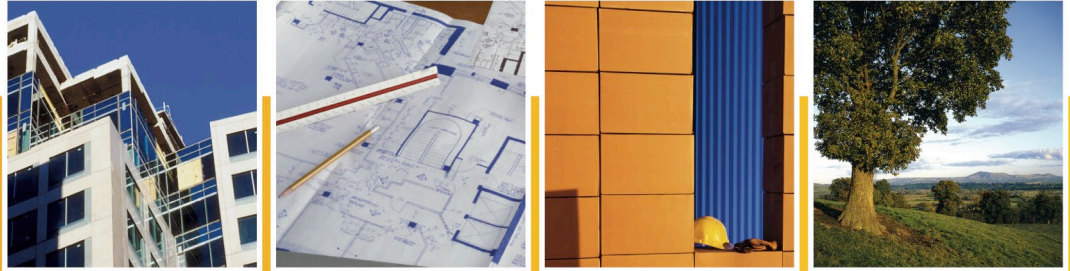


# s4.55 (2) AMENDMENT REPORT



For

**Lot 12 DP1197316 and  
Lot 1 DP1288276**

**35 Metford Road, Tenambit NSW 2323**

**Prepared for  
Metford Road Pty Ltd**

**October 2024**

**Report 24/049**

**Prepared by**



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**Date: 29 October 2024**

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## CONTENTS

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<b>1.0</b>	<b>Introduction.....</b>	<b>5</b>
<b>2.0</b>	<b>Background.....</b>	<b>6</b>
2.1	Approved development.....	6
2.2	Application particulars .....	6
2.2.1	Site description .....	6
2.2.2	Applicant details.....	6
2.2.3	Ownership details .....	6
2.2.4	Contact details .....	6
<b>3.0</b>	<b>Proposed modifications.....</b>	<b>7</b>
3.1	Conditions.....	8
<b>4.0</b>	<b>Legislative Requirements.....</b>	<b>12</b>
4.1	Environmental Planning & Assessment Act 1979 .....	12
4.1.1	Modification of Consents.....	12
4.2	State Environmental Planning Policy.....	13
4.3	MAITLAND Local Environmental Plan 2011 .....	17
4.4	MAITLAND Development Control PLAN 2011.....	18
<b>5.0</b>	<b>Assessment under s4.15(1).....</b>	<b>24</b>
5.1	Maitland Local Environmental Plan 2011 .....	24
5.2	Maitland Development Control Plan 2011 .....	24
5.3	Planning Agreement (including Draft Planning Agreements) .....	24
5.4	The Regulations .....	24
5.5	The suitability of the site for the development .....	24
5.6	Any submissions made.....	24
5.7	The Public Interest.....	24
5.8	Likely Impacts of the Modification.....	25
<b>6.0</b>	<b>Requirement of CI100.....</b>	<b>27</b>
<b>7.0</b>	<b>Conclusion .....</b>	<b>29</b>

## APPENDICES

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Appendix A: Modification Plans

Appendix B: Temporary Construction Access Assessment

## 1.0 INTRODUCTION

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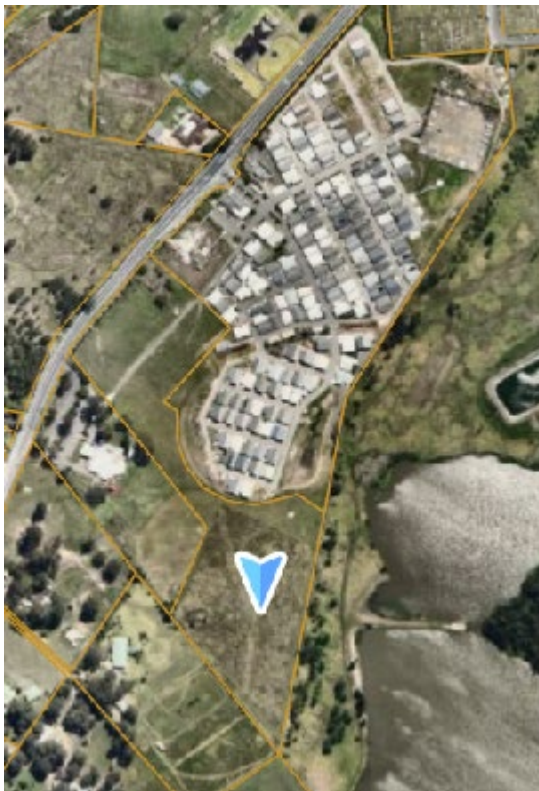
Council granted consent to a manufactured home estate - 218 manufactured home sites and associated managers residence and community facilities on Lot 1 DP 1288276, 37-39 Metford Road, Tenambit under DA/2016/2715.

There have also been four (4) modification applications under this DA which have also been approved and include changes to the number of lots, internal roads, managers residences, staging, car parking, stormwater and lot layout. These have all been approved under DA/2016/2715/1, DA/2016/2715/2, DA/2016/2715/3.

The council has also consented to an additional area to the south for 101 manufactured home sites in seven (7) stages and demolish the existing dwelling and sheds on Lot 12 DP 1197316 and Lot 1 DP 1288276, 35 Metford Road Tenambit under DA/2022/108.

A significant amount of construction of the manufactured homes estate in the northern area has been completed. It is proposed make amendments to the southern areas staging plan; provide for a temporary construction access; carry out a minor boundary adjustment and various associated modifications to conditions of consent regarding the acoustic fence, road works, site consolidation and the temporary community facilities.

Accordingly, this application seeks council consideration of a section 4.55 (2) amendment to DA/2022/108. The following details are provided to the consent authority in accordance with the requirements of *Clause 100 of EP&A Regulation 2021* to modify the consent.



**Figure 1: Site Plan**

*Source: NSW NearMap, accessed October 2024*

## 2.0 BACKGROUND

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### 2.1 APPROVED DEVELOPMENT

The existing development, the subject of this Modification Application, was approved under DA/2022/108 for 101 manufactured homes in seven (7) stages.

The associated community facility is located on the adjoining lot to the north.

### 2.2 APPLICATION PARTICULARS

#### 2.2.1 SITE DESCRIPTION

Lot 12 DP 1197316 and Lot 1 DP 1288276  
35 Metford Road Tenambit NSW 2323

#### 2.2.2 APPLICANT DETAILS

Metford Road Pty Ltd  
C/- HDB Town Planning & Design  
PO Box 40  
MAITLAND NSW 2320

#### 2.2.3 OWNERSHIP DETAILS

Metford Road Pty Ltd

#### 2.2.4 CONTACT DETAILS

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## 3.0 PROPOSED MODIFICATIONS

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This proposal seeks to modify DA/2022/108 in respect to making amendments to the southern areas staging plan; provide for a temporary construction access; carry out a minor boundary adjustment and various associated modifications to conditions of consent regarding the timing of road works, deletion of the site consolidation requirement, provision temporary community facilities, reduce the number of manufactured homes from 101 to 97 a minor increase in the number of visitor spaces and consequential amendments to the timing of various consent conditions.

An amended site layout and plans for the temporary Community Facility are attached at *Appendix A*.

Specifically, the proposed modifications compared to the approved are detailed as follows:

- Temporary Construction Access

It is proposed to provide a temporary construction access road off Metford Road to enable construction related traffic to directly access the proposed rearranged construction stages, commencing Stage 1 on the eastern most side of the site.

This was not originally proposed but would separate construction related traffic from resident traffic. Resident traffic would be limited to the existing main access provided for the northern area.

It is anticipated that the temporary access would be in place for approximately two (2) upon completion of all the stages and would a compacted gravel all weather surface. The access would then be removed and the land be rehabilitated.

