

13 August 2009

Director General  
Department of Planning  
GPO Box 39  
Sydney, NSW, 2001

Our reference – 5696 05.1.11  
Attention: Peter Staveley

Dear Peter,

**RE: SOUTHERN EMPLOYMENT LANDS AMENDMENT TO APPROVAL**

**1. Introduction**

Boral lodged an application to modify Major Project No 06\_0181 for the Greystanes Southern Employment Lands on 5 September 2008. Since the application was submitted, there have been ongoing discussions with the Department and further information submitted. This letter compiles all information provided into the one document to assist the Department in finalising its determination of the application.

The project was assessed in accordance with Part 3(A) of the *Environmental Planning and Assessment Act, 1979 (EP&A Act)*. The Minister for Planning approved the project on 20 July 2007 and the project was amended on 11 January 2008. As a result of more detailed design work a number of changes to the development are now proposed. These are:

1. Minor subdivision adjustments being:
  - o creation of lot 76 (at the southern end of the transitway and spine road);
  - o minor adjustment to the boundary between lot 65 and 66;
  - o minor changes to the boundaries and accessway to lot 75

Further sub-division changes are required as a consequence of other amendments and are dealt with in the relevant sections as noted below.

2. Approval of the Southern Road Connection design and amendments to the width of the transitway corridor with consequential amendments to Statement of Commitments

(SOC) 22 and 24 and the boundaries of lots 65 to 74 and 1.1, 1.2 and 1.3 (Business Park/Service Retail).

3. Amendment to SOC 27 regarding contributions in respect of Public Transport.

## **2. Project Amendments**

### **2.1 Subdivision Design**

#### ***2.1.1 Proposed Amendment***

The following amendments to the subdivision layout are indicated on the plan ref 108-SK60H (*Annex A*). It is requested that Conditions of the Concept and Project approval be amended to reflect the amended plan and the creation of 76 lots.

##### *Proposed Lot 76*

The approved project includes a stormwater detention facility on Widemere East. Part of the land (proposed lot 76) set aside for the stormwater detention facility is located to the west of the spine road and is physically separated from the remainder of the proposed facility. Following detailed design investigations, this area of land (5,200m<sup>2</sup>) is no longer required for stormwater detention. Being isolated by the spine road and transitway, it is proposed to create this area as a separate lot. The lot will be accessed via left in/left out driveway for maintenance access from the northbound lanes on Reconciliation Road. Its future use has yet to be determined but it is envisaged that it will be used either as an entry statement, display of required heritage items or for signage subject to future approvals.

##### *Minor Boundary Adjustments*

A minor amendment to the boundary between lot 65 and 66 is proposed as a consequence of the detailed stormwater drainage design.

A minor amendment to the access way to lot 75 (hotel development) is proposed.

No changes to conditions are required to facilitate these amendments.

#### ***2.1.2 Justification***

Land forming lot 76 is no longer required for stormwater detention. The remaining amendments to the subdivision design are minor and inconsequential resulting from detailed design considerations.

#### ***2.1.3 Implications***

There are no environmental implications relating to the proposed amendments. There is also no increase in Gross Floor Area within the industrial precinct and as a consequence, no traffic impact arising by the creation of this lot. Modification to the Urban Design Plan (UDP) will be

required to ensure that the industrial development controls are applied to this lot. It is proposed that the UDP is amended within 12 months of the approval of the modification.

## **2.2 Southern Road Connection and Transitway**

### **2.2.1 Proposed amendment**

Proposed amendments include:

- o an increase in Boral's contribution to the southern road connection from \$5.5m. Boral will commit to completion of the road design in accordance with the design and specifications provided;
- o confirmation of the alignment of the southern road connection;
- o an amendment to SOC 24 to delete the requirement to seek the agreement of Fairfield Council to the design of the road from Widemere to Davis Road; and
- o a reduction in the width of the spine road/transitway corridor from 50 metres to 35 metres. This will still enable the construction of a 4 lane road and 2 lane Transitway (refer *Annex B SK 0056 Rev A*). The surplus land (a strip 15 metres wide) will be included in the western industrial lots 65 to 74. Localised widening of the transitway to accommodate future bus stops (by others) will reduce the area of the business park/service retail precinct.

### **2.2.2 Justification**

The traffic impact assessment that was submitted with the Environmental Assessment Report (EAR) calculated Boral's contribution to the southern road connection having regards to predicted traffic volumes on the road as a result of the development. The contribution was calculated to be \$2.9m. Boral agreed to a contribution of \$5.5m through Works In Kind (WIK) and this was reflected in the SOC in the following condition:

*24. Boral will construct a four lane road at grade from Widemere to Davis Road, Wetherill Park up to a value of \$5.5 million in works in kind to a design agreed by Boral and Fairfield City Council.*

Detailed design plans and road alignments were not prepared prior to approval. The original proposal on which the part 3A approval was based, utilised the existing bridge structure over the Sydney Water pipe lines and involved constructing the road within the future road corridor designated in Fairfield LEP. Boral has investigated this option and two issues have been identified:

- o Sydney Water has advised Boral of its updated requirements for crossing the watermains. (refer *Annex C*). To meet these requirements it is not possible to utilise the existing alignment unless major works are undertaken to remove and replace the bridge structure and the two water mains. The costs of undertaking this work would be substantial and prohibitive;

- o The road corridor is zoned Special Uses 5(b) in Fairfield Local Environmental Plan (LEP) 1994 but remains privately owned. The LEP includes an acquisition clause which enables the owner of the land zoned 5(b) to seek acquisition of the land by the relevant road authority, which in this case is the RTA or the Corporation. The Corporation is defined as the Minister for Planning. The Corporation has confirmed that the acquisition of the land is a matter for the RTA. The RTA has confirmed that there are no plans for acquisition of this land by the RTA. As a consequence, this land is not available for the construction of the road.

An alternative alignment and crossing has been investigated that enables the road to be constructed on land owned by Boral, land within existing road corridors, Fairfield City Council owned land and on Crown land adjacent to the road reserve and provides for low level bridging of the water mains to the east of the current bridge. This road would connect to Widemere Road and provide four lane road width to the Davis Road Intersection. Through traffic from the north can proceed either south along Widemere Road or west on Davis Road providing a dispersal of traffic in the area.. A plan illustrating this proposal is attached (refer *Annex D*).

The design and specifications related to the proposed Spine Road/Transitway works are included in *Annex E*. The road connection from the existing transitway to Davis Road will seek to provide the necessary drainage structures to minimise any upstream flood impact.

Condition SOC 24 requires an agreement to be reached between Boral and Fairfield City Council (FCC). Boral has held detailed discussions with FCC with regards to the design and alignment of the road. However, it has not been possible to reach an agreement with FCC. FCC is seeking that Boral construct a high level bridge over the southern pipelines (and transitway) and build the road to Victoria Street, Wetherill Park (refer *Annex C*). This is clearly outside the 3A approval and substantially exceeds the road upgrade requirements (with an estimated cost in excess of \$50m) that are attributable to Boral's development. It is therefore requested that the requirement to seek Council's agreement to the design be deleted from the Statement of Commitments.

Commitment 22 requires the dedication of a transitway corridor:

*22. Boral will dedicate a 25 metre wide bus transitway corridor as public roads to the relevant local council following certification by the PCA*

*Timing – At completion of the relevant subdivision stage*

The Roads and Traffic Authority (RTA) and Ministry of Transport (MOT) have indicated that provided the functionality of the transitway is maintained then the corridor width could be reduced. Reducing the transitway corridor from 25 metres to 10 metres still allows for the future provision of two bus lanes and cycleway with some localised widening for bus stops. It should be noted that the approved spine road/transitway width through the southern cut is 34.6m. By reducing the transitway width, the business park will be moved 15 metres to the east with the additional 15m wide strip of land being included in the western industrial lots 65 to 74.

### 2.2.3 Implications

The proposed road connection represents the most cost effective solution to provide the road link through to Wetherill Park. Alternative bridging structures investigated are cost prohibitive in the context of the level of contributions already committed by Boral (and further extended under this amendment). Construction of the road on the Fairfield City Council alternate alignment is precluded due to private land ownership issues (principally cost associated with the acquisition of private land, the likely remediation obligations that will be encountered on that land and neither the DoP, RTA or Fairfield Council will acquire the land for the public road corridor). The road connection cannot be moved further east as it is constrained by the stormwater detention basin required to meet stormwater discharge requirements imposed by Fairfield Council. The proposed works will enable the southern road connection to be constructed within the short term whilst not precluding the construction of a high level bridge by the relevant authority at some later date if required. The road will be designed to eliminate overtopping in rain events up to a 100 year ARI event.

Flood free evacuation routes are not an issue for the SEL as occupants have clear access to the north along Reconciliation Road. Similarly, there is no requirement for flood free evacuation route from Wetherill Park through the SEL as existing routes are already be available.

The road design will not cause flooding impacts upstream in excess of the standards established for the SEL development (ie maximum 10mm increase on existing flood levels in a 1:20 year, 1:50 year and a 1:100 year rainfall event). The potential for physical or environmental damage to the road structure during flood events will be dealt with during detailed design and may include rock or gabion armouring to upslope and downslope embankments, appropriate vegetation cover and energy dissipation structures at outlets.

The additional land area of lots 65 to 74 will allow more flexibility in the siting of buildings and provision of carparking and landscaped areas. Land area in the business park/service retail precinct is reduced as a consequence of localised widening of the transitway to accommodate future bus stops. No increase in gross floor area of development within the industrial precinct is proposed and as such no changes to the Urban Design Plan are required. As there will be no increase in total gross floor space as a consequence of the additional land area, there are no traffic implications arising from this amendment.

Consequential amendments to SOC 22 and 24 are required to facilitate the changes.

## **2.3 Contributions for Public Transport**

### **2.3.1 *Proposed amendment***

- o Proposed amendments include the deletion of SOC 27.

