
Voluntary Planning Agreement

Harrington Grove

PARTIES

- 1 The Developer.
- 2 The Council.

BACKGROUND

- A The Developer is the registered proprietor of the Land.
- B The Developer has previously made an application to the Council to change the zoning provisions of Camden Local Environmental Plan No. 48 as they apply to the Land to those contained in the New LEP for the purpose of making an application for the Development Consents.
- C The New LEP has been made and the Developer has applied for, or been granted, the Development Consents.
- D The parties have reached agreement on a number of matters relating to the Developments which they wish to record in this Agreement.

OPERATIVE PROVISIONS

1 DEFINITIONS

Unless the context otherwise requires the definitions and interpretational rules contained in **Voluntary Planning Agreement - Annexure 1** apply in the interpretation of terms used in this Agreement.

2 APPLICATION AND OPERATION OF AGREEMENT

2.1 Planning Agreement

The parties agree that this Agreement is a planning agreement:

- (1) within the meaning set out in s93F of the EPAA Act; and
- (2) governed by Subdivision 2 of Division 6 of Part 4 of the EPAA Act.

2.2 Application

This Agreement applies to both the Land and the Developments.

2.3 Operation

- (1) Unless set out in paragraph (2) this Agreement operates immediately upon being entered into, within the meaning set out by clause 25C(1) of the Regulations.
- (2) Clause 7 will only operate when, and be effective from the date on which, the Council issues either of the Development Consents to the Developer.

2.4 Heads of Planning Agreement

The parties agree that on the date of this Agreement the Heads of Planning Agreements will be terminated.

3 HERITAGE - HARRINGTON PARK

3.1 Harrington Park Heritage Agreement

- (1) The Developer will use its best endeavours to enter into the Harrington Park Heritage Agreement.
- (2) The Developer will comply with the terms of the Harrington Park Heritage Agreement irrespective of whether that agreement has been entered into.

3.2 Maintenance Prior to Commencement of Harrington Park Heritage Works

- (1) Once the Harrington Grove East Development Consent is issued by the Council the Developer will carry out any works on Harrington Park that are necessary to ensure that it is maintained in its present condition prior to the commencement of the Harrington Park Heritage Works.
- (2) Within one (1) month of the Harrington Grove East Development Consent being issued by the Council the Developer will prepare and submit to the Council a condition report detailing the present condition of Harrington Park.

3.3 Timing of Harrington Park Heritage Works

The Developer warrants to the Council that it will not object to or appeal against any condition of any consent issued for the Harrington Grove East Development which stipulates that if:

- (1) the Developer is obligated under this Agreement to carry out the Harrington Park Heritage Works; and
- (2) the Developer fails to complete the Harrington Park Heritage Works in accordance with the time limitations set out in clause 6 of the Harrington Park Heritage Agreement,

the Council may refuse to issue Subdivision Certificates for any Residential Lots in that development in excess of the first three hundred (300) Residential Lots until such time as the Developer rectifies the relevant default.

3.4 Certification of Completion of Harrington Park Heritage Works

- (1) If the Developer is required to complete the Harrington Park Heritage Works in accordance with the Harrington Park Heritage Agreement then the Developer will complete the Harrington Park Heritage Works in full prior to the earlier of:

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- (a) Council issuing the final Subdivision Certificate for the last remaining stage of the Harrington Grove East Development Consent; and
 - (b) the date that is five (5) years after the date of this Agreement.
- (2) The Harrington Park Heritage Works will be deemed to be complete upon the issue of a certificate to that effect by a "qualified practising heritage consultant" appointed by the Developer and approved by Council. The costs associated with this appointment are to be met by the Developer.
 - (3) The Developer may serve a notice (**Completion Notice**) on the Council advising that, in the opinion of the Developer, the Harrington Park Heritage Works have been completed. The qualified practising heritage consultant referred to in paragraph (2) is to assess the merits of the Completion Notice.
 - (4) If the Council fails to advise the Developer within seventy (70) days of service of a Completion Notice that, in the opinion of the consultant referred to in paragraph (2), the works set out in the Completion Notice have not been completed then those works will be deemed to have been completed for the purpose of this Agreement.

4 HERITAGE - ORIELTON

4.1 Orielson Heritage Agreement

- (1) The Developer will use its best endeavours to enter into the Orielson Heritage Agreement.
- (2) The Developer will comply with the terms of the Orielson Heritage Agreement irrespective of whether that agreement has been entered into.

4.2 Maintenance Prior to Commencement of Orielson Heritage Works

- (1) Once the Harrington Grove West Development Consent is issued by the Council the Developer will carry out any works on Orielson that are necessary to ensure that it is maintained in its present condition prior to the commencement of the Orielson Heritage Works.
- (2) Within one (1) month of the Harrington Grove West Development Consent being issued by the Council the Developer will prepare and submit to the Council a Condition Report detailing the present condition of Orielson.

4.3 Timing of Orielson Heritage Works

The Developer warrants to the Council that it will not object to or appeal against any condition of any consent issued for the Harrington Grove West Development which stipulates that if:

- (1) the Developer is obligated under this Agreement to carry out the Orielson Heritage Works; and
- (2) the Developer fails to complete the Orielson Heritage Works in accordance with the time limitations set out in clause 6 of the Orielson Heritage Agreement,

the Council may refuse to issue Subdivision Certificates for any Residential Lots in that development in excess of the first two hundred (200) Residential Lots until such time as the Developer rectifies the relevant default.

4.4 Certification of Completion of Orierton Heritage Works

- (1) If the Developer is required to complete the Orierton Heritage Works in accordance with the Orierton Heritage Agreement then the Developer will complete the Orierton Heritage Works in full prior to the earlier of:
 - (a) Council issuing the final subdivision certificate for the last remaining stage of the Harrington Grove West Development Consent; and
 - (b) the date that is five (5) years after the date of this Agreement.
- (2) The Orierton Heritage Works will be deemed to be complete upon the issue of a certificate to that effect by a "qualified practising heritage consultant" appointed by the Developer and approved by Council. The costs associated with this appointment are to be met by the Developer.
- (3) The Developer may serve a notice (**Completion Notice**) on the Council advising that, in the opinion of the Developer, the Orierton Heritage Works have been completed. The qualified practising heritage consultant referred to in paragraph (1) is to assess the merits of the Completion Notice.
- (4) If the Council fails to advise the Developer within seventy (70) days of service of a Completion Notice that, in the opinion of the consultant referred to in paragraph (1), the works set out in the Completion Notice have not been completed then those works will be deemed to have been completed for the purpose of this Agreement.

5 BUSHLAND CONSERVATION – HARRINGTON GROVE EAST

5.1 Conservation Management Strategy (CMS) & Conservation Management Plan (CMP)

- (1) The parties acknowledge that the Developer has lodged the Harrington Grove East CMP with the Council as part of its application for the Harrington Grove East Development Consent.
- (2) Subject to paragraph (3), the Developer will:
 - (a) be bound by the terms of the Harrington Grove CMS & the Harrington Grove East CMP as approved by the Council; and
 - (b) will carry out the Harrington Grove East Bushland Conservation Works in accordance with the terms of the Harrington Grove CMS, the Harrington Grove East CMP and this Agreement.
- (3) The Developer will not be required to carry out the Harrington Grove East Bushland Conservation Works unless and until the Council issues the Harrington Grove East Development Consent to the Developer.

5.2 Maintenance Prior to Commencement of Harrington Grove East Bushland Conservation Works

- (1) Once the Harrington Grove East Development Consent is issued by the Council the Developer will carry out any works on the Harrington Grove East Bushland Areas that are necessary to ensure that those areas are not further degraded from their condition as assessed in the study supporting the LES prior to the commencement of the Harrington Grove East Bushland Conservation Works.

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- (2) The works referred to in paragraph (1) must not be inconsistent with the Harrington Grove CMS & the Harrington Grove East CMP.

5.3 Timing of Works

The Developer will adhere to the program for the completion of the Harrington Grove East Bushland Conservation Works set out in the Harrington Grove East CMP and in any event will complete those works prior to the issue of the final Subdivision Certificate for the Harrington Grove East Development.

5.4 Annual Reports

- (1) During the period set out in clause 5.3 the Developer must provide the Council with a report on each anniversary of the date on which the Harrington Grove East Development Consent is issued by the Council that sets out:
- (a) the Harrington Grove East Bushland Conservation Works carried out in the preceding twelve (12) month period;
 - (b) any matters that may impact upon the Developer's ability to carry out further Harrington Grove East Bushland Conservation Works in accordance with the Harrington Grove CMS and the Harrington Grove East CMP; and
 - (c) the extent to which the desired outcomes set out in the Harrington Grove CMS & the Harrington Grove East CMP were achieved in the preceding twelve (12) months.
- (2) The Developer will be discharged from its obligation under paragraph (1) upon completion of the Harrington Grove East Bushland Conservation Works.

5.5 Completion of the Harrington Grove East Bushland Conservation Works

- (1) Upon completion of the Harrington Grove East Bushland Conservation Works in accordance with the Harrington Grove East CMP, the Developer and the Council will ensure that:
- (a) any ongoing obligations with respect to the maintenance of the Harrington Grove East Bushland Areas to be owned by the Harrington Grove East Community Association become the responsibility of the Harrington Grove East Community Association; and
 - (b) the obligation referred to in paragraph (a) will be included in the management statement of the Harrington Grove East Community Association.
- (2) Upon satisfaction of the obligations in paragraph (1), the Developer is discharged from any future obligations under the Harrington Grove CMS & the Harrington Grove East CMP.

6 BUSHLAND CONSERVATION – HARRINGTON GROVE WEST

6.1 Conservation Management Strategy (CMS) & Conservation Management Plan (CMP)

- (1) The parties acknowledge that the Developer has lodged the Harrington Grove West CMP with the Council as part of its application for the Harrington Grove West Development Consent.

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- (2) Subject to paragraph (3), the Developer will:
 - (a) lodge the Harrington Grove West CMP with the Council as part of, or prior to, its application for the Harrington Grove West Development Consent;
 - (b) be bound by the terms of the Harrington Grove CMS & Harrington Grove West CMP as approved by the Council; and
 - (c) will carry out the Harrington Grove West Bushland Conservation Works in accordance with the terms of the Harrington Grove CMS, the Harrington Grove West CMP and this Agreement.
 - (3) The Developer will not be required to carry out the Harrington Grove West Bushland Conservation Works unless and until the Council issues the Harrington Grove West Development Consent to the Developer.

6.2 Maintenance Prior to Commencement of Harrington Grove West Bushland Conservation Works

- (1) Once the Harrington Grove West Development Consent is issued by the Council the Developer will carry out any works on the Harrington Grove West Bushland Areas that are necessary to ensure that those areas are not further degraded from their present condition prior to the commencement of the Harrington Grove West Bushland Conservation Works.
- (2) The works referred to in paragraph (1) must not be inconsistent with the Harrington Grove CMS & the Harrington Grove West CMP.

6.3 Timing of Works

The Developer will adhere to the program for the completion of the Harrington Grove West Bushland Conservation Works set out in the Harrington Grove West CMP and in any event will complete those works prior to the issue of the final subdivision certificate for the Harrington Grove West Development.

6.4 Annual Reports

- (1) During the period set out in clause 6.3 the Developer must provide the Council with a report on each anniversary of the date on which the Harrington Grove West Development Consent is issued by the Council that sets out:
 - (a) the Harrington Grove West Bushland Conservation Works carried out in the preceding twelve (12) month period;
 - (b) any matters that may impact upon the Developer's ability to carry out further Harrington Grove West Bushland Conservation Works in accordance with the Harrington Grove CMS and the Harrington Grove West CMP; and
 - (c) the extent to which the desired outcomes set out in the Harrington Grove CMS & the Harrington Grove West CMP were achieved in the preceding twelve (12) months.
- (2) The Developer will be discharged from its obligation under paragraph (1) upon completion of the Harrington Grove West Bushland Conservation Works.

6.5 Completion of the Harrington Grove West Bushland Conservation Works

- (1) Upon completion of the Harrington Grove West Bushland Conservation Works in accordance with the Harrington Grove West CMP, the Developer and the Council will ensure that:
 - (a) any ongoing obligations with respect to the maintenance of the Harrington Grove West Bushland Areas to be owned by the Harrington Grove West Community Association become the responsibility of the Harrington Grove West Community Association; and
 - (b) the obligation referred to in paragraph (a) will be included in the management statement of the Harrington Grove West Community Association.
- (2) Upon satisfaction of the obligations in paragraph (1), the Developer is discharged from any future obligations under the Harrington Grove CMS & the Harrington Grove West CMP.

7 PROVISION OF CONTRIBUTIONS

7.1 Provision

The Developer acknowledges that the carrying out of the Developments could, if this Agreement were not required to be entered into, have been subject to a requirement to make contributions under section 94 of the EPAA Act.

7.2 Manner of Provision

The Developer will:

- (1) provide the Contribution Works; and
- (2) pay the Financial Contribution,

as provided and as described in **Annexure 2** to the satisfaction of the Council.

7.3 Variation to Contribution Works

The Contribution Works may be varied without the need for variation to this agreement provided that the Council is satisfied that the variations to scope of the Contributions Works are consistent with the intent and objectives of this agreement.

7.4 Indexation of amounts payable by the parties

All amounts referred to in this Agreement are to be adjusted (with the calculation to be made as from the date any such amount is due to be paid under this Agreement) in accordance with the following formula:

$$A = B \times C/D$$

where:

A = the adjusted amount;

B = the relevant amount as set out in this Agreement;

C = the CPI most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and

D = the CPI most recently published before the date of this Agreement.

8 APPLICATION OF s94 & s94A

For the purposes of s93F(3)(d) of the EPAA, this Agreement excludes the application of sections 94 & 94A of the EPAA Act to the Developments.

9 COMPLETION, RECTIFICATION AND HANDOVER OF WORKS

9.1 Application

This clause 9 applies to any Contribution Works required to be provided by the Developer under this Agreement other than those subject to clauses 3 to 6 inclusive.

9.2 Meaning of Defects Liability

In this clause:

- (1) **Defect** means any inadequacy in a relevant item of the Contribution Works that results from that item not being carried out in accordance with the provision and description of the item as set out in **Schedule 1 of Annexure 2** to the satisfaction of the Council,
- (2) for each item of the Contribution Works, the **Defects Liability Period** means the period specified for that item in **Schedule 1 of Annexure 2**, commencing on and from the date on which the Developer gives the Council a notice under clause 9.3; and
- (3) **Rectification Notice** means a notice that sets out:
 - (a) the nature and extent of the relevant Defect;
 - (b) the rectification work the Council considers necessary to rectify the Defect; and
 - (c) the time within which the Defect must be rectified by the Developer, which must be a reasonable time.

9.3 Provision of notice

When the Developer considers that:

- (1) an item of the Contribution Works is complete, or
- (2) an item of the Contribution Works has been rectified in accordance with a Rectification Notice,

the Developer will give the Council a notice in writing to that effect (**Completion Notice**).

9.4 Service of Rectification Notice

During the Defects Liability Period, the Council may give the Developer a Rectification Notice.

9.5 Developer to rectify

- (1) The Developer will comply with a Rectification Notice at its own cost according to its terms.
- (2) Council must:
 - (a) inspect the relevant rectification work within fourteen (14) days after it is given a relevant Completion Notice; and
 - (b) advise the Developer by notice in writing if that work:
 - (i) has been completed to the satisfaction of the Council; or
 - (ii) has not been completed to the satisfaction of Council, in which case the notice will be deemed to be a further Rectification Notice concerning that work,

within seven (7) days of the relevant inspection.

9.6 Council may carry out rectification

If the Developer breaches clause 9.5(1), the Council may have the relevant Defect rectified and may recover the reasonable costs incurred by it of so doing as a debt due in a court of competent jurisdiction.

9.7 Acceptance of item of Contribution Works

- (1) The Council is taken to have accepted the condition of an item of the Contribution Works that is the subject of a Completion Notice where:
 - (a) if the Council has not given the Developer a Rectification Notice, at the expiration of the Defects Liability Period, or
 - (b) if the Council has given the Developer a Rectification Notice, on the date which the Council gives a notice in writing to the Developer stating that the defect the subject of the Rectification Notice has been rectified to the Council's satisfaction; or
 - (c) if, upon the expiry of the periods set out in clause 9.5(2) the Council fails to carry out the required inspection or serve the required notice, as the case may be.
- (2) For the purpose of this Agreement, the hand over of an item of the Contribution Work to the Council occurs on the earlier of:
 - (a) Council providing confirmation that the relevant item of the Contribution Work has been completed to the satisfaction of the Council in accordance with clause 9.5(2)(b)(i); or
 - (b) Council being deemed to have accepted the condition of the relevant item in accordance with paragraph (1)(c).

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- (3) On hand-over of any item of the Contribution Works, the Council accepts ownership, possession and control of the relevant item.
 - (4) A contribution comprising an item of the Contribution Works is made by the Developer for the purposes of this Agreement when the Council accepts the hand over of that item in accordance with this clause 9.

10 SECURITY

10.1 Prohibition

Neither party may assign their rights under this Agreement without the prior written consent of the other party.

10.2 Assignment of Land

- (1) The Developer must not Assign its interest in the Land (other than the Assignment of a Residential Lot) unless:
 - (a) the Council consents to the assignment in its absolute discretion; and
 - (b) the proposed assignee enters into an agreement to the satisfaction of the Council under which the assignee agrees to be bound by the terms of this Agreement.
- (2) If the Developer breaches this clause 10.2 then the Developer is not released from, and remains liable to perform, the obligations imposed on it under this Agreement.

10.3 Provision of bond

- (1) The Developer will provide to Council a bank guarantee in an amount of thirty five thousand dollars (\$35,000) to secure the obligations of the Developer under this Agreement.
- (2) The parties acknowledge that the amount of the bond referred to in paragraph (1) has been requested by the Council on the basis that it will secure the payment of any legal costs incurred by the Council in instituting legal proceedings against the Developer as a result of any breach of this Agreement by the Developer.

11 REVIEW & AMENDMENT

- (1) If either party requests a review of the whole or any part of this Agreement then the parties must use their best endeavours, acting in good faith, to review the Agreement in accordance with that request.
- (2) If the parties agree to amend this Agreement as a result of a review conducted under paragraph (1) then any such amendment must be made in writing signed by both parties.

12 DISPUTE RESOLUTION

12.1 Notice of Dispute

If a party believes that there is a Dispute then:

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- (1) that party must give notice in writing to the other party stating that there is a Dispute; and
 - (2) the notice referred to in paragraph 12.1(1) must outline:
 - (a) what the party believes the dispute to be; and
 - (b) what the party wants to achieve; and
 - (c) what the party believes will settle the Dispute; and
 - (d) who will be the party's Representatives to negotiate the dispute.

12.2 Consultation between the Representatives

Within fifteen (15) business days of a notice served in accordance with clause 12.1(1) the Representatives must meet in order to resolve the Dispute.

12.3 Settlement of Dispute and mediation

- (1) If the Dispute cannot be resolved by the Representatives within a further fifteen (15) business days of a meeting between the Representatives in accordance with clause 12.2 then the Dispute must be submitted to mediation by a mediator selected:
 - (a) by the parties; or
 - (b) if the parties cannot agree on a mediator, by the President of the Australian Commercial Disputes Centre.
- (2) The parties are to appoint a mediator who is appropriately qualified and have practical experience in the area of the Dispute.
- (3) Any costs incurred in the mediation of the Dispute are to be borne equally by the parties.

12.4 Exclusivity of dispute resolution procedure

- (1) Both parties must adhere to the dispute resolution procedure set out in this Agreement.
- (2) The only time that either party may depart from the dispute resolution procedure set out in this clause is when urgent interlocutory relief is required to restrain a breach or threatened breach of this Agreement.

13 DEFAULT IN PERFORMANCE

13.1 Events of default

The Developer commits an "Event of Default" if:

- (1) it breaches a term of this Agreement; or
- (2) fails to comply with the terms and conditions of the Development Consents; or
- (3) fails to comply with the terms of the Heritage Agreements; or

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- (4) fails to comply with the terms of the Harrington Grove East CMP and the Harrington Grove West CMP.

13.2 Consequences of Events of default

Where the Developer commits an Event of Default the Council may serve a notice on the Developer requiring the relevant breach to be rectified within seventy two (72) days of the date of the notice.

13.3 No restriction on rights

The rights vested in the Council pursuant to clause 13.2 do not prevent the Council from exercising any other rights that it may possess at law.

14 TERMINATION

14.1 Termination

This Agreement terminates in the following events:

- (1) the parties agree in writing to terminate the operation of this Agreement at any time; or
- (2) the Council serves notice on the Developer terminating this Agreement where the Developer has failed to comply with a notice issued in accordance with 13.2; or
- (3) the Developer:
 - (a) discharges its obligations under this Agreement in accordance with the Development Consents; and
 - (b) discharges its obligations under any further agreement entered into between the parties in relation to Contribution Works.

14.2 Consequence of termination

Upon termination of this Agreement:

- (1) all future rights and obligations of the parties are discharged;
- (2) any security held under this Agreement will be released; and
- (3) all pre-existing rights and obligations of the parties continue to subsist.

15 POSITION OF COUNCIL

15.1 Consent authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

15.2 Construction of Agreement to fetter powers

No term of this Agreement is to be construed, or to operate, so as to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty.

15.3 Reading down of provisions

If any provision of this Agreement would, or could likely, operate so as to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty then that provision is, to the extent necessary for it not to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty:

- (1) be read down, if possible; or
- (2) severed from this Agreement.

15.4 No Obligations

Nothing in this Agreement will be deemed to impose any obligation on the Council to exercise any of its functions under the Act in relation to the LEP, the Land or the Development in a certain manner.

16 CONFIDENTIALITY

16.1 Agreement not Confidential

The parties acknowledge that this Agreement:

- (1) is not confidential;
- (2) may be treated as a public document by the Council; and
- (3) may be publicly exhibited and reported without restriction by either party.

16.2 Non-disclosure

- (1) A party must not disclose Confidential Information disclosed to it by the other party except:
 - (a) with the prior written consent of the disclosing party; or
 - (b) in accordance with the terms of this Agreement.
- (2) A party may not unreasonably withhold its consent to disclosure in accordance with paragraph 16.2(1)(a) where:
 - (a) the requested disclosure is made for the purpose of facilitating the proper performance of a party's obligations under this Agreement; and
 - (b) the disclosure is to be made to persons who:
 - (i) reasonably require the disclosure of the information; and
 - (ii) are subject to a duty of confidentiality on the same or similar terms to that contained in this clause.

16.3 Use of Confidential Information

A party may use, copy, reproduce or otherwise deal with the Confidential Information disclosed to it only:

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- (1) during the term of this Agreement; and
 - (2) in accordance with the terms of this Agreement; and
 - (3) in a manner that is related to the proper and lawful conduct and performance of its obligations under this Agreement.

16.4 Exceptions to non-disclosure

A party may disclose Confidential Information that has been disclosed to it:

- (1) where such disclosure is made to those of its employees, advisers, related bodies corporate and shareholders who:
 - (a) have a need to know (and only to the extent each has a need to know); and
 - (b) are aware and agree that the information that is to be disclosed must be kept confidential; or
- (2) which, at the time of disclosure, is within the public domain or after disclosure comes into the public domain other than by a breach or breaches by any party (whether the party to this Agreement or a third party) of any obligation owed to the other party; or
- (3) where:
 - (a) required by law or any order of any court, tribunal, authority, regulatory body or the rules of any securities exchange (whether in Australia or elsewhere) to be disclosed; and
 - (b) the party ensures that information is disclosed only to the extent reasonably and lawfully required.

16.5 Duration of confidentiality obligations

Unless otherwise agreed by the parties in writing the obligation of confidentiality set out in this Agreement operates indefinitely and does not terminate on the expiry or earlier termination of this Agreement.

17 GST

- (1) The amount of any payment required to be made under this Agreement does not include GST.
- (2) If the party receiving a payment under this Agreement is or will become liable to pay GST in respect of the supply then the amount payable will be increased by the amount of any GST payable.
- (3) The party receiving payment of any amount referred to in the preceding paragraphs must issue a tax invoice on payment of any GST under this clause.

18 CHANGE OF LAWS

- (1) If, at the time a Financial Contribution is required to be made by the Developer under this Agreement, a contributions plan (within the meaning of the EPAA Act) is in force that would, but for this Agreement, have authorised the Council to impose a condition

under s94 of the Act in respect of the Developments requiring the payment of a monetary s94 contribution towards the same or a similar purpose as that for which the Financial Contribution is required to be made, then, despite any other provision of this Agreement, the amount of the Financial Contribution to which referred to in paragraph (1) is not to exceed the amount of the relevant monetary s94 contribution as provided for in the contributions plan.

- (2) If, at the time a Financial Contribution is required to be made by the Developer under this Agreement, the council is not authorised by a contributions plan (within the meaning of the EPAA Act) to impose a condition under s94 of the Act in respect of the Developments requiring the payment of a monetary s94 contribution towards the same or a similar purpose as that for which the Financial Contribution is required to be made, the Developer is not required to make the Financial Contribution under this Agreement.

19 MISCELLANEOUS

19.1 Obligation to act in good faith

The parties must at all times:

- (1) cooperate and use their best endeavours to profitably and professionally give effect to the rights and obligations of the parties set out in this Agreement; and
- (2) not unreasonably delay any action, approval, direction, determination or decision which is required of it; and
- (3) make approvals or decisions that are required of it in good faith and in a manner consistent with the completion of the transactions set out in this Agreement; and
- (4) be just and faithful in its activities and dealings with the other parties.

19.2 Consultation concerning development applications

If the Developer is required to lodge an application for development consent for any matter required to be carried out by it under this Agreement then it will consult with the Council in good faith in relation to the relevant works before lodging any such application.

19.3 Legal costs

The Developer agrees to:

- (1) pay or reimburse the reasonable legal costs and disbursements of the Council for the negotiation, preparation, execution, and stamping of this Agreement.
- (2) pay the reasonable legal costs and disbursements referred to in paragraph (1) within fourteen (14) days of receipt of a Tax Invoice from the Council.
- (3) pay or reimburse the legal costs and disbursements of the Council arising from the ongoing administration and enforcement of this Agreement including any breach or default by the Developer of its obligations under this Agreement.

20 ADMINISTRATIVE PROVISIONS

20.1 Notices

- (1) Any notice, consent or other communication under this Agreement shall be in writing and signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
 - (a) delivered to that person's address; or
 - (b) sent by pre-paid mail to that person's address; or
 - (c) transmitted by facsimile to that person's address.
- (2) A notice given to a person in accordance with this clause is treated as having been given and received:
 - (a) if delivered to a person's address, on the day of delivery if a Business Day, otherwise on the next Business Day; and
 - (b) if sent by pre-paid mail, on the third Business Day after posting; and
 - (c) if transmitted by facsimile to a person's address and a correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next Business Day.
- (3) For the purpose of this clause the address of a person is the address set out in this Agreement or another address of which that person may from time to time give notice to each other person.

20.2 Entire Agreement

This Agreement is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Agreement.

20.3 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

20.4 Cooperation

Each party must sign, execute and deliver all Agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this Agreement and the rights and obligations of the parties under it.

20.5 Counterparts

This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

20.6 Amendment

This Agreement may only be amended or supplemented in writing signed by the parties.

20.7 Unenforceability

Any provision of this Agreement which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

20.8 Power of Attorney

Each attorney who executes this Agreement on behalf of a party declares that the attorney has no notice of:

- (1) the revocation or suspension of the power of attorney by the grantor; or
- (2) the death of the grantor.

20.9 Governing law

The law in force in the State of New South Wales governs this Agreement . The parties:

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this Agreement ; and
 - (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.
-

EXECUTION:

Executed as an agreement

Dated: *31-8-10*

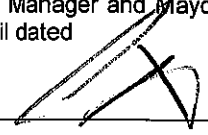
Signed, Sealed and Delivered by **Camden Council** by its General Manager and Mayor by the affixing of the Common Seal of Council in accordance with a resolution of the Council dated



General Manager (Signature)

GREG WRIGHT

Name of General Manager (Print Name)



Mayor (Signature)

CR CHRIS PATTERSON

Name of Mayor (Print Name)


Signed, Sealed and Delivered by **Dandaloo Pty Limited** in accordance with section 127(1) of the Corporations Act by authority of its directors.

Lee THOMAS

Director/Secretary (Signature)

Peter JOHN DOWE

Name of Director/ Secretary (Print Name)



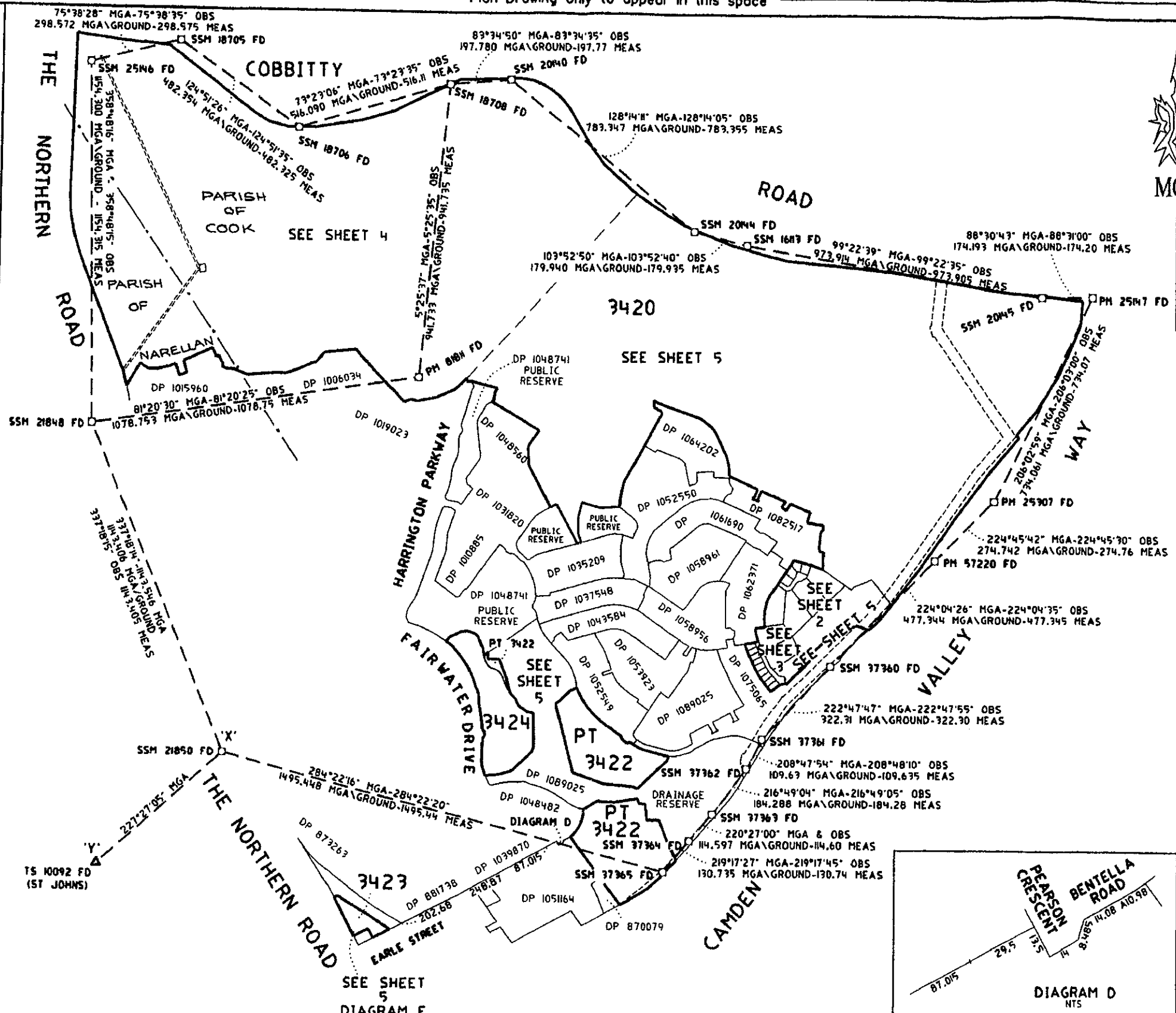
Director (Signature)



Name of Director (Print Name)



SIGNATURE AND SEALS ONLY.



DP1105169
 Registered: 14-2-2007
 C A: SEE CERTIFICATE
 Title System: TORRENS
 Purpose: SUBDIVISION
 Ref. Map: U 7330-4*, U7330-5*, 7#
 Lost Plan: DP1108610

PLAN OF SUBDIVISION OF LOT 102 IN DP1108610
 Lengths in metres Reduction Ratio 1:10000
 L.G.A : CAMDEN
 Locality: HARRINGTON PARK
 Parish: NARELLAN & COOK
 County: CUMBERLAND

This is sheet 1 of my plan in 5 sheets (Delete if inapplicable)
 Surveying Regulation, 2006
 MICHAEL JOHN GORDON
 of JOHN M DALY & ASSOC PTY. LTD.
 PO BOX 25 CAMPBELL TOWN
 a surveyor registered under the Surveying Act 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying Regulation, 2006 and was completed on 23-10-2006.
 The survey relates to LOTS 3401-3419, PT 3420, 3421, PT 3422, PT 3423, 3424, 3425, 3426, 3427, 3428, 3429, 3430, 3431, 3432, 3433, 3434, 3435, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3491, 3492, 3493, 3494, 3495, 3496, 3497, 3498, 3499, 3500 (specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)
 Signature: [Signature] Dated: 23-10-2006
 Surveyor registered under the surveyors act 1929
 Datum: A.M.S.L.
 Type: Urban/Rural

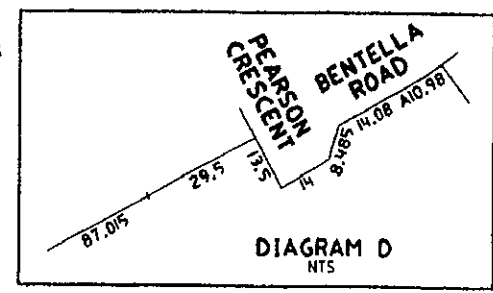
Plans used in preparation of Survey/Compilation
 DP 1062371 DP 1089025
 DP 1075065 DP 1082517
 DP 1078935 DP 1108610
 DP 1078935

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

IT IS INTENDED TO DEDICATE TO THE PUBLIC AS PUBLIC ROAD: THE EXTENSIONS TO DAVY COURT AND TOWRA COURT.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919, IT IS INTENDED TO CREATE:

- EASEMENT TO DRAIN WATER 1.5 WIDE
- EASEMENT TO DRAIN WATER 2.5 WIDE
- EASEMENT TO DRAIN WATER 12 WIDE
- EASEMENT FOR UNDERGROUND CABLES 1 WIDE
- EASEMENT FOR WATER SUPPLY PURPOSES 2.5 WIDE
- RESTRICTION ON THE USE OF LAND
- RESTRICTION ON THE USE OF LAND
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- RESTRICTION ON THE USE OF LAND
- RESTRICTION ON THE USE OF LAND
- RESTRICTION ON THE USE OF LAND
- RESTRICTION ON THE USE OF LAND



SURVEYING REGULATION 32(2) - MGA CO-ORDINATES																	
MARK	EASTING	NORTHING	ZONE	CLASS	ORDER	MARK	EASTING	NORTHING	ZONE	CLASS	ORDER	MARK	EASTING	NORTHING	ZONE	CLASS	ORDER
PM 25146	289943.440	6234087.336	56	B	2	SSM 18706	290828.579	6233885.676	56	C	3	SSM 37360	292397.012	6232175.503	56	B	2
PM 25147	293244.969	6233373.151	56	B	2	SSM 18708	292373.180	6234033.264	56	C	3	SSM 37361	292178.010	6231978.973	56	B	2
PM 25307	292922.568	6232713.568	56	C	3	SSM 20404	291319.743	6234055.380	56	C	3	SSM 37362	292125.192	6231842.891	56	B	2
PM 57220	292729.084	6232518.487	56	B	2	SSM 20444	291935.104	6233570.505	56	C	3	SSM 37363	292044.740	6231695.342	56	B	2
PM 81811	291034.112	6233015.581	56	A	1	SSM 20445	293070.816	6233768.627	56	B	2	SSM 37364	291940.382	6231608.126	56	B	2
SSM 16113	292109.810	6233527.333	56	C	3	SSM 21848	289967.525	6232933.144	56	A	1	SSM 37365	291857.583	6231506.932	56	B	2
SSM 18705	290232.721	6234161.990	56	C	3	SSM 21850	290408.756	6231878.150	56	B	2	TS 10092	287442.060	6229155.047	56	C	3

SOURCE : MGA CO-ORDINATES ADOPTED FROM SCIMS 5th OCTOBER 2006 - COMBINED SCALE FACTOR 1.000124 (MEAN)



Signed by Dandaloo Pty Limited by

Lee Thomas Director
 Lori Hession

Req:R357217 / Doc:DP 1105169 P / Rev:16-Feb-2007 / Sts:SC.OK / Prt:14-Mar-2007 15:44 / Pgs:ALL / Seq:1 of 5

Crown Lands Office Approval

PLAN APPROVED: _____ Authorised Officer: _____

Land District: _____

Paper No.: _____

Field Book: _____

Subdivision Certificate

I certify that the provisions of s.109(1) of the Environmental Planning and Assessment Act 1979 have been satisfied in the relation to the proposed

SUBDIVISION set out herein

Consent Authority: CAMDEN COUNCIL

Date of endorsement: 20 January 2007

Subdivision Certificate No.: 212007

Accreditation No.: DA 1300 1291-3/17

Site No.: _____

Notes: This plan is to be lodged electronically in the Land Titles Office. It should include a signature in an electronic or digital format approved by the Registrar General.

Delete whichever is inapplicable.

REGISTRARS REFERENCE: 02492DP

Michael J.L.

[Signature]
Authorised Person/General Manager/ Accredited-Cadastre

REFERENCE MARKS DH&WS PLACED

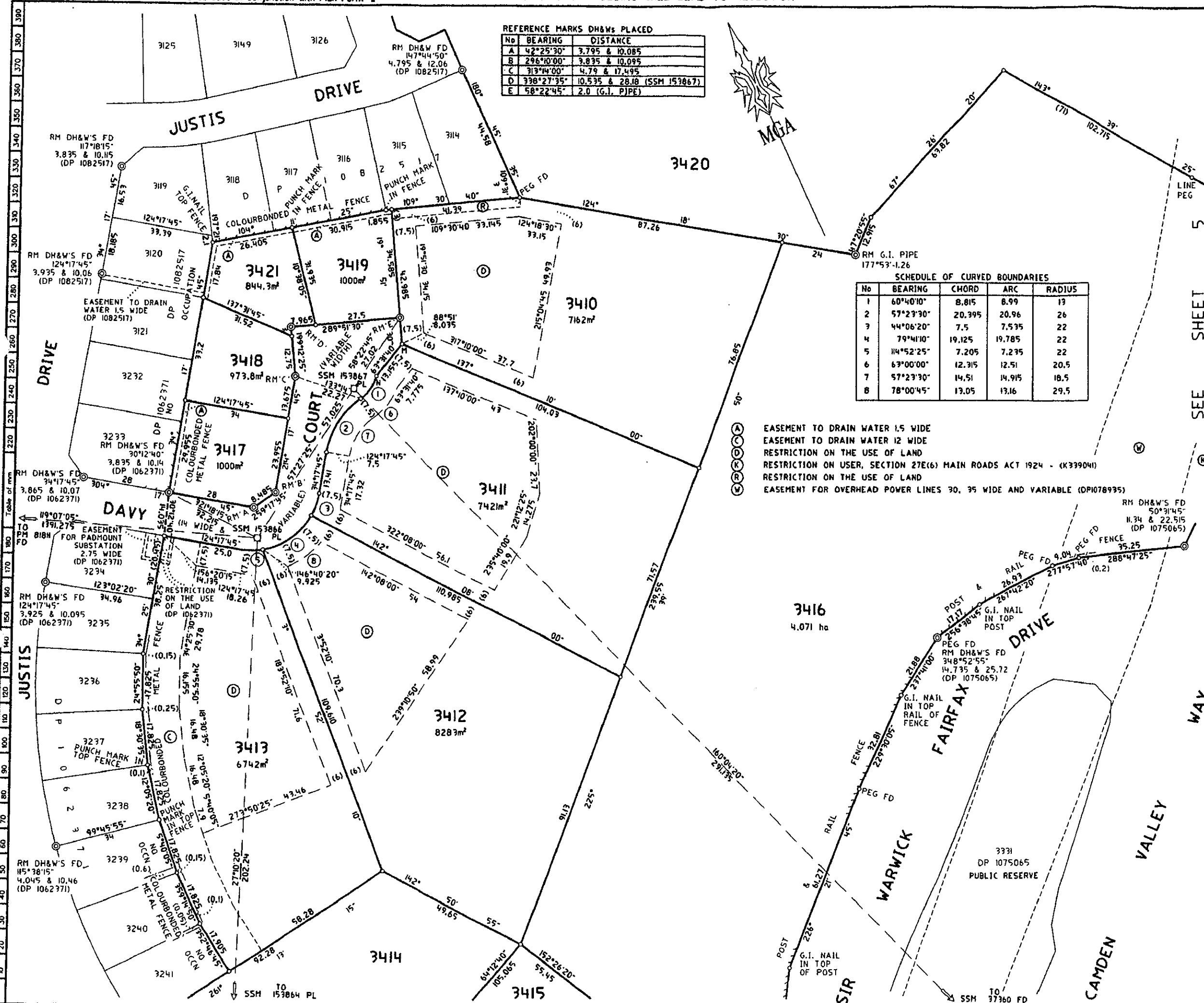
No	BEARING	DISTANCE
A	42°25'30"	3.795 & 10.085
B	296°10'00"	3.835 & 10.095
C	313°14'00"	4.79 & 17.495
D	338°27'35"	10.535 & 28.18 (SSM 153867)
E	58°22'45"	2.0 (G.I. PIPE)



SCHEDULE OF CURVED BOUNDARIES

No	BEARING	CHORD	ARC	RADIUS
1	60°40'10"	8.815	8.99	13
2	57°23'30"	20.395	20.96	26
3	44°06'20"	7.5	7.535	22
4	79°41'10"	19.125	19.785	22
5	114°52'25"	7.205	7.235	22
6	63°00'00"	12.315	12.51	20.5
7	57°23'30"	14.51	14.915	18.5
8	78°00'45"	13.05	13.16	29.5

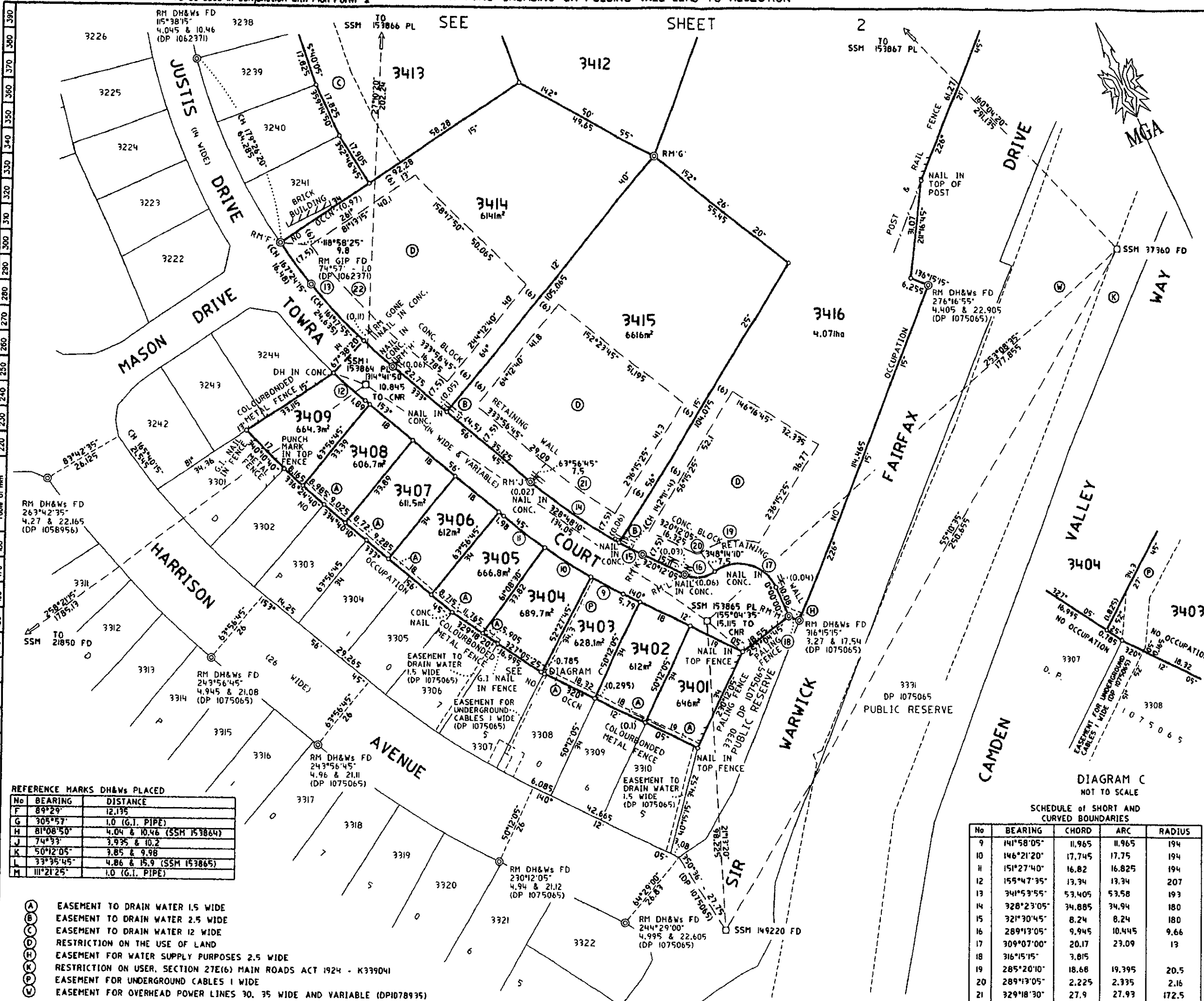
⊙ EASEMENT TO DRAIN WATER 1.5 WIDE
 ⊙ EASEMENT TO DRAIN WATER 12 WIDE
 ⊙ RESTRICTION ON THE USE OF LAND
 ⊙ RESTRICTION ON USER, SECTION 27E(6) MAIN ROADS ACT 1924 - (K339041)
 ⊙ RESTRICTION ON THE USE OF LAND
 ⊙ EASEMENT FOR OVERHEAD POWER LINES 30, 35 WIDE AND VARIABLE (DP1078935)



Req: R357217 / Doc: DP 1105169 P / Rev: 16-Feb-2007 / Sts: SC / P: 14-Mar-2007 15:44 / Pgs: ALL / Seq: of 5
 Ref: HP / Src: M

Table of mm
 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200 210 220 230 240 250 260 270 280 290 300 310 320 330 340 350 360 370 380 390

SEE SHEET 5



REFERENCE MARKS DH&Ws PLACED

No	BEARING	DISTANCE
F	89°29'	12.195
G	305°57'	1.0 (G.I. PIPE)
H	81°08'50"	4.04 & 10.46 (SSM 153864)
J	74°33'	3.935 & 10.2
K	50°12'05"	3.85 & 9.98
L	33°35'45"	4.86 & 15.9 (SSM 153865)
M	111°21'25"	1.0 (G.I. PIPE)

- (A) EASEMENT TO DRAIN WATER 1.5 WIDE
- (B) EASEMENT TO DRAIN WATER 2.5 WIDE
- (C) EASEMENT TO DRAIN WATER 12 WIDE
- (D) RESTRICTION ON THE USE OF LAND
- (E) EASEMENT FOR WATER SUPPLY PURPOSES 2.5 WIDE
- (F) RESTRICTION ON USER, SECTION 27E(6) MAIN ROADS ACT 1924 - K339041
- (G) EASEMENT FOR UNDERGROUND CABLES 1 WIDE
- (H) EASEMENT FOR OVERHEAD POWER LINES 30, 35 WIDE AND VARIABLE (DP1078935)

DIAGRAM C NOT TO SCALE

SCHEDULE OF SHORT AND CURVED BOUNDARIES

No	BEARING	CHORD	ARC	RADIUS
9	141°58'05"	11.965	11.965	194
10	146°21'20"	17.745	17.75	194
11	151°27'40"	16.82	16.825	194
12	155°47'35"	13.34	13.34	207
13	341°53'55"	53.405	53.58	193
14	328°23'05"	34.885	34.94	180
15	321°30'45"	8.24	8.24	180
16	289°13'05"	9.945	10.445	9.66
17	309°07'00"	20.17	23.09	13
18	316°15'15"	3.815		
19	285°20'10"	18.68	19.395	20.5
20	289°13'05"	2.225	2.335	2.16
21	329°18'30"	27.9	27.93	172.5
22	340°56'40"	45.2	45.31	185.5

Req:R357217 /Doc:DP 1105169 P /Rev:16-Feb-2007 /Sts:SC X /Prt:14-Mar-2007 15:44 /Pgs:ALL /Seq: 5 of 5 Ref:HP /Src:M

REFERENCE MARKS			
No	BEARING	DISTANCE	RM
N	316°15'15"	3.27 & 17.54	DH&W FD (DP 1075065)
P	276°16'55"	4.405 & 22.905	DH&W FD (DP 1075065)
Q	346°52'55"	14.735 & 25.72	DH&W FD (DP 1075065)
R	50°31'45"	11.34 & 22.515	DH&W FD (DP 1075065)
S	323°39'25"	1.0	GIP PLACED
T	54°22'	1.035	GIP FD (DP 1075065)

- (K) RESTRICTION ON USER, SECTION 27E(6) MAIN ROADS ACT 1924-K399041
- (L) EASEMENT FOR OVERHEAD POWERLINES 9 WIDE (DP 107548)
- (M) EASEMENT FOR OVERHEAD POWER LINES 30, 35 WIDE & VARIABLE (DP 1078995)

DP1105169

Registered: 14-2-2007

This is sheet 5 of my plan in 5 sheets dated 23-10-2006

John G. H.

Surveyor registered under Surveying Act 2002

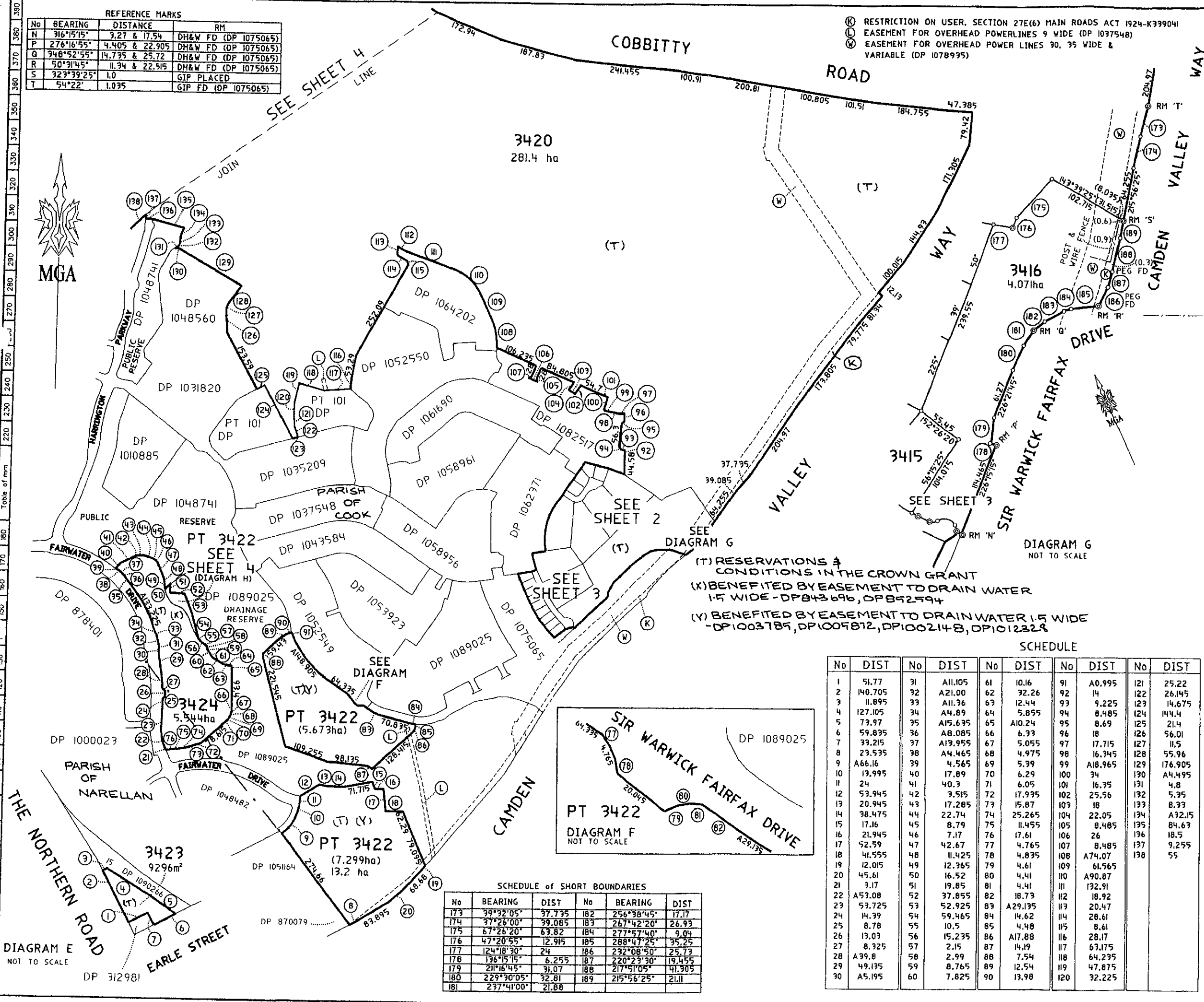
This is sheet 5 of the plan of 5 sheets covered by Subdivision Certificate No. 2 of 2007.

[Signature]

Authorised Person/General Manager/Accredited Certifier

For use where space is insufficient in any panel on Plan Form 2.

Req:R357217 /Doc:DP 1105169 P /Rev:16-Feb-2007 /Sts:SC /Prt:14-Mar-2007 15:44 /Pgs:ALL /Seq: 5 of 5



- (T) RESERVATIONS & CONDITIONS IN THE CROWN GRANT
- (X) BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE - DP843696, DP852594
- (Y) BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE - DP1003789, DP1005812, DP1002143, DP1012323

SCHEDULE

No	DIST	No	DIST	No	DIST	No	DIST	No	DIST
1	51.77	31	A11.105	61	10.16	91	A0.995	121	25.22
2	140.705	32	A21.00	62	32.26	92	14	122	26.145
3	11.895	33	A11.36	63	12.44	93	9.225	123	14.675
4	127.105	34	A4.89	64	5.855	94	8.485	124	14.4
5	73.97	35	A15.635	65	A10.24	95	8.69	125	21.4
6	59.835	36	A8.085	66	6.33	96	18	126	56.01
7	33.215	37	A13.955	67	5.055	97	17.715	127	11.5
8	23.535	38	A4.465	68	4.975	98	16.345	128	55.96
9	A66.16	39	4.565	69	5.39	99	A18.965	129	176.905
10	13.995	40	17.89	70	6.29	100	34	130	A4.495
11	24	41	40.3	71	6.05	101	16.35	131	4.8
12	53.945	42	3.515	72	17.935	102	25.56	132	5.35
13	20.945	43	17.285	73	15.87	103	18	133	8.33
14	38.475	44	22.74	74	25.265	104	22.05	134	A32.15
15	17.16	45	8.79	75	11.455	105	8.485	135	84.63
16	21.945	46	7.17	76	17.61	106	26	136	18.5
17	52.59	47	42.67	77	4.765	107	8.485	137	9.255
18	41.555	48	11.425	78	4.835	108	A74.07	138	55
19	12.015	49	12.365	79	4.61	109	61.565		
20	45.61	50	16.52	80	4.41	110	A90.87		
21	3.17	51	19.85	81	4.41	111	132.91		
22	A53.08	52	37.855	82	18.73	112	18.92		
23	53.725	53	52.925	83	A29.135	113	20.47		
24	14.39	54	59.465	84	14.62	114	28.61		
25	8.78	55	10.5	85	4.48	115	8.61		
26	13.03	56	15.235	86	A17.88	116	28.17		
27	8.325	57	2.15	87	14.19	117	63.175		
28	A39.8	58	2.99	88	7.54	118	64.235		
29	49.135	59	8.765	89	12.54	119	47.875		
30	A5.195	60	7.825	90	13.98	120	32.225		

SCHEDULE of SHORT BOUNDARIES

No	BEARING	DIST	No	BEARING	DIST
173	39°32'05"	37.735	182	256°38'45"	17.17
174	37°26'00"	39.085	183	267°42'20"	26.93
175	67°26'20"	63.82	184	277°57'40"	9.04
176	47°20'55"	12.915	185	288°47'25"	35.25
177	124°18'30"	24	186	232°08'50"	25.73
178	136°15'15"	6.255	187	220°23'30"	19.455
179	211°16'45"	31.07	188	217°51'05"	41.305
180	229°30'05"	32.81	189	215°56'25"	21.11
181	237°41'00"	21.88			

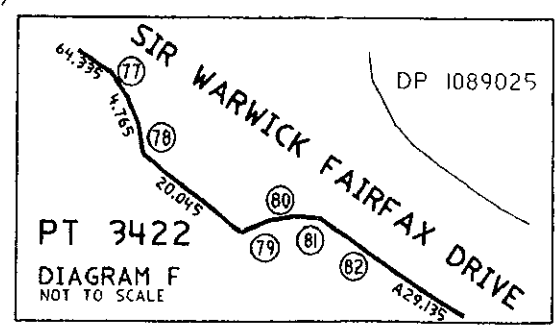


DIAGRAM E NOT TO SCALE

DP 312981