



1A and 1B Queen Street Auburn Planning Agreement

Section 93F of the
*Environmental Planning and
Assessment Act 1979*

Certane SPV Management Pty Ltd ATF
Auburn Ownership Trust (**Developer**)
Cumberland Council (**Council**)

Date:

18/08/23

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1A and 1B Queen Street Planning Agreement

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Details

Parties

Name	Certane SPV Management Pty Ltd ATF Auburn Ownership Trust c/- EG Funds Management
Short form name	Developer
Notice details	Telephone: 02 9220 7000 Facsimile: 02 8823 1005 Email: gflannigan@eg.com.au Representative: Grant Flannigan
Name	Cumberland Council
Short form name	Council
Notice details	Telephone: 8757 9544 Facsimile: 9643 1120 Email: olivia.yana@cumberland.nsw.gov.au Coordinator Planning Systems Cumberland Council

Items

Item 1	Development Site See definition of Development Site in clause 1.1.
Item 2	Development See definition of Development in clause 1.1.
Item 3	Development Contributions See Schedule 1.
Item 4	Security See Part D
Item 5	Registration This Deed will be registered on the titles to the land on the Development Site, as soon as practicable following the execution of this Deed.
Item 6	Restriction on dealings See clause 21.

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Item 7

Dispute Resolution

See Part C

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Background

- A The Developer is the owner of the Development Site and the proponent of the Proposed Rezoning.
- B The Council is the relevant local government authority in respect of the Development Site. The JRPP is the relevant planning authority in respect of the Proposed Rezoning in accordance with sections 58 and 59 of the Act.
- C As part of the JRPP's consideration of the Proposed Rezoning, the Record of Panel Recommendations dated 21 April 2016 from the JRPP expresses the view that a rezoning to higher density residential uses is appropriate in principle but also stated:
- "The Panel is unwilling to approve a planning proposal where inadequate levels of service would result on the local road network. Therefore, prior to further consideration of the proposal, the Panel requires the applicant and Council to agree on works and other measures necessary to ensure no deterioration in levels of service will occur on local roads affected by the proposal."*
- D The purpose of this Deed is to agree on the provision of traffic works by the Developer to ensure that there is no deterioration in the levels of service on local roads affected by the Proposed Rezoning.
- E The Parties agree that the matter raised by the JRPP referred to at paragraph C is addressed provided that:
- (i) this Deed is executed;
 - (ii) this Deed is lodged for registration with Land and Property Information; and
 - (iii) receipt of lodgement to Land and Property Information is provided to the Council
- F Subject to the making of the environmental planning instrument that gives effect to the Proposed Rezoning, the Developer has agreed to provide the Development Contributions described in Schedule 1 of this Deed.

Agreed terms

Part A – Preliminary

1. Defined terms & interpretation

1.1 In this Deed the following definitions apply

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

APRA means the Australian Prudential Regulation Authority.

Approval includes approval, authority, consent, licence or permission.

Authority means the New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money in accordance with the Deed to the Council on demand issued by:

(a) one of the following trading banks:

- (i) Australia and New Zealand Banking Group Limited,
- (ii) Commonwealth Bank of Australia,
- (iii) Macquarie Bank Limited,
- (iv) National Australia Bank Limited,
- (v) St George Bank Limited,
- (vi) Westpac Banking Corporation, or

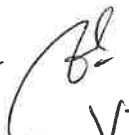
(b) any other financial institution approved by the Council in its absolute discretion.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, order, judgment, proceeding or right of action.

Cost means a cost, charge, expense, outgoing, payment, fee, legal costs and other expenditure of any nature.

Construction Terms means the terms set out in Schedule 5 of this Deed.

CPI means the published Consumer Price Index (All Groups – Sydney), or if that index is no longer published, then any other index which, in the reasonable opinion of the Parties, is an equivalent index.

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Dedication means the dedication of the Road Land free of cost to Council

Dedication Terms means the terms set out in Schedule 6 of this Deed.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means a material defect arising from materials, workmanship or design which adversely affects any part of the Intersection Works other than:

- a) minor shrinkage,
- b) minor settlement cracks, or
- c) normal wear and tear.

Defects Liability Period means the period commencing on the day after the completion of the Intersection Works and ending 12 months after that day.

Delivery Date means the time by which the Development Contributions are to be provided as per Column 4 of Schedule 1.

Development means any development (up to the maximum FSR for the Development Site) of the Development Site that is only permissible by reason of the proposed rezoning coming into force on the Enactment Date and includes demolition of the existing structures on the Development Site for the development, subdivision, the remediation of the Development Site for the development and the preparation of the Development Site for the development.

Development Contributions means the Intersection Works and the Dedication as specified in Schedule 1.

Development Site means the land specified in Schedule 2 including any subdivided lots of this land.

Dispute means a dispute between the Parties under or in relation to this Deed.

Enactment Date means the date at which an environmental planning instrument is made that gives effect to the Proposed Rezoning.

Extended Sunset Date means 4 October 2026.

Financial Year means each 12 month period during the Term commencing on 1 July and ending on 30 June.

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FSR means the floor space ratio as defined and calculated under the environmental planning instrument for the Development.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Intersection Site means the land subject to the Intersection Works and includes the Road Land.

Intersection Works means the upgrade of the intersection of Queen Street and Marion Street Auburn to a new roundabout, generally in accordance with the plans prepared by James James Taylor & Associates, Civil and Structural Engineers, dated 20 October 2016, Revision C and provided at Schedule 3.

Item means the item specified in Column 1 of Schedule 1.

JRPP means the Sydney West Joint Regional Planning Panel.

Material Change means a substantial change in the Road Standards including a change that requires additional land to the Road Land to be acquired to carry out the Intersection Works or the need for signalisation at the Intersection Site.

Party means a party to this Deed.

Proposed Rezoning is application 2013SYW073 in respect of the proposed rezoning of the Development Site to R4 High Density Residential under the provisions of the Auburn Local Environment Plan 2010.

Regulation means the Environmental Planning and Assessment Regulation 2000.

Road Land means that land being generally shown in Schedule 4 as "Proposed area of dedication to Cumberland City Council".

Road Standard means the relevant Austroads and RMS Guidelines.

Security means a Bank Guarantee executed to the satisfaction of the Council and indexed in accordance with CPI from the date of this Deed.

Term means the period commencing on the Enactment Date and ending upon the

termination of this Deed.

1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- (f) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (g) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, assigned, novated, supplemented or replaced.
- (h) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (i) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (j) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (k) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (l) References to the word 'include' or 'including' are to be construed without limitation.
- (m) A reference to this Deed includes the agreement recorded in this Deed.
- (n) A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- (o) A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- (p) Any schedules, appendices and attachments form part of this Deed.

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(q) Notes appearing in this Deed are operative provisions of this Deed

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2. Status of this Deed

- (a) This Deed is a planning agreement pursuant to section 93F(1)(a) of the Act.

3. Commencement

- (a) The Deed commences when it has been executed by all the Parties.
- (b) The Developer's obligation to provide the Development Contributions only arises on the Enactment Date. This Deed otherwise has no binding obligations on the Developer with respect to the Development Contributions.
- (c) The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4. Registration of Planning Agreement

- (a) The Parties agree that prior to the Enactment Date:
 - (i) the Deed will be lodged with the Registrar General in registrable form for registration on the title of the Development Site; and
 - (ii) receipt of lodgement to Land and Property Information will be provided to the Council.
- (b) This Deed will be registered within 6 months from the commencement of this Deed pursuant to section 93H of the Act.
- (c) The Developer will, at its own expense, do all things necessary to procure the registration of the Deed to occur in accordance with clause 4(a), including, but not limited to, attending to any requisitions raised by the Registrar general in relation to registration as soon as possible.
- (d) When the Development Contributions have been provided to the Council's reasonable satisfaction in accordance with this Deed the Developer may request that the Deed be released from the title of the Development Site.
- (e) The Council will not withhold its consent to the release of the Deed from the title to the Development Site under this clause provided the terms of this Deed have been complied with and the Developer pays all costs, expenses and fees of the Council relating to such release.
- (f) Prior to lodgement for registration, the Developer warrants that it has obtained any necessary express written consent to register this Deed under section 93H of the Act, including:
 - (i) if this Deed relates to land on the Development Site under the *Real Property*

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Act 1900, each person who has an estate or interest in the Land registered under that Act; or

(ii) if this Deed relates to land on the Development Site not under the *Real Property Act* 1900, each person who is seized or possessed of an estate or interest in the Land.

(g) The Parties will co-operate with each other to ensure that the Deed is registered by the Registrar General (LPI) as provided for in section 93H of the Act as soon as possible.

5. Application of this Deed

(a) This Deed applies to the Development Site, the Intersection Site and the Road Land.

