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Our Ref: BJ/240524

4th March 2025

Maitland City Council P.O. 220 MAITLAND NSW 2320

Attention: General Manager

To Whom it May Concern,

RE: SECTION 4.55(2) MODIFICATION APPLICATION TO DA/2019/573/1 547 RAYMOND TERRACE ROAD, CHISHOLM (LOT 20 DP 832786) TORRENS TITLE SUBDIVISION – 22 RESIDENTIAL LOTS, ROAD WIDENING AND ASSOCIATED INFRASTRUCTURE

1.0 Introduction

Please find enclosed for your consideration and determination, an application made under Section 4.55(2) Modification of Consents—generally, of the Environmental Planning and Assessment Act 1979, to modify a development consent. The development consent in question is DA/2019/573, for a one into 22 lot Torrens Title subdivision, and road widening, and associated road infrastructure, at 547 Raymond Terrace Road, Chisholm (Lot 20 in DP 832786). The Notice of Determination and approved development plans are included in **Appendices A** and **B** respectively.

As per the requirements of Section 4.55(2), the proposed modifications, as detailed within this application, will result in substantially the same development as that originally approved by Maitland City Council. In terms of this Section 4.55(2) application, ADW Johnson has been engaged by Chisholm 547 Pty Ltd to prepare the supporting information. This information is contained within this report, and further within the appendices of this report.

2.0 Background

The subject DA (DA/2019/573) was granted consent by Maitland City Council on 26th November 2019. The consent allows for a one into 22 residential lot Torrens Title subdivision, road widening and associated infrastructure. The subject DA was amended on 24th June 2024 to accommodate various administrative changes to conditions.

The subject site makes up part of the Eastern Precinct within the Thornton North Urban Release Area. The approved residential lots range in size from 450m² to 743m², as shown in the approved subdivision plan below (**Figure 1**). The subdivision also approved two local roads - an east/west thru road (Road 4) and a north/south thru road (Road 6). The approved lot layout was designed in accordance with the Eastern Precinct Plan which requires only an east/west connection.



3.0 **Proposed Amendments**

The amendments proposed revolve around altering Road 6 to a cul-de-sac arrangement. This in turn will increase the lot yield by one, as well as making minor reconfigurations to the associated lots.

The amendment to Road 6 will remove the connection to Road 3 which has been approved on the adjoining site to the north. In this regard, it is noted that the north/south connection is not a requirement of the Eastern Precinct Plan as illustrated within Figure 2, and its removal accommodates an additional housing opportunity which is considered pertinent in the current housing crises climate.



The approved and amended layouts are provided within Figure 1.

Figure 1: Approved and Proposed Layout



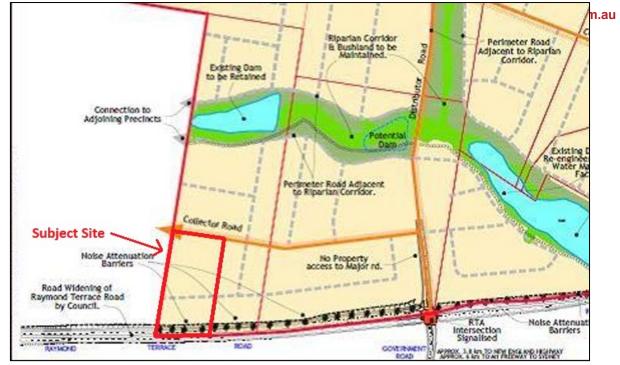


Figure 2: Extract of Eastern Precinct Plan

The proposed amendment also proposes the inclusion of staging as depicted within Figure 3 overleaf. The staging has been proposed to correspond to the anticipated timing of neighbouring developments and associated infrastructure.





Figure 3: Staging Plan

In summary, the following modifications are requested:

- Amendment to Road 6 to a cul-de-sac arrangement;
- Reconfiguration of the lot layout to accommodate above, including the addition of one lot;
- Spilt the staging of the development into three stages.

The following aspects of the approved DA will remain the same:

- No change to the development footprint or associated environmental impacts;
- No impact to approved adjoining developments;
- No change to the road widening location or timing of works;
- No additional non-compliances introduced.



4.0 Details of and Justification for Proposed Modification

To accommodate the proposed modifications, the following conditions require amendment (**red** = additions; strikethrough = deletions):

Condition 1 - Amend

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 of this consent or as shown in red colour on the plans:

Plan Ref No.	Sheet No.	Revision No.	Revision Date	Prepared by: (consultant)
Cover Sheet & Drawing Index	DA-101	A D	21.06.19 14.02.25	ADW Johnson
Context Plan	DA-105	A D	21.06.19 14.02.25	ADW Johnson
Staging Plan	DA-106	D	14.02.25	ADW Johnson
Detail Plan	DA-111	A D	21.06.19 14.02.25	ADW Johnson
Services Plan	DA-201	A D	21.06.19 14.02.25	ADW Johnson
Road No.3 Long Section	DA-401	A D	21.06.19 14.02.25	ADW Johnson
Road No.4 Long Section	DA-401 DA-402	A D	21.06.19 14.02.25	ADW Johnson
Road No. 6 Long Section	DA-401 DA-403	A D	21.06.19 14.02.25	ADW Johnson
Typical Road Cross Sections	DA-430	A D	21.06.19 14.02.25	ADW Johnson
Stormwater Catchment Details & Section	DA-440	D	14.02.25	ADW Johnson
Swale Catchment & Typical Section	DA-441	D	14.02.25	ADW Johnson

Reason/Justification

To refer to the amended plans.

Condition 2 – Amend

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, the Thornton North Section 94 Contributions Plan 2008 and the Maitland City Wide Section 94 Contributions Plan 2016, a contribution of \$457,421shall be paid to the Council.



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The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

E collidar	Per Lot	Total
Facility	1	21 22
TN Rec & Open Space	\$5,437	\$114,177\$119,614
TN Road & Traffic	\$17,068	\$358,428\$375,496
Offset for land for Road Widening Part TN38		\$172,537
Revised TN Road and Traffic	\$8,851.95	\$185,891 \$194,743
TN Community Facilities	\$1,724	\$36,204\$37,928
TN Cycleways/Shared Paths	\$188	\$3,948\$4,136
TN Management/Admin	\$443	\$9,303\$9,746
CW Aquatics	\$928	\$19,488\$20,416
CW Library Floor Space	\$588	\$12,348<mark>\$12,936</mark>
CW Road & Traffic	\$3,074	\$64,554\$67,628
CW Cycleways/Shared Paths	\$548	\$11,508\$12,056
TOTAL	\$29,998	\$457,421

Reason/Justification

To accommodate the proposed additional lot.

Condition 15 - Amend

- (a) Prior to the issue of a Construction Certificate **for Stage 1**, the Construction Certificate for DA2019/574 (Stage 1) must be issued and include construction of Road 03 to full width across both Construction Certificates.
- (c) The subdivision construction shall be carried out in the numerically consecutive stages as shown on the approved Context Staging Plan (DA-106).

Reason/Justification

Refer to the staging plan.

4.1 Relevant Provisions of Section 4.55(2) (Environmental Planning and Assessment Act 1979)

The proposed modification is subject to the provisions of Section 4.55 *Modification of consents—generally* of the *Environmental Planning and Assessment Act 1979*. Section 4.55 is set out as follows:

- (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

The proposed amendments will have no more environmental impact than as originally approved under this DA given that the footprint of the development has not increased.

Whilst there is an increase in the overall lot yield, this has not increased the overall footprint of the development.



Beyond the above, the proposed development continues a low-density residential subdivision, in generally the same pattern to the approved and similar to those surrounding.

Taking these factors into consideration, the modifications proposed will continue to represent a development which is substantially the same as that originally approved.

(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

Rural Fire Service (RFS): The proposed modification complies with the original consent which was assessed by the RFS.

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

It is assumed, Council will notify the 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.

Section 4.15(1) of the Act is addressed below.

