

PUBLIC EXHIBITION

Wednesday 12 December 2018 to Tuesday 15 January 2019

CLASSIFICATION OF COUNCIL LAND AT HOMEDALE RD BANKSTOWN (LOT 1 DP 1247694)

CONTENTS

- 1. Council Report: 22 August 2017 – Item 6.8**
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- 4. Deposited Plan of Consolidated Sites (Registered Plan: Lot 1 DP 1247694)**
- 5. Concept Design Plan: Proposed Cul-de-sac Plan**
- 6. Local Government Act 1993: Extract of Clauses**
- 7. Public Exhibition: Newspaper Notification Add**

Report of the General Manager - 22 August 2017

ITEM 6.8 **Property Matter: Classification of Council Land at 28 Homedale Road Bankstown**

AUTHOR **Corporate**

ISSUE

This report proposes that the recently acquired land known as 28 Homedale Road, Bankstown be classified as Operational Land in accordance with the Local Government Act 1993.

Separately, it is also proposed that Council apply to NSW Land and Property Information (LPI) to claim possessory title to a disused stream bed adjoining the subject site, and enable Council to progress the planning and design for the roadway cul-de-sac of Homedale Road Bankstown.

RECOMMENDATION That -

1. Council classifies No. 28 Homedale Road, Bankstown (Lot 102 DP 1228873) as Operational Land, in accordance with the Local Government Act 1993.
2. The Mayor/Administrator and General Manager be delegated authority to complete the possessory title claim (to the land known as No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889), and execute all relevant documentation under the Common Seal of Council, as required.
3. Council publicly exhibit its proposal to classify the land (No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889) as Operational Land, in accordance with the Local Government Act 1993.
4. A further report be submitted regarding the matter.

BACKGROUND

The former Bankstown Council at its meeting on 26 April 2016, resolved to acquire a small part of land from Sydney Water (SW) with the view to address a number of infrastructure, environmental and property related matters associated with the end of Homedale Road, Bankstown.

This report further seeks for council to complete a possessory title claim to land for a disused stream bed to complete the above infrastructure needs.

REPORT

Classification of Land

In accordance with the LGA 1993, Council has carried out the required public exhibition process to classify the recently purchased land (No. 28 Homedale Road Bankstown) as Operational Land. The exhibition of the proposal was publicly advertised for a minimum of twenty eight days, being the statutory period required under the LGA 1993. The exhibition period was from Tuesday 11 July to Thursday 10 August 2017.

The proposal was advertised in both The Express and The Torch newspapers, as well as on Council's website (Have Your Say Section) and at the Customer Service Centre in Bankstown.

No submissions were received regarding the proposed classification. Having completed the required regulatory process, Council may now classify the land as Operational Land, in accordance with its resolution of 26 April 2016.

Possessory Title Claim (*Ad Medium Filum Aquae*)

As part of the proposed construction of the roadway cul-de-sac at Homedale Rd, Council also needs to apply to LPI to claim possessory title to land described as a disused stream bed (not in real form). Council has been unable to commence that process until it completed the purchase of the land from Sydney Water Corporation (see Attachment A – Image 1), which settled on 30 June 2017.

The process of claiming presumptive title to a disused stream bed is referred to as *Ad Medium Filum Aquae*. It is a process whereby both adjoining landowners to the old creek bed make claim for half the subject land (i.e. to the centre line of the disused stream bed), and in this instance Council owns the land on both sides of the subject land and makes claim to the entire stream bed (approx. 281.4sqm).

The process requires an application to LPI with supporting information, including the relevant Lot & DP Plan. All the relevant information is currently available to lodge the application, subject to Council agreement.

If acquired, the land would similarly be classified as Operational Land, in accordance with the LGA 1993, including a similar exhibition process to classify the land.

POLICY IMPACT

There are no policy implications.

FINANCIAL IMPACT OF RECOMMENDATIONS

There is no direct financial implications.

