

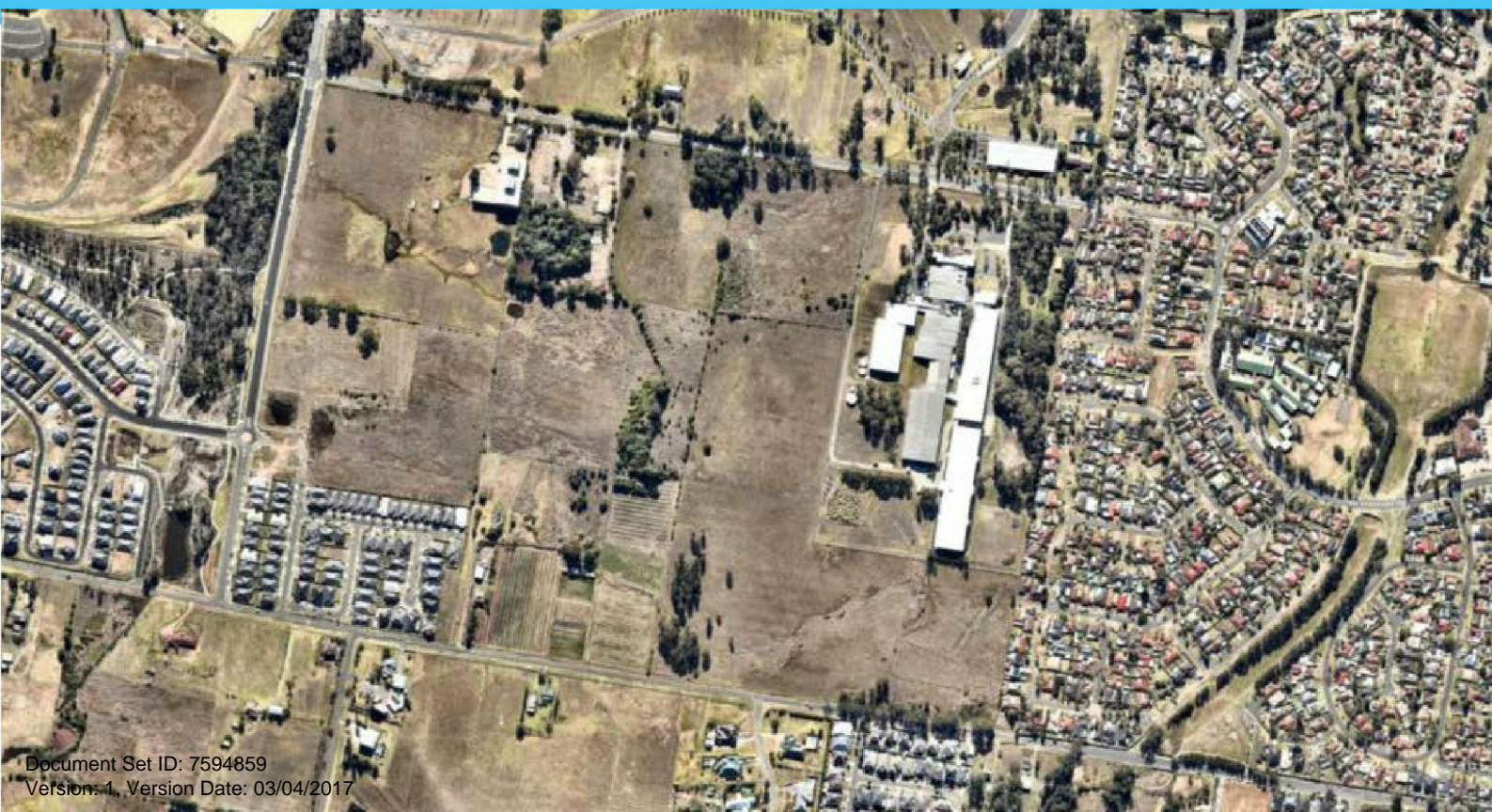
Statement of Environmental Effects

Proposed Modification – Section 96(1A)(DA16/1154) – Amendment to proposed Lot
Amalgamations

Lot 11 DP522660, Lot 12 DP522660, Lot 101 DP564332, Lot 1 DP515678, Lot 2
DP502333, Lot 6 DP502333, O’Connell Street, Caddens

March 2017

Legacy Property



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This submission has been prepared by



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Director



This report dated March 2017 is provided to 'the client' exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the report and upon the information provided by the client.

