

29 July 2022

2191002

Mick Cassel  
Secretary  
Department of Planning and Environment  
12 Darcy Street  
Parramatta NSW 2150

Attention: Tom Piovesan, Key Sites Assessments

Dear Tom,

**RE: EASTERN CREEK QUARTER - LOT 3 CONCEPT PLAN (SSD-10457)**

Ethos Urban has prepared this letter on behalf of Frasers Property Australia Pty. Ltd (Frasers) in response to the Department of Planning and Environment's request for information (RFI) letter dated 22 February 2022. It is accompanied by the following additional information provided by the relevant technical experts:

- Consultation timeline prepared by Frasers (**Attachment A**);
- Amended intersection concept design prepared by Henry & Hymas (**Attachment B**);
- Traffic and Parking Technical Note prepared by CBRK (**Attachment C**);
- Traffic Control Signal Plans prepared by Transport and Traffic Planning Associates (**Attachment D**);
- Updated BDAR prepared by Eco Logical Australia (**Attachment E**);
- S156A Variation Request prepared by Eco Logical Australia (**Attachment F**);
- Aboriginal Archaeological Review prepared by Kayandel (**Attachment G**);
- Historic Archaeological Assessment prepared by Extent (**Attachment H**);
- Revised Heritage Impact Statement prepared by GBA (**Attachment I**);
- Acoustic Statement prepared by Acoustic Logic (**Attachment J**);
- Preliminary Site Investigation prepared by JBS&G (**Attachment K**);
- Revised draft Plan of Subdivision prepared by Land Partners (**Attachment L**);
- Revised Concept Plans prepared by i2c (**Attachment M**); and
- Revised Design Guidelines (**Attachment N**).

The SSD Concept Plan Amendment was originally lodged on 21 December 2020 and since this time Frasers has invested considerable time and resources in carrying out further consultation and in developing progressively greater levels of design to respond to agency issues, particularly around the external intersection works (refer to **Attachment A** for summary of consultation undertaken during this period). Accordingly, the below responses have been prepared to ensure a sufficient level of detail is provided in order to facilitate determination of the Concept Plan and to allow for the progression of the detailed design SSD application.

## 1.0 Church Street / RHRS Intersection

The Department recommended that Frasers explore alternative concept designs for the signalisation of the Church Street and Rooty Hill Road South intersection to minimise impacts to St Agnes Avenue and Minchinbury Street, including the provision of a 4-way intersection which aligns with St Agnes Avenue.

Since receiving the RFI in February extensive consultation has occurred with TfNSW, Blacktown City Council and other stakeholders, including numerous revisions to the intersection concept design and detailed investigations regarding the feasibility of a 4-way intersection. In response to feedback received, particularly from TfNSW and Council, Frasers has agreed to provide a 4-way

intersection to provide a 'long-term safe, efficient, and equitable access arrangement for the community and the broader road network'. The design of the intersection seeks to balance this outcome whilst minimising any potential environmental or heritage impacts associated with the necessary encroachment into neighbouring Council land.

We understand the issues raised by TfNSW in their email correspondence dated 8 July 2022 (outlined in **Table 1** below) represents their final outstanding concerns with the proposed road infrastructure works and Frasers has sought to accommodate all recommendations and requirements listed. A summary of how Frasers has responded to each item is provided in the table below, and this is accompanied by revised Concept Intersection Plans prepared by Henry and Hymas (**Attachment B**) and a Traffic and Parking Technical Note prepared by CBRK (**Attachment B**).