6. Warranties

(a) The Parties warrant to each other that they:

- (i) have full capacity to enter into this Deed; and
- (ii) are able to fully comply with their obligations under this Deed.

7. Further Agreements

(a) The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

8. Surrender of right of appeal, etc.

(a) The parties are not to commence or maintain, or to cause or procure the commencement or maintenance of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed in so far as the subject-matter of the proceedings relates to this Deed.

9. Term

(a) The Term of this Deed is the period between the Enactment Date and the date at which this Deed ceases to operate in accordance with clause 24.

Part B – Development Contributions

10. Provision of Development Contributions

(a) The Developer is to make the Development Contributions to the Council in accordance with the Delivery Date and the terms of this Deed.

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- (b) If the Intersection Works cannot be provided by the Delivery Date due to a Material Change, the Developer must notify the Council within ten business days.
- (c) If clause 10(b) applies,
 - (i) the Developer must provide the cost of the Intersection Works (as indexed in accordance with Clause 12) to the Council as a monetary contribution within ten business days of the notification to the Council;
 - (ii) the Parties take all necessary steps to complete the Dedication of the Road Land as soon as practicable; and
 - (iii) the provision to the Council of the relevant monetary contribution and the Dedication satisfies the Developer's obligations under this Deed with respect to the Development Contributions.

11. Costs

- (a) The Developer acknowledges that it is responsible for the total costs of the Intersection Works including any costs above the estimate of the costs of the Intersection Works referred to in Schedule 1.

12. Indexing of Cost of Intersection Works

- (a) The value of the Intersection Works will be subject to a CPI increase each year using the following formula:

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = indexed Intersection Works

ODC = estimate of the costs of the Intersection Works referred to in Schedule 1 original Intersection Works

CP2 = Consumer Price Index All Group Index Number for Sydney at the time the contribution is payable

CP1 = Consumer Price Index All Group Index Number for Sydney at the date of this Deed.

13. Carrying out of Intersection Works

- (a) The Developer will construct and complete the Intersection Works in accordance with:
 - (i) any necessary Approvals required for the Intersection Works; and

- (ii) the Construction Terms.
- (b) The Council is to permit the Developer, upon receiving reasonable prior notice from the Developer, to enter any other Council owned or controlled land in order to enable the Developer to properly perform its obligations under this Deed.
- (c) Nothing in this Deed creates or gives the Developer any estate or interest in any part of the land referred to in clause 13(b).

14. Dedication of Road Land

- (a) The Developer will dedicate the Road Land in accordance with the Dedication Terms.
- (b) The Council agrees that for the purposes of calculating the site area for the purpose of applying a FSR for the Development on the Development Site the area of the Road Land is to be included as part of the site area.
- (c) If required, the Council agrees to grant landowner's consent for the Road Land as part of the lodgement of any future development application for the Development on the Development Site, pursuant to clause 49 of the Regulation.

15. Relationship with Section 94 and Section 94A Contributions

- (a) This Deed does not exclude the application of section 94 and section 94A of the Act to the Development. The Development Contributions under this Deed are to be taken into account in determining any section 94 and section 94A of the Act contributions for the Development in accordance with this clause.
- (b) The Developer is to be given a credit from the Council of fifteen percent (15%) of the total contributions payable under section 94 and section 94A of the Act for the Development.
- (c) For the purposes of clause 15(b) the contribution payable under section 94 and section 94A of the Act for each of the development applications for the Development is to be calculated by taking 15% off the total section 94 and section 94A contributions payable for the development proposed in a development application for the Development on the Development Site as determined by the relevant section 94 and section 94A contributions plans at the time when each development application is finally determined (it is this figure that is to be then indexed under any indexing condition up to the payment of the contribution under each development consent).
- (d) For avoidance of doubt the cost of the Intersection Works and the value of the Road Land to be dedicated are not relevant and are not to be taken into account

for the calculation of the fifteen percent (15%) credit referred to in clause 15(b)

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Part C – Dispute Resolution

16. Dispute resolution – expert determination

- (a) This clause applies to a Dispute between the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
 - (i) the Parties to the Dispute agree that it can be so determined; or
 - (ii) the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- (b) A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 16(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- (e) The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- (g) The Parties are to share equally the costs of the President, the expert, and the expert determination.

17. Dispute Resolution - mediation

- (a) This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 16 applies.
- (b) Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 17(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days of the meeting referred to in clause 17(c), the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to

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- time and are to request the President of the Law Society to select a mediator.
- (e) If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
 - (f) Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
 - (g) The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part D - Enforcement

18. Security for performance of obligations

- (a) The Developer is to provide Security to the Council in the amount of \$565,670.00 (as indexed in accordance with Clause 12) in relation to the Developer's obligation to make the Development Contributions on or before one (1) month after the date of execution of this Deed.
- (b) The Council may call-up and apply the Security in accordance with clause 19 to remedy any breach of this Deed notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity.
- (c) The Council is to release and return the Security or any unused part of it to the Developer after the Road Land has been dedicated and after the end of the Defects Liability Period for the Intersection Works.
- (d) The Developer may at any time provide the Council with a replacement Security.
- (e) On receipt of a replacement Security, the Council is to release and return the Security that has been replaced to the Developer.
- (f) If the Council calls-up the Security or any portion of it, it may, by written notice to the Developer, require the Developer to provide a further or replacement Security to ensure that the amount of Security held by the Council equals the amount it is entitled to hold under this Deed.
- (g) At the start of every Financial Year during the Term, the Developer is to review the Security provided to the Council and ensure it is maintained at the current indexed value.

- (h) If the Developer does not dedicate land required to be dedicated under this Agreement at the time at which it is required to be dedicated or at all, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre acquisition procedure under the Just Terms Act.
- (i) Council is to only acquire land pursuant to clause 18(h) if:
 - (i) to do so is reasonable having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Agreement; and
 - (ii) Council has given the Developer 30 days' notice of the proposed acquisition of land.
- (j) Clause 18(h) constitutes an agreement for the purposes of s30 of the *Just Terms Act*.
- (k) If, as a result of the acquisition referred to in clause 18(h) the Council must pay compensation to any person other than the Developer, the Developer must reimburse the Council for that amount, upon a written request being made by the Council, or the Council can call on any Security.
- (l) Except as otherwise agreed between the Parties, the Developer must ensure that the land to be dedicated under this Agreement is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges), on both the date that the Landowner is liable to transfer that land to the Council under this Agreement, and the date on which the Council compulsorily acquires the whole or any part of that land in accordance with the Just Terms Act.
- (m) The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the Land.
- (n) The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause including without limitation: signing any documents or forms and paying Council's costs arising under clause 18(h).

19. Breach of obligations

- (a) If the Council considers that the Developer is in breach of any obligation under this Deed (acting reasonably), it may give a written notice to the Developer specifying

the nature and extent of the breach and requiring the Developer to rectify the breach.

- (b) If the Developer fails to fully comply with a notice referred to in clause 19(a) within 40 business days and there is no dispute resolution procedure possible under clauses 16 and 17, the Council may, without further notice to the Developer, call-up the Security provided by the Developer under this Deed and apply it to remedy the Developer's breach.
- (c) Nothing in this clause 19 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

20. Enforcement in a court of competent jurisdiction

- (a) Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- (b) Before commencing legal proceedings, the parties must act in good faith and use best endeavours to resolve any dispute in accordance with clauses 16 and 17.
- (c) Subject to clause 20(b) nothing in this Deed prevents:
 - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part E – Restriction on Dealings

21. Restriction on dealings

- (a) The Developer cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Development Site or its interest in the Development Site or attempt or purport to do so unless
 - (i) this Deed is registered on the title of the Development Site in accordance with this Deed,
 - (ii) the Developer has given the Council no less than ten (10) business days' notice in writing of the proposed sale, transfer, assignment, novation, charge, encumbrance or other dealing with its rights in respect of the Development Site, and
 - (iii) the Developer has at no cost to Council procured from any buyer, transferee,

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assignee or novatee an agreement in favour of Council whereby the buyer, transferee, assignee or novatee is contractually bound with Council to perform the Developer's obligations under this Deed.

- (b) The Developer cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Development Site or its interest in the Development Site or attempt or purport to do so without the Council's consent if the Developer is in breach of this Deed.
- (c) This clause ceases to apply once the Developer has complied with its obligations to make the Development Contributions.