5.2 Relevant Issues under EPA Regulation 2021

Section 100 of the Environmental Planning and Assessment Regulation 2021 sets out additional requirements that all modification applications must comply with. The relevant requirements and how they have been complied with are set out in the following table:

SECTION 100 REQUIREMENTS	COMMENT
(1) A modification application must contain the following information—	
(a) the name and address of the applicant,	See NSW Planning Portal Application.
(b) a description of the development that will be carried out under the development consent,	Described within Section 2.
(C) the address and folio identifier of the land on which the development will be carried out,	See Development Application Form.
(d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,	Described within Sections 3 & 4.



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SECTION 100 REQUIREMENTS	COMMENT
 (e) whether the modification is intended to— (i) merely correct a minor error, misdescription or miscalculation, or (ii) have another effect specified in the modification application, 	Discussed within Section 5.
(f) a description of the expected impacts of the modification,	Discussed within Section 5.
(g) an undertaking that the modified development will remain substantially the same as the development originally approved,	Discussed within Section 5.
(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,	N/A
(i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,	See Development Application Form.
 (j) whether the modification application is being made to— (i) the Court under the Act, section 4.55, or (ii) the consent authority under the Act, section 4.56. 	N/A

5.3 Assessment of Section 4.15(1)

Under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the following matters need be considered as part of the assessment of the application:

(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policies (SEPPs)

The proposed modifications to the development are not inconsistent with any SEPPs.

Local Environmental Plans (LEPs)

Maitland Local Environmental Plan 2011 (MLEP 2011)

(a)(ii) the provisions of any draft environmental planning instruments

There are no draft environmental planning instruments relevant to the application.

(a)(iii) any development control plans

DC.6 Roads & Access, Pedestrian & Cycleways

Cul-de-sacs and pedestrian laneways shall be avoided, where unavoidable cul-de-sac should be less than 200m in length and able to see the end bulb from the intersection. Greater lengths will require increased road widths and bulb radius.

The proposed modification includes the creation of the cul-de-sac which will result in a more efficient layout providing an additional housing opportunity. It is noted the proposed cul-de-sac is only approximately 60m in length from the start of the intersection to the end of the bulb and only servicing six allotments. Given the length of the proposed cul-de-sac, it increases the security and crime prevention of the locality. The single entry and exit point allow it easier to spot unfamiliar vehicles or people, reducing the opportunities for crime. The enclosed design also enhances informal surveillance and gives the future residents a greater sense of ownership over the street.



(a)(iv) any matters prescribed by the regulations

There are no matters prescribed by the regulations relevant to the application.

(b) the likely impacts of the development

The proposed lot configuration amendments will have the following beneficial impacts:

- Increases the housing opportunities within a strategic growth area and within a climate of housing crises;
- The removal of the thru road would benefit lots opposite on the adjoining site to the north by removing traffic and potential light spill into dwellings opposite;
- Creates a more even lot depth across the development, thereby improving the building envelope for future housing;
- Improves the orientation of the lot adjoining the cul-de-sac, thereby accommodating a safer driveway location.

Taking the above into consideration, it is evident that the proposed modifications will only have beneficial impacts to the economic, social and environmental fabric of the development.

Context and Setting

The proposed modifications will have no impact on the context and setting of the subdivision as originally approved under this DA.

Access, Transport and Traffic

The proposed modifications will alter the lot layout as approved "Road 6" will now be modified to become a culde-sac. The original thru road was not a requirement of the Eastern Precinct plan and was not required for any traffic disbursal reasons. Given that the cul-de-sac will accommodate only six lots and only proposes one additional lot, impacts on traffic are considered to be inconsequential.

Landscaping

The proposed modifications will have no impact on the landscaping as approved under this DA. Plans in this regard will be provided as part of the Construction Certificate in accordance with Condition 16.

Earthworks/Retaining

Discussed above.

Utilities

The proposed modifications will have no impact on utilities with the exception of minor adjustments to suit the amended layout.

Stormwater, Drainage and Water Quality

The overall stormwater management for the subject site will not be impacted by the proposed modification.

Flora and Fauna

The proposed modifications would not involve any further impacts in terms of flora and fauna given the site has been cleared under the existing approval.



Acid Sulphate Soils

The proposed modifications will have no additional impact on acid sulphate soils.

Social and Economic Impacts

The social and economic impact of the proposed modifications will only be positive through facilitating a better lot configuration and provide an additional allotment during the current housing crisis.

Waste Management

A bin and swept path plan has been created and provided as **Appendix D** which depict the ability for a driveway and bin to fit within each of the allotments serviced by the cul-de-sac head.

Site Design and Internal Design

Discussed above.

(c) the suitability of the site for the development

The site is suitable for the development as proposed. It is noted that as a component of the assessment of the original DA, the suitability of the site was required to be considered. In this regard, the suitability of the site has not been altered.

(d) any submissions made in accordance with the Act or regulations

It is expected that any submissions made in accordance with this Act or the regulations will be suitably considered by the consent authority.

(e)the public interest

The proposed modification is within the public interest. In this context, the public interest is best satisfied by the predominantly compliant utilisation of land in accordance with the relevant planning standards and controls. In this regard, the proposed modification does not result in any additional impacts that were not addressed within the original DA and the modification is therefore within the public interest.

5.0 Conclusion

This Section 4.55(2) application seeks approval to modify the development layout and subsequent associated conditions of the consent granted by Maitland City Council on 26th November 2019 and further amended on 24th June 2024, for a Torrens Title subdivision – 22 residential lots, road widening and associated infrastructure, at 547 Raymond Terrace Road, Chisholm (Lot 20 in DP 832786).

The proposed modification does not change the approved use with the development remaining a Torrens Title residential subdivision. While there are alterations to the lot layout, the scale of the development will remain unchanged as low density residential. The proposed modification will not change the character of the approved development, nor will it result in any significant change to environmental impacts. For these reasons, Council can be satisfied that the modified proposal will remain substantially the same as the development as that originally approved in a qualitative and quantitative sense and as such, satisfies the requirements of Section 4.55(2).

Having regard for the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979, it is considered that the amended proposal is substantially the same as that originally approved by Council and that no prejudice will be caused to other persons as a result of the proposed modification.



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Should there be any further enquiries, please do not hesitate to contact me on 4305 4300. Alternatively, I may be contacted via e-mail on benj@adwjohnson.com.au.

Yours faithfully,

Ben Jia Town Planner ADW JOHNSON



Appendix A Notice of Determination



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

NOTICE OF DETERMINATION

DEVELOPMENT APPLICATION (AMENDED)

To the Applicant:	Chisholm 547 Pty Ltd C/o ADW Johnson 7/335 Hillsborough Road WARNERS BAY NSW 2282
LAND:	547 Raymond Terrace Road, Chisholm Lot 20 DP 832786
DEVELOPMENT:	Section 4.55(1A) Application to modify conditions 28, 38 and delete conditions 23, 29(b), 39(c), 42, 43 and 45

The application submitted on 11 March 2024 to modify **Development Application No. DA/2019/573** pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979, has been modified in the manner and to the extent indicated in the Amended Schedule of Conditions attached.

Those existing conditions which have been modified, existing conditions which have been deleted and new conditions which have been added are identified within the shaded text boxes contained within the schedule.

Amended Consent Issued:

24 June 2024

Original Consent Endorsement Date:

26 November 2019

Geelilliam,

This notice should be retained and read in conjunction with the original Notice of Determination issued on 26 November 2024. Please note the date of consent remains the original endorsement date, and that the consent lapses 5 years from this original endorsement date unless the conditions of consent specify a reduced period. Any reference in the Environmental Planning and Assessment Act, 1979 or any other Act to a development consent shall, in the case of this matter, be a reference to the original development consent as modified herein.

Right of Appeal:

If you are dissatisfied with this decision, section 8.9 of the Environmental Planning and Assessment Act, 1979 gives you the right to appeal to the Land and Environment Court.

263 High-Street Maitland NSW 2320

f 02 4934 9700 f 02 4933 3209 info@maitland.nsw.gov.au maitland.nsw.gov.au

All correspondence should be directed to: General Manager P.O. Box 220 Maitland NSW 2320

Schedule of Conditions DA/2019/573:1

(As amended by Section 4.55(1A) dated 24 June 2024)

Reason for Conditions

The following conditions are applied to:

- Confirm and clarify the terms of Council's Approval;
- Identify minor modifications and additional requirements that will result in improved compliance, development and environmental outcomes; and
- Draw to the attention of the applicant and owner their responsibility to comply with the requirements of various legislation including but not limited to the Environmental Planning and Assessment Act, 1979, Local Government Act 1993; relevant Regulations; Building Code of Australia, Australian Standards and Local Policies relating to development works, building construction and protection and enhancement of public health and the environment.

