

Item 8: Development

8.1 ME0018/2022 Modification to DA0191/2021 - 209 Robertson Road, Spring Flat (Torrens Title Subdivision - Two Additional Lots)

REPORT BY THE DUTY TOWN PLANNER
 TO 20 APRIL 2022 ORDINARY MEETING
 GOV400098, DA0191/2021

RECOMMENDATION

That Council:

- A. receive the report by the Duty Town Planner on the ME0018/2022 Modification to DA0191/2021 - 209 Robertson Road, Spring Flat (Torrens Title Subdivision - Two Additional Lots) ; and
- B. approve ME0018/2022 Modification to DA0191/2021 - 209 Robertson Road, Spring Flat (Torrens Title Subdivision - Two Additional Lots) subject to the following conditions and Statement of Reasons (with amendments shown in blue text):

CONDITIONS

PARAMETERS OF CONSENT

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein.

Title/Name	Drawing No/ Document Ref	Revision/ Issue	Dated	Prepared by
Figure 1 – Proposed Subdivision	BK630 – Sheet 1 of 3	-	14/07/2020 1/12/2021	Robert John Crooks
Figure 2 – Proposed Services	BK630 – Sheet 2 of 3	-	1/12/2021	Robert John Crooks
Figure 3 – Proposed Services Crossing Diagrams	BK630 – Sheet 3 of 3	-	1/12/2021	Robert John Crooks
Figure 1 – Proposed Subdivision Stage 1 Lots 1-11	BK630 – Sheet 1 of 2	-	1/12/2021	Robert John Crooks
Figure 2 – Stage 1 Proposed	BK630 – Sheet 2 of 2	-	1/12/2021	Robert John Crooks

Services Crossing Diagrams				
Proposed Site Plan	TX14774.00 – C2.01	A	14/08/20	Triaxial Consulting
Road xxx Longitudinal Sections – Sheets 1	TX14774.00 – C5.00	A	14/08/20	Triaxial Consulting
Lot 1 Services Plan	TX14774.00 – SK01	A	02/12/21	Triaxial Consulting
Plenty Road Longitudinal Sections – Sheets 1	TX14774.00 – C5.10	A	12/04/21	Triaxial Consulting
Road 2 – Profile – 1	TX14774.00 – C5.50	1	25/11/21	Triaxial Consulting
Stormwater Management Plan	TX14774.00 – C6.00	B	12/04/21	Triaxial Consulting
Drainage Details	TX14774.00 – C6.50	0	25/11/21	Triaxial Consulting
Sewer Plan	TX14774.00 – C7.00	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.01	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.02	B	12/04/21	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.03	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.04	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.05	A	14/08/20	Triaxial Consulting
Water Plan	TX14774.00 – C8.00	B	12/04/21	Triaxial Consulting

MODIFIED BY ME0018/2022

2. This consent does not permit commencement of any site works. Works are not to commence until such time as a Subdivision Works Certificate has been obtained.
3. This consent does not include approval for the removal of any trees.

GENERAL

4. Proposed Lots 1 to **25 27** are to have a minimum area of 2,000 m².
MODIFIED BY ME0018/2022
5. The strength of the concrete used for any concrete components in the development must be a minimum 25 Mpa.

6. All *Acacia ausfeldii* (Ausfeld's Wattle) plants located within proposed Lot 1 are to be retained and conserved.
7. No trees are to be removed from within the Plenty Road reserve. No trees on the road or parks reserves shall be removed during construction of the subdivision works including the erection of hoardings and fences without Council's approval. Care must be taken to ensure that no trees are damaged either above or below ground level.
8. Street trees of an approved species are to be provided at a rate of two (2) trees per allotment.
9. All General Terms of Approval issued in relation to the approved development, shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- a) General Terms of Approval, issued by NSW Rural Fire Service, for a Bush Fire Safety Authority in accordance with Section 100B of the *Rural Fires Act 1997*.
 - b) General Terms of Approval, issued by the Natural Resources Access Regulator, for a Controlled Activity Approval in accordance with Section 91 of the *Water Management Act 2000*.
10. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
 11. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
 12. The only waste derived material that may be received at the development site must be:
 - a) Virgin excavated natural material, within the meaning of *Protection of the Environment Operations Act 1997*; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.
 13. Where discrepancies between the Drawings, current amended Development Consent or Council's Development Control Plan occur, the works must comply with the written requirements of the current Development Consent.
 14. In accordance with Council's Development Control Plan, Council does not permit the following types of development over an existing sewer main or easement for sewer/stormwater drainage:
 - a) Erection of permanent structures,
 - b) Cut or fill of land,
 - c) The planting of trees, or
 - d) Concrete structures

Footing design must ensure that footings extend below the zone of influence to ensure that no load is placed on infrastructure.

Stormwater

- 15. The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development.**
- 16. All stormwater runoff from roof and developed surfaces is to be controlled in such a manner so as not to flow or discharge over adjacent properties. Methods of disposal of excess stormwater including overflow from tank must also include adequate provision for prevention of erosion and scouring.**
- 17. Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with AusSpec #1.**
- 18. A grated pit of 600 x 600 mm with glue capped 90mm stormwater stub, is to be provided on the lower corner of every allotment for which roof and paved areas can't be drained naturally to public roadway or natural watercourse.**

Water and Sewer

- 19. The developer is to provide separate water and sewer reticulation services to each lot.**
- 20. The developer is to extend and meet the full cost of water and sewerage reticulations to service the new lots plus the cost of extending and connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act 1993) and in accordance with the *National Specification – Water Supply Code of Australia, National Specification – Sewerage Code of Australia, AS/NZS3500: Plumbing and Drainage* and any other applicable codes.**
- 21. Where the sewer main is located outside of the residential block, the service tie shall extend inside the property boundary and an inspection shaft extended vertically upward to the surface ground level to form the boundary riser. The tie should generally be located on the sewer main line at 1.0 metre from the lowest corner of the property and extend 1 metre into the boundary.**

Electricity Supply

- 22. Underground electricity, street lighting and telecommunications is to be supplied to the Subdivision in accordance with the relevant authority's standards. Each allotment is to be provided with a service point/connection to an electricity supply.**

TransGrid Conditions

- 23. TransGrid shall be notified of any amendments/modifications to the proposal which may change proposed distances to TransGrid structures or conductors.**
- 24. All works must be carried out in accordance with *NSW WorkCover 'Working Near Overhead Powerlines' Code of Practice 2006*.**
- 25. All fencing (including temporary fencing) must comply with TransGrid's Fencing Guidelines.**
- 26. Pits or pillars to connect the electricity supply to residences cannot be located within the TransGrid electricity easement.**

Roads and footpaths

- 27. Construction and extension of Plenty Road and the New Internal Proposed Road must be undertaken generally in accordance with the approved Drawings, Engineering Design and AUS-SPEC #1 & 2.
- 28. Road pavements are to be designed by a suitable qualified engineer in accordance with AUSTRoads procedures. Materials and testing requirements shall comply with those set out in *AUSPEC Construction Specification* with sample locations selected as per *RMS Specification Q4*.
- 29. The proposed extension to Plenty Road is to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	9m (2 x 3.5m travel lanes and 2 x 1m sealed shoulders, measured from invert to invert).
Nature Strip (verge)	4.5m
Concrete Footpaths	1.2m wide to extend the full length of Plenty Road (2.5% slope)
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb and gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events of adjacent to intersections. To be installed behind kerb.

- 30. The proposed cul-de-sac road in the subdivision is to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	9 m (2 x 3.5m travel lanes and 2 x 1m sealed shoulders, measured from invert to invert)
Cul-de-sac	Radius not less than 10m
Nature Strip (verge)	2 x 4.5m
Concrete Footpaths	1.2m wide to extend the full length of new road (2.5% slope)
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb and gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections. To be installed behind kerb.

- 31. A minimum 1.2m wide and 100mm thick concrete footpath is to be constructed along one side of the entire length of the proposed road/cul-de-sac and extended to connect to the existing footpath in Plenty Road.

32. One roof-water outlet per allotment is to be provided in the kerb and gutter 2m from the downhill boundary at the time of installation of kerb and gutter and shall be of no less a quality than kerb adaptors kept at Council's Administration Centre as a guide.
33. Where footpaths are provided the roof-water outlet shall be extend under the footpath and extend past the edge of the footpath sufficient to allow connection.
34. Street signs necessitated by the subdivision are to be installed in accordance with AUS-SPEC #1 and Council standards.

PRIOR TO ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

35. Prior to the issue of a Subdivision Works Certificate, amended plans are to be submitted to and approved by Council to address the following matters:
 - a) The design for stormwater must demonstrate that the gutter flow calculation complies with the requirements of *Mid-Western Development Control Plan 2013*.
 - b) The road pavement width must be measured from invert to invert of kerb.
 - c) Kerb return detail must be submitted.
 - d) Cul-de-sac geometry details are to be submitted and must not be less than 10m radius.
 - e) Footpath details.
 - f) Kerb ramp details along with construction details.
 - g) Kerb and gutter details.
 - h) Kerb inlet pit detail.
 - i) Splay of corner lot details.
36. Prior to the issue of a Subdivision Works Certificate, a detailed engineering design is to be submitted to and approved by Council. The engineering design is to comply with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document. A Subdivision Works Certificate is required for, but not limited to, the following civil works:
 - a) Water and sewer extensions, and connections to each lot;
 - b) Stormwater drainage, including inter-allotment drainage, detention basins and bio-retention devices;
 - c) Road construction including shoulder;
 - d) Kerb and gutter;
 - e) A 1.2m wide concrete footpath along the cul-de-sac road and the extension to Plenty Road;
 - f) Earth works for the subdivision; and
 - g) Landscaping of road verges and public reserves.
37. Prior to the issue of a Subdivision Works Certificate, the developer must submit to and obtain approval from Council, detailed design and documentation of the proposed sewer reticulation system. The details are to address the following:
 - a) Demonstrate that the proposed sewer reticulation system has minimum grade requirements for sewer with a fall of no less than 1% and having no detrimental effect on flow rates and the ongoing operation of Council's existing infrastructure; and
 - b) A report outlining the proposal to provide a waste water service to each lot within the proposed subdivision. The report is to be prepared in accordance with *the*

Gravity Sewer Code of Australia WSA02-2014. Where pressure sewer is being proposed, the report is to be prepared in accordance with the Pressure Code of Australia WSA 07-2007.

38. Detailed design supported with calculation of water reticulation plan is to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate. The design must address water network crossing culvert and drainage reserve to get connected to water main available at Lovett Court. The design must address the following, but not limited to:
- a) Air valves, hydrants and air valves must be provided along the length of the main according to the *Water Supply Code of Australia WSA 03-2011*.
 - b) The alignment of the main entering the new subdivision is to be at a 90 degree bend instead of two 45 degree bends. The main is to turn the corner with a tee instead of an elbow. The section of the tee facing to the west is to have a stop valve which is to be blanked out on the side of the valve that faces Robertson Road. Stop valves are to be installed on all sides of this tee.
 - c) The tee turning the corner is to have a temporary thrust block installed according to *Water Supply Code of Australia WSA 03-2011*. This thrust block would comprise of wood or other material deemed appropriate by Council's Water and Sewer Department.
 - d) Right hand close valves are to be used for all stop valves within the subdivision.
 - e) A report outlining the proposal to provide a water supply service to each lot in the subdivision. The report is to be prepared in accordance with the *Water Supply Code of Australia WSA 03-2011*.
39. A construction management plan shall be submitted with the application for the Subdivision Works Certificate. The management plan shall include:
- a) Details of sedimentation and erosion control.
 - b) Details of haulage routes shall be provided to Council for approval.
Note - all trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.
 - c) Details of dust mitigation.
 - d) Details of access roads.
 - e) Location and phone number of the site office.

Reason - to reduce the environmental impact on the site during the construction period.