- Temporary Country Club Facility Building

While the approved upgraded Community Facility is being constructed a temporary facility has been provided. This is a reconfigured manufactured home to provide leisure activities for residents and is anticipated to be in place until August 2025, upon completion of the permanent Community Facility.

This was not envisaged in the original Development Application.

- Change in Staging

The originally approved stages are proposed to be developed in a different sequential order, however the number of stages are unchanged.

It is proposed to develop from east to west across the site rather than from west to east. Access will continue through from Kookaburra Drive, from the north.

- Boundary Adjustment

It is proposed to realign the common boundary between Lot 12 DP 1197316 and Lot 1 DP 1288276 so that it follows the lot and road layout as well as the HWC sewer easement.

- Community Facility Re-build Storage Compound

It is proposed to provide a temporary storage compound associated with the construction of the new Community Facilities Building on original lot 272.

- Deletion of Condition 69 - Site Consolidation

This condition requires that:

Prior to the installation of any manufactured homes on site, Lot 12 DP 1197316 and Lot 1 DP 1288276 shall be consolidated into one allotment by registered subdivision. Documentary evidence of the consolidation plan registration with NSW Land and Property Information must be submitted to Council prior to the issue of an approval to operate the manufactured home estate under section 68 of the Local Government Act 1993.

It is not considered economically feasible to consolidate the north and south lots due to the prohibitive costs associated with providing separate power infrastructure.

- Reduce the Number of Approved Manufactured homes from 101 to 97.

This is as a result of a minor adjustments to the lot layout.

- Minor Increase in the Number of Onsite Parking Visitor Parking Spaces

It is proposed to increase the number of visitor parking spaces from twenty-three (23) to twenty-seven (27).

### 3.1 CONDITIONS

It is proposed to modify the following consent conditions as described.

#### APPROVED PLANS AND DOCUMENTATION

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans.

#### Modification Proposed

The development be carried out in accordance with the amended site layout incorporating the modifications proposed.

#### COMPLIANCE



6. The installation of manufactured homes cannot occur on site for any stage until the community centre is upgraded in accordance with the modified development consent under DA/2016/2715:2.

#### Modification Proposed

As it is proposed to establish a temporary community centre while the new centre is being constructed, which will take approximately six (6) months, it is considered that the condition should either be deleted or amended to reflect the temporary facility.

10. The development shall be carried out in seven (7) consecutive stages as shown on the approved staging plan.

#### Modification Proposed

The timing and sequencing of the stages is proposed to commence from the east to the west rather than as originally approved from the west to the east, as set out below.

### TRAFFIC, TRANSPORT AND CIVIL WORKS

23. Prior to the commencement of any works on site, a Roads Act Approval shall be submitted to and approved by Council within the existing road reserve on Metford Road for the following works:

- a) Construction of kerb and guttering across the frontage of Lot 12 DP 1197316 (35 Metford Rd) from the existing kerb at Lot 11 DP 597659 (33 Metford Rd) to the kerb at Lot 1 DP1288276 (39 Metford Rd).
- b) Footpath connection from the existing footpath fronting Lot 1 DP1288276 (39 Metford Rd) to the proposed concrete footpath within "Valley View Estate" referring to DA/2006/3511.
- c) Ancillary stormwater drainage and pavement rectification works that achieve a 4.5m verge from the face of kerb to the property boundary.
- d) Services relocated into the standard condition.
- e) All redundant driveway crossings, driveways and/or damaged kerb and guttering are to be removed and reinstated.

Note: Full details are to be designed in accordance with Council's Manual of Engineering Standards.

#### Modification Proposed

It is proposed that the required road works on Metford Road be deferred until completion of all stages.

It is considered that the proposed temporary access road onto Metford Road would impede the road works.

26. Prior to the installation of any manufactured homes on site, any necessary civil works required for compliance with this consent shall be provided to Council in accordance with the specified requirements. Confirmation of works shall include:

- a) Certification that the civil works (access roads, stormwater, retaining wall, utility and services) have been completed in accordance with this consent.
- b) Confirmation from the road authority for any Roads Act Approval requirements.
- c) Work-as-executed drawings, and electronic files are provided to Council for the Roads Act Approval works.

#### Modification Proposed

It is proposed that the condition be modified such the civil works are completed after the final stage.

28. Prior to the installation of any manufactured homes on site, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of Council, detailing whether:

- (a) After comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining public lands; and
- (b) Where there has been structural damage to any adjoining public lands, that is a result of the building work approved under this development consent. The applicant shall provide a copy of the post-construction dilapidation report to Council.
- (c) Any damage to the adjoining public infrastructures as a result of the approved works is to be fully reinstated/reconstructed by the applicant at no cost to Council.

#### Modification Proposed

It is proposed that provision of the report be deferred until after completion of the final stage.

#### FENCING

45. Boundary fencing along the Metford Road frontage shall be 1.8 metre high black palisade fencing to match the existing Morpeth Gardens fencing.

#### Modification Proposed

The fencing is proposed after completion of the final stage and removal of the temporary construction access.

#### LAND TITLE

68. Prior to the installation of any manufactured homes on the site, a restriction on the title of affected lots (generally Section 88b) under the Conveyancing Act 1919, shall be created to give effect to:

- (a) The prohibition of vehicular access (Lots 264-271) across the common boundary with Metford Road.

Modification Proposed

It is proposed that this requirement be deferred until the temporary access road is removed.

## 4.0 LEGISLATIVE REQUIREMENTS

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The following legislative review is provided to give context to the application. It should be noted that due to the moderate nature of the requested modification, there is no requirement to review and/or consider the following legislation beyond what is provided herein.

### 4.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

#### 4.1.1 MODIFICATION OF CONSENTS

*Environmental Planning and Assessment Act 1979* provides the capacity to modify consents under Section 4.55 of the Act. To modify an application under s4.55 the application must fall within one of the three nominated pathways. These are: -

- S4.55(1) – Correction of a minor error, mis-description, or miscalculation.
- S4.55(1A) – Substantially the same development with the modification being of minimal environmental impact; and
- S4.55(2) – All other applications provided the development remains substantially the same development.

The amendments proposed in the application are to change the previously approved building envelope, design, and location of Community Centre. The development is substantially the same development. Therefore section 4.55(2) is the most appropriate action for the proposed modification.

#### ***4.55 Modification of consents - generally***

*(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 4.8) 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 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

(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*

The proposed modifications do not materially change the originally approved development layout.

Consequently, it is considered that the proposed modified development is substantially the same development to that which was originally approved.

An assessment of the proposal against all relevant matters for consideration as required in Section 4.15(1) is provided later in this report.

#### ***Environmental Planning and Assessment Regulation 2021***

There are no specific matters identified in the Regulations that are relevant to the proposed modification being sought.

## **4.2 STATE ENVIRONMENTAL PLANNING POLICY**

### ***Rural Fires Act 1997;***

The proposal is not inconsistent with the Act as it is to be carried out in accordance with the provisions of Planning for Bushfire Protection 2019 as originally approved. There is a very minor reduction in the number of manufactured homes from 101 to 97 due some minor internal layout adjustments. This would not trigger the need to review the existing RFS requirements.

### ***Rural Fires Regulation 2013;***

The proposal is not inconsistent with the Regulation as it is to be carried out in accordance with the provisions of Planning for Bushfire Protection 2019 as originally approved. There are no changes proposed to the lot layout.