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Table of Contents

1	INTRODUCTION	1
2	THE SITE AND SURROUNDS	2
	2.1 The Site	2
3	DEVELOPMENT PROPOSAL	5
	3.1 Details of the Proposal	5
	3.2 Proposed Amendments to the Consent	6
4	STATUTORY CONTEXT	7
	4.1 Planning Controls	7
5	SECTION 79C ASSESSMENT	9
	5.1 Section 79C(1)(a)(i) – Any Environmental Planning Instruments	9
	5.2 Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument	9
	5.3 Section 79C(1)(a)(iii) – Any Development Control Plan	9
	5.4 Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f	9
	5.5 Section 79C(1)(a)(iv) – The Regulations	9
	5.6 Section 79C(1)(b) – The Likely Impacts of the Development	10
	5.7 Section 79C(1)(c) – The Suitability of the Site	10
	5.8 Section 79C(1)(d) – Any Submission Made	10
	5.9 Section 79C(1)(e) – The Public Interest	10
6	CONCLUSION AND RECOMMENDATION	11

APPENDIX A Amended Plan of Subdivision

1 Introduction

Stimson & Baker Planning has been engaged by Legacy Property to prepare a Statement of Environmental Effects in relation to a proposed modification to existing approval DA16/1154, at the property known as Lot 11 DP522660, Lot 12 DP522660, Lot 101 DP564332, Lot 1 DP515678, Lot 2 DP502333, Lot 6 DP502333, O'Connell Street, Caddens. The proposed development was approved on 9 March 2017.

Legacy Property seek approval for a minor modification that includes the removal of one of the lots from the approved lot consolidation. Submitted with this application is an amended plan of subdivision.

The amendment will not significantly alter the proposal, and as such Council will be able to consider this application without further referrals.

2 The Site and Surrounds

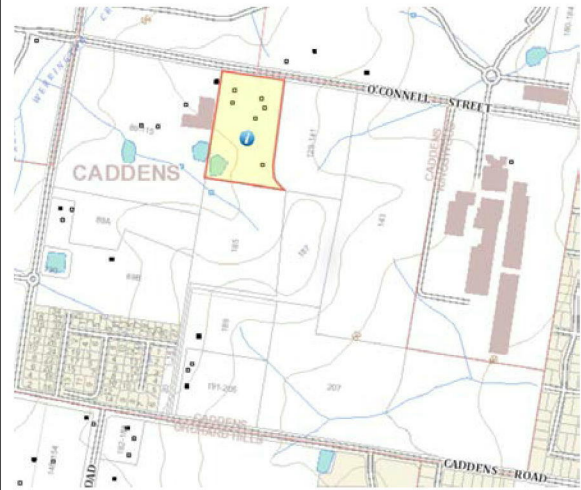
2.1 The Site

In its entirety, the subject site is over 30 hectares in area, with frontages to both O'Connell Street and Caddens Road.

