



**High Dune Pty Ltd <atf High Dune Unit Trust>**

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Paul Nichols (Tel: 0402 752 042)

14 December 2018

Director – Regional Assessments  
Department of Planning and Environment  
GPO Box 39  
**SYDNEY 2001**

Dear Sir/Madam,

**RE: EXHIBITION OF MODIFICATION REQUEST, SANDON POINT RESIDENTIAL DEVELOPMENT AND RETIREMENT VILLAGE CONCEPT MP 06\_0094**

Thank you for the opportunity to provide a submission on the above Modification Request proposed by Anglicare.

**Background**

High Dune Pty Ltd <atf High Dune Unit Trust> (High Dune) is the registered owner of Lot 101 in DP 268549, Surfers Parade, Thirroul - known locally as the "Ray Hannah" land. Lot 101 is located immediately to the north-west of Anglicare's site (Lot 2 in DP 1176767) and shares a common boundary with the road reserve at Wilkies Street and the adjacent Wollongong City Council land.



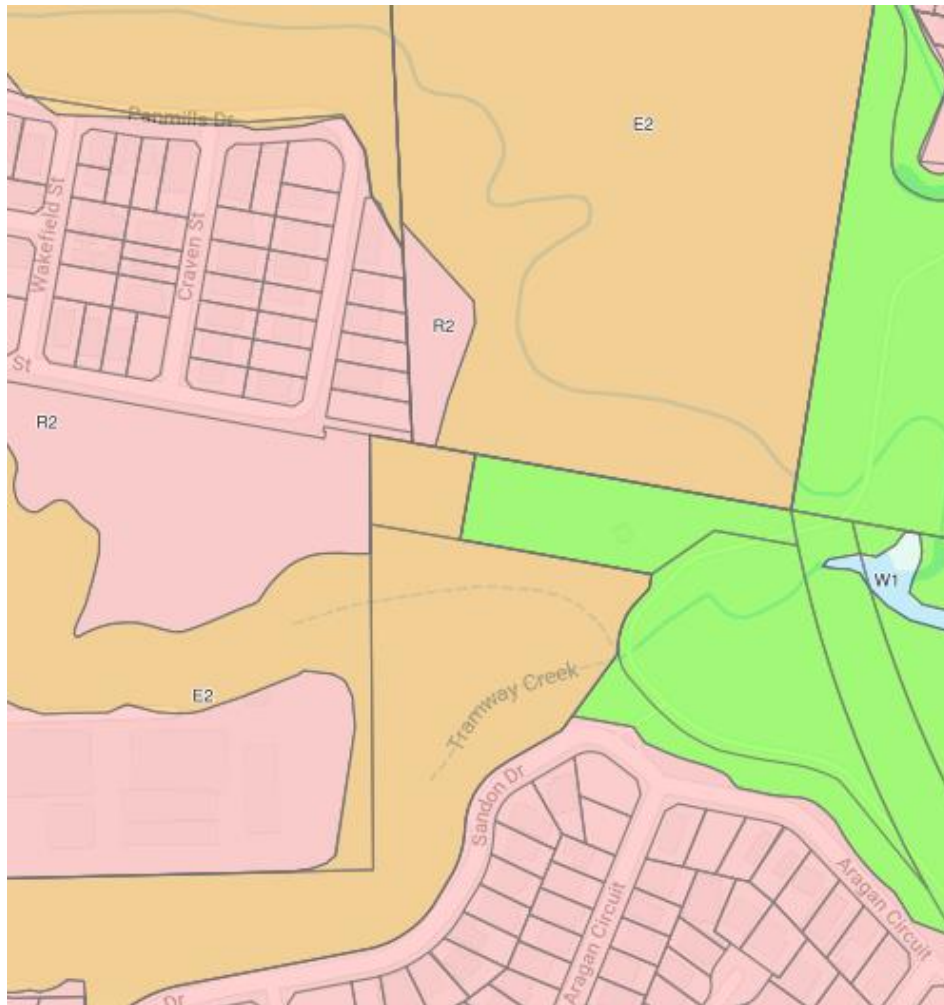
**Figure 1-1** illustrates the main land parcels near the Anglicare land, which are owned by the following organisations:

- Lot 101 in DP 268549 - High Dune
- Lot 2 in DP 1176767- Anglicare
- Lot 1 in DP 588060 - Sydney Water Corp.
- Lot 517 in DP 1156416 - Council
- Lot 500 in DP 1161858 - Council
- Lot 238 in DP 1048602- Council

**Figure 1-1 Locality Plan**

Lot 101 has been the subject of a Major Project (now referred to as Major Development) SEPP along with adjoining land owned by Stockland, Anglican Retirement Villages (ARV) (now Anglicare) and Wollongong City Council. Land owned by Stockland, Anglicare and Council were zoned under the SEPP, whilst Lot 101 was zoned by Council with the support of the Department. The current zonings under the different planning instruments generally correlate although there are minor differences in position and permissible uses.

The result of these various planning instruments is depicted in **Figure 1-2**.



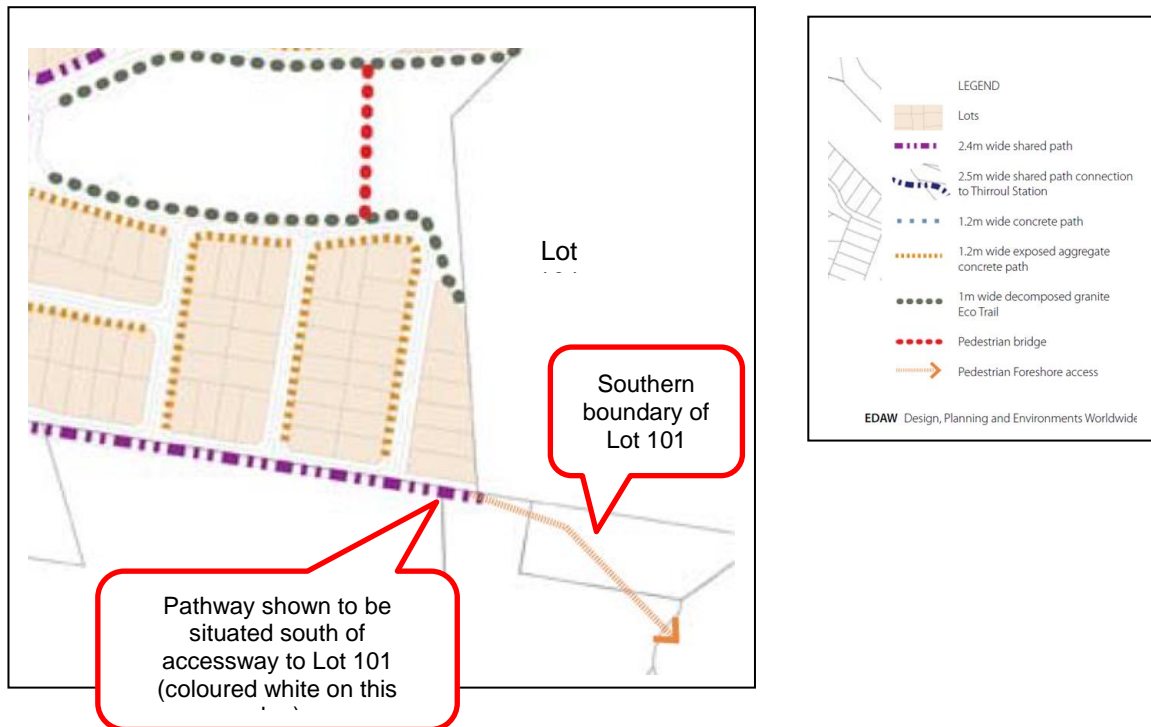
**Figure 1-2 Current Zoning Plan (Major Project SEPP and WLEP 2009)**

The development at Sandon Point/McCauley's was subject to a Concept Approval (MP-2006/94) and further Project Approval (MP-2007/32) (subdivision only) issued by the Minister for Planning at that time. As part of the Project Approval for the Stockland's subdivision, bulk earthworks were approved across the subdivision including significant batter slopes for lots 419 – 424 in the subdivision, abutting the boundary with Lot 101.

### ***Implications for Access to Lot 101***

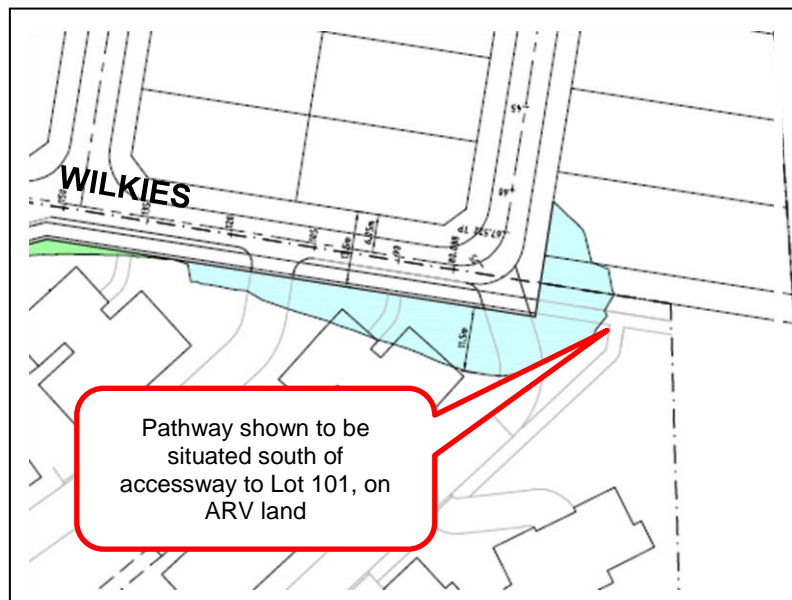
Condition A3 of Sandon Point Major Project No. 07\_0032 references certain drawings and reports which comprise the 'approval'. These include a landscape masterplan by Landscape Architects EDAW and designs by Civil Engineers Cardno.

The landscape masterplan by EDAW (see **Figure 1-3**) shows a 2.4-m wide shared path continuing to the south of the McCauley's Beach estate and extending through the adjacent then ARV land to the south of the road reserve.



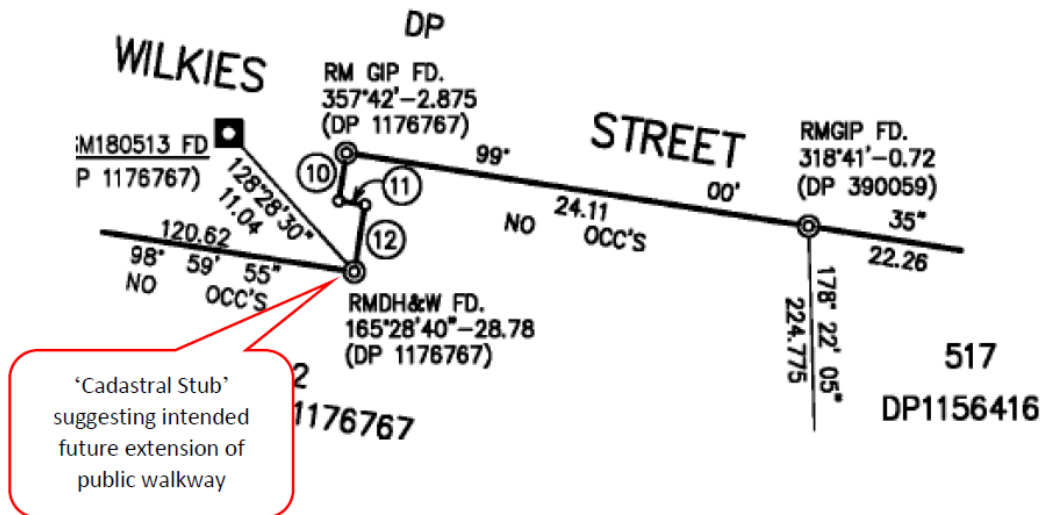
**Figure 1-3 Extract from approved Landscape Masterplan (MP 07-0032) by EDAW**

The Cardno civil engineering drawing (see **Figure 1-4**) shows the footpath on the southern side of the Wikies Street road reserve, and its extension into the adjacent land owned by then ARV and from there into the adjacent Council reserve.