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 of this consent or as shown in red colour on the plans:

Plan Ref No.	Sheet No.	Revn No.	Revision Date	Prepared by (consultant)
Cover Sheet & Drawing Index	DA-101	A	21.06.19	ADW Johnson
Context Plan	DA-105	А	21.06.19	ADW Johnson
Detail Plan	DA-111	А	21.06.19	ADW Johnson
Services Plan	DA-201	А	21.06.19	ADW Johnson
Road No. 3 Long Section	DA-401	А	21.06.19	ADW Johnson
Road No. 4 Long Section	DA-401	А	21.06.19	ADW Johnson
Road No. 6 Long Section	DA-401	А	21.06.19	ADW Johnson
Typical Road Cross Sections	DA-430	А	21.06.19	ADW Johnson
Landscape Masterplan	LP-01	A	04.10.16	Terras Landscape Architects
Landscape Plan	LP-03	A	04.10.16	Terras Landscape Architects
Landscape Buffer Zone	LP-06	A	04.10.16	Terras Landscape Architects
Landscape Buffer Zone – Element	LP-07	A	04.10.16	Terras Landscape Architects
Planting Design	LP-08	A	04.10.16	Terras Landscape Architects

CONTRIBUTIONS & FEES

2. Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, the Thornton North Section 94 Contributions Plan 2008 and the Maitland City Wide Section 94 Contributions Plan 2016, a contribution of \$457,421shall be paid to the Council.

The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

Facility	Per Lot	Total
	1	21
TN Rec & Open Space	\$5,437	\$114,177
TN Road & Traffic	\$17,068	\$358,428
Offset for Land for Road Widening Part TN38		\$172,537
Revised TN Road & Traffic	\$8,851.95	\$185,891
TN Community Facilities	\$1,724	\$36,204
TN Cycleways/Shared Paths	\$188	\$3,948
TN Management/Admin	\$443	\$9,303
CW Aquatics	\$928	\$19,488
CW Library Floor Space	\$588	\$12,348
CW Road & Traffic	\$3,074	\$64,554
CW Cycleways/Shared Paths	\$548	\$11,508
TOTAL	\$21,782	\$457,421

The above contributions may be indexed with reviewed rates to apply from 1st February each year in accordance with the provisions of the abovementioned S94 Plans. Please refer to Council's web page for the current rates applicable.

Payment of the above amount is required prior to issue of the Subdivision Certificate for the development.

The above condition has been applied to ensure that:

- a) Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
- **b)** Council's administration expenses are met with respect to the processing of the application.
- **3.** Prior to the issue of the Subdivision Certificate, "house numbering" and "subdivision certificate" fees, in accordance with Council's Schedule of Fees and Charges, shall be paid to Council.

CERTIFICATES & REPORTS

- **4.** Prior to issue of the Subdivision Certificate, original plans and/or documents of survey/title, and four copies, shall be submitted to Council.
- **5.** Prior to issue of the Subdivision Certificate, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:
 - classifying each lot in accordance with Australian Standards AS 2870, and
 - verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing "level 1" inspection and testing.
- 6. Prior to issue of the Construction Certificate for earthworks or road construction, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for

the chosen names.

UTILITY SERVICES

- 7. Underground water, sewerage, telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider's requirements.
- 8. Prior to issue of Construction Certificate, any major utilities facilities (water, sewer, telecommunications items larger than individual lot scale provisions) shall be clearly shown on the construction drawings. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.
- **9.** Electrical Kiosk Substations are not to be located within road reserves or public reserve lots dedicated to Council. Where an Electrical Kiosk Substation is proposed to be located within a drainage reserve, this will require the approval of Council's Subdivision and Development Engineer.
- **10.** Street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:
 - Generally based on Australian Standard AS 1158 categories P5,
 - providing "cut-off" luminaries (such as "Aeroscreen" or similar)
- **11.** Any necessary alterations to public utility installations being at the developer's expense and to the requirements of both Council and the relevant authority.
- **12.** Prior to issue of the Subdivision Certificate, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.

Note: Where the proponent enters into an interim arrangement with Hunter Water for the provision of temporary sewerage disposal a copy of the agreement between Hunter Water and the proponent shall also be provided to the Council prior to the issue of the Subdivision Certificate.

- **13.** Prior to issue of the Subdivision Certificate, documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.
- **14.** Prior to issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
 - i. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

ii. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

STAGING SEQUENCE

- **15.** The development is to be carried out in accordance with the following Staging Sequence:
 - (a) Prior to the issue of a Construction Certificate, the Construction Certificate for DA2019/574 (Stage 1) must be issued and include construction of Road 03 to full width across both Construction Certificates.
 - (b) Prior to the issue of a Subdivision Certificate, the development must be connected to the public road network to the east of the development site dedicated to Council under DA2019/574 and connected to Raymond Terrace Road through the construction of Traffic Control Signals (TCS) at the intersection of Raymond Terrace Road/Government Road, Thornton and the dedication of the internal road network as public road through DA2019/652 (Munro).

VEGETATION & LANDSCAPING

- **16.** Prior to the issue of the Construction Certificate for road construction, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The plan shall:
 - a) Be in accordance with the approved plan as referenced in condition 1 and designed by a suitably accredited landscape architect.
 - b) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.
 - c) Street trees shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planting, include details of the height and spread at maturity of the approved species).

Landscaping of any existing or proposed public land shall include:

- d) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries for boundary maintenance purposes with maximum slope of 5H:1V.
- e) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
- f) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.

Landscaping of water quality systems

- g) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.
- **17.** Prior to the issue of the Subdivision Certificate all landscaping shall be undertaken in accordance with the approved landscape plan(s).
- **18.** Prior to the issue of the Subdivision Certificate, the 1.8m high acoustic fence and associated landscape buffer is to be completed in accordance with the approved Landscape Plans, as amended by this consent.
- **19**. Private maintenance gates are to be provided in the acoustic boundary fence within each of

the proposed lots that adjoin Raymond Terrace Road, Thornton. The maintenance gates should be located in the returns and are not to be designed to provide pedestrian access to Raymond Terrace Road. Details are to be provided on amended landscaping plans to be submitted with the documentation for a Construction Certificate.

BIODIVERSITY

- **20.** The development shall be carried out in accordance with the conditions of the BioBanking Statement ID 37 issued by NSW Office of Environment and Heritage dated 14/12/2017 as set out in Schedule 1 and Schedule 2 in this Statement. The following thresholds are relevant:
 - (a) Prior to any physical works commencing on site, the ecosystem credits identified in the BioBanking Statement ID 37 (Schedule 2) must be retired and Council must be in receipt of a credit retirement report (or its equivalent) issued by NSW Office of Environment, Energy and Science. (Note: A private certifier cannot assume the role of consent authority for this process. The credit retirement report must be submitted to Council as the consent authority relating to the determination of the development application).
 - (b) Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) is to be submitted to the consent authority in accordance with Schedule 1 – Conditions relating to on-site measures - as outlined in the BioBanking Statement ID 37.
 - (c) The CEMP is to incorporate an Ecological Management Plan (EMP), in accordance with Schedule 1 Conditions relating to on-site measures as outlined in the BioBanking Statement ID 37.
- 21. Prior to the issue of a Subdivision Certificate, a report is to be submitted to Council from an accredited ecological consultant certifying that the development has been carried out in accordance with Schedule 1 Conditions relating to on-site measures as outlined in the BioBanking Statement ID 37. The report shall address each condition listed in Schedule 1 for completeness.

BUSHFIRE RISK

- The development shall be carried out in accordance with the General Terms of Approval issued by NSW Rural Fire Service on 10 October 2019 as follows: Asset Protection Zones
 - At the issue of a Subdivision Certificate and, in perpetuity, the entirety of all residential lots shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
 - 2. At the issue of a Subdivision Certificate, a suitably worded instrument(s) shall be created which requires the management of a 25 metre asset protection zone (APZ) along the eastern boundary of the subject site, within Lot 21 DP832786, pursuant to section 88 of the Conveyancing Act 1919. These APZs shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. This instrument may be lifted upon the development of the land to the north and west of the lots such that the bush fire hazard has been permanently removed. The name of the

authority empowered to release, vary or modify the instrument shall be Maitland City Council.

Water and Utilities

3. The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

- **4.** Public road access shall comply with the following requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
 - Urban perimeter roads are two-way, with a carriageway width 8 metres minimum kerb to kerb.
 - Road(s) shall be two-wheel drive, all weather roads.
 - The perimeter road is linked to the internal road system at an interval of no greater than 500 metres.
 - Traffic management devices are constructed to facilitate unobstructed access by emergency services vehicles.
 - Public roads have a cross fall not exceeding 3 degrees.
 - Non perimeter road widths comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'. Curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres.
 - The minimum distance between inner and outer curves is 6 metres.
 - Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient.
 - There is a minimum vertical clearance to a height of 4 metres above the road at all times.
 - The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
 - Public roads greater than 6.5 metres wide locate hydrants outside of parking reserves to ensure accessibility to reticulated water for fire suppression.
 - Public roads between 6.5 metres and 8 metres wide are 'No Parking' on one side with services (hydrants) located on this side to ensure accessibility to reticulated water for fire suppression.
 - Public roads 5.5 to 6.5 metres wide (kerb to kerb) provide parking within parking bays located outside the kerb to kerb space and located services outside of the parking bays to ensure accessibility to reticulated water for fire suppression.
 - Parking bays are a minimum of 2.6 metres wide from kerb to edge of road pavement. No services are located within the parking bays.
 - Public roads directly interfacing the bush fire hazard vegetation provide roll top kerbing to the hazard side of the road
 - Dead end roads shall incorporate a temporary 12 metre outer radius turning circle which may be removed once construction of the adjoining road(s) commences.

ARCHAEOLOGY - DELETED

23. Prior to works commencing on the site (including clearing of vegetation), a copy of the Aboriginal Heritage Impact Permit (AHIP) issued under section 90 of the National Parks and Wildlife Act 1974 is to be submitted to Council.

(Note: Although no registered sites are identified on the subject site, the Aboriginal Heritage Due Diligence Assessment (RPS Australia East Pty Ltd, Version B, 04.05.2015) recommends a

single AHIP be obtained for Lots 20 & 21 DP832786, Lot 1 DP1032753 and Lot 1 DP198776). Condition Deleted 24 June 2024

BATTERS AND RETAINING WALLS

- 24. No retaining walls are approved within existing or future dedicated public land including road reserves and drainage reserves. All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
- **25.** Retaining walls on common boundaries shall be in accordance with the approved retaining plan. No walls shall exceed the maximum height of 1.5m.

TRAFFIC AND TRANSPORT

- 26. Prior to the issue of the Subdivision Certificate kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards.
- 27. Prior to the issue of the Construction Certificate the following road hierarchy shall apply to all roads, (including widths, pavement design and the like) in accordance with council's Manual of Engineering Standards:

ROAD TYPE	ROAD DESCRIPTION	Comments (shared paths, etc)
Local – Secondary	Road 06	Nil
Collector - Secondary	Road 04	Nil

Note: where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

28. Prior to the issue of a Subdivision Works Certificate, a temporary turning head shall be added to the western limit of Road 04. The turning head shall be able to accommodate a Council waste vehicle and be designed in accordance with Council's Manual of Engineering Standards. Condition Amended 24 June 2024

STORMWATER DRAINAGE

- **29.** Prior to the issue of a Construction Certificate, a drainage report and design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:
 - a) A major stormwater drainage system catering for discharge form contributing catchment areas in their ultimate developed state.
 - b) An on-site stormwater detention system to reduce post-developed discharges to predeveloped discharges, for the critical storm up to and including the 1% AEP ("100 year") event. Note – the OSD basin should be sited on Lots 301 and 302.
 - c) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.

- **30.** Specific drainage requirements shall include the provision of:
 - a) Provision of Q100 flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
 - b) Inter-allotment and/or public drainage provided to adjoining upstream properties.
 - c) Inter-allotment drainage to internal lots as required.

EROSION CONTROL AND BULK EARTHWORKS

- **31.** The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "Managing Urban Stormwater" shall be submitted as part of the Construction Certificate application.
- **32.** Prior to the issue of a Construction Certificate for subdivision works a Bulk Earthworks Management Plan (BEMP) is required to be submitted to Council for approval. The BEMP must include a report form a suitably qualified engineer that examines and determines:
 - a) the extent of bulk earthworks require for the construction of each stage
 - b) how stockpiles will be managed during construction
 - c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations
 - d) stock pile dimensions and stabilisation measures
 - e) site haulage routes and movement for each stage
 - f) how fill will be managed in the floodway during construction
 - g) any specific requirements relating to the management of Acid Sulfate Soils
- **33.** Prior to the issue of a Construction Certificate, a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

CIVIL WORKS – CERTIFICATION

- **34.** Prior to issue of the Construction Certificate for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.
- **35.** Prior to issue of the Construction Certificate, a minimum 300mm select layer of subbase quarry product material shall be added to the pavement design due to the presence of high swell clays in the Maitland Local Government Area.
- **36.** Prior to commencement of works within an existing public road reserve:

- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval
- b) consent under the Roads Act for the approved works, shall be issued by Council
- c) all relevant Council fees shall be paid
- d) a traffic control plan in accordance with the RMS publication "Traffic control at Worksites" shall be submitted to Council.
- **37.** Prior to issue of the Subdivision Certificate, all necessary works required for compliance with this consent and the Construction Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:
 - a) Confirmation that the construction works have been completed.
 - b) Confirmation from the road authority for any Roads Act Approval requirements.
 - c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
 - d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.

e) Geotech certification of the detention basin works (including any clay core requirements).

LAND TITLE

Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.

38. The proposed public roads and road widening shall be dedicated to Council, at no cost to Council and taking into account any compensation payable through the Section 7.11 contributions plan for the value of the land as outlined in Condition 2.

Condition Amended 24 June 2024

- **39.** A restriction or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:
 - a) A right of access shall be provided over all temporary turning heads.
 - b) The prohibition of vehicular access across the common boundary with Raymond Terrace Road.
 - c) Where public water quality or stormwater detention systems are not dedicated at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve.
 - d) Retaining walls on common boundaries shall have a 900mm easement to prevent excavation and for maintenance access shall be provided on the downhill lot.

Condition Amended 24 June 2024

- **40.** A restriction on the title of affected lots adjoining Raymond Terrace Road, Thornton under section 88B of the Conveyancing Act 1919 shall be created to give effect to a building line that prohibits any building or structures (other than fencing) within 10.0m from the common boundary of proposed lots (after road widening has been taken) and Raymond Terrace Road, Thornton.
- 41. A positive covenant on the title of affected lots adjoining Raymond Terrace Road, Thornton

under section 88E of the Conveyancing Act 1919 shall be created to require the ongoing preservation and maintenance of the approved 1.8m high acoustic boundary fence and landscaping within 5.0m of the affected lots adjoining Raymond Terrace Road, Thornton.

42. A restriction on the title of affected lots adjoining Raymond Terrace Road, Thornton under section 88B of the Conveyancing Act 1919 shall be created to give effect to a building line that prohibits any building or structures (other than fencing) within 10.0m from the common boundary of proposed lots (after road widening has been taken) and Raymond Terrace Road, Thornton.

Condition Deleted 24 June 2024

- **43.** A positive covenant on the title of affected lots adjoining Raymond Terrace Road, Thornton under section 88E of the Conveyancing Act 1919 shall be created to require the ongoing preservation and maintenance of the approved 1.8m high acoustic boundary fence and landscaping within 5.0m of the affected lots adjoining Raymond Terrace Road, Thornton... *Condition deleted 24 June 2024*
- **44.** A restriction or covenant on the title of proposed Lots 301 306 under the Conveyancing Act 1919 shall be created to require any building for residential use to comply with the following internal noise levels (LAeq):
 - (a) in any bedroom in the building 35 dB(A) at any time between 10pm and 7am;
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.