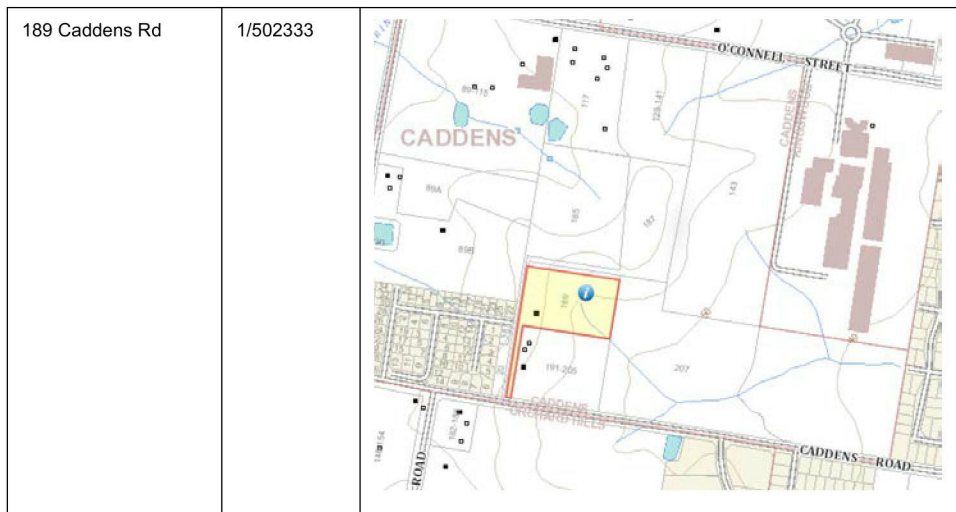


Figure 1 Overall subject site

This application for the creation of super lots however comprises the following parcels.

Address	Lot/DP	
117 O'Connell St	11/522660	

<p>129-141 O'Connell St 12/522660</p>	
<p>185 Caddens Rd 101/564332</p>	
<p>187 Caddens Rd 1/515678</p>	



As this locality is a residential release area, the surrounds are characterised as rural residential however there is increased development activity occurring.

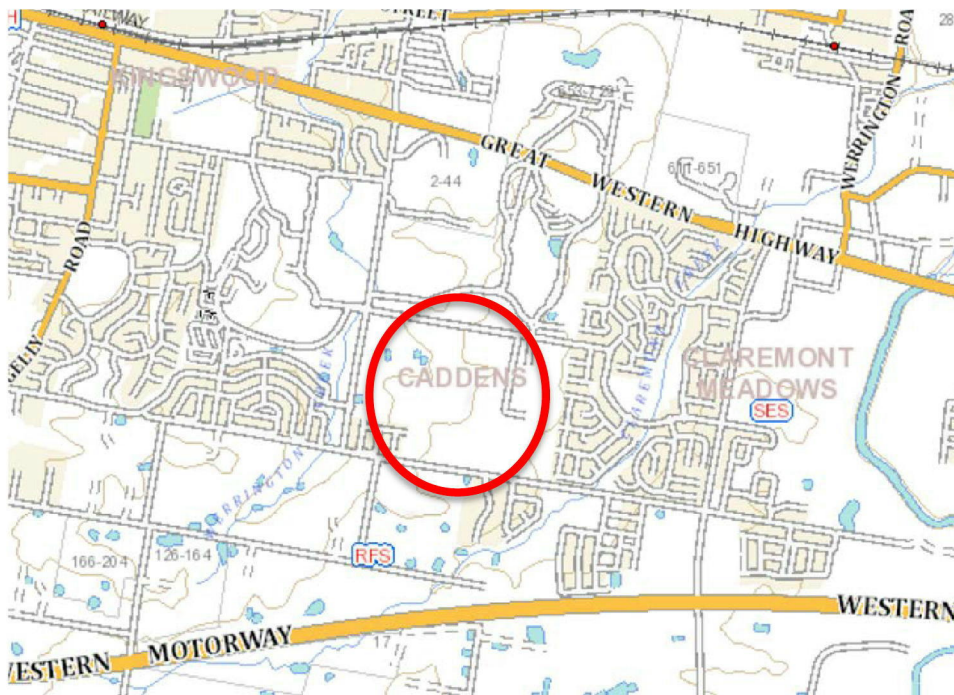


Figure 2 Surrounding locality

3 Development Proposal

3.1 Details of the Proposal

The modification includes the removal of Lots 2 and 6 in DP 502333 from the approved amalgamation into proposed Lot 4. The existing Lots 2 and 6 will still form part of what is known as Stage 4 of the development, and will be developed concurrently with proposed Lot 4 under this subdivision.