Part F– Indemnities and Insurance

22. Release

The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

23. Indemnity and Insurance

- (a) The Developer indemnifies and releases Council against all damage, expenses, losses, liabilities, costs (including legal costs on a full indemnity basis), charges or Claims incurred or received by Council to the extent that it arises from any act or omission by the Developer (or any person or agent contracted or engaged or employed by the Developer) in connection with:
 - (i) the carrying out or execution of all or any of the Intersection Works or
 - (ii) any breach of this Deed by the Developer.
- (b) The Developer or agent or subcontractor of the Developer is to take out and keep current to the reasonable satisfaction of the Council the following insurances in relation to the Intersection Works required to be carried out by the Developer under this Deed up until the work is taken to have been completed in accordance with this Deed:
 - (i) contract works insurance, noting the Council as an interested party, for the full replacement value of the Intersection Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the

- Intersection Works (both during and after construction);
- (ii) public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any servant, agent or subcontractor of the Developer, for liability to any third party;
 - (iii) workers' compensation insurance as required by law, and
 - (iv) any other insurance required by law.
- (c) The Developer is not to commence to carry out any work unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause (b).
- (d) If the Developer fails to comply with clause 23(b) or (c) the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate (acting reasonably) including:
- (i) by calling upon the Security provided by the Developer to the Council under this Deed in relation to the Intersection Works, or
 - (ii) recovery as a debt due in a court of competent jurisdiction.

Part G— Other Provisions

24. Operation of Deed in Certain Circumstances

- (a) The Parties agree that this Deed terminates if the Relevant Authority advises the Developer that the Application for the Proposed Rezoning is refused.
- (b) The Parties agree that this Deed may be released from the title of the Development Site if
 - (i) the Development Contributions have been provided to the Council's reasonable satisfaction in accordance with clause 10; or
 - (ii) this Deed is terminated under clause 24(a).
- (c) The Parties agree that the 15% credit provisions in clause 15 will continue to apply to any development applications for the Development on the Development Site that are finally determined after the Deed has been released from the title of the Development Site under clause 24(b)(i).

25. Notices

- (a) Any notice, consent, information, application or request that is to or may be given

or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:

- (i) delivered or posted to that Party at its address set out in the Details Page, or
 - (ii) emailed to that Party at its email address set out in the Details Page.
- (b) If a Party gives the other Party 3 business days' notice of a change of its address or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or emailed to the latest address.
- (c) Any notice, consent, information, application or request is to be treated as given or made if it is:
- (i) delivered, when it is left at the relevant address,
 - (ii) sent by post, 2 business days after it is posted,
 - (iii) or
 - (iv) sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- (d) If any notice, consent, information, application or request is delivered, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

26. Approvals and Consent

- (a) Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.

27. Costs

- (a) The Developer is to pay the Council's reasonable itemised costs of the preparation of this Deed to a maximum of \$10,000.00 within 14 days of the provision of an itemised invoice.

28. Entire Deed

- (b) This Deed contains all matters about which the Parties have agreed in relation to the matters it deals with.
- (c) No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

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29. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

30. Governing Law and Jurisdiction

- (a) This Deed is governed by the law of New South Wales.
- (b) The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- (c) The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

31. No Fetter

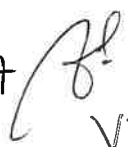
- (a) Nothing in this Deed shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.
- (b) If, contrary to the operation of this clause, any provision of this planning agreement is held by a Court of competent jurisdiction to constitute an unlawful fetter on any discretion, power or duty, the parties agree:
 - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied, and
 - (ii) to endeavour to satisfy the common objectives of the parties in relation to the provision of this Agreement which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.

32. Illegality

If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

33. Severability

- (a) If a clause or part of a clause of this Deed can be read in a way that makes it illegal,

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unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

- (b) If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

34. Amendment

No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25C of the Regulation.

35. Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

36. GST

- (a) In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (the "GST Act").
- (b) If a Party to this Deed (the "Supplier") makes a supply under or in connection with this Deed and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply (the "Recipient") will be increased by an amount equal to the GST paid or payable by the Supplier on that supply ("GST Amount").
- (c) If this Deed requires a party to pay for, or reimburse any expense, loss or outgoing ("reimbursable expense") suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.
- (d) If a party to this Deed has the benefit of an indemnity for a cost, expense, loss or

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outgoing ("indemnified cost") under this Deed, the indemnity is for the indemnified cost net of any input tax credit or reduced input tax credit to which that party is entitled in respect of the indemnified cost.

- (e) The Recipient need not pay the GST Amount for a supply until the Supplier has issued it with a tax invoice for that supply.
- (f) Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Deed are GST exclusive.

37. Explanatory Note

- (a) The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- (b) Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.

MA *[Signature]*
VT

Schedule 1- Development Contributions (clause 10)

Column 1	Column 2	Column 3	Column 4
Item/Contribution	Public Purpose	Manner & Extent	Timing

A. Carrying out of Works

1. <u>Intersection works</u>	The provision of public infrastructure relating to Road Land	Estimate of the costs of the Intersection Works \$565,316.00 + GST	<ul style="list-style-type: none"> • Prior to the release of: <ul style="list-style-type: none"> ○ any construction certificate for Development on the Development Site , or ○ any subdivision certificate for any subdivision of the Development Site; or • the Extended Sunset Date, <p>whichever is earliest.</p>
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B. Dedication of the Land

2. Dedication	The Dedication of Road Land free of cost.	Road Land generally described at Schedule 4.	<ul style="list-style-type: none"> • Prior to the release of <ul style="list-style-type: none"> ○ any construction certificate for Development on the Development Site; or ○ prior to the release of any subdivision certificate for any subdivision of the Development Site, (other than a subdivision for the purpose of dedicating the Road Land to Council; or <p>the Extended Sunset Date, whichever is earliest.</p>
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Schedule 2 - Land to which this Planning Agreement relates (Clause 1)

Land to which this Planning Agreement relates

1. The land in Lots 1 and 2 DP 1160950 known as 1A and 1B Queen Street, Auburn.
2. The Road Land.
3. The Intersection Site.

Schedule 3 – Plan of Intersection Works

Indicative Plan

MA *js*
VT

DOCUMENTATION OF CIVIL WORKS ROUNDABOUT

QUEEN STREET & MARION STREET INTERSECTION AUBURN NSW

JAMES TAYLOR AND ASSOCIATES

SUITE 301, 115 MILITARY ROAD NEUTRAL BAY 2089

ACN 002 376 454

Tel (02) 9969 1999

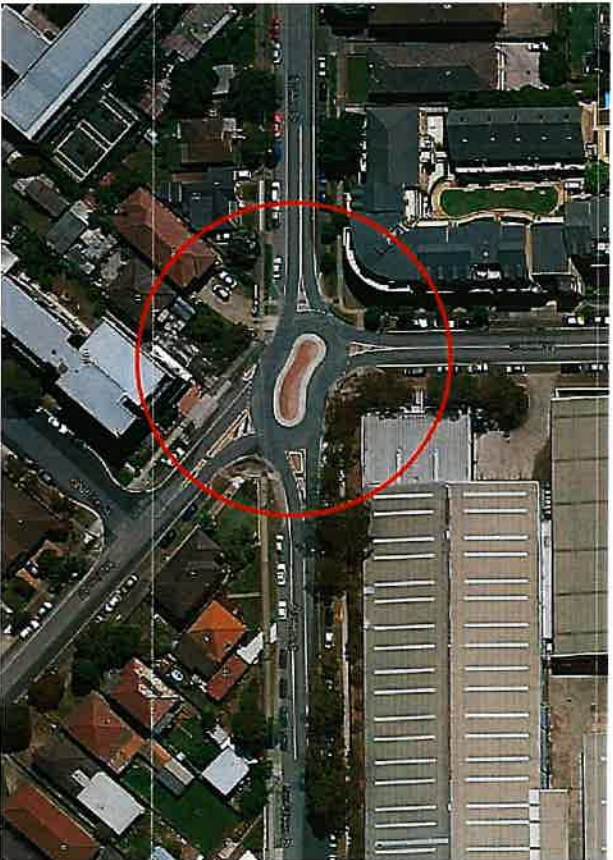
Email: mail@jamestaylorassociates.com.au

DATE 10 TRANSMITTED FOR LATEST REVISIONS

- C01 COVER SHEET
- C02 GENERAL NOTES
- C03 TYPICAL DETAILS
- C04 EXISTING SITE PLAN
- C05 LAYOUT PLAN
- C06 PAVEMENT PLAN
- C07 SETTLE PLAN
- C08 LINE MARKING PLAN

C09 SECTIONS

C10	TRAINING VEHICLES 12.5m HEAVY TRUCK - SHEET 1
C11	TRAINING VEHICLES 12.5m HEAVY TRUCK - SHEET 2
C12	TRAINING VEHICLES 12.5m HEAVY TRUCK - SHEET 3
C13	TRAINING VEHICLES 12.5m HEAVY TRUCK - SHEET 4
C14	TRAINING VEHICLES HEAVY LAUNDRY TRUCK - SHEET 1
C15	TRAINING VEHICLES HEAVY LAUNDRY TRUCK - SHEET 2
C16	TRAINING VEHICLES HEAVY LAUNDRY TRUCK - SHEET 3
C17	TRAINING VEHICLES HEAVY LAUNDRY TRUCK - SHEET 4
C21	HEAVY SETTLE PLAN HEAVY TRUCK - SHEET 1