45. The land containing the required stormwater basin at proposed Lots 301 and 302 and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to Council.

Condition Deleted 24 June 2024

- **46.** Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.
- **47.** The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".
- **48.** The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

A. You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.

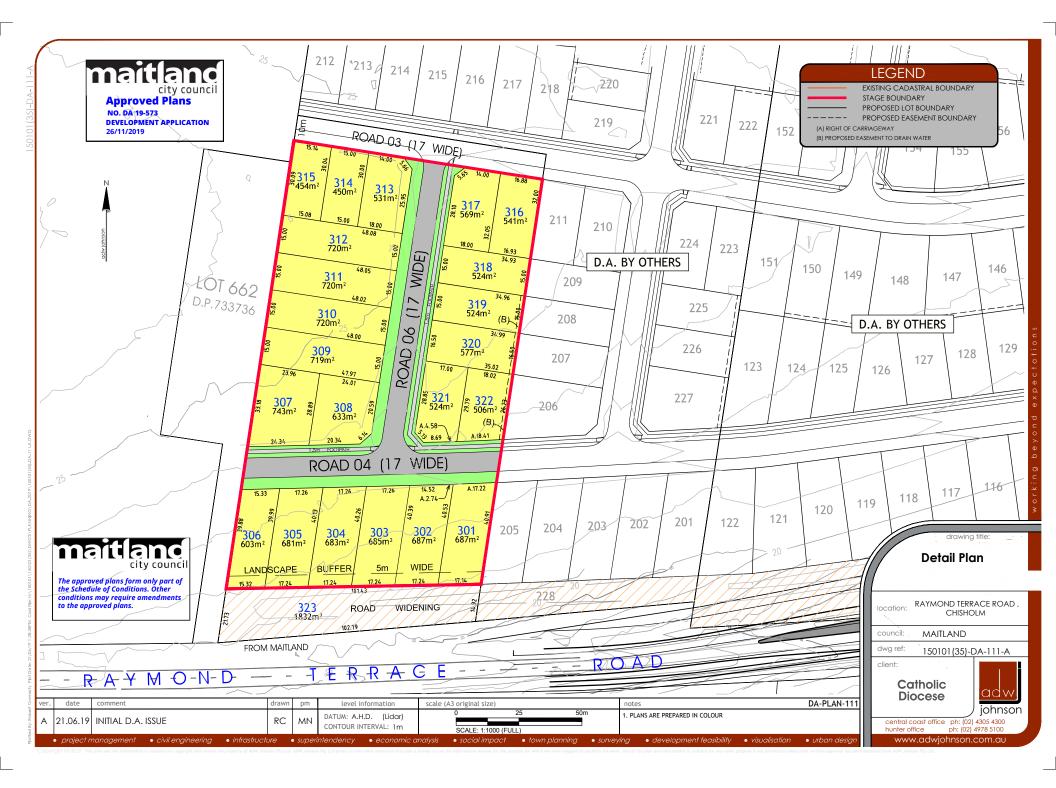
- **B.** You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Construction Certificate.
- **C.** You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.
- D. You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.

NSW Rural Fire Service

E. The General Terms of Approval have been based on the consent authority placing a condition of consent on the development which requires the completion of the proposed public road network associated with DA2019/652, which provides the sole access to Raymond Terrace Road/Government Road, prior to the commencement of works associated with the subject subdivision.



Appendix B Approved Development Plans

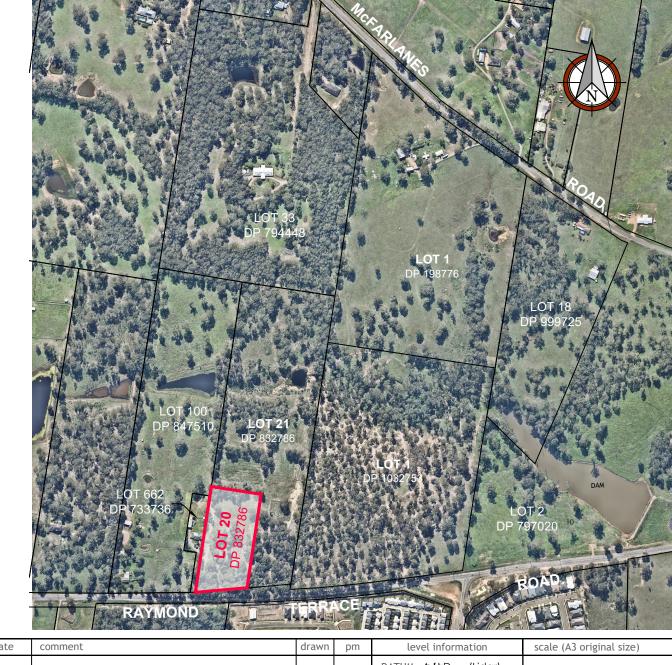




Appendix C Proposed Development Plans

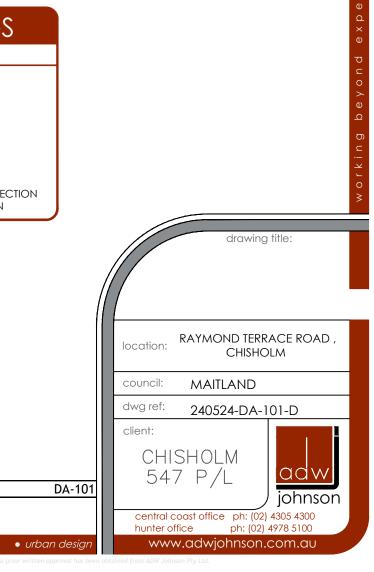
DEVELOPMENT APPLICATION

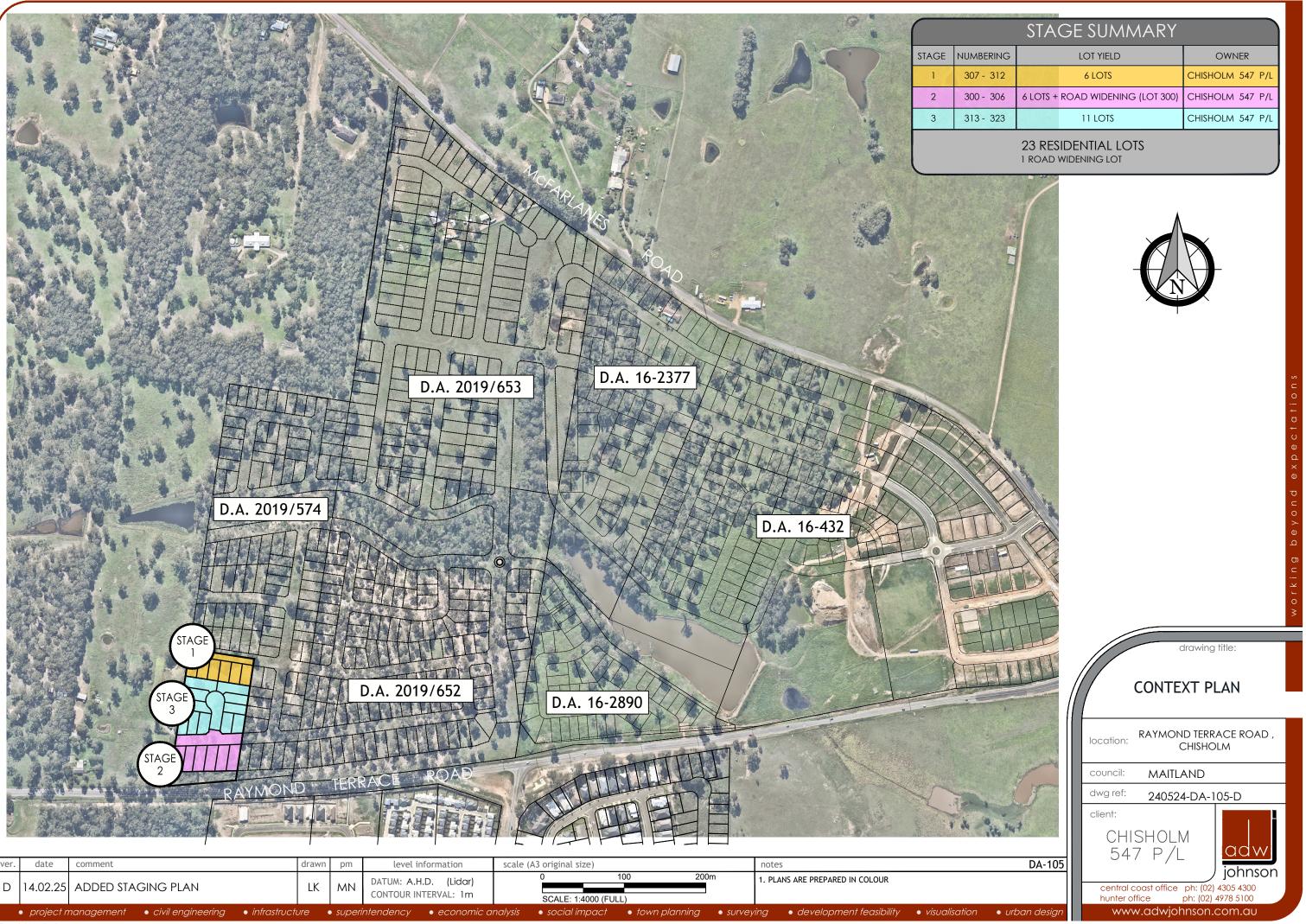
LOT 20 D.P.832786 RAYMOND TERRACE ROAD, CHISHOLM



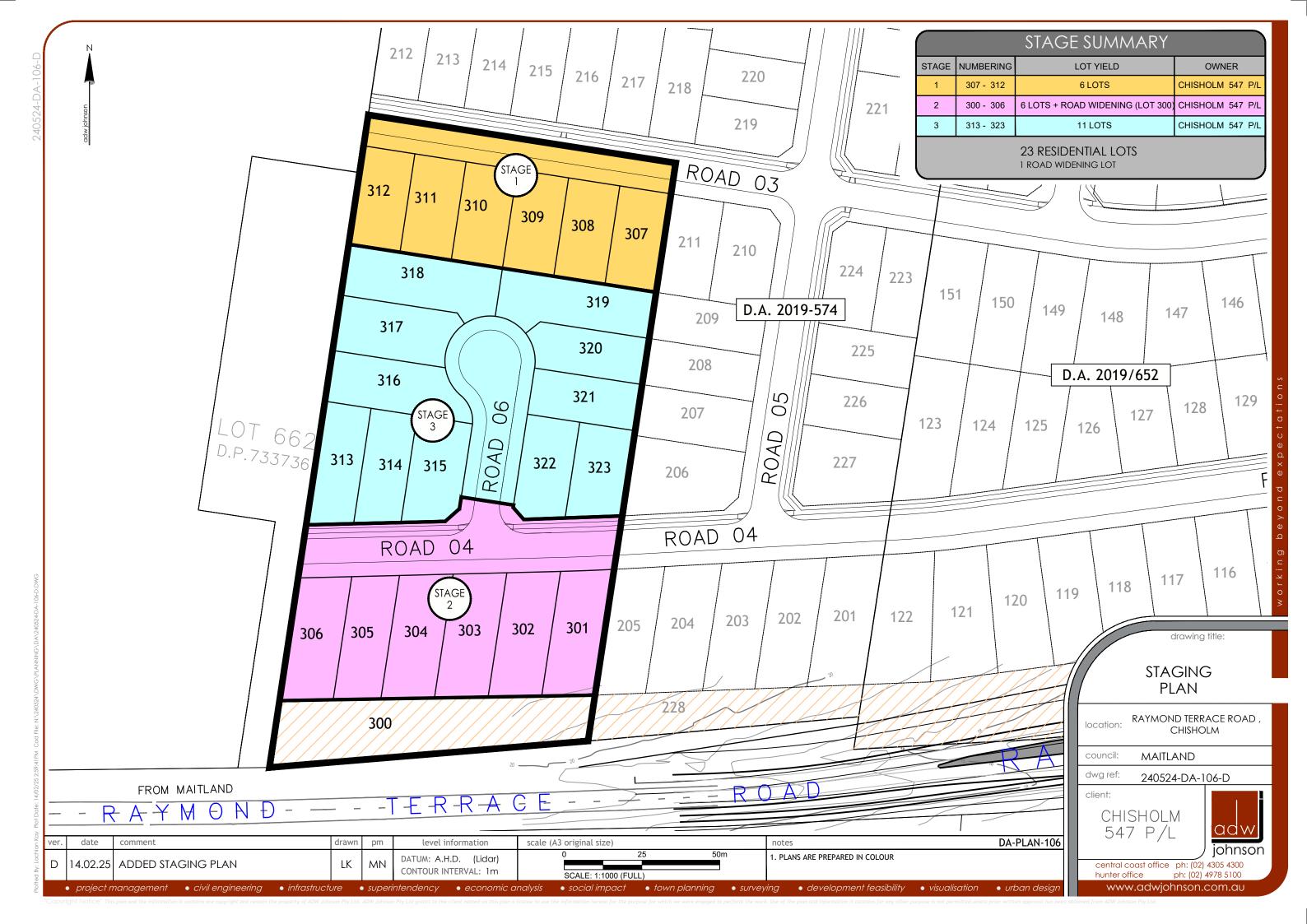
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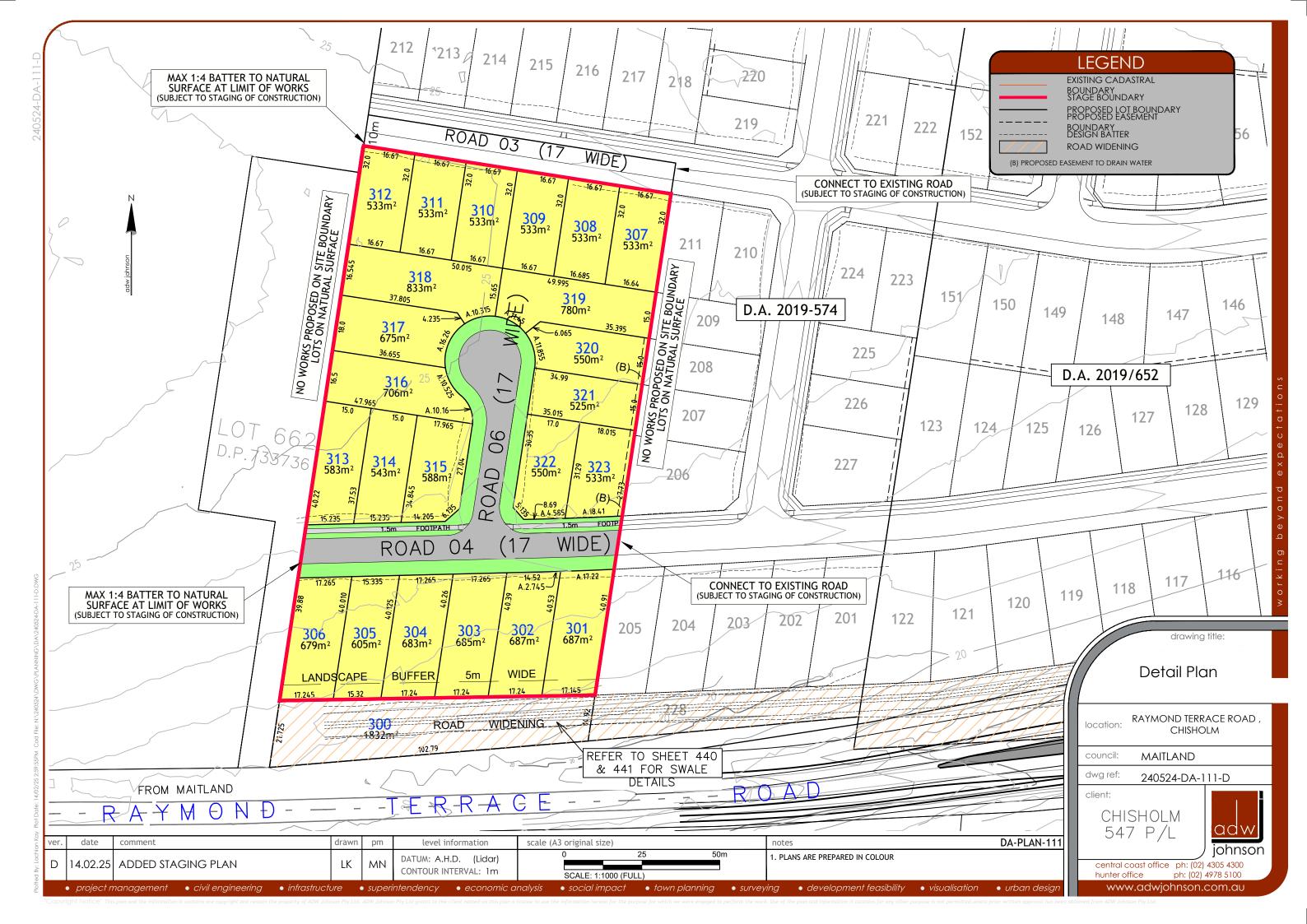
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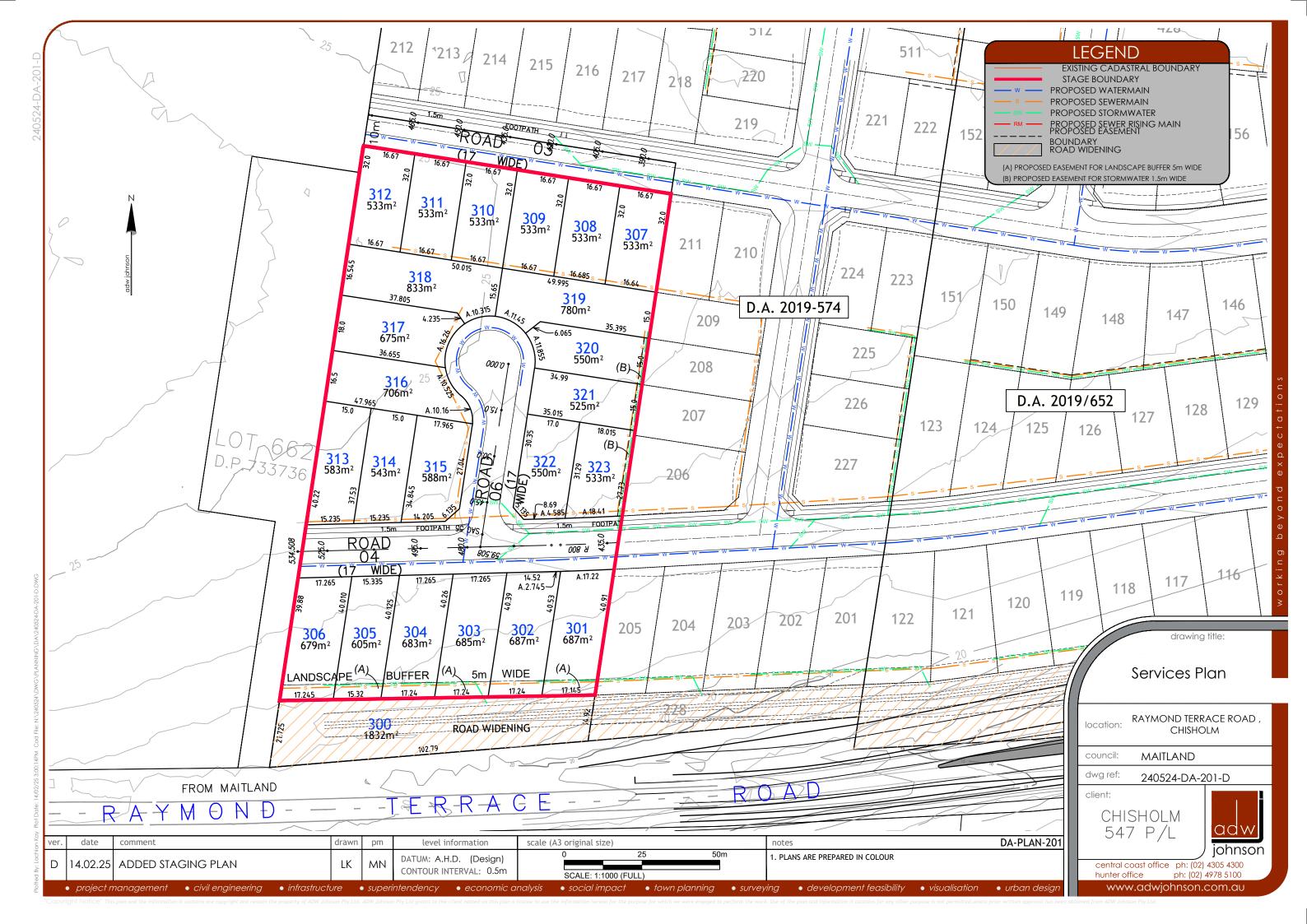




