

Statement of Environmental Effects	
In Support of a Development Application	
Proposal	<ul style="list-style-type: none"> DWELLING – new, on a 9.0295ha allotment at Lot 322 DP 754582, No 902 Cnr Henry Lawson Way & Powderly's Lane, MAIMURU To request a section 4.6 Variation to LEP to accommodate same
Subject Land Address	Lot 322 DP 754582
	902 Cnr Henry Lawson Way & Powderly's Lane, MAIMURU
Applicant/Owner	Mr John McLachlan
	0478 934 840 (John)
Appn Prepared By	DA Busters – Development Assistance Services 0466 722 869 Email: Craig@DAbusters.com Ph:
LGA	Hilltops Council – former Young Shire Council area



Side block at "Bunyarra"

DA assisted by:



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Craig Filmer – 1/91 Boorowa St YOUNG 2594
Ph: 0466 722 869 E: Craig@DAbusters.com

01 November 2023

Director Planning

HILLTOPS Regional Council

Locked Bag 5

YOUNG NSW 2594

Att: Manager Planning

Dear Jamie & Andrew,

**Re: Dev Appn – New Rural Dwelling – LEP 4.6 Variation
902 Henry Lawson Way (CNR Powderly's Rd) –Mr John McLachlan**

Please find attached the appropriate application forms for the above, along with all supporting documentation and plans. This document forms the Statement of Environmental Effects demonstrating compliance or giving appropriate justification for performance based assessment under Council's LEP, DCP and Policy Environment.

The land currently does not have a building entitlement as researched through appropriate inquiries of Council and the NSW Planning Portal. It is understood that as of today the deemed concurrence arrangements exist and this application has been prepared based on the Circular from DoPIE in this regard.


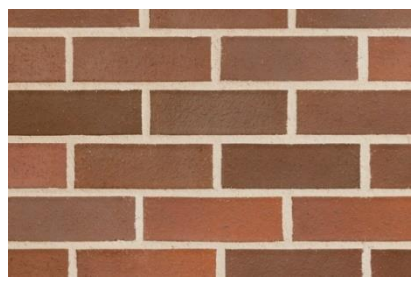
A variation is being claimed under clause 4.2A(3)(a) of the LEP due to it being a complicated allotment by virtue of slope, rocks & drainage, not of a size or farmable quality for holistic and substantive income based broad acre agriculture, within a locality of adjacent similar sized lot & holding patterns, unique divisive features of the land split by road and catchment, poorer soils, and the existence of similar adjacent other dwellings. The most productive use of this land is occupied and small farmed (low stocking rate or horses/rural uses). The associated & required Heads of Consideration checklist is completed and appended to the end of this report.



Existing fencing, utility (power), access, shed and amenity are all consistent with the neighbours who have already developed back in more lenient LEP/IDO standards and times, and this proposal is consistent with the locality and land use. The matter is discussed and presented in depth within this report. This application is commended to you for consideration and approval. Whilst Mr McLachlan will be the applicants/primary contacts, should any technical enquiry arise, please forward these to myself, the contact information is in the letterhead above.

A handwritten signature in black ink, appearing to read 'K Craig Filmer', is written over a light grey circular stamp. The signature is fluid and cursive.

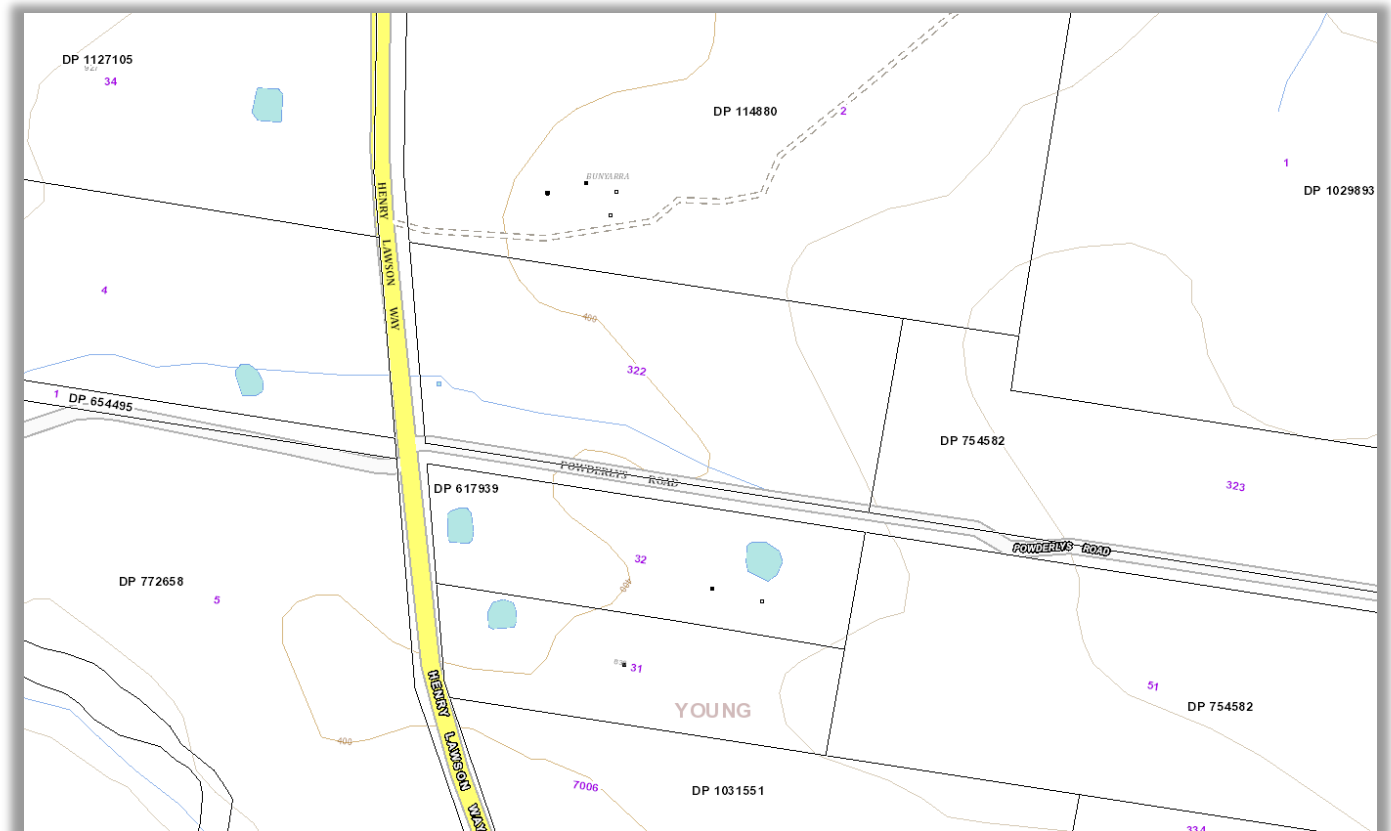
K Craig Filmer
B. App Sc (Env Health – Building Surveillance Major)
MAAC; MEHA; BPB-A1 Certifier (LG)
Development & Environmental Health Specialist

A. DESCRIPTION OF DEVELOPMENT:

Property address	Lots 322 DP 754582 902 Henry Lawson Way (being Cnr HL Way & Powderly's Lane), MAIMURU	
Proposed structures or works	<p>Dwelling – The dwelling will be a 5 bedroom brick veneer walled, and custom orb colorbond roofed structure, with a strong Living Areas to outside areas connectivity. The dwelling will be located in the rear upper corner of the property.</p> <p>The structure will have a homestead appeal but be set near the top corner of the land, with the intent by design of enjoying the expansive views to the north and west across their land and beyond whilst maximising the area available for running some livestock or the occasional livestock feed pasture crop to enjoy the rural use of the property.</p> <p>The enclosed Living Areas will be approximately 275 sq.m of which 246 sq.m is BASIX conditioned space. The house will be founded on a slab in a saddle near rock outcrops in the locality shown on the plans, leading to minimal cut/fill.</p>	
Nature of use	Rural Dwelling	
Particulars	Shown on plans	Description (written details if not clearly shown on plan)
Building materials (e.g. brick, hardiplank, colorbond, zincalume, etc)	Yes	Dwelling – The dwelling will have walls of mid tones mixed brick veneer trimmed with a contrasting colour. The roof will be colorbond corrugated profile over a roof beam and trussed mix of construction. The verandah and porches will be consistent roof cladding over timber framed construction, unenclosed.
Colours	Yes	Colours - The dwelling wall, trim & roof colours under consideration by the clients are demonstrated below.
		<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>BASALT®</p> </div> <div style="text-align: center;">  </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> Basalt Colorbond or similar PGH Tourmaline or equiv </div>
Demolition	No	Nil demolition to occur
Earthworks (location, extent and depth of all cut and fill proposed)	Yes	<p>Extent of earthworks –the plans demonstrate a level area on a saddle in the location chosen for the site. This area is characterised as being relatively level and near rock outcrops in this sector of the lot which should also add to the appeal.</p> <p>Whilst the land is of a sloping nature from southwest up to this location in the northeast of the land. The location is somewhat more level than the remainder of the land. The remainder of the allotment is complicated by slope, rocks and drainage lines (low land), which will be discussed further below having regard to the agricultural characteristics or lack thereof.</p>

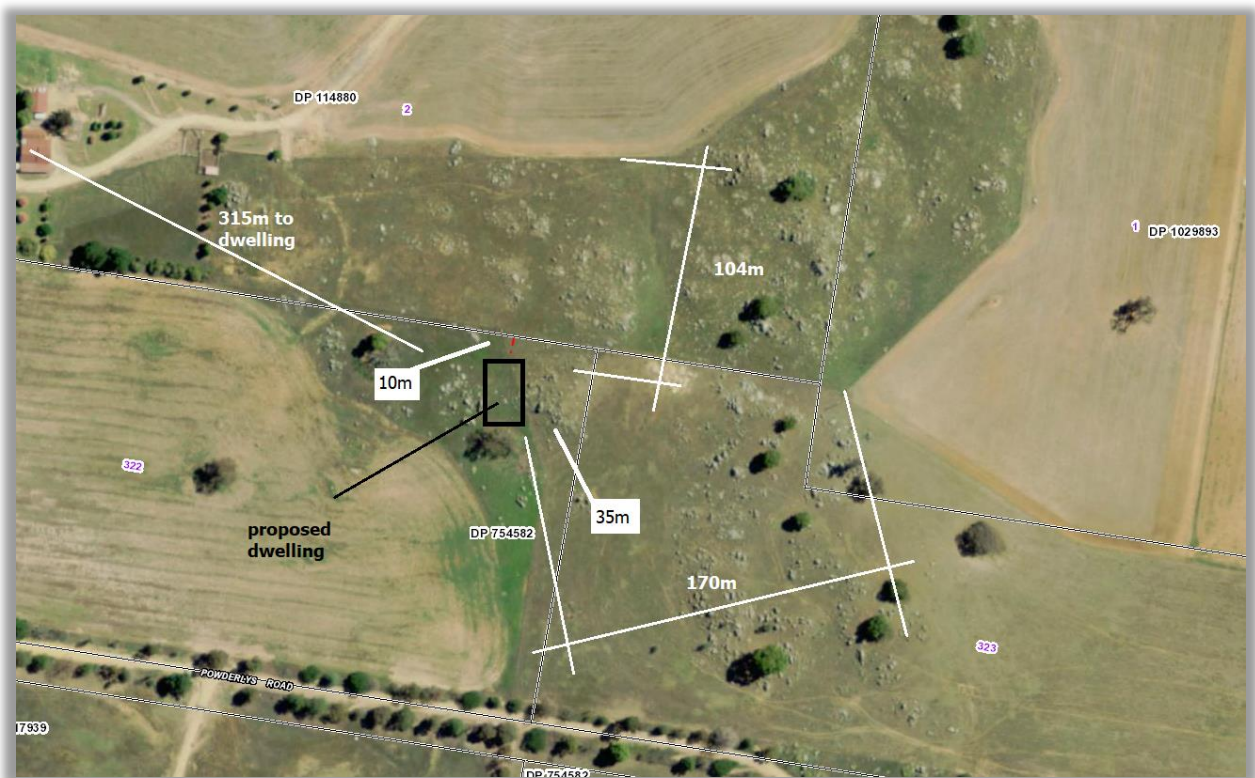
		The access to the land will be readily available off Powderly's Lane and not to the classified Henry Lawson Way.
	 <p>building site - level saddle</p> <p>existing neighbouring dwelling - same owner</p> <p>Powderly's Lane</p> <p>View to NE</p>  <p>building site on top saddle</p> <p>steep land</p> <p>low wet land</p> <p>Powderly's Lane</p> <p>View East</p>	
Tree removal (identify location, size and species of tree/s)	No	No tree removal on site nor in position of dwelling – the site is well served by perimeter trees yet will see more provided once dwelling curtilage established at approval.
Wall and roof height	Yes	Dwelling – When measured from the height of the building pad, the eave height will be 2.74m from floor level, the dominant ridge line will be approximately 5.735m above finished ground level. There will be a soffit of slab at approx. 150mm relief to Yard Gully on the drainage.
Gross floor area (m²)	Yes	The roof footprint will be approximately 309 sq.m. The house will be founded on a slab, on a levelled area, being the gentlest of the slopes on the site, leading to minimal cut/fill.
Open space (m²)	N/A	Not applicable – The allotment is over 9 ha in size. After a roofed footprint of max 309 sq.m (dwelling) is deducted, a large amount of land exists for rural living, small scale farming, running horses/livestock and enjoying the rural vista.

Landscaping (type and location)	Yes	The applicant will begin plantings to the driveway areas, adjacent the proposed dwelling and along fencelines throughout the property, shortly.
Setbacks from each boundary	Yes	<p>North: 10m to side boundary (neighbours rock outcrop not farmed). South: 152m to Powderly's Lane West: 440m to Henry Lawson Way East: 35 m to rear boundary (neighbour's rock outcrop not farmed)</p> <p>Whilst DCP variations are sought on setbacks to North and East boundaries – the adjoining lack of land use due to rock outcrop and slope is amenable.</p> <p>See site plan as attached to main drawing set.</p>

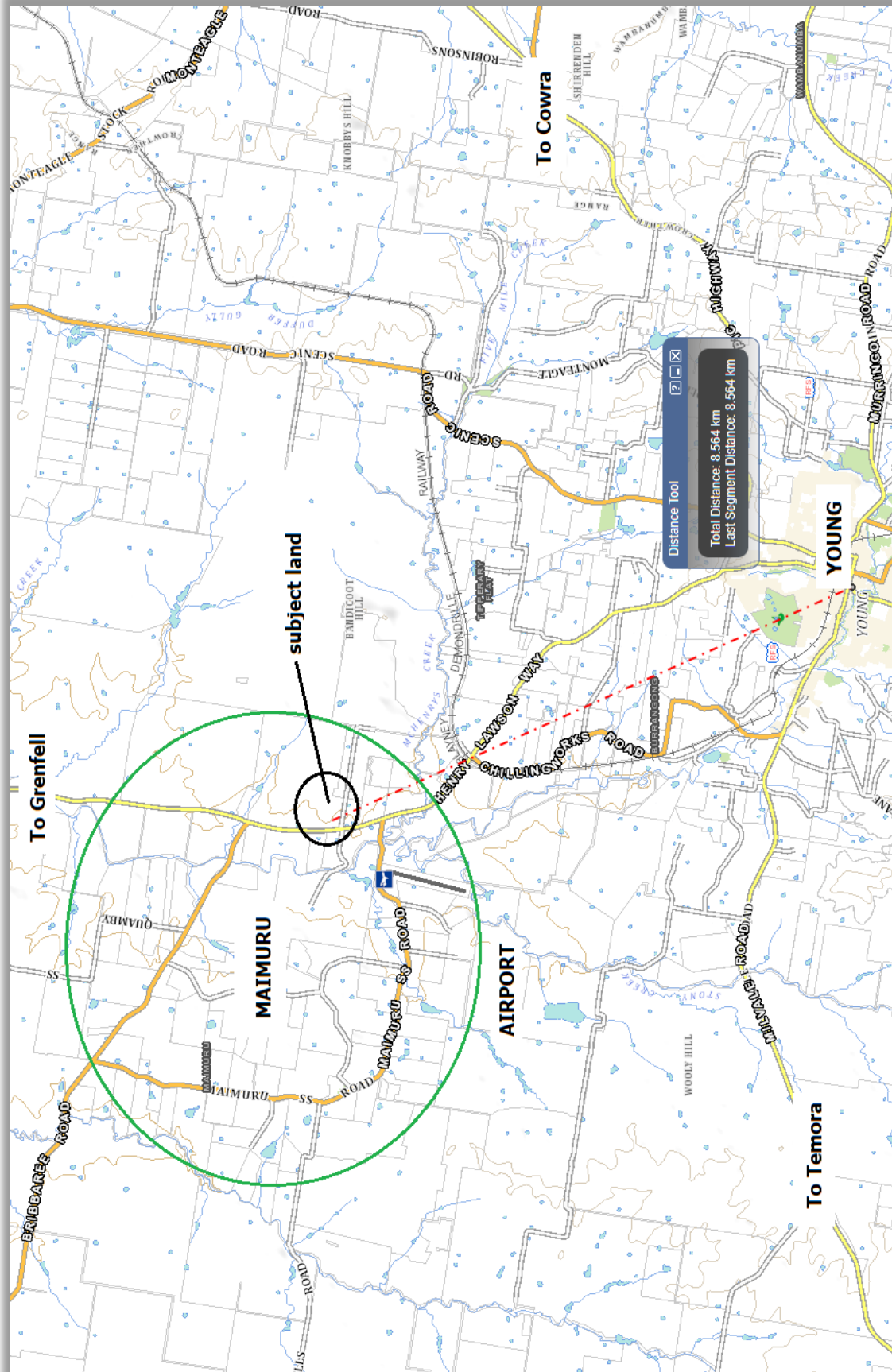




Neighbourhood Aerial (NSW SIX)
Hay crop in a better year circa 2012



Part Parcel Aerial NSW SIX (with setbacks to rocks etc)



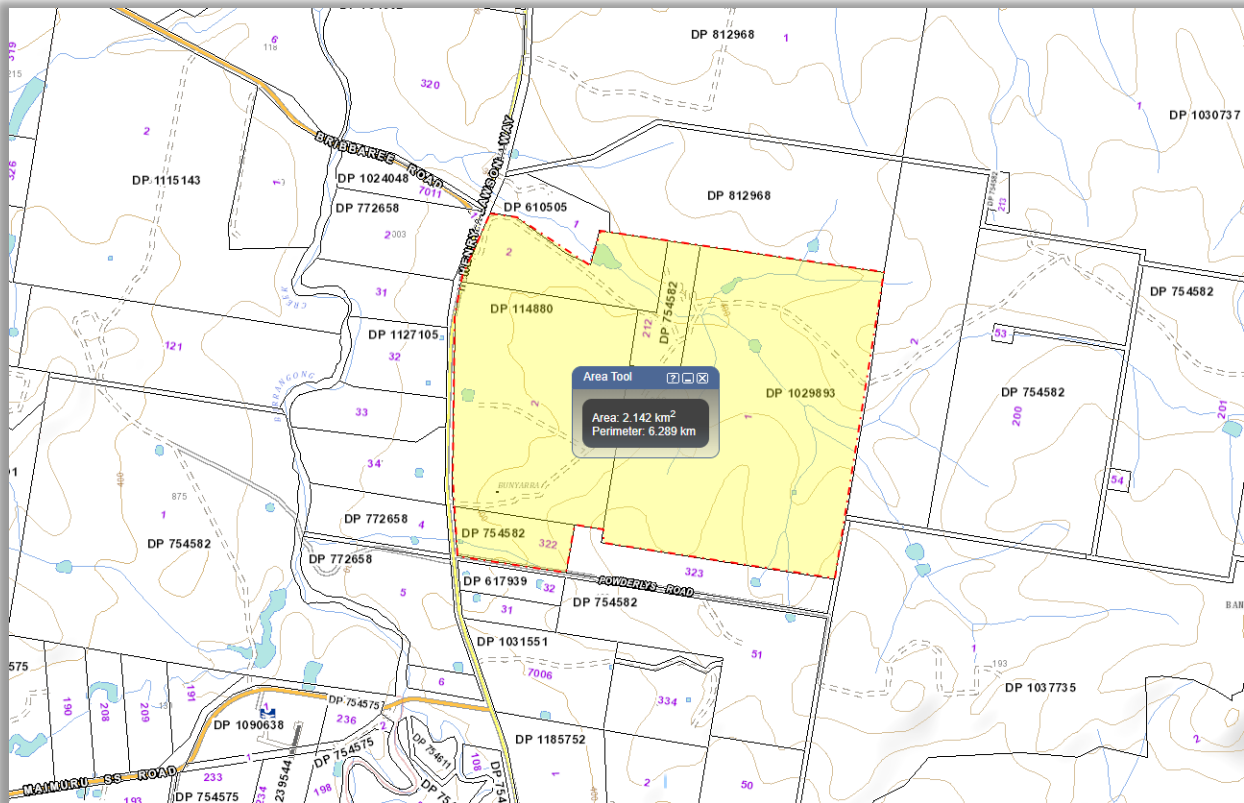
Locality Map

B. SITE & LOCALITY DESCRIPTION:

The following details have been shown on the site plan,

☒ site dimensions ☒ site area ☒ north point ☒ scale
☒ existing buildings ☒ proposed buildings ☒ easements ☒ BASIX

Issue	Details
Present use of the site	The current use of the land is very rare farming (hay crop in a better year – occasional grazing). The land (Lot 322) was subdivided in 1913 and from that time has been in ownership not always consistent with neighbouring lands but of Late with adjacent Lot 2 DP 114880 (lot to North) and others, worked agriculturally between the 5 allotments that form the parcel being a modest 214 hectares between the parcel.



Owner's Holding – 214.2 hectares

Past use/s of the site	The former use of the land was as it is - farming (very occasional grazing and livestock agistment) on this land. No known orcharding occurred in this locality. The land containing higher or ridge like lands , steep country and low drainage lines is not ideal for cropping.
Describe any existing dwellings or built structures on the land	No structures exist on this lot presently.

Describe the key physical features of the site (e.g. shape, slope, significant trees or vegetation, dams, waterways, drainage lines, etc)

The site is located approximately 8.5km NNW from the Young Post Office. It is at the corner of Henry Lawson Way and Powderly's Lane, just past the Maimuru SS Rd Turn off via Jack Masling Drive to the Airport.

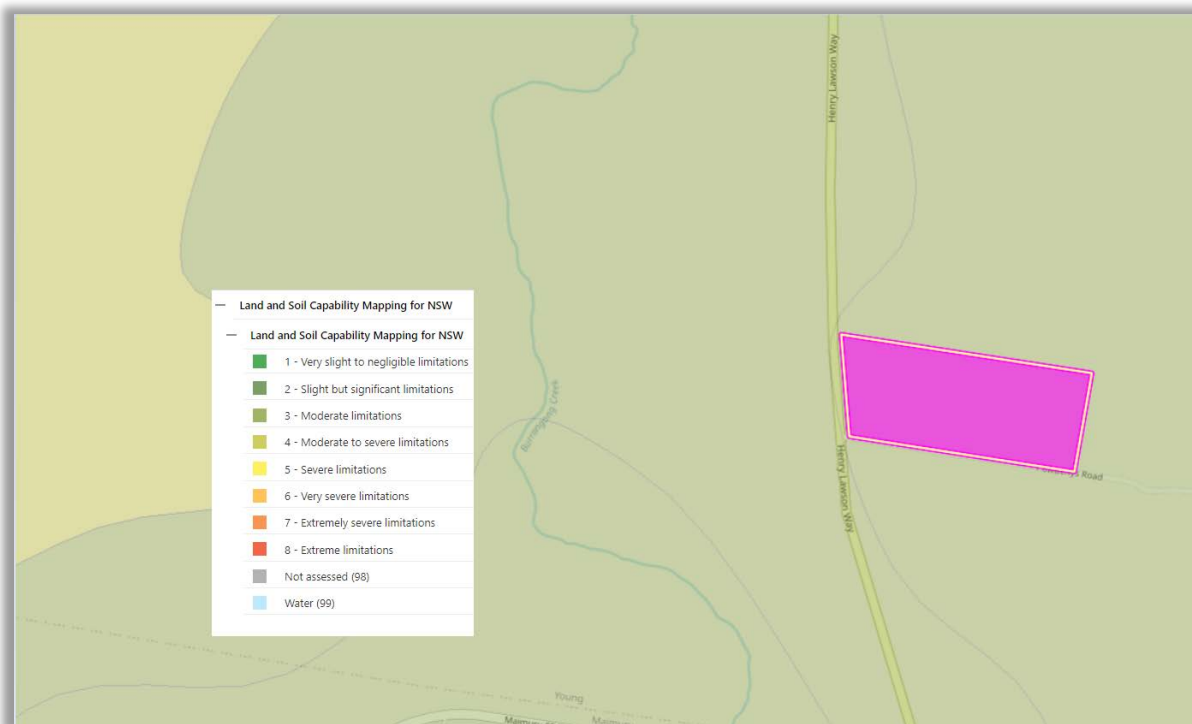
As described the site has a steep grade from northeast down from rocky outcrops, through a drainage line to low country in the southwest adjacent the corner of Powderly's Ln with the classified road.. The land has power adjacent, roads on 2 sides and is fenced and secured. Reticulated water & sewage are not available to this locality.

The proposed dwelling is to be located on a mildly sloped area where the land saddles between rock outcrops adjacent the NE corner of the site. The rock outcrop is extensive across the adjacent two – three lots in this corner.

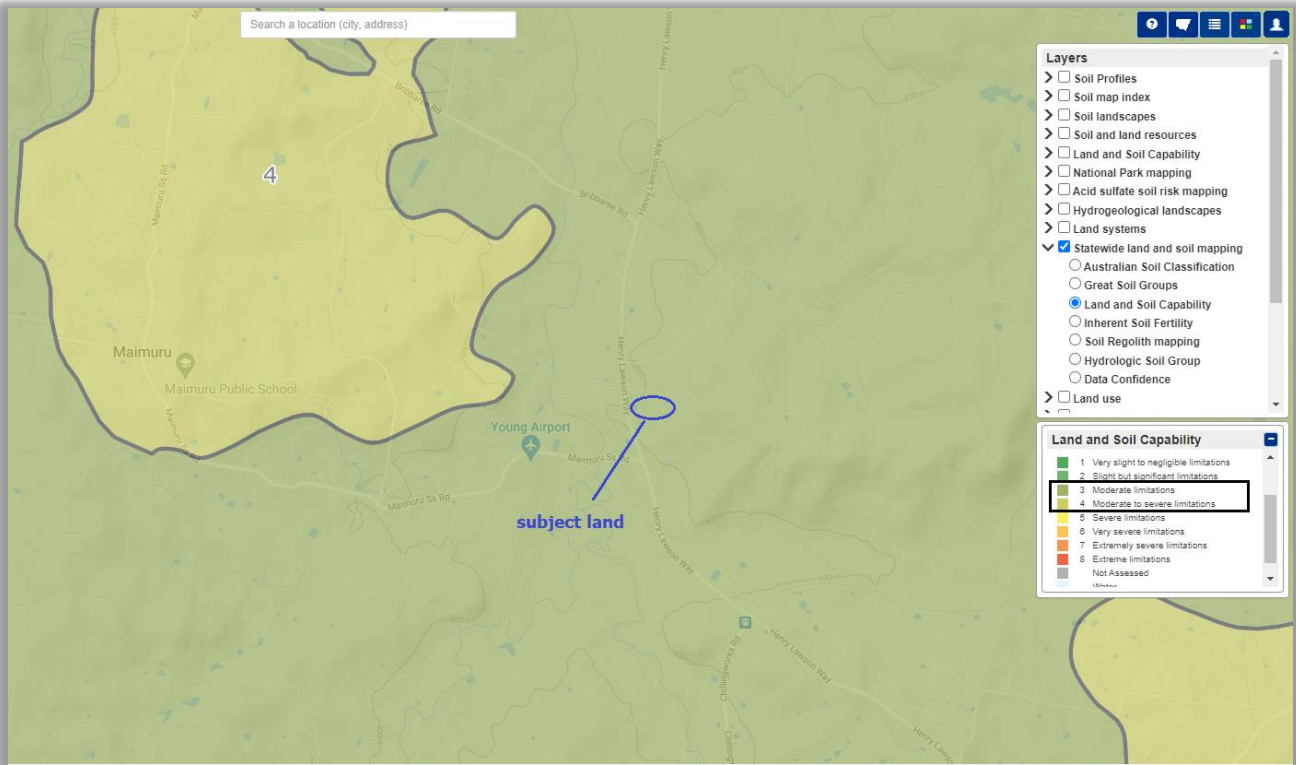
The land is pasture grassed and suitable only for grazing (hay crop in occasional good year but with less than \$10k of hay bales yielded) as slope, soil type, rock outcrops, lower poorly drained areas and the rear higher ridge like aspect permitting only occasional cropping, but mostly pasture improvement for grazing.

The land based SEED agricultural soils mapping was searched and the broader locality was found to have Type 3 - 4 soils, confirming to a degree but conservatively in the case of this very lot. what is visually evident that moderate to severe farming complications exist.

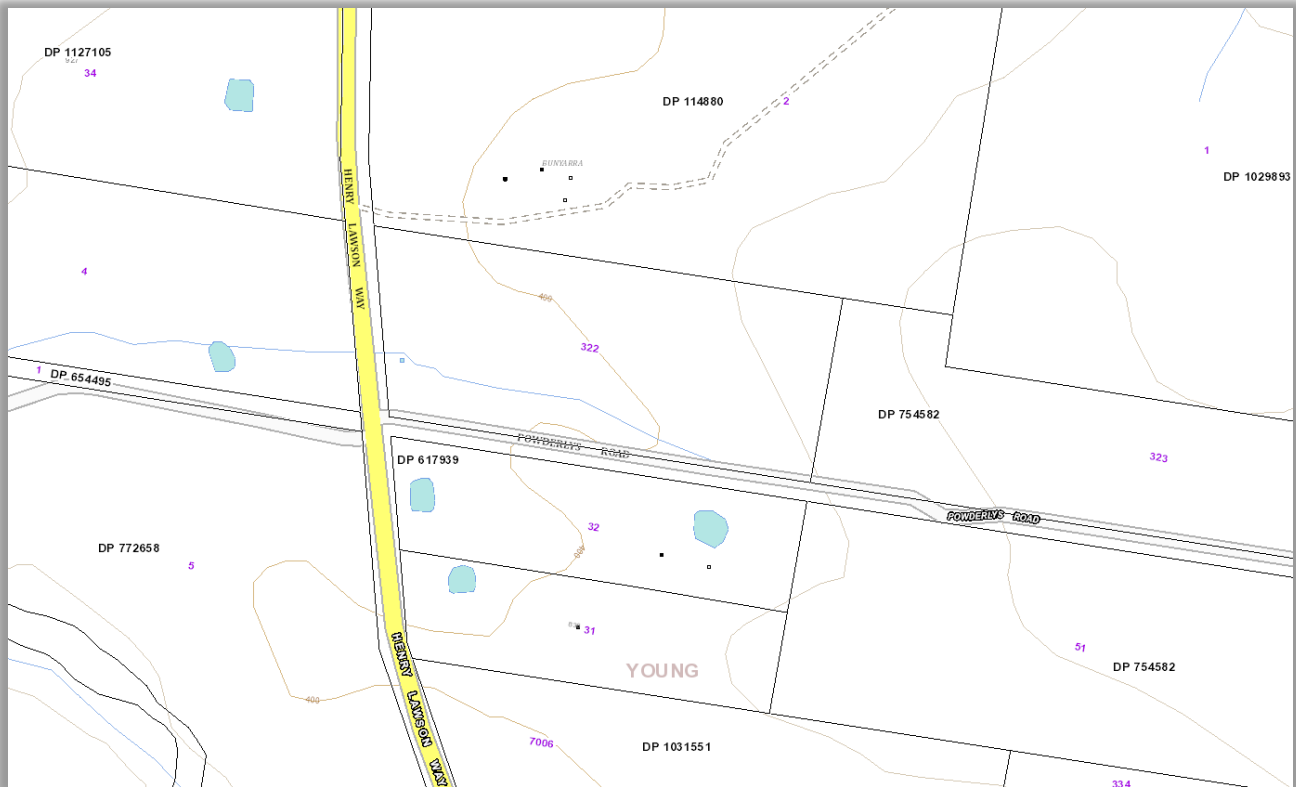
Ag Class Soils Map



Espade v2.2 Ag & Soil Mapping



Aerial Image of Allotment – courtesy Google circa 2023
Note drainage lines and rock outcrops



**Topo mapping – SIX NSW
Contours at 20m**

Is the land classified as bushfire prone?

No – This has been reviewed at the RFS web page utilising the search tool.

Locality characteristics

Describe the type and nature of adjacent land uses,

▪

Whilst the predominant land use in the area is rural (quite a number of smaller holdings also with residences), there is a surprisingly high number of dwelling houses in close proximity to the subject site, all pursuing rural activities of varying scales (rural feel through to cropping, grazing, horses, horticulture etc) with > 20 dwellings within 750m to 1km of this larger styled allotment.

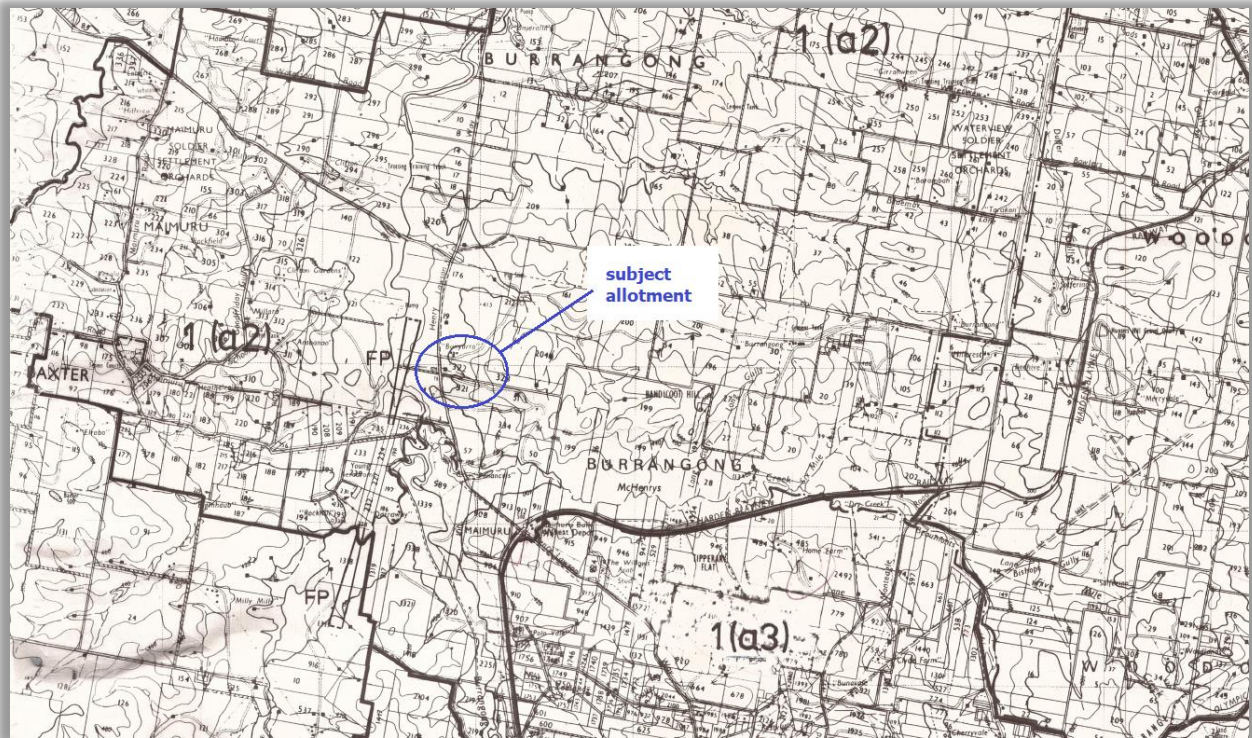
The Town zoned land of Young is only some 5 – 6km away, however the lot is within the former Soldiers Settlement area of Maimuru, in and around the Airport and featured horticultural lands.

A settlement pattern aerial image is now included below with features labelled.

These are replicated in a an appendix which includes wider analysis of all, part and then statistical breakdowns of these features.



Settlement Pattern MAIMURU
Wider Aerial Study Map in appendices



1993 RURAL LANDS LEP – ZONE 1(A2) FOR MAIMURU

16 Dwelling-houses—Zones Nos 1 (a1), 1 (a2), 1 (a3), 1 (c1), 1 (c2) and 7 (e)

- (1) This clause applies to land within Zone No 1 (a1), 1 (a2), 1 (a3), 1 (c1), 1 (c2) or 7 (e).
- (2) The Council must not grant consent to the erection of a dwelling-house on land to which this clause applies unless:
 - (a) in the case of land within Zone No 1 (a1)—the land has an area of not less than 40 hectares, or
 - (b) in the case of land within Zone No 1 (a2)—the land has an area of not less than 10 hectares, or
 - (c) in the case of land within Zone No 1 (a3)—the land has an area of not less than 4 hectares, or
 - (d) in the case of land within Zone No 1 (c1)—the land has an area of not less than 2 hectares, or
 - (e) in the case of land within Zone No 1 (c2)—the land has an area of not less than 0.6 hectare, or
 - (f) in the case of land within Zone No 7 (e)—the land has an area of not less than 40 hectares.
- (3) Despite subclause (2), the Council may grant consent to the erection of a dwelling-house on:
 - (a) an allotment created by a subdivision in accordance with clause 14, or
 - (b) an allotment created by a subdivision in accordance with clause 13 if the Council is satisfied that the use of the dwelling-house will be ancillary and subsidiary to the use of the allotment for the purpose for which it was created, or
 - (c) an existing holding on which no dwelling-house is currently situated.

Extract 1993 RURAL LANDS LEP – ZONE 1(A2) = 10ha NOT 24ha as is now

LEP MATTERS FOR CONSIDERATION

Clause	Complies	Comments
1.2 Aims of plan	Yes	<p>The development is consistent with the following aims of the LEP:</p> <p>(b) to provide for the lifestyles sought by current and future residents of Hilltops, including by providing for the following—</p> <ul style="list-style-type: none"> (i) the rural lifestyle and liveability of Hilltops communities, (ii) connected, safe and accessible communities, (iii) diverse and affordable housing options, (iv) timely and efficient provision of infrastructure, (v) sustainable building design and energy efficiency, <p>(c) to build and sustain healthy, diverse and empowered communities that actively participate in planning and managing their future, including by providing for the following—</p> <ul style="list-style-type: none"> (i) social infrastructure that is appropriately planned and located in response to demand and demographic change, (ii) the protection and enhancement of cultural heritage values, (iii) land management practices that support sustainable outcomes, including water efficiency, (iv) the siting and arrangement of land uses for development in response to climate change, (v) the planning of development to manage emissions, (vi) planning decisions that recognise the basic needs and expectations of diverse community members, <p>(e) to recognise and sustain the diverse natural environment and natural resources that support the liveability and economic productivity of Hilltops, including by providing for the following—</p> <ul style="list-style-type: none"> (i) the avoidance of further development in areas with a high exposure to natural hazards, (ii) the minimisation of alterations to natural systems, including natural flow regimes and floodplain connectivity, through effective management of riparian environments, (iii) the retention and protection of remnant vegetation, (iv) the revegetation of endemic vegetation to sustain natural resource values, reduce the impact of invasive weeds and increase biodiversity, (v) buffers and setbacks to minimise the impact of conflicting land uses and environmental values, including potential impacts on noise, water, biosecurity and air quality, (vi) the management of water on a sustainable and total water cycle basis to provide sufficient quantity and quality of water for consumption, while protecting biodiversity and the health of ecosystems <p>The remainder of the aims are not relevant to this proposal, or are not impacted by the proposal.</p>
1.4 Definitions	N/A	<p>The proposed development is defined as a <i>dwelling house</i> which means, <i>a building containing only one dwelling</i>.</p>
1.9A Suspension of covenants, etc	Yes	<p>No restrictions as to user / covenants apