environment

P: 02 4275 9327 | **M:** +61 437 832 227 | **E** jane.curran@nrar.nsw.gov.au

Level 0, 84 Crown Street, Wollongong NSW 2500

PO Box 53 Wollongong NSW 2520

www.industry.nsw.gov.au/nrar



Natural Resources
Access Regulator

To contact the NRAR Hotline and make a report call: 1800 633 362

[Read the NRAR Progress Report 2019-20](#)

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Tony Fish <tfish@pdaplanning.com.au>

Sent: Friday, 24 September 2021 10:55 AM

To: Jane Curran <jane.curran@nrar.nsw.gov.au>

Cc: Judy Court <judy.court@dpie.nsw.gov.au>

Subject: Fwd: RE: Modification to Tinonee PA (MP 05-0038 MOD 1)

Hi Jane,

NSW Planning require us to provide a confirmation that all matters raised by NRAR have been

@mention a user or group to share this conversation

Our Ref: P00031_L4_ Response to NSW RFS.docx
26 February 2021

Your ref: DA-2006-00989-S4.55-1

Tim Carroll
Manager
Planning and Environment Services - North
NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Dear Peter,

SUBJECT: RESPONSE TO SUBMISSION
PROJECT: MOD TO TINONEE PA (MP 05_0038 MOD 1)

1. Introduction

We are writing in response to your letter submission to the Department of Planning, Industry and Environment in relation to the proposed layout modification for Mod to Tinonee Project Approval (MP 05_0038 MOD 1) dated 24 December 2020. We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Safe access for fire fighters and residents in Stage 1 of the proposed subdivision

Our response to the issues raised by NSW Rural Fire Service is provided below.

2. Safe Access

The NSW RFS's concern appears to be in relation to the timing of the availability of the alternative access route to the west from Stage 1 of the subdivision.

In this regard the Bushfire Assessment submitted with the proposed subdivision modification foreshadowed this issue with the following recommendation included in that report.

The construction of the proposed alternative access road is to form part of Stage 1 of the proposed development with the design and construction of the road providing for connection with Urray Road. A 'restriction as to user' pursuant to Section 88B of the Conveyancing Act, 1919 is to be established over the proposed road which provides for the maintenance and use of the alternative access road by the residents of Stages 1 and 3 of the proposed subdivision until such times as the public road infrastructure within Stage 2 has been constructed and dedicated for use.

3. Conclusion

It is submitted that this response to the issues raised by NSW Rural Fire Service adequately addresses those issues. Should any further discussion of these matters be required please do not hesitate to contact the undersigned.

Regards

Yours faithfully

PDA Planning

A signed copy can be provided upon request.

TONY FISH

Town Planner

RE: Modification to Tinonee PA (MP 05-0038 MOD 1)

AB

Alan Bawden <Alan.Bawden@rfs.nsw.gov.au>

📅 Mon, 26 Apr 2021 7:24:33 PM +1000

To "'Tony Fish"' <tfish@pdaplanning.com.au>

Tags 🏷

Security 🔒 TLS [Learn more](#)

Good evening Tony

Sorry for the delay – unplanned sick leave

I have done a report of the Mod and am now working on the conditions. The NSW RFS has no objection to the recommended modified conditions

The difficult part is that the NSW RFS advice to DPiE dated 2008 differs from the Part 3A NOD

Can we have a chat tomorrow on how to best move fwd. I have attached a copy of our previous correspondence.

Regards**Alan Bawden****Team Leader - Development Assessment and Planning****Planning and Environment Services (North)****NSW RURAL FIRE SERVICE**

51 Moonee Street Coffs Harbour

Locked Bag 17 GRANVILLE NSW 2142

p 02 66910400 e pes@rfs.nsw.gov.auwww.rfs.nsw.gov.au www.facebook.com/nswrfs www.twitter.com/nswrfs**PREPARE.ACT.SURVIVE****From:** Tony Fish <tfish@pdaplanning.com.au>**Sent:** Monday, 19 April 2021 7:55 PM**To:** Alan Bawden <Alan.Bawden@rfs.nsw.gov.au>**Subject:** Fwd: Modification to Tinonee PA (MP 05-0038 MOD 1)

Hi Alan,

Are you able to provide a response to this correspondence please so that we can finalise the modification.