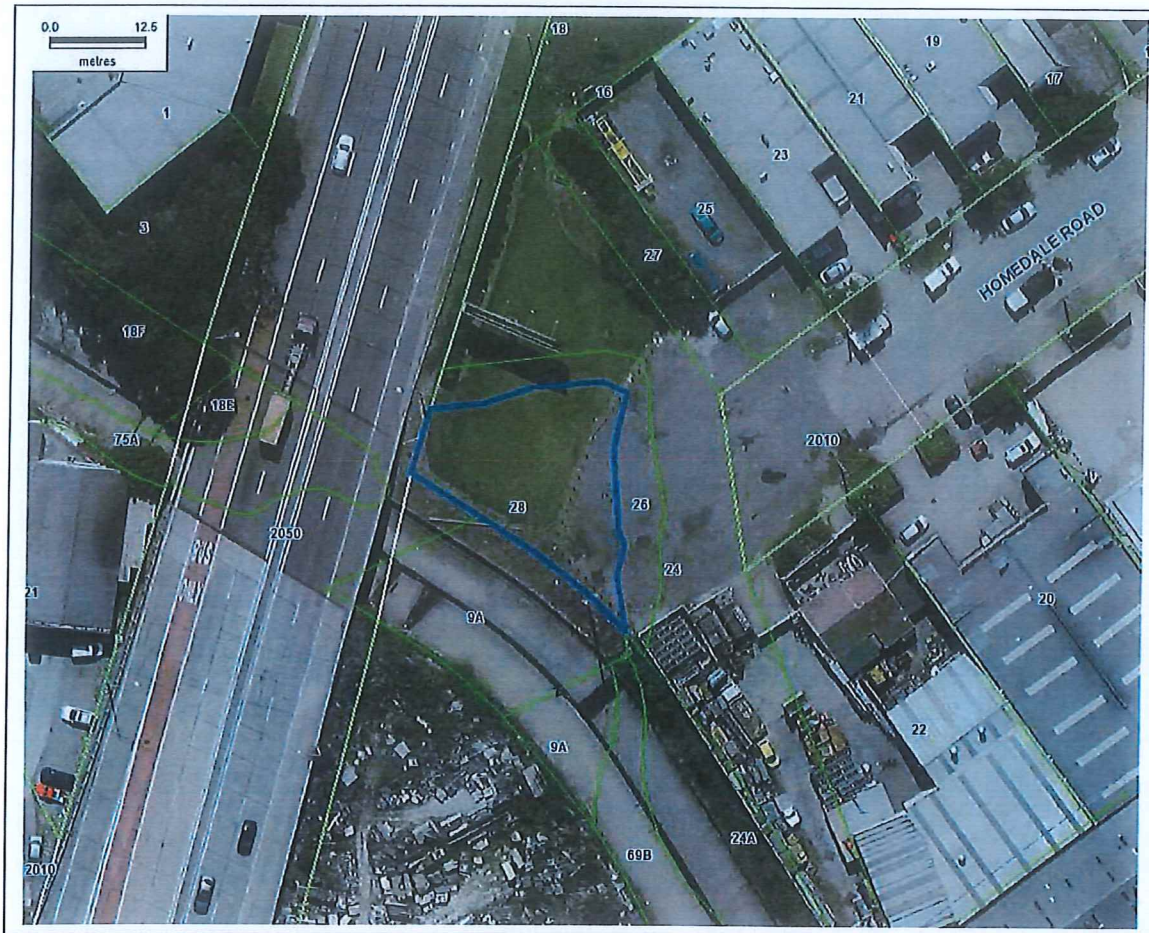
RECOMMENDATION That -

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2. The Mayor/Administrator and General Manager be delegated authority to complete the possessory title claim (to the land known as No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889) , and execute all relevant documentation under the Common Seal of Council, as required.
3. Council publicly exhibit its proposal to classify the land (No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889) as Operational Land, in accordance with the Local Government Act 1993.
4. A further report be submitted regarding the matter.

ATTACHMENTS

- A. Aerial Photo: Homedale Road Bankstown Land
- B. Homedale Road - Concept Plan for Cul-de-sac

IMAGE 1: No. 28 Homedale Road Bankstown (Lot 102 DP 1228873)



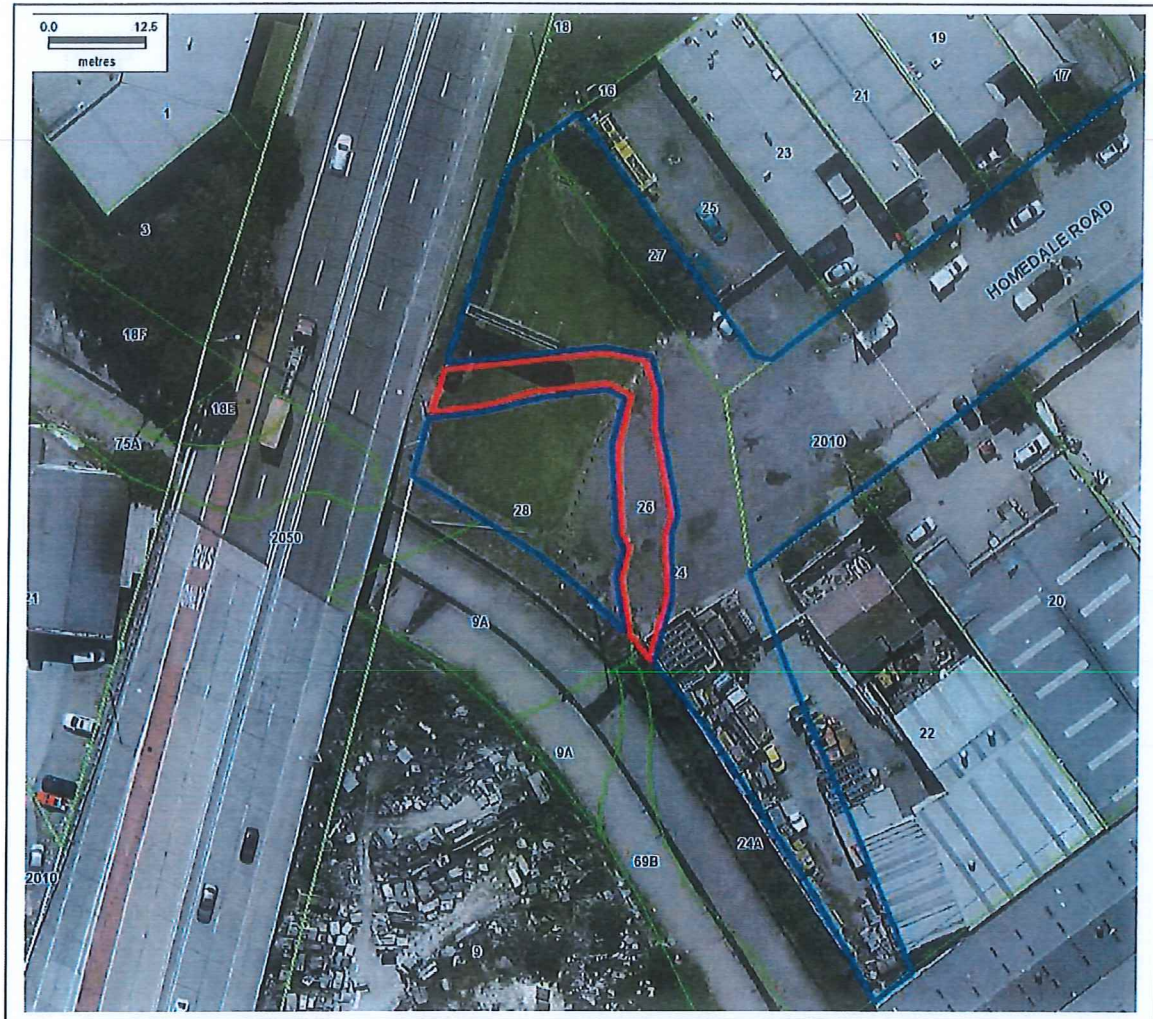
Land in BLUE: 28 Homedale Rd Bankstown:

- Land Acquired by Council from Sydney Water Corporation on 30 June 2017.
- Land to be Classified as Operational Land.

- Possessory Title Claim to NSW Land Titles Office.
- Propose to Classify as Operational Land.

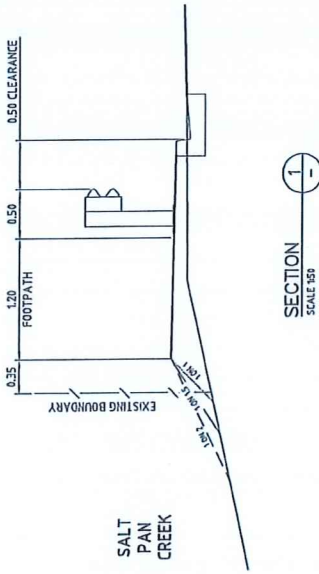
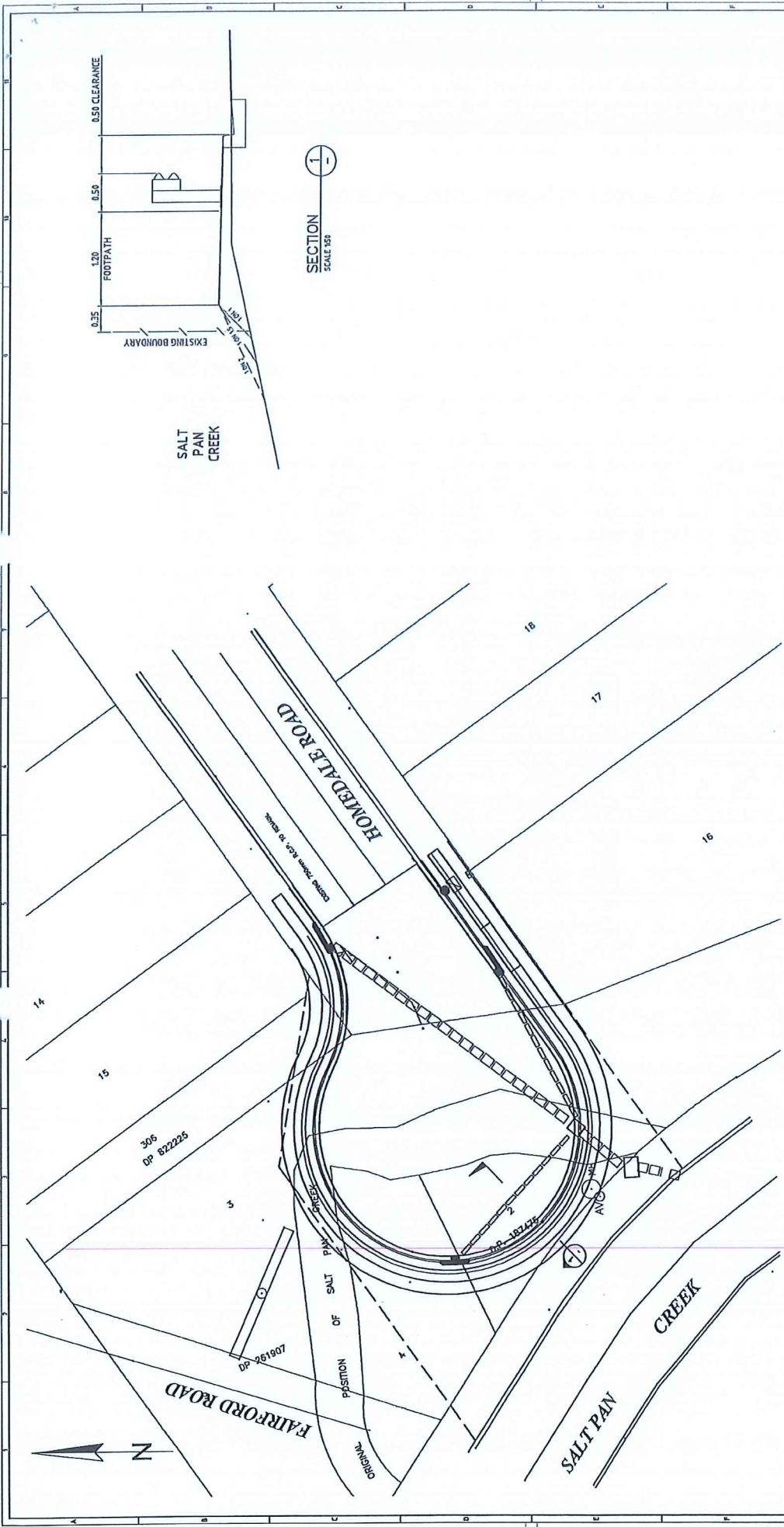
- Possessory Title Claim to NSW Land Titles Office.
- Propose to Classify as Operational Land.

IMAGE 3: Land Owned Map



Land in BLUE: Land owned by Council.

Land in RED: 'Old Creek Bed' land included as part of Possessory Title Claim.