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- 306	6 LOTS +	ROAD WIDENING (LOT 300)	CHISHOLM 547 P/L
- 323		11 LOTS	CHISHOLM 547 P/L

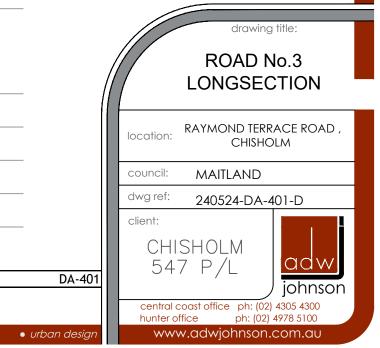






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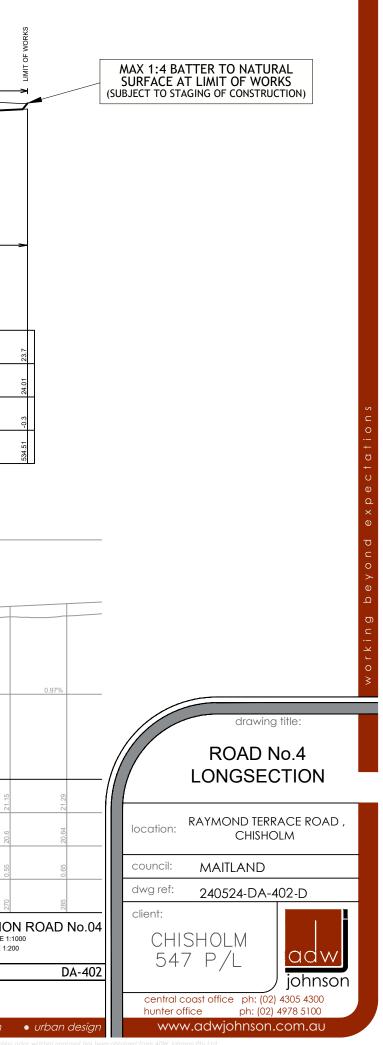


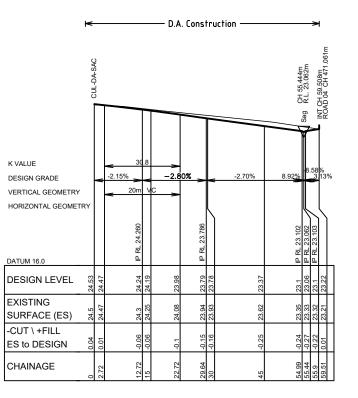
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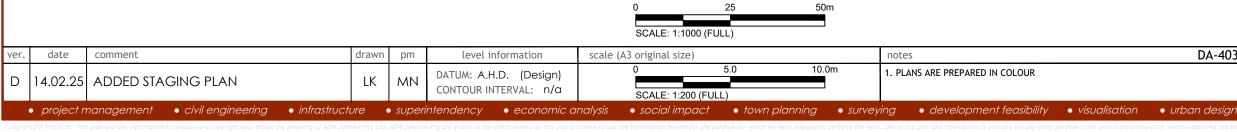
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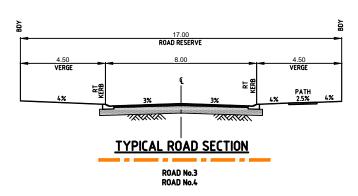