Regards

Tony Fish

Town Planner

PDA Planning

PO Box 468

Taree NSW 2430

m 0431133472

tfish@pdaplanning.com.auwww.pdaplanning.com.au



NSW RURAL FIRE SERVICE

Tony Fish
PDA Planning
PO Box 468
Taree NSW 2430

Our reference: DA-2006-00989-S4.55-2

ATTENTION: Tony Fish

Date: Friday 3 December 2021

Dear Sir/Madam,

Development Application

Other - Part3A - (none)

6920 The Bucketts Way TAREE SOUTH NSW 2430, 14//DP248330, 14//DP248330

I refer to your correspondence regarding the above proposal which was received by the NSW Rural Fire Service on 30/03/2021.

The NSW RFS provided bush fire requirements, dated 24 September 2008, to the original application. This advice was incorporated into the conditions of consent issued by the Department of Planning, dated 5 April 2009.

The MOD application seeks to modify the original layout by way of road design and lot layout and staging release time frame. The New South Wales Rural Fire Service (NSW RFS) received additional information (dated 30 March 2021 & 28 April 2021) and subsequently provides the following amended conditions of consent:

Asset Protection Zone

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. At the issue of subdivision certificate and in perpetuity, asset protection zones for each stage as documented in the following plan (based on a maximum BAL 29 construction standard under *Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas'*), shall be provided and maintained in accordance with appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW RFS document '*Standards for Asset Protection Zones*'.

- APZ Plan, prepared by McGlashan and Crisp Pty, referenced F57A/3513/2017, dated 21 September 2021.

2. Landscaping design and management within the public lands is to comply with the requirements of Table 7.4a of *Planning for Bush Fire Protection 2019*;

3. A plan of management shall be prepared and signed off by Council for the maintenance of asset protection zones that are provided within land to be dedicated to Council. The plan shall include the responsible management party, methodology for management and the proposed management regime

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

4. A restriction to the land use pursuant to section 88B of the *Conveyancing Act 1919* shall be established for the provision of any asset protection zones located outside individual lot boundaries and not covered by the plan of management. This does not apply to asset protection zones provided by formed roads.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

5. Water, electricity and gas are to comply with table 5.3c of *Planning for Bush Fire Protection 2019*.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

6. Proposed public roads shall comply with table 5.3b of *Planning for Bush Fire Protection 2019*.

The intent of measures for property access is to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupants faced with evacuation.

7. Proposed property access roads shall comply with section table 5.3b of *Planning for Bush Fire Protection 2019*.

The intent of measures is to provide temporary access for fire management purposes and maintenance of APZ's.

8. The design and construction of an alternative access road(s) linking stage 1 and 3 with stage 2 of the proposed residential subdivision are to be undertaken in stage 1 of the development. The alternative access road(s) is to comply with table 5.3b of *Planning for Bush Fire Protection 2019*.

General Advice

Re-vegetation of the riparian and open space corridors shall not increase the bush fire risk to the proposed development as per the required asset protection zones. Any proposed revegetation should also be undertaken that minimises the spread of fire.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Timothy Carroll
Manager Planning & Environment Services
Built & Natural Environment

Our Ref: P00031_L2_ Response to Midcoast Council.docx
2 March 2021

The General Manager
MidCoast Council
PO Box 482
Taree NSW 2430

Dear Sir,

SUBJECT: RESPONSE TO SUBMISSION
PROJECT: MOD TO TINONEE PA (MP 05_0038 MOD 1)

1. Introduction

We are writing in response to your letter submission to the Department of Planning, Industry and Environment in relation to the proposed layout modification for Mod to Tinonee Project Approval (MP 05_0038 MOD 1) dated 21 December 2020. We understand from the review of the submission and subsequent consultation with Council officers that the primary issues of concern with the proposed modification are:

- Inclusion of additional Lot 924
- Potential impacts on the endangered flora species *Diuris flavescens*
- Foreshore access in Stage 2
- Northern part of Lot 917
- Foreshore access in Stage 3 and access to Crown Lot 7008 DP 96763
- Extent of clearing in Stage 2 as shown on plans
- Supplementary Assessment of Significance
- Plans of Management

Our response to the issues raised by Council is provided below.

2. Inclusion of Lot 924

Lot 924 has been deleted from the proposed subdivision. Stage 2 now reflects the same subdivision layout as originally approved (with required design changes incorporated as discussed further below). A copy of this revised plan is attached.