40. A Drainage Report in support of detailed drainage design must be prepared in accordance with the Institution of Engineers publication *Australian Rainfall and Run-off* and be submitted to the Principal Certifier for approval prior to the issue of a Subdivision Works Certificate. The Drainage Report is to address the following:
- a) Show that the development will not increase the limits of upstream and downstream flooding for floods over the range of 1 in 1 year to 1 in 100 year Average Recurrence Interval (ARI) storm events by the inclusion of on-site stormwater detention controls;
 - b) The provision of a water quality control system to treat the stormwater runoff from the development as outlined in *Mid-Western Regional Development Control Plan 2013 - Water Quality Performance Guidelines and Statement of Environment Effects*;

- c) A detailed drainage design must be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details of on-site storage and the method of controlled release from the site and connection to an approved drainage system in accordance with Council's Development Engineering Specifications;
 - d) A full and detailed stormwater management plan for the site, satisfactory to Council, is to be submitted which must be accompanied with analysis of the upstream contributing areas, tributaries and overland flow-paths considering all impacted drainage flows, adjacent and/or downstream properties, structures, infrastructure and downstream receiving systems;
 - e) The detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development prepared by suitably qualified and experienced person in the field of hydrology and hydraulics including water quality modelling (MUSIC) results;
 - f) Inter-allotment drain is to be designed to accept the concentrated drainage from buildings and paved areas on each allotment to provide for no less than flow rates generated by 1:20 year ARI storm event in accordance with BCA requirements;
 - g) Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property; and
 - h) Show a grated pit of 600 x 600 mm with glue capped 90mm stormwater stub, provided on the lower corner of every allotment for which roof and paved areas can't be drained naturally to public roadway or natural watercourse.
41. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with certified copies of the Electrical and Telecommunications Design for the subdivision including a layout design complying with the allocations determined by Section 6.2 of the *Streets Opening Conference Guideline 2009*.
42. Prior to the issue of the Subdivision Works Certificate, consent from Council must be obtained for all new works within the road reserve, pursuant to section 138 of the *Roads Act 1993*.
43. Prior to the issue of a Subdivision Works Certificate, a Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.
44. Where it is proposed to import fill, the material shall be free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*. All finished surface levels and contours to Australian Height Datum (AHD) shall be shown on the plans submitted for the Subdivision Works Certificate.
45. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of *Soils and Construction – Managing Urban Stormwater*. Points to be considered include, but are not limited to:
- a) Saving available topsoil for reuse in the revegetation phase of the development;
 - b) Using erosion control measures to prevent on-site damage;
 - c) Rehabilitating disturbed areas quickly;

- d) Maintenance of erosion and sediment control structures; and
- e) Disturbed areas are to be seeded, fertilised and hay mulched or similar on completion of regrading works. Disturbed areas are to be progressively revegetated with exposed areas kept to a workable minimum.

46. Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping. Details shall be submitted to and approved by Council prior to release of the Subdivision Works Certificate.

Reason - to minimise erosion and silt discharge and ensure valuable topsoil resources are protected.

47. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design.

PRIOR TO THE COMMENCEMENT OF WORKS

48. Prior to the commencement of construction of infrastructure, the developer must obtain a Subdivision Works Certificate.

49. Prior to the commencement of works, the submission of three possible street/road names in order of preference, for the proposed new road within the subdivision, are to be submitted to Council for approval.

50. Prior to the commencement of any works within 40 metres of a prescribed waterway or creek (as defined in the *Water Management Act 2000*), the proponent shall obtain a Section 91 Controlled Activity Approval under the *Water Management Act 2000* to carry out those works.

Note - please contact the Natural Resources Access Regulator for more information in relation to this matter.

51. The following is to be provided, prior to the commencement of any works and is to be maintained in an effective and operational condition for the duration of the work:

- a) Mid-Western Regional Council is to be given at least two days' notice of the intention to commence works.
- b) A site supervisor is to be nominated by the applicant.
- c) Erosion and Sediment Controls for the Development are to be implemented in accordance with Dwg No. 82018276-01 C2080 Rev D *Soil and Water Management Layout Plan* and Dwg No. 82018276-01 C2081 Rev D *Soil and Water Management Notes and Details* and Landcom Guidelines and requirements as outlined in the latest edition of *Soils and Construction- Managing Urban Stormwater*.
- d) Appropriate dust control measures.
- e) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained.
- f) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- g) Subdivision Works certificate approval must be obtained from Council for works like but not limited to road, kerb, gutter, water and sewer works

52. Prior to the commencement of any works a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.

53. The Contractor is required to contact Dial Before You Dig to obtain details of the location of the various services in the vicinity of the subdivision to minimise the chance of disturbing utility services as well as the location of services which are required to be relocated. Dial Before You Dig can be contacted online <https://www.1100.com.au/> or by phone on 1100.
54. Prior to the commencement of construction works the applicant needs to comply with the requirements of Section 634 of the *Local Government Act 1993*, which requires that:
- (1) A person must not do any water supply work, sewerage work or stormwater drainage work unless the person;
 - (a) is the holder of an endorsed licence or supervisor certificate in force under the *Home Building Act 1989* authorising the holder to do (and to supervise) work of the kind concerned, or
 - (b) is the holder of a tradesperson certificate in force under the *Home Building Act 1989* authorising the holder to do that kind of work under supervision and does that work under the general supervision of the holder of a licence or certificate referred to in paragraph (a), or
 - (c) does the work under the immediate supervision of a person referred to in paragraph (a).
 - (2) A person who employs (or uses the services of) another person to do any water supply work, sewerage work or stormwater drainage work is guilty of an offence if the person knows that the other person, in doing the work, contravenes subsection (1).

Documented evidence is required to be supplied prior to commencement of construction along with a Certificate of Currency for Public Liability and Professional Indemnity.

55. A Traffic Management Plan showing proposed traffic signposting around the construction site in accordance with AS 1742.3 and *RMS Manual for Traffic Control at Worksites* current at the time of construction is to be provided to Council for approval prior to any works commencing on Plenty Road. The plan must be prepared and certified by a person holding the appropriate RMS accreditation.
56. Prior to commencement of works, all traffic control including setup and removal of traffic control devices and/or regulation of traffic is to be carried out by persons suitably accredited by RMS. The developer/contractor must produce upon request evidence that all staff involved in the above have such accreditation.

DURING CONSTRUCTION

57. The subdivision works are to be inspected by a Certifier (i.e. Council or a private certifier) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures;
 - b) Sewer and water line installation prior to backfilling;
 - c) Water and sewer lines pressure testing;
 - d) Sewer manholes vacuum testing;
 - e) Footpath foundations and concrete reinforcing prior to pouring concrete;
 - f) Establishment of line and level for kerb and gutter placement;

- g) Road pavement construction (proof roll and compaction testing of all pavement layers, sub-grade, sub-base, and base prior to sealing);
 - h) Road pavement surfacing;
 - i) Stormwater culvert and drainage pipe installation prior to backfilling; and
 - j) Practical Completion.
58. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
59. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
60. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council's standards. Street signs are to be installed at the developer's expense.
61. The development site is to be managed for the entirety of work in the following manner:
- a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - b) Appropriate dust control measures;
 - c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
62. Any soil / water retention structures are to be constructed prior to the bulk stripping of topsoil to ensure sediment from the whole site is captured.
63. The developer shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the NSW Land Registry Services and Council.
64. All works are to be carried out in a workmanlike manner and in accordance with technical and performance requirements of relevant and applicable Codes, Standards, Council's Development Control Plan, Council's Standard Drawings and Aus Spec #1.
65. All required earthworks for roads associated with the subdivision must have compaction testing in compliance with RMS Q4 and AUS-SPEC CQS-A.
66. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.
67. In the event that *Acacia ausfeldii* (Ausfeld's Wattle) plants are discovered during earthmoving/construction works, all work on that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon authorisation of the OEH.
68. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.

69. All electrical, telecommunication, sewer and water service crossings are to be perpendicular to the road centreline and performed prior to the addition of base course and installation of kerb and gutter.
70. All road crossings for stormwater are to be constructed using Reinforced Concrete Pipe (RCP).
71. A turf strip of minimum 600 mm width is to be laid behind the kerb and gutter. Where footpaths are provided, the area between the footpath and the kerb and gutter is to be turf and 600 mm provided above the footpath.
72. Construction work noise that is audible at other premises is to be restricted to the following times:
 - a) Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.
73. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to Council's satisfaction and at no cost to Council.
74. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure. Should any adjustments or alterations to Council's water supply or sewer be required, Council will carry out these works at the developer's expense.

PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE

75. An application for a Subdivision Certificate, application fee and two (2) copies of the linen plans are to be submitted to Council for approval and endorsement by the General Manager (or their delegate).
76. All costs associated with preparation of Survey Plan and associated easement documentation are to be borne by the developer.
77. Prior to the issue of a Subdivision Certificate, the developer must provide for the construction of all of the following works, relevant to the stage of subdivision. Such works are to be completed to the satisfaction of Council.
 - a) Road construction;
 - b) Footpath construction;
 - c) Provision of stormwater drainage infrastructure for the development, including grated yard inlet pits, where required;
 - d) Stormwater detention basin;
 - e) Provision of street trees;
 - f) Provision of sewerage infrastructure for the development, with separate sewer connection for each lot in the subdivision; and
 - g) Connection of water (including private meters) and electricity services to provide for individual connection to each proposed lot.
78. The applicant will repair any damage to a public road or associated structures such as kerb & gutter, drains, footpath and utility services caused as a consequence of the

development works. The work is to be completed to Council's satisfaction prior to the issue of a Subdivision Certificate.

79. Prior to issue of Subdivision Certificate, the developer is to provide a sewer junction for each lot in the development. This can be achieved by making payment to Council in accordance with Council's adopted fees and charges per new junction to cover the cost of installing a junction in an existing main. (SUBJECT TO CPI INCREASE).
80. Prior to issue of Subdivision Certificate, the developer is to provide a water service and meter for each Lot. This can be achieved by making payment in accordance with Council's adopted fees and charges to cover the cost of installing both the service and a 20mm meter on the water main. (SUBJECT TO CPI INCREASE)

Note - Council does not permit any other bodies to insert new junctions into 'live' sewer/water mains.

81. Prior to the issue of a Subdivision Certificate, a survey drawing is to be submitted to Council, demonstrating that all private water services, sewer services and water meters are located wholly within the lot that they serve.
82. At the completion of construction and prior to the issue of a Subdivision Certificate, Council requires lodgement of a Quality Register in electronic format on a Flash Drive with all of the QA documentation in accordance with Aus Spec and the requirements outlined below:
- a) **COVERSHEET**
 - Project Address
 - Client/Developer
 - DA Number
 - Lot Numbers
 - Subdivision Stage Number (If Applicable)
 - b) **INDEX**
 - Section Numbers
 - c) **CONTRACTOR DETAILS**
 - Contractor Representative
 - Contractor Contact Details
 - d) **SCOPE OF WORKS**
 - Enter description outlining scope of works completed

Records to be included as applicable:

- Material Certification and Material Test Reports (Sub base, Base course, Water, Sewer, Stormwater, Bitumen etc for supplied materials).
- Concrete mix details (Concrete Register/ Concrete Test Results required).
- Bitumen Sealing Reports/Records.
- Earthworks/Civil Test Reports e.g. compaction tests - (Coordinates and RL required for each test required to be shown on a drawing).
- Dimensional and Tolerance Records (Survey Conformance Reports).
- Inspection Documentation (Development Engineer Inspections, ITPs, Lot Identification).

- Non-conformance reports (Major non-conformances not detailed on council inspections).
- Work As Executed Drawings and completed Asset Data spreadsheet (Council to provide at the request of the applicant) (Provide document register of all dwgs and Engineering Stamp required in Autocad, DWG, Map Info, Excel and PDF format).
- Copy of final inspection report from Council's Development Engineer.