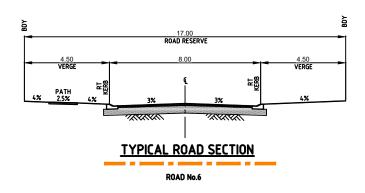
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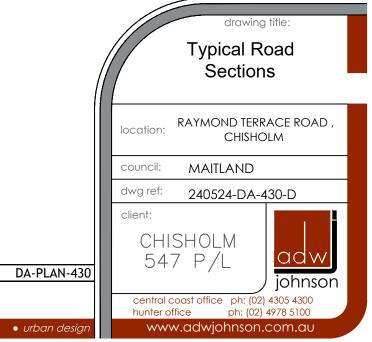




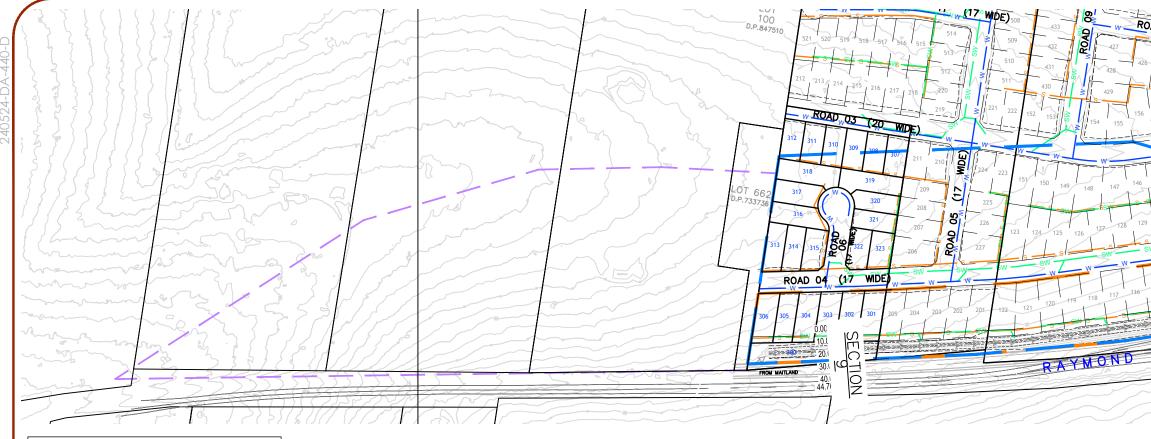




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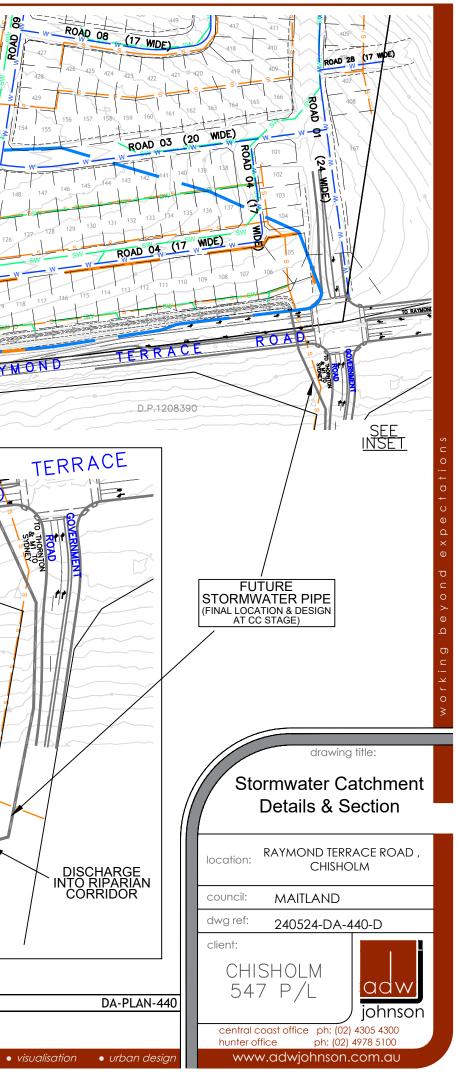
ADDED STAGING PLAN

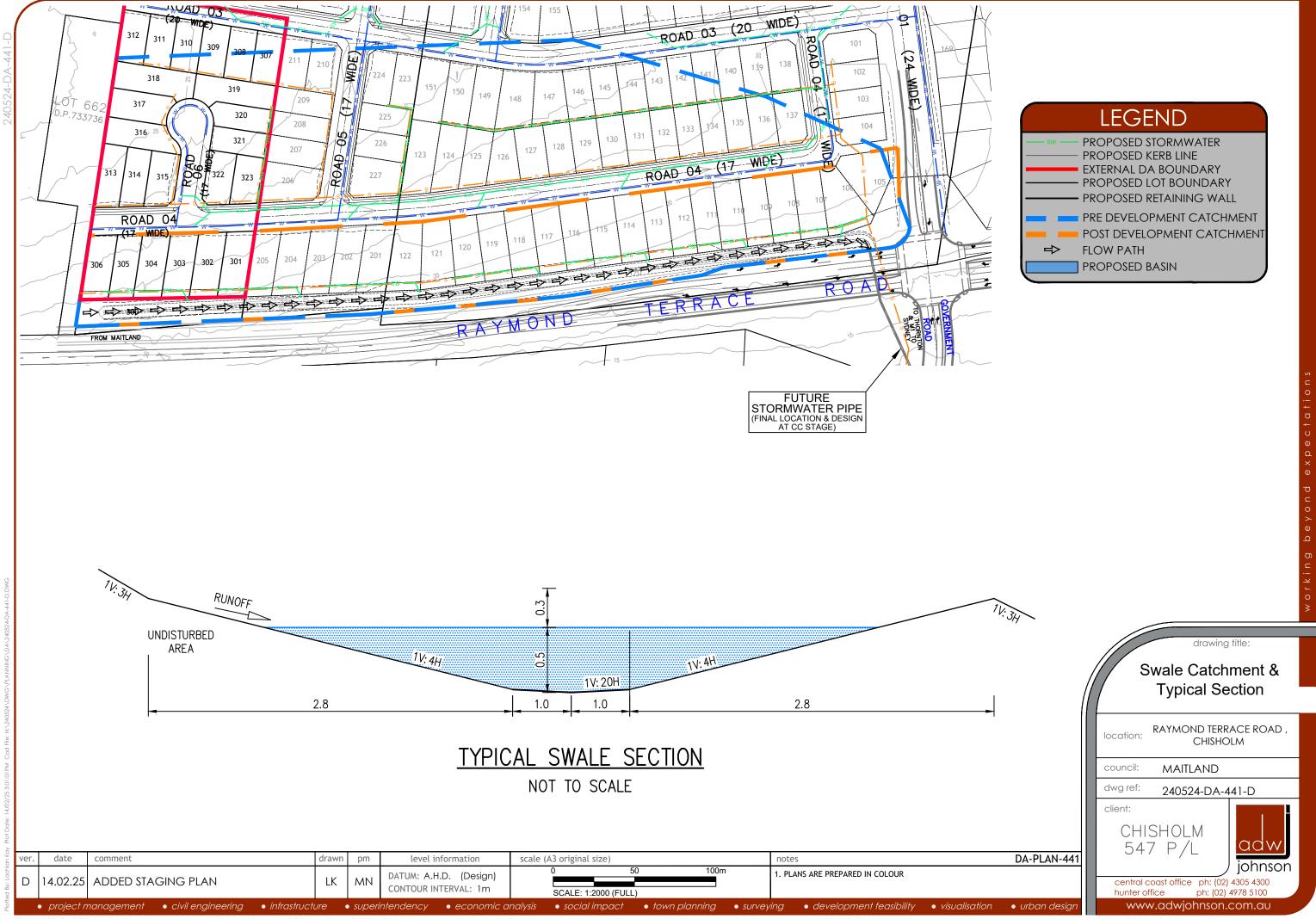
project management
 • civil engineering
 • infrastructure

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Appendix D Swept Paths