3. Potential impacts on the endangered flora species *Diuris flavescens*

Condition B1 of the original project approval required adjustment to the lot boundaries in the then Stage 5 (now Stage 2) in order to protect the endangered flora species *Diuris flavescens* (see attached). The layout of Stage 2 as proposed in this modification incorporates those changes and remains unchanged in lot numbers and configuration. It is therefore submitted that the proposed Stage 2 is in compliance with the current approval and could therefore be constructed in accordance with that approval. The proposed modification of this section of the site now relates only to the numbering of that stage.

It should also be noted that Condition B4 (6) (see attached) of the Project Approval requires the preparation of an Orchid Habitat Management Plan (OHMP) for the Stage 2 lands and is proposed to be retained in the modified consent.

4. Foreshore access in Stage 2

The treatment of the proposed foreshore accesses in Stage 2 have not yet been determined and would be the subject of negotiation with Council during the preparation of the Stage 2 Foreshore Management Plan at the time of dedication of that part of the reserve to Council.

5. Northern part of Lot 917

The norther part of Lot 917 cannot be developed due to bushfire constraints and remains the same as originally approved. This area is not zoned RE1 Public Reserve and if Council prefers this land to be incorporated into the reserve it is recommended that negotiations commence with he land owner.

6. Foreshore access in Stage 3 and access to Crown Lot 7008 DP 96763

The original project Approval did not include any Public access to the foreshore in the now proposed Stage 3 due to the fact that the zoning of the land in that location is RE2 Private Recreation, as shown below. This RE2 zoning was negotiated with the owner of Lot 53 at the time of the rezoning of the land and it was never intended for any Public access to be provided to the foreshore in this location.

Access to Crown Lot 7008 DP 96763 currently exists from the RE1 zoned land in front of Lot 541 and will be accessible from the Stage 1 subdivision in the future.





8. Supplementary Assessments of Significance

Supplementary assessments of significance for newly listed threatened species since 2007 is currently being undertaken and will be provided to Council in due course.

9. Plans of Management

It is acknowledged that Plans of Management will be required for any lands proposed to be dedicated to Council.

10. Conclusion

It is submitted that this response to the issues raised by council adequately addresses those issues. Should any further discussion of these matters be required please do not hesitate to contact the undersigned.

Regards

Yours faithfully
PDA Planning

A signed copy can be provided upon request.

TONY FISH
Town Planner

A4 Development in Accordance with Documents

The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment – Volume 1, Volume 2 and Volume 3*, prepared by Orogen Pty Ltd on behalf of Buildev Tinonee Pty Ltd, dated 2 July 2007; and,
- (2) *A Preferred Project Report*, prepared by Orogen Pty Ltd on behalf of Buildev Tinonee Pty Ltd, dated 5 June 2008.

A5 Inconsistency between documents

In the event of any inconsistency between:

- (1) The conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail; and,
- (2) The conditions of this approval and the Statement of Commitments (at Schedule 3), the conditions of this approval prevail.

A6 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of development approval under clause 98 of the Regulation.

A7 Copy of Approval to MidCoast Water

The applicant is to submit one copy of the Approval and approved plan of the proposed development to Mid Coast Water. On receipt, Mid Coast Water will assess and notify the water supply and sewerage headworks augmentation and water supply and sewerage extension/connection charges and requirements applicable. A letter from Mid-Coast Water stating that its requirements have been met is to be submitted to Council and the Certifying Authority prior to the issue of a Subdivision Certificate.

PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 Design Modifications

The subdivision layout shall be amended as follows:

- (1) The consolidation of lots 314 and 315 to create a single lot;
- (2) The consolidation of lots 312 and 313 to create a single lot. The building envelope is to be located in the north-eastern corner of the consolidated lot, within the predominantly cleared area;
- (3) The consolidation of lots 308, 309 and 310 to create a single lot. The building envelope is to be located in the north-eastern corner of the consolidated lot, adjacent to lot 307;
- (4) The consolidation of Lot 425 with the vegetated part of the land located between lots 424 and 425, to create a single lot;
- (5) The lot boundaries within Stage 5 are to be adjusted, so that:
 - (i) The known populations of the *Diuris flavescens* orchid are contained within two lots;
 - (ii) The Asset Protection Zones are not placed over known orchid sites; and,

- (iii) Any *Diuris flavescens* sites are, where possible, to be separated from any lot boundary or road by 15 metres.
- (6) The fire trail to the west of lot 307, running North-South to The Bucketts Way is to be relocated, so that it is not upon any land zoned 7(a) under the Greater Local Environmental Plan 1995.