83. Following completion of the subdivision works, work-as-executed plans (WAE) are to be provided to Council in the following formats:

- a) PDF;
- b) Dwg format or "Autocad compatible";
- c) MapInfo files (MGA GDA94 Zone 55/56); and
- d) Completed Asset Data Template spreadsheets in MS Excel format.

All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.

84. The developer must provide Council and land purchasers with a site classification for each vacant lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause 2.2.3 of *Australian Standard AS 2870 – 2011: Residential Slabs and Footings*. Results are to be submitted to Council prior to issue of the Subdivision Certificate.

Defects Liability Bond

85. Prior to the release of the Subdivision Certificate, a defects liability bond of 5% of the construction costs for all civil engineering work (not carried out by Council), shall be lodged with Council.

The defects liability bond will be held by Council for a period of 12 months from the completion of the works, to ensure that any defects that become apparent during the time are remedied by the developer, to Council's satisfaction. If defects are not rectified, Council may use bond money to rectify defective works.

For the purposes of defining the defects liability period, the works are considered to be completed when the Subdivision Certificate is registered with NSW Land Registry Services.

The bond may be provided by way of a monetary deposit with the Council or an unconditional bank guarantee to the satisfaction of Council. The bank guarantee must not specify any time limitations on the operation of the guarantee.

Note – any unspent bond money will be returned to the developer at the end of the twelve (12) month period, less the estimated cost of any outstanding works or works undertaken by Council in rectifying works.

Developer Contributions

86. In accordance with the provisions of section 7.11 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Council Contributions Plan 2019*, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the

issue of a Subdivision Certificate for the relevant stage or number of lots to be created. Contributions are subject to the Consumer Price Index and are payable at the rate applicable at the time of payment.

Section 94 Contributions		
25 27 additional lots (minus credit for existing)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>24 26 Lots</i>
Public Amenity or Service		
Transport facilities	\$4,347.00	\$113,022.00
Recreation and Open Space	\$2,182.00	\$56,732.00
Community Facilities	\$635.00	\$16,510.00
4347*26Stormwater Management	\$458.00	\$11,908.00
Plan Administration	\$995.00	\$25,870.00
Total	\$8,617.00	\$224,042.00

Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued or where lots are released in different financial years.

Note – Council’s *Mid-Western Regional Contributions Plan 2019* is available for perusal at Council’s Administration Centre at 86 Market Street, Mudgee or on Council’s website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

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- 87. The developer shall obtain a Certificate of Compliance under the *Water Management Act 2000*, from Council.

Note – as a precondition to issuing a Certificate of Compliance, the Council may require the alteration and extension of services, upgrading and installing ancillary infrastructure such as pump stations and the payment of section 64 developer charges. Payments of charges may also be paid in accordance with the deferred payments provisions contained within the relevant Council Development Servicing Plans.

Note – refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

Restrictions on Title

- 88. A restriction, covenant or similar instrument is to be applied to proposed Lot 1 to protect all *Acacia ausfeldii* (Ausfeld’s Wattle) plants located within the lot. The instrument shall identify Council as the sole party to vary the restriction or covenant or similar.
- 89. A restriction, covenant or similar instrument is to be applied to provide protection to the Aboriginal artefact sites identified on the approved plan. No buildings are to be erected within 10 metres of the Aboriginal artefact site.

90. A covenant, or similar instrument, is to be applied to Lots 1 to 25 27 requiring compliance with the relevant terms of the General Terms of Approval issued by NSW Rural Fire Service.
MODIFIED BY ME0018/2022
91. Three (3) metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision, where necessary. The 3m minimum width may be extended depending on the size of the main, the depth of the main and when the easement is shared with other services. In the case of a shared trench involving inter-allotment drainage and sewer reticulation, the sewer line should be located on the side of the trench nearest the building being serviced.
92. Easements of variable width shall be created over any overland inter-allotment drainage in favour of upstream allotments. The easements are to be no less than 1m wide. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements.
93. Easements for electricity purposes, as required by the electricity supply authority, shall be created, where required. The Section 88B instrument and linen plans submitted with the application are to include details of any electricity easements or restrictions on title required to be imposed by the electricity authorities/suppliers.

Electricity and NBN

94. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
- a) A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and
 - b) Satisfactory evidence that arrangements have been made for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and
 - c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or
 - d) As an alternative to b) or c), satisfactory evidence that a carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas mapped by NBN Co as being in a designated Fixed Wireless areas, as opposed to a mapped Fibre to the Node area.

Road Dedication

95. The proposed road/cul-de-sac within the subdivision and the proposed extension to Plenty Road shall be dedicated as a public road at no cost to Council. The public road shall be delineated on the final plan of subdivision submitted with the application for a Subdivision Certificate.

Other dedications

96. Proposed Lots ~~26 and 27~~ 28 and 29 are to be dedicated as a drainage reserve.
MODIFIED BY ME0018/2022

STATEMENT OF REASONS

1. The proposed development complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. The matters raised within submissions have been addressed in the following manner:
 - Necessary road upgrades will be required by conditions.
 - The proposed subdivision will not have an adverse impact on local traffic conditions.
 - The proposed design for water supply will result in improved water pressure.
 - The Stormwater Management Plan is satisfactory.
 - There is ample area on each lot on which to erect a dwelling.
 - There is no fencing forming part of the proposed development.
 - Sufficient open space is provided in the adjoining drainage reserve.
 - Suitable conditions are imposed to address construction impacts.
 - Suitable conditions are imposed to ensure that Aboriginal sites are adequately protected.
 - The subject site is not identified as a wildlife corridor.
 - The proposed variation from the DCP requirement regarding the length of the cul-de-sac is supported.
 - The proposed subdivision will have minimal impact on the water table and bore water supply.
 - It is expected that noise from traffic will be no greater than what is expected in a residential area.
 - No road connection to Robertson Road will be provided.
 - Consideration of the impact on property values is not a planning matter.
 - Council's Development Engineer supports the proposed sewer servicing strategy.
 - There is ample separation between the proposed lots and adjoining residences. It is not expected that the proposed subdivision will result in unacceptable amenity impacts on adjoining residences.
 - Suitable conditions are imposed to control dust during construction works.
 - The proposed subdivision has been designed to take into account the existing powerlines. Both TransGrid and Essential Energy have not objected to the proposed subdivision.
4. **The proposed modification is considered to result in minimal environmental impact and is substantially the same development as originally approved – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the *Environmental Planning and Assessment Act 1979*.**
ADDED BY ME0018/2022

OTHER APPROVALS

General Terms of Approval

A copy of the NSW Natural Resources Access Regulator's General Terms of Approval are attached.

A copy of NSW Rural Fire Service's General Terms of Approval are attached.

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning – Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Division 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Planning and Development Department for more information or advice.
4. If you are dissatisfied with this decision Sections 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.
6. The attached General Terms of Approval issued by NSW's Water Authority do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NSW's Water Authority for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to NSW's Water Authority together with any required plans, documents, application fee, security deposit or bank guarantee (if required) and proof of Council's Development Consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NSW's Water Authority website at:
www.water.nsw.gov.au > Water > Licensing & Trade > Approvals.

7. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of a Subdivision Certificate.

A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the *Water Management Act 2000*.

Please be advised that as a precondition to the granting of a Compliance Certificate, either of the following is to occur:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable); or

Section 64 Contributions			
25 27 Additional Lots (credit for existing lot)			
	Additional ET/Unit	Value/ET	Payment Due
Water Headworks	36	\$8,689.00	\$312,804
	39		\$338,871.00
Sewer Headworks	25.2	\$3,967.00	\$99,968.40
	27.3		\$108,299.10
Total Headworks			\$412,805.90
			\$447,170.10

- b) The adjustment of existing services or installation of new services and meters, as required, in compliance with *Australian Standard 3500: National Plumbing and Drainage Code*. All costs associated with this work shall be borne by the developer.

Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council’s Planning and Development Department regarding any adjustments.

MODIFIED BY ME0018/2022

Essential Energy Advice

8. Essential Energy’s records indicate there is electricity infrastructure located within the property sand within close proximity to the property. Any activities with these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
9. Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.
10. Given there is electricity infrastructure in the area, it is the responsibility of the person completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work Near Overhead Power Lines and Code of Practice – Work Near Underground Assets*.

General Responsibilities of the Developer and/or the Principal Contractor

11. It is the responsibility of either or both of these parties to:
 - a) Provide for the overall supervision and quality of the works.
 - b) Advise Council officers regarding:
 - i. Any foreseeable hazard arising from the premises that has the potential to harm the health or safety of the Council officers when on the work site, and

- ii. The assessment of any risk that has not been eliminated, and
 - iii. The measures taken to control any such risks, and
 - iv. Any measures that may need to be taken by Council officers to control any such risk while on the work site.
- c) Obey with any lawful instruction of the Principal Certifying Authorities representative.
- d) Notify Council when a required inspection has been missed.
- e) The provision and maintenance of all site signage as required by legislation, including but not limited to:
- i. A sign indicating the name and telephone number (both during and outside working hours) of the Principal Contractor, and
 - ii. The name and phone number of the Principal Certifying Authority.

Executive summary

OWNER/S	Peter J Consadine
APPLICANT:	Peter J Consadine
PROPERTY DESCRIPTION	209 Robertson Road, Spring Flat (Lot 3 DP1206488)
PROPOSED DEVELOPMENT	Modification to Subdivision – Two Additional Lots
ESTIMATED COST OF DEVELOPMENT:	Not applicable
REASON FOR REPORTING TO COUNCIL:	Application seeks to modify a development consent that was originally determined by Council
PUBLIC SUBMISSIONS:	One

A modification of consent application under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* was lodged with Council on 19 January 2022. The proposed modification of Development Consent DA0191/2021 seeks to add two extra lots into the subdivision. No changes are proposed to the majority of the approved lots and to the road layout. Changes are required to a number of conditions in response to the addition of the two lots.

The proposed modification is recommended for approval.

Disclosure of Interest

Nil

Detailed report

Original Approval

The original development consent, approved on 16 June 2021, was for a 1 into 25 lot subdivision at 209 Robertson Road, Mudgee. The developer has applied for a Construction Certificate for Stage 1 of the subdivision, comprising Lots 1 to 11.

Previous Modification

There have been no previous modifications to the original consent.

Proposed Modification

This application to modify the development consent was submitted to Council on 19 January 2022.

The proposed modification seeks to add an extra two lots into the subdivision. The applicant has not specifically applied for any changes to the conditions. A number of conditions will need to be amended, in response to the new number of lots. No changes are proposed to the majority of the lots or the proposed new roads.