The approved plan of subdivision under DA16/1154 is as follows.

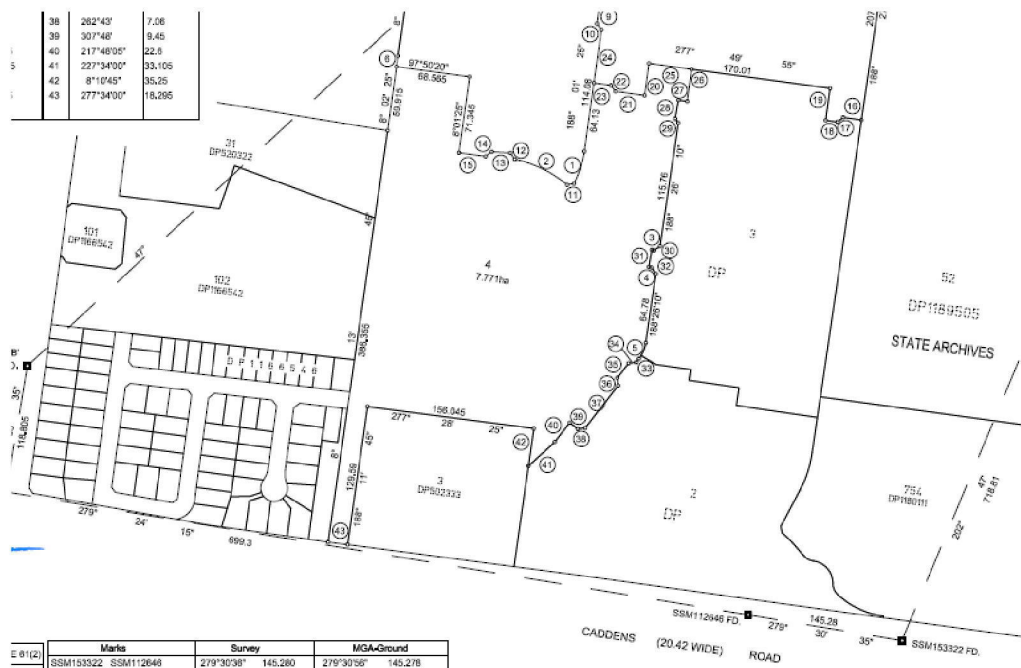


Figure 3 Approved Plan of Subdivision DA16/1154

The amendment as proposed as part of this application is marked below.