An amended subdivision layout, prepared in accordance with the above, must be submitted to the Department for approval, prior to the issue of the first Construction Certificate.

This condition is imposed to reduce the ecological impacts of the development.

B2 Building Envelopes Plan

A building envelope plan is to be prepared for each lot. The building envelopes must be located so that they have minimal ecological impact, are in accordance with the Environmental Assessment and the recommendations of the Tree and Vegetation Removal Plan (refer to condition B3) and allow future development to comply with requirements of Council. The plan must be submitted to Council for approval, prior to the issue of the first Construction Certificate.

This condition is imposed to ensure that the future developments are sensitively located upon the site.

Environmental Management Requirements

B3 Tree and Vegetation Removal Plan

A Tree and Vegetation Removal Plan is to be prepared. The plan must identify each tree to be removed: for the creation of the roads; fire trails; drainage works; building envelopes; Asset Protection Zones; or because it is dangerous, for each lot. All other trees are to be retained.

The Plan is to be produced by a suitably qualified arborist/ecologist and shall ensure where appropriate:

- (1) The retention of trees suspected to be of high importance to Koalas;
- (2) The retention of Koala Primary Feed trees;
- (3) Interconnecting tree canopies within the Outer Protection Area;
- (4) Retention of native understorey within the Outer Protection Area OPA; and
- (5) Retention of hollow-bearing trees within the Outer Protection Area OPA.

The Plan is to include:

- (1) Identification of each tree by a number, by species and whether it is to be retained or removed and reason for removal;
- (2) The proposed tree removal method, including inspection of hollows by a suitably qualified person prior to felling;
- (3) Safeguards for the protection of fauna both prior to, during and following the works, including the presence of a suitably qualified person during the entire felling operation, to ensure the proper management of any Koalas or nocturnal animals or otherwise;
- (4) The means of protecting trees and vegetation nominated for retention (including the *Diuris flavescens* orchid populations), during construction of all works;
- (5) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construction of roads; and

- (iv) Details on how weeds will be controlled in retained native vegetation;
- (v) A detailed weed map as a baseline from which site rehabilitation can be measured;
- (vi) A prohibition on cats and dogs;
- (vii) Details on the supplementary planting of local indigenous native vegetation species;
- (viii) A prohibition on any vehicular access to vegetated areas;
- (ix) Stormwater controls; and
- (x) Monitoring details;

The proponent is to undertake vegetation maintenance work as part of the VRP for five years from the date that works commence on the subject allotment. A monitoring report is to be submitted to Council annually detailing the works undertaken as part of the VRP.

All vegetation rehabilitation work funded by the proponent are to be supervised by an appropriately qualified and experienced person with minimum qualifications of TAFE Certificate III in Bush Regeneration or Conservation and Land Management - Natural Area Restoration and 4 years bush regeneration experience.

- (5) A site-specific Fire Management Plan written by an appropriately qualified and experienced ecologist with experience in fire management. This Plan shall:
 - (i) Refer to *Planning for Bushfire Protection 2006*;
 - (ii) Provide a Plan showing the delineation of APZ (Inner Protection Area and Outer Protection Areas) boundaries for each lot.
 - (iii) Describe in detail how each Lot owner can meet the requirements of Section 4.2 of *Planning for Bushfire Protection 2006* on each particular lot i.e. What height to keep the vegetation slashed to, how to dispose of the slashed material, approximately how often this will need to be done etc.
 - (iv) Detail the recommended fire regime that is to be applied to each lot. These recommendations are to be consistent with the relevant RFS District Bushfire Management Plan and the ecological requirements of vegetation communities and threatened species within the site.
 - (v) Detail management requirements for the proposed fire trails within proposed residential lots.

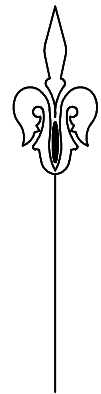
- (6) A site-specific Orchid Habitat Management Plan (OHMP) for the *Diuris flavescens* orchid populations shall be prepared by a DECC approved orchid ecologist.