### ***Planning for Bushfire Protection 2019;***

The site is mapped as bushfire-prone land Vegetation Category 3 and Vegetation Buffer. Accordingly, a Bushfire Threat Assessment was undertaken by Firebird EcoSultants Pty Ltd.

The proposed modifications do not materially change the originally approved layout and therefore do not compromise the Bushfire Threat Assessment and the RFS approval.

### ***SEPP (Housing) 2021 – Part 8 (Manufactured Home Estates)***

#### *Aims and strategies*

*(a) to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements, and*

*(b) to provide immediate development opportunities for manufactured home estates on the commencement of this Part, and*

*(c) to encourage the provision of affordable housing in well designed estates, and*

*(d) to ensure that manufactured home estates are situated only in suitable locations and not on land having important resources or having landscape, scenic or ecological qualities that should be preserved, and*

*(e) to ensure that manufactured home estates are adequately serviced and have access to essential community facilities and services, and*

*(f) to protect the environment surrounding manufactured home estates, and*

*(g) to provide measures which will facilitate security of tenure for residents of manufactured home estates.*

The proposed development is considered to support the above-mentioned aims and strategies by:

- Significantly improving the existing community facilities with a temporary facility while the new temporary fit-for-purpose community centre that offers an enhanced range of recreational uses and experiences for existing and future residents is being constructed.
- Being adequately serviced by essential infrastructure.
- There are no significant modifications proposed which change the original approved layout to any significant extent.

### ***SEPP (Transport and Infrastructure) 2021;***

The proposal is not inconsistent with this SEPP and would not generate any additional traffic over and above what has been originally anticipated.

### ***SEPP (Resilience and Hazards) 2021;***

The subject site is not impacted by flooding. Existing consent conditions are in place to manage stormwater generated will be managed within the existing capacity of the existing stormwater management system. The proposed modifications do not change the approved onsite stormwater management.

***Local Government (Manufactured Home Estates, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2021***

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021, sets the standards for the design, construction and maintenance of MHEs. The specific controls relevant to the proposal are:

- Community amenities: A minimum of 10% of the total land area must be reserved for recreation or communal activities.

**Comment**

This has been met within the existing approved complex.

- *Visitor parking – Clause 23*

*(d) for a manufactured home estate containing more than 105 sites—20 spaces plus 1 additional space for every 7 sites above 140 sites*

**Comment**

The existing and proposed modified estate exceeds this by providing 27 spaces, three more than originally approved.

- *Visitor parking for people with disabilities – Clause 24*

*(1) A manufactured home estate must contain—*

*(a) at least 1 visitor parking space for people with a disability (a disabled parking space), or*

*(b) if the manufactured home estate contains 100 sites or more—at least 1 additional disabled parking space for—*

*(i) the first 100 sites, and*

*(ii) every further 100 sites, and*

*(iii) a remaining part, if any, of 100 sites.*

**Comment**

Two disabled parking spaces will be identified and marked near the temporary community facility.

*Road surfaces – Clause 25*

*All access roads, including all passing and parking bays, must—*

- (a) have an all-weather sealed or other surface finish specified in the approval,*
- (b) be adapted to the land to enable adequate drainage and remove excessive grades.*

**Comment**

All access roads and car parking areas are/will be bitumen sealed.

The temporary access road will be constructed of an engineered compacted gravel to accommodate the construction traffic.

- *Lighting – Clause 26*

All access roads must be adequately lit between sunset and sunrise.

**Comment**

Internal street lighting is provided while the new facility will be provided with adequate lighting in and around the building.

- *Fire hydrants – Clause 34*

*(1) No part of a dwelling site or community building within a manufactured home estate may be located more than 90 metres from a fire hydrant.*

*(2) A fire hydrant located within a manufactured home estate must be—*

- (a) a double-headed pillar-type fire hydrant, and*
- (b) maintained to the standard specified in the approval.*

**Comment**

This standard is met within the existing estate as well as for the proposed new community facilities building.

***Draft SEPP (Housing);***

Phase 1 of the review of the Draft SEPP(Housing) was exhibited from 17 November 2023 to 19 January 2024.

**Comment**

The proposal is not inconsistent with any of the matters that are subject to review which focus on improved standards relating to flooding and fire safety.



## 4.3 MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

### *Existing Zoning & Permissibility*

The subject lot is zoned RU2 – Rural Landscape. The proposed community centre is located within Zone RU2 – Rural Landscape under the provisions of the Maitland Local Environmental Plan (MLEP) 2011.

#### **1 Objectives of zone**

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for a range of non-agricultural uses where infrastructure is adequate to support the uses and conflict between different land uses is minimised.*

#### **2 Permitted without consent**

*Extensive agriculture; Home occupations; Intensive plant agriculture*

#### **3 Permitted with consent**

*Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Landscaping material supplies; Markets; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Signage; Turf farming; Veterinary hospitals; Water supply systems*

#### **4 Prohibited**

*Intensive livestock agriculture; Livestock processing industries; Any other development not specified in item 2 or 3*

#### **Comment:**

The existing development is defined as a Manufactured Home Estate (MHE) which is not specifically defined under Maitland LEP 2011. It is noted that caravan parks, which include moveable dwellings, are defined and are permitted within the RU2 zone.

The *SEPP(Housing) 2021* also permits caravan parks on the subject site where the location criteria is met.

It is considered that the proposal is ancillary to a Manufactured Home Estate and is therefore permissible within the RU2 zone.

The proposal does not detract from the zone objectives in that it will not visually detract from the existing semi-rural amenity of the immediate locality.

*Clause 2.7 - Demolition requires development consent*

This existing dwelling and associated shed will be demolished as envisaged by the original approval.

*Clause 5.10 - Heritage Conservation*

There are records of any Aboriginal sites within 200m of the development site.

*Clause 7.2 Earthworks.*

. There is no interface with any adjoining property regarding significant cut-and-fill work or the construction of retaining walls.

## 4.4 MAITLAND DEVELOPMENT CONTROL PLAN 2011

Maitland Development Control Plan (DCP) 2011 is a companion document to the LEP and contains development standards for the land uses and activities supported in the planning instrument.

The following table is an assessment of the proposed modification in relation to the relevant controls:

Item	DCP Requirements	Proposed	Comment
<b>Part A – Administration</b>			
<b>A.4 Notification</b>			
<b>4.2.2 Development controls</b>	13. Modification to approvals under Section 4.55(1A) and 4.55(2) of the EP&A Act will only be notified where Council is of the opinion that the use or enjoyment of adjoining land may be detrimentally affected by the proposed modification.		Complies
<b>Part B</b>	Environmental Guidelines		Complies
<b>B.5 – Tree and Vegetation Management</b>	<p>Objectives</p> <ul style="list-style-type: none"> <li>• To protect, maintain and enhance bushland, remnant vegetation and tree canopy as assets for the people of Maitland.</li> <li>• To retain trees for the urban amenity, microclimate, scenic, air and water quality, and the social benefits that they provide.</li> <li>• To ensure that trees listed on Council’s Significant Tree register are not adversely affected by development.</li> <li>• To implement the mitigation hierarchy of “avoid, minimize, offset” when considering the clearing of vegetation</li> </ul>	The project proposal does not result in the clearing of any onsite vegetation.	
<b>B.6 – Waste Not – Site Waste Minimisation</b>	<p>Objectives</p> <ul style="list-style-type: none"> <li>• To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources.</li> <li>• To encourage building designs, construction and demolition techniques in general which minimise waste generation.</li> </ul>	<p>Accessible onsite garbage receptacle storage is proposed.</p> <p>A site waste minimisation and management plan will be prepared as per the terms of the original consent.</p>	Complies