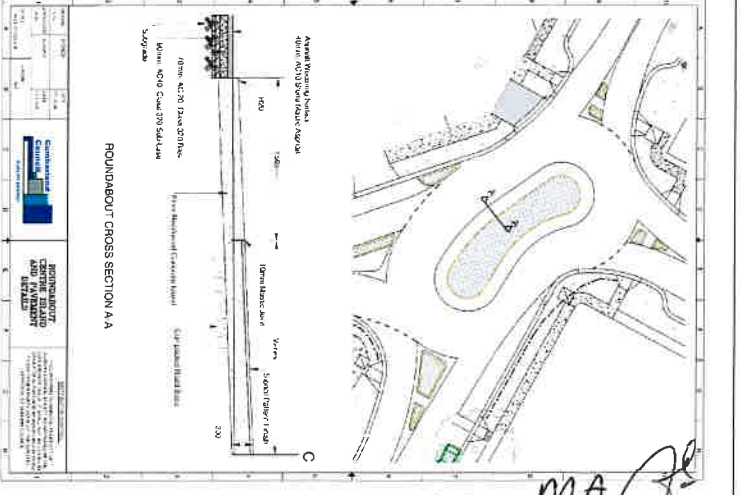
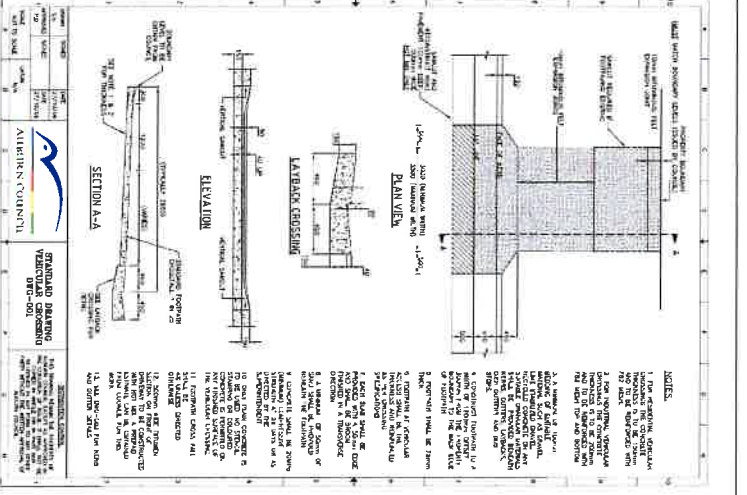
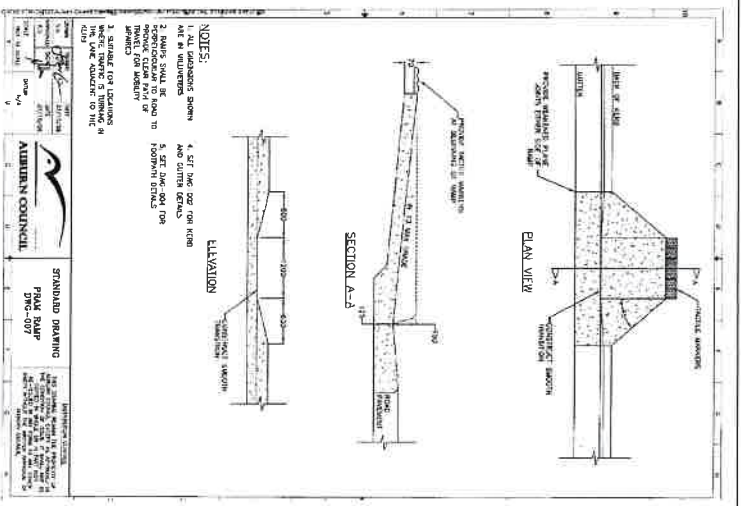
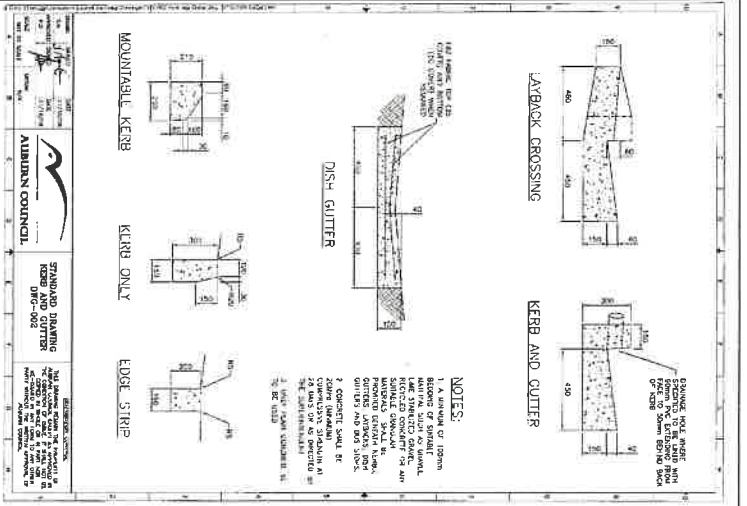


LOCALITY PLAN
P/L 04/06 JAMES TAYLOR ASSOCIATES

REFERENCE DOCUMENTS
 1 SURVEY DRAWING SHEET/PLAN BY
 LITS LITKELER
 STONEY Pt. 130058700C
 REF No. L195/L01
 DATED 08/05/15
 2 SURVEY DRAWING SHEET/PLAN BY
 HIGGINS SURVEYORS
 STONEY Pt. 612 9284-8044
 DATED 31-03-10

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DATE: 10/10/2018

PROJECT: QUEEN STREET & MARION STREET INTERSECTION AUBURN NSW

DESIGNER: JAMES TAYLOR & ASSOCIATES

DRAWN BY: [Name]

CHECKED BY: [Name]

DATE: 10/10/2018

STANDARD DRAWING
KERB AND GUTTER
DWG-902

AUBURN COUNCIL

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DATE: 10/10/2018

PROJECT: QUEEN STREET & MARION STREET INTERSECTION AUBURN NSW

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STANDARD DRAWING
KERB AND GUTTER
DWG-902

AUBURN COUNCIL

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DATE: 10/10/2018

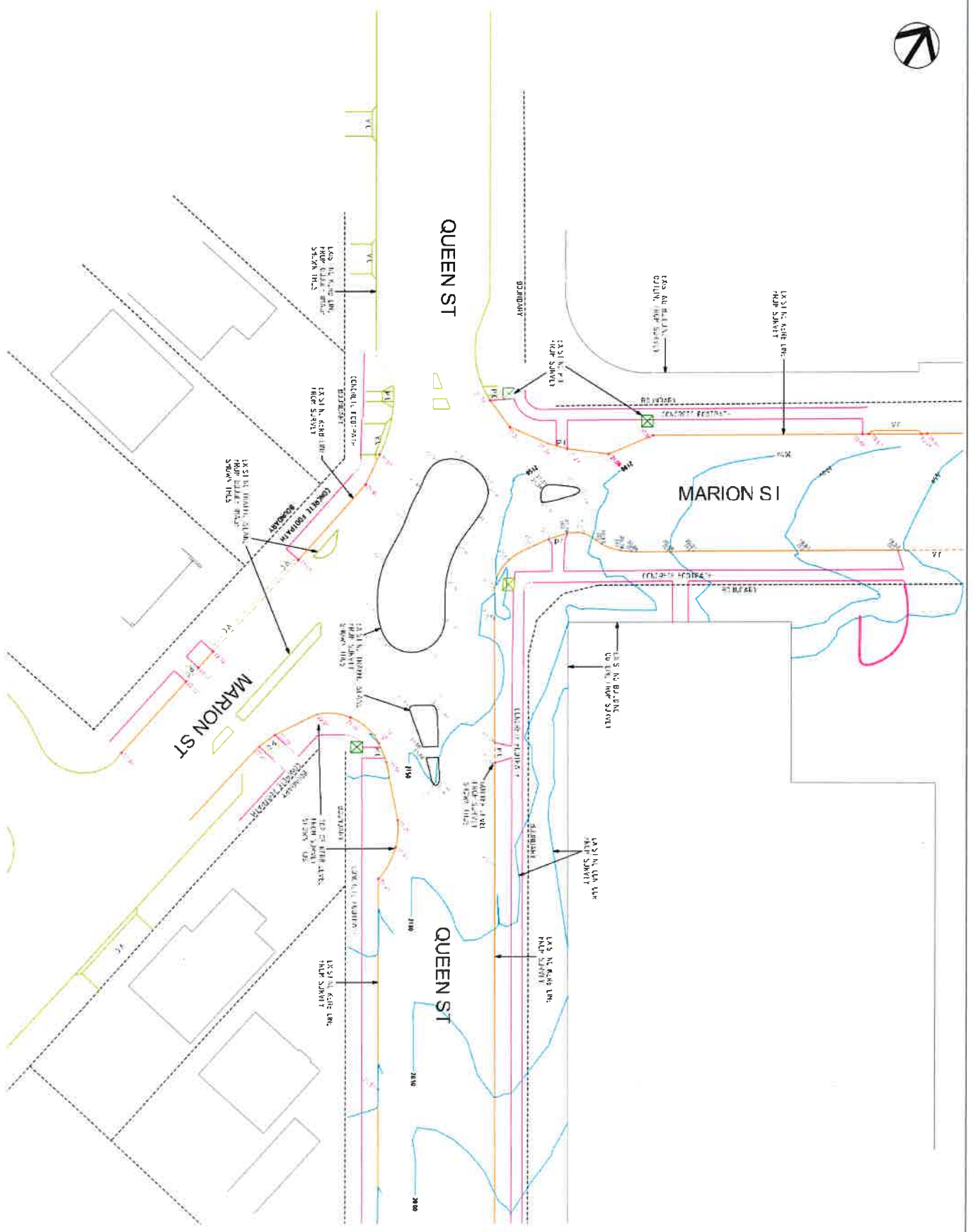
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DESIGNER: JAMES TAYLOR & ASSOCIATES