PLAN
SCALE 1:400

UNLESS DETAILED ON THIS DRAWING
ALL WORK SHALL CONFORM TO **AUG 2010**



| | |
|-----------------------------------|------------------------------|
| Client/Local Council/Project Name | City of Canterbury Bankstown |
| Project Name | Homedale Road, Bankstown |
| Project Number | 07-08-015 |
| Project Date | 07-08-015 |
| Project Location | CUL DE SAC EXTENSION |
| Project Description | GENERAL PLAN AND SECTION 'T' |

| | |
|----------|----------|
| Design | AS SHOWN |
| Drawn | AND |
| Check | AND |
| Scale | AS SHOWN |
| Material | AS SHOWN |
| Notes | AS SHOWN |

| | |
|-------|-------|
| Scale | 1:400 |
| Scale | 1:400 |
| Scale | 1:400 |
| Scale | 1:400 |
| Scale | 1:400 |

| REVISION | DATE | APPROVED | DATE |
|----------|----------|----------|----------|
| 1 | 05/17/17 | A.L. | 05/17/17 |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |

CONCEPT

PROJECT N°
07-08-015

CITY OF CANTERBURY BANKSTOWN
HOMEDALE ROAD, BANKSTOWN
CUL DE SAC EXTENSION

DESIGNED BY
DRAWN BY
CHECKED BY
SCALE
MATERIAL
NOTES

CANTERBURY BANKSTOWN
CITY OF CANTERBURY BANKSTOWN
CITY OF CANTERBURY BANKSTOWN
CITY OF CANTERBURY BANKSTOWN

REVISION
DATE
APPROVED
DATE

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NEW CITY OF CANTERBURY BANKSTOWN**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN COUNCIL CHAMBERS
ON 22 AUGUST 2017**

ITEM 6.7**LOCAL GOVERNMENT NSW - ANNUAL CONFERENCE AND CONSIDERATION OF MOTIONS****(507)**

MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. Council endorse the draft motion as detailed in the report.
2. The Mayor be delegated authority to nominate voting delegates for the 2017 LGNSW Conference.
3. The 2017 LGNSW membership subscription be paid and that membership be reviewed again in 2018.

ITEM 6.8**PROPERTY MATTER: CLASSIFICATION OF COUNCIL LAND AT 28 HOMEDALE ROAD BANKSTOWN****(508)**

MOVED AND RESOLVED BY THE ADMINISTRATOR

That

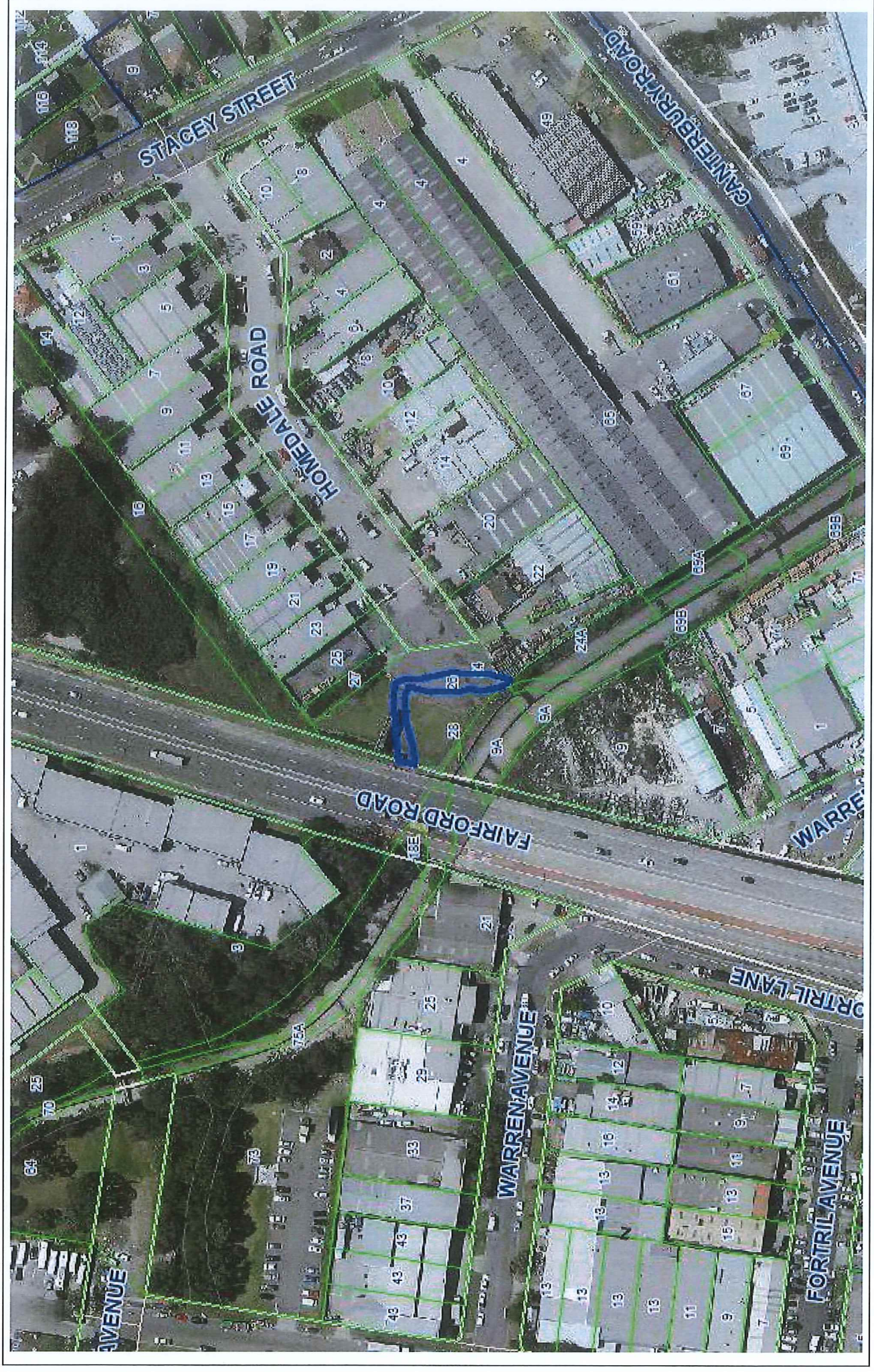
1. Council classifies No. 28 Homedale Road, Bankstown (Lot 102 DP 1228873) as Operational Land, in accordance with the Local Government Act 1993.
2. The Mayor/Administrator and General Manager be delegated authority to complete the possessory title claim (to the land known as No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889) , and execute all relevant documentation under the Common Seal of Council, as required.
3. Council publicly exhibit its proposal to classify the land (No. 26 Homedale Road, Bankstown - Lot 100 DP 1228889) as Operational Land, in accordance with the Local Government Act 1993.
4. A further report be submitted regarding the matter.

