

Our Ref: 82017142-01 004:SP
Contact: Sophie Perry

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Attention: Michelle Niles

Dear Michelle,

**TALLAWARRA LANDS MIXED USE DEVELOPMENT (MP_09_0131)
MODIFICATION FINAL RESPONSE V2**

Background

NOTE: This letter is Version 2 of the final response to submissions. Version 1 was dated 13 September 2019. New information in this Version 2 is provided in italic text to clearly indicate updated information since Version 1.

Introduction

In a letter dated 25 July 2019, the Department of Planning, Industry and Environment (DPIE) requested further consideration of all issues before finalisation of an assessment report on the modification of the Concept Approval for MP09_0131. Contained in Attachment A to the same letter was a list and description of eight (8) key issues.

Cardno and Bridgehill subsequently met with DPIE staff to clarify the content and format of the response expected by DPIE to finalise information for assessment purposes. It was agreed that the final response should be in the form of a letter addressing in detail the eight (8) key issues identified by DPIE and including a table addressing all other issues from the final round of agency consultation.

In order to thoroughly finalise the issues raised from agency submissions and complete final adjustment and refinement to all supporting documents, Cardno and Bridgehill have undertaken the following:

- > Clarified future development matters with EnergyAustralia including minor adjustment to Northern and Central super lot boundaries for future acquisition. Specifically the reduction to the extent of the Northern and Central super lot areas has resulted from adjusted acquisition boundaries, noise buffers and response to eight (8) key issues (as explained in detail below)
- > Engaged and commenced site investigation works in conjunction with an Independent Site Auditor
- > Met directly with Roads and Maritime Services (RMS) to gain in principle support for final information submission and completed revision of traffic and transport information
- > *Held teleconference discussions and confirmed by email the resolution of RMS concerns with future noise management for the interface between the Albion Park Rail Bypass and the western edge of the Central Precinct residential lands*
- > Met directly with Department of Environment, Energy and Science (formerly OEH) to gain detailed feedback, guidance and shared understanding for the commitment to the necessary ongoing investigations and approvals required to address Aboriginal Archaeology and cultural matters and methods to guarantee long term commitment to the necessary diligence, site management and investigations required to protect Aboriginal heritage

- > Addressed matters of bushfire protection through further communication between the appointed Bushfire Consultant and NSW RFS to resolve the acceptable methods for future bushfire protection
- > Commenced test excavations, recommenced Aboriginal consultation and commenced preparation of AHIP and an Aboriginal Cultural Heritage Management Plan
- > Reviewed and addressed water quality strategies and targets
- > Adjusted the conceptual layout and Concept Plan based on all feedback and updated information gained to date
- > Prepared a set of recommended modified conditions and Statement of Commitments to accurately match the relevant supporting documents and the anticipated practical roll out of future development.

A response to all issues was submitted to DPIE dated 13 September 2019. After reviewing that response DPIE identified two remaining issues requiring further information. These issues were listed in an email issued by DPIE dated 17 October 2019 as follows:

- *“Heritage – as requested in the Department’s letter dated 25 July 2019, archaeological test excavations of the additional urban footprint must be carried out. These test excavations will inform whether it is appropriate to expand the urban footprint and as such, are required prior to determination of the MOD. It is noted that the AHIP and CHMP for future DAs do not correlate with the requirement for the results of the test excavations of the areas of additional urban footprint; and*
- *Traffic – the traffic statement (Appendix E) makes reference to a Revision 8 of the Traffic Impact Assessment (TIA). Please submit a copy of the updated TIA as the last submitted TIA was Revision 4. “*

With regard to the above two issues our response is as follows:

Heritage – In discussions with DPIE, Bridgehill and Cardno on 2 August 2019 it was agreed:

- *There is a clear commitment to complete all necessary consultation, ACHAR and AHIP processes as part of the ongoing Modification and subsequent development applications*
- *The estimated timeframe for completion of archaeological test excavations including the additional urban footprint was 3 to 4 months from the beginning of August 2019*
- *Bridgehill and Cardno to continue providing updates to DPIE on the progress of consultation, preparation of ACHAR and AHIP applications.*

See Section 2 of this letter for more information on the progress of investigations and reporting on Aboriginal Archaeology. Notwithstanding this, there will be no disturbance of the site (including the additional urban footprint in the Northern Precinct) for urban development as a result of this Modification Application or the first superlot subdivision. Therefore an AHIP to destroy items is not required prior to the determination of the Modification Application. The remaining testing and finalisation of an ACHAR is imminent and we request DPIE continue to finalise the assessment of the modification application accordingly.

Traffic – This matter needs clarification. “Revision 8” refers to the (then) most recent revision of the Albion Park Rail Bypass Traffic Impact Assessment (TIA). It does not relate to the TIA prepared by Cardno. The most recent TIA prepared by Cardno to support the Modification application is the Revision contained in Appendix E.1 to this letter.

This letter provides a comprehensive response to the 8 key issues raised on 25 July 2019 including the two additional issues above and closes out all outstanding matters from DPIE assessment and agency consultation to the fullest extent possible at this time.

In addition to the two further items raised by DPIE on 17 October 2019, Cardno have followed up further with RMS and DEES. The additional matters resolved with RMS are addressed in Section 5.7 and Appendix E.2. The follow up with DEES is ongoing as the Aboriginal archaeological investigations, consultation and reporting are ongoing as detailed in Section 2 and Appendix D.2.

There are no matters which would prevent DPIE from completing the assessment of the modification and the determination of the application by the Independent Planning Commission.

Included with this letter are:

Appendix A	a set of revised graphics and plans and the final version of the modified Concept Plan where those graphics and plans that are considered by Cardno and Bridgehill as essential to the interpretation of the Concept Plan and conditions
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Appendix B	a requested modified set of conditions
Appendix C	a requested modified Statement of Commitments
Appendix D.1	Full page public notice of Notification and Registration of Aboriginal Interest
<u>Appendix D.2</u>	<i><u>Tallawarra Lands North Precinct: Aboriginal Cultural Heritage Assessment Draft Report dated 21 October 2019</u></i> <i><u>Tallawarra Lands North Precinct: Archaeological report Draft Report Prepared for Cardno on behalf of Bridgehill Group 3 October 2019</u></i>
Appendix E.1	Final Traffic and Transport Analysis and Final response to Traffic and Transport Issues
<u>Appendix E.2</u>	<i><u>Email correspondence with Roads and Maritime Services regarding noise impact mitigation and management</u></i>
Appendix F	Response to non-key issues raised by agencies from second round of consultation
Appendix G	Email from Peterson Bushfire Consultants
Appendix H	Biosis letter dated 19 October 2018

The following Sections 1 to 8 are detailed responses to the 8 key issues.

1 First Superlot Subdivision

1.1 Superlot Subdivision to facilitate land acquisition

The first superlot subdivision is required to transfer the ownership of land by Bridgehill (Tallawarra) Pty Ltd (Bridgehill) from EnergyAustralia.

At present the entire site is within the ownership of EnergyAustralia.

The previous plan for superlot subdivision referenced in the Concept Approval is shown in Figure 1-1. The proposed plan for the superlot subdivision is shown in **Figure 1-2** and the intended land ownership pattern is **Figure 1-3**.

Figure 1-1 Previous Superlot subdivision layout (Figure 37 from the Environmental Assessment dated February 2011)

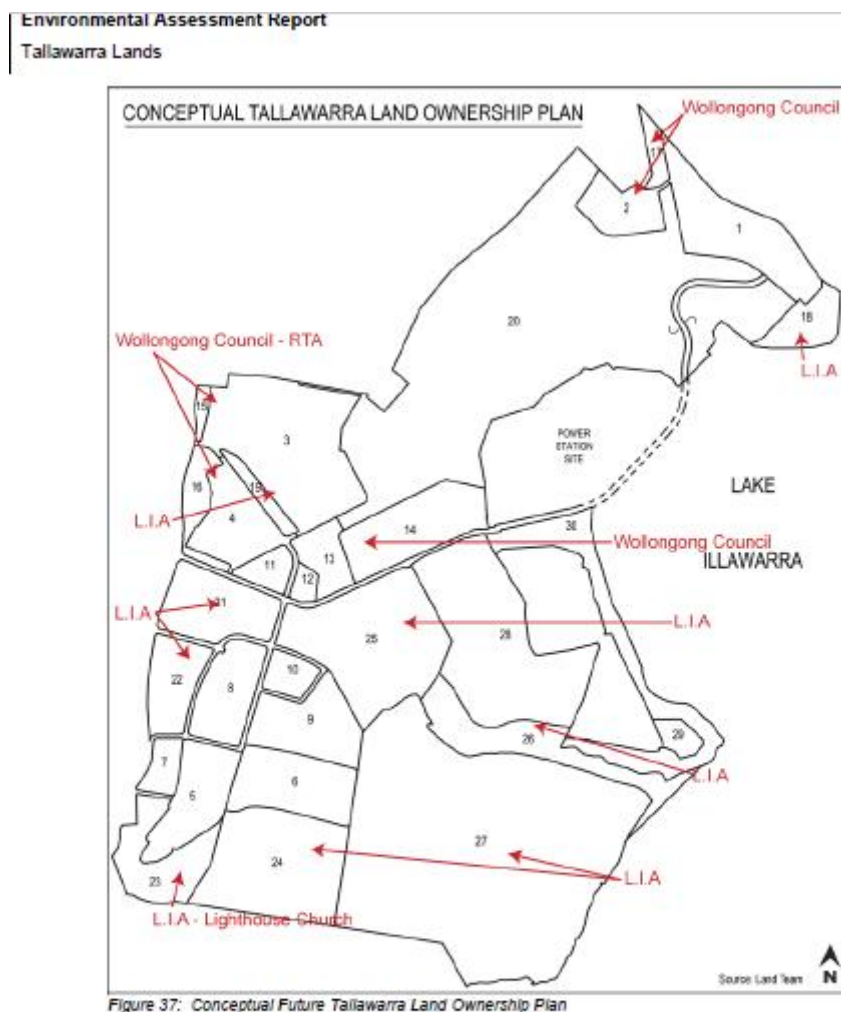


Figure 37 has been prepared to illustrate the conceptual future land ownership plan for open space / environmentally sensitive / riparian areas within the site. The proposed superlot subdivision plan has been annotated to indicate which specific parcels could potentially be transferred into the ownership of public authorities / agencies (Council/RTA/Lake Illawarra Authority) subject to future VPA discussions.

Figure 1-2 Proposed Superlot subdivision layout

Proposed First Super Lot Subdivision

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REV: 01
DATE: 06/09/2019

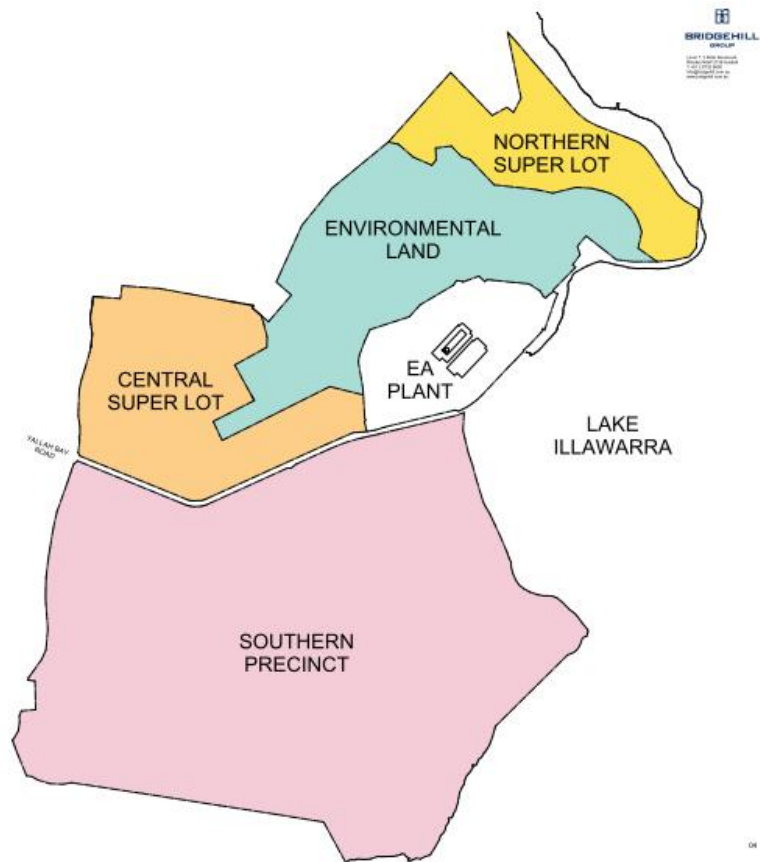
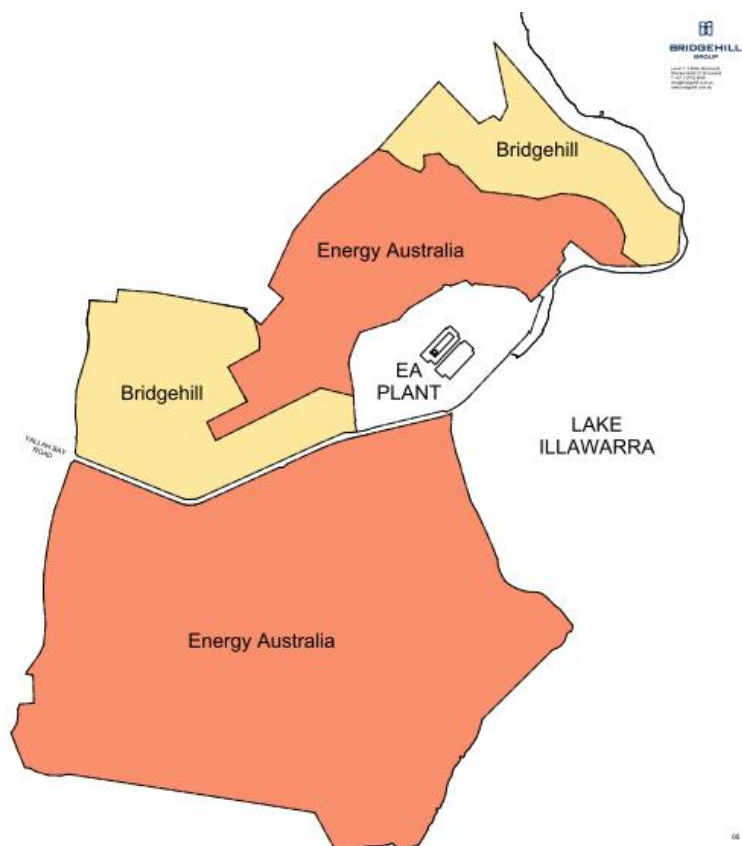