The OHMP is to be included within an HVMP for each lot in which *Diuris flavescens* is known to occur and should provide species specific information on how to manage the orchid's habitat in order to ensure its long-term survival on site. Current advice is that this may require slashing of groundcover twice per year (once in August but no later than 1st September and once in the period between January and March).

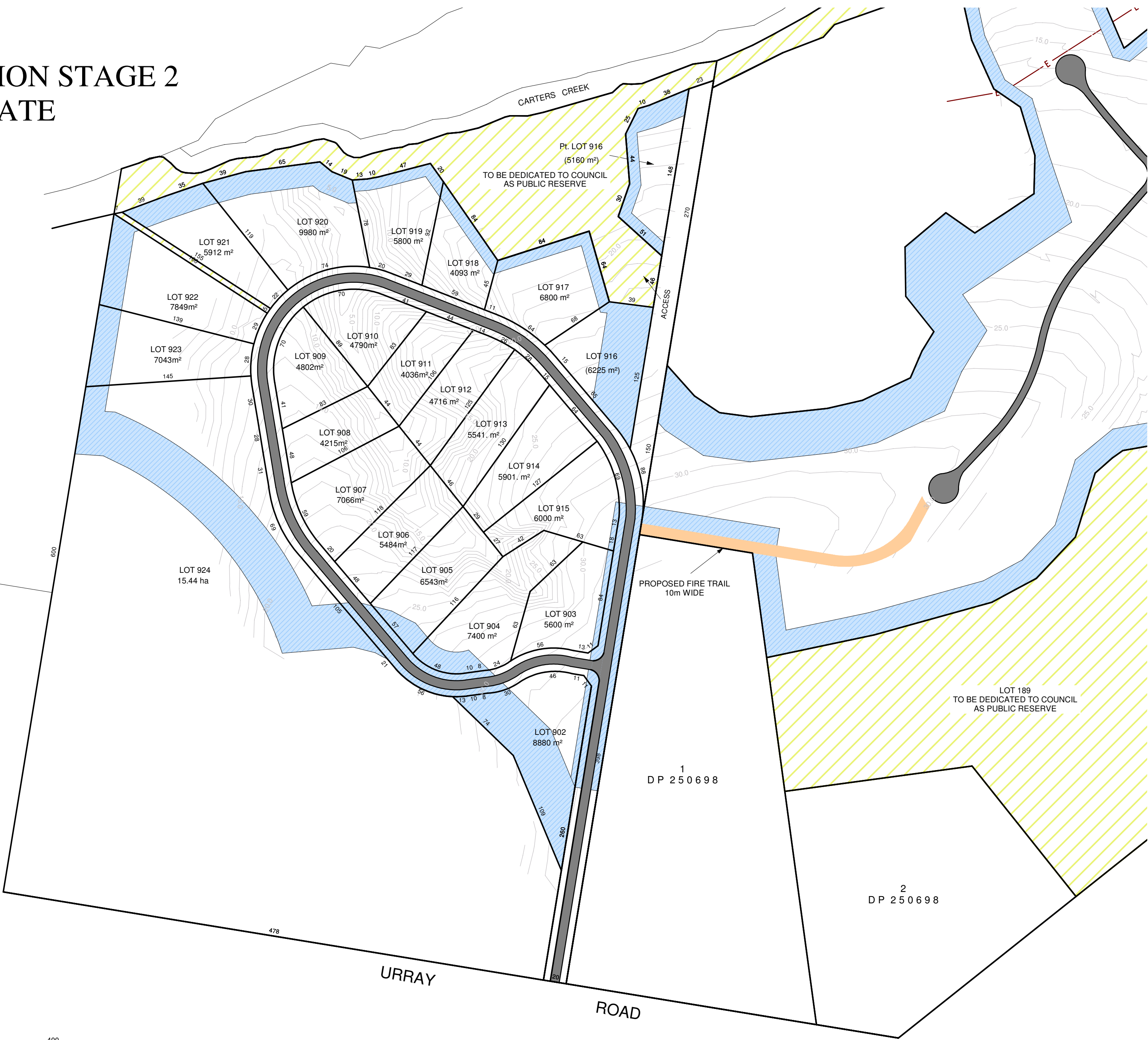
Where possible, a 15 metre Orchid Protection buffer is to be imposed on each known orchid population to prevent disturbance to the soil surface or other disturbances to the orchids habitat occurring.

The OHMP shall be submitted to the Department of Environment and Climate Change (DECC) for its approval.