### **2.3.2 *Justification***

The Ministry of Transport has indicated that it cannot enter into a developer agreement for the provision of bus services (refer to email from MoT in *Annex F*). Following consultation with the MoT and RTA, Boral will provide the earthworks for the future bus connection between the existing Liverpool Parramatta Transitway and the Widemere intersection in accordance with the original RTA Deed commitments.

Further, the flood free (up to 100 year ARI event) road connection to Davis Road will facilitate the early commencement of bus services from the existing transitway network from Davis/Widemere Road for north/south bound services through the SEL on to Blacktown prior to the final transitway being constructed by government..

### **2.3.3 *Implications***

There are no environmental implications relating to the proposed amendments.

## **3. Owner's Consent**

Boral has sought and obtained legal advice from Blake Dawson confirming that owners consent is not required with respect to the determination of this application. A copy of the legal advice is attached at *Annexure G*. A copy of the Hard & Forester advice relating to Lot 2 DP1126007 that forms part of the Widemere Road reserve area is also attached in the same Annexure.

#### 4. Conclusions

Minor amendments to the subdivision design include the creation of one additional lot on Widemere. Following detailed design this land is no longer required for stormwater drainage purposes and being physically separated from other land by the road and transitway cannot be consolidated with another lot. Modification to the Urban Design Plan will be required to ensure that controls are applied to lot 76 for any future development if required.

Confirmation of design of the southern connector road will enable the road to be constructed. The reduced transitway width maintains the functionality of the transitway as required by the RTA and MoT and will maximise land utilisation. To facilitate these amendments SOC 22 and 24 and 27 should be amended in the following manner:

22. Boral will dedicate a 10 metre wide bus transitway corridor with some localised widening, as public road to the relevant local council following certification by the PCA.

Timing – Prior to the release of the final subdivision certificate or as otherwise agreed with the RTA.

24. Boral will construct a four lane road at grade from Widemere to Davis Road, Wetherill Park as works in kind in accordance with the approved design and specification.

27. This item is deleted from the SOC.

A revised Statement of Commitments schedule is attached at *Annexure H*.

Should you have any queries, please do not hesitate to contact the undersigned.

Yours sincerely,



**John H. Imrie**  
Senior Development Manager

Annex A

# AMENDED MASTERPLAN



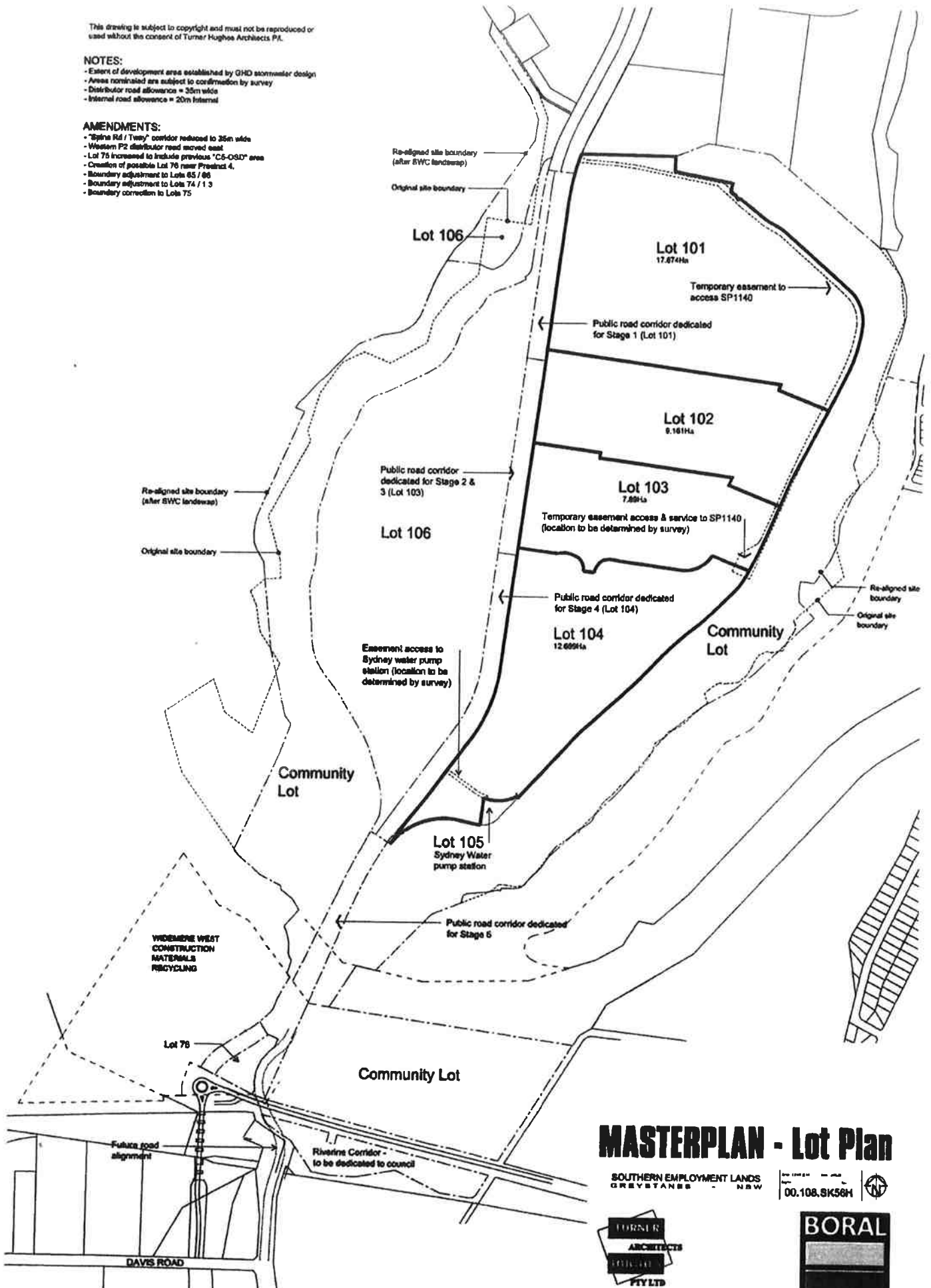
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#### NOTES:

- Extent of development area established by GHD schematic design
- Areas nominated are subject to confirmation by survey
- Distributor road allowance = 35m wide
- Internal road allowance = 20m Internal

#### AMENDMENTS:

- "Byline Rd / Tway" corridor reduced to 35m wide
- Western P2 distributor road moved east
- Lot 75 increased to include previous "C5-C5D" area
- Creation of possible Lot 76 near Precinct 4
- Boundary adjustment to Lots 65 / 66
- Boundary adjustment to Lots 74 / 13
- Boundary correction to Lot 75



## MASTERPLAN - Lot Plan

SOUTHERN EMPLOYMENT LANDS  
GREYSTANS - NSW

00.108.81K56H



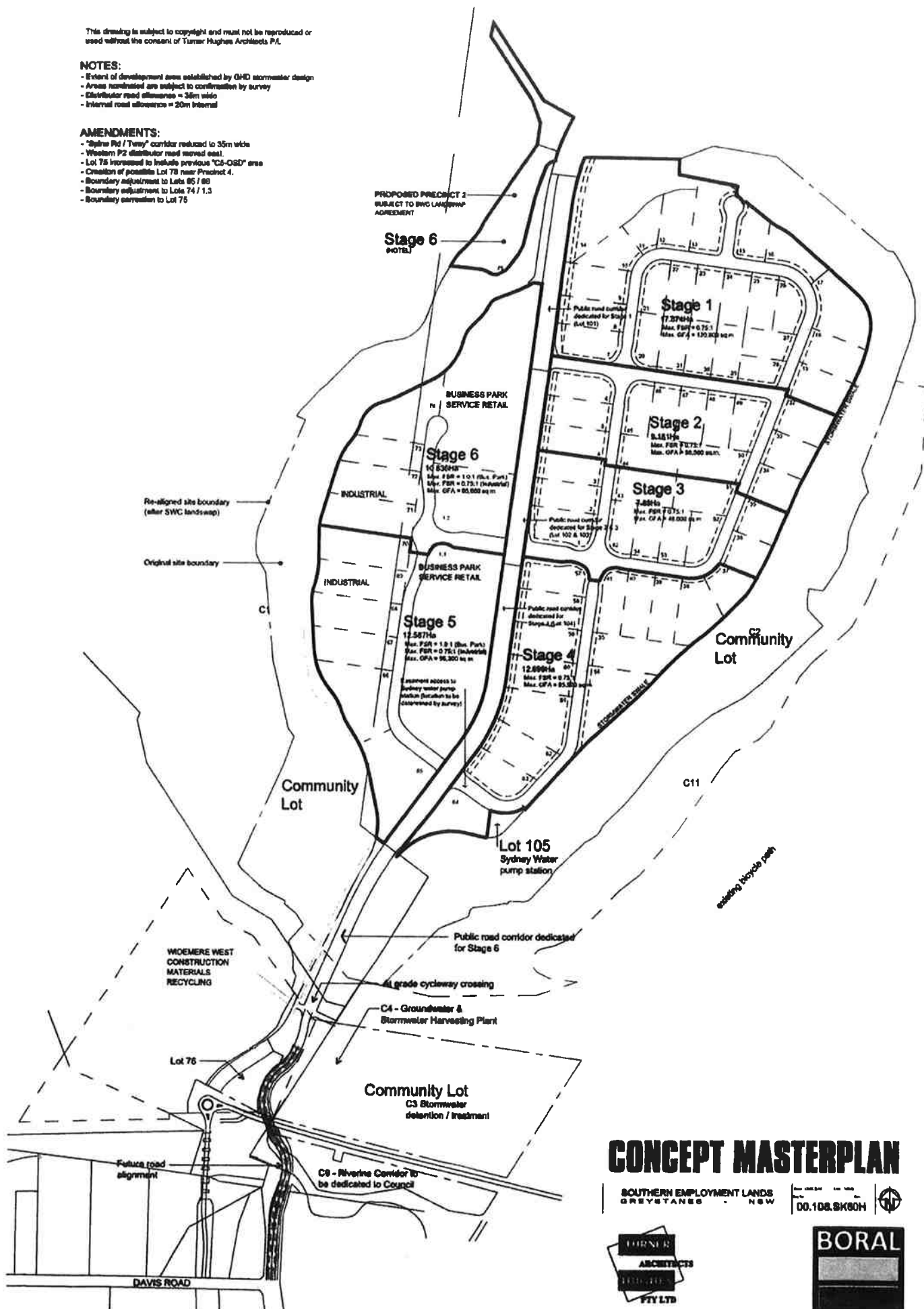
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#### NOTES:

- Extent of development area established by GHD stormwater design
- Areas nominated are subject to confirmation by survey
- Distributor road allowance = 36m wide
- Internal road allowance = 20m internal

#### AMENDMENTS:

- "Sydney Rd / Tenny" corridor reduced to 35m wide
- Western P2 distributor road moved east
- Lot 75 increased to include previous "C6-C8D" area
- Creation of possible Lot 78 near Precinct 4
- Boundary adjustment to Lots 85 / 86
- Boundary adjustment to Lots 74 / 1.3
- Boundary extension to Lot 76



## CONCEPT MASTERPLAN

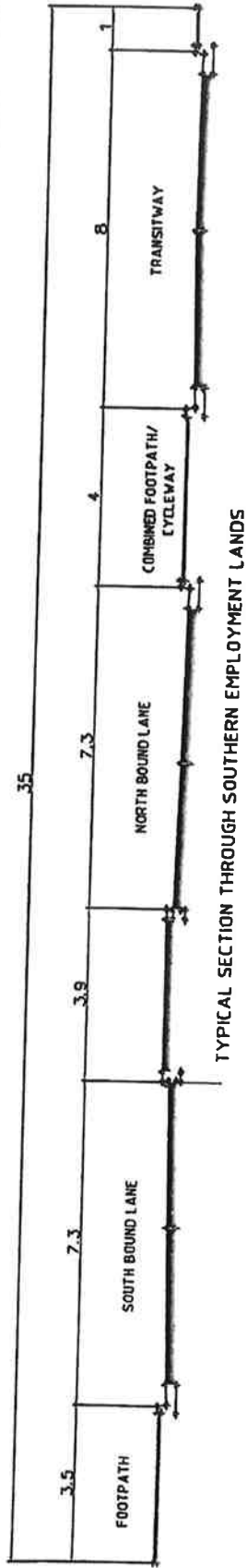
SOUTHERN EMPLOYMENT LANDS  
GREYSTANES - NSW

00.108.9K90H

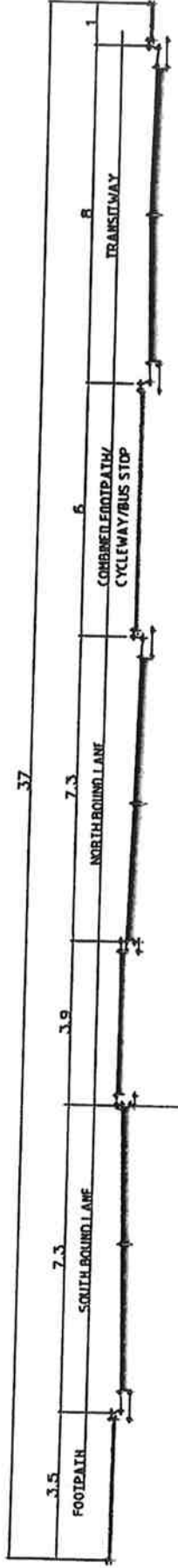


Annex B

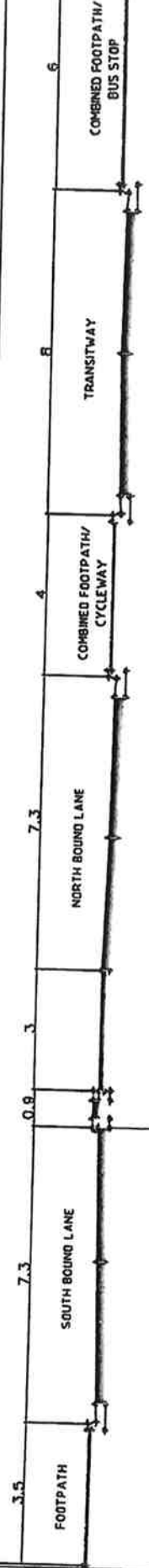
# PLAN REF SK0056 REV A



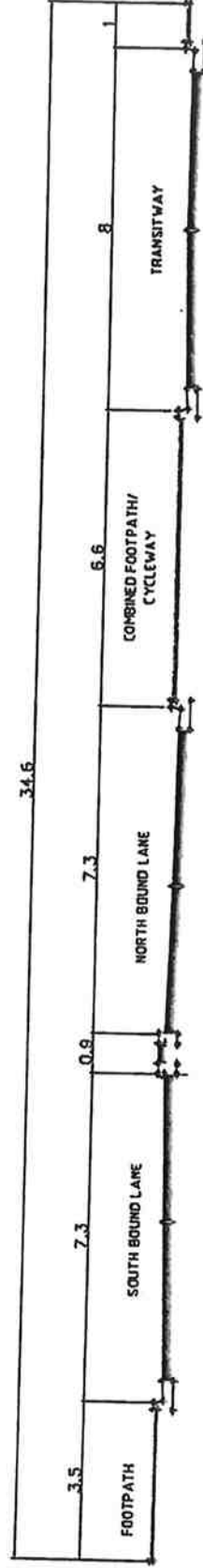
TYPICAL SECTION THROUGH SOUTHERN EMPLOYMENT LANDS



TYPICAL SECTION AT SOUTH BOUND BUS STOP



TYPICAL SECTION AT NORTH BOUND BUS STOP



NOTE:  
ALL DIMENSIONS IN METRES

TYPICAL SECTION THROUGH SOUTHERN CUT

		<b>BORAL</b> Boral Recycling 200 Maitland Street Maitland NSW 2320 Tel: 08 9392 2100 Fax: 08 9392 2101		<b>DO NOT SCALE</b>		<b>PRELIMINARY</b> BORAL RECYCLING GREYSTANES ESTATE SEL PROPOSED TRANSPORT CORRIDOR TYPICAL SECTIONS	
Scale: 1:100 Date: 10/10/2006 Drawn: [Name] Checked: [Name] Approved: [Name]		Scale: 1:100 Date: 10/10/2006 Drawn: [Name] Checked: [Name] Approved: [Name]		Scale: 1:100 Date: 10/10/2006 Drawn: [Name] Checked: [Name] Approved: [Name]		Scale: 1:100 Date: 10/10/2006 Drawn: [Name] Checked: [Name] Approved: [Name]	
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Annex C

# LETTERS FROM SYDNEY WATER AND FAIRFIELD CITY COUNCIL



Case Number: 110386V2

27 March 2008

Boral Recycling  
c/- GHD

**LETTER of APPROVAL  
For  
ADJUSTMENT/ DEVIATION/ ASSET PROTECTION OF A SYDNEY WATER ASSET**

**Applicant:** Boral Recycling  
**Your reference:** 21/15443  
**Property location:** Widemere Road Wetherill Park  
**Your application date:** 16 January 2008

Dear Applicant

Boral Recycling Pty Ltd/Boral Ltd and Sydney Water Corporation entered an Infrastructure Deed of Agreement executed on 31 May 2002 for the provision of major sewer and water infrastructure required for the SEPP 59 Greystanes Estate Precinct Development.

This application relates to the construction of the proposed Spine Road, which will impact on Sydney Water's water and sewer assets, requiring asset adjustment, deviation and/or asset protection. Existing Sydney Water assets may require adjustment or deviation to ensure they are located in the designated allocation within the road reserve.

Your application to adjust, deviate or protect the water and sewer mains at the above location is approved provided you do the following things:

1. You must enter into an agreement with Sydney Water in the form of the enclosed Deed.
2. You must engage your current or another authorised Water Servicing Coordinator (Coordinator) to manage the design and construction of the required works to Sydney Water's standards and procedures. Before you engage another Coordinator you must write and tell Sydney Water.

For a list of authorised Coordinators either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building Developing and Plumbing > Developing Your Land or call 13 20 92. Coordinators will give you a quote or information about costs for services/ works including Sydney Water costs.

The Coordinator generally will be the single point of contact between you and Sydney Water. They can answer most questions you might have about our process and charges.

3. After you engage a Coordinator, you will need to sign and lodge both copies of the enclosed Deed with your nominated Coordinator. After Sydney Water has signed the documents, one copy will be returned to the Coordinator.

The Deed sets out for this project:

- your responsibilities;
- Sydney Water's responsibilities; and
- the Coordinator's responsibilities.

You must do all the things that we ask you to do in that Deed.

If Sydney Water does not receive the signed Deed for our signing by 27 March 2009 you will need to re-apply (and pay another application fee).

Note: The Coordinator must be fully authorised by us for the whole time of the Deed.

4. If you need to enter a neighbouring property, you must have the written permission of the relevant property owners and tenants. You must use Sydney Water's **Permission to Enter** form(s) for this. You can get copies of these forms from your Coordinator or the Sydney Water website. Your Coordinator can also negotiate on your behalf.

Please make sure that you address all the items on the form(s) including payment of compensation and whether there are other ways of designing and constructing that could avoid or reduce their impacts. You will be responsible for all costs of mediation involved in resolving any disputes. Please allow enough time for entry issues to be resolved.

5. You must not start work on the existing water main and sewer main or the proposed adjustment, deviation, asset protection until Sydney Water advises your Coordinator. This includes the placement of any temporary pipework. Before you can do this pipework, you must engage your Coordinator to lodge an application that must include appropriate temporary pipework detail as well as the design of the proposed deviation/adjustment/asset protection.

Sydney Water will then assess both designs and advise your Coordinator when they are approved and of any conditions to be met before pipe placement. One condition will be:

- the lodgement of an unconditional security bond from an acceptable financial institution that will cover Sydney Water's risk for this work; and
- your acceptance in writing to bonding conditions that we will provide in another agreement.