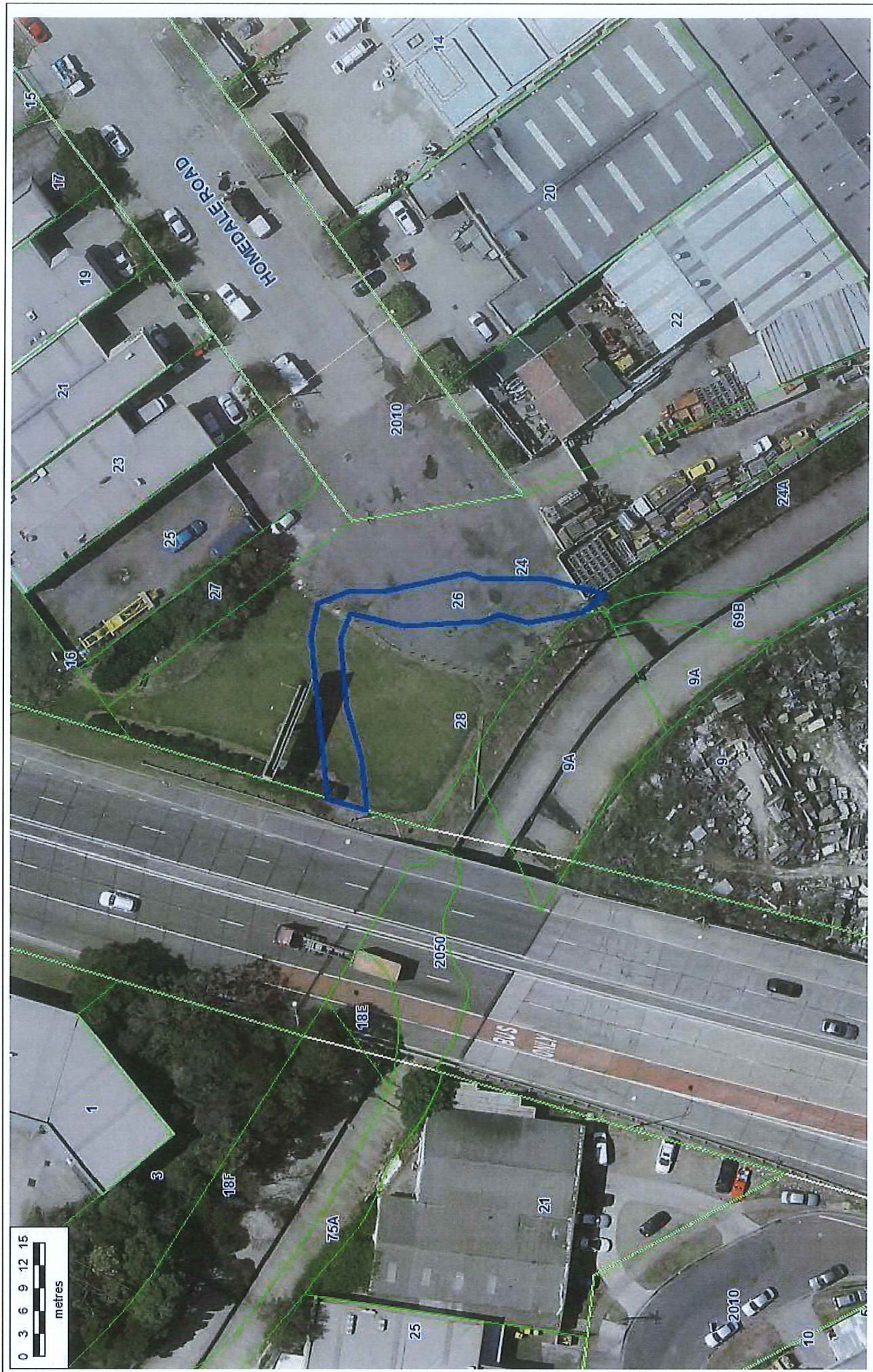
ITEM 6.9**PROPOSED NEW LICENCE TO TRINITY GRAMMAR SCHOOL FOR USE OF CANTERBURY PARK TENNIS COMPLEX****(509)**