<b>&amp; Management</b>	<ul style="list-style-type: none"> <li>• To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan. This plan is to be completed in the planning stages of a development.</li> <li>• To facilitate effective waste minimisation and management for development in a manner consistent with the principles of ESD.</li> </ul>		
<b>Part C</b>	<b>Design Guidelines</b>		
<b>C.1 – Accessible Living</b>	<p>Objectives</p> <ul style="list-style-type: none"> <li>• To increase community awareness of mobility handicaps affecting certain sections of the community and of the need for barrier-free design in the built environment.</li> <li>• To ensure that new development is accessible and useable by all people in Maitland, including those people with disabilities, to facilitate their full and independent participation in community life.</li> <li>• To introduce a quality assurance system for compliance with relevant Australian Standards for Access and Mobility (eg. as required by the Building Code of Australia) and thereby minimise the risk exposure of building users, Council and building owners.</li> <li>• To provide an enhanced level of service for people with disability for those landuses which serve a public purpose.</li> <li>• Where practical, to seek upgrading of existing buildings to the standards outlined in this Plan.</li> <li>• To require an adequate supply of public parking facilities for use by people with disabilities.</li> <li>• To provide intending developers with clear guidance as to legal requirements and Council policy for access and mobility.</li> </ul>		Complies

<p><b>C.6 – Street Building Setbacks</b></p>	<p>Objectives:</p> <ul style="list-style-type: none"> <li>• To provide setbacks that complement the streetscape, allow flexibility in the siting of buildings and allow for landscape settings and open space requirements.</li> <li>• To ensure that new development establishes appropriate and attractive streetscapes which reinforce the function of the street and is sensitive to the landscape and environmental conditions of the locality.</li> </ul> <p>Requirements</p> <p>In the RU2 rural Landscape zone the Principal Frontage setback is 20 metres.</p>		<p>The proposed front setback is consistent with the objectives having regard to the existing screen landscaping .</p>
<p><b>C.8 – Building Height Bulk and Scale</b></p>	<p>Objectives</p> <ul style="list-style-type: none"> <li>• To ensure that the height, scale, and length of new development is not excessive and relates well to the local context and overall site constraints.</li> </ul>		<p>Complies</p>

	<ul style="list-style-type: none"> <li>• To ensure that the amenity of surrounding properties is properly considered.</li> <li>• To minimise site disturbance and cut and fill.</li> </ul>		
<b>C.11 – Vehicular Access &amp; Car Parking</b>	<p>Objectives</p> <ul style="list-style-type: none"> <li>• To ensure adequate provision of off-street parking to maintain the existing levels of service and safety on the road network;</li> <li>• To detail requirements for the provision of parking and loading/unloading facilities in association with development in the City of Maitland;</li> <li>• To provide a consistent and equitable basis for the assessment of parking provisions;</li> <li>• To facilitate design of parking areas, loading bays and access driveways which function efficiently;</li> <li>• To ensure that parking areas are visually attractive and constructed, designed and situated so as to encourage their safe use; and</li> <li>• To acknowledge the traditional lack of parking spaces within areas of historical or architectural significance (Central Maitland, Morpeth) and balance this with the need to facilitate development in order to maintain vitality and vibrancy in such centres.</li> </ul>		Complies
<b>C12</b>	Crime Prevention Through Environmental Design	This was addressed in the original application and the proposed modified layout is not substantially different.	Complies

**Table 1: Assessment of requirements of Maitland DCP**

*Source: HDB Town Planning and Design*

Modifications sought in this application are consistent and do not result in any variation to the development standards or the built environment, other than those previously considered by the council under the existing consent.

## 5.0 ASSESSMENT UNDER S4.15(1)

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Section 4.55 of the Act requires that an assessment under Section 4.15(1) must be undertaken. The following provides an assessment of the proposed modification against the provisions as outlined in Section 4.15(1).

### 5.1 MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

As stated in *Section 4.3*, there are no additional considerations in Maitland LEP that would adversely affect this application. The proposed amendment is consistent with the provisions of this instrument.

### 5.2 MAITLAND DEVELOPMENT CONTROL PLAN 2011

The proposed modifications are not inconsistent with the Maitland Development Control Plan described in *Section 4.4*.

### 5.3 PLANNING AGREEMENT (INCLUDING DRAFT PLANNING AGREEMENTS)

No Planning Agreements or draft Planning Agreements were entered into and therefore this is not applicable.

### 5.4 THE REGULATIONS

There are no specific regulations that affect the site or the application.

### 5.5 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed new community facility on the subject site provides an enhanced facility for the residents and is a compatible and integral component of the estate. The proposed amendments do not alter the permitted use of the site and are similar to the current activities.

### 5.6 ANY SUBMISSIONS MADE

Any submission received as a result of the proposal will be considered.

### 5.7 THE PUBLIC INTEREST

The proposed modifications seek to improve the existing approved manufactured home village. The public interest is served by providing an enhanced range of community facilities and services which will improve social interaction and the overall well-being of the residents.



## 5.8 LIKELY IMPACTS OF THE MODIFICATION

The table below provides a snapshot of the likely impacts of the modification on both the natural and built environments and social and economic impacts on locality:

Matters for consideration	Assessment of likely impact of the proposed modification
<b>Geology and soil</b>	The proposed modification reduces the cut/fill and retaining works of the site which was required under the approved consent. This modification does not affect the soil conditions or stability.
<b>Hydrology and water quality</b>	There are no changes, or works, that affect the water quality or hydrology, or stormwater regime on the site.
<b>Access and Traffic</b>	<p>The proposed modifications will not increase the traffic in the area, as it will operate the same as was originally proposed and approved.</p> <p>A temporary access road is proposed from Medford Road to allow construction vehicles to access the site separately to the existing resident access.</p> <p>Intersect Traffic Pty Ltd (Intersect traffic) was engaged to provide advice on the suitability of a proposed temporary construction access to 35 Metford Road, Tenambit. The report is attached at <i>Appendix B</i>.</p> <p>The report advises that the available sight distance at the proposed temporary construction access at 35 Metford Road Tenambit is compliant with the requirements of both AS2890.1- 2004 and Austroads Guide to Road Design Part 4A – Unsignalized and signalised intersections (2017).</p>
<b>Noise</b>	The proposed modifications will not add to the surrounding environment as the noise associated with such a facility would be contained within the building. There are no close off-site sensitive receptors that would be potentially impacted.
<b>Air Quality</b>	There is no anticipated impact on the air quality of the area.

<b>Flora and Fauna</b>	The proposed modifications will not have any impact on the matters relating to the flora and fauna significance. No existing onsite vegetation will be removed as a result of the modification.
<b>Visual Environment</b>	The proposed temporary building sits behind the existing well-established landscaping and is not visible from Metford Road  The existing screen landscaping provides an effective visual buffer from Metford Road.
<b>Waste Storage and Collection</b>	The existing waste management measures will continue to be used on-site which involve a private contractor.  In respect to the new building a screened
<b>Crime Prevention</b>	Please refer to <b><i>Section 4.4 – C12</i></b>

**Table 2: Assessment of likely impact of the proposed modification**

*Source: HDB Town Planning and Design*

## 6.0 REQUIREMENT OF CL100

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### *Considerations under Clause 100 of the Environmental Planning & Assessment Regulation 2021 (EPA Regulations)*

The following details are provided to the consent authority in accordance with the requirements of Clause 100 of EP&A Regulation 2021 for an application to modify development consents.

**a) *Name and address of the applicant***

HDB Town Planning & Design  
PO Box 40  
Maitland NSW 2320

**b) *Description of the development to be carried out under the consent***

The current consent, DA/2022/108 is for Demolition, Manufactured Home Estate with 101 sites and Staging (7 Stages). This modification application seeks to make amendments to the southern areas staging plan; provide for a temporary construction access; carry out a minor boundary adjustment and various associated modifications to conditions of consent regarding the timing of road works, deletion of the site consolidation requirement, provision temporary community facilities, reduce the number of manufactured homes from 101 to 97 and a minor increase in the number of visitor spaces.

**c) *Address and formal particulars of titles of the land on which development is to be carried out***

Lot 12 DP1197316 and Lot 1 DP 1288276, 39 Metford Road, Tenambit NSW 2323

**d) *A description of the proposed modification to the development consent***

A detailed description of the proposed Modification has been included in **Section 3** of this report.

**e) *A statement that indicates either:***

- (i) *that the modification is merely intended to correct a minor error, misdescription, or calculation; or***
- (ii) *that the modification is intended to have some other effect, as specified in the statement.***

The proposed modification is intended to refine the construction process through changes to staging with associated minor amendments and the provision of a temporary construction access and community facility. The proposed uses are consistent with the approval and are permissible on this lot, as per MLEP 2011. It is substantially the same development as proposed in the original application and minimal environmental impacts are anticipated.

***f) A description of the expected impacts of modification***

**Section 5** of the report provides an assessment of the modification against all relevant matters for consideration stipulated in s4.15(1).

In summary, the proposed modification does not create any additional risks, as it only seeks minor amendments. The proposed temporary construction access has been assessed by a qualified Traffic Engineer and found it would be appropriately located with respect to safe vehicular site distances having regard to the nature of traffic that will use it. The uses proposed within the application are permitted with consent and are consistent with the existing approval. As a result, it will not vary the current residential character of the site.

***g) An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved***

A detailed review of the proposal has been undertaken to assess the proposed changes in **Section 4** and **Section 5** of this report. The proposed modification seeks minor amendments with minimal environmental impacts anticipated. Hence, the development, as proposed, is substantially the same as the currently approved.

***a) If the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to making of the application:***

- (i) a statement as to whether the application is being made to the Court or to the consent authority; and***
- (ii) if the consent authority so requires, must be in the form approved by that authority.***

The owner has consented to the lodgement of the Modification Application.

This application is submitted to Maitland City Council under provisions of s4.55(2) of the Act.

## 7.0 CONCLUSION

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The modification to the consent as outlined above clearly indicates the proposed modification are minor and do not change the originally approved development to any significant extent and the resulting development is substantially the same development as previously approved.

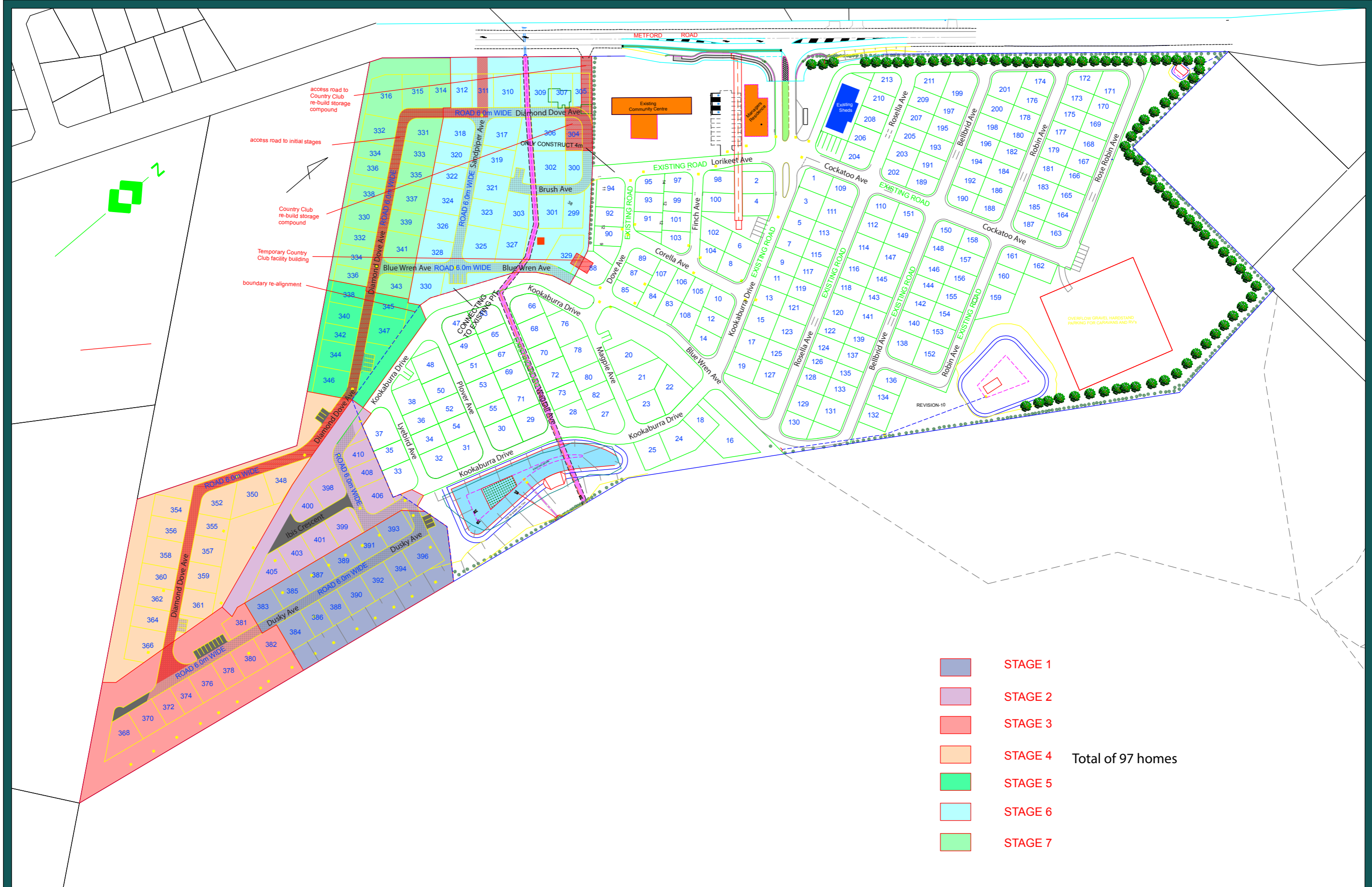
The assessment of the proposal has been undertaken in accordance with s4.15(1) which demonstrates that the modification meets the relevant planning requirements.

Maitland City Council is therefore requested to grant consent to this s4.55 amendment to DA/2022/108, as requested.

# APPENDIX A

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## MODIFICATION PLANS



TITLE: PROPOSED LIFE STYLE VILLAGES  
 METFORD ROAD TENAMBIT  
 STAGING PLAN  
 METFORD ROAD Pty Ltd

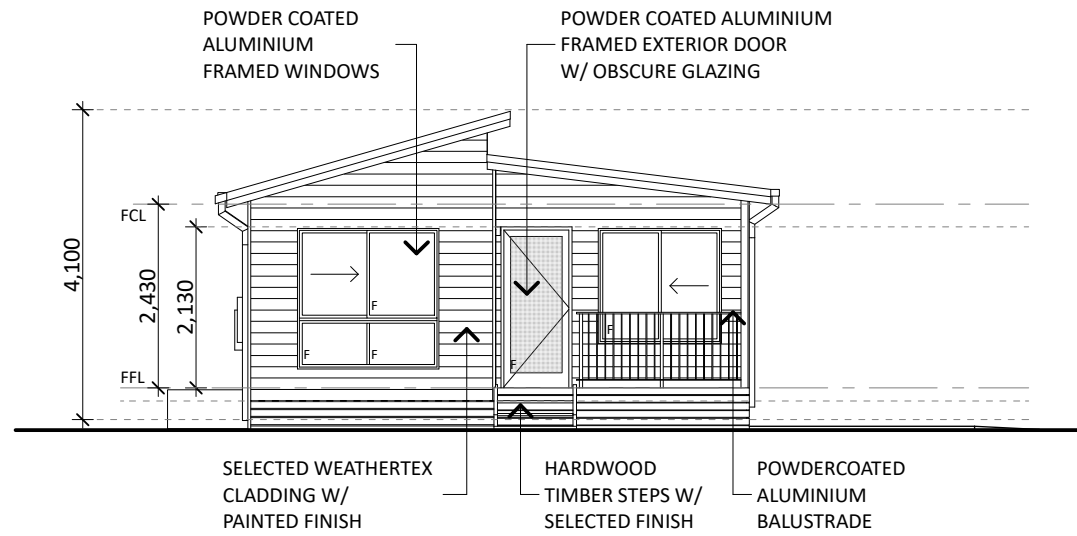
# MORPETH GARDENS



- STAGE 1
- STAGE 2
- STAGE 3
- STAGE 4 Total of 97 homes
- STAGE 5
- STAGE 6
- STAGE 7

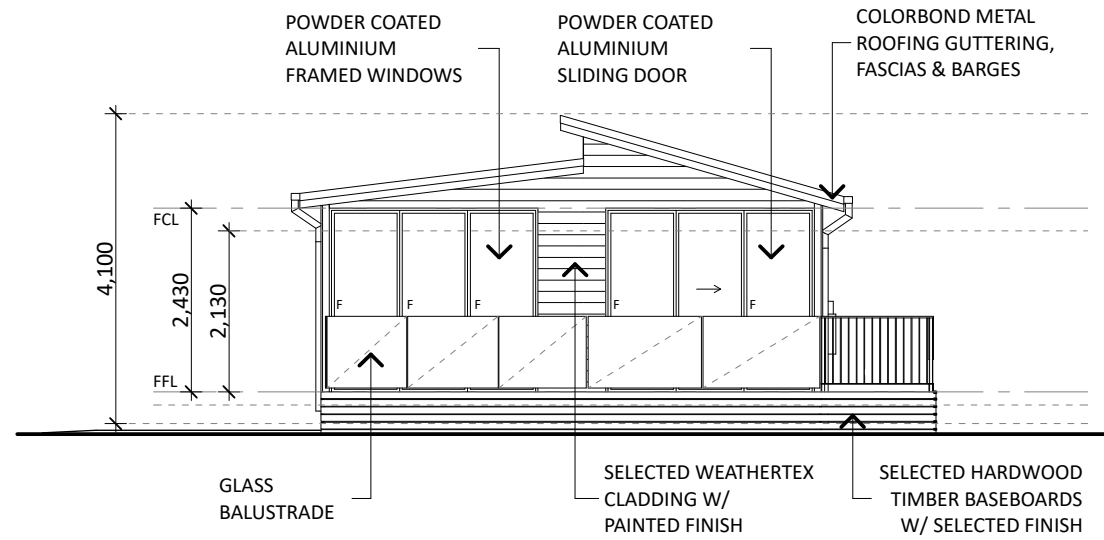
Date: 16.08.21		Scale: 1:2000 @:A3		Designed: KU		Project No	
Cad Ref: HD 56 adjoining site r14						HD56-2	
13	AMEND LAYOUT	KU	31.07.23	Drawing No	Revision		
14	AMEND LAYOUT	KU	30.04.24				
15	AMENDED SITES/STAGES/ACCESS & BOUNDARY		02.09.24				
No	Amendment	Drawn	Date	HD104	15		





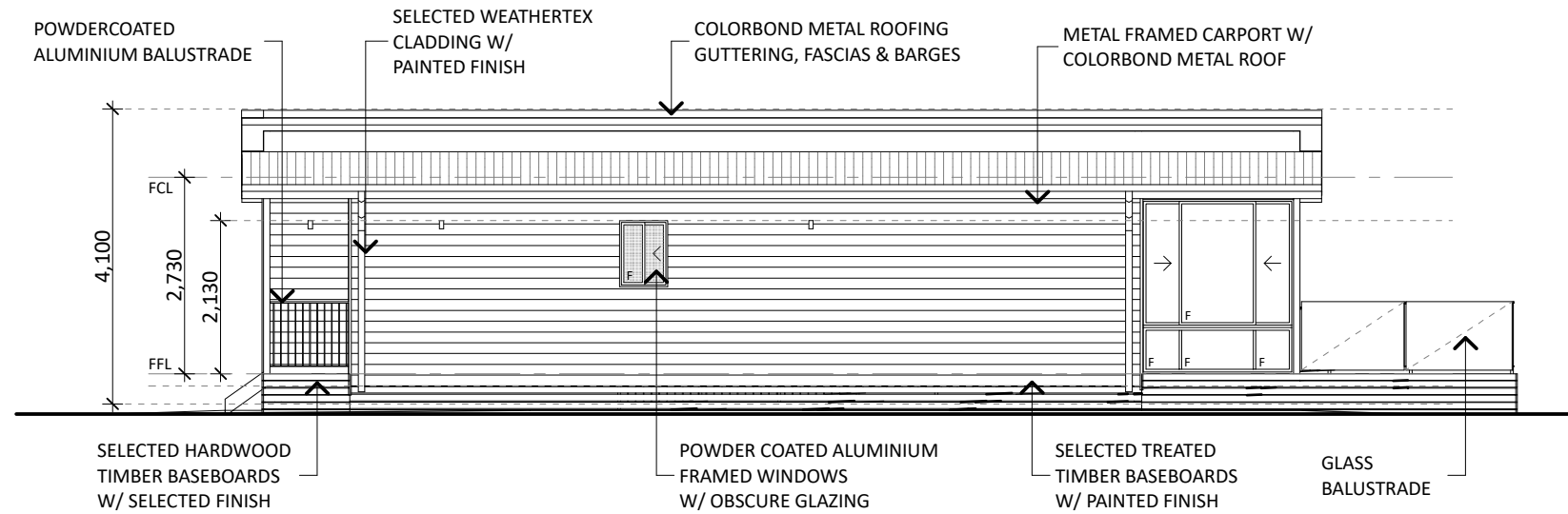
**01 - ELEVATION**

1:100



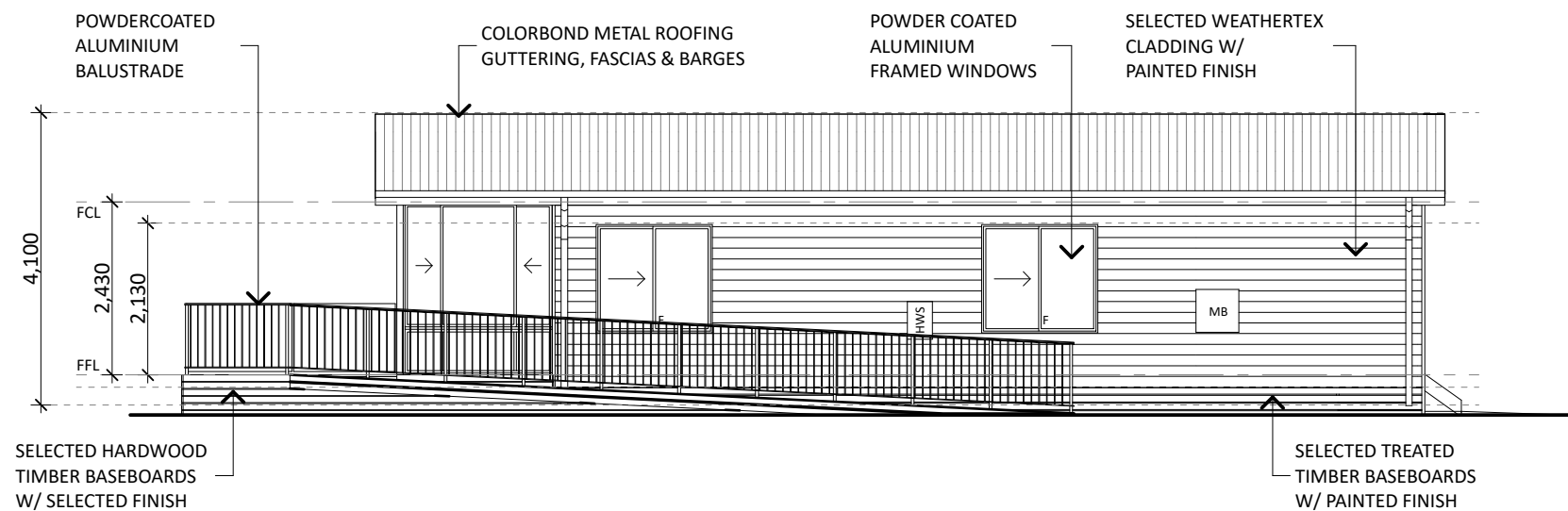
**02 - ELEVATION**

1:100



**03 - ELEVATION**

1:100



**04 - ELEVATION**

1:100

**NOTE:**  
DUE TO THE CARPORT STRUCTURE BEING OPEN TO THE ELEMENTS IT IS NOT DESIGNED TO BE 100% WATERPROOF AGAINST ALL WEATHER CONDITIONS

**NOTE:**  
Groundlines & extent of stairs/ramps shown in is indicative only. These are subject to confirmation of both the extent of site works by park &/or home supplier & are then subject to the final siting of the manufactured home

REVISION		
No	DESCRIPTION	DATE
A	Issued for construction	01.05.2024
B	Site additions added	02.09.2024

APPROVED \_\_\_\_\_ DATE \_\_\_\_\_

**URBANDWELL**  
Tel: (02) 4324 7647 www.urbandwell.com.au

CLIENT  
**Metford Road Pty. Ltd.**

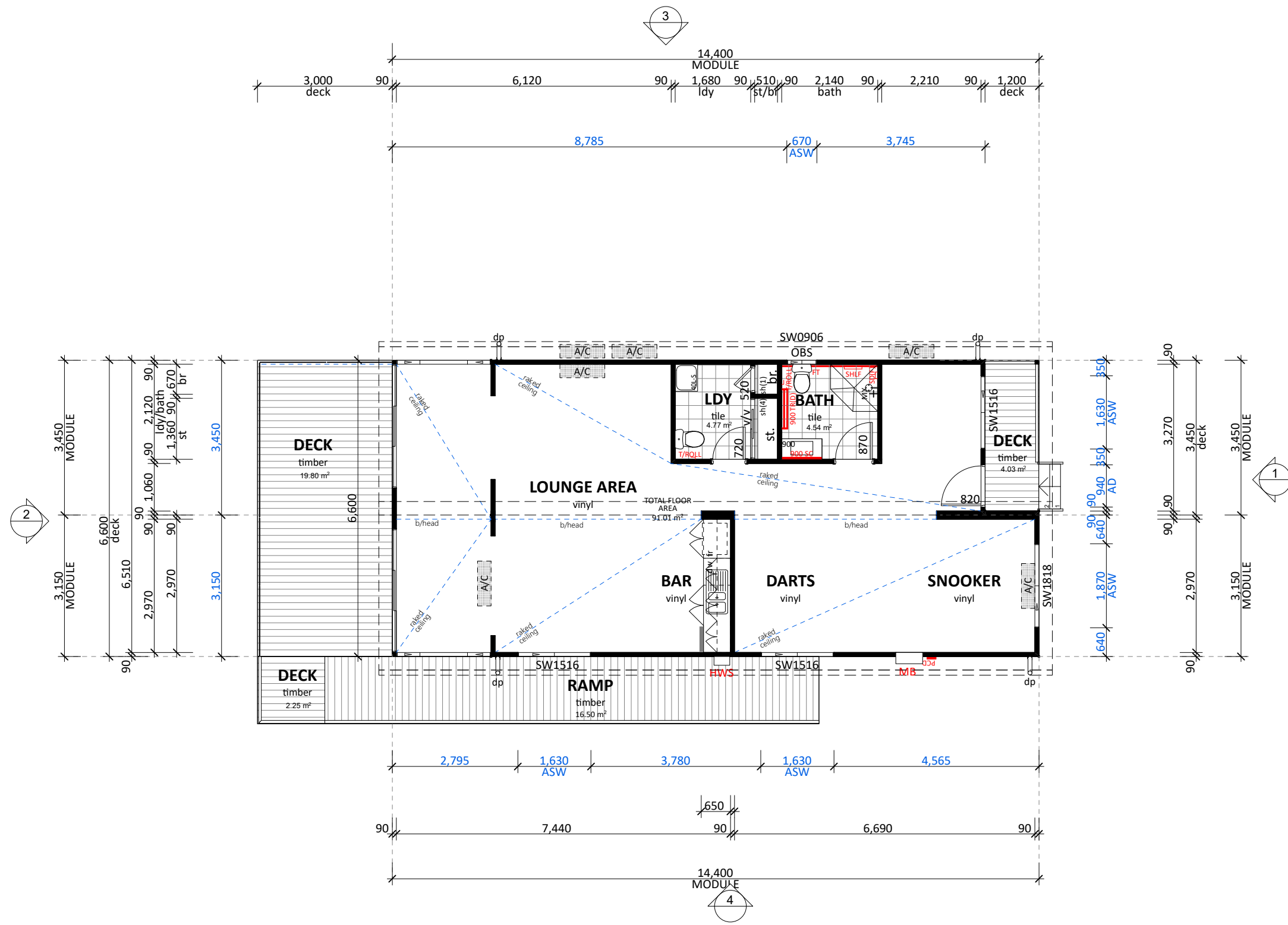
PROJECT  
Proposed Manufactured Home  
Morpeth Gardens  
Site TCH  
39 Metford Road, Tenambit NSW 2323

TITLE  
Elevations

SCALE	1:100 @ A3	PROJECT No.	MOR-TCH
DATE	May 2024	ISSUE	
DESIGNED BY	NP	DRAWN BY	NP
JOB No. - DRAWING No.	863_3		REVISION
			B

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**FLOOR PLAN** 1:100

**NOTE:**  
DUE TO THE CARPORT STRUCTURE BEING OPEN TO THE ELEMENTS IT IS NOT DESIGNED TO BE 100% WATERPROOF AGAINST ALL WEATHER CONDITIONS

**NOTE:**  
Groundlines & extent of stairs/ramps shown in is indicative only. These are subject to confirmation of both the extent of site works by park &/or home supplier & are then subject to the final siting of the manufactured home

REVISION		
No	DESCRIPTION	DATE
A	Issued for construction	01.05.2024
B	Site additions added	02.09.2024

APPROVED \_\_\_\_\_ DATE \_\_\_\_\_

**URBANDWELL**  
 Tel: (02) 4324 7647 www.urbandwell.com.au

CLIENT  
Metford Road Pty. Ltd.

PROJECT  
Proposed Manufactured Home  
Morpeth Gardens  
Site TCH  
39 Metford Road, Tenambit NSW 2323

TITLE  
Floor Plan

SCALE	1:100 @ A3	PROJECT No.	MOR-TCH
DATE	May 2024	ISSUE	
DESIGNED BY	NP	DRAWN BY	NP
JOB No. - DRAWING No.	REVISION		

**863\_2** **B**

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## APPENDIX B

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### TEMPORARY CONSTRUCTION ACCESS ASSESSMENT

Ref: 24/102

27<sup>th</sup> October 2024

Metford Road Pty Ltd  
C/- HDB Pty Ltd  
PO Box 40  
MAITLAND NSW 2320

Attention: - Mark Ihlein

Dear Mark,

**RE: Morpeth Gardens Temporary Construction Access – Access Sight Distance Assessment.**

Reference is made to your engagement for Intersect Traffic Pty Ltd to provide advice for the above project. Intersect Traffic thanks you for the engagement and provides the following letter style addendum report for the above intersection.

## ACCESS SIGHT DISTANCE ADVICE

### MORPETH GARDENS TEMPORARY CONSTRUCTION ACCESS

#### 35 METFORD ROAD, TENAMBIT

##### INTRODUCTION

Intersect Traffic Pty Ltd (Intersect traffic) has been engaged by HDB Pty Ltd (HDB) on behalf of Metford Road Pty Ltd to provide advice on the suitability of a proposed temporary construction access to 35 Metford Road, Tenambit. This temporary access is to be used for construction of further stages of the Morpeth Gardens Manufactured Home Estate. The proposed location for the temporary construction access is shown in **Attachment 1** and is currently an unformed access to the property as shown in **Photograph 1**. It is likely this access will need to be widened to allow heavy vehicles to enter and exit the site in a forward direction and to allow for two-way traffic flow through the access. It is also likely during construction works a traffic control plan will be implemented over the access to cover a temporary reduction in speed zoning and advanced warning signage during construction work. This report seeks to determine whether the available sight distance at the access is adequate for use a construction access.

In undertaking this assessment Intersect Traffic notes the access is essentially a private property access therefore the applicable standard for vehicular and pedestrian sight lines is *Australian Standard AS2890.1-2004 Parking facilities – Part 1 Off-street car parking (AS2890.1-2004)*. It is also noted that a draft 2024 version of this standard is available however is still under revision therefore use of the 2004 standard is still relevant for this assessment.

## REQUIRED SIGHT LINES

Noting Metford Road at this location has a 60 km/h speed zone the relevant requirements for sight lines at the entry and exit sight lines as per *Figure 3.2 of AS2890.1-2004* (reproduced below as **Attachment 2**) is as read from *Figure 3.2*.

- ◆ Minimum 65 metres (5 second gap, 1.5 second reaction time); and
- ◆ Desirable 83 metres (5 second gap, 2 second reaction time).

## TEMPORARY CONSTRUCTION ACCESS – Safe Intersection Sight Distance Assessment.

Having inspected the site on Friday 25<sup>th</sup> October 2024 the available sight distance from the existing vehicular access was measured to be 170 metres to the south-west and 220 metres to the north-east when measured from a height of 1.15 metre above ground level and 2.5 metres from the edge of bitumen. Observed sight distance is shown below in **Photographs 2 and 3**.

Not only is this sight distance compliant with AS2890.1-2004, but it is also compliant with Austroad Guide to Road Design – Part 4A – Unsignalised and signalised intersections (2017) requirements of 125 metres for a 2 second reaction time.



Photograph 1 – Existing vehicular access – 35 Metford Road, Tenambit





Photograph 2 – Sight line – north-east towards Morpeth.



Photograph 3 – Sight line – south-west towards Tenambit.

## CONCLUSION

Having inspected the site and undertaken this sight distance assessment it is concluded the available sight distance at the proposed temporary construction access at 35 Metford Road Tenambit is compliant with the requirements of both AS2890.1-2004 and Austroads Guide to Road Design Part 4A – Unsignalised and signalised intersections (2017). Therefore, this temporary construction access is suitably located to ensure a suitable safe access to the site can be provided for construction vehicles associated with the expansion of the Morpeth Gardens Manufactured Home Village.

If you require further information or clarification, please do not hesitate to contact me on 0423 324 188.

Yours sincerely



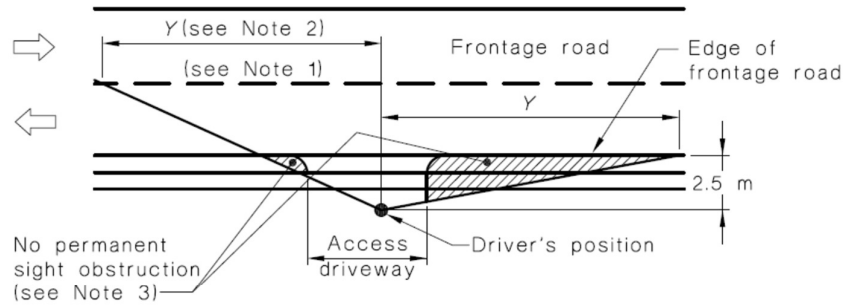
Jeff Garry  
**Director**  
**Intersect Traffic**  
**Encl.**



ATTACHMENT 1 – Temporary Construction Access Location



ATTACHMENT 2 – Sight Line Requirements AS2890.1-2004 Parking facilities – Part 1 Off-street car parking.



Frontage road speed (Note 4) km/h	Distance (Y) along frontage road m		
	Access driveways other than domestic (Note 5)		Domestic property access (Note 6)
	Desirable 5 s gap	Minimum SSD	
40	55	35	30
50	69	45	40
60	83	65	55
70	97	85	70
80	111	105	95
90	125	130	Use values from 2 <sup>nd</sup> and 3 <sup>rd</sup> columns
100	139	160	
110	153	190	

NOTES:

- 1 Centre-line or centre of road (undivided road), or right hand edge of right hand through lane (divided road).
- 2 A check to the left is not required at a divided road where the median is wide enough to shelter a vehicle leaving the driveway.
- 3 Parking on this side of the frontage road may need to be restricted on either side of the driveway so that the sight distance required by the above table to an approaching vehicle is not obstructed.
- 4 This is the posted or general speed limit unless the 85th percentile speed is more than 5 km/h above the limit in which case the tabulated speed nearest the 85<sup>th</sup> percentile shall be adopted.
- 5 The values in the table apply only to left turn and right turn manoeuvres into two-way roads up to four lanes wide and one-way streets regardless of width, either for a 5 s gap, desirable at lower frontage road speeds, or minimum stopping sight distance based on 2 s reaction time.  
Crossing manoeuvres (e.g. from an access opposite the stem of a T-junction) over four lanes or more, and turning manoeuvres into a six lane two-way road would require longer gaps unless there was a median wide enough to store a vehicle and allow a two stage manoeuvre.
- 6 These distances are based on stopping sight distances with reaction time of 1.5 s for traffic approaching along the frontage road and are applicable to a frontage road speed of up to 80 km/h only. Wherever practicable sight distance provided at domestic property accesses should meet the values given in the second or third columns of the Table.
- 7 When checking sight distance the driver's eye height and the height of the object (approaching vehicle) are to be taken as 1.15 m above the road surface.

FIGURE 3.2 SIGHT DISTANCE REQUIREMENTS AT ACCESS DRIVEWAYS