DRAWN BY: [Name]

CHECKED BY: [Name]

DATE: 10/10/2018



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EXISTING SITE PLAN

REFERENCE DOCUMENTS
 1. SURVEY DRAWING PREPARED BY
 LIS LIDKLEY
 SYDNEY PH. 1800587000
 REF NO. A105401
 DATED 06/07/75
 2. SURVEY DRAWING PREPARED BY
 HIGGINS SURVEYORS
 SYDNEY PH. 61 2 92548044
 REF NO. 02254
 DATED 31/03/10

MA/JS JT

NO.	BY	DATE	DESCRIPTION	REVISION
1	MA/JS	11/05/18	EXISTING SITE PLAN	

James Taylor & Associates
 Civil Structural Consulting Engineers
 1/111 ST. GEORGE STREET, SYDNEY NSW 2000
 TEL: 02 9254 8044 FAX: 02 9254 8044
 WWW.JTAS.COM.AU

ROUNDABOUT
 QUEEN STREET & MARION STREET
 INTERSECTION AUDUBON NSW

EXISTING SITE PLAN

OWNER	DATE	PROJECT NO.
5905		
DATE	SCALE	BY
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MARION ST




QUEEN ST

QUEEN ST

MARION ST

WITH EXISTING PAVEMENT
IS TO BE MAINTAINED
& LAYED IN PLACE

LEGEND

	NEW PAVEMENT
	RESURFACE
	N.W. KIRK & JULLIV • FOOTPATH

REP'D DRAWING - 2014.12.15. R. S.
S.I. - REV. B. N. LINDV. DRAWING 3

MA Jc JT

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James Taylor & Associates
Civil & Structural Consulting Engineers
Suite 201, 3/11 East Street, Sydney NSW 2000
P.O. Box 112, North Sydney NSW 1585
Tel: (61) 2 955 0000 Fax: (61) 2 955 0001
www.jta.com.au

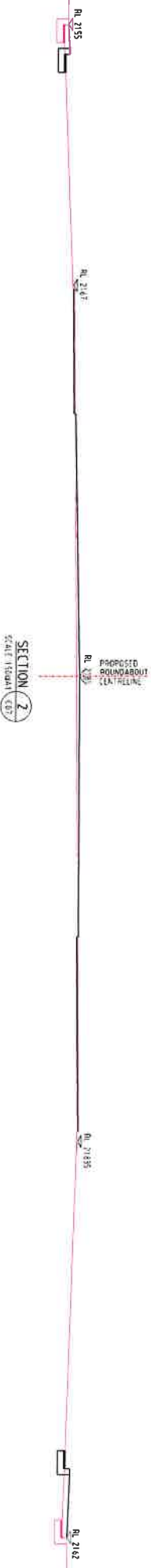
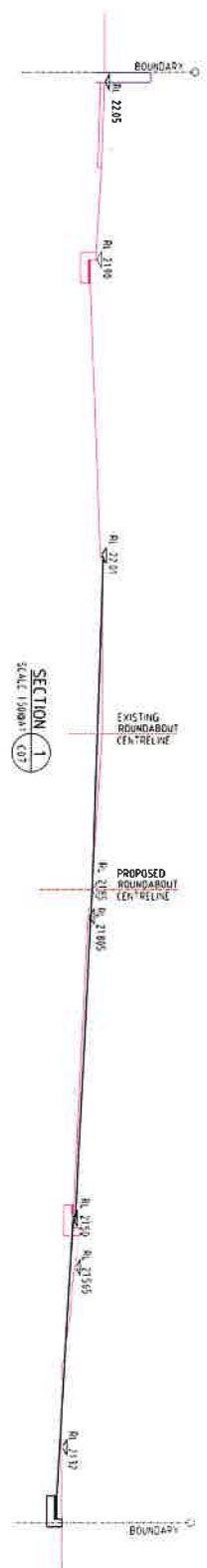
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QUEEN STREET & MARION STREET
INTERSECTION AUBURN NSW
PAVEMENT PLAN

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PAVEMENT PLAN
SCALE 1:1000

M. KING & ASSOCIATES
1/11 EAST STREET SYDNEY NSW

11/11/14



MA *[Signature]* VT

DATE	BY	DESCRIPTION

CONSULT THE DESIGNER FOR ANY CHANGES TO THE DESIGN.
 IN PROGRESS FROM 2015 TO 2016.

James Taylor & Associates
 Civil & Structural Consulting Engineers
 2/111 Market Street, Sydney, NSW 2000
 Tel: (02) 9231 1111 Fax: (02) 9231 1112
 www.james-taylor.com.au

A.L.C.
 PROJECT NO. 5905
 ROUNDABOUT
 QUEEN STREET & MARION STREET
 INTERSECTION AUBURN NSW

DESIGN BY	DATE	PROJECT NO.
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12.5m HEAVY TRUCK
LEFT TURN
TURNING AT 1-5 km/h