**Figure 1-4 Extract from approved Civil Engineering Drawing No 106062-01 SK 31 (MP 07-0032) Rev 1 by Cardno**

The 'cadastral stub' is clearly shown on the Deposited Plan (see **Figure 1-5**) adjacent to the extension of Wikies Street which now provides the only readily available access to the subject site. This is shown in as an orange line (see **Figure 1-6**) suggesting that there were plans to put the southern walkway on land owned by then ARV. The stub is in direct line of the walkway to the west and corresponds exactly to the Cardno drawing in **Figure 1-4**.



**Figure 1-5 Deposited Plan showing Cadastral 'Stub'**



**Figure 1-6 Cadastre Superimposed on recent aerial Photograph**

This evidence suggests that the developer Stockland, with support of Council, made the decision at the time to move the southern walkway to the north on the road reserve as that was owned by Stockland at the time this cutting off any feasible access to the subject site. This was made contrary to the approved MP MP 07-0032 and without any S.75W modification to the Master Plan although a DA was lodged and approved for the work.

Legal advice sought by High Dune Pty Ltd tendered to Council earlier this year indicated that Wilkies Street extension has been dedicated to Council as a 'public road' under the Roads Act 1993, and such the land attract the rights and obligations applicable to such roads under the Roads Act 1993. Moreover, under s 6(1) of the Roads Act 1993, High Dune has the right to enter and exit the Land, by vehicle, to and from the Wilkies Road Extension. Any works that restrict such access are in contravention of the Roads Act.



High Dune would like to see its access restored as envisaged in both the Concept Approval (MP-2006/94) and further Project Approval (MP-2007/32).

### Current Negotiations with Anglicare and Wollongong City Council

For the past year, High Dune has appraised development options for Lot 101 and as part of this process is keen to resolve the current access arrangements to its land. In discussions, Wollongong City Council has indicated its desire to minimise the impact of access to Lot 101 whilst maintaining public access from McCauley's Estate to the cycleway along the Stockland boardwalk and impact on the sensitive environment. Council has advised High Dune to consult with its neighbours to achieve a mutually beneficial and practicable solution.

High Dune has appraised various options for access to Lot 101 from Panmills Drive including public roads and private driveways. This has involved consultation with not only Council but Sydney Water, Anglicare and the Illawarra Local Aboriginal Land Council.

The option presented in **Figure 1-7**, involves construction of a vehicular accessway along Wilkies Way road reserve and relocation (in part) of the existing Stockland boardwalk to land owned by both Anglicare and Council to the south. The option 'ties in' with Anglicare's current Mod 5 layout in terms of both horizontal and vertical geometry and has been verified by their civil engineers Cardno. It avoids the existing sensitive archaeological sites and is largely founded on existing disturbed land. It is also consistent with the approved Concept Approval (MP-2006/94) and Project Approval (MP-2007/32).