Figure 1-3 Proposed land ownership following superlot subdivision

Proposed Land Ownership Map

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REV: 01
DATE: 06/09/2019



Bridgehill has an agreement with EnergyAustralia for the development of the Northern and Central super lots (see Figure 1-3). In order to formalise the agreement and transfer the land ownership Bridgehill must create separate legal titles. Energy Australia will retain ownership of the environmental land (shown shaded blue in **Figure 1-2**) as this provides an essential buffer between its power station land and the residential zoned land.

The Northern and Central superlots cannot be created as one title, due to the significant physical separation between these lots (see **Figure 1-2**). Although it is sometimes possible for one legal title to be physically divided (for example by a road or watercourse) this is not an option available when subdividing land completely separated by other lots.

The Registrar-General's Guidelines provide as follows:

"A lot should only be separated into two (2) or more physical parts where separated by road, river or other physical feature or where it is necessary to define a complex residue following subdivision of part into other lots. Each part must be designated as such (i.e. 'Part Lot 2') together with separate dimensions and areas for each part and a total area for the lot."

Because it is not possible to create the central and northern super lots as one legal title, it is proposed to link these two titles by the conditions of concept approval.

The environmental land will never be subject to urban development or a change in use due to its role as a buffer to the power station. It will be permanently managed as environmental lands. Verification of site use suitability under SEPP 55 or satisfactory arrangements for SIC VPA and developer contributions do not apply to the environmental land that forms a buffer to the power station.

Likewise, the power station site will not be subject to verification of site use suitability or satisfactory arrangements for SIC VPA and developer contributions under the concept approval as this land falls outside of the concept approval. It is therefore proposed that the first super lot subdivision would divide the land into super lots as shown in **Figure 1-2** and described as follows:

North of Yallah Bay Road:

1. The northern super lot
2. The environmental land
3. The central super lot

South of Yallah Bay Road:

4. All other land with no change to existing cadastre (to be known as "the Southern Precinct")

The requested modification to conditions of concept approval (Appendix B) and the Statement of Commitments (Appendix C) will ensure that no further subdivision or development can occur on any land until the contamination and satisfactory arrangements conditions are satisfied for both. For further details see Sections 1.3, 1.4 and 1.5 below.

1.2 Superlot Subdivision does not require works or create demands for public facilities and services

The first super lot subdivision will not require works. There will be no road works, no connections or installations related to water supply, sewerage services and drainage, telecommunications or electricity infrastructure.

The draft West Lake State Infrastructure Contribution Draft Determination notice states as follows:

"(5) A special infrastructure contribution is not required to be made for development that satisfies both of the following:

- (a) the development comprises the subdivision of land (other than a strata subdivision or a subdivision that is only for the purpose of creating a lot to contain an existing habitable dwelling),*
- (b) the Director-General has, having regard to relevant planning controls, certified to the consent authority that each lot resulting from the subdivision is a lot that will be further subdivided in accordance with a further development consent (or approval under Part 3A of the Act) for the purpose of the orderly development of the land for urban purposes in the future.*

Note. A lot referred to in paragraph (b) is commonly referred to as a super lot."

Whilst the Draft West Lake SIC is still in draft form, there is no specific exclusion which applies to the circumstances of the first superlot subdivision because (5)(a) will not be satisfied. However, the intent of the draft exclusions is that an exemption should apply for superlot subdivisions where no new dwelling entitlements are created.

The first future superlot subdivision application will clearly demonstrate no works are proposed. If necessary the application can nominate a restriction on the title of new superlots that no dwelling entitlements will apply. This restriction will ensure there are no servicing and public utilities requirements generated by the first superlot subdivision.

The development application for first superlot subdivision will clearly demonstrate no works or activities will be consented to and no cost of development which would trigger Developer Contributions in accordance with Section 7.12 to the Environmental Planning and Assessment Act, 1979.

1.3 Superlot subdivision and State Infrastructure Contributions

DPEI raised concerns that a superlot subdivision may fragment land ownership and potentially complicate future negotiations with multiple landowners for State Infrastructure Contribution Voluntary Planning Agreements (SIC VPAs). The DPIE letter dated 25 July 2019 requested the application be amended for:

- > the first superlot subdivision to create only two lots; and
- > for SIC VPA and contamination matters to be resolved prior to any further subdivision application.

Bridgehill confirms the purpose of the superlot subdivision is to enable the transfer of land ownership from EnergyAustralia. There will be only two landowners. This arrangement effectively addresses DPIE's concerns for a maximum of two superlots for the purposes of SIC VPA negotiations.

It is Bridgehill's intention to retain ownership of the Central and Northern Precincts through subsequent subdivisions and development phases. This includes commitments to a SIC VPA, a local scale Voluntary Planning Agreement (VPA), a site-specific development control plan (DCP) and an Aboriginal Cultural Heritage Management Plan (CHMP).

Therefore DPIE can be reassured that negotiations for a SIC VPA will not be unduly complicated as a result of fragmented land ownership.

Condition 25 in Schedule 3 to the Concept Approval currently states as follows:

"25 Satisfactory Arrangements for the provision of Designated State public infrastructure

The first development application to Council (refer to Condition A6) must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure, in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009."

It is recommended this condition be modified as indicated by the following 'track changes' style text (strike through text to be deleted, underlined text to be added) to state:

"25 Satisfactory Arrangements for the provision of Designated State public infrastructure

The first development application to Council (refer to Condition A6) for urban development of the Northern and Central Precincts must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure for subdivision of land within the northern and central precincts in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009.

The first development application for urban development of the Southern Precinct (as shown in the approved Proposed First Superlot Subdivision Plan) must demonstrate that satisfactory arrangements have been made for the provision of designated State public infrastructure for the subdivision of land in the Southern (Lakeside) Precinct in accordance with Clause 6.1 of Wollongong Local Environmental Plan 2009."

This modification of Condition 25 ensures SIC VPA agreements are in place at a time appropriate to the future urban development for each precinct. The modification ensures SIC VPA arrangements are made only with the two future owners of superlots and addresses the concerns of DPIE.

1.4 Superlot Subdivision to facilitate future remediation works

The DPIE letter dated 25 July 2019 requested the application be amended for:

- > the first superlot subdivision to create only two lots; and
- > for SIC VPA and contamination matters to be resolved prior to any further subdivision application.

A consent authority must be satisfied that land can be made suitable for a proposed use in accordance with the requirements of *State Environmental Planning Policy No.55 (Remediation of Land)* (SEPP 55). The first superlot subdivision will not require any works and will not request any use of the land in a manner any different from the current state of the land. Complete remediation works would not be necessary to satisfy the assessment and determination of the first superlot subdivision.

Future development applications for works and use of the land will require land to be made suitable in accordance with SEPP 55. Condition A6 and other relevant conditions of consent are to be modified accordingly as recommended in Sections 1.5 and 1.6 and Appendix B.

1.5 Modification of Condition A6

Noting the superlot subdivision will not propose or approve any works or changes to land use, this modification determination will require changes to Condition A6 in Schedule 2 to the Terms of Approval.

Condition A6 currently states as follows:

A6 First Future Application

The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land use boundaries provided in the Concept Plan. In addition to other requirements of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.

It is requested that Condition A6 be modified as indicated by the following 'track changes' style text (strike through text to be deleted, underlined text to be added) to state as follows:

A6 First Future Application

The first future application shall be an application to Council for superlot subdivision of the entire site and it is to be generally in accordance with the plan titled "Proposed First Superlot Subdivision Plan" prepared by Bridgehill Group Drawing Reference BH-001 Rev.01 dated 06/09/2019 and land use boundaries provided in the Concept Plan.

It is not necessary to make reference in Condition A6 to "*the other requirements of the Terms of Approval*" because the other conditions of consent and Statement of Commitments apply without the need for this statement.

It is not necessary to identify sequential staging for the purposes of the superlot subdivision because the superlot subdivision requires a site-specific DCP. Future development applications after the superlot subdivision must be consistent with the site-specific DCP. Consistency with the DCP negates the need for sequential staging.

Every development application submitted for the site must satisfy the requirements of SEPP 55. Every development application must therefore demonstrate that the land the subject of the application can be made suitable for the proposed use prior to the determination of the development application. Detailed Site Investigations (DSI) and Remedial Action Plans (RAPs) for any future development application will also identify in detail any need for sequencing of works and land uses to address contamination. Sequencing of works in accordance with contamination findings can only be determined once DSI and RAP information is completed. For this reason it is not appropriate to commit to staging and sequencing of the entire site at the time of the first future superlot subdivision.

The modifications proposed to Condition 25 (see Section 1.3) and Conditions 11 and 12 (see Section 1.6) will:

- > negate the need for sequential staging to be nominated with the superlot subdivision; and
- > ensure that site remediation is addressed in a manner consistent with SEPP 55.

1.6 Modification of Conditions 11 and 12

As explained above, the first superlot subdivision will not propose works or change the use of the land. The first superlot subdivision will satisfy SEPP 55 as the approval will not risk harm to human health or the environment.

The response from the NSW EPA dated 7 June 2019 specifically states that the EPA comments are not based on a review of existing Conditions 11 and 12. The letter does list the outstanding contamination

assessment requirements and identified the timeframe by which those matters are recommended to be addressed. These requirements and timeframes are repeated from the EPA letter as follows in Table 1-1:

Table 1-1: Summary of EPA comments dated 7 June 2019

EPA comment 07/06/2019	Implications for Timing and Carrying out of contamination investigation and remedial works	Implication for Conditions 11 and 12
<p>1. Subdivision of residential precincts</p> <p>While a wholistic approach to contaminated site assessment of the Tallawarra Lands is preferred, EPA does not object to separating the residential areas into 2 broad groups as proposed by the Proponent. That is separating the Northern and Central Precincts (as 1 group) from the Southern Precinct. To ensure ongoing site contamination is managed holistically and efficiently, further divisions resulting in separate or piecemeal progression of contamination requirements are unlikely to be supported.</p>	<p>The EPA supports contamination assessment and remedial work proceeding in two parts – one part being the Northern and Central precinct and the other being the Southern (Lakeside) Precinct.</p>	<p>EPA comments support Conditions 11 and 12 being modified to apply to two separate land areas being 'north of Yallah Bay Road' and 'south of Yallah Bay Road' (consistent with the land ownership patterns shown in Figure 1-3.</p>
<p>2. Completion of contamination sampling and site assessment</p> <p>The remaining site contamination assessments/investigations for the Areas of Environmental Concern (listed in Condition 11) and asbestos (Condition 12) must be completed prior to the submission of any DA for subdivision development.</p>	<p>The EPA supports the completion of assessment and investigation prior to any DA for subdivision development. That is, prior to any DA for subdivision that proposes works and changes to the current land uses.</p> <p>The EPA therefore has no objection to the first superlot subdivision DA progressing without further assessment and investigation.</p>	<p>EPA comments do not prevent or conflict with Conditions 11 and 12 being modified as proposed below.</p>
<p>3. Accredited Site Auditor Report on Contamination Sampling and Site Assessment</p> <p>Any submission of a subdivision DA must be supported by a report from a NSW EPA Accredited Site Auditor which confirms the adequacy of the contamination investigations and any remediation action plan and certifies that the site/s can be made suitable for the proposed use.</p>	<p>The EPA comment is consistent with the requirements of SEPP 55 where a DA proposes works and/or activities and uses which potentially expose humans and/or the environment to harm.</p> <p>The first superlot subdivision does not propose works or activities on the land and therefore SEPP 55 can be satisfied.</p>	<p>EPA comments are consistent with the proposed modification of Conditions 11 and 12. The modification seeks to separate the reporting requirements to match the two spatial areas of future subdivision and development work.</p>
<p>4. Remediation</p> <p>Any remediation required must coincide with the first earthworks/breaking of ground. This may include clearing or infrastructure installation. This must be in advance of any dwelling construction.</p>	<p>The EPA comment is consistent with the requirements of SEPP 55. The first superlot subdivision will not require breaking of ground, clearing or installation of infrastructure.</p>	<p>EPA comments are consistent with the proposed modification of Conditions 11 and 12 as detailed below.</p>
<p>5. Site Auditor Statement</p> <p>Prior to any dwelling construction the Proponent must submit a NSW EPA Site Audit Statement validating that any remediation has been completed as necessary and the site is suitable for the proposed use.</p>	<p>The EPA comment is consistent with the requirements of SEPP 55.</p> <p>Any future DA for any subdivision, site work or new use of the land will be required to demonstrate the land is suitable.</p>	<p>EPA comments are consistent with the proposed modification of Conditions 11 and 12 as detailed below.</p>

We therefore request the following modifications to Conditions 11 and 12 with full consideration of:

- > the comments received from the NSW EPA dated 7 June 2019; and
- > the DPIE comments that contamination issues need to be satisfied prior to the next application following the superlot subdivision

1.6.1 Condition 11

Condition 11 is requested to be modified as indicated by the following 'track changes' style text (strike through text to be deleted, underlined text to be added):

11 Further Investigation of the Areas of Environmental Concern and engagement of a Site Auditor accredited under the Contaminated Land Management Act 1997

~~Future applications that include those lands nominated as Areas of Environmental Concern (AECs) in the Coffey Environments Report (December 2010)~~ The following development applications must be accompanied by a further environmental assessment report

(i) The first future superlot subdivision application to Council (refer to Condition A6) must include a further environmental assessment report in relation to the northern and central super lots; and

(ii) Any application for the further subdivision of the superlot containing the Southern Precinct (as identified in Condition A6) must include a further environmental assessment report in relation to the whole of the Southern Precinct.

The further environmental assessment report must address all relevant Areas of Environmental Concern in the Coffey Environment Report (December 2010). In addition to adopting the recommendations contained in Section 12 of the Coffey Environments Groundwater Modelling Assessment report, the further investigations must consider, where relevant:

- > the potential for contaminants present in the soil and ground in the vicinity of the ash ponds to be mobilised and transported to the adjacent shallow aquifer, Duck Creek and ultimately to the receiving waters of Lake Illawarra, and measures to address this including the feasibility of remediation of contaminated soils and/or the containment of the sources of contamination;
- > measure to ensure that the environment attributes of conservation lands on the site are not adversely impacted on by contaminants present in the soil and groundwater;
- > recommendations for the ongoing management of contaminated groundwater;
- > the potential for the contamination present in soil and groundwater in the vicinity of the ash ponds to adversely affect groundwater dependent ecosystems on the site; and
- > any risks to human health or the environment.

Following the completion of the further investigations, the proponent must engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to verify the adequacy of the investigations (and any proposed remediation). Prior to the issue of any Subdivision Certificate (other than for the first superlot subdivision) the proponent must obtain a Site Audit Statement to certify that the site land the subject of the Subdivision Certificate is suitable for the proposed use. No building may be erected on the land prior to the issue of a Site Audit Statement certifying that the land is suitable for the proposed building and associated use."

The modifications do not change:

- > the requirement to consider the findings of contamination investigations acknowledged in the current Concept Approval; or
- > the site-specific matters requiring further investigation as identified to date by the Concept Approval.

Therefore the modifications do not change the requirements to address specific AECs as required by the EPA.

The modifications do change the condition to allow:

- > Investigation and reporting to be spatially separated so that separate landowners can fulfill the requirements of SEPP 55 with future DAs;

- > Appropriate levels of investigation and reporting to be completed for the Central and Northern superlot by Bridgehill at the time of the first superlot subdivision consistent with SEPP 55 and EPA requirements; and
- > Appropriate levels of investigation and reporting with any future DA consistent with the requirements of SEPP 55 and EPA requirements.

1.6.2 Condition 12

Condition 12 is requested to be modified as indicated by the following 'track changes' style text (strike through text to be deleted, underlined text to be added):

12 *Engagement of a site auditor to verify the adequacy of asbestos soil sampling and asbestos contamination investigations*

The first future superlot subdivision application to Council (refer to Condition A6) must include, in relation to the northern and central super lots, a verification from a Site Auditor accredited under the Contaminated Land Management Act 1997 to as to the adequacy of the investigations and asbestos soil sampling undertaken by the Douglas Partners (July 2010) and any further investigations subsequently undertaken by the proponent and certification ~~of the suitability of that the site~~ northern and central super lots can be made suitable for their proposed use.

Any application to further subdivide or carry out any works on the Southern Precinct (as defined on the Super Lot Subdivision Plan and Condition A6) must include a verification from a Site Auditor accredited under the Contaminated Land Management Act 1997 to as to the adequacy of the investigations and asbestos soil sampling undertaken by the Douglas Partners (July 2010) and any further investigations subsequently undertaken by the proponent and certification that the Southern Precinct can be made suitable for its proposed use.

The modifications do not change:

- > the requirement to consider the findings of contamination investigations acknowledged in the current Concept Approval; or
- > the site-specific matters requiring further investigation as identified to date by the Concept Approval.

Therefore the modifications do not change the requirements to address specific asbestos-related investigations as required by the EPA.

The modifications do change the condition to allow:

- > Investigation and reporting to be spatially separated so that separate landowners can fulfill the requirements of SEPP 55 with future DAs;
- > Appropriate levels of investigation and reporting to be completed for the Central and Northern superlot by Bridgehill at the time of the first superlot subdivision consistent with SEPP 55 and EPA requirements; and
- > Appropriate levels of investigation and reporting with any future DA on any part of the site consistent with the requirements of SEPP 55 and EPA requirements.

1.7 Modification of other Conditions

The superlot subdivision can separate the site into two ownerships. Subsequent developments applications (DAs) for more intensive development and land use will proceed based on the intentions of the two future landowners. The site-specific DCP to be submitted with the first future superlot subdivision will coordinate development controls for the entire site such that precincts can be developed simultaneously or separately and still achieve consistency with the DCP.

In order to proceed under two separate land ownerships after the first superlot subdivision, several other conditions are to be modified to match the final changes to the Concept Plan, conceptual layout and supporting information and accurately identify timing and responsibility for deliverables and requirements.

A full set of recommended modifications to the wording of conditions is contained in Appendix B along with a justification for each modification. Modifications to conditions other than A6, 11 and 12 do not raise any matters related to contamination assessment and satisfactory arrangements for State infrastructure and are therefore not further discussed in Section 1 to this letter.

1.8 Statement of Commitments

The wording of the Statement of Commitments needs to be modified to align with proposed first future super lot subdivision outcomes and adjustments to the Concept Plan, conceptual lot layout and supporting documents.

Statement of Commitments #3 specifically relates to the super lot subdivision plan and must be modified to match Condition A6.

Statement of Commitment #3 currently states as follows:

"3. Superlot Subdivision

Commitment: TRUenergy commits to lodging a development application with Wollongong City Council to carry out a superlot subdivision generally in the manner illustrated in the indicative superlot plan prepared by LandTeam and included at Figure 10 of the EA. TRUenergy also commits to preparing more detailed subdivision plans and notes that further environmental assessment will not be required, having been adequately addressed through the Concept Plan application."

It is requested that Item #3 be modified as indicated by the following 'track changes' style text (strike through text to be deleted, underlined text to be added) to state as follows:

"3. Superlot Subdivision

Commitment: ~~TRUenergy~~ The landowners commit to lodging a development application with Wollongong City Council to carry out a superlot subdivision generally in the manner illustrated in the 'Proposed First Superlot Subdivision Plan' prepared by Bridgehill Group Drawing Reference BH-001 Rev.01 dated 06/09/2019. ~~TRUenergy~~ The landowner shall also commit to preparing more detailed subdivision plans to be submitted in accordance with the requirements for development application lodgement in Schedule 1 Part A to the Environmental Planning and Assessment Regulation 2000.'

The proposed modification:

- > is directly applicable to the appropriate future landowners separated by precincts;
- > makes reference to the appropriate super lot subdivision plan in Condition A6; and
- > removes the current ambiguity as to the further information required to be submitted with any future development application.

1.9 Other modifications to Statement of Commitments

A full set of recommended modified Statement of Commitments is contained in Appendix C along with a justification for each modification.

1.10 Summary of Response to Key Issue 1

The first superlot subdivision is necessary for changes to land ownership.

Condition A6 is to be modified to recognise the proposed first super lot subdivision plan.

There will be no works, no infrastructure, breaking of ground and no change to the current use with the first superlot subdivision.

There will be no new dwelling entitlements created by the first superlot subdivision and no nexus for payment of developer contributions.

After the Central and Northern Superlots are transferred to Bridgehill, development applications for further subdivision and works within the Central and Northern Precincts will be made only by Bridgehill. These future subdivisions will not fragment SIC VPA negotiations.

The first superlot subdivision will not propose works, nor require works or a change of land use.

Conditions 11 and 12 are to be modified to match the anticipated future further subdivision and development of the superlots by separate landowners.

SEPP 55 will be satisfied for the first superlot subdivision without the need for implementation of a Remedial Action Plan (RAP) and without the need for verification of remediation works being completed. Conditions 11 and 12 are to be modified to require completion of investigation and completion of a RAP (if needed) to

demonstrate the Central and Northern Precinct lands can be made suitable for the proposed use. This will satisfy the comments from the EPA and the requirements of SEPP 55.

SEPP 55 will be satisfied for any future development applications proposing works and changes of land use. Each application will demonstrate the land can be made suitable for the proposed use and the works will not harm the environment. The modified Conditions 11 and 12 will ensure this is the case for all DAs.

2 Heritage

2.1 Archaeological test excavations

DPIE's letter of 25 July 2019 required the results of archaeological testing within the additional urban footprint to be provided with this response. To clarify, the additional urban footprint applies to North and Central super lots only. The Southern Precinct remains unchanged.

At the meeting on 2 August 2019, Bridgehill and Cardno presented DPIE with a timeframe for works to complete an AHIP for the additional urban footprint. In summary, the timeframe for reasonable completion of an AHIP was three to four months.

Consequently, DPIE agreed to extend the timeframe to respond on the understanding that Bridgehill and Cardno had commenced the AHIP process and would keep DPIE updated on that progress.

Bridgehill, Cardno and Biosis subsequently met with Wollongong staff of the Department of Environment, Energy and Science (DEES) (formerly Office of Environment and Heritage) on 14 August 2019. At this meeting DEES indicated an AHIP is required *prior to any approval for disturbance of the site such as for site preparation or construction works*.

DEES indicated a willingness to consider conditions of approval which confirm an AHIP will be obtained *prior to any approval for disturbance of the site* acknowledging the following:

- > First superlot subdivision approval is required before any development application proposing works;
- > no works will be required or approved by the first superlot subdivision;
- > the existing Concept Plan approval requires the submission of a CHMP with the first superlot subdivision application and the modification to the Concept Approval does not seek to change this requirement;
- > the CHMP will include specific site management practices and standard protocols for unexpected finds;
- > test excavations, consultation and reporting are underway in conjunction with a Review of Environmental Factors (REF) under Part 5 to the EP&A Act. The REF will address the undergrounding of power lines through the Northern Precinct. Test excavation, consultation and reporting with the REF will inform methodology and management recommendations suitable for an AHIP and CHMP for lodgement with future development applications
- > tasks have commenced on consultation and test excavations and Bridgehill and Cardno have demonstrated commitment to undertaking the necessary steps to complete AHIP and CHMP.

Therefore, as confirmed with DEES:

- > an AHIP is not required prior to the first superlot subdivision approval as there will be *no disturbance of the site* at this stage
- > site management protocols will be included with the CHMP submitted with the first superlot subdivision
- > the CHMP will apply to the entire site and to all future development applications and works once the CHMP is approved by Council
- > an AHIP is in the process of preparation (see Section 2.5 below); and
- > an AHIP will be required *prior to any approval for site disturbance*.

In this regard, there is no need to modify the Concept Approval to require testing and an AHIP prior to the determination of the modification under (former) Section 75W.

2.2 Progress on Testing and Consultation

DPIE requested the results of archaeological testing to be provided with this response.

Cardno, Bridgehill and Biosis have commenced test excavations and consultation and are committed to completion of this process as required by modified conditions. Testing and reporting are currently under a strict timeframe for completion and must be completed to enable preparation of an AHIP and CHMP to match the timing of lodgement of the first superlot subdivision application.

Figure 2-1 is a copy of the Public Notice of consultation and the full page content of the Notice is included in **Appendix D**.

Figure 2-1 Copy of Public Notice of advising of Consultation opportunity

Notification and Registration of Aboriginal Interest

Cardno, on behalf of Bridgehill Group intends to develop new residential communities, a light industrial development and tourism facilities at the Northern and Central Precincts at Tallawarra, Yallah, NSW. The original concept approval (MP09_0131) was granted on 23 May 2013 by the Planning Assessment Commission (PAC) as a delegate for the Minister for Planning and Infrastructure for a mixed use development. Bridgehill Group, intends to modify the existing concept approval MP 09_0131 MOD 1 under Part 3A section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act). If concept approval is granted, the proposed development will be assessed as integrated development under Part 4 of the EP&A Act. For more information please contact: Bridgehill Group C/-Adam Clarke, Cardno, PO Box 1285, Wollongong NSW 2500 or phone: (02) 4231 9600

Biosis on behalf of Cardno are restarting consultation with the Aboriginal community and are seeking to identify Aboriginal people who hold cultural knowledge in determining the significance of Aboriginal object(s) and/or places in the vicinity of the above area to register their interest in a process of community consultation.

The purpose of Aboriginal community consultation is to assist the PAC in assessing the 75W modification application; and the Director General of DPIE in their consideration and determination of any subsequent Aboriginal Heritage Impact Permits for the proposed development if required. The project will be undertaken in accordance with the National Parks and Wildlife Act 1974.

To register an interest in this project please contact Samantha Keats, Biosis Pty Ltd 30 Wentworth Street Port Kembla, NSW 2502, email: skeats@biosis.com.au

Please note that the name of each group that registers for consultation on this project will be provided to DPIE and the Local Aboriginal Land Council unless the group specifies that they do not want their details released.

REGISTRATIONS MUST BE RECEIVED BEFORE 5PM ON 7 SEPTEMBER 2019

Registered Aboriginal Parties (RAPs) in response to the above Public Notice are as follows:

Organisation	Name
Illawarra Local Aboriginal Land Council	
Woronora Plateau Gundangara Elders Council	Paul Cummins and Kayla Williamson
	James Davis
Warra Bingi Nunda Gurri	Nathanial Kennedy
Guunamaa Dreamin Sites and Surveying	Richard Campbell
Gumaraa	Jodie Edwards and Lisa Bazzano

Yerramurra (Murrin Clan/Peoples)	Blaan Davis
Duncan Falk Consultancy	Duncan Falk
Barraby Cultural Services	Lee Field
Yurrandaali Cultural Services	Bo Field
Yulay Cultural Services	Arika Jalomaki
	Paul James Mcleod
Murra Bidgee Mullangari Aboriginal Corporation	Ryan Johnson and Darleen Johnson
Muragadi	Anthony Johnson
	Leanne Tungai
South Coast Peoples	

Test excavations are underway for land within the Northern Precinct in conjunction with a REF for undergrounding of power lines. An AHIP will be obtained as part of the REF process. The information gathered from these test excavations will be used to inform the AHIP and CHMP for future development applications within the urban footprint of the northern precinct that will require site disturbance.

AHIPs cannot spatially overlap. The AHIP issued for the undergrounding of power lines within the Northern Precinct will also apply to the disturbance work that will be proposed with development applications after the first superlot subdivision.

Cardno, Bridgehill and Biosis will keep DPIE informed of the progress of testing and AHIP preparation whilst the assessment of this modification is in progress. As stated above and as agreed by DEES, an AHIP is not required for the first future superlot subdivision as there will be no site disturbance associated with the first future superlot subdivision.

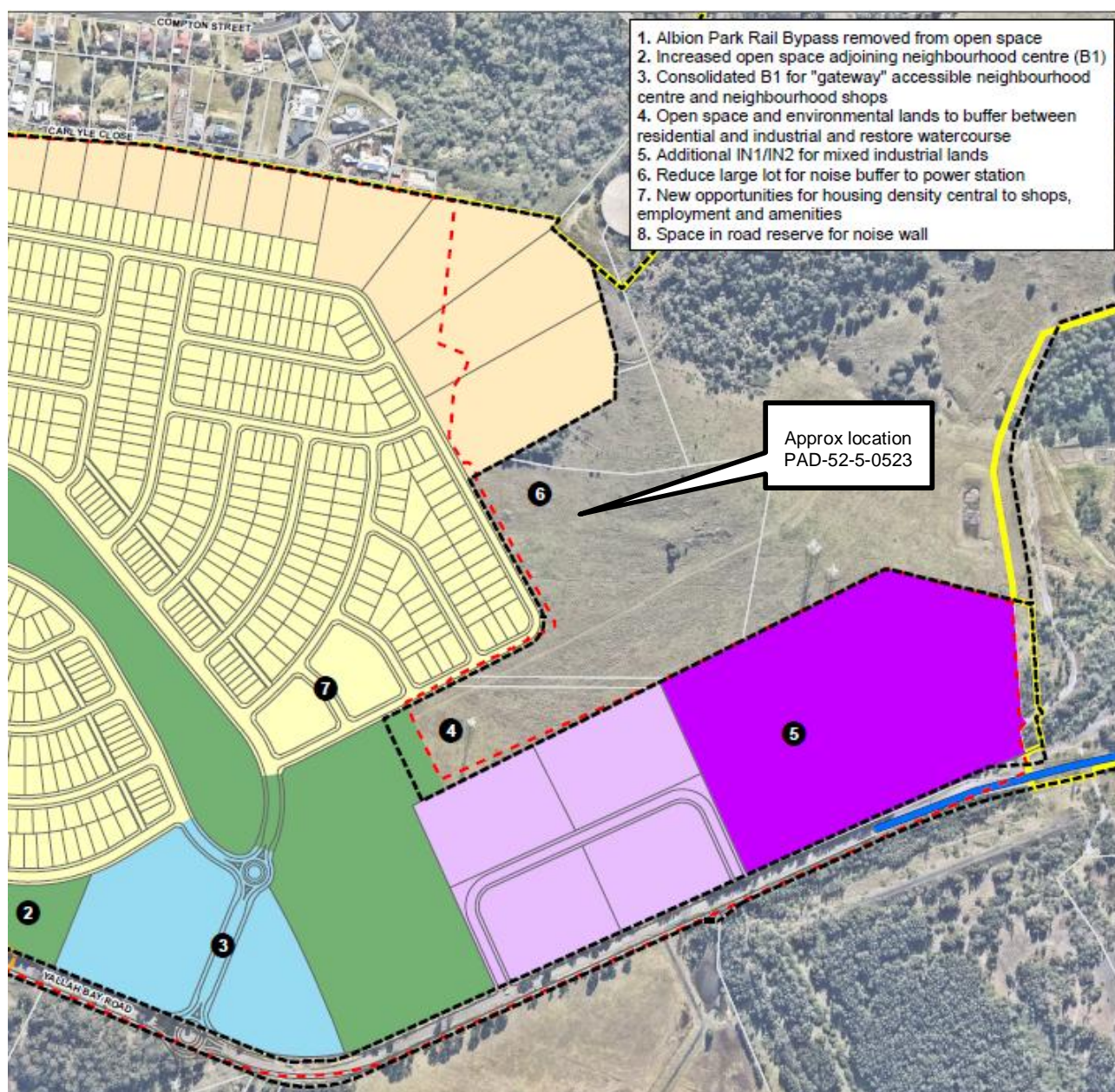
Draft Aboriginal Archaeological reports for the additional urban footprint of the Northern Precinct and a Draft Aboriginal Cultural Heritage Assessment Report (ACHAR) have been provided to the Registered Aboriginal Parties (RAPs) for review and comment. To date there have been five (5) responses from the RAPs and all feedback has been positive and in agreement with the draft reports. Consultation on the draft reports concludes on 22 November 2019. Following this, an application for a testing AHIP will be prepared and submitted to DEES for detailed test excavations.

2.3 Adjusting the eastern boundary of the Central Precinct to protect PAD 52-5-0523

As requested by DPIE, the boundaries of the Central Precinct have been adjusted to provide an appropriate clearance from the location of PAD 52-5-0523. Details of this adjustment are indicated in Figure 2-1. This PAD site will remain undisturbed as part of a future environmental management lands. The PAD site will be subject to ongoing management and protection in accordance with the Aboriginal Cultural Heritage Management Plan (CHMP) required by Condition 8 to Schedule 3 of the Concept Approval.

An CHMP is currently in preparation. In accordance with the requirements of Condition 8 Schedule 3 of the Concept Approval, the CHMP will be submitted with the superlot subdivision development application.

Figure 2-1 – Location of PAD-52-5-0523 and adjustment to Central Precinct boundary



2.4 Design of Future DAs to retain and protect the Fig Tree

The fig tree located within the Central Precinct is associated with TLPD AFT 9 (AHIMS 52-2-0615). Further cultural significance investigations are currently underway. The Tallawarra Central Precinct Archaeological Report completed by Biosis and dated 26 September 2017 indicates that, whilst the tree may have cultural significance, the specific location of the tree and its setting have not yet been determined to have cultural or place-based significance. Recommendation 3 to the Archaeological Report of 2017 states as follows:

Recommendation 3: Conservation of Fig Tree associated with TLPD AFT 9 (AHIMS 52-5-0615)

If possible the Fig Tree associated with TLPD AFT 9 (AHIMS 52-5-0615) should be conserved and incorporated into the modification of the concept approval

Therefore investigations are currently underway to determine if it is culturally acceptable and practically achievable to relocate the tree to the nearby riparian zone. Investigations are being conducted in terms of tree viability (arborist) and the context and setting as determined from an Aboriginal cultural perspective.

Should these investigations demonstrate support for the relocation and replanting of the tree – this will be proposed in a future detailed application for subdivision of the land on which the tree is located.

Should the investigations not support relocation of the tree then a future subdivision will propose strategies for its retention in a manner compatible with proposed works.

The significance of the fig tree will be further investigated and appropriate management measures identified with the preparation of the CHMP (see Section 2.5). The CHMP will be developed in consultation with RAPs to ensure the future management of the tree is supported in terms of cultural heritage and place significance.

The modification to the Concept Approval does not seek to change the zoning or the development potential of the land on which the fig tree is currently sited. The current Concept Approval locates the fig tree within residential land in the Central Precinct. The modification does not change this. In this regard the conditions for future land use surrounding the fig tree are not proposed to change in comparison to the approved Concept Plan.

2.5 CHMP

Condition 8 in Schedule 3 to the Concept Approval requires a CHMP to be submitted with the first future super lot subdivision application. Noting the modifications requested to conditions detailed in Section 1 above, it is requested that Condition 8 be modified as follows:

"8. Cultural Heritage Management Plan

The first future superlot subdivision application to Council (refer to Condition A6) ~~for~~ shall be accompanied by a Cultural Heritage Management Plan (CHMP) that details how impacts on Aboriginal and non-Aboriginal heritage ~~across the entire site~~ will be minimised and managed.

The plan shall be prepared in two parts to match the responsibilities of landowners in preparing for, and implementing, all future development. Part 1 of the plan shall apply to the Central and Northern Superlots and shall be submitted in detail with the first future superlot subdivision application. Part 2 of the Plan shall apply to the Southern (Lakeside) Precinct and shall be submitted with the first development application for the Southern Precinct following the approval of the first future superlot subdivision.

The plan shall include, but not necessarily be limited to:

- (a) Specific measures to be applied to works undertaken in close proximity to identified Aboriginal and non-Aboriginal heritage items to minimise and avoid impacts on these items;*
- (b) How heritage items (Aboriginal objects and relics or works) discovered during the construction of the project will be considered and managed. This shall include a component within the site induction program for construction workers on Aboriginal and non-Aboriginal heritage within the project area;*
- (c) Stop-work and notification procedures to be implemented should any unexpected impact to archaeological deposits and/or State significant relics not previously identified be discovered;*
- (d) A procedure for continued consultation with the relevant Aboriginal stakeholders during site preparation and subdivision works; and*
- (e) Procedures to be followed should non-compliance against any of the provisions of the management plan occur.*

All future applications must demonstrate how they will implement the Cultural Heritage Management Plan."

This modification does not change the intent or outcome of the condition.

This modification is needed to match the responsibilities of future landowners and the practical consequences for land management and land development to be undertaken for the separate precincts.

2.6 Summary of Response to Key Issue 2

DEES confirm an AHIP is required prior to any approval for site disturbance.

An AHIP is not required prior to the determination of this modification in accordance with (former) Section 75W.

An AHIP will not be required for the first future superlot subdivision development to be approved as there will be no site disturbance required by this application.

The boundaries of the Central Precinct have been adjusted to protect PAD 52-5-0523.

Investigations are underway to identify the most culturally and arboricultural appropriate future treatment of the fig tree in proximity to TLPD AFT 9 (AHIMS 52-2-0615). Outcomes will be included in the CHMP. Nevertheless this modification does not change the original Concept Approval in relation to the fig tree and this matter should not prevent the assessment and determination of this 75W application.

The CHMP is in preparation. Modification to Condition 8 is requested to match the responsibilities of future landowners and the pattern of future development over the entire site. The CHMP is intended to be submitted with the development application for the first future superlot subdivision and will be in place prior to the lodgement of any future DA for site works and/or a change in land use.

A Due Diligence Aboriginal Archaeological Assessment has been completed for the transmission easement land within the Northern Precinct and will be submitted to DPIE and DEES after completion of consultation with RAPs on 22 November 2019. DPIE will be provided with the final Due Diligence Assessment when consultation and any revisions are complete.

The Due Diligence Assessment will be sufficient for the determination of the Modification application as no site disturbance is proposed with the Modification or the first superlot subdivision.

A Draft CHMP has been completed and is currently subject to consultation with RAPs. Consultation will be completed on 22 November after which time the CHMP will be finalised. A testing AHIP application will be made when the CHMP is finalised.

Cardno and Bridgehill will continue to keep DPIE updated as these matters progress.

3 Water Quality

DPIE, DEES (OEH), Department of Industry (Fisheries) requested assessment of the Concept Plan against the requirements of the publication *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions*, demonstrating the impacts of the proposal on the water quality health and aquatic environment of Lake Illawarra. Our further response is as follows.

The *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions* (The Framework, OEH and EPA 2017) was developed to provide management outcomes for the impacts of various land uses and allows decision-makers to determine management responses required to meet key objectives for the protection of water quality and the health of the aquatic environment. The purpose of the Framework is to:

- > Ensure that the community's environmental values and uses for our waterways are integrated into strategic land-use planning decisions;
- > Identify relevant objectives for the waterway that support the community's environmental values and uses that can be used to set benchmarks for design and best practice;
- > Identify areas or zones in waterways that require protection;
- > Identify areas in the catchment where management responses cost-effectively reduce the impacts of land-use activities on our waterways; and
- > Support management of land-use developments to achieve reasonable environmental performance levels that are sustainable, practical and socially and economically viable.

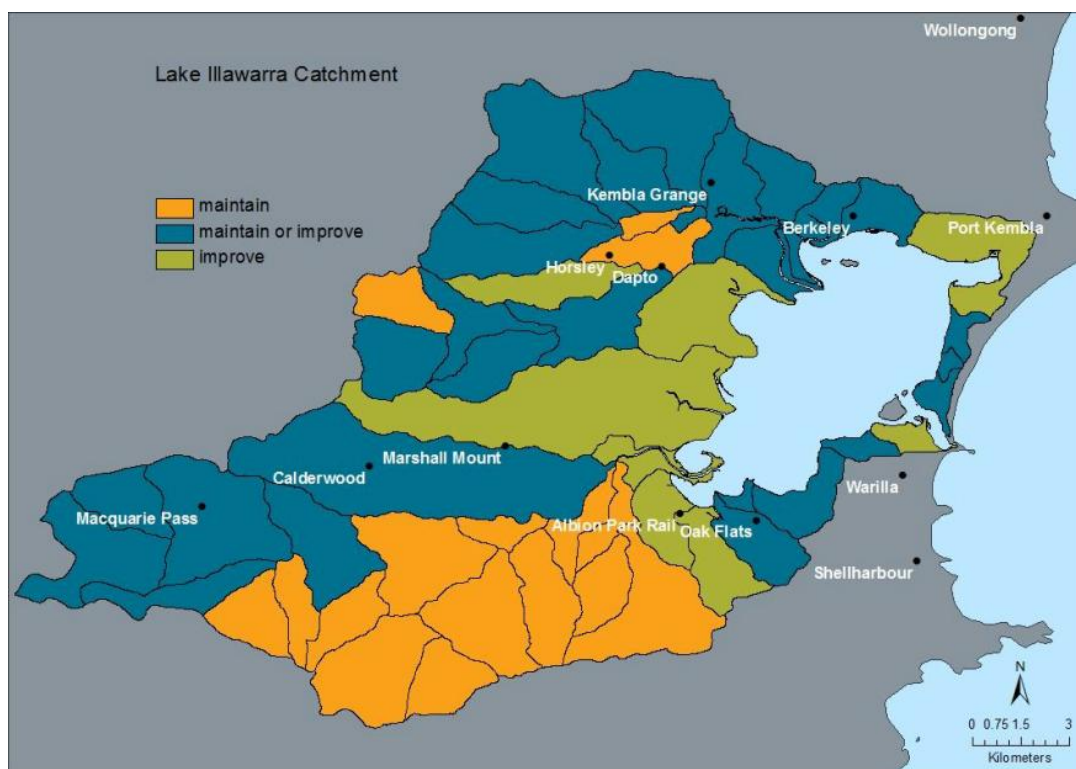
The Framework has already been applied to Lake Illawarra with two Actions being included in the Illawarra-Shoalhaven Regional Plan (5.4.2 and 5.4.3) as a result. Details are available as a case study in *The Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions* (OEH and EPA 2017). Key findings from applying the Framework were that:

- > The current pollution load reduction targets specified in Council's Development Control Plan (DCP) were insufficient to achieve as sustainable water quality outcome for Lake Illawarra;
- > Council had concerns regarding the cost of stormwater management;
- > The capital infrastructure and maintenance costs for traditional stormwater treatment, as well as land requirements, would be relatively large for greenfield developments in order to achieve sustainable water quality outcomes; and
- > Results indicated that there was a need to investigate more water sensitive approaches to stormwater management for greenfield development, such as stormwater harvesting and re-use schemes and restoration of riparian corridors.

Design and implementation plans were not developed as a part of the case study, however a benefit map identifying priority areas in the Lake Illawarra catchment for cost-effective stormwater management was produced. This benefit map has been reproduced in **Figure 3-1**.

Tallawarra falls within the "Improve" (green) area on the map. "Improve" areas identify areas in the catchment that pose the highest risk to waterway health, but are also where traditional stormwater management would improve the health of the lake cost-effectively. In these areas, reaching (or going beyond) the general set of stormwater pollution load reduction targets currently specified in Council's DCP would improve the health of Lake Illawarra. However, Tallawarra is also a greenfield development and stormwater harvesting and riparian management should also be considered as a beneficial effect on the health of Lake Illawarra.

Figure 3-1 Benefit map identifying priority areas in the Lake Illawarra catchment for cost-effective stormwater management



As detailed in the previous Technical Memorandum – Tallawarra Land Water Quality Requirements (Cardno 2019), improved stormwater pollutant load reduction targets for the Tallawarra Lands proposal have been specified. The targets reflect a balance between protecting Lake Illawarra and ensuring the sustainability of ongoing operation and maintenance of stormwater assets (that is, economic viability to the community and public benefit). These targets are considered to be in accordance with the objectives of the Framework as they meet recommendations for developments located within an “improve” zone identified on the benefits map developed in the Lake Illawarra Case Study.

Cardno have conducted conceptual water quality modelling using the software MUSIC to determine WSUD requirements for the Tallawarra Lands development. For details of the proposed treatment train, refer to the previous Technical Memorandum – Tallawarra Land Water Quality Requirements (Cardno 2019). Results demonstrate that the proposal meets the improved water quality targets (refer **Table 3-1**) and as such the proposal meets the requirements of the Framework.

In addition, the Tallawarra Lands future site-specific DCP will include stormwater re-use in the form of rainwater tanks and rainwater re-use provisions and new riparian revegetation of watercourses. This is in accordance with the recommendations of the Lake Illawarra Case Study for a greenfield development. Therefore it is expected that the proposal will result in a neutral or beneficial outcome on the water quality health and aquatic environment of Lake Illawarra.

Table 3-1 Pollutant Load Reductions for Lake Illawarra discharge from the proposed Tallawarra Development

Pollutant	Proposed Scenario Pollutant Load (kg/yr)	Residual Pollutant Load (kg/yr)	Total Pollutant Load Reduction (%)	Target Reduction (%)
TSS	87,600	6,970	92	90
TP	121	40.6	66.6	65
TN	975	483	50.5	50
GP	14,900	32.3	99.8	95

In summary:

- > water quality modelling and analysis has been done and demonstrates beneficial impacts can be achieved consistent with the Framework;

- > riparian lands will be protected and restored as already identified in the Concept Plan approval and this is not subject to modification; and
- > The Framework requires specific objectives and cost-effective measures to be adopted consistent with community values and these are best established through a publicly-exhibited site-specific DCP; and
- > Water quality targets, improvement strategies and measures will be included in the site-specific DCP required by Condition A5 to Schedule 2 of the Concept Approval.

No further conditions or modifications of the Concept Plan approval area required to address the Framework at this time.

4 Flood Impacts and Open Space

DPIE requested a specific response to the matters raised by Council regarding stormwater and the provision of open space. Specifically, information is required to clarify concerns about:

- > filling of the watercourse between the playing fields and the industrial land; and
- > removal or reduction in playing field west of the industrial land.

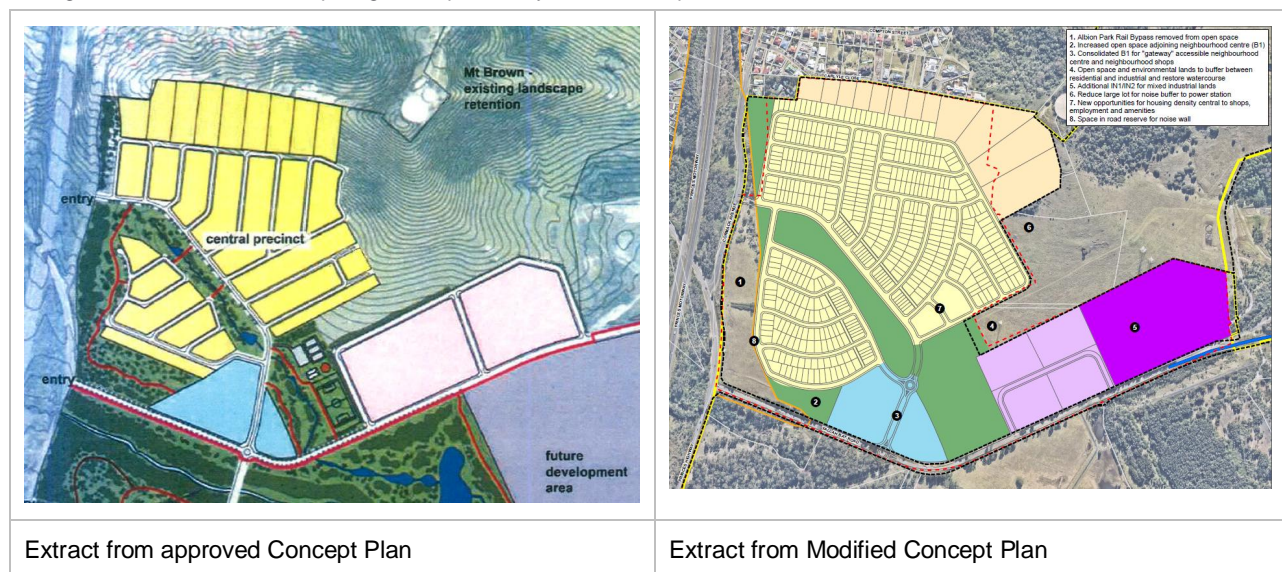
The location of the active public recreational space and playing fields within the Central Precinct is unchanged from the original Concept Plan and Concept Approval (see **Figure 4-1**).

The public recreation space and playing fields will be adjacent to the neighbourhood centre and east of an existing drainage depression. The drainage depression currently has no defined top of bank and is covered by exotic grasses. It is intended for the drainage channel to be re-contoured in accordance with a broader scale Flood and Stormwater Management Strategy. Condition 4 in Schedule 3 requires a Flood Risk Assessment and Management Plan to be submitted with the first future superlot subdivision application.

The natural drainage line will be landscaped consistent with a Vegetation Management Plan (VMP). A VMP is required to be submitted with the first future superlot subdivision application as required by Condition 10 Schedule 3 to the Concept Approval.

The final version of the Concept Plan shows a larger area of 'open space and environmental lands' east of the new industrial lands than previously approved. The comparison of the approval Concept Plan and the proposed modified concept plan is shown in Figure 4-1.

Figure 4-1 Extracts comparing Concept Plan layout of future sportsfields in the Central Precinct



In summary:

No changes are sought to the original Concept Plan with regard to the location of playing fields in the Central Precinct and Conditions 4 and 10 to Schedule 3 of the Concept Approval are adequate to require the necessary information to ensure flooding, stormwater and riparian treatment are compatible.

5 Roads and Connectivity

5.1 Background

Cardno and Bridgehill met with RMS on 9 August, 2019 and discussed all of the issues noted in correspondence from RMS and Council on transport and road-related matters. All matters were clarified and at the meeting and have now been resolved. The primary matters of concern highlighted in DPIE's letter of 27 July 2019 are addressed below and all other matters are addressed in **Appendix F**.

5.2 Traffic modelling, road upgrades and road design

DPIE, RMS and Council questioned the traffic modelling revisions including base data and road network assumptions to date. The data and analysis gap is due to further revisions to the modelling and design detail for the Albion Park Rail Bypass (APRB) project since the most recent version of the traffic and transport modelling for Tallawarra Lands. Furthermore the modifications to the Concept Plan and conceptual layout have changed the modelling inputs for future development.

Following our meeting, RMS granted Cardno access to the final design and data details for ABRB. This data was incorporated in the most recent revision of the traffic and transport analysis. The final version of the traffic and transport analysis is Appendix E.1 to this letter.

Of greatest concern to RMS in terms of traffic modelling was the Level of Service at intersections southbound exiting (offload) from the Princes Highway.

RMS noted Level of Service C at peak times would be essential to satisfy RMS requirements. The most recent revision of the APRB included a signalised roundabout at the easternmost roundabout to the southbound exit. This most recent APRB model had not been referenced in previous Tallawarra Lands traffic models. The modelling has been updated accordingly. This latest design has facilitated significant improvements in SIDRA intersection performance for future traffic movements as shown in the final traffic model in Appendix E.1.

The revised traffic modelling demonstrates that these south bound exits will perform in worse-case-scenario peak periods to Level of Service C or better based on an overly conservative traffic generation database. The revised modelling is therefore compliant with RMS requirements. See Appendix E.1 for details.

5.3 Haywards Bay Road link

Of concern to RMS, TfNSW and Council is the future of the link road between Yallah Bay Road and Haywards Bay. The importance of the road is related to:

- > connectivity between all three precincts;
- > connectivity with Haywards Bay and the new precincts
- > as an alternative collector route to the Princes Highway for Haywards Bay residents
- > the future provision of a bus route between the three precincts and to Haywards Bay within the local road network.

Fundamentally, RMS clarified that the primary concern is the link road would not be delivered and that the road would not have capacity for bus services.

Cardno and Bridgehill would like to emphasise that the modifications requested with this application in no way relate to the removal or deletion of the Haywards Bay Road link south of Yallah Bay Road.

We note that Condition B3 in Part B – Modifications to the current Concept Approval states as follows:

*"B3 Access Road and Bridge over Duck Creek to the Lakeside (Southern Precinct) from Yallah Bay Road
The access road and bridge over Duck Creek from Yallah Bay Road to the Lakeside Precinct must be deleted from the Concept Plan. Clause 8N(2)(b) of the Environmental Planning and Assessment Regulation 2000 prevents the Minister from being able to approve this roadway.*

(Note: The granting of approval for this road under Part 5 of the EP&A Act is not inconsistent with the term of this approval)."

We also note that Conditions 1 and 20 to Schedule 3 of the current Concept Approval require the delivery of the road link and state as follows:

"1 Access road and bridge across Duck Creek can be constructed"

The first application for development within the Lakeside (Southern Precinct) must be accompanied by documentation which demonstrates to the satisfaction of Wollongong City Council that an access road and bridge across Duck Creek, linking the northern boundary of the Precinct with Yallah Bay Road can and will be constructed at no cost to Council prior to the development of that Precinct."

"20 Road link with Haywards Bay required to be traffic calmed and to accommodate two-way movement of buses"

The future application which includes the Haywards Bay Road link shall demonstrate that the link can accommodate the two-way movement of buses and that it is traffic calmed to the satisfaction of Wollongong City Council."

We emphasise that this current application to modify the Concept Approval in no way seeks to delete the Haywards Bay Road link or change the abovementioned conditions of the approval.

The traffic modelling report includes the Haywards Bay link to be delivered at a time consistent with the existing Concept Approval requirements.

All versions of the modified Concept Plan have been prepared in order to be consistent with the abovementioned conditions. The final version of the modified Concept Plan is consistent with the existing conditions of the Concept Approval with regard to the Haywards Bay Road link. The conceptual road and lot layouts for the Central Precinct consistently show a roundabout located with the intention to provide a safely functioning connection to the Haywards Bay link road which has capacity for shared pathways and two way movement of buses. This roundabout is clearly shown in the Central Precinct Plan layout in Appendix A.

The Road Hierarchy Plan (Figure 5-7 in Appendix A) shows a collector road system will be delivered within the Central and Northern Precincts which is compatible with the Haywards Bay Road link by providing a clear and efficient collector road network to connect to the existing local road system and one connection point to the Princes Highway as required by Condition B2 to Part B – Modifications of the Concept Approval.

The existing and proposed bus networks are shown in Appendix A and also in the final Traffic and Transport Impact Report. These show the local bus services routes can be simply extended with efficient service loops in stages to match the development of each precinct. These bus network maps clearly show a two way, through link bus service can be connected through Haywards Bay via the Central Precinct and potentially connecting both north and south beyond the site.

5.4 Considerations of the Delivery of the Haywards Bay Road link with the Central Precinct

DPIE's letter of 25 July 2019 requested Cardno and Bridgehill give consideration as to how the Haywards Bay Road link could be delivered in conjunction with development of the Central Precinct.

Cardno and Bridgehill consider the existing conditions of the Concept Approval highlighted in Section 5.3 above are entirely adequate to ensure the road link is delivered in a manner consistent with the context of the overall project.

The first future superlot subdivision development will not propose or require any works. After the first future superlot subdivision is completed and land ownership has changed, subsequent development applications for each precinct will require separate landowners to undertake all relevant investigations for works (including but not limited to flooding and stormwater, contamination and remediation, revegetation) and negotiations for the delivery of public facilities and services at State and Local levels. This is specified in the Statement of Commitments and will be required for all future development applications proposing works and land uses. This modification does not seek to change the responsibilities of landowners to complete these obligations with future development applications.

The traffic modelling, road hierarchy plan and the bus routes maps in **Appendix A** clearly show that each precinct can be delivered to provide public road networks, share pathways and bus routes which will progressively integrate with the existing public transport and movement network. Furthermore, the current traffic and movement arrangements for Haywards Bay are not detrimentally impacted by the development of the Central and Northern Precincts. In this regard there is no clear nexus which requires the delivery of the Haywards Bay Road link with the development of the Central Precinct. Any such condition requiring the delivery of the Haywards Bay Road link with the Central precinct would likely fail the test of validity established in the House of Lords decision of *Newbury District Council v Secretary of State for the Environment* [1981] AC 578.

In fact, the best outcomes for the transport and movement network are for the Central and Northern Precincts to be delivered prior to the Southern Lakeside Precinct. This sequence will deliver the single connection point to the Princes Highway, the upgrading of Yallah Bay Road and collector road connections to

the north east all of which will then set up favourable routes for the later development of the Southern Precinct and for Haywards Bay.

At our meeting of 9 August 2019 RM agreed there is no expectation or requirement for the delivery of the Haywards Bay road link in conjunction with the Central precinct and that it is sufficient that the link road be constructed in conjunction with the development of the Southern (Lakeside) precinct.

5.5 Mechanisms to ensure Superlot Subdivision does not preclude delivery of the Haywards Bay Road link

DPIE's letter dated 25 July 2019 requested consideration of any mechanisms needed to ensure the first future superlot subdivision and separate land ownership would not preclude the delivery of the Haywards Bay Road link.

As explained in Section 5.3 above, the existing conditions and Statement of Commitments adequately address requirements for the future delivery of the road link. This modification application does not seek to change these conditions and commitments.

As explained in Section 5.4 above, the best outcomes from the sequential development of the precincts is for the delivery of the Central and Northern Precincts prior to the Southern Precinct. In this way, the collector road network and connections to the Princes Highway and to the north east will have been established with no detriment to Haywards Bay traffic and movement options. The Southern Precinct development will subsequently be capable of future connections north and south including bus and share pathway networks that will also benefit Haywards Bay.

No additional mechanisms are considered necessary.

In no way will the proposed modifications preclude the future delivery of the Haywards Bay Road link in accordance with the existing conditions of the Concept Approval and Statement of Commitments.

5.6 Road Connection between Central and Northern Precincts

DPIE's letter dated 25 July 2019 emphasises the importance of Yallah Bay Road linking the Central and Northern Precincts and requested the road be labelled a "collector road".

The "collector road" label has been clearly included in all relevant revised figures and the final version of the modified Concept Plan and conceptual layouts for the Northern and Central Precincts as shown in Appendix A. This matter has been resolved and the status of the road will be matched by reference to the modified Concept Plan in the modified version of the Concept Approval.

5.7 Additional Follow up with RMS

Version 1 of the final RtS dated 13 September 2019 was submitted to RMS. Preliminary feedback from RMS on Version 1 is summarised as follows (and a copy of RMS comments is included in Appendix E.2):

- *Noise mitigation measures*
- *Cormack Avenue closure*
- *Intersection of Yallah Bay Road / Princes Highway.*

5.7.1 Noise Mitigation Measures

A teleconference was held between Cardno's Project Manager, Acoustic Consultant ERM and RMS staff on 21 October 2019. The discussion focussed on the previous issues raised by RMS regarding noise attenuation for new dwellings at the interface with the APRB. RMS requested information on the safeguards to be in place to ensure RMS would not be burdened with the construction of the noise wall and that acoustic attenuation methods would not encroach upon the RMS road corridor.

Cardno and Bridgehill have provided assurance to RMS that detailed noise impact assessment will be undertaken with a future development application for the subdivision of residential lots in close proximity to the RMS road corridor. Noise impact assessment would include:

- *Noise modelling of highway noise impacts (taking into account approved highway upgrade alignment and future traffic volume growth) on the allotment layout design taking into account proposed landform geometry and positioning of dwellings.*

- Receiver noise levels assessed with reference to the Road Noise Policy Criteria (EPA 2011) and relevant RMS road noise modelling and mitigation guidelines

Noise modelling of the allotment design will inform the need for mitigation such as noise barriers and/or architectural treatments to achieve external and internal noise criteria. Noise attenuation measures will be reflected in potential conditions of development consent applying to the land of the Central Precinct the subject of the future application.

Cardno has received an email from Con Tsitsos – RMS Environmental Officer – dated 31 October 2019 confirming that the above assurances is satisfactory (see Appendix E.2).

5.7.2 Cormack Avenue Closure

RMS sought confirmation that Cormack Avenue is to be closed as part of the development of the Central Precinct and that any required works will be completed prior to the issue of a Subdivision Certificate for smaller residential lots in the Central Precinct.

Closure of Cormack Avenue is part of the works identified for future traffic management.

Similar to noise attenuation measures, the timing of the closure of Cormack Avenue will be addressed with a future development application for subdivision of residential lots in the Central Precinct. Each future development application for subdivision will be accompanied by a development-specific Traffic Impact Assessment (TIA). Future TIAs will be consistent with the TIA submitted for the Concept Approval to date and any other future TIA associated with further subdivision of the site.

The site-specific DCP to be submitted with the first future superlot subdivision application will also include a road layout and hierarchy plan which is intended to indicate the closure of Cormack Avenue. The Draft site-specific DCP will be subject to public exhibition and referral to RMS for comment.

RMS can be assured that the closure of Cormack Avenue will be included in the site-specific DCP and a future development application for subdivision of residential lots in the Central Precinct.

5.7.3 Intersection of Yallah Bay Road and Princes Highway

RMS sought clarification as to the intersection design for Yallah Bay Road and the Princes Highway to ensure compatibility with the approved design and modelling for the APRB.

The Tallawarra TIA includes scenarios for traffic modelling where the Northern Interchange is not in place, that is, Scenarios 1, 3 and 5 as per the TIA (Cardno Report Rev 4 dated 18 April 2019). These scenarios are an alternate to the full roundabout proposed as part of the Albion Park Rail Bypass (APRB). With this in mind, Cardno looked at treatment options for this intersection. To maintain a level of service C or better, a signalised intersection using the existing road geometry was modelled in the updated report (see Appendix E1). It has been assumed that once the northern interchange is constructed, this intersection would be upgraded to the proposed design that has been approved as part of the APRB.

As explained above, future subdivision development applications will include development-specific TIAs and will be consistent with the TIA submitted for the Concept Approval to date. The intersection treatment will be designed appropriate to the stage of the subdivision as detailed in the scenarios of the TIA.

5.8 Summary of Response to Key Issue 5

The final version of the Traffic Impact Assessment is included in Appendix E and demonstrates full compliance with the requirements of RMS.

Existing conditions of the Concept Approval will ensure the delivery of the Haywards Bay Road link and this modification application does not seek to change these conditions.

It is unreasonable to require the delivery of the Haywards Bay Road link with the development of the Central Precinct particularly given that existing conditions of consent are entirely appropriate.

The best development sequence is for the delivery of the road network connections of the Central and Northern Precincts prior to the delivery of the Southern Precinct as the Central and Northern Precincts have no detrimental impacts for transport and movement options for Haywards Bay. Furthermore, the delivery of the Southern Precinct stands to benefit from transport connections established prior by the Central and Northern Precincts. Similarly, Haywards Bay stands to entirely benefit from transport infrastructure and services which will be established prior by the Northern and Central Precincts.

The conceptual layouts for the Central and Northern Precincts accommodate for the future connection of the Haywards Bay Road link with Yallah Bay Road and the broader road and movement network.

In no way will the proposed modifications preclude the delivery of the Haywards Bay Road link.

Noise attenuation for development of the Central Precinct will be subject to DA-specific noise impact assessment with a future development application for residential subdivision of land within the Central Precinct. Noise attenuation must be contained within the site and be the subject of future development applications.