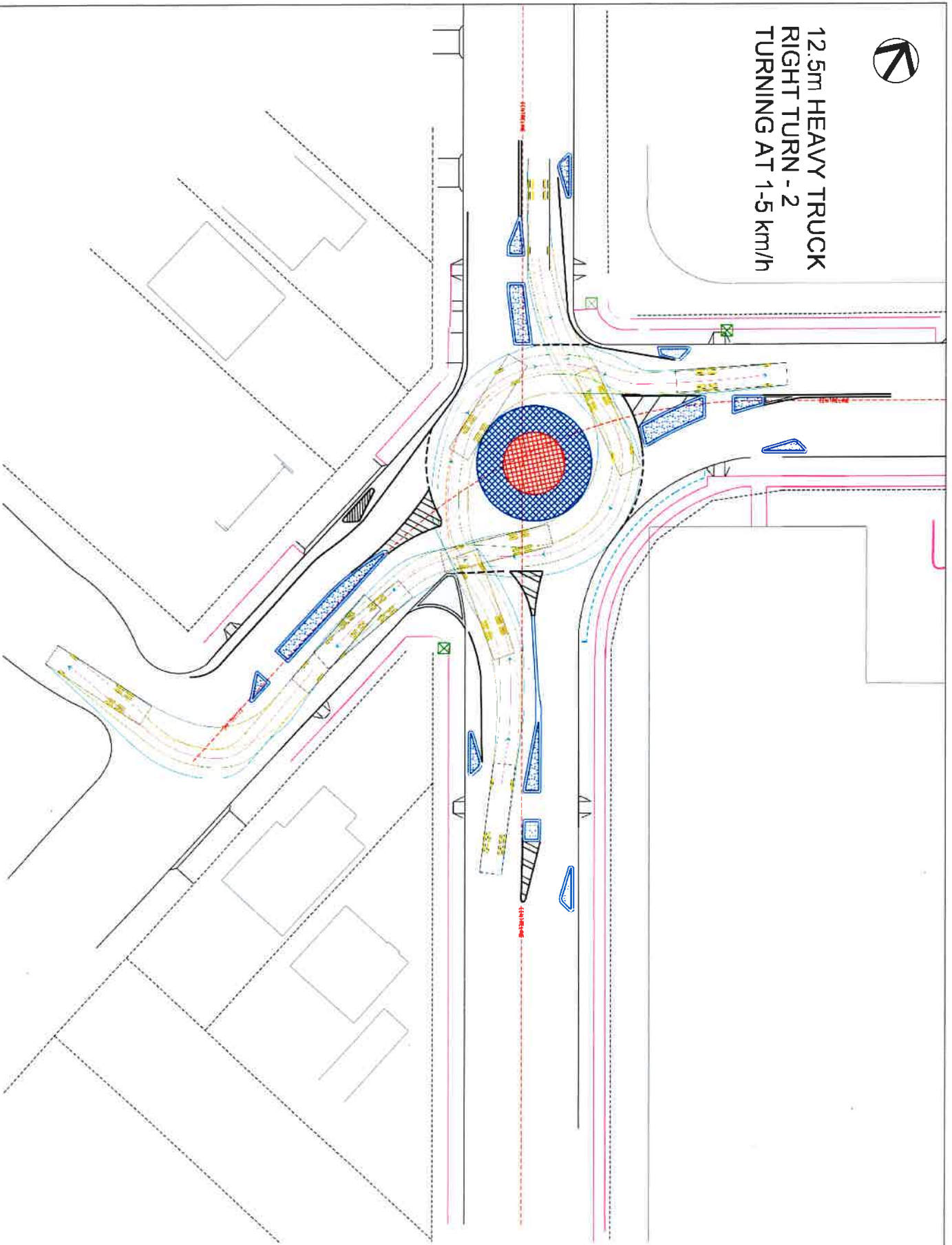
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12.5m HEAVY TRUCK
 RIGHT TURN - 2
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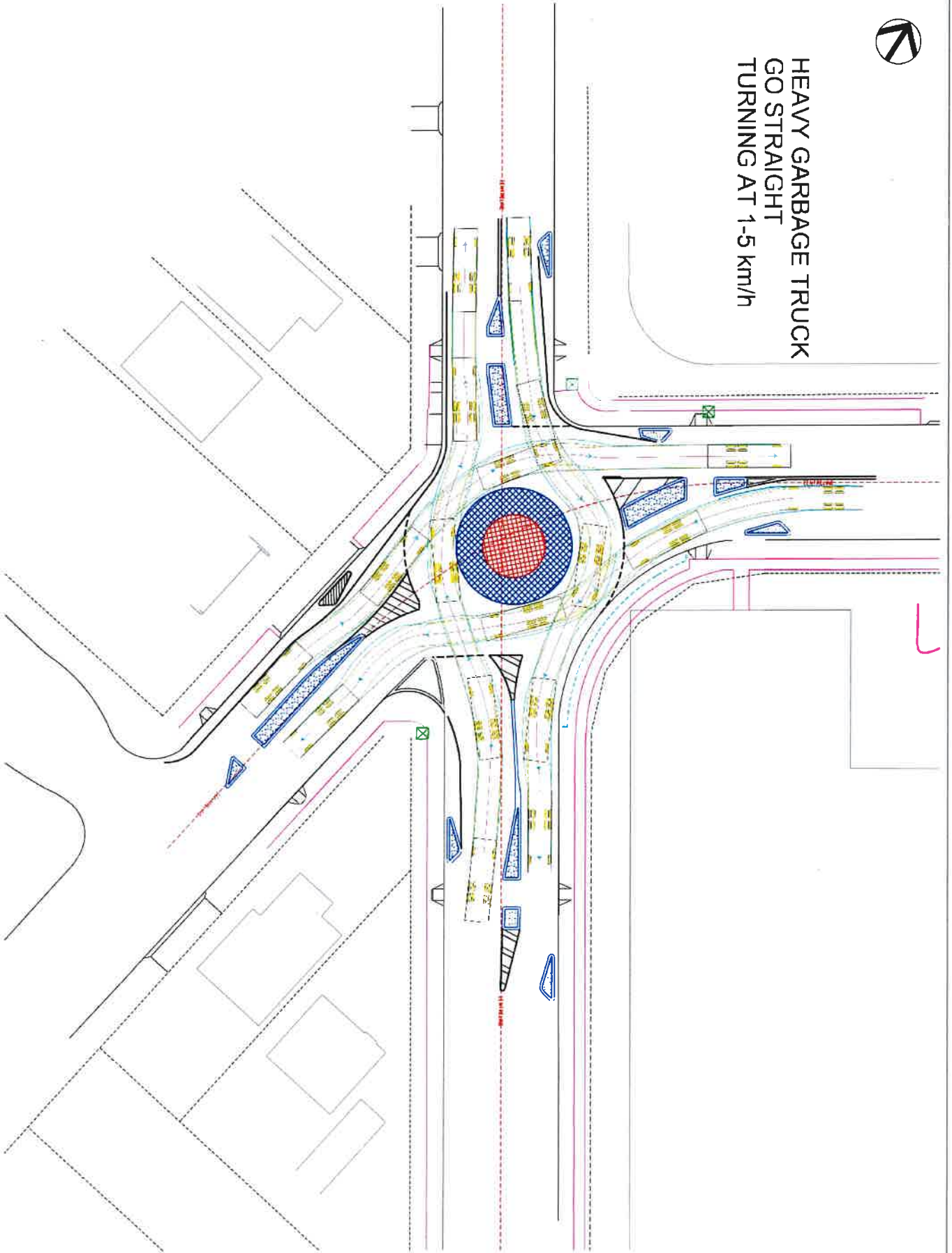
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HEAVY GARBAGE TRUCK
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TURNING AT 1-5 km/h



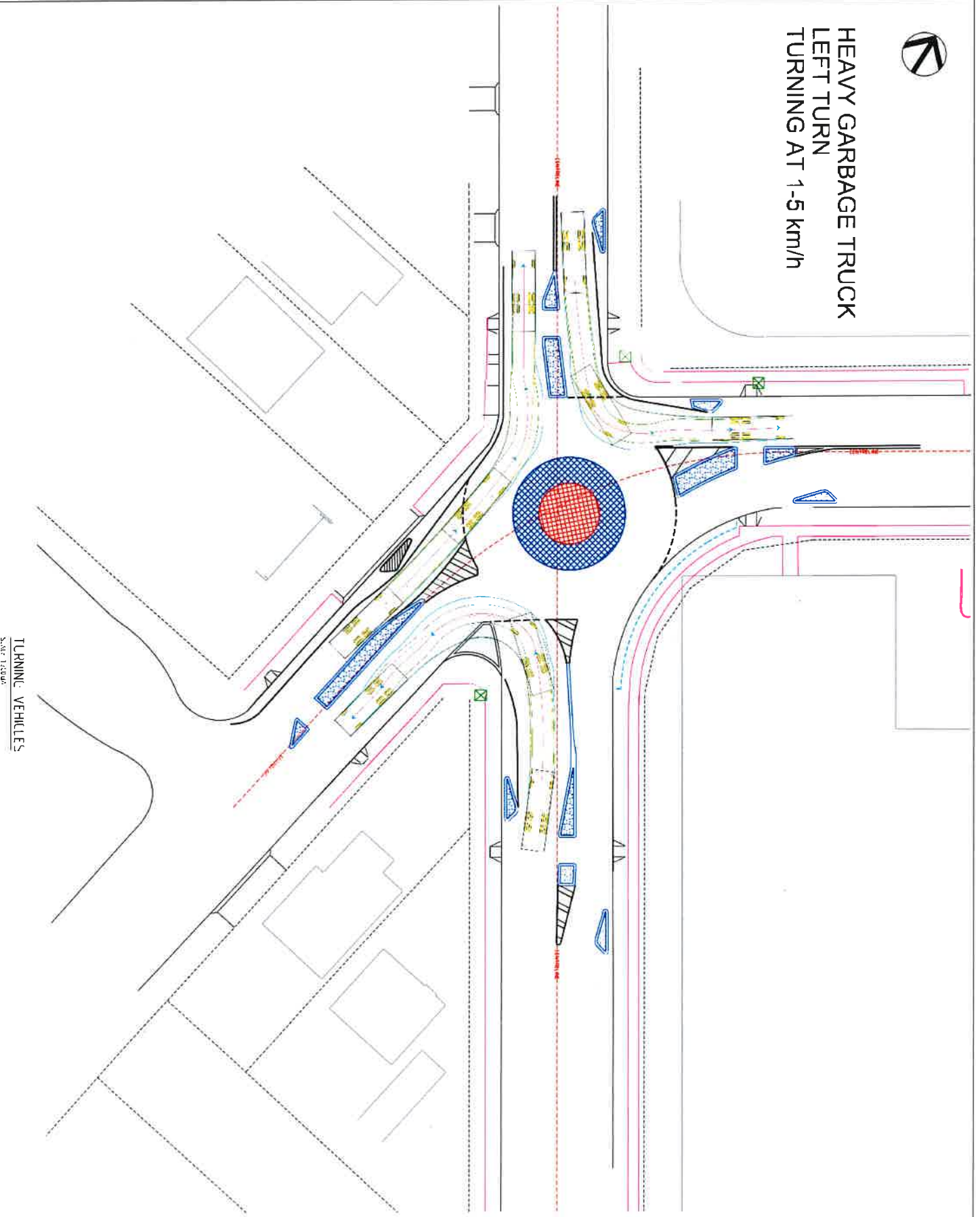
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SCALE		SCALE	
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DRAWN BY		DRAWN BY	
C.L.		C.L.	
CHECKED BY		CHECKED BY	
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HEAVY GARBAGE TRUCK LEFT TURN TURNING AT 1-5 km/h