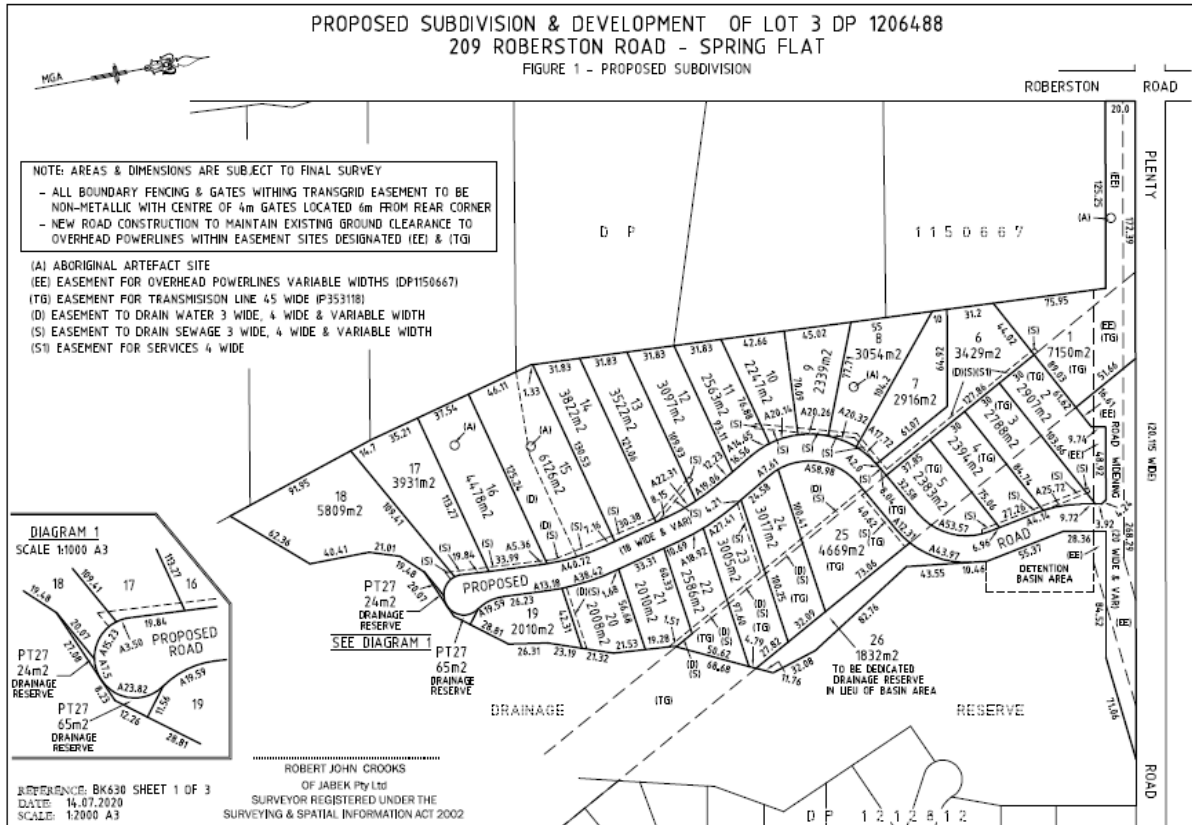


Figure 1: Approved Subdivision Plan

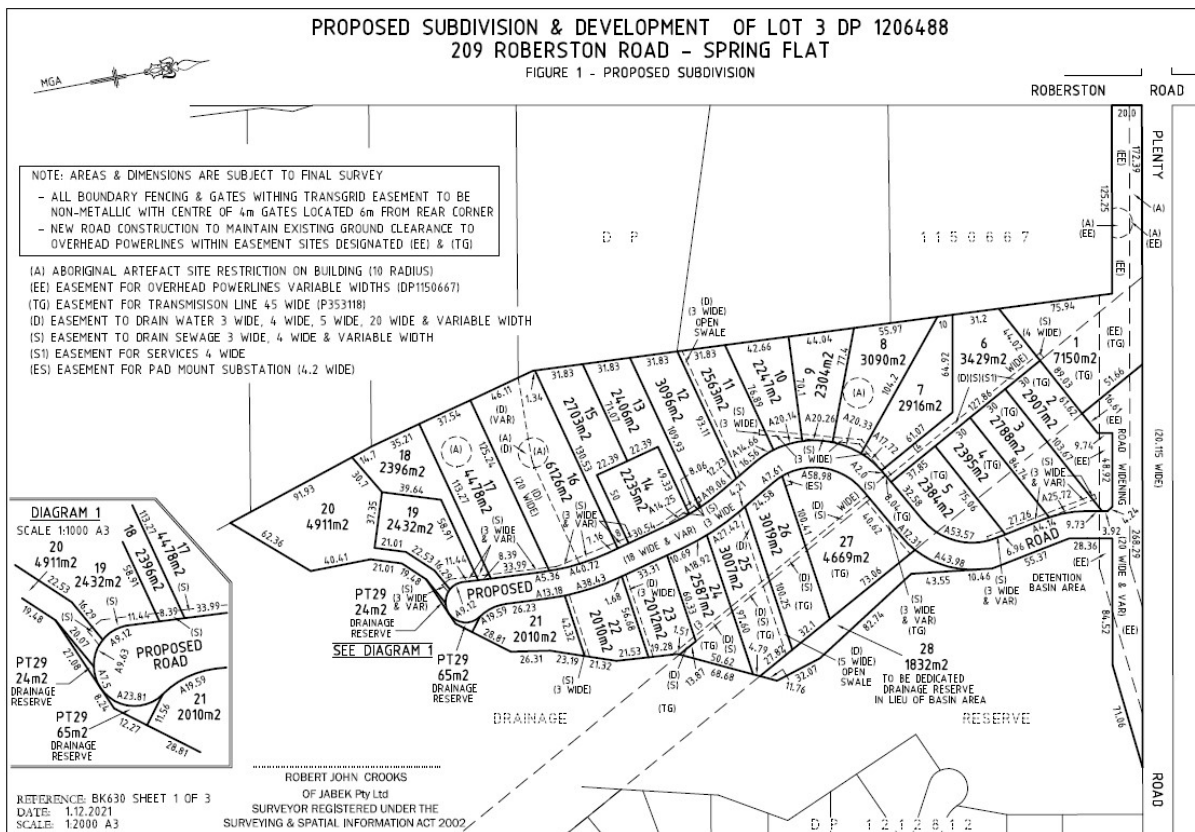


Figure 2: Proposed Subdivision Plan – Addition of Lots 14 and 19

REQUIREMENTS OF REGULATIONS AND POLICIES

Section 4.55 Modification Legislation

Minimal Environmental Impact

The Modification Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* pertains to modifications to a Development Consent that are of minimal environmental impact. It is considered that the proposed modification will have ‘minimal environmental impact’ compared to the originally approved proposal, as:

- There are no changes to the approved road layout of the subdivision.
- There will not be an increase in the number of lots adjoining neighbouring land.
- No changes are proposed to those lots containing Aboriginal Heritage Items.
- No increase in the size of the stormwater detention basin is required.
- There will be no impact on water pressure within the proposed water servicing infrastructure.

Substantially the Same Development

The modification is considered to result in substantially the same development as that for which consent was originally granted. The modification will add another two lots to the subdivision. The position and shape of the majority of the lots will remain unchanged. No changes are proposed to the road layout.

Consultation

Consultation with the relevant Minister, public authority or approval body with regard to a condition applied as a result of concurrence or with general terms of approval is required by the legislation. The original development was integrated development. This modification of consent application has

been referred to the following agencies for comment. The agency's comments are summarised as follows.

- **Natural Resources Access Regulator**

The Natural Resources Access Regulator (NRAR) advised that the previously issued General Terms of Approval remain current and no further assessment by NRAR is required.

- **NSW Rural Fire Service**

NSW Rural Fire Service provided amended General Terms of Approval to be issued with the modified development consent. Only minor changes were made to the General Terms of Approval.

- **Transgrid**

Transgrid's comments were: "There is no impact to Transgrid therefore no assessment is required."

- **Essential Energy**

Essential Energy stated that they have "no comments to make as to potential safety risks arising from the proposed modified development." The advice notes provided by Essential Energy have been included as Advisory Notes on the original approval.

Notification and Submissions

This modification of consent application was required to be notified and advertised in accordance with Council's *Community Participation Plan October 2019*. The advertising period commenced on 28 January 2022 and ended on 11 February 2022. One submission has been received in response to notification of the modification.

The issues raised in the submission are summarised below:

- Property values

Comment: There is no evidence to support the claim that the proposed subdivision will have a negative impact on property values in the area. In addition, consideration of the impact on property values is not a planning matter.

- Impact on amenity of existing residences

Comment: There is ample separation between the proposed lots and adjoining residences. It is not expected that the proposed subdivision will result in unacceptable amenity impacts on adjoining residences.

- Glare and white roofs and white fences.

Comment: The application is for subdivision only. Glare from roofs and fences can be considered in future applications for dwellings on the proposed lots.

- Building envelope to be a minimum 30 metres distant from the neighbour's boundary and with a building height restricted to single level.

Comment: It is considered unreasonable to require this subdivision to comply with these building restrictions. *Mid-Western Regional Development Control Plan 2013* requires that dwellings are set back 2.5m from side and rear boundaries for properties that are greater than 2000m² in area and in the R2 – Low Density Residential zone. There are no building height limits/requirements applicable to the land under *Mid-Western Local Environmental*

Plan 2012.

- Flood study/ inadequate stormwater drainage.

Comment: A Stormwater Management Plan has been assessed by Council's Development Engineer in the original application and was considered that adequate stormwater drainage will be provided such that the post-development discharge flow rate from the site is to be kept to below the pre-development rate.

- Kangaroos

Comment: It is unlikely that the proposed subdivision will hinder the ability of kangaroos to travel between feeding grounds.

- More than 12 lots off cul-de-sac

Comment: The original application provided justification for the variation to the DCP requirement requiring that no more than 12 lots are serviced by a cul-de-sac. The DCP requirement is that the maximum number of lots to be serviced by a cul-de-sac is 12, or the length of the cul-de-sac does not exceed 150m in length.

The proposed cul-de-sac will provide access to 25 lots and the length of the cul-de-sac is approximately 490m.

The original application provided the following justification for the variation to the DCP requirement:

- *A contributing factor to the longer cul-de-sac length is the larger lot frontages required for the 2000m² blocks, which generally have 30-40m frontages, much larger than in typical residential construction.*
- *Although longer and servicing more lots than recommended the new cul-de-sac will be managed by ensuring the road construction is at a standard that will be able to convey the expected volume of traffic to be generated (approximately 21 vehicle trips in peak hour).*
- *The length of the cul-de-sac is directly attributed to the existing irregular shape of the parent lot, and the size of the lots proposed.*
- *The road hierarchy is not detrimentally impacted.*
- *The layout is aligned with the planning proposal which was supported by Council and considered as part of LEP amendment No 12). Hence a cul-de-sac treatment was already considered acceptable for this site by Council and followed over in this DA stage design.*

Based on the above justification, it is considered that the variation from the cul-de-sac requirements are considered acceptable.

MATTERS FOR CONSIDERATION

The consent authority is required to consider the relevant matters outlined in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

As the proposed modification does not seek any major changes to the approved subdivision, the majority of the matters for consideration under Section 4.15 are not relevant. These considerations are summarised as follows:

a) The provisions of any environment planning instruments.

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The proposed modification does not alter the proposal's compliance with the relevant development standards contained in MWRLEP 2012.

It is noted that the proposed lots range in size from 2,010m² to 7,150m², which meets the minimum lot size of 2,000m² applicable to this subdivision. Each of the proposed lots will be serviced with reticulated water and sewer networks.

Identified Aboriginal heritage items will be protected by existing conditions requiring the preparation of a section 88B instrument to protect these items. The new lot layout does not increase the impact on Aboriginal heritage items.

State Environmental Planning Policies (SEPP's)

The proposed modification does not alter the proposal's compliance with the relevant development standards contained in the applicable SEPP's.

Draft Environmental Planning Instruments

Not applicable

b) The provisions of any development control plan or Council policy.

Mid-Western Regional Development Control Plan 2013

The proposed modification does not alter the proposal's compliance with all the relevant requirements of the Mid-Western Regional Development Control Plan 2013.

The original application proposed a variation to the DCP requirements for the length of the cul-de-sac and the number of lots it serves. The justification to the variation from these DCP requirements has been discussed in a previous section of this report. The variation is supported by staff.

The proposed addition of two lots increases the number of lots in the subdivision that have an access handle. New access handles are provided to Lots 13, 15, 18 and 20 in the modified subdivision layout. The width of these access handles are approximately 8m, exceeding the minimum width requirement of 6m.

Council Policies

Not applicable

There are no Council policies applicable to the proposed modified subdivision.