A monitoring report is to be submitted to DECC and Council annually detailing the works undertaken as part of the OHMP.



PROPOSED SUBDIVISION STAGE 2 ILLIDGE ESTATE



LEGEND

- DENOTES PROPOSED PUBLIC RESERVE
- DENOTES PROPOSED ASSET PROTECTION ZONES

NOTES:
ALL DIMENSIONS AND AREAS ARE SUBJECT TO
MODIFICATION APPROVAL, CIVIL DESIGN & FINAL SURVEY



REVISION	SCALE: 1:2500 @ A2	CLIENT		 McGLASHAN & CRISP Pty Ltd CONSULTING SURVEYORS 117 VICTORIA STREET, TAREE 2430. Ph:02 65521566. DX 7009 Email: admin@mcglashanncrisp.com.au	PLAN	PROPOSED SUBDIVISION OF LOT 156 DP753202, 542 DP1113791 AND LOT 53 DP836998 THE BUCKETTS WAY, TINONEE	REFERENCE F57A/3513/2017
	DRAWN: GAC/LTD	RTS SUPER					COMPUTER FILE
	DATE: 25.02.2021	DATUM:	L.G.A.				CARTERS CREEK.mjo
		APPROXIMATE MGA & AHD	MID-COAST				



REVISION	SCALE: 1:3500 @ A2	CLIENT RTS SUPER		 McGLASHAN & CRISP Pty Ltd CONSULTING SURVEYORS 117 VICTORIA STREET, TAREE 2430. Ph:02 65521566. DX 7009 Email: admin@mcglashancrisp.com.au	PLAN	REFERENCE F57A/3513/2017
	DRAWN: GAC/LD	DATUM:	L.G.A.			COMPUTER FILE
	DATE: 26.02.2021	APPROXIMATE MGA & AHD	MID-COAST			CARTERS CREEK.mjo

Comments to the Response to Submissions for the Modification to the Tinonee PA (MP05-0038 MOD1) – correspondence of PDA Planning dated 2 March 2021

Prepared by Mat Bell (Senior Ecologist)

1 June 2021

Background

A modification application has been submitted to the NSW Department of Planning, Industry and Environment for the Tinonee Project Approval (MP 05_0038 MOD1). The proposed modification seeks to amend the subdivision layout.

In response to a request for comments for the proposed modification, MidCoast Council submitted correspondence to the Department on the 21 December 2020. Within that correspondence, Council raised several issues, including concerns relating to biodiversity and threatened species matters.

The matters raised by Council in its submission are summarised below, along with the commentary in reply by PDA Planning in its correspondence of the 2 March 2021:

- **The proposed changes to the layout sought in the modification in relation to Lot 53 DP836998 and Lot 156 DP753202 had not been subject to consultations with Council and that additional targeted consultations were required.**

PDA Planning: NA

PDA Planning did not provide a specific response to this comment. Additional consultations with the applicant to resolve outstanding matters as they pertain to Stage 2 of the development are appropriate.

- **The survey of the pale yellow doubletail (*Diuris flavescens*) that was required has not been undertaken. Stage 2 of the development could seriously impact this critically endangered species. An assessment has not yet been undertaken for the development under the EPBC Act 1999. Additional surveys and consultations are required to re-frame the subdivision arrangement on Lot 156 DP753202 and devise the long-term protection mechanism for conservation important lands.**

*PDA Planning: Condition B1 of the original project approval required adjustment to the lot boundaries in the then Stage 5 (now Stage 2) to protect the *Diuris flavescens*. The layout of Stage 2 as proposed in the modification reflects those changes and is in accordance with the current approval and can be constructed in accordance with that approval. Condition B4 of the project approval requires an Orchid Habitat Management Plan for the Stage 2 lands.*

Council is of the opinion that Stage 2 is unlikely to be constructed as per the project approval because there has not been a referral or decision with respect to a controlled activity approval for the development by the Australian Government and it is likely that the project will have an impact of sufficient magnitude to a nationally-listed critically endangered species so as to warrant that controlled activity referral.

Further, there has been no detailed population assessment or survey conducted and reported to inform the Stage 2 subdivision layout.

Council understands that an extensive field survey was conducted for *Diuris flavescens* by threatened species officers and a consultant on and near the land in the flowering period in 2020 as part of the Saving Our Species program. The results of these surveys should be obtained and referenced as the basis for further discussions on the nature of revised subdivision design and species recovery / conservation in this modification.

We are not satisfied that the Stage 2 development has been appropriately resolved for *Diuris flavescens*.

- **The modification sought additional lots in certain areas (lots 916 / 917 and 924) without adequate justification**

PDA Planning: The proposal has been amended to reflect the original approval.

The modification proposal has been revised to be more reflective of the original approval. However, it still seeks to divide the current approved lot 509 into two (2) separate allotments (proposed lots 916 and 917), which increases lot yield and potentially slightly increases vegetation loss for future dwelling constructions.

It also proposes to establish a separated section of lot 917, which is impractical.

- **The modification created a divided lot configuration of lot 917, which is unreasonable.**

PDA Planning: The northern part of Lot 917 cannot be developed due to bushfire constraints and remains the same as originally approved. If Council prefers this land to be incorporated into the reserve, negotiations with the landowner are recommended.

If the northern separate section of lot 917 is not practical, then it should not be identified as part of a future private allotment and it should be offered in this modification application to Council for inclusion in the foreshore reserve lands.

- **There is limited detail on how public access and recreation is to be established in Stage 2 to the foreshore public lands,**

PDA Planning: The treatment of the proposed foreshore accesses in Stage 2 have not yet been determined and would be the subject of negotiation with Council during the preparation of a Stage 2 foreshore management plan at the time of dedication of that part of the reserve to Council.

It would be reasonable and appropriate to resolve the principles of future foreshore access details now at this planning phase so as to ensure that there is certainty and common understanding to underpin the prescriptive and explicit plans to be generated during the Stage 2 foreshore land dedication process.

- **There is a requirement for plans of management, including habitat and vegetation management plans for foreshore dedication lands, except for the lands to be dedicated on lot 189.**

PDA Planning: It is acknowledged that plans of management for any lands to be dedicated to Council will be required.

The requirement for plans of management for lands to be dedicated to Council should be reflected clearly in appropriately worded conditions in a modified consent.

- **There were issues within the supplied vegetation removal / retention plan, including:**
 - **An APZ is proposed over the road reserve to be dedicated as a public foreshore reserve. This is unreasonable.**

PDA Planning: The APZ in proposed Lot 916 has been moved to be completely within the proposed lot and not within the road reserve.

This issue has been resolved.

- **The road access from Urray Road appears to have shifted and there is uncertainty / discrepancy in respect to additional vegetation clearing in this area.**

The current plans utilise a new aerial photograph image that includes areas of shadow which appear to be vegetation cover. The road reserve to be formed is currently cleared.

The road reserve is unvegetated. That is acknowledged. However, this road reserve contains individuals of *Diuris flavescens*, which will be harmed for the road construction work. The results of the 2020 Saving Our Species *Diuris flavescens* surveys should be referenced in devising the most ecologically appropriate location of road access to the Stage 2 subdivision. This process should be undertaken as part of this modification application.

- **Additional threatened species have been gazetted since the 2007 ecological assessment. Further commentary was required to examine the proposed development in relation to such species.**

PDA Planning: These species are being subject to supplementary assessments of significance, which are in preparation.

No details of the supplementary threatened species assessments have been received by Council to date.

- **Foreshore land in lots 332 and 334 should be dedicated to Council for public access purposes.**

PDA Planning: The previous rezoning of the land incorporated negotiations and agreements that foreshore land in Stage 3 would not be dedicated to the public, hence the RE2 Private Recreation zoning that applies.

Given the outcomes of the rezoning of the land and the agreements reached in that planning phase, it is appropriate that foreshore land in lots 332 and 334 remain in private ownership and not be dedicated to Council.

- **Proposed lot 924 is unreasonable and not supported.**

PDA Planning: Proposed lot 924 has been deleted from the modification application.

This issue has been resolved.

Conclusions

The recent correspondence of PDA Planning has clarified and satisfied some of the Council concerns, but other matters remain outstanding and need to be further evaluated and discussed prior to determining the modification application as it relates to Stage 2. These outstanding matters relate to:

- The Applicant should engage with the NSW Department of Planning, Industry and Environment to seek to obtain the results of *Diuris flavescens* surveys in the flowering period in 2020. These results should underpin a review of the access and subdivision arrangement so that an effective development / conservation outcome is achieved. Additional workshops / consultation between the applicant, Council and the Department are required. Council is not satisfied that the modification application can be determined for the impacts on *Diuris flavescens*. The matter is likely to require a referral to the Australian Government and it would be advantageous and efficient to incorporate this AG consultation in the process. By doing such, this would give afford development resolution / security for the landowner.
- A revised BDAR is required for the amended layout that creates two lots over the footprint of the approved Lot 509.
- The subdivision plan proposed in this modification application should delete the northern section of proposed Lot 917 and this area should be incorporated into the area of proposed foreshore reserve (to be dedicated to Council).
- The principles of the foreshore accessways in Stage 2 should be resolved at this modification application stage, with explicit details of actual construction and dedication of foreshore accessways during the subdivision construction process should be provided for within conditions of consent.
- The requirement for plans of management for dedicated lands should be clearly expressed in conditions of the modified development consent.
- The supplementary threatened species assessments should be submitted to Council for review.

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RE: Tinonee Major Project

MA Mathew Bell <Mathew.Bell@MidCoast.nsw.gov.au>

 Tue, 09 Nov 2021 2:44:24 PM +1100 • P0031

 To "Tony Fish" <tfish@pdaplanning.com.au>

Tags 

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Tony,

Thanks for your e-mail and the correspondence.

I have read through your commentary embedded within my original memo.

I recognise the lot layout modifications to address the issues raised in the e-mail. The lot arrangement in the modified layout does appear to address my previously stated concerns (other than for the access road issue).

The relevant contact for the Saving Our Species program for the *Diuris flavescens* is:

Dr Mark Cameron

Conservation Assessment & Data Officer

Biodiversity Conservation Division | Department of Planning, Industry and Environment

T 02 6659 8241 | [E mark.cameron@environment.nsw.gov.au](mailto:E.mark.cameron@environment.nsw.gov.au)

Level 4, 24 Moonee St, Coffs Harbour 2450

www.dpie.nsw.gov.au

Liaison with this contact would be valuable and would yield relevant data to support the EPBC Act referral for this species for this development stage. I still endorse consideration of possible relocation of the road to Stage 2 away from known individuals, but this issue would be resolved via the EPBC Act referral. I recognise that the Stage 2 development benefits from a current consent with the roadway in the road reserve as shown on the supplied plan.

I concur that details of foreshore management can be resolved in the preparation and acceptance of the Stage 2 foreshore land dedication and management process.

I also concur that the need for plans of management for any lands to be dedicated to Council are provided for within the existing conditions of consent.

Finally, the supplementary threatened species assessments have been received.

I trust this is satisfactory.

Regards
Mat

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the original conditions for road works remain unchanged.

in conjunction with the other intersection works on Urray Road and submission of WAE documentation as

RE: Tinonee Major Project

From: Tony Fish <tfish@pdaplanning.com.au>
Sent: Monday, 15 November 2021 1:24 PM
To: Kieran Woodall <Kieran.Woodall@midcoast.nsw.gov.au>
Subject: RE: Tinonee Major Project

Hi Kieran,

The Bucketts Way is the responsibility of Council as identified in the correspondence from TFRNSW, provided in the submissions report. TFRNSW also indicated that an updated Traffic Impact Assessment should be provided for the proposed modified subdivision.

The proposed subdivision has two access points. One being to the main subdivision and one to the last stage via Urray Road. The original traffic assessment identified the required intersection upgrades for these accesses. The primary access has already been constructed in accordance with the requirements of the approval at significant cost the owner.

The proposed modification results in a reduction of lots that will use the two accesses as indicated in the Modification Report and Submissions Report.

On this basis it is submitted that a revised Traffic Assessment is not required for the proposed modification. The access requirements of the original Traffic Assessment are still appropriate for the modified subdivision.

It would be appreciated if Council could confirm that an updated Traffic Impact Assessment is not required for the proposed modification.

Regards

Tony Fish
Town Planner
PDA Planning
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----- On Mon, 15 Nov 2021 11:49:33 +1100 Kieran Woodall <Kieran.Woodall@midcoast.nsw.gov.au> wrote -----

Hi Tony,

Could you please provide some context for your request so we can review and respond accordingly.

Regards,

Kieran Woodall
Coordinator Development Engineering



Direct (02) 7955 7219 **Mobile** 0448 594 069
Kieran.Woodall@midcoast.nsw.gov.au
www.midcoast.nsw.gov.au or follow us