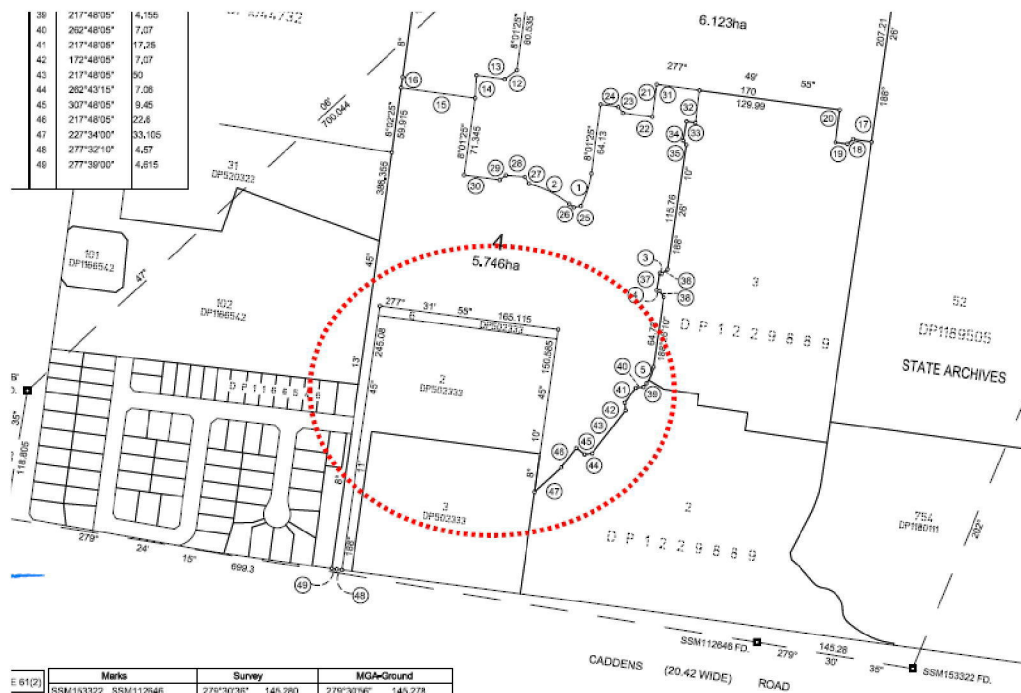


Figure 4 Amendment proposed as part of this application

This proposal will also require amendments to the relevant conditions of consent citing the approved plan of subdivision.

The amendment is proposed due to a site acquisition issue around the entity structures that own the subject sites (the existing company owning those lots has had to be acquired rather than just buying the land as would normally be the case). In essence, this is an administrative amendment as opposed to it being related to any aspect of the development itself.

3.2 Proposed Amendments to the Consent

As cited above, various amendments will be made to the relevant conditions of the consent to account for the amended plan of subdivision.

4 Statutory Context

4.1 Planning Controls

4.1.1 Environmental Planning and Assessment Act 1979

Section 96 of the Environmental Planning and Assessment Act 1979 allows for proponents to seek modifications to already approved development applications.

Section 96 states:

96 Modification of consents—generally

(1) *Modifications involving minor error, misdescription or miscalculation*
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6), section 96AB and Division 8 do not apply to such a modification.

(1A) *Modifications involving minimal environmental impact*
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) *it is satisfied that the proposed modification is of minimal environmental impact, and*

(b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

(c) *it has notified the application in accordance with:*

(i) *the regulations, if the regulations so require, or*

(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

(2) *Other modifications*
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent*

was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

In respect to the relevant sections of the Act above, the following is submitted for consideration:

- This proposed modification is considered minor with no environmental impact arising. As the request is not generated from an error or misdescription, it is submitted that section 96(1A) is the most appropriate clause to apply.
- The approved development will remain *substantially the same development* as a result of this application. No significant changes are proposed.
- The amendment is considered minor in the context of the scale and bulk of the overall building.

We submit that notification of this application is not required because of its minor nature.

In terms of subsection (3), an assessment against Section 79C has been undertaken in Section 5 of this report, however it is noted that the proposed amendments should not significantly change the assessment undertaken as part of the original application.

5 Section 79C Assessment

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 79C of the EPA Act has been undertaken.

5.1 Section 79C(1)(a)(i) – Any Environmental Planning Instruments

The relevant environmental planning instruments have been considered against this proposal. There are no changes arising as a result from the assessment of the development that was originally undertaken.

The proposal continues to be permissible with consent and is considered satisfactory when assessed against the relevant requirements. No changes are proposed to overall building height, or any other major development standard.

5.2 Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument

This consideration is not relevant to the proposed modification.

5.3 Section 79C(1)(a)(iii) – Any Development Control Plan

Compliance against the relevant DCP's has been considered as part of the original development application. The proposed amendments are minor and will not significantly alter the development as approved. The proposal continues to be consistent with the DCP.

5.4 Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f

The application does not impact on such agreements.

5.5 Section 79C(1)(a)(iv) – The Regulations

There are no sections of the regulations that are relevant to the proposal at this stage.

5.6 Section 79C(1)(b) – The Likely Impacts of the Development

Council as part of the original development application considered all impacts of the development. This modification application does not materially alter that assessment. There are no significant changes to the subdivision as approved.

5.7 Section 79C(1)(c) – The Suitability of the Site

The site continues to be suitable for the development proposal.