Cormack Avenue will be closed. The closure is anticipated to be shown in the road layout and hierarchy plan with the site-specific DCP and delivered as part of a future subdivision development application.

The intersection design for Yallah Bay Road and the Princes Highway has been modelled based on future staged scenarios as detailed in the TIA. The intersection design is compatible with the final design and delivery plan for the APRB.

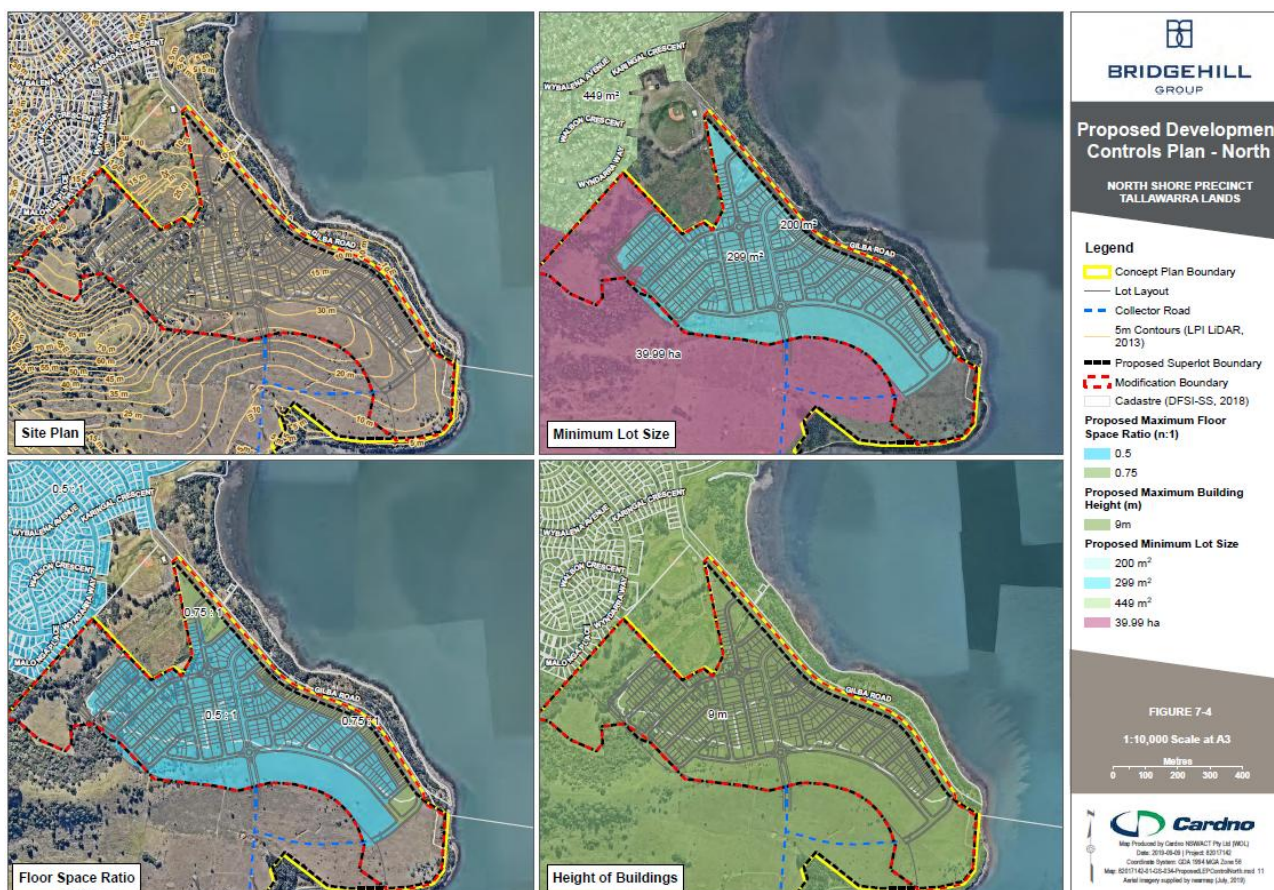
6 Northern Precinct Residential Flat Buildings

DPIE's letter of 25 July 2019 recommended relocation of large lots for potential residential flat buildings from the foreshore of the Northern Precinct to the Central Precinct in the vicinity of the Neighbourhood Business zone.

The conceptual layout and proposed development controls graphics show these adjustments have been made. The large lots in the Northern Precinct are proposed to have the same Height of Buildings and Floor Space Ratio controls as the remainder of the foreshore area (see **Figure 7-4** in **Appendix A** – an extract of which are included in **Figure 6-1** below). The large lots will be available for medium density residential development to maintain a variety of housing styles within the Northern Precinct. These sites are adjacent to the foreshore public open space and shared pathway. The future potential bus service route (an extension of the existing Service Route 33) can have stops on the roads fronting these lots.

Clause 7.14 Minimum site width to Wollongong Local Environmental Plan 2009 (WLEP 2009) requires a minimum site dimension of 24 metres. The conceptual layout shows these lots are capable of compliance. Further specific dimensions will be finalised with a future development application.

Figure 6-1 Extract of conceptual lot layout (Figure 7-2) and development controls (Figure 7-4) for the foreshore area of the Northern Precinct showing potential medium density allotments

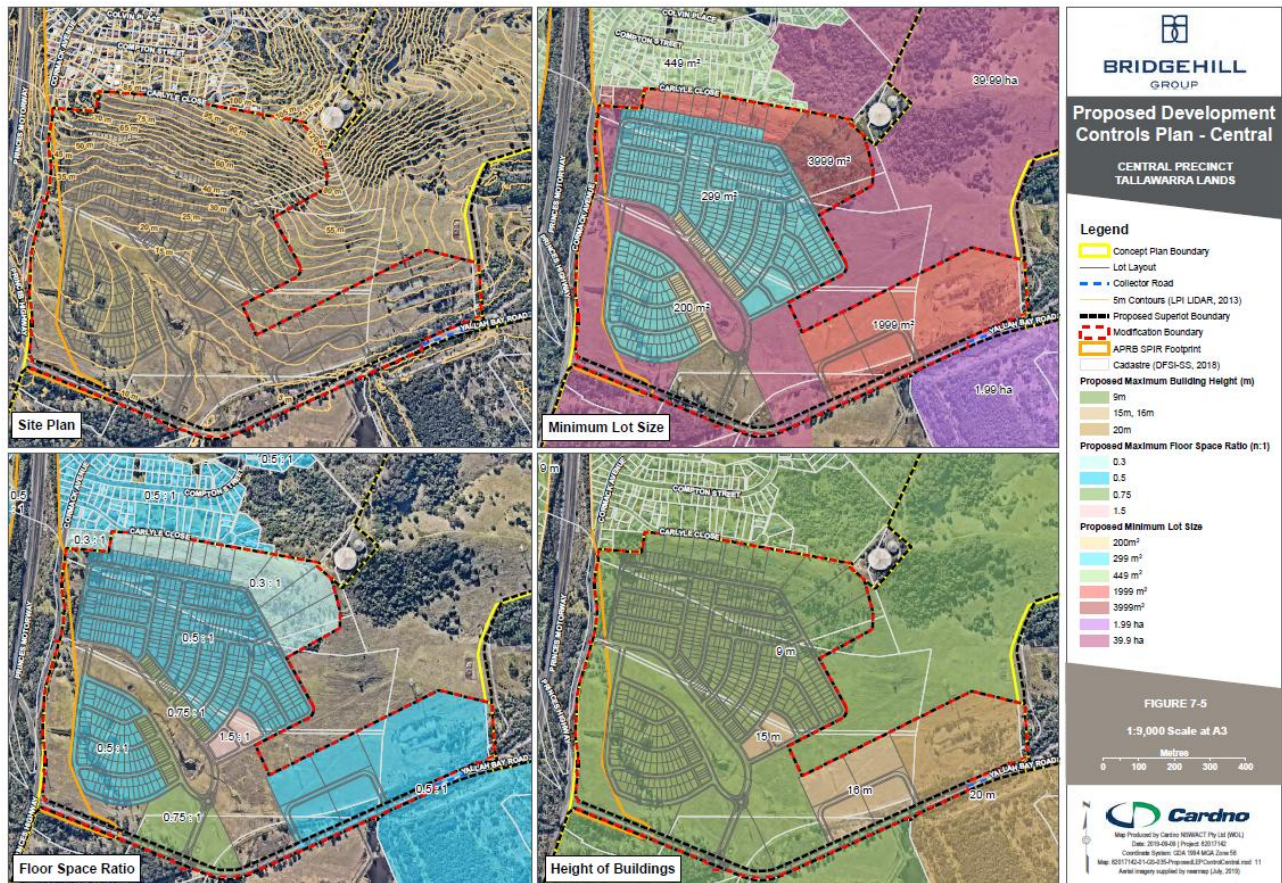


Two large lots suitable for residential flat developments have been added to the Central Precinct (see **Figure 7-5** in **Appendix A** – an extract of which are included in **Figure 6-2** below). The two large lots are less than 400m walking distance to the neighbourhood centre, public playing fields and the restored riparian corridor. They are also within walking distance of the employment lands. The proposed extension to existing Bus Route 43 can travel immediately adjacent to these lots and future bus stops at the neighbourhood centre would be less than 400m from these lots.

The development controls propose a floor space ratio (FSR) of 1.5:1 and a Height of Buildings Control of 15m. *Clause 7.14 Minimum site width* to WLEP 2009 requires a minimum site dimension of 24 metres. The

conceptual layout shows these lots are capable of compliance. Further specific dimensions will be finalised with a future development application.

Figure 6-2 Extract of development controls (Figure 7-5) for that part of the Central Precinct close to the neighbourhood centre showing allotments suitable for residential flats



7 Bushfire

DPIE repeated the concern of NSW RFS regarding the adjoining Council-owned public reserve Lot 1 DP 588318 adjoining the Northern Precinct. Specifically, the RFS stated if a Plan of Management did not apply to this public reserve then a perimeter road along the shared boundary would be recommended.

The Council reserve is identified as Park Reference No. 638 and named Hector Harvey Park. It is classified as Community Land and is subject to Wollongong Council's Generic Plan of Management 2018 for the Community Land of Wollongong City Council (POM 2018). Bushfire hazard management is identified as a management responsibility of Council in the POM 2018. The POM is supported by Council's adopted Bushfire Risk Management Plan and Bushfire Operations Plan. Bushfire hazard management is financed and scheduled through Council's Operational Plan.

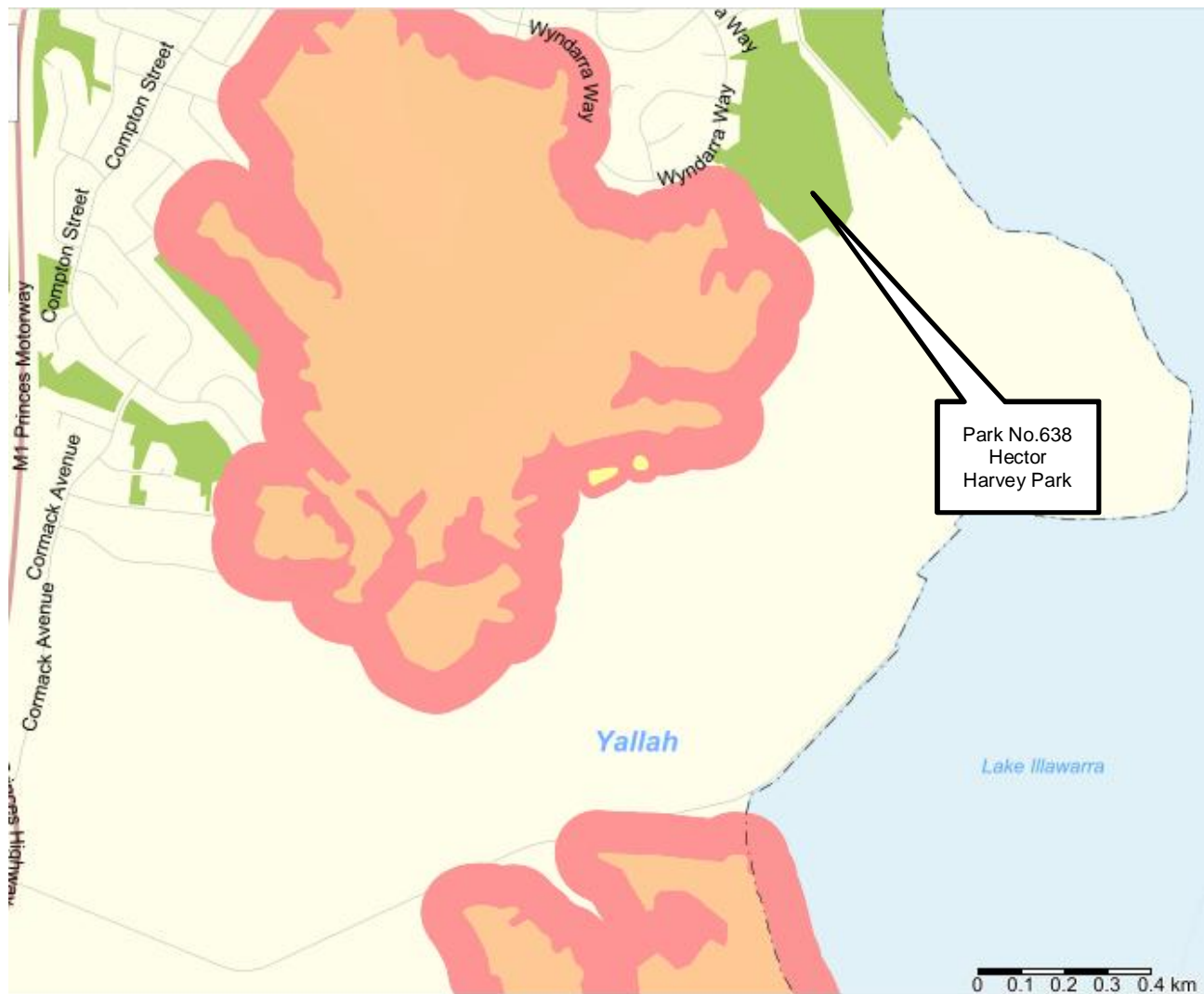
Therefore, the adjoining Community Land is subject to a POM and Council has identified its responsibility to manage bushfire risk on that land.

Furthermore, Bushfire Consultants Peterson Bushfire have reviewed the final conceptual layout for the Northern Precinct. As confirmed in an email from Petersen Bushfire Consultants (see Appendix G) the nearest new dwellings to Park No.638 Hector Harvey Park can be managed in perpetuity with an asset protection zone (APZ). The APZ can be located within the private residential lots adjoining Park No.638. An analysis of slope, aspect and vegetation type by Peterson Bushfire Consulting has confirmed an APZ 10m wide and maintained to an 'inner protection zone' standard would meet the requirements of the NSW RFS Guide '*Planning for Bushfire Protection 2016*'. The email from Peterson Bushfire Consulting is included in **Appendix G**.

APZs would require an area 10m wide within a private lot and adjacent to the boundary shared with Park No.638. The area would be maintained with minimal fuel loads and provide a defensible space between a future dwelling and the potential source of bushfire hazard. A 10m APZ can be registered on the title of a residential lot with prescribed standards for the maintenance of the land. Future residential lots can accommodate a building envelope clear of a 10m APZ at the rear of a lot.

Notwithstanding the above, **Figure 7-1** is an extract from Wollongong Council's Bushfire Prone Land Maps and shows the location of land identified as potential hazard in and adjoining the Tallawarra Lands. Future development applications (other than the first future superlot subdivision application) may be integrated and require concurrence from NSW RFS and the most appropriate measures for bushfire hazard management will be determined with those future DAs.

Figure 7-1 – Extract from Wollongong Bushfire Prone Land Map



8 Other Matters

DPIE's letter of 25 July 2019 acknowledged pending adjustments to the boundaries of the Central and Northern Precincts were anticipated based on:

- > Refinement of the land areas subject to future purchase by Bridgehill; and
- > Clearance for the protection of Item PAD 52-5-0523

DPIE expressed concern that irregular precinct or allotment boundaries should be avoided.

The adjustment for clearance from PAD 52-5-0523 has not created prominent "irregularities" and is consistent with the requirements of the DPIE (see Figure 2-1).

The adjustments to precinct boundaries to adjust for future ownership transfer are shown in detail in Figures 8-1 and 8-2 below.

Figure 8-1 shows the adjustments made to the Northern Precinct and the total land areas associated with the adjustment. The adjustment is partly within land affected by the noise contours and identified for future public open space. Figure 8-2 shows the adjustments to clarify future land transfer. The area in the north east portion of the Central Precinct has also been adjusted to provide clearance from PAD 52-5-0523 as shown in Figure 2-1.

Figure 8-1 Adjustments to the Northern Precinct boundaries to facilitate land transfer

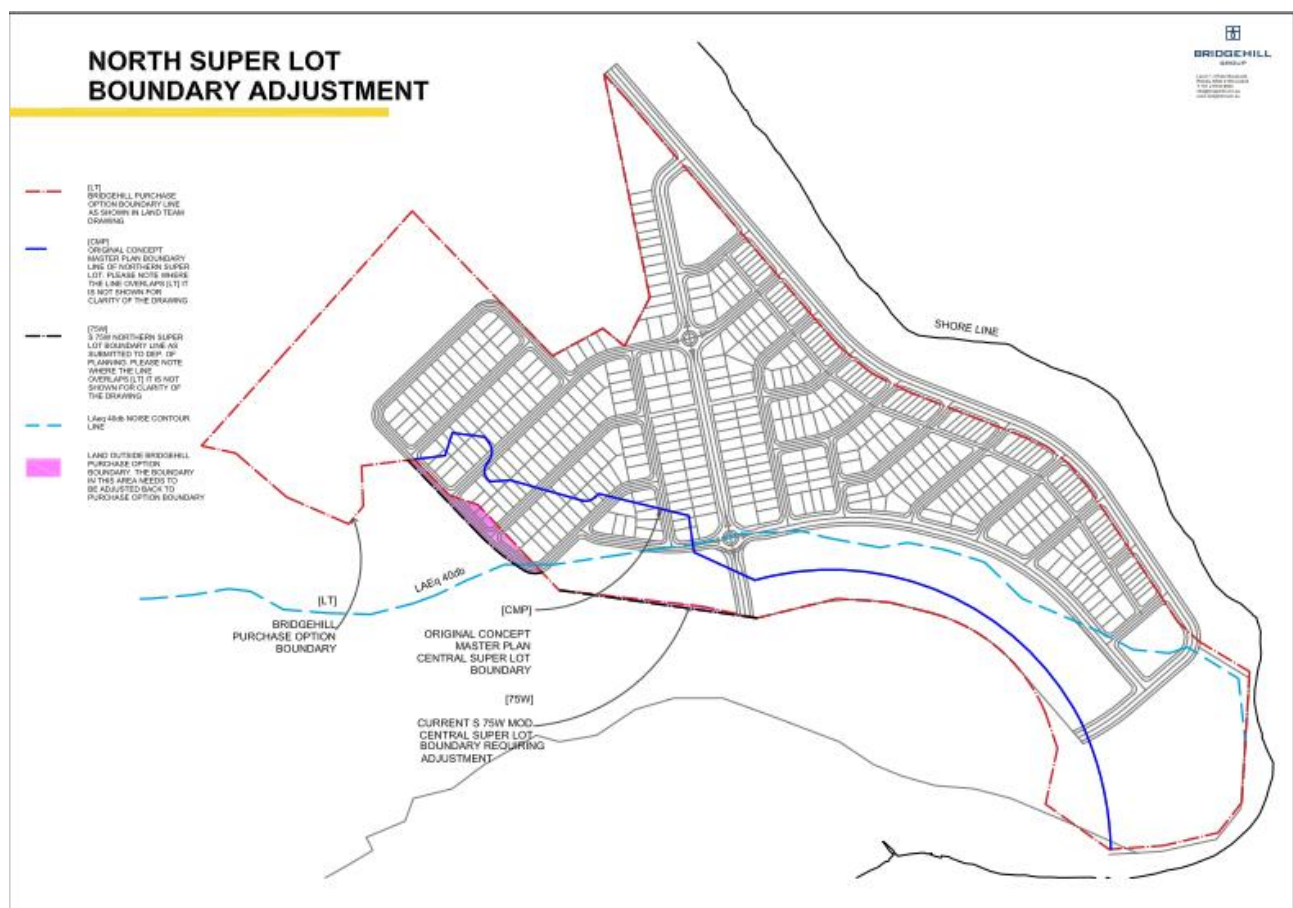
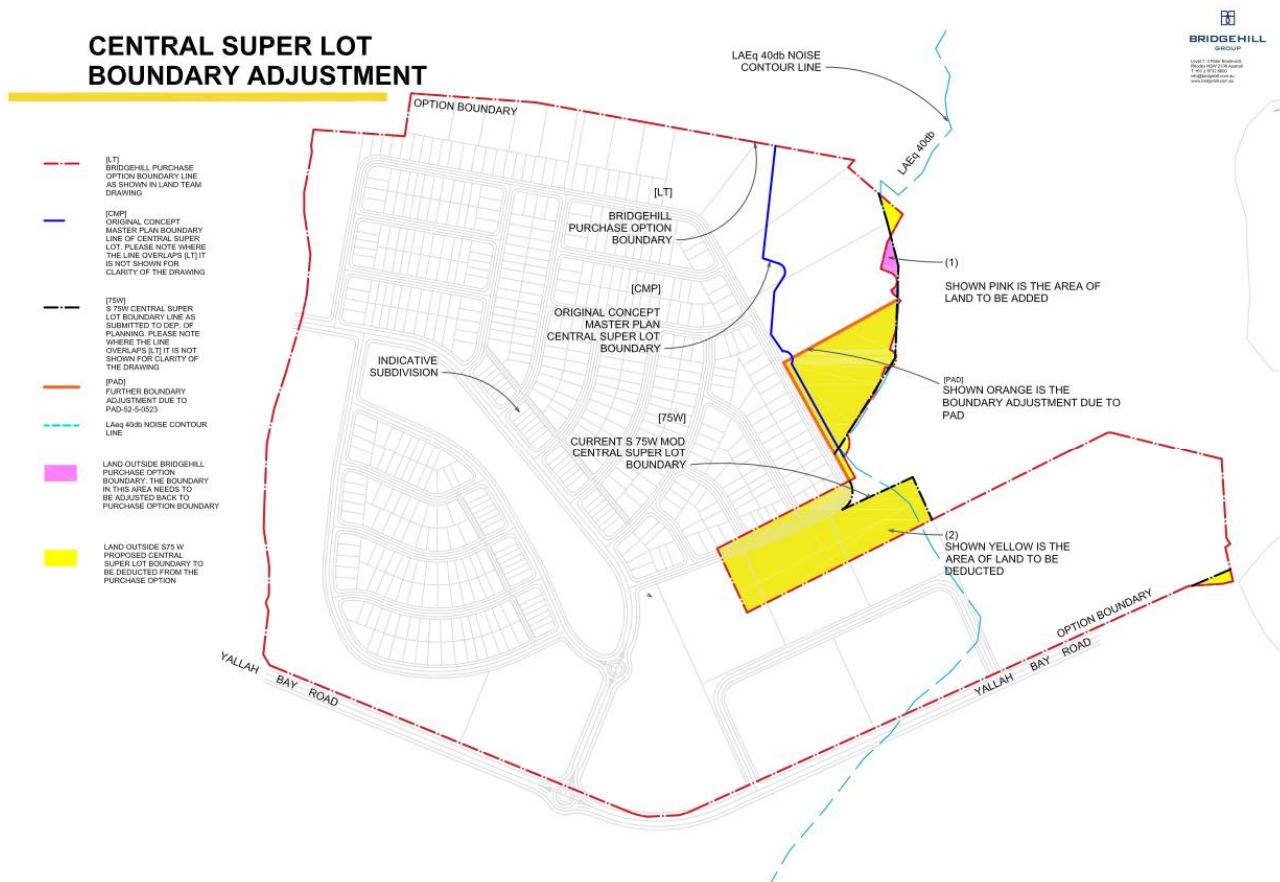


Figure 8-2 Adjustments to the Central Precinct boundaries to facilitate land transfer



The resultant boundaries to the Central and Northern Precinct could not be considered unduly “irregular”. As demonstrated by the conceptual lot layout, the revised boundaries of the Central and Northern Precincts do not have detrimental consequences for potential future lot and road layouts. Road layouts are typically conventional grid and permeable networks responsive to the topography and natural catchment dynamics of the site. Lots are reasonably regular whilst maintaining variety on dimensions, orientation, slope and aspect which further enhances the variety of housing and design responses for future dwellings.

In summary – the final adjustments to the precinct boundaries do not have potential to reduce efficiency of future subdivision, the provision of buildable allotments and the layout of conventional road networks.

9 Non-Key Issues

As requested by DPIE, the non-key issues raised by other agencies in response to the second round of consultation have been summarised in a table in **Appendix F**. As shown in the right hand side column of the table – all issues have been addressed and resolved to the extent possible with this application to modify the Concept Approval. In some cases, the issues raised can only be addressed with subsequent future development applications and where this is the case it is identified in the table.

We trust this information comprehensively addresses the issues raised in the assessment of the modification application and that DPIE are now able to finalise the assessment and determination. Should you require any clarification or additional information please contact me direct or contact the Project Manager Adam Clarke – Manager Civil Infrastructure on Phone (02) 4231 9629 or by email to adam.clarke@cardno.com.au

Yours sincerely,



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Enc: Appendix A
Appendix B
Appendix C
Appendix D
Appendix E
Appendix F
Appendix G
Appendix H

APPENDIX

A

FINAL FIGURES, MAPS AND CONCEPT PLAN
SUPPORTING THE MODIFICATION APPLICATION