**Table 1**      *Response to TfNSW Comments*

Comment	Response
1. The pedestrian crossing on the northern leg is to be located closer to Church Street. As a result the existing drainage pit at the northwest corner will require relocation.	As shown on the concept intersection design ( <b>Attachment B</b> ), the pedestrian crossing on the northern leg of the intersection has been located closer to Church Street and the existing drainage pit will be relocated.
2. It is understood that a kerb ramp exists at the northwest corner which is used as a driveway by the resident. Once the marked crossing is installed, this kerb ramp should be removed and reinstated to match existing kerb and gutter.	As shown on the concept intersection design ( <b>Attachment B</b> ), the kerb ramp will be removed, and the kerb and gutter will be reinstated as requested. It is noted that this is not a formalised driveway, and that the resident of this property has driveway access directly from St Agnes Avenue.
3. It is noted that due to the single lane approach from St Agnes Avenue, the access routes (St Agnes Avenue and Church Street) will operate in either split phases or single phase. Traffic modelling should be updated for the following 2 options: <ul style="list-style-type: none"> <li>Option 1 - Single Diamond Overlap (SDO) phasing on Rooty Hill Road South and single phase (with both pedestrian features) for Church Street and St Agnes Avenue.</li> <li>Option 2 - Single Diamond Overlap (SDO) phasing on Rooty Hill Road South and 'Split Approach' phasing for Church Street and St Agnes Avenue with both pedestrian features on the Church Street signal phase.</li> </ul> <p>The following criteria should be considered in the traffic modelling for the worst case scenario:</p> <ul style="list-style-type: none"> <li>The maximum cycle time will be 120 seconds. (SCATS will adjust the cycle time responding to the prevailing traffic conditions on site).</li> <li>Total Intergreen time should be 6 seconds – 4 seconds yellow + 2 seconds all red.</li> <li>TfNSW advises that the pedestrian protection time would typically be 11 seconds at the Rooty Hill Road South/Church Street intersection, which will be determined on site and dependent on pedestrian behaviour. As such, the percentage of pedestrian protection time being activated should be considered with reasonable assumptions in the traffic modelling.</li> <li>The network modelling should include the following intersections: <ul style="list-style-type: none"> <li>Rooty Hill Road South and Church</li> <li>Rooty Hill Road South and Cable place</li> <li>Rooty Hill Road South and Great Western Highway</li> </ul> </li> </ul>	Traffic modelling of the two options has been provided within the Traffic and Parking Technical Note at <b>Attachment C</b> . Analysis of the two options showed that phasing Option 2 has better average delays than phasing Option 1, with the realigned intersection operating at a level of service B or above.
4. The turn path for MRV turning left from Rooty Hill Road South into St Agnes Avenue encroaches on the kerb, please address this issue.	As shown on the Turning Paths diagram at <b>Attachment B</b> , the MRV turning path has been amended to avoid encroachment onto the kerb.
5. TfNSW raises no objection to the Rooty Hill Road South realignment near Beggs Road with the suggested radius. At the 65m length from the stop line, the width of the right turn lane taper is 2.5m, which can only accommodate a car. It is recommended that	As recommended, the median width has been reduced to 1.2m from Beggs Road and then transitioned through to taper to 1.5m. Refer to <b>Attachment B</b> .

Comment	Response
<p>the median width be reduced to 1.2m from Beggs Road and then transition through the taper to the 1.5m median width. This will allow the width in this area (65m from stopline) increased to 2.9m providing a better outcome.</p> <p>6. TfNSW notes that there is an existing driveway at the southwest corner of St Agnes Avenue. On safety grounds, the driveway should be relocated to St Agnes Avenue, providing a safer access to the resident also in addition to other road users. Please note, it is the responsibility of applicant to obtain written agreement from the landowner, permitting the relocation and any works required by the applicant.</p>	<p>AS280.1-2004 permits domestic driveways to be located within intersections such as that currently located at the south west corner of St Agnes Avenue and therefore the current driveway could remain in its current location. Notwithstanding, Frasers is willing to pursue the relocation of the driveway at the request of TfNSW as a mitigation measure of the development.</p> <p>A design solution has been provided to relocate the driveway to St Agnes Avenue (<b>Attachment B</b>) and this will require a commercial agreement with the resident to implement this, should they agree. Prior to this occurring, certainty regarding the concept plan and TfNSW's endorsement of the intersection is required and, as such, a condition of consent should be imposed to facilitate this outcome. It is noted that if the landowner did not wish for the driveway arrangement to change, the existing driveway could remain which would still be compliant with the relevant design standards.</p> <p>It is noted that this approach for a condition is supported by a recent LEC judgement whereby the commissioner noted that it is within the power of the court to condition a requirement for works on adjacent land and that there would then be an obligation for the applicant to comply with the condition and gain consent of the owner to undertake the work (if required). Refer to Paragraph 132 of Enares Pty Ltd v City of Canada Bay [2022] NSWLEC 1375.</p> <p>Accordingly, the following condition of consent is requested:</p> <p><i>The applicant must consult with the owners of the land at 134 Rooty Hill Road South, Eastern Creek in regard to the relocation of the driveway to St Agnes Avenue. If the landowner agrees to the driveway relocation, then the applicant must implement these measures as part of the WAD process for the intersection to the satisfaction of Planning Secretary.</i></p> <p><i>If the applicant and the landowner disagree on the scope of works to be implemented, then either party may refer the matter to the Planning Secretary for resolution.</i></p>
<p>7. The concept design plan, TCS plan, traffic modelling (both report and SIDRA files) and swept path diagram should be updated to address the above concerns and submitted, together as one package, to TfNSW for review and approval.</p>	<p>The following has been prepared and submitted as part of this response:</p> <ul style="list-style-type: none"> <li>• Intersection Concept Plans and swept paths prepared by Henry and Hymas (<b>Attachment B</b>);</li> <li>• Traffic and Parking Technical Note, including SIDRA modelling, prepared by CBRK (<b>Attachment C</b>); and</li> <li>• TCS plan based on Option 2 (<b>Attachment D</b>).</li> </ul>