5.8 Section 79C(1)(d) – Any Submission Made

We submit that no notification is required due to the minor nature of this application.

5.9 Section 79C(1)(e) – The Public Interest

Given the type of development, its general compliance with the planning controls, how the objectives are satisfied and the suitability of the site it is considered that the public interest would not be jeopardised as a result of this minor amendment.

6 Conclusion and Recommendation

The proposed development modification has been assessed against the requirements of the Act and is considered to represent a form of development that is acceptable.

The proposed modification would not result in any unacceptable impact on the locality, nor significantly alter the development as approved.

An assessment against section 79C of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed modification be approved.



Appendix A

Amended Plan of Subdivision


DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 2 sheets

Registered: _____ Office Use Only Title System: _____ Purpose: _____	Office Use Only <h1 style="margin: 0;">D.P.1229890</h1>
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PLAN OF SUBDIVISION OF LOT 101 D.P.564332, LOT 1 D.P.1225593, LOTS 11 & 12 D.P.522660, LOT 1, 4, 5 & 6 D.P.1229889.	L G A: PENRITH Locality: CADDENS Parish: CLAREMONT County: CUMBERLAND
--	--

Crown Lands NSW/Western Lands Office Approval I,in approving this plan certify Authorised Officer that all necessary approvals in regard to the allocation of the land shown hereon have been given. Signature Date:..... File No: Office:.....	Survey Certificate I, IAN VINCENT MYERS of VINCE MORGAN SURVEYORS PTY.LTD. Ph.47215293. email: imyers@vmsurvey.com.au a surveyor registered under the Surveying & Spatial Information Act, 2002 certify that: (a) The land shown in the plan was surveyed in accordance with the Surveying and Spatial Information Regulation, 2012, is accurate and the survey was completed on (b) The part of the land shown in the plan being (*being/excluding^ was surveyed in accordance with the Surveying and Spatial Information Regulation, 2012, is accurate and the survey was completed on the part not surveyed was compiled in accordance with that Regulation. (c) The land shown in the plan was compiled in accordance with the Surveying and Spatial Information Regulation, 2012.
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<h3 style="text-align: center;">Subdivision Certificate</h3> I *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.109J of the Environmental Planning and Assessment Act, 1979 have been satisfied in relation to the proposed subdivision, new road or reserve set out herein Signature: Accreditation Number..... Consent Authority Date of endorsement Subdivision Certificate Number..... File Number..... * strike through if inapplicable	Signature:  Dated: 13.03.17 Surveyor ID: 1682 Datum Line: ('A'-B') SSM181300 TO SSM181301 Type: URBAN The terrain is level-undulating * Strike through if inapplicable. ^ Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.
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Statements of intention to dedicate public roads, public reserves and drainage reserves. <h1 style="font-size: 48px; margin: 0;">draft</h1>	Plans used:- DP515678 DP1180111 DP1189505 DP1044732 DP564332 DP1166542 DP1166546 DP522660 DP502333 DP520322 DP1225593 If space is insufficient continue on PLAN FORM 6A
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Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A	SURVEYOR'S REFERENCE: 20467-C3
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DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 2 sheets

Registered:	Office Use Only D.P.1229890
PLAN OF SUBDIVISION OF LOT 101 D.P.564332, LOT 1 D.P.1225593, LOTS 11 & 12 D.P.522660, LOT 1, 4, 5 & 6 D.P.1229889.	This sheet is for the provision of the following information as required: <ul style="list-style-type: none"> ● A schedule of lots and addresses – See 60(c) SSI Regulation 2012 ● Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act, 1919. ● Signatures and seals – See 195D Conveyancing Act, 1919. ● Any information which cannot fit in the appropriate panel of sheet 1 of the Administration sheets.
Subdivision Certificate No.: Date of Endorsement:	