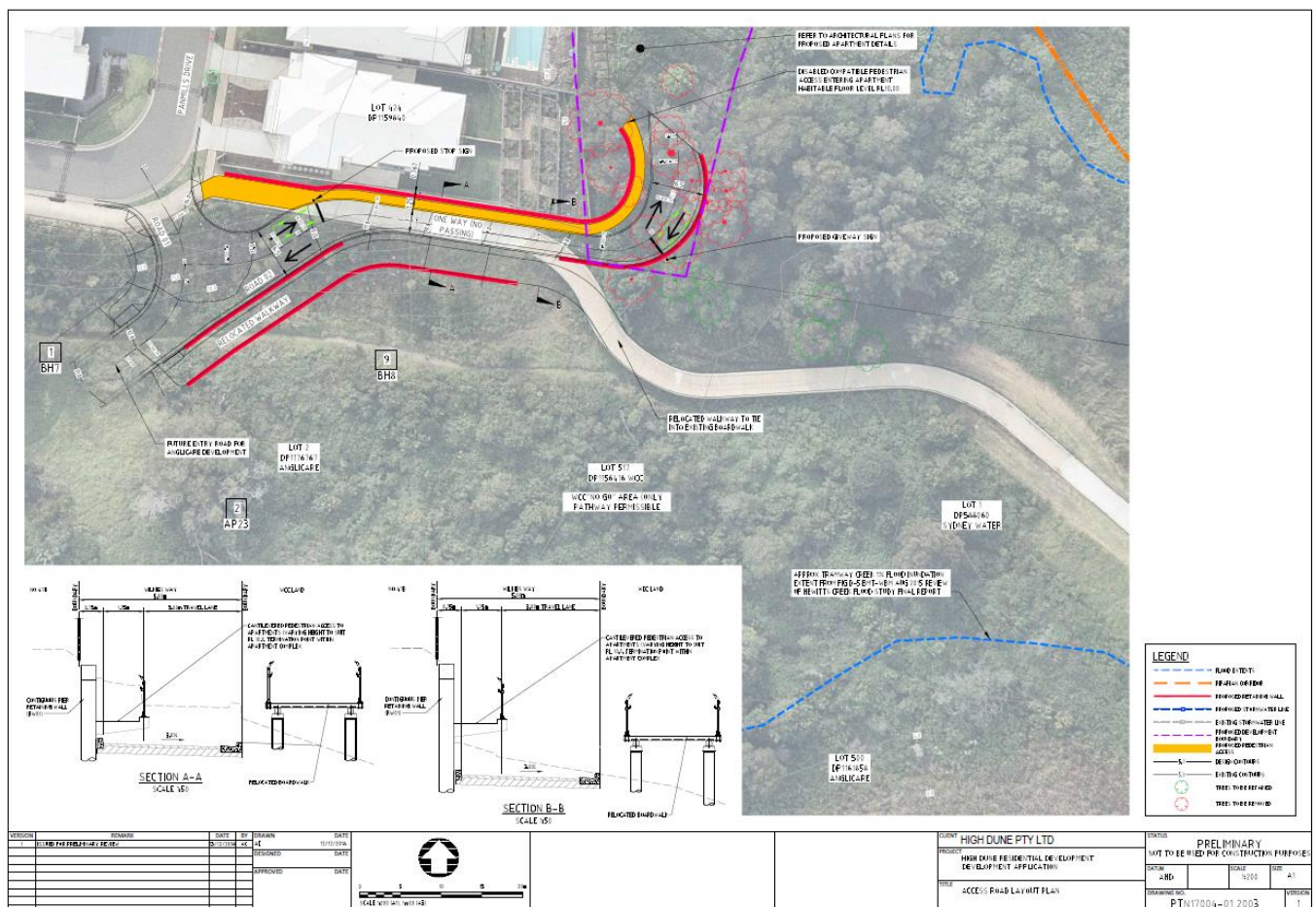


Figure 1-7 Preferred Access Option to Lot 101

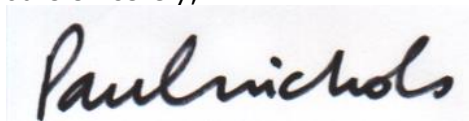
This option in **Figure 1-7** was presented to Council who indicated that on 'face value' it presented a workable solution, subject to further detailed assessment. High Dune undertook to firm up the concept which will form the basis of a development application for Lot 101 which will be submitted shortly to Council.

High Dune has also presented a similar version to Anglicare who indicated their support 'in principle' provided it minimised impact on its existing approved concept plan and maintained public access to the boardwalk. High Dune has undertaken to work cooperatively with Anglicare including undertake the additional work associated with the relocation of the boardwalk at its cost.

In summary, High Dune supports the Mod 5 submitted by Anglicare provided it facilitates and ensures access to Lot 101 along the lines of the option proposed above.

We look forward to your response.

Yours sincerely,

A handwritten signature in black ink that reads "Paul Nichols". The signature is written in a cursive, flowing style.

**Paul Nichols**  
**Project Manager**  
**High Dune Pty Ltd**

cc Luke Borg (Anglicare)