## 2.0 Eastern Road / RHRS Intersection

Since the Department's RFI letter was issued in February 2022, Frasers and the design team have had numerous meetings and correspondence with TfNSW and have now responded to all remaining issues raised with the proposed road infrastructure works (as outlined above and within the Traffic and Parking Technical Note prepared by CBRK at **Attachment C**).

## 3.0 Other Matters

### 3.1 Biodiversity Development Assessment Report

An updated BDAR (**Attachment E**) has been prepared by Eco Logical Australia to reflect the additional tree removal required as a result of the proposed 4-way intersection design. To facilitate the intersection design requested by TfNSW, which involves realigning Church Street to meet St Agnes Avenue, an encroachment into Council's 'The Rooty Hill' parkland to the north is necessary (Lot 101 in DP 581882). This will impact an additional 0.39 ha of Cumberland Shale Plains Woodland and Shale Gravel Transition Forest to that originally assessed and would also increase impacts by 0.39ha to the grey-headed flying-fox foraging habitat. As a result, the total area of direct impacts to native vegetation and threatened ecological communities will be 1.12 ha which will require the following biodiversity offsets:

- 36 x ecosystem credits of PCT 849 associated with the development site and adjacent road upgrades; and
- 1 x species credit for the Cumberland Plain Land Snail which was identified in the proposed road upgrade portion of the development site and 8 x credits for the removal of 0.30ha of habitat.

A s156A variation request (**Attachment F**) has also been submitted to the Department of Agriculture, Water and Environment (DAWE) to amend the previous Action referral submitted on 22 July 2020 to include the additional intersection impacts in their consideration of Matters of National Environmental Significance (MNES). Prior to submission of this request, a meeting was held between Frasers and DAWE who were of the initial opinion that the new proposal would likely be considered as substantially the same Action as the previous proposal.

Furthermore, in accordance with the requirements of the *Biodiversity Conservation Act 2016*, significant effort has been made in relation to the design of the requested 4-way intersection to avoid and minimise impacts of MNES. This included:

- Exploring numerous 3-way intersection designs which required less disturbance to native vegetation but did not satisfy TfNSW and Council design standards;
- Minimising the curve radii of the realigned Church Street to be as tight as possible for the 4-way intersection design to reduce the extent of encroachment into the vegetation; and
- Through design progression, reducing the impacted land from 3 ha to 2.1 ha whilst accommodating all necessary design standards for the intersection.

Accordingly, the amended proposal continues to satisfy the requirements of the BC Act 2016 and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and will, therefore, have an acceptable biodiversity impact subject to a condition of consent requiring the retirement of the identified ecosystem and species credits.

## 3.2 Heritage Impacts

### 3.2.1 Aboriginal Archaeology

With reference to their past investigations for the site, Kayandel has undertaken a desktop review of Aboriginal heritage impacts associated with the additional land to be impacted by the proposed road widening (refer to **Attachment G**). This included a search of the Aboriginal Heritage Information Management System (AHIMS) for Lot 101 DP581882 which found that no Aboriginal sites have been documented within the property. It also included a review of the archaeological predilections developed for the site under Kayandel (2020) which found the site to be on a plain landform and located some 1km away from Eastern Creek, a 3<sup>rd</sup> order watercourse. Accordingly, Kayandel conclude that they have not identified any archaeologically sensitive landforms within the development area and, as such, there are no obligations under Part 6 of the *National Parks and Wildlife Act 1974*.