STREET ADDRESSES NOT AVAILABLE

SURVEYOR'S REFERENCE: 20467-C3

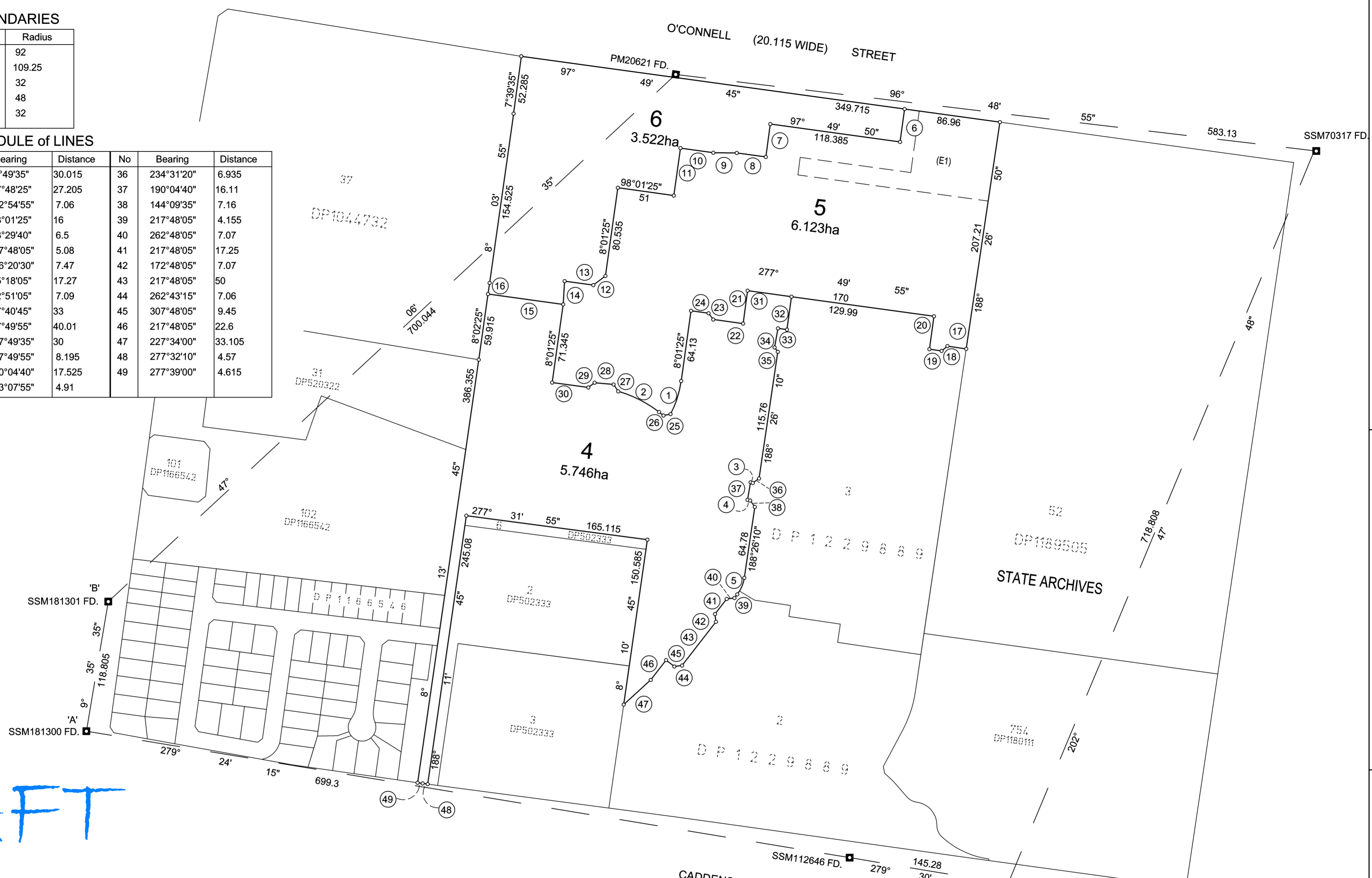
(E1) EASEMENT TO DRAIN WATER 16 & 72.3 WIDE (D.P.1213358)