MOVED AND RESOLVED BY THE ADMINISTRATOR

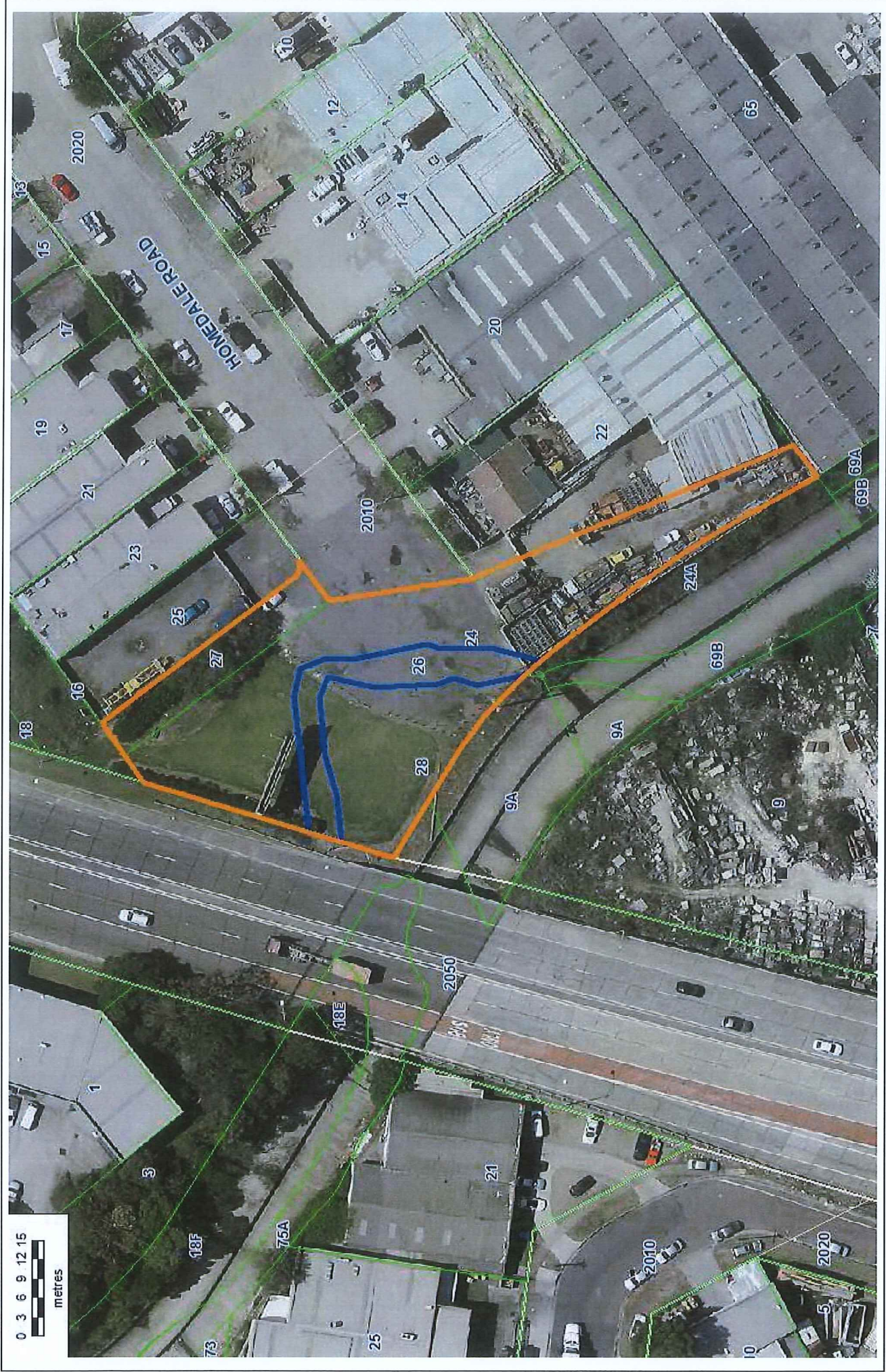
That

MAP 1: HOMEDALE RD BANKSTOWN (Old Streambed Acquisition Site in Blue)

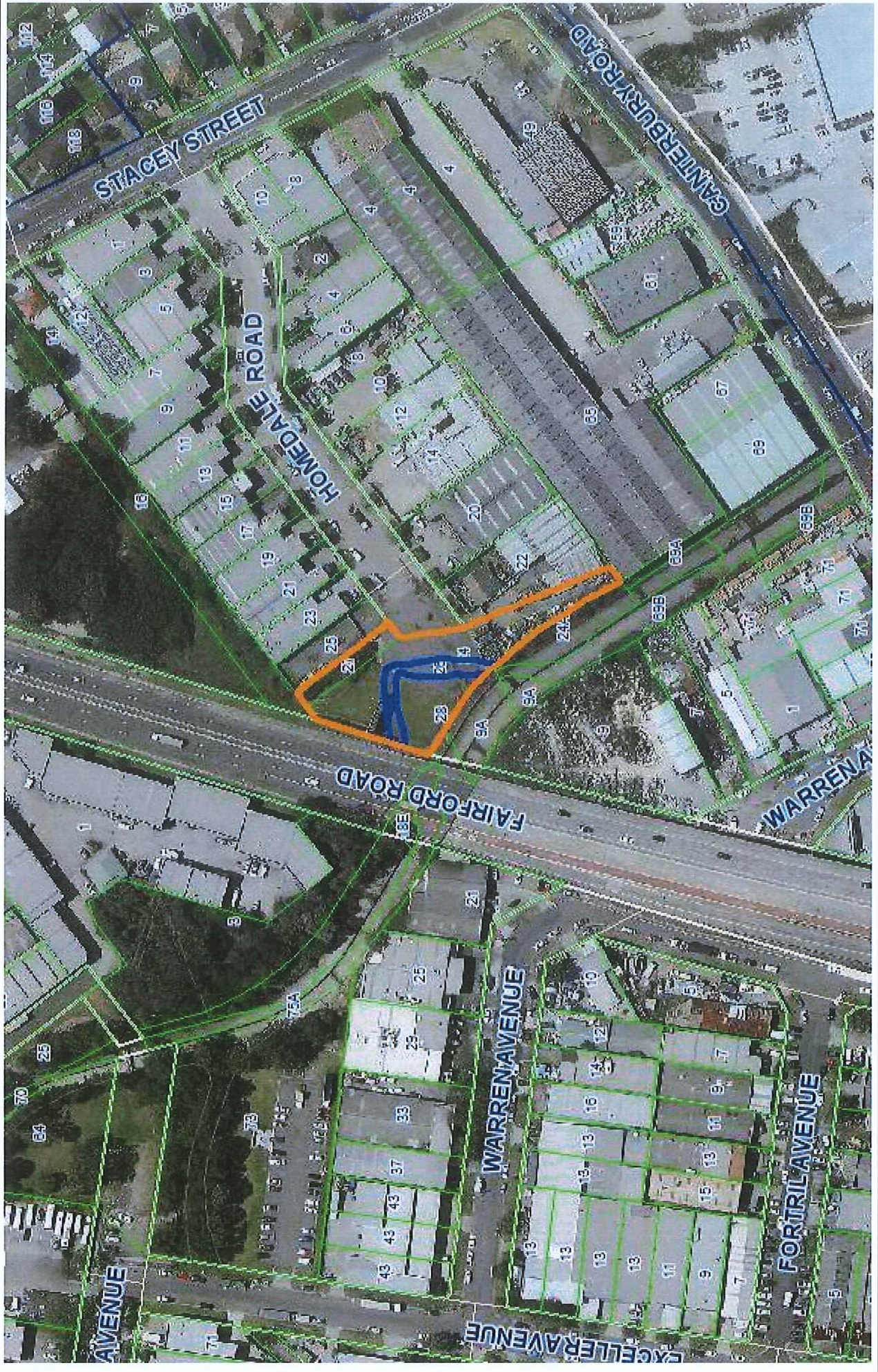




MAP 3: HOMEDALE RD BANKSTOWN (Acquisitions Site in Blue, Consolidation Site in Orange)