### 3.2.2 Historic Archaeology

Extent has prepared a Historic Archaeological Assessment for the land associated with the proposed road widening (**Attachment H**). In summary, based on the historical research undertaken by Extent, the site has the following historical phases:

- Phase 1: 'Rooty Hill Run' (1802-1827) – a pastoral run for government sheep and cattle;
- Phase 2: Church and School Lands Corporation (1827-1871) – grazing land leased to farmers by the Church and School Lands Corporation, followed by the land being returned to the Crown;
- Phase 3: Private agricultural estates (1871-1960); and
- Phase 4: NSW Government land (1960-present) – leased out for grazing until the 1980s when a Greenspace program saw the study area subject to revegetation as part of a broader government initiative to improve the Rooty Hill for recreational use.

The assessment concluded that the study area is unlikely to contain significant historical archaeological remains associated with these former uses and that the proposed works will not impact on any remains or relics. Accordingly, an 'unexpected finds protocol' and a heritage induction for site contractors would adequately mitigate the risk of disturbing any unidentified remains.

### 3.2.3 Built Form Heritage

GBA Heritage as prepared an updated Heritage Impact Statement (**Attachment I**) to address the potential additional impacts associated with the amended proposal, in particular the encroachment into the boundary curtilage of The Rooty Hill SHR item and the Pioneer Memorial Church.

In relation to the minor curtilage reduction of The Rooty Hill, GBA found that there are no built structures in the area and so the potential impact would be limited to archaeological heritage impacts (which have been addressed above). It was noted that the reduction in tree cover may also impact on the visual presence of the proposed outlet centre, however, that this would be mitigated by native planting in the residual land created along Church Street and further planting within the site as part of the future development.

GBA note that the Pioneer Memorial Church is situated towards the rear of the lot and that the impact of the altered roadway would be acceptable. It was also concluded that the Church is some distance away on Rooty Hill Road South and there is considerable vegetation between the Church and the subject site, to the point where the proposed development is not evident from the heritage item.

Accordingly, GBA concludes that the proposed 4-way intersection would not have any adverse impact on built heritage items subject to the recommendations made in their original assessment which will be implemented as part of the detailed design.

## 3.3 Blacktown Council Submission

On 31 March 2022 Blacktown Council wrote to the Department outlining a number of concerns with the proposed intersection works and expressed their preference for a 4-way intersection. A response to each of the matters raised is included at **Table 2**.

**Table 2** *Response to Blacktown Council Submission*

BCC Comments	FPA Response
<b>Planning Comments</b>	
The proposed concept design of the intersection is not supported as this would deny permanently the right turn out movements of residents living in St Agnes Avenue and Dr Lawson Place.	Noted, a 4-way intersection design has now been proposed as outlined above.
Council's preference is for the intersection to be relocated north to form a signalised intersection with St Agnes Avenue. This option would present a safer option and would facilitate permanent right hand out access for residents of St Agnes Avenue and Dr Lawson Place. This option would also improve access into The Rooty Hill Reserve.	
The Rooty Hill Reserve is a State listed heritage item and will require consent from Council's Property, Recreational Planning & Design and Assets team, and Council's Heritage advisor prior to entering any discussions with the Heritage Council.	As outlined above, numerous heritage assessments have been undertaken in support of the proposed intersection works and copies have been issue to Blacktown Council. A meeting has also been scheduled with Council for 9 August 2022.
<b>Engineering and Traffic Comments Issues</b>	
The intersection as proposed is not supported from a traffic safety and access perspective as the design is not safe and denies the right turn out movement from St Agnes Avenue, Rooty Hill.	Noted, a 4-way intersection design has now been proposed which retains right turn out movements from St Agnes Avenue.
The impact on residents of both St Agnes Avenue and Dr Lawson Place will be significant as they will be restricted to Rooty Hill Road South and not towards the Great Western Highway.	
Moving the intersection to the north to provide signalised access to and from St Agnes Avenue is supported from an access, traffic management and safety perspective. This would allow for safe right hand turns into and out of St Agnes Avenue and also provide a more suitable and longer right turn bay for access to Church Street.	