Contributions

The proposed modification will increase the number of lots from 25 to 27. Consequently, there will be an increase in the amount of developer contributions payable for the subdivision. Adjustments for the increase in the number of lots have been incorporated in the recommendation related to Section 7.11 contributions and Section 64 Water and Sewer headworks charges.

c) The provisions of any planning agreement

Not applicable

d) The regulations

Not applicable

e) The likely impacts of development

The proposed modification does not alter the impacts associated with the approved subdivision.

f) The suitability of the site for the development

The proposed modification does not alter the suitability of the site for the approved development.

g) Any submissions received

The issues raised in the submission has been discussed in a previous section of this report.

h) The public interest

No significant issues in the interests of the public are expected as a result of the proposed modifications.

CONSEQUENTIAL CHANGES TO CONDITIONS

The proposed modification sought to add two additional lots into the subdivision layout. A number of conditions require adjustment to accurately address the proposed addition of two lots.

Amend Condition 1 to refer to amended plans

There is no objection to the proposed addition of two lots into the subdivision layout. Accordingly, it is recommended that Condition 1 be amended to refer to the new plans showing the new subdivision layout.

Condition 4

Condition 4 makes reference to Lots 1 to 25. There are now 27 residential lots in the subdivision. It is recommended the number of lots be adjusted in Condition 4.

Condition 86

Condition 86 identifies the contributions payable for the proposed subdivision. The contribution amounts need to be adjusted to take into account the additional two lots.

Condition 90

Condition 90 makes reference to Lots 1 to 25. There are now 27 residential lots in the subdivision. It is recommended that Condition 90 be amended to reflect the 27 lots.

Condition 96

This condition makes reference to Lots 26 and 27, which are to be dedicated as drainage reserves. As there are an additional two lots, the condition needs to be amended to identify the drainage reserve lots as Lots 28 and 29.

Statement of Reasons 4

A fourth Statement of Reasons is to be added to reflect the assessment of this modification of consent application.

Advisory Note 7

This advisory note identifies the sewer and water headworks charges applicable to the subdivision. The addition of two lots will increase the charges that are payable. It is recommended the Advisory Note be adjusted to reflect the increased headworks charges.

CONSULTATIONS

Development Engineer

Council's Development Engineer has provided the following comments in relation to the proposed modification.

This application is seeking to amend a previously approved residential subdivision by increasing the number of proposed lots by 2, from 25 to 27 lots.

Pre-lodgement meetings discussed requirements and noted that, as per the letter from Triaxial Consulting accompanying the application:

- *No additional road construction is required,*
- *No new services are required, and*
- *Additional lots are within the originally approved outer boundary of the development.*

Some alteration of infrastructure and servicing, e.g. Additional water connections, hydrants and valves; minor additional sewer extension, etc., will be required.

These matters can be addressed during assessment for Subdivision Works certificate and do not require any additional conditioning or alteration to previously applied conditions.

As noted above no additional engineering conditions are required. All engineering requirements as detailed in the previously issued consent (DA0191/2021) remain applicable and should be retained.

CONCLUSION

The proposed modifications in application ME0018/2022 have been assessed and are considered reasonable in the circumstances. The proposed modifications do not alter compliance with relevant development standards and requirements for subdivision.

The proposed modification is focussed on adding two additional lots to the approved subdivision. Changes are required to a number of conditions to reflect the additional two lots.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

Strategic implications

Council Strategies

Mid-Western Regional Local Environmental Plan 2012
Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Development Contributions Plan 2005-2021
Mid-Western Regional Development Servicing Plan

Council Policies

Nil

Legislation

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2000

Financial implications

Nil

Associated Risks

Should Council refuse the modification application, the applicant may seek a further review of this decision or appeal through the Land and Environment Court.

ILIJA SUSNJA
DUTY TOWN PLANNER

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

25 March 2022

- Attachments:*
1. Approved Subdivision Plan.
 2. Triaxial Application Letters.
 3. Modified Subdivision Plans.
 4. NSW Rural Fire Service response.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

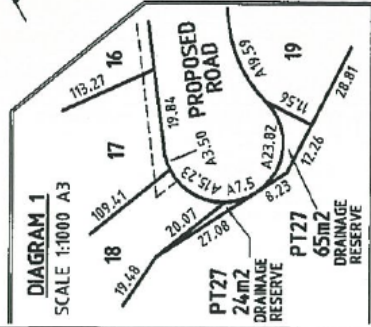
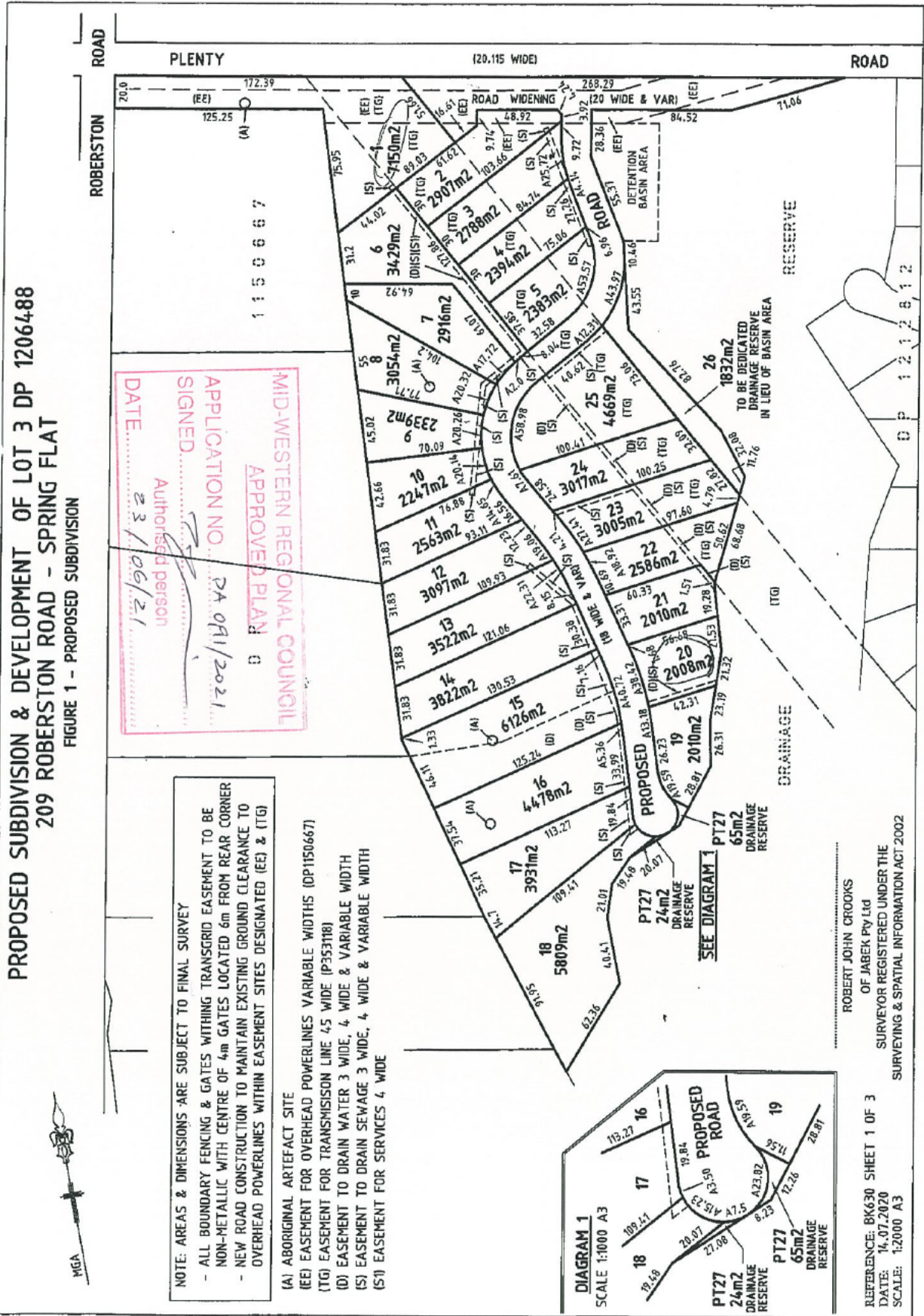
**PROPOSED SUBDIVISION & DEVELOPMENT OF LOT 3 DP 1206488
 209 ROBERSTON ROAD – SPRING FLAT**
 FIGURE 1 – PROPOSED SUBDIVISION



MID-WESTERN REGIONAL COUNCIL
 APPROVED PLAN
 APPLICATION NO. DA 091/2021
 SIGNED: [Signature]
 AUTHORIZED PERSON
 DATE: 23/06/21

NOTE: AREAS & DIMENSIONS ARE SUBJECT TO FINAL SURVEY
 - ALL BOUNDARY FENCING & GATES WITHIN TRANSGRID EASEMENT TO BE NON-METALLIC WITH CENTRE OF 4m GATES LOCATED 6m FROM REAR CORNER
 - NEW ROAD CONSTRUCTION TO MAINTAIN EXISTING GROUND CLEARANCE TO OVERHEAD POWERLINES WITHIN EASEMENT SITES DESIGNATED (EE) & (ITG)

- (A) ABORIGINAL ARTEFACT SITE
- (EE) EASEMENT FOR OVERHEAD POWERLINES VARIABLE WIDTHS (DP1150667)
- (ITG) EASEMENT FOR TRANSMISSION LINE 4.5 WIDE (P353118)
- (D) EASEMENT TO DRAIN WATER 3 WIDE, 4 WIDE & VARIABLE WIDTH
- (S) EASEMENT TO DRAIN SEWAGE 3 WIDE, 4 WIDE & VARIABLE WIDTH
- (S1) EASEMENT FOR SERVICES 4 WIDE



ROBERT JOHN CROOKS
 OF JABEK PV LTD
 SURVEYOR REGISTERED UNDER THE
 SURVEYING & SPATIAL INFORMATION ACT 2002
 REFERENCE: BK630 SHEET 1 OF 3
 DATE: 14.07.2020
 SCALE: 1:2000 A3

9 December 2021

Mid Western Regional Council

Attention: Ilija Susnja

86 MARKET STREET
MUDGEE NSW 2850

Dear Ilija,

Re: Proposed Modification to DA0191/2021 – Additional Information

290 Robertson Road Mudgee NSW

Triaxial Reference: TX14774.00-03.ltr.jd

The following report has been prepared in conjunction with Bob Crooks from Jabek Pty Ltd in response to the pre-lodgement meeting held with council town planner Ilija Susnja as per his email forwarded on 1 November 2021.

The modification to create 2 additional lots is as detailed in the amended plans attached and is a result of giving due consideration to the fact that:

- No additional road construction is required.
- No additional lots are being created that share a common boundary with existing adjoining parcels of land, hence no adverse impact on adjoining properties.
- No new services are required, although lot 20 will require an additional sewer extension of 6 metres, which will not require any additional sewer manholes. The engineering plans have been altered to show the modified lot layout, including the extra junction and minor extension to the sewer main. These have been lodged with Mid Western Regional Council for issue of the Subdivision Works Certificate.
- Although it will not create a need for additional services it is proposed to provide service conduits for water, power, NBN and a 100mm sewer house service within the battle axe handle of lots 13, 15, 18 and 20 to service the building opportunities on those lots.
- No adverse engineering constraints or impacts are created by the addition of the extra 2 lots, and it could be argued that the most economic use of the infrastructure is created in accordance with the zoning.
- As the additional lots are totally within the 25 lots of the original DA, and in fact are fully contained within 4 of the original lots, they do not in fact impact on:
 - Natural Resources Access Regulator land, ie. No additional lots are affected.
 - TransGrid Easement Site: ie. No additional lots are affected.
 - Aboriginal Heritage Sites: ie. No additional lots are affected.
 - Essential Energy Easement Site: ie. No additional lots are affected.
 - The general terms of approval issued by the NSW Rural Fire Service, ie. Condition relating to lots 1 to 25 will apply to the new lots 1 to 27 as per the report dated 11.03.2021.



**TRIAXIAL
CONSULTING**

COMPLEX PROBLEMS
RESOLVED SIMPLY

Suite 12, Level 14, 327 Pitt St
Sydney NSW 2000
triaxial.com.au
1300 874 294

SYDNEY | ADELAIDE | BAROSSA | DARWIN | MUDGEE

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1 of 2

It is however also relevant to note that as original Engineering works do impact on the TransGrid easement site, and on land administered by the Natural Resources Access Regulator, plans have been submitted to both with the new amended lot layout shown.

Copies of emails sent to both authorities are attached, including:

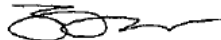
- Amended subdivision plan, also showing proposed stage 1.

Further noting all the engineering plans with Council now show the new lot layout as per the request of Council engineers, and the new lot layout has been included in the electrical design plans currently undergoing finalisation for forwarding to Essential Energy for construction approval.

We trust this report meets your current requirements, and should you wish to discuss the matter further, please do not hesitate to contact the undersigned.

Yours faithfully

TRIAxIAL CONSULTING



JIM DISHER
B.E. (Civil), M.E. (Civil & Structural)
MIE Aust.

JABEK Pty Ltd
BOB CROOKS
Registered Surveyor

29 November 2021

Mid Western Regional Council

Attention: Ilija Susnja

290 ROBERTSON ROAD
MUDGEE NSW 2000

Dear Ilija,

Re: Proposed Modification to DA0191/2021
290 Robertson Road Mudgee NSW
Triaxial Reference: TX14774.00-01.ltr.jd.docx



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Further to the pre-lodgement meeting held with Mr Bob Crooks and Peter Consadine on 1 November 2021 with regards to the addition of 2 lots to the proposed subdivision, we provide the following information as requested in the meeting minutes.

Stormwater Design

We have reviewed the introduction of the proposed two new lots in the subdivision and can confirm that the latest engineering plans include the minor increase in impervious area introduced by the new lots on the sizing of the proposed detention basin.

Water Pressure

We have reviewed the modelling undertaken previously on the subdivision (Triaxial Consulting report TX14774.00-03.rpt) and can confirm that the inclusion of the two additional lots will not adversely affect the water pressure supply to the subdivision.

We trust this report meets your current requirements, and should you wish to discuss the matter further, please do not hesitate to contact the undersigned.

Yours faithfully

TRIAXIAL CONSULTING

JIM DISHER
B.E. (Civil), M.E. (Civil & Structural)
MIE Aust.

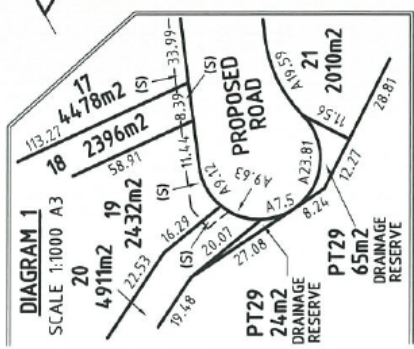
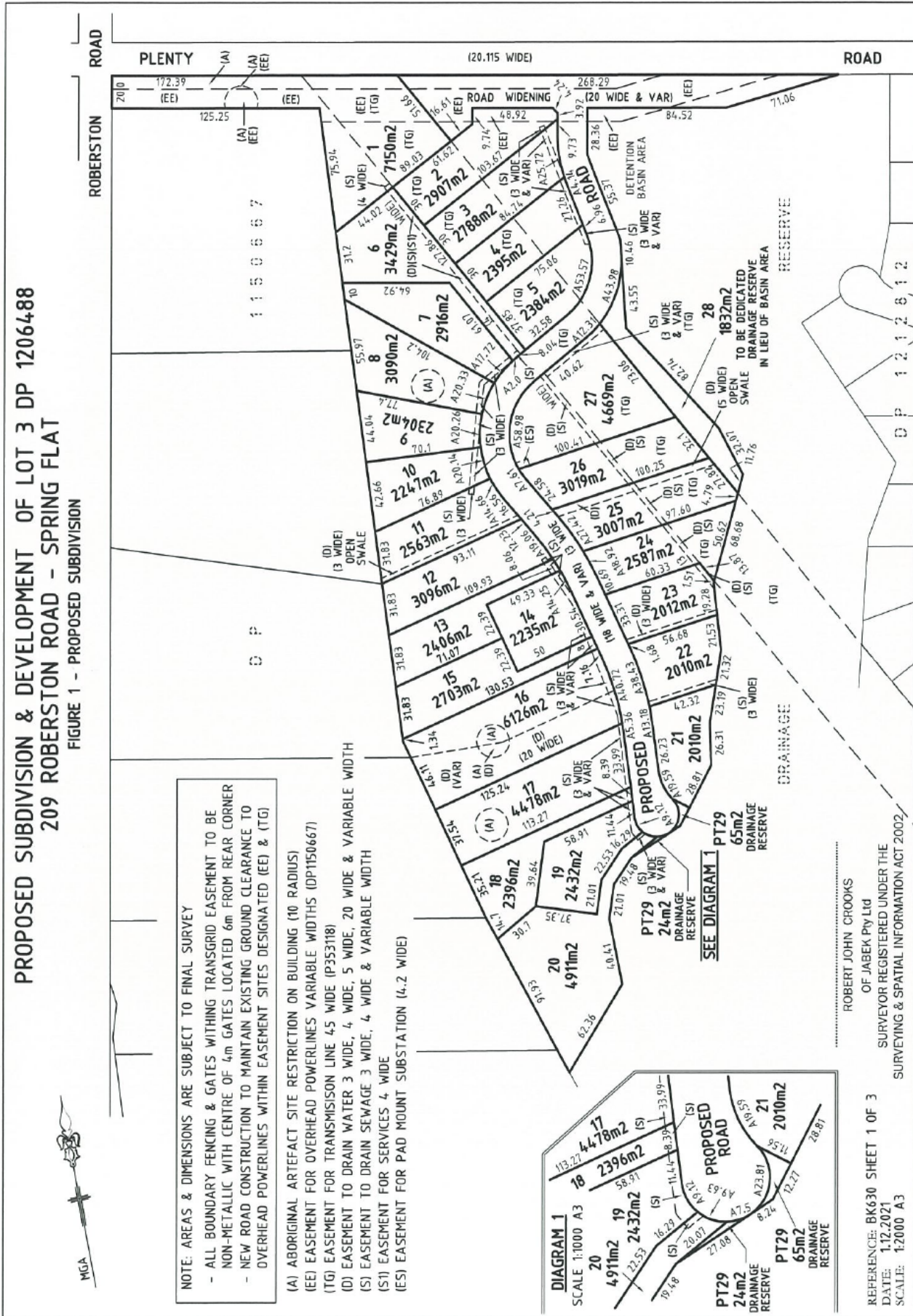
**PROPOSED SUBDIVISION & DEVELOPMENT OF LOT 3 DP 1206488
 209 ROBERSTON ROAD – SPRING FLAT**
 FIGURE 1 – PROPOSED SUBDIVISION



NOTE: AREAS & DIMENSIONS ARE SUBJECT TO FINAL SURVEY

- ALL BOUNDARY FENCING & GATES WITHING TRANSGRID EASEMENT TO BE NON-METALLIC WITH CENTRE OF 4m GATES LOCATED 6m FROM REAR CORNER
- NEW ROAD CONSTRUCTION TO MAINTAIN EXISTING GROUND CLEARANCE TO OVERHEAD POWERLINES WITHIN EASEMENT SITES DESIGNATED (EE) & (TG)

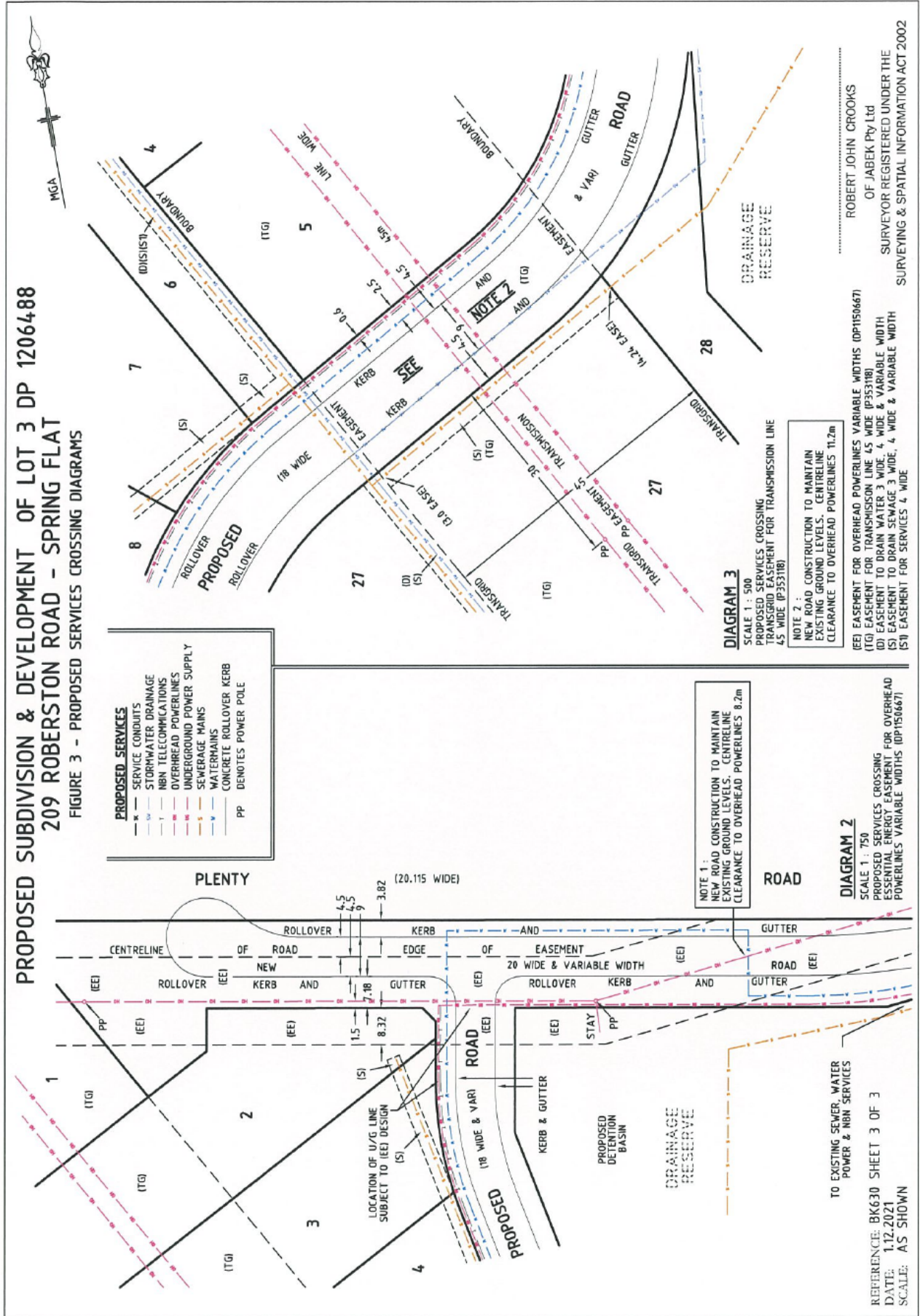
- (A) ABORIGINAL ARTEFACT SITE RESTRICTION ON BUILDING (10 RADIUS)
- (EE) EASEMENT FOR OVERHEAD POWERLINES VARIABLE WIDTHS (DP1150667)
- (TG) EASEMENT FOR TRANSMISSION LINE 4.5 WIDE (P353118)
- (D) EASEMENT TO DRAIN WATER 3 WIDE, 4 WIDE, 5 WIDE, 20 WIDE & VARIABLE WIDTH
- (S) EASEMENT TO DRAIN SEWAGE 3 WIDE, 4 WIDE & VARIABLE WIDTH
- (S1) EASEMENT FOR SERVICES 4 WIDE
- (ES) EASEMENT FOR PAD MOUNT SUBSTATION (4.2 WIDE)



ROBERT JOHN CROOKS
 OF JABEK Pty Ltd
 SURVEYOR REGISTERED UNDER THE
 SURVEYING & SPATIAL INFORMATION ACT 2002

REFERENCE: BK630 SHEET 1 OF 3
 DATE: 1.12.2021
 SCALE: 1:2000 A3

PROPOSED SUBDIVISION & DEVELOPMENT OF LOT 3 DP 1206488
209 ROBERSTON ROAD – SPRING FLAT
FIGURE 3 – PROPOSED SERVICES CROSSING DIAGRAMS



ROBERT JOHN CROOKS
 OF JABEK Pty Ltd
 SURVEYOR REGISTERED UNDER THE
 SURVEYING & SPATIAL INFORMATION ACT 2002

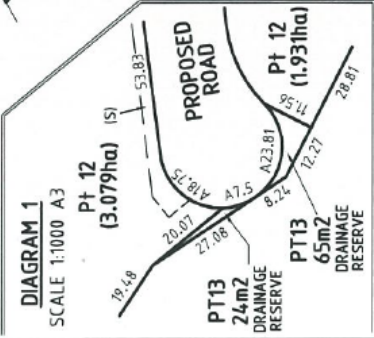
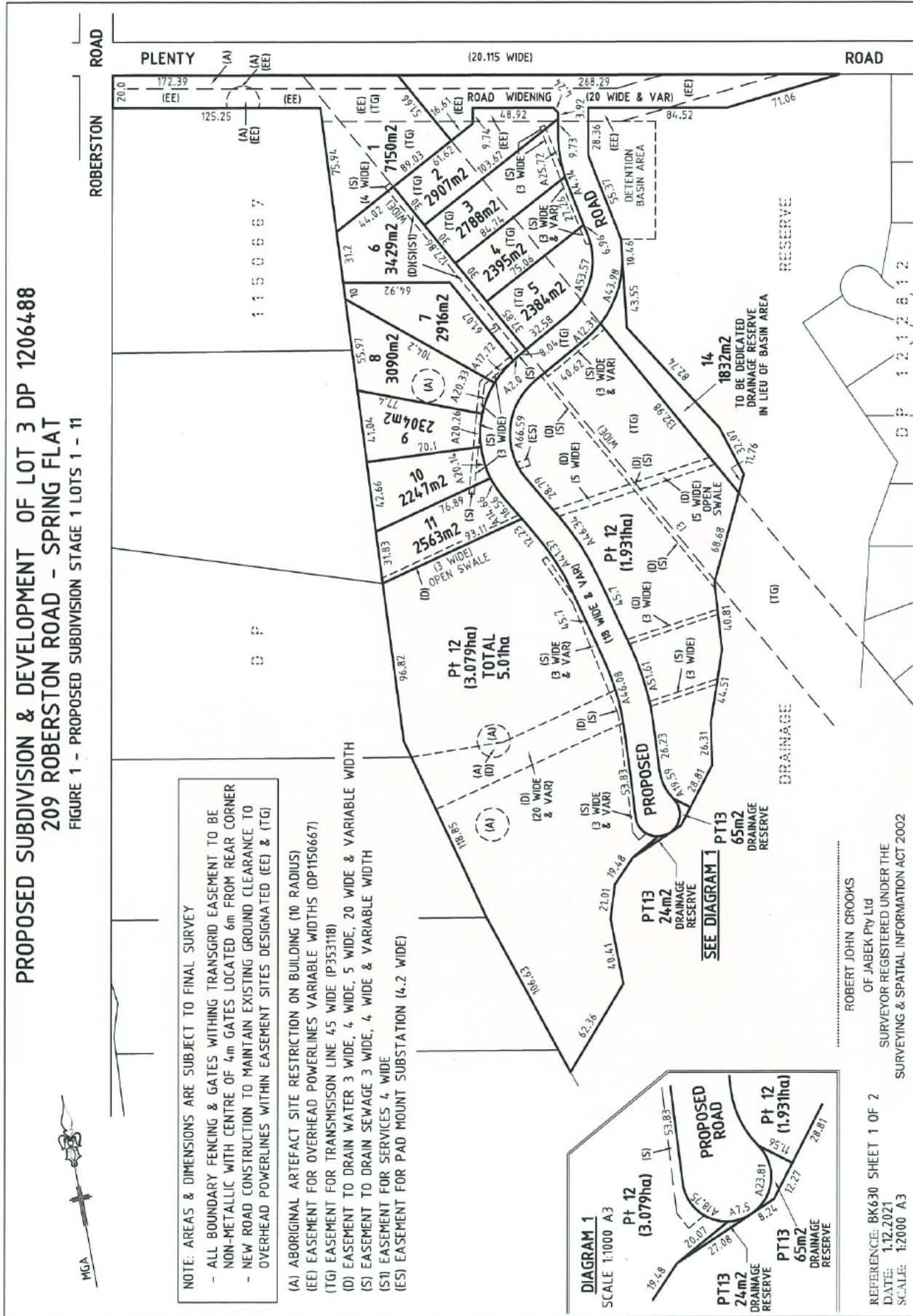
**PROPOSED SUBDIVISION & DEVELOPMENT OF LOT 3 DP 1206488
 209 ROBERSTON ROAD – SPRING FLAT**
 FIGURE 1 – PROPOSED SUBDIVISION STAGE 1 LOTS 1 – 11



NOTE: AREAS & DIMENSIONS ARE SUBJECT TO FINAL SURVEY

- ALL BOUNDARY FENCING & GATES WITHING TRANSGRID EASEMENT TO BE NON-METALLIC WITH CENTRE OF 4m GATES LOCATED 6m FROM REAR CORNER
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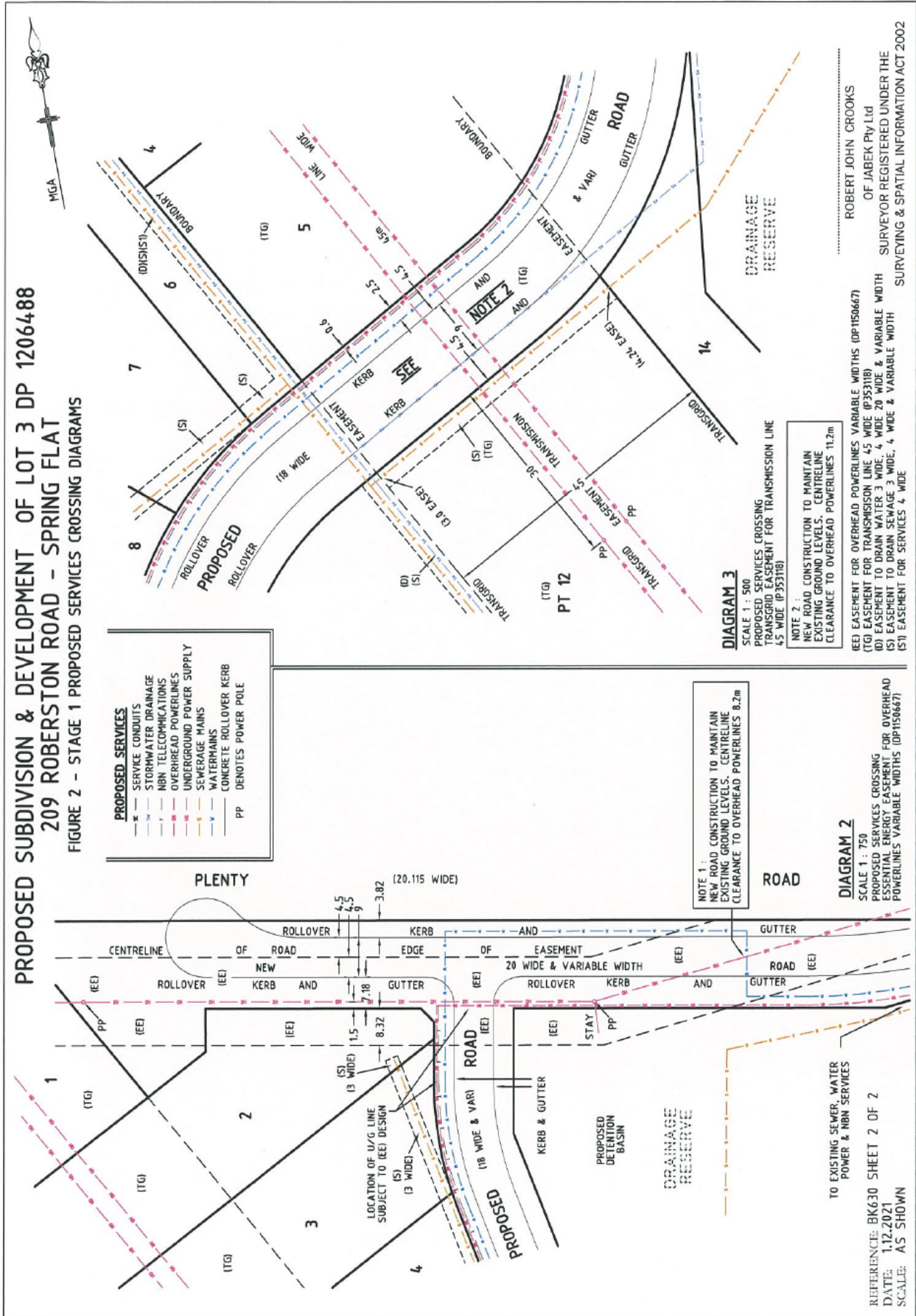


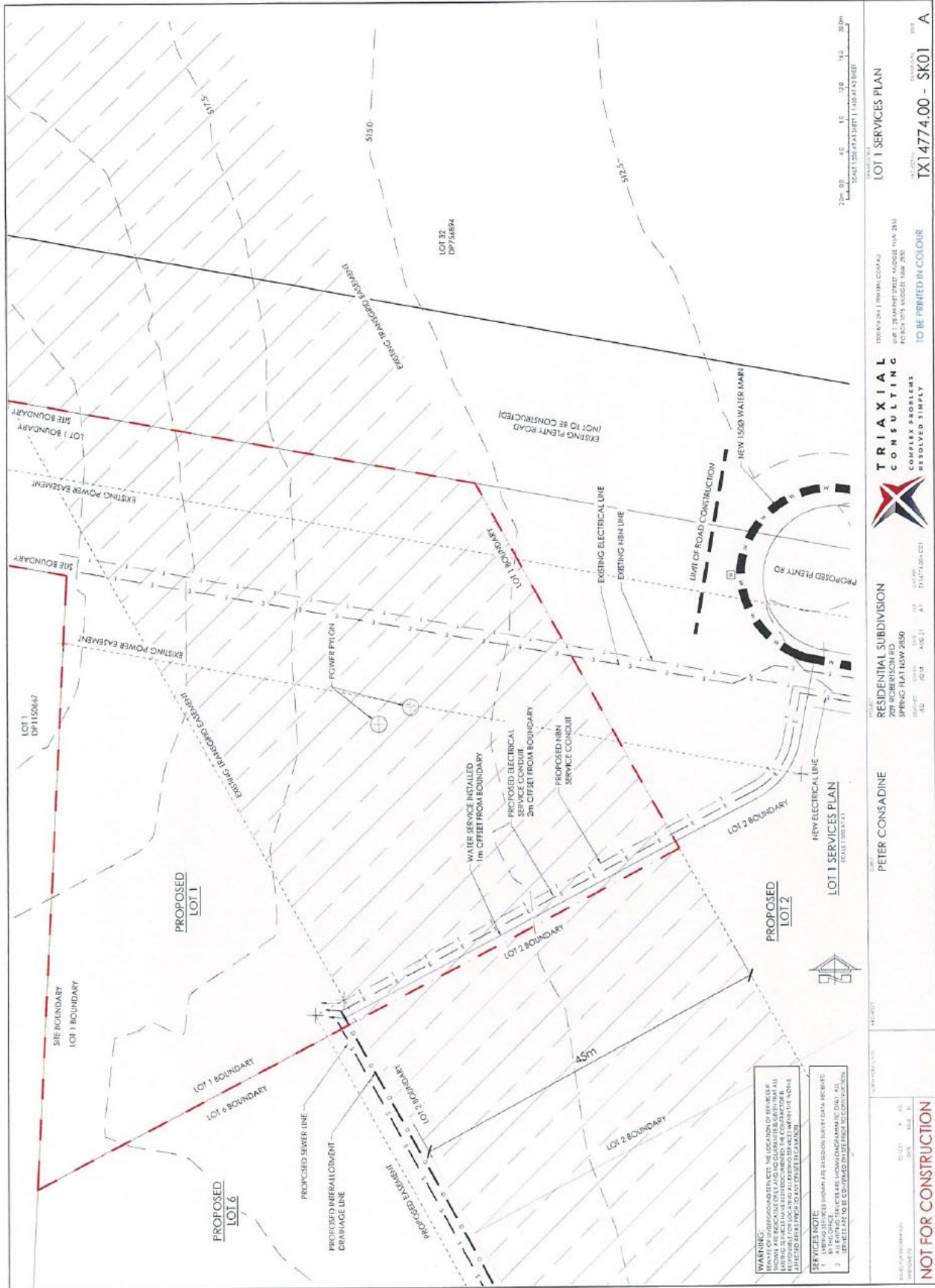
ROBERT JOHN CROOKS
 OF JABEK Pty Ltd
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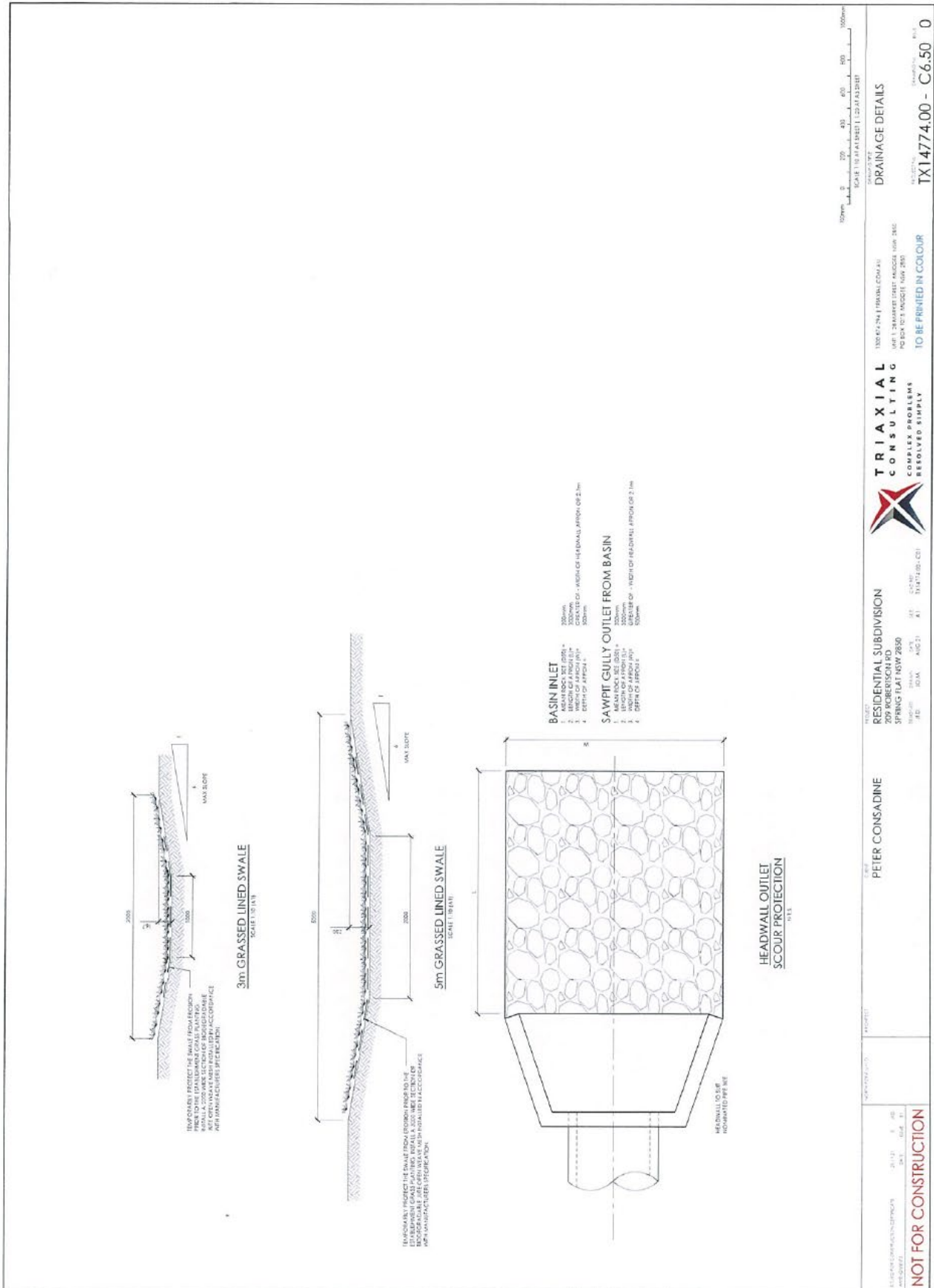
REFERENCE: BK630 SHEET 1 OF 2
 DATE: 1.12.2021
 SCALE: 1:2000 A3

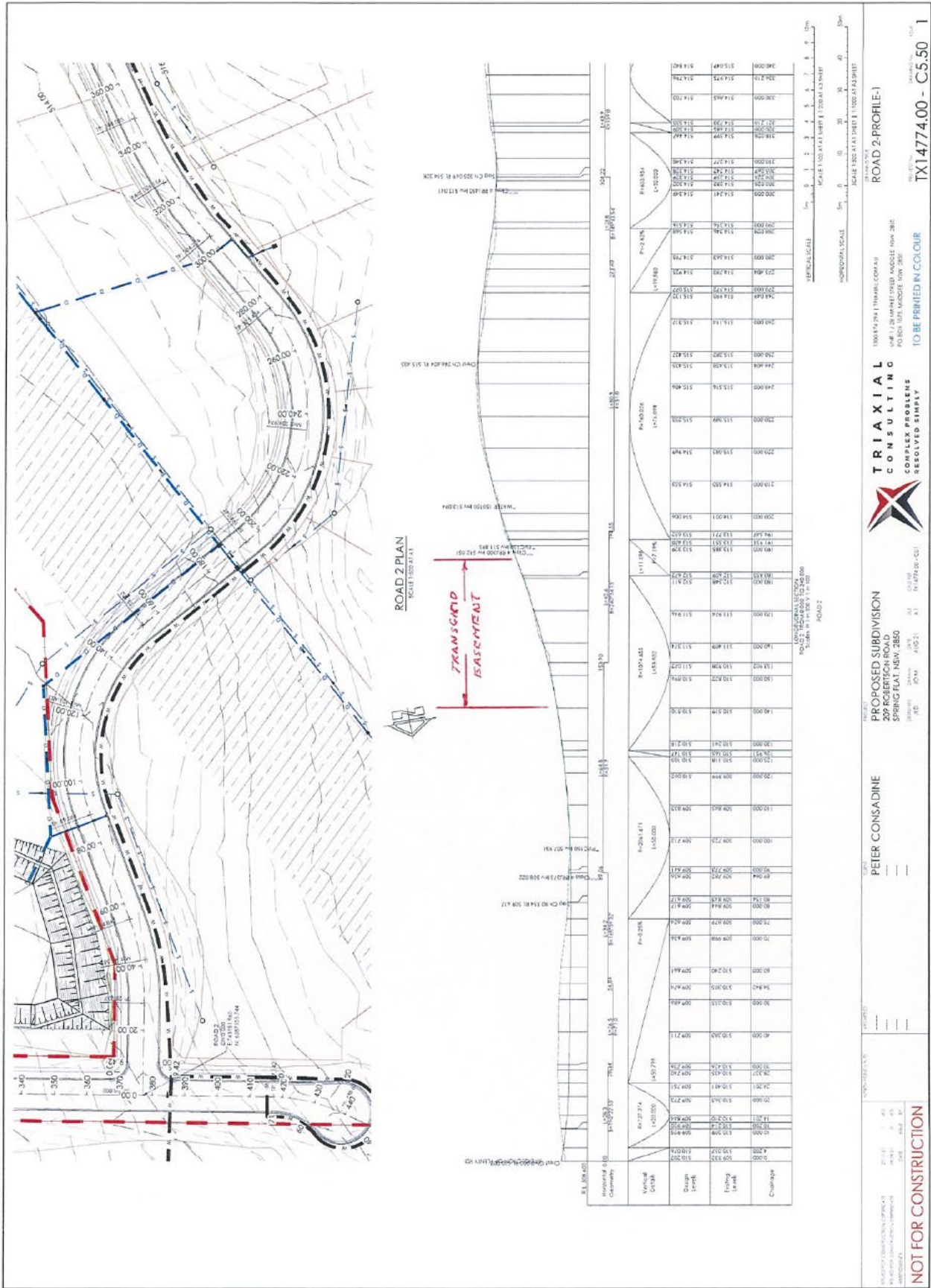
**PROPOSED SUBDIVISION & DEVELOPMENT OF LOT 3 DP 1206488
 209 ROBERSTON ROAD – SPRING FLAT**

FIGURE 2 – STAGE 1 PROPOSED SERVICES CROSSING DIAGRAMS









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PETER CONSADINE
 PROPOSED SURDIVISION
 209 ROBERTSON ROAD
 SPRING FLAT NSW 2850

DATE: 11/05/2022
 DRAWN: [Name]
 CHECKED: [Name]
 APPROVED: [Name]

PROJECT NO: TX14774.00 - C5.50

SCALE: 1:100 (PLAN), 1:200 (AL), 1:100 (V.P.)

NOT FOR CONSTRUCTION



NSW RURAL FIRE SERVICE

Mid-Western Regional Council
PO Box 156
MUDGEES NSW 2850

Your reference: (CNR-34559) ME0018/2022
Our reference: DA20210128000333-S4.55-1

ATTENTION: Ilija Susnja

Date: Thursday 24 March 2022

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Torrens Title Subdivision
209 Robertson Road Spring Flat NSW 2850, 3//DP1206488

I refer to your correspondence dated 27/01/2022 seeking general terms of approval for the above Integrated Development in accordance with s4.55 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entirety of the proposed residential lots must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

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

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

- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed

Access – Public Roads

Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

2. Access roads must comply with the following general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019* and the following:

- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
- dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;
- minimum 8 metre carriageway width kerb-to-kerb;
- the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating.
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression; and,
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning.

Water and Utility Services

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

3. The provision of water, electricity and gas must comply the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
- hydrants are and not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 11/03/2021.

For any queries regarding this correspondence, please contact Marc Ellwood on 1300 NSW RFS.

Yours sincerely,



Kalpana Varghese
Supervisor Development Assessment & Plan
Built & Natural Environment





NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision
209 Robertson Road Spring Flat NSW 2850, 3//DP1206488
RFS Reference: DA20210128000333-S4.55-1
Your Reference: (CNR-34559) ME0018/2022

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20210128000333-Original-1 issued on 11/03/2021 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Kalpana Varghese

**Supervisor Development Assessment & Plan
Built & Natural Environment**

Thursday 24 March 2022