TURNING VEHICLES
SCALE 1:2500

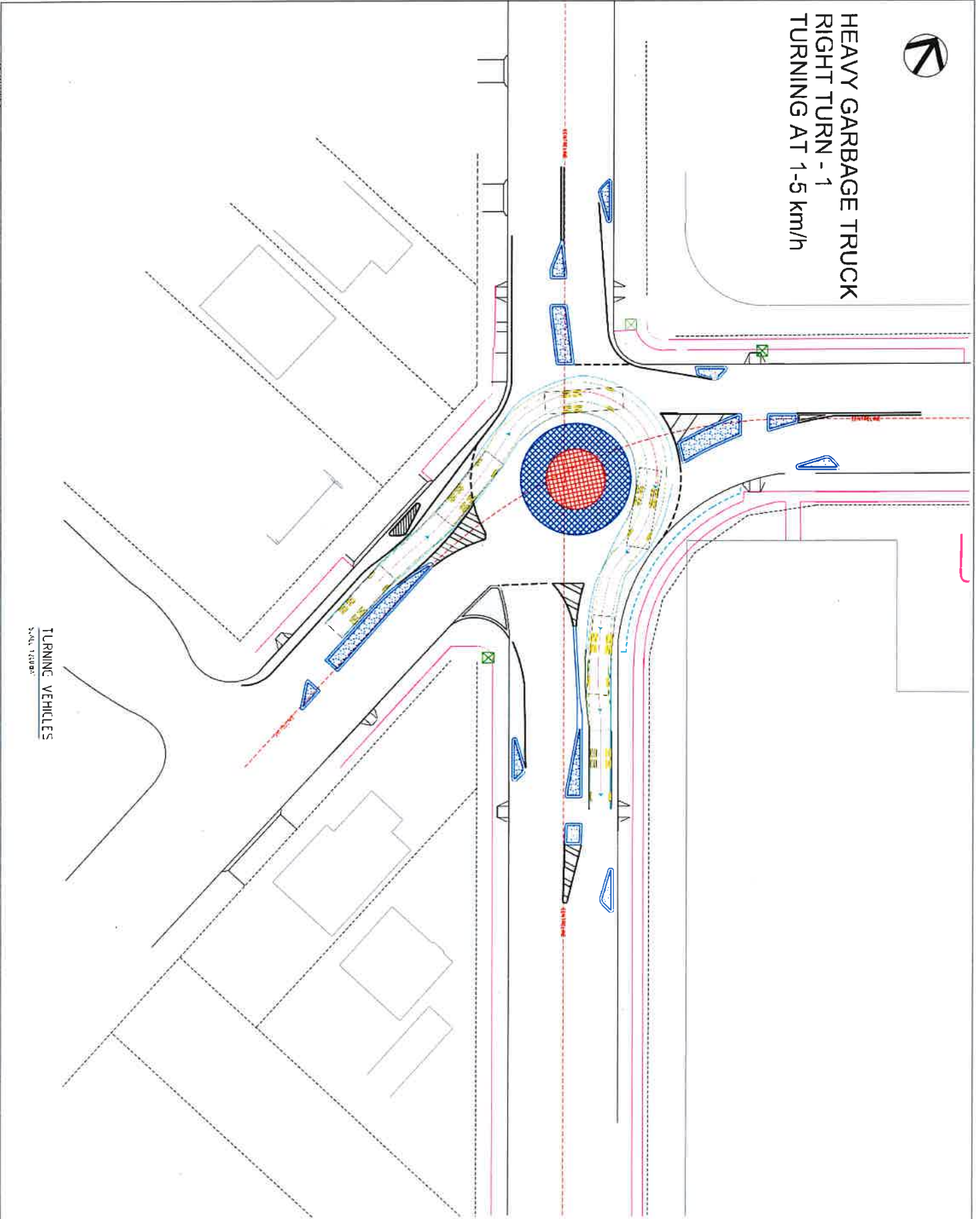
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Civil & Structural Consulting Engineers						
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PROJECT NO. 5905						
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QUEEN STREET & MARION STREET						
INTERSECTION AUBURN NSW						
TURNING VEHICLES						
HEAVY GARBAGE TRUCK - SHEET 2						
DESIGN BY	DATE	NO.	PROJECT NO.			
LAND			5905			
SCALE	DATE AND TIME			BY		
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**HEAVY GARBAGE TRUCK
RIGHT TURN - 1
TURNING AT 1-5 km/h**

TURNING VEHICLES
SCALE 1:500



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DATE	SCALE	DATE AND DRAWN	DATE	BY
	1:500			A
<p>James Taylor & Associates Civil & Structural Consulting Engineers SUITE 201 77-78 LAST ROAD, SYDNEY NSW 1585 TEL: (02) 9550 1111 FAX: (02) 9550 1112 WWW.JTAS.COM.AU</p>				
<p>PROJECT NO. 5905 PROJECT NAME TURNING VEHICLES HEAVY GARBAGE TRUCK - SHEET 3</p>				
<p>ROUNDABOUT QUEEN STREET & MARION STREET INTERSECTION AUBURN NSW</p>				
<p>DATE 22/01/2012 SCALE 1:500</p>				

Schedule 4 – Road Land

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Schedule 5 – The Construction Terms

1. Approvals and Design Details

- (a) The Developer must obtain at the Developer's cost any necessary approvals (including any approval under the Road Act) for the Intersection Works.
- (b) The Intersection Works must be carried out:
 - (i) in accordance with all Approvals including conditions and the requirements for all applicable Laws including without limitation occupational health and safety legislation, and
 - (ii) in a good and workmanlike manner so that they are diligently progressed until completion.
- (c) The Developer will be responsible for constructing and managing the Intersection Works.
- (d) The Developer will ensure that any contractor it engages to carry out the Intersection Works or any part of the Intersection Works agrees to carry out the Developer's obligations in these Construction Terms as part of any contractual relationship entered into between the Developer and its contractor.
- (e) The Developer must prepare draft detailed construction plans and specifications for the Intersection Works and provide a copy to Council as part of any Approval under the Roads Act.
- (f) The Council and the Developer must work in consultation with each other to prepare and agree on the final plans and specifications for the Intersection Works and both must act reasonably and with due expedition in their consultations with each other. The Council is to act reasonably and with due expedition in the assessment and determination of any application for the Intersection Works.

2. Carrying out of Road Works

- (g) Council authorises the Developer to enter occupy and use the Intersection Site for the purpose of carrying out the approved Intersection Works,
- (h) The Developer is to ensure, insofar as reasonably practicable in relation to the carrying out of the Intersection Works that:
 - (i) all necessary measures are taken to protect people and property, and
 - (ii) nuisances and unreasonable noise and disturbances are prevented.
- (i) Except as authorised in writing by Council, the Developer is not to unreasonably

obstruct or damage any road, footpath, drain or watercourse or other public utility

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- (j) or service on or near land on which the Intersection Works is or is to be carried out and is to remove immediately and at its own cost any such obstruction and make good any damage caused as a consequence of the obstruction.
- (k) The approved Intersection Works are not to be varied by the Developer unless:
 - (i) the Parties agree in writing to the variation, and
 - (ii) any Approval or process required under the Act or any other law to the variation is first obtained or carried out.