BCC Comments	FPA Response
<b>Property Comments</b>	
<p>The plans provided indicate Lot 101, DP 581882 will be subject to road widening for the proposed intersection works at the corner of Church Street and Rooty Hill Road South. The subject land is classified as operational land and Council can facilitate the acquisition of part of Lot 101 once the final design of the intersection is approved as part of the State Significant Development. Please note, any proposal to sell Council land will require a formal Council resolution.</p>	<p>Council's Property Development Division advised via email on 17 February 2022 that Council raises no objections 'in-principle' to the proposed acquisition of land subject to agreement to compensation, which is subsequently approved by Council.</p> <p>A draft Plan of Subdivision and a concept civil design has been submitted for Council's review and a meeting has been scheduled for 9 August 2022 to progress this matter.</p> <p>It is noted that Council has stated in their submission that they can facilitate the acquisition of part of Lot 101 once the final design of the intersection is approved. Accordingly, a condition of consent is requested to facilitate this which would be consistent with the approach for other potentially impacted properties.</p>
<b>Recreation Planning and Design Comments</b>	
<p>Any proposed reduction in open space provision at Reserve 885, The Rooty Hill will require discussions between the proponent and Recreation Planning and Design section to determine which of the following options will need to be undertaken;</p> <ul style="list-style-type: none"> <li>Undertake improvements within the reserve to address the loss of open space, through the provision of footpaths, trees, vegetation (embellishment type and value to be agreed with BCC and applicant) OR,</li> <li>Provide monetary contributions to allow council to provide footpaths, trees and vegetation to address the loss of open space</li> </ul> <p>Note: this is also subject to Heritage NSW approval and according to Chapter 7, Western Sydney Parklands, SEPP Precincts- Western Parkland City 2021.</p>	<p>This matter will be addressed as part of the land acquisition process outlined above. Notwithstanding, it is noted that the development will provide:</p> <ul style="list-style-type: none"> <li>an upgrade of Church Street with a new footpath and bicycle path;</li> <li>a new footpath to the affected portion of Rooty Hill Road South and the verge would be landscape to Council's standards; and</li> <li>landscaping within the residual lot at the corner of Rooty Hill Road South and Church Street.</li> </ul>
<p>Existing trees are to be retained and protected where possible. Where removed, the provision of replacement trees is required (minimum 45L pot size at time of planting). This is required to meet the Premier's policy for increasing canopy cover and greening our city.</p>	<p>As outlined in Section 3.1 above, substantial effort has been made to minimise the loss of trees associated with the upgraded intersection and Frasers is willing to explore further offsetting of the additional tree removal through the detailed design SSD.</p>
<b>Heritage Comments</b>	
<p>The Rooty Hill is listed on the State Heritage Register (SHR) with its listing covering the Rooty Hill, Morreau Reserve and the old Church facing Rooty Hill Road South. Its curtilage is bounded by Rooty Hill Road South, Church St, Curry Street and Eastern Road. From a heritage point of view, minimal encroachment into this area is preferred.</p>	<p>Refer to Section 3.2 above. Potential impacts on the SHR have been minimised and a revised HIS as found the impacts to be minimal.</p>
<p>Works at the site can only be undertaken on the Rooty Hill Reserve if they are completed sympathetically. Also Archaeological investigations will be required to be undertaken for any encroachment given that The Rooty Hill has been assessed as having moderate archaeological potential for Aboriginal and European artefacts and places.</p>	<p>Refer to Section 3.2 above. An archaeological assessment report has been prepared for Council's consideration which finds low potential for archaeological relics in the area.</p>
<p>Any work within the curtilage will require the Heritage Council of NSW's approval under the Heritage Act 1977 accompanied by a Statement of Heritage Impact.</p>	<p>Refer to Section 3.2 above. A revised Heritage Impact Statement has been prepared to address the proposed intersection upgrade. It is noted that as the application is SSD, separate approval under Part 4 of the Heritage Act is not required but the proposal will be reviewed by NSW Heritage.</p>



## Environmental Health Comments

Any proposed intersection is to address potential noise issues arising from the proposed intersection on nearby sensitive receivers

An acoustic report has been prepared by Acoustic Logic (**Attachment J**) confirming the development, including the 4-way intersection, will not result in any unacceptable acoustic impacts on surrounding receivers.

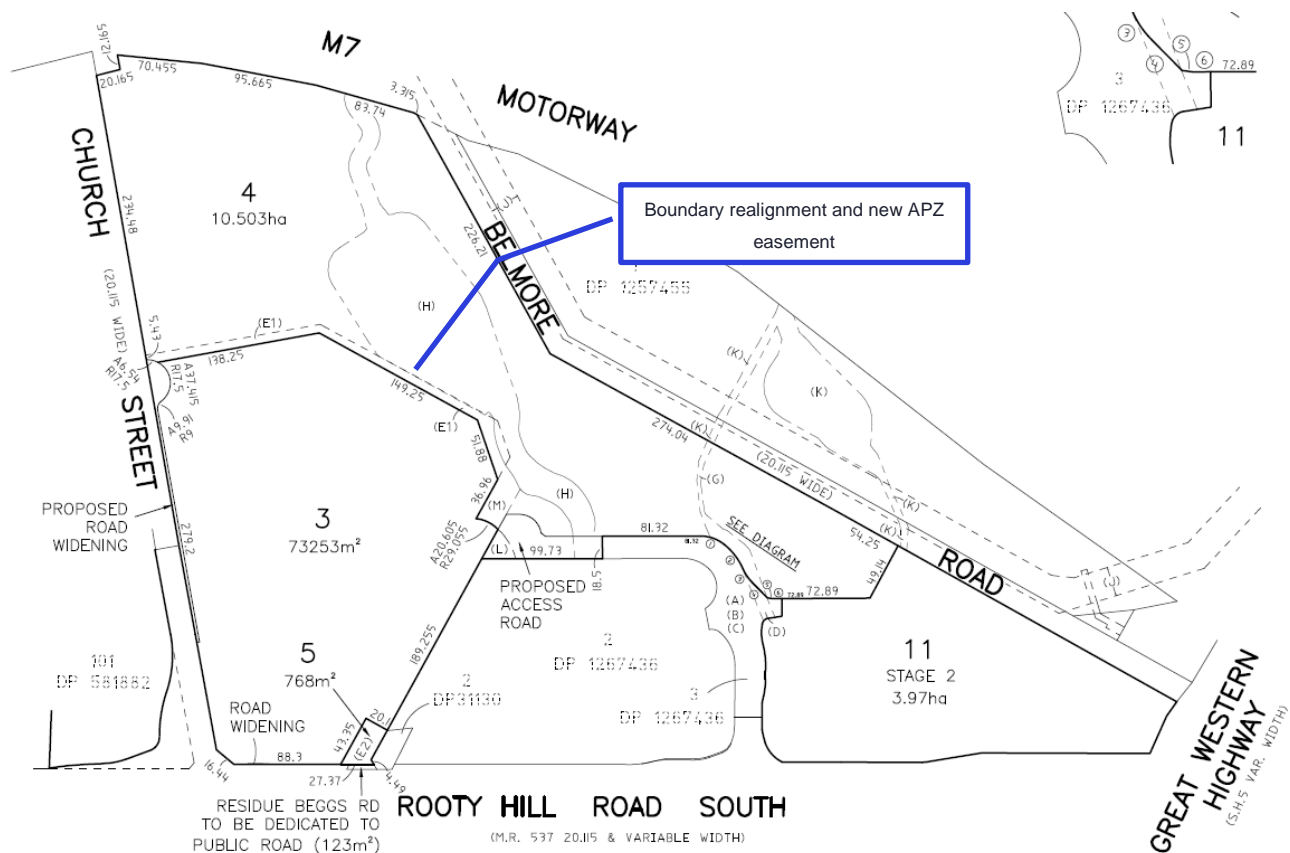
The proponent is to address land contamination to ensure land is suitable for the proposed use.

A Preliminary Site Investigation has been prepared by JBS&G (**Attachment K**) which did not identify any potential for gross or widespread contamination at the site which may preclude redevelopment for the intended land use.

## 4.0 Design Amendments

In response to the shift to a 4-way intersection, and general design development during the assessment phase of the Concept Plan, it is proposed to make some minor changes to the draft Plan of Subdivision for the site, Concept Plans and associated Design Guidelines.