MAP 4: HOMEDALE RD BANKSTOWN (Acquisitions Site in Blue, Consolidation Site in Orange)

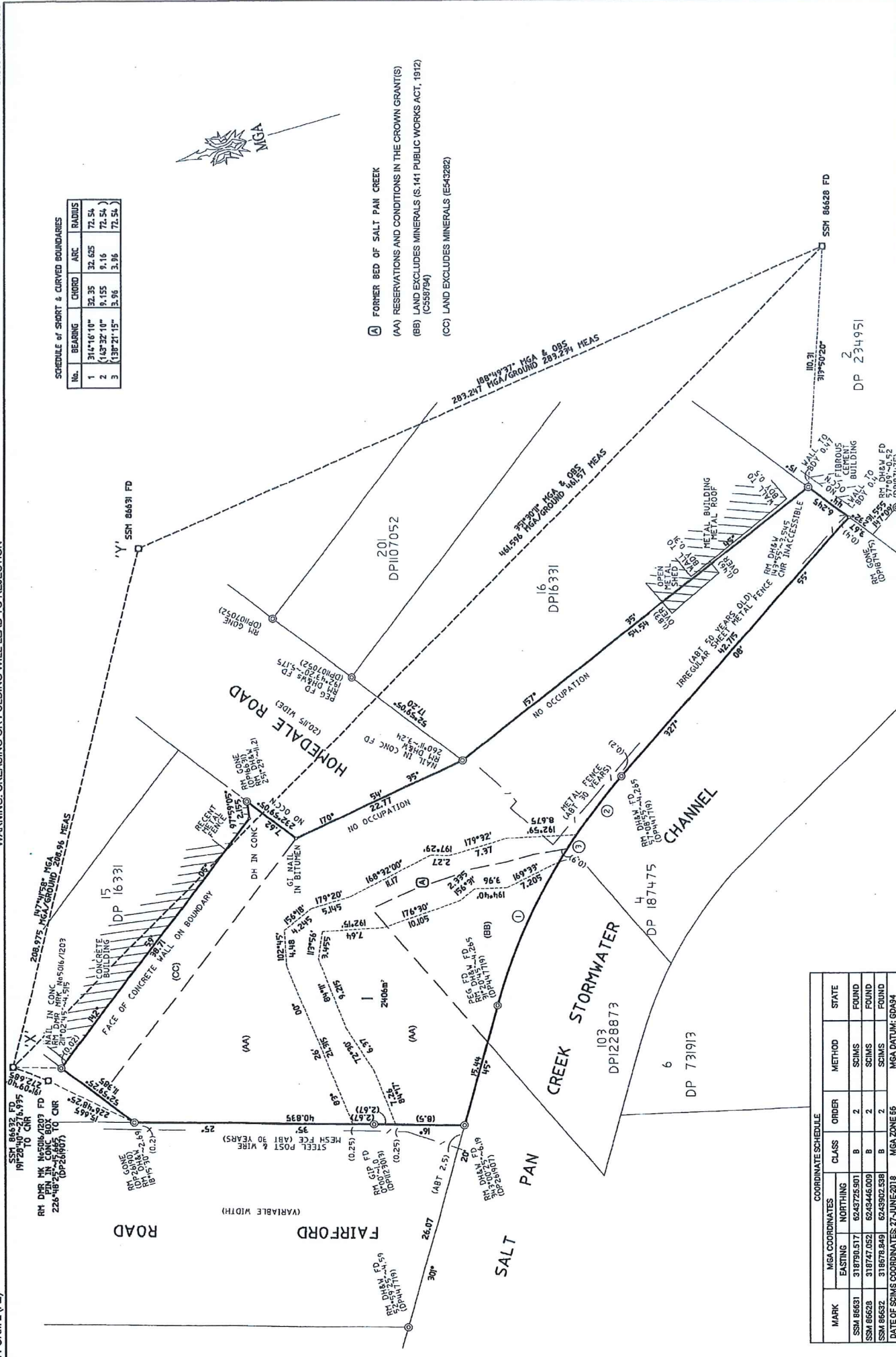


SCHEDULE of SHORT & CURVED BOUNDARIES

| No. | BEARING | CHORD | ARC | RADIUS |
|-----|------------|-------|--------|--------|
| 1 | 314°16'10" | 32.35 | 32.625 | 72.54 |
| 2 | 143°32'10" | 9.155 | 9.16 | 72.54 |
| 3 | 138°21'15" | 3.96 | 3.96 | 72.54 |



- (A) FORMER BED OF SALT PAN CREEK
 (AA) RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
 (BB) LAND EXCLUDES MINERALS (S.141 PUBLIC WORKS ACT, 1912) (CS8794)
 (CC) LAND EXCLUDES MINERALS (E543282)



COORDINATE SCHEDULE

| MARK | MGA COORDINATES | | CLASS | ORDER | METHOD | STATE |
|-----------|-----------------|-------------|-------|-------|--------|-------|
| | EASTING | NORTHING | | | | |
| SSM 86631 | 318790.517 | 6243725.901 | B | 2 | SCIMS | FOUND |
| SSM 86628 | 318747.052 | 6243446.009 | B | 2 | SCIMS | FOUND |
| SSM 86632 | 318678.849 | 6243902.538 | B | 2 | SCIMS | FOUND |