3. Council Inspection of the Intersection Site and Intersection Works

- (l) Council may enter the Intersection Site and Intersection Works to inspect the progress of the Intersection Works subject to:
 - (i) the terms of any contract between the Developer and its contractors,
 - (ii) giving reasonable notice of at least two (2) business days to the Developer,
 - (iii) complying with all reasonable directions of the Developer and its contractors,
 - (iv) exercising its rights under this clause at its own risk in all respects, and
 - (v) being accompanied by the Developer or its nominees or as otherwise agreed.
- (m) Council may within five (5) business days of carrying out an inspection notify the Developer of any defect or non-compliance in the Intersection Works and direct the Developer to carry out work to rectify the defect or non-compliance. Such work may include but is not limited to:
 - (i) removing of defective or non-complying material from the Intersection Site and Intersection Works,
 - (ii) demolishing defective or non-complying work,
 - (iii) reconstructing replacing or correcting any defective or non-complying work, and
 - (iv) not delivering any defective or non-complying material to the Intersection Site or Intersection Works.
- (n) If the Developer is issued a direction to carry out further works under this clause the Developer must, at the Developer's cost, rectify the defect or non-compliance specified in the notice within the time specified (that time period being reasonable).
- (o) If the Developer fails to comply with a direction to carry out work given under this clause in relation to the Intersection Works, Council will be entitled to refuse to

accept delivery of the Intersection Works (or the relevant part of the Intersection

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Works) until the required works have been completed to the Council's reasonable satisfaction.

4. Completion

- (p) The Intersection Works or any part of the Intersection Works are completed when the Developer provides full works as executed plans and the Council has advised the Developer in writing that the approved Intersection Works have been completed to the Council's satisfaction in accordance with the relevant Approvals for the Intersection Works.
- (q) The Council will advise the Developer within 1 month as to whether the Intersection Works have been completed to Council's reasonable satisfaction.
- (r) The Developer will use reasonable endeavours to assign or cause to be assigned to Council the benefit of any warranties, guarantees, Claims and causes of action obtained by the Developer with respect to any of the works, materials or goods incorporated in or forming part of the Intersection Works.

5. Defects Liability

- (s) During the Defects Liability Period Council may give to the Developer a rectification notice (Rectification Notice) including a reasonable period to remedy any defect.
- (t) Subject to the resolution of a dispute in accordance with this Deed the Developer is to comply with the Rectification Notice at its own cost and to the reasonable satisfaction of the Council.

Schedule 6 – The Dedication Terms

1. Dedication and Transfer of Land

- (a) The Developer must prepare and procure registration of any necessary plan of subdivision (Plan of Subdivision) to dedicate and transfer the Road Land at no cost to the Council.
- (b) The Road Land is to be used by Council for the Intersection Works and public road (including footpaths and nature strips).
- (c) In accordance with the timing provisions of Column 4 of Part B of Schedule 1, the Developer will appropriately execute and deliver to the Council any necessary Transfer and the items referred to in clause 1(d) and (e).
- (d) The Council is authorised to date and insert into the Transfer particulars of the title to enable the Transfer to be registered. For the avoidance of doubt, the date of the Transfer will be the date of the registration of the Plan of Subdivision creating the area or the lot to be dedicated/transferred to Council.
- (e) The Developer will deliver to Council at the same time it delivers the Transfer to Council:
 - (i) a letter addressed to the Registrar General (LPI) authorising and instructing the Registrar General (LPI) to forward the certificate of title to the Road Land to the Council following registration of the Plan of Subdivision;
 - (ii) if required by Council to permit the release of the certificate of title, a letter to the same effect from any mortgagee of the Road Land and the most recent lodging party (of the certificates of title relating to the Road Land) by the then registered proprietor;
 - (iii) discharges of all encumbrances affecting the Road Land to be dedicated to Council, including without limit:
 - (A) discharges of mortgages in registrable form in respect of all mortgages affecting the Road Land,
 - (B) withdrawals of caveats in registrable form in respect of any caveat (excluding a caveat lodged by Council under this Deed) affecting the Road Land.
 - (iv) a cheque in favour Land and Property Information, NSW for the registration fees on the Transfer and discharges of all encumbrances;

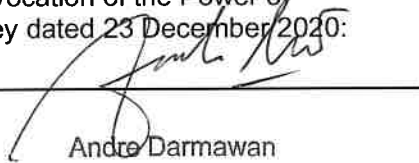
- (v) a current clear land tax certificate from Office of State Revenue in respect to the Road Land;
 - (vi) appropriate evidence of all outgoings including rates having been paid in respect of the Road Land Dedication transfer; and
 - (vii) a clearance certificate within the meaning of s14-220 of Schedule 1 to the Taxation Administration Act 1953 for the period one month prior to the dedication of the Road Land,
- (f) Upon dedication and transfer of the Road Land to the Council the Developer will deliver to Council any updated certificates and appropriate evidence of the items referred to in clause 1(v), (vi) and (vii).

Signing page

EXECUTED as a deed.

EXECUTED by **Certane SPV Management Pty Ltd** (ABN 67 088 261 349) by its Attorney who certifies that he/she has not received notice of any revocation of the Power of Attorney dated 23 December 2020:

Signed

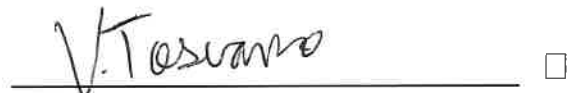


Andre Darmawan

Relationship Manager

Authorised Officer

Signed



Vinny Toscano

Client Service Associate

Authorised Officer

EXECUTED by **Cumberland Council** in accordance with section 683 of the *Local Government Act 1993*



ACTING

Signature of General Manager

MELISSA ATTIA

ACTING

Name of General Manager
(BLOCK LETTERS)

Resolution of the Council dated
3 May 2023
Authority of General Manager

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Appendix

Environmental Planning and Assessment Regulation 2000 (Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the Environmental Planning and Assessment Act 1979

Parties

Cumberland Council of Civic Precinct Centre, 1 Susan Street, Auburn NSW 1835
(Council) Certane SPV Management Pty Ltd (Developer)

Description of the Land to which the Draft Planning Agreement Applies

The Draft Planning Agreement applies to the following lots:

1A, 1B Queen St Auburn, Lots 1 and 2, DP 1160950 (Development Site) and the intersection of Queen Street and Marion Street, Auburn (Intersection Site).

Description of changes made to environmental planning instrument

The Auburn Local Environmental Plan 2010 (Amendment No 11) rezoned the Development Site to R4 High Density Residential and varied the development controls for maximum permissible building heights and floor space ratios.

Summary of Objectives, Nature and Effect of the Draft Planning

The Draft Planning Agreement seeks to amend the timing for completion of intersection upgrades and land dedication under the existing Planning Agreement from '4 October 2020' to '4 October 2026' to align with a revised development program. The intent of the Draft Planning Agreement is to ensure the carrying out of intersection works and dedication of land for public purposes is provided by the Developer to ensure existing communities do not bear those costs.

Agreement Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to facilitate the upgrade of the Intersection Site

and specifically to provide for:

- the dedication of land to Council to enable the upgrade;
- the Developer to carry out the works to upgrade the Intersection Site.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s7.4(1)(a) of the Environmental Planning and Assessment Act 1979 (Act). The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s7.4(2) of the Act).

Effect of the Draft Planning

Agreement The Draft Planning

Agreement:

- relates to the carrying out by the Developer of Development on the Development Site,
- reduces the application of s 7.11 or s 7.12 of the Act to the Development;
- requires the developer to provide land and construct works;
- is to be registered on the titles to the Development Site,
- requires a bank guarantee to be provided for the works to the Intersection Site to be carried out;
- imposes restrictions on the Parties assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation;
- provides that the agreement is governed by the law of New South Wales.

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates of the orderly and economic use and development of the land to which the agreement applies;
- facilitates the provision of land for public purposes; and
- provides and co-ordinates the provision of public road infrastructure and facilities in connection with the Development.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the Public Interest by:

- promoting the objects of the Act as set out in s1.3(c), (g), (j); and
- improving the operational performance of the local intersection adjoining the Development Site that is also used as part of the Auburn Town Centre bypass.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

In accordance with section 7 of the *Local Government Act 1993*, the Draft Planning Agreement

- facilitates engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government; and
- promotes a system of local government that is accountable to the community and that is sustainable, flexible and effective.

Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter (now s8 of the Local Government Act 1993) by:

- providing value for residents and ratepayers

- applying an integrated planning framework to achieve desired outcomes and continuous improvements
- manages lands and other assets so that current and future local community needs can be met in an affordable way
- is consistent with the principle of ecologically sustainable development

All Planning Authorities – Whether the Draft Planning Agreement conforms with the Authority’s Capital Works Program

The works to the Intersection Site are not currently in Council's Capital Works Program and the works cannot progress without the land dedication that forms part of the Draft Planning Agreement.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Draft Planning Agreement requires:

- a) the registration of the planning approval on the title of the Development Site to be within 6 months of the agreement commencing;
- b) the works to the Intersection Site and the Land Dedication to be completed before any construction certificate/subdivision certificate is issued for the development (other than a subdivision for the purpose of dedicating the Road Land to Council) or before the Extended Sunset date (4 October 2026).

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