A new draft Plan of Subdivision is included at **Attachment L** which has been updated to reflect the proposed widening of Church Street to accommodate Council's design requirements for an industrial road and the realignment of Lot 101 to facilitate the 4-way intersection design (refer to extract at **Figure 1**). In addition, due to commercial arrangements between Frasers and the WSPT, the eastern boundary of the lot has moved west by 7m and a new easement is proposed along this boundary within Lot 4 to accommodate the APZ that was previously located completely within the site. The building location will remain in the same place which results in new setbacks to the lot boundary along this frontage, however, the overall APZ and separation to the parklands remains the same via the proposed easement. The overall site area of the lot will be reduced to approximately 7.32ha.



**Figure 1** Proposed Plan of Subdivision

Source: Land Partners

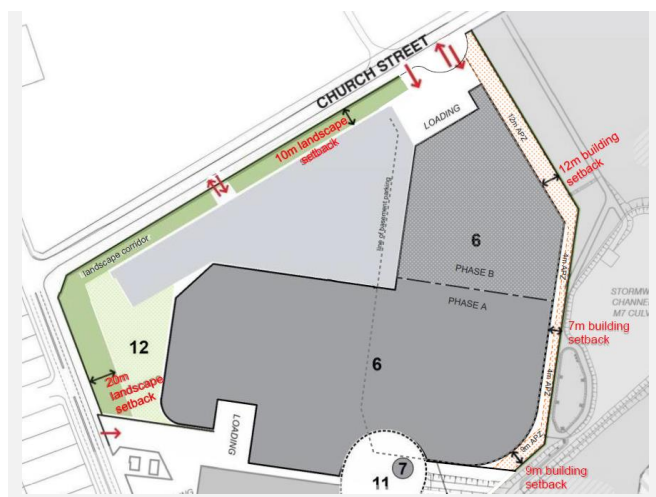
The revised plan of subdivision will require changes to the Concept Plan (**Attachment M**) and associated Design Guidelines (**Attachment N**). As shown at **Figures 2** and **3**, the landscape setbacks to both Rooty Hill Road South and Church Street will not be affected by the revised subdivision layout, and there will be an additional portion of landscape area at the intersection as a result of the Church Street realignment. The setbacks along the eastern frontage will decrease to reflect the revised boundary alignment, however, a new easement will provide for the same overall APZ and separation distance to the parklands as per the previous design.

In addition to the changes resulting from the revised subdivision plan, it is also proposed to make minor amendments to the indicative building footprint to accommodate the latest design of the centre. This includes:

- A modification to the eastern frontage to accommodate target tenants' requirements and to relocate the multi-purpose court to a more central location;
- Reconfiguration to the shape of ECQ social;
- Realignment of the Phase A / Phase B boundary; and
- Amend the turning circle at the end of Goldsbro Glade to a three point turn.

The changes are minor only and reflective of the design development process. Although the indicative footprint is changing, there is no change to the overall GFA proposed for the centre or the number of trees proposed to be removed. The detailed design will continue to be assessed as part of the subsequent SSD.

Finally, the Design Guidelines have been updated in accordance with the above changes and to correct an error made in the version submitted as part of RTS 1 (18 August 2021) whereby Control C9 was proposed to be amended to reflect a maximum tree canopy cover of 15% in line with RFS' requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.



**Figure 2** Concept as Submitted

Source/Notes: i2c



**Figure 3** Amended Concept

Source/Notes: i2c

## 5.0 Conclusion

As the Department is aware, determination of the Concept Plan is now a key priority for Frasers to ensure they can fulfill their obligations under their Delivery Agreement with the Western Sydney Parklands Trust (WSPT), and to deliver on the vision of the Parkland's Plan of Management for the site. Frasers is also committed to meeting the expectations of the community who have supported the development to date and are excited about the further employment and retail opportunities that the centre will provide.

Extensive consultation with a broad range of stakeholders has been carried out by Frasers over the past 1.5 years and Frasers has responded to all matters raised in good faith and to ensure the best outcomes is delivered for the site. It is considered that this response adequately addresses all outstanding issues to a level appropriate for a Concept Plan and



that a suitable pathway has been provided for its determination, with any remaining matters to be addressed through the subsequent detailed design SSD application.

We look forward to the Department finalising their assessment of the application and to receiving a set of draft conditions in a timely manner. Should you have any further queries about this matter, please do not hesitate to contact me on the details provided below.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C Forrester', written in a cursive style.

**Chris Forrester**  
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