If any work on our assets is carried out without that advice or final approval, Sydney Water will take action to have work on the site stopped. We will apply the provisions of Section 45 of the Sydney Water Act 1994.

6. When you construct these works you will need to pay project management, survey, design and construction costs directly to your suppliers. Other costs may include Sydney Water charges for:

- water main shutdown and disinfection;
- connection of new water mains to Sydney Water system(s);
- design and construction audit fees;
- contract administration on project finalisation;
- creation or alteration of easements etc.;
- some Customer Contract services (e.g. Customer redress);

- water usage charges where water has been supplied for building activity purposes prior to disinfection of a newly constructed water main.

Your Coordinator can tell you about these costs.

7. Because this work involves construction on a "live" Sydney Water water and sewer main, you must also:
- lodge an unconditional security bond from an acceptable financial institution that will cover Sydney Water's risk for this work; and
  - accept in writing bonding conditions that we will provide in another agreement.

After we receive a copy of the successful tender for the work, we can calculate the amount of this bond. We will then send you that other agreement which will tell you this amount. You must lodge the bond and the completed agreement with Sydney Water before you start constructing the work.

The bond will be released after you have completed the construction of the works. (This includes lodgement of Work As Constructed plans and production and/or recreation of documentation and reports and completion of all the excavation and landscaping works needed for the total project.)

In addition, the following specific conditions apply:

#### Water

Preliminary requirements are provided below. Final requirements will be assessed when the engineering design plans have been made available and reviewed by Sydney Water:

- Asset Planning has no requirements to amplify the water mains in relation to the proposed road re-alignment at this stage. However, when the location of the water mains have been determined by survey and plotted onto road cross sections, a copy of these plans should be forwarded to Asset Planning and Water Operations for their comments.
- Prior to any works being carried out in the vicinity of Sydney Water's water mains you must assess the ground/foundation below the pipe for subsidence.
- Any proposed deviation, adjustment or asset protection of Sydney Water assets must be referred to Asset Planning and Water Operations for their consideration and comments, together with design plans. Any concrete encasement is to be shown on design plans.
- Full engineering detail is required on all structures showing the impact on Sydney Water's proposed or existing infrastructure.
- Sydney Water will require either access to maintain and replace the pipes or make the mains maintenance free.
- The 1800mm and 2100mm mains:  
Both pipes are lead jointed and cannot be concrete encased. To make them maintenance free the pipes will need to be replaced with new welded joint pipes, with appropriate flexible joints to the existing pipeline, and then concrete encased.  
If the pipes are not concrete encased, construction of a bridge over the pipeline would need to have adequate space to allow replacement or repair of any of the pipe sections below the bridge, allowing for 2 metres total clearance from the underside of the bridge to the top of the 2100mm pipe.
- The 3000mm main:  
The 3000mm main in tunnel has no requirements due to its depth.



- The 1050mm main:

This pipe has welded joints and so can be concrete encased in situ under the bridge and approaches, or under the road.

- Any other affected water main would be required to be replaced in SCL and encased to be maintenance free.

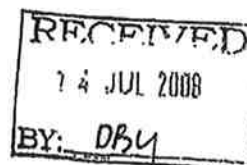
**Sewer:**

Preliminary requirements are provided below. Final requirements will be assessed when the engineering design plans have been made available and reviewed by Sydney Water:

- Asset Planning has no requirements to amplify the sewer mains in relation to the proposed road re-alignment at this stage. However, when the location of the sewer mains have been determined by survey and plotted onto road cross sections, a copy of these plans should be forwarded to Asset Planning and Wastewater Operations for their comments.
  - Sydney Water will require either access to maintain and replace the pipes or make the mains maintenance free.
  - Any proposed deviation, adjustment or asset protection of Sydney Water assets must be referred to Asset Planning and Wastewater Operations for their consideration and comments, together with design plans. Any concrete encasement is to be shown on design plans.
  - Full engineering detail is required on all structures showing the impact on Sydney Water's proposed or existing infrastructure. The relationship between the structural load and the sewer main must be shown and will be assessed by Sydney Water's Design Services.
  - A geotechnical report and contamination report of the site may be required.
  - If sheet pile adjoining Sydney Water's assets is required, written approval is to be obtained.
  - If there is dewatering to be involved, the impact of groundwater dewatering on the sewer is to be analysed and submitted to SWC prior to dewatering.
-

8 July 2008

Boral Development Business Unit  
Mr John H Imrie  
Development Manager  
PO Box 42  
WENTWORTHVILLE NSW 2145



Dear Mr Imrie

**GREYSTANES SOUTHERN EMPLOYMENT LANDS – SOUTHERN ROAD  
CONNECTION**

Reference is made to a letter sent by Council to Mr Phillip Taylor, Commercial Manager, Development Business Unit of Boral on 4 March 2008 regarding the connection of the proposed extension of Reconciliation Drive from the Boral development in Pemulwuy to Wetherill Park.

As mentioned in the letter, Council's view remains unchanged that Reconciliation Drive should not terminate at Davis Road but that it should be built above Fairfield City Council's flood planning level and extended along the corridor reserved for the Prospect Arterial Link to Victoria Street.

If this road were to be built, as proposed by Boral, it could exacerbate the flooding problems at this location and pose a great risk to motorists. Davis Road and the adjacent road network may also require a major upgrade to cater for the additional traffic volumes.

Council's position remains that this link through to Victoria Street should be built by either Boral or the Roads and Traffic Authority (RTA).

As advised in Council's previous letter, the Mayor had written to the Roads Minister Eric Roozendaal, MP on 15 January 2008 requesting that the RTA bring forward its strategic network planning works so that this proposed Prospect Arterial Link (connecting the M4 motorway with The Horsley Drive) could be implemented earlier.

Council has not received a response from the Minister's office yet in relation to this matter. This letter has been sent for your information and to ensure that you do not commence any detailed design works till such time as this matter can be resolved to the mutual satisfaction of all the relevant stakeholders.

9 July 2008

Should you have any queries regarding this matter, please contact Roshan Aryal, Built Systems Manager, on telephone number 9725 0260.

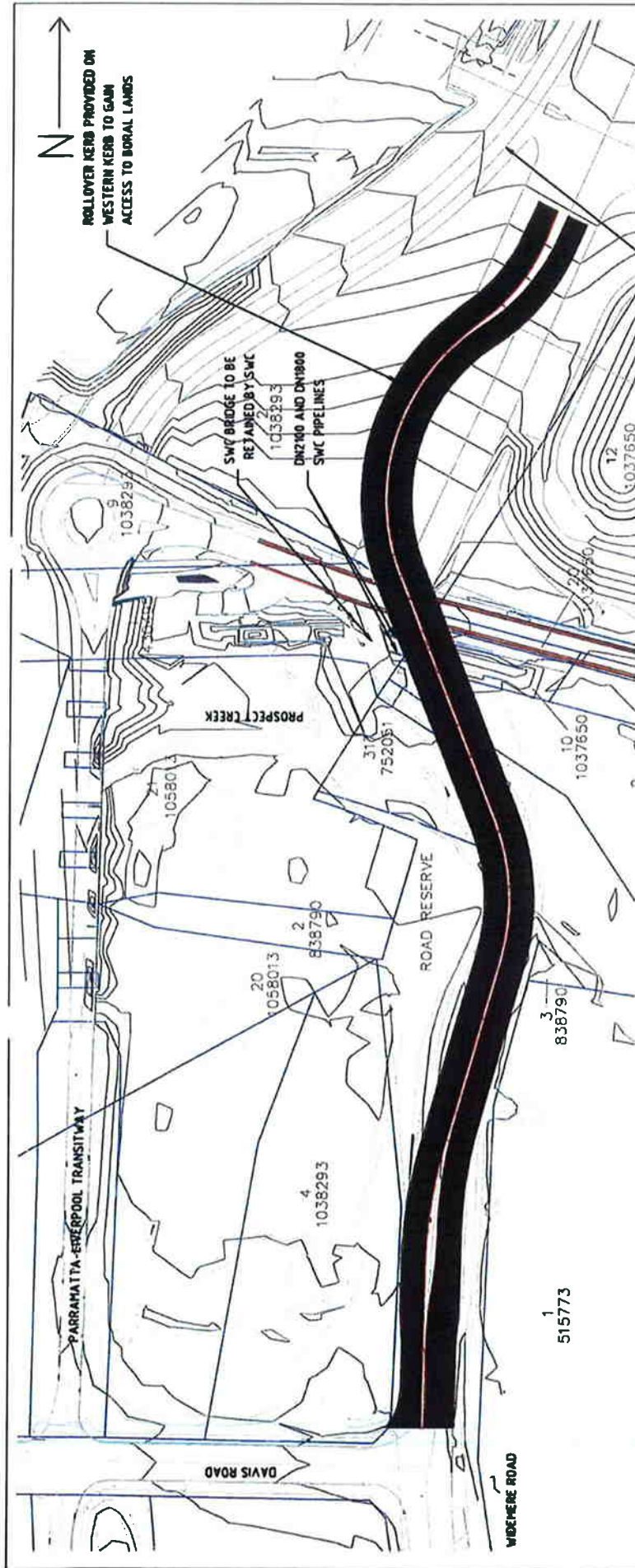
Yours faithfully,



Deborah Sandars  
Executive Manager City Services

Annex D

# PROPOSED ALIGNMENT



LOT	OP	OWNERS NAME
21	1058013	BEKEM AND AGAN MANUIC
317	752061	CROWN LAND - ADMINISTERED BY STATE
		THE METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD (T D121716)
1	420498	1037650 STONEY WATER CORPORATION
11	1037650	1037650 STONEY WATER CORPORATION
10	1037650	1037650 STONEY WATER CORPORATION
20	1037650	1037650 STONEY WATER CORPORATION
		ROADS AND TRAFFIC AUTHORITY OF
2	638786	NEW SOUTH WALES (P 838002)
		ROADS AND TRAFFIC AUTHORITY OF
9	1038202	NEW SOUTH WALES
3	638786	FAIRFIELD CITY COUNCIL
1	515773	THE COUNCIL OF THE MUNICIPALITY OF FAIRFIELD (T P15789)
2	570873	(T P15789)
12	1037650	BORAL RECYCLING PTY LIMITED
2	1038293	BORAL RECYCLING PTY LIMITED
		MINISTER ADMINISTERING THE ENVIRONMENTAL PLANNING AND
42	1055600	ASSESSMENT ACT, 1979

<b>FOR APPROVAL</b> <b>BORAL RECYCLING</b> <b>GREYSTANES ESTATE SEL</b> <b>SOUTHERN ROAD CONNECTION</b> <b>GENERAL ARRANGEMENT</b> <b>5696-SK-0048</b> <b>Rev: F</b>		<b>DO NOT SCALE</b> Sheet: 02 Drawing: 02 Date: 14/09/2023 Author: J. Smith Check: J. Smith Date: 14/09/2023 Scale: 1:500	<b>FOR APPROVAL</b> <b>BORAL RECYCLING</b> <b>GREYSTANES ESTATE SEL</b> <b>SOUTHERN ROAD CONNECTION</b> <b>GENERAL ARRANGEMENT</b> <b>5696-SK-0048</b> <b>Rev: F</b>
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Annex E

# DESIGN SPECIFICATIONS

## **Annexure E (Revised August 09)**

### **Spine Road and Transitway Design and Specification**

The amended transitway corridor maintains the currently approved Part 3A approach for the Spine Road/Transitway - that is, general traffic separated from public transport by dedicated bus lanes. The configuration maintains the capability for connection of the Parramatta-Liverpool Transitway with the future Transitway connection with Blacktown. This arrangement allows for a typical width of 35m with a minimum width of 34.6m in the Southern Cut (currently approved) and a maximum width of 40m at the north bound bus stops.

The Spine Road configuration provides a 3.5m eastern footpath and services allocation, with allowance for two southbound and northbound lanes. An allowance of 3.9m is provided in the centre to allow for a nominal 0.9m median and 3.0m turning lane. These allowances are to RTA design guidelines for road allocations and are in accordance with the Spine Road arrangements previously included in the current Part 3a approval. The Spine Road will be constructed in accordance with the RTA design guidelines with reference to the Holroyd City Council (HCC) design guidelines as required.

The future western footpath corridor will comprise a 3m standard services allocation to the northbound lanes with a minimum additional 1m footpath width adjacent to the southbound lane of the transitway. This allows for a total minimum 4m wide footpath which will provide sufficient room for a cycleway connecting Wetherill Park with future cycleways to the north.

The Transitway corridor allows for 3.5m lane width with an additional 0.5m width for kerb in both directions. This is consistent with the Parramatta-Liverpool Transitway (PLT) arrangement. Permanent transitway bus stops will be aligned offset either side of intersections to avoid buses queuing across intersections. A total width of 6m of footpath is provided at the nominated bus stop locations in the SEL. This width provides sufficient width to accommodate a bus shelter as well as pedestrians and cyclists.

A nominal 1m allowance is provided on the western side of the transitway to accommodate any fencing or street lighting as required.

Typical cross sections of the Spine Road/Transitway corridor are shown on Drawing 5696-SK0056 attached.

Access from the Spine Road to proposed Lot 76 will be provided through a roll over kerb with left in/out access only (refer to Drawing 5696-SK-0048 attached). Note that the proposed use for this lot is now only for a site entry statement or signage and hence access only required for ad-hoc maintenance.

Intersection locations within the SEL will provide for conduits to enable the future upgrade (by others) to traffic signals if required. The proposed intersection

at Widemere (including the east/west cycleway pedestrian crossing) will be signalised.

At completion of the Spine Road construction works, the area from the back of western kerb of the Spine Road to the western extents of Transitway allocation will be landscaped only with grass seeding or hydramulching. Surface drainage (in the form of v drains) will be provided along the length of the Transitway corridor, with stormwater interception pits at strategic locations. Construction of the actual Transitway and western Spine Road footpath will be completed by others as contemplated by the current Part 3a approval.

#### *Southern Road Connection*

The Southern Road Connection (SRC) shall be completed from the Widemere Intersection up to the Davis Road/Widemere Road intersection generally in accordance with Drawing 5696-SK-0048 rev F. Traffic lights at the Widemere Road/Davis Road intersection shall be installed by the relevant authorities following construction of the road and as required by traffic flows. Line marking will be applied to this intersection to facilitate traffic. The SRC shall comprise two lanes in both directions with a 3.5m services allocation including shared foot/cycle path on the eastern side. The geometric design of the SRC will be compatible with a design speed of 40km/h. Design speed is as defined in RTA road design guide (current edition). The SRC will accommodate B-Double vehicles.

The SRC will include street lighting with servicing in accordance with Integral Energy, Telstra and Sydney Water Corporation requirements. The ongoing cost of street lighting shall be the responsibility of the relevant local council.

At Widemere Road, the kerb and gutter at the eastern extents will generally remain as currently exists, with the paved section to extend westwards. The existing western V-drain will be upgraded to a kerb and gutter arrangement. A batter to the existing level will be constructed west of the kerb and gutter. All stormwater collected from the SRC will be discharged to Prospect Creek as currently occurs.

The SRC will incorporate a low level bridge along the alignment shown in SK-0048 Rev F and will:

- ensure that the newly constructed road does not overtop up to a 100 year ARI event; and
- provide protection measures to maintain the structural integrity of the road up to and including the 100 year ARI event.

A certificate from the designer will be provided to the Private Certifying Authority prior to the issue of a Construction Certificate for the works demonstrating that the design meets the above criteria.



Flood modelling has been undertaken and will be reviewed during detailed design.

The Department of Natural Resources was consulted during the Part 3A development process regarding the SEL development and issues identified (particularly related to groundwater management) have been addressed.

Boral will also construct a low level bridge over the existing DN2100 and DN1800 watermain in accordance with SWC requirements. The existing one lane bridge will remain in the ownership and care of SWC. Existing access rights over the bridge for the benefit of Boral will be subsequently extinguished. Any subsequent works to the existing bridge remain the responsibility of and would be undertaken by SWC.

The SRC will require local regrading of the Parramatta-Liverpool Transitway (PLT) to meet the new levels of the bridge over the SWC pipelines. Boral will implement a traffic management plan (prepared in consultation with the RTA/MOT) that will divert Transitway traffic between Gipps Road and Davis Road during construction. This will include diverting east bound traffic onto Davis Road, Widemere Road, Hassall St then Gipps Road and the reverse for west bound traffic. The westbound bus stop at the Gipps Road intersection will be temporarily relocated to Gipps Road (on the existing road corridor) with a signposted bus stop during the works.

The traffic lights at the Transitway/existing bridge intersection will be relocated to the new intersection location. The traffic lights will be rephased in preference to SRC traffic. No further traffic studies are required as this intersection will not allow any right or left turn from or to the Spine Road and the Parramatta Liverpool Transitway.

A left in/left out access will be provided for the benefit of SWC over the existing Boral lands east of the SRC to allow SWC to access their easement and water pumping station assets. This access will be in the form of a rollover kerb. A locked gate will be provided for SWC to access the lands.

The cycleway on the eastern side of Widemere Road will be extended to connect to the cycleway adjacent to the Boral Recycling facility through the use of the 3.5m services allocation corridor. The cycleway in Widemere Road may require temporary closure and realignment during the works at the Widemere Road/Davis Road intersection.

Boral will provide to Fairfield City Council 2 months' notice of intention to commence road opening works in Widemere Road and the Davis Road intersection. A traffic management plan will be submitted with this notice to commence road works. Boral intend to maintain access through the Davis Road intersection and Widemere Road and will keep road closures, if required, to a minimum. Boral will consult with FCC regarding the SRC design prior to the PCA approving the Construction Certificate for the works. Appropriate road opening permits will be sought from the roads authority where required to

facilitate the works required to be performed in accordance with this specification.

In order to create the SRC connection, portions of SWC, Fairfield City Council, Crown, Boral and road reserve lands required will be dedicated into a consolidated road reserve. This dedication (to Fairfield City Council) as public road will be completed through the issue of a subdivision certificate for the SRC dedicating the road to the public. This may include a stratum sub-division for the road reserve where the SRC crosses the SWC pipelines.

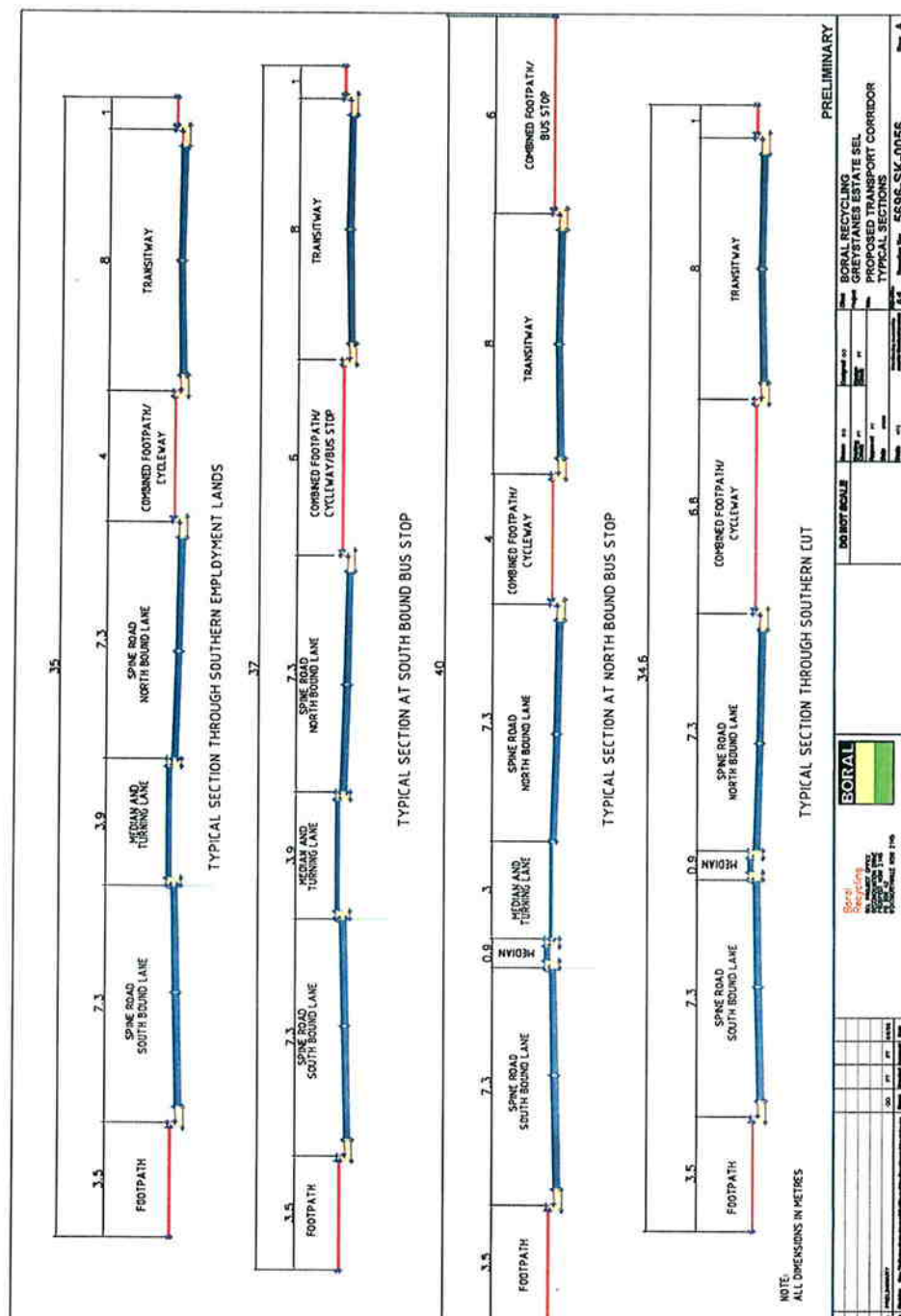
The Spine Road and Southern Road Connection (SRC) works may be staged and temporary works required in these circumstances including:

1. Batter up from northern edge of existing PLT boundary to the end of the Spine Road to minimise impact on the PLT during initial works, interference with existing culverts and to avoid unnecessary retaining wall structures.
2. Temporary access between Widemere Road and Spine Road through a roll over kerb onto proposed Lot 76;
3. Temporary access for construction/Boral Recycling traffic across the existing SWC bridge until the SRC is completed;
4. Facilitating sub-division of the proposed Spine Road/Transitway reserve area in Widemere and Lot 76 to allow for creation of the Community Title Scheme in the first sub-division and then subsequent dedication of the road reserve to the public on completion of works. Lot 76 will be retained by Boral and will not form part of the Community Scheme.

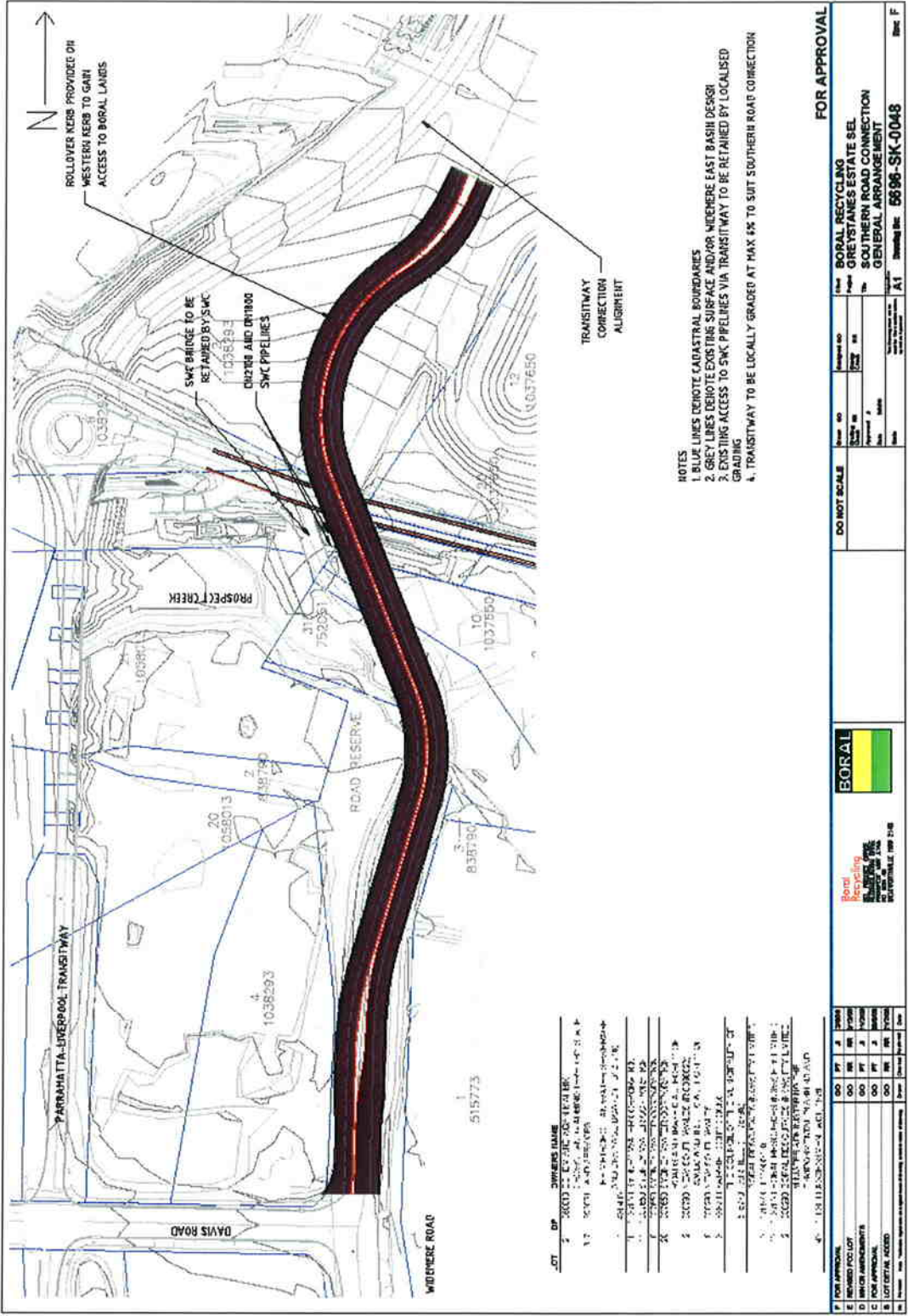
**Attachments:**

1. Drawing – 5696-SK-0056 – Proposed Transport Corridor Typical Sections
2. Drawing – 5696-SK-0048 – Southern Road Connection – General Arrangement

## Page 6



Attachment 2 – Drawing 5696-SK-0048 – SRC General Arrangement





Annex F

# EMAIL FROM MOT

**Taylor, Phil**

**From:** Juliet Grant [Juliet.Grant@transport.nsw.gov.au]  
**Sent:** Tuesday, 20 May 2008 1:38 PM  
**To:** Taylor, Phil  
**Cc:** Brendan Bruce; Peter Goth; Robert Chivers  
**Subject:** Greystanes Estate - Southern Employment Lands (SEL) - proposed agreement for bus services

Dear Phil,

Apologies for the delay in responding to you on this matter.

The Ministry's senior executive have considered the broader issue of development contributions and the mechanisms for their administration. Accordingly, I would like to advise that the Ministry's position is as follows:

1. The delivery of public transport services (specifically bus services in the case of Boral) will be managed by the Ministry in accordance with the Metropolitan Service Planning Guidelines. These Guidelines are available on the Ministry's website [www.transport.nsw.gov.au](http://www.transport.nsw.gov.au).
2. The Ministry is not in a position to enter into any project specific VPA, MOU or Deed of Agreement. Rather, the Ministry will seek funds for transport services through the normal budget process. Thus, any agreement should be secured between the Department or Minister for Planning and endorsed by the Treasurer. The rationale for this is that bus servicing is a recurrent cost to the Government, and thus not one that the Ministry can commit to until full and on-going (maintenance of effort) funding is secured.

Please feel free to call me if you wish to discuss this matter further.

Regards,

J.

Juliet Grant  
Manager, Transport Planning  
Transport Planning Division  
Ministry of Transport  
T: 9268 2241  
F: 9268 2275  
M: 0402 109 845  
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[www.transport.nsw.gov.au](http://www.transport.nsw.gov.au)

>>> "Taylor, Phil" <Phil.Taylor@boral.com.au> 17/04/2008 12:59:22 pm >>>

Juliet,

I was hoping to complete the Bus Deed by the end of April. Did you have any comments on the draft provided?

Thanks

**Phil Taylor**  
Development Manager - Greystanes Development

**Direct:** (02) 9033 4408  
**Mobile:** 0401 895 172

29/08/2008



Annex G

ADVICE LETTERS  
– BLAKE DAWSON  
HARD & FORESTER

BY EMAIL

Level 36, Grosvenor Place  
225 George Street  
Sydney NSW 2000  
Australia

## Blake Dawson

The Secretary  
Boral Limited  
P.O. Box 42  
Wentworthville NSW 2145

Attention Nathalie Romain / Judy McKittrick

Dear Nathalie and Judy

**Advice in respect of owners consent – Greystanes Southern Employment Lands – modification of Part 3A approval**

### INTRODUCTION

You have asked for our advice as to whether certain land owners' consent is required before the Minister can approve Boral's modification application which is currently before her.

The approval currently requires, by condition, construction of a road outside the project site. The modification seeks to change the alignment of the proposed road. The question is whether the owners of the land on which the proposed road is now proposed must consent to the making of the modification application.

### SUMMARY OF ADVICE

Owners' consent is not required in the circumstances.

Our strong view is that a modification application is not a project application and there is no statutory requirement for owners' consent for a modification application.

An argument can be formulated (inconsistent with our view and with which we do not agree) that if a modification application proposes changes to the actual project on the site, owners' consent is required.

Even on this argument owners' consent is not required here. The road is required pursuant to a condition of approval to the project; it is not part of the project. Further, it is on land which is external to the project land. Owners' consent was not required from the owners of the land on the original alignment before the condition was originally imposed, and consent from the owners on the new alignment is similarly not required before the condition can be modified.

### BACKGROUND

1. Boral is developing the "Southern Employment Lands", Greystanes, in accordance with a concept plan approval (**Concept Plan Approval**) and project approval (**Project Approval**) granted by the Minister for Planning on 20 July 2007, under Part 3A of the *Environmental Planning and Assessment Act 1979 (Act)*.
2. The development became a project under Part 3A by the Minister

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Sydney NSW 2000  
Australia

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**1 May 2009**

**Your reference**  
Greystanes Southern  
Employment Lands

**Our reference**  
MJA SNA 02 2007 0904

**Partner**  
Michael Astill  
T 61 2 9258 6102  
[michael.astill@blakedawson.com](mailto:michael.astill@blakedawson.com)

forming the view that it was within clause 13(1) of the Major Projects SEPP, that is, the development described in a letter dated 11 November 2005 from ERM to the Department of Planning. We assume the development described was limited to the Southern Employment Land (owned by Boral). This is noted in the Minister's "Record of Opinion" document dated 7 February 2006.

3. The applications for the Concept Plan Approval and Project Approval (**Applications**) were in respect of the development of the land described in the table at Part A of Schedules 1 and 2 of the Concept Plan Approval and Project Approval respectively (**Site**), and generally proposes employment generating industrial and commercial uses and associated infrastructure (**Project**).
4. The Director-General issued environmental assessment requirements on 16 June 2006 in respect of the Applications, which required Boral to, amongst other things, submit a draft "Statement of Commitments" (**SOC**) with its environmental assessment. The SOC relates to environmental management, mitigation and monitoring measures for the Project. The SOC was submitted to the Director-General with the environmental assessment, and a revised version of the SOC was submitted to the Director-General with a "preferred project report" on 21 June 2007, after the public exhibition process.
5. SOC 24 provides:  
  
Boral will construct a four lane road at grade from Widemere to Davis Road, Wetherill Park up to a value of \$5.5 million in works in kind, to a design agreed by Boral and Fairfield City Council.
6. The Concept Plan Approval and Project Approval were granted, subject to conditions. The Concept Plan Approval and Project Approval (as well as the SOC) were modified in January 2008 under s75W of the Act (**First Modification**), but the nature of those modifications is not relevant to this letter.
7. There are conditions in the Concept Plan Approval and the Project Approval which requires Boral to fulfil the commitments it made in its SOC. Relevantly condition 1(h) under Part C of the Concept Plan Approval relevantly provides:

**1. Development Description**

Concept plan approval is granted for:

...

- (h) Improved amenities and services which may include a mix of financial contributions and works in kind towards roads and community facilities (including provision of child care facilities) and dedication of certain infrastructure and facilities (as outlined in Statement of Commitment Nos. 21-24, Statement of Commitment Nos. 27-28 and Statement of Commitment No.30).

(our emphasis)

8. Condition B3 of Part B of the Project Approval relevantly provides:

**B3. Road Design**

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabout, median islands etc.) and paved footpaths shall be designed and constructed in accordance with the Statement of Commitments. Final road design plans shall be prepared by a qualified practicing Civil Engineer and submitted to the Certifying Authority prior to issue of a Construction Certificate for the respective stages of development. A copy of the final plans shall be submitted to Fairfield City Council by the proponent for information. (our emphasis)

9. By operation of conditions 1(h) and B3 of the Concept Plan Approval and Project Approval respectively, the road referred to in SOC 24 (**Road**) must be constructed prior to construction of the Project.

10. On 19 March 2009, Boral made a further application under s75W of the Act to the Minister to modify the Concept Plan Approval and the Project Approval, which relevantly includes a new alignment for the Road (**Modification Application**). If the Modification Application is approved, SOC 24 will read:

Boral will construct a four lane road at grade from Widemere to Davis Road, Wetherill Park as works in kind, in accordance with the approved design and specifications.

11. We note that based on a preliminary design and specifications to be submitted with the Modification Application, some of the Road would be constructed on land which is not owned by Boral. However this was also the case with the Road as currently required – that is, it would be on land outside the project site and on land owned by third parties.

## **DISCUSSION: LEGISLATION**

### **Overview of Part 3A**

Development is brought within Part 3A of the Act by declaration of the Minister. This may be by way of Gazette Notification or by SEPP. The declaration describes the development which, thereafter, can only be carried out with an approval under Part 3A. (ss 75B, 75D).

The Minister has made the Major Projects SEPP, which in summary, provides for certain classes of development to be within Part 3A, subject to the Minister forming the view that any particular project satisfies a class. As noted in numbered paragraph 2 above, the Minister formed the view that the Project was within clause 13(1) of the Major Projects SEPP.

Pursuant to section 75E the "Proponent" may then make application to carry out a project. There is no statutory requirement as to who may be a proponent, and particularly the proponent need not be the owner of the land.

The Director General of Planning (DG) will then issue Environmental Assessment Requirements for the project. These may include a requirement for the proponent to include a "Statement of Commitments" for environmental management and mitigation that the Proponent is prepared to make. (s75F(6)).

The Proponent undertakes the Environmental Assessment (EA), and after some process the application is reported to the Minister who makes a decision to approve or refuse the application. Conditions may be imposed on any approval, and it is usual to impose conditions requiring compliance with the Proponent's Statement of Commitments.

The Minister may require a concept plan application (in addition to a project application) to be made for any project. Where this is done the proponent must also make a concept plan application and the process for determining this is, for present purposes, similar to the process for a project application.

Pursuant to section 75W the proponent may apply to modify the Minister's approval (including the Minister's approval to a concept plan. Modification is broadly defined and relevantly includes a revocation or variation to a condition. Section 75W(3) requires the "request for the Minister's approval" to the modification to be lodged with the DG.

### **Land Owner's Consent Requirements for Applications under Part 3A**

Section 75Z of the Act provides:

#### **75Z Regulations for purposes of Part**

The regulations may make provision for or with respect to the approval of projects (and concept plans for projects) under this Part and to approved projects (and concept plans), including:

...

- (b) requiring owners of land on which projects are proposed to be carried out to consent to applications for approvals under this Part, and

...

It seems clear that an "application for approval" under Part 3A, as referred to in section 75Z would include a project application and a concept plan application. In light of section 75W(3) it is possible that it also includes an application for modification of an approval, and we will assume for the purposes of this advice that it does.

Accordingly section 75Z permits regulations to be made prescribing owner's consent to be obtained for any or all of these applications. It should be especially noted, however, that section 75Z itself does not require any owner's consent to be required.

Regulations contemplated by section 75W have in fact been made, and Clause 8F of the *Environmental Planning and Assessment Regulation 2000 (Regulation)* provides (with our underlining):

**8F Owner's consent or notification**

- (1) The consent of the owner of land on which a project is to be carried out is required for a project application unless:
  - (a) the application is made by a public authority, or
  - (b) the application relates to a critical infrastructure project, or
  - (c) the application relates to a mining or petroleum production project, or
  - (d) the application relates to a linear infrastructure project, or
  - (e) the application relates to a project on land with multiple owners designated by the Director-General for the purposes of this clause.
- (2) Any such consent may be obtained at any time before the determination of the application.
- (3) If the consent of the owner of the land is not required under this clause, then the proponent is required to give notice of the application:
  - (a) in the case of a linear infrastructure project or a project designated under subclause (1) (e)—to the public by advertisement published in a newspaper circulating in the area of the project before the start of the public consultation period for the project, or
  - (b) in the case of a project that comprises mining or petroleum production (other than a project that also comprises a linear infrastructure project)—to the public by advertisement published in a newspaper circulating in the area of the project before the end of the period of 14 days after the application is made, or
  - (c) in the case of a critical infrastructure project (other than a project that also comprises a linear infrastructure project or mining or petroleum production project)—to the owner of the land before the end of period of 14 days after the application is made, or
  - (d) in any other case—to the owner of the land at any time before the application is made.
- (4) In this section:

***linear infrastructure project*** means development for the purposes of linear transport or public utility infrastructure.

***mining or petroleum production*** includes any activity that is related to mining or petroleum production, but does not include a project on land that is a state conservation area reserved under the *National Parks and Wildlife Act 1974*.

Clause 8A of the Regulation contains some relevant definitions of the words used in clause 8F of the Regulation. It provides (with our underlining):

**8A Definitions**

- (1) In this Part:

...

***project*** means development to which Part 3A of the Act applies.

**project application** means:

- (a) an application for the Minister's approval to carry out a project under Part 3A of the Act, or
- (b) an application for the Minister's approval for a concept plan for a project under Part 3A of the Act, or
- (c) a single application for both an approval to carry out a project under Part 3A of the Act and for a concept plan for a project under that Part.

## DISCUSSION

### **Our Preferred View - Modification Applications do not require owners' consent**

The Act allows a proponent to make an application to the Minister for project approval, concept plan approval or approval to modify either of these. As noted above there is no requirement as to the identity of a proponent, or their relationship to the land on which the project is to be undertaken.

There is nothing in the Act which requires any of these applications to have land owner's consent. However the Act empowers Regulations to impose requirements of this nature.

Regulations of this nature have been made and require applications for project and concept plan approval to have land owner's consent. It is, in our opinion clear, that the Regulation does not require land owners' consent to be obtained to an application to modify an approval.

This is because clause 8F only requires land owner's consent to the making of a "project application" which is defined in clause 8A, and clearly does not include a modification application. An application under s75W of the EP&A Act is not "an application for the Minister's approval to carry out a project", but rather an application to modify the terms of the Minister's approval of the Project.

The result is that land owners consent is not required for any modification application. That would be the case even if the works on the Site were proposed to change and the proponent were not the owner of the site.

### **Our Secondary View – Modification Applications only require Owners' Consent where Project itself is proposed to be modified**

Our preferred view is set out above, namely that no owner's consent is required to any modification application because the Act and the Regulation simply do not require it.

However an argument could be formulated to the effect that if a modification application sought approval to change the project on the site, then that would be both a modification application and also an application to carry out a project. Thus, it would be within the definition in clause 8A of the Regulation of project application requiring owner's consent under clause 8F.

We do not think this is correct because –

- (a) It is inconsistent with our preferred view above, and
- (b) the concepts of project application and modification applications are mutually exclusive. An indication of this mutual exclusivity is that the Act has differential requirements for them generally, and particularly with respect to their assessment and approval.

Nevertheless, for the purpose of argument we will assume this to be correct. The question then becomes whether the Modification Application seeks modification to the project which in turn raises the question of what is the Project.

In our view the Road cannot be part of the Project (and therefore modification of its alignment cannot be a modification of the Project) for the following reasons –

1. Only development that which is declared by the Minister becomes a project for which approval can be sought under Part 3A.

As noted under paragraph 2 under Background above, the development here that is within Part 3A is that in the ERM letter of 11 November 2005 and is limited to the Boral land. Land outside this, including the land on which the Road is proposed cannot be part of the Project.

2. Project Approval can only be given in respect of a project application.

The Applications detail the scope of the Project in respect of which approval was sought from the Minister. The Project was comprehensively described as that which was proposed on site. No offsite works, such as the construction of the Road, were included in the Applications, and it follows that neither the Concept Plan Approval or the Project Approval give approval for any such works.

3. Works required under a condition of approval or Statement of Commitment do not become part of the Project

The SOC identified the construction of the Road as required under section 75F, as a mitigation measure for the Project and was required to be carried out pursuant to the conditions of approval.

It is common for off-site works (and particularly road works) to be required as a condition of approval, both under Part 3A and also under the development consent process. However this does not make these off site works part of the development for which consent was sought or obtained.

In *King v Great Lakes Shire Council* (1984) 58 LGRA 366 a condition was imposed on a development consent for a caravan park that effluent be treated on adjoining (identified) land. The application did not include the consent of the owner of that land. The chief judge of the Land & Environment Court rejected a submission that the lack of consent vitiated the development consent. The use of that land was simply not part of the application.<sup>1</sup>

Similarly here the Road was never part of the "project application". Rather it is works required to mitigate the effects of the project, required pursuant to a condition.

If you have any further queries, please call me.

Yours faithfully



**Michael Astill**  
Partner

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<sup>1</sup> This case has been consistently followed – see, for example, *Cooper & Wilton v Matland City Council* 130 LGRA 217; *Commonwealth v Randwick City Council* 108 LGRA 373

# HARD & FORESTER HARD & FORESTER



20 May 2009

**Ref: 111636/01**

Boral Re-cycling  
PO Box 42  
WENTWORTHVILLE NSW 2145

**Attention: Phil Taylor**

Dear Sir,

Level 1  
23-25 Frederick Street  
PO Box 175  
Rockdale NSW 2216  
DX11116 Kogarah  
  
t: 02 9597 9700  
f: 02 9599 2146  
e: survey@hardforester.com.au  
w: www.hardforester.com.au

## RE: WIDEMERE ROAD TITLE SEARCH

In relation to our investigations we have determined that Lot 2 in DP1126007 was formally part of Lot 2 in DP177659.

It has been a policy for the Department of Lands since 1983 with its automated land titles system to create new Auto Consoles for part lots which are on old files. This is a conversion process to give all parcels of land within NSW a unique identifier. Where the volume folio reference contains a number of parcels, a auto consol identifier relating to the volume folio number is created.

This is what has happened in your case and this process has converted the Certificate of Title Vol.4485 Fol.192 to Auto Console 4485-192. The new certificate of title has resulted in a new title diagram being prepared which created Lot 2 in DP 1126007.

This parcel of land (Lot 2 DP 1126007) was part of an estate totalling approximately 186 acres in 1918 and is a piece of land that bounded a section of land resumed for public road in 1924 (R15226 - 1603). In March of 1925, a notice of resumption B228032 was gazetted for land required for road widening purposes vested in the council of the Municipality of Fairfield and resulted in the creation of a number of part lots (1,2,3,4 & 5) in DP 177659 to be used for Road Widening. Although gazetted, it would appear the accepted procedural process of dedication to the public as road did not occur, and these part Lots in DP 177659 are shown on the Department of Lands digital Cadastral database. The intention was to always use the lots in DP 177659 for road and in relation to the current lot layout in regards to the previous deposited plans registered, there has been an assumption that the part lots in DP177659 had been taken as Road.

As a consequence of the failure to dedicate these lots and creation of the new lots by the Department of Lands, a number of private land parcels are now "land locked" with no public road frontage. For example, Lots 2072 & 2071 in DP 787154 & Lots 204 to 206 in DP 709613 have no public road frontage to Widemere Road and a title search indicates there are no easements or rights of carriageway in place across part Lot 3 in DP 177659. There appears to be some doubt as to the current status of these part lots as they are definitely located within the road corridor.

It is my opinion that these small parts of land that were originally gazetted for road widening purposes had been forgotten and their existence has now only been made aware of as a result of the Department of Lands conversion process. Any land resumed from private land for road widening purposes and vested in the local council can be defined as a "road widening order" under the Roads Act 1993. With this in mind there is a presumption that a "road widening order" is acquired under the Act and becomes public road without further dedication. But as previously mentioned, if doubt exists over its current status then it is necessary to approach council to advise them that the lots have not been formally dedicated as road.



Collin W Hard M.I.S. (Aust)  
Peter W Cornish B.Surv M.I.S. (Aust)  
Members of The Institution of Surveyors Australia  
Hard & Forester Pty Ltd

Pierre A Hartzenberg B.Surv M.I.S. (Aust)  
Julian A Bosnian A.I.S. (Aust)  
The Association of Consulting Surveyors Australia  
ABN 67 003 541 348

HARD & FORESTER





I believe the appropriate mechanism to resolve the anomalies mentioned above, would be for council under Section 10 of the Roads Act 1993 to have the part lots dedicated as public road by publication of a notice in the Government Gazette. This course of action should be verified by your legal advisor in relation to having land dedicated to the public as road. There is no doubt when you look at the history behind the creation of those part lots in DP 177659 that the original intention was to use the land as road.

Yours faithfully  
**HARD & FORESTER PTY LTD**



Glenn McFall  
Registered Surveyor

Ref: 111636/01let02/h

HARD & FORESTER

Annex H

# REVISED STATEMENT OF COMMITMENTS

Boral

Greystanes Estate: Southern  
Employment Lands  
*Project Modification No. 2*  
*(Statement of Commitments)*

August 2009

Reference: 5696 05.1.11

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# **1 INTRODUCTION**

## **1.1 REVISED STATEMENT OF COMMITMENTS**

Boral is committed to minimising the potential for environmental impacts from the proposed development. Approval is sought for the revised statement of commitments.

Table 1.1 Statement of Commitments

Item Number	Item	Commitment	Responsibility	Timing
1	Scope of Development	<p>The development will be carried out as outlined in the documentation and subdivision plans listed below, except where amended by Section 3 of the Preferred Project Report dated June 2007 and other items of this Statement of Commitments.</p> <ul style="list-style-type: none"> <li>Environmental Assessment Report (EAR), prepared by ERM, September 2006 and supporting reports and the Greystanes SEL <i>Preferred Project Report</i> prepared by ERM June 2007 as amended by EAR modification dated 16 October 2007 and 13 August 2009;</li> <li>Drawing ref no 108-SK60H and 108-SK56H prepared by Turner Hughes and Associates;</li> <li>Drawing numbers 111636012, 111636013, 111636014 and 111636015 prepared by Hard and Forester.</li> </ul>	Boral and/or its successors	Ongoing
2	Statutory Requirements	<p>The following licences, permits and approvals will be obtained and maintained for the subdivision and construction of infrastructure:</p> <ul style="list-style-type: none"> <li>Construction Certificates for engineering works (including earthworks, soil and water management, clearing, roadworks, drainage, landscape, water supply, and sewerage) for each stage of the subdivision;</li> <li>Compliance and Subdivision Certificates for each stage;</li> <li>Road Opening Permit;</li> <li>Integral Energy Design Certification;</li> <li>Integral Energy Notification of Arrangement;</li> <li>Telstra Compliance Certificate;</li> <li>Department of Land and Property Information registration of the subdivision;</li> <li>Section 73 Compliance Certificate from Sydney Water Corporation.</li> </ul>	Boral and/or its successors	For the duration of subdivision

Item Number	Item	Commitment	Responsibility	Timing
3	Conveyancing	<p>A Notice of Commencement of Building or Subdivision Work and Appointment of a Principal Certifying Authority is to be submitted to the relevant Council two days prior to commencing work.</p> <p>A community development plan and community management statement will be prepared.</p>	Boral and/or its successors	Prior to release of the Subdivision Certificate that creates the community land.
4		Easements will be provided for utility services that encroach onto private land or common space.	Boral and/or its successors	
5		Boral will prepare work as executed plans for construction work in each stage and provide such plans to the Principal Certifying Authority for each stage.	Boral and the relevant authority	Prior to the release of the Subdivision Certificate by accredited certifier for each stage.
6	Construction	Construction of the subdivision will be generally in accordance with the Staging Plan (108 SK60 H) prepared by Turner Hughes Architects and Boral or as otherwise approved in Construction Certificate plans approved by an accredited certifier.	Boral and/or its successors	
7.		Construction work shall be carried out only between 7.00 am and 6.00 pm, Monday to Friday and 7.00 am to 5.00 pm Saturdays, excluding public holidays.	Boral and/or its successors	For the duration of the construction of the subdivision.