DATE OF SCIMS COORDINATES: 27-JUNE-2018 MGA ZONE 56
 MGA DATUM: GDA94
 COMBINED SCALE FACTOR: 1.000000

SURVEYOR
 Name: PAUL MICHAEL DALY
 Date: 27-06-2018
 Reference: 16128CONSOL

L.G.A.: CANTERBURY-BANKSTOWN
 Locality: BANKSTOWN
 Reduction Ratio: 1:300
 Lengths are in metres

**PLAN OF LOT 102 IN DP1228873
 LOT 3 IN DP281907, LOT 306 IN DP822225
 AND PART OF FORMER BED OF SALT PAN CREEK
 (TO BE CLAIMED BY AD MEDIUM FILIUM AQUAE)**

DP1247694 P

Registered: 19.11.2018

Local Government Act 1993 No 30

Current version for 27 August 2018 to date (accessed 9 October 2018 at 10:22)

Chapter 6 > Part 2 > Division 1

Division 1 Classification and reclassification of public land

25 All public land must be classified

All public land must be classified in accordance with this Part.

26 What are the classifications?

There are 2 classifications for public land—“community” and “operational”.

Note. On the commencement of this Part, certain land that is vested in or under the control of a council is taken to have been classified as community land by the operation of clause 6 of Schedule 7.

27 How are the classifications made?

- (1) The classification or reclassification of public land may be made by a local environmental plan.
- (2) The classification or reclassification of public land may also be made by a resolution of the council under section 31, 32 or 33.

28 Forwarding of planning proposals to Minister for Planning

- (1) A council may not forward a planning proposal to the Minister for Planning under section 56 of the *Environmental Planning and Assessment Act 1979* which includes a proposal to classify or reclassify public land that is not owned by the council unless the council has obtained the consent of the owner to the proposed classification or reclassification of public land.
- (2) A local environmental plan that classifies or reclassifies public land may apply to one or more areas of public land.

29 Public hearing into reclassification

- (1) A council must arrange a public hearing under section 57 of the *Environmental Planning and Assessment Act 1979* in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land, unless a public hearing has already been held in respect of the same matter as a result of a determination under section 56 (2) (e) of that Act.
- (2) A council must, before making any resolution under section 32, arrange a public hearing in respect of any proposal to reclassify land as operational land by such a resolution.

30 Reclassification of community land as operational

- (1) A local environmental plan that reclassifies community land as operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:

- (a) any reservations that except land out of a Crown grant relating to the land, and
 - (b) reservations of minerals (within the meaning of the *Crown Land Management Act 2016*).
- (2) A provision referred to in subsection (1) has effect according to its tenor, but only if the Governor has, before the making of the local environmental plan, approved of the provision.

31 Classification of land acquired after 1 July 1993

- (1) This section applies to land that is acquired by a council after the commencement of this Division, other than:
- (a) land to which the *Crown Lands Act 1989* or the *Crown Land Management Act 2016* applied before the acquisition and continues to apply after the acquisition, and
 - (b) land that is acquired for the purpose of a road.
- (2) Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land.
- (2A) Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environmental plan as community land.
- (2B) While the land remains unclassified:
- (a) the land may not be used for any purpose other than that for which it was being used immediately before it was acquired, and
 - (b) the council may not dispose of any interest in the land.
- (3) A council must not resolve under this section that land be classified as operational land if:
- (a) the land is classified as community land immediately before its acquisition, or
 - (b) the resolution would be inconsistent with any other Act, the terms of any trust applying to the land or the terms of any instrument executed by the donor or transferor of the land.

32 Reclassification of land dedicated under sec 94 of the *Environmental Planning and Assessment Act 1979*

- (1) A council may resolve that land dedicated in accordance with a condition imposed under section 94 of the *Environmental Planning and Assessment Act 1979* is to be reclassified as operational land.
- (2) A council may make such a resolution only if it is satisfied that the land has been found to be unsuitable for the provision, extension or augmentation of public amenities and public services because of any one or more of the following:
- the size of the land
 - the shape of the land
 - the topography of the land

- the location of the land
 - the difficulty of providing public access to the land.
- (3) The council must specify in the resolution the grounds on which it is satisfied the land is unsuitable.
- (4) Before making the resolution, the council must give public notice of the resolution. The public notice must specify a period of not less than 28 days during which submissions may be made to the council.
- (5) The net proceeds of sale by a council of any land dedicated in accordance with a condition imposed under section 94 of the *Environmental Planning and Assessment Act 1979* must be dealt with under that section as if those net proceeds were a monetary contribution paid instead of the dedication.

33 Reclassification of operational land as community land

- (1) A council may resolve that public land classified as operational land is to be reclassified as community land.
- (2) (Repealed)

34 Public notice to be given of classification or reclassification by council resolution

- (1) A council must give public notice of a proposed resolution to classify or reclassify public land.
- (2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.
- (3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.
- (4) (Repealed)

Public Exhibition – Torch Newspaper Add Notification Wednesday 12 December 2018

Classification of Acquired Land

Council at its Meeting on 22 August 2017, resolved to complete the possessory title claim to the former dis-used streambed of Salt Pan Creek, at the end of Homedale Rd Bankstown, land situated between 24 & 28 Homedale Rd (Lot 1 DP 1247694). The acquired land will facilitate the construction of the road cul-de-sac of Homedale Rd.

This public notification confirms Council's intention to classify the land as Operational Land, under the s34 of the Local Government Act 1993. This notification is open for public viewing from 12 December 2018 till 15 January 2019. Further information is available on Council's website and also at Council's Administration Centre in Bankstown. Should you wish to make a submission, it must be addressed to: The General Manager, Canterbury Bankstown Council, PO Box 8, Bankstown, NSW, 1885, Att: Project Manager Special Projects, by close of business on 15 January 2019.