SCHEDULE of CURVED BOUNDARIES

No	Bearing	Chord	Arc	Radius
1	197°49'50"	31.345	31.5	92
2	296°53'05"	41.38	41.635	109.25
3	286°31'05"	2.06	2.06	32
4	104°05'30"	2.51	2.51	48
5	203°07'10"	16.22	16.4	32

SCHEDULE of LINES

No	Bearing	Distance	No	Bearing	Distance	No	Bearing	Distance
6	7°49'35"	30	21	7°49'35"	30.015	36	234°31'20"	6.935
7	7°49'35"	30.005	22	97°48'25"	27.205	37	190°04'40"	16.11
8	97°48'20"	26.5	23	142°54'55"	7.06	38	144°09'35"	7.16
9	90°31'55"	21.18	24	98°01'25"	16	39	217°48'05"	4.155
10	98°01'25"	30	25	78°29'40"	6.5	40	262°48'05"	7.07
11	8°01'25"	43.325	26	127°48'05"	5.08	41	217°48'05"	17.25
12	52°55'55"	13.75	27	146°20'30"	7.47	42	172°48'05"	7.07
13	97°50'25"	26.2	28	95°18'05"	17.27	43	217°48'05"	50
14	3°30'55"	21.06	29	52°51'05"	7.09	44	262°43'15"	7.06
15	97°50'20"	68.565	30	97°40'45"	33	45	307°48'05"	9.45
16	8°02'20"	10.17	31	97°49'55"	40.01	46	217°48'05"	22.6
17	278°26'00"	17.205	32	187°49'35"	30	47	227°34'00"	33.105
18	230°40'30"	6.8	33	277°49'55"	8.195	48	277°32'10"	4.57
19	277°49'55"	11.08	34	190°04'40"	17.525	49	277°39'00"	4.615
20	7°48'05"	30	35	143°07'55"	4.91			



DRAFT
13.03.17

SURVEYING & SPATIAL INFORMATION REGULATION 2012 CLAUSE 61(2)

M.G.A. CO ORDINATES (ZONE 56)

MARK	EASTING	NORTHING	CLASS	ORDER	METHOD
SSM181300 'A'	289998.217	6260327.895	C	4	SCIMS
SSM181301 'B'	290018.017	6260445.051	C	4	"
PM20621	290530.964	6260921.600	B	2	"
SSM70317	291110.053	6260852.402	C	3	"
SSM153322	290831.529	6260189.621	C	4	"
SSM112646	290688.231	6260213.641	C	3	"

COMBINED SEA LEVEL AND SCALE FACTOR 1.000129

SOURCE M.G.A. CO ORDINATES ADOPTED FOR ESTABLISHED MARKS FROM S.C.I.M.S. 8 NOVEMBER, 2016.

Marks		Survey		MGA-Ground	
SSM153322	SSM112646	279°30'36"	145.280	279°30'56"	145.278
SSM112646	SSM181300	279°24'15"	699.301	279°24'07"	699.318
SSM181300	SSM181301 'A'-'B'	9°35'34"	118.805	9°35'34"	118.802
SSM181301	PM20621	47°06'35"	700.044	47°06'24"	700.062
PM20621	SSM70317	96°48'55"	583.128	96°48'51"	583.134
SSM70317	SSM153322	202°47'48"	718.808	202°47'38"	718.833

Surveyor: Ian Vincent Myers
Vince Morgan Surveyors
Ph. 47215293. email: imyers@vmsurvey.com.au
Date of Survey: XXXXXXXX
Surveyor's Reference: 20467-C3

PLAN OF SUBDIVISION OF
LOT 101 D.P.564332, LOT 1 D.P.1225593,
LOTS 11 & 12 D.P.522660,
LOT 1, 4, 5 & 6 D.P.1229889.

LGA: PENRITH
Locality: CADDENS
Subdivision No.:
Lengths are in metres. Reduction Ratio 1: 2500

Registered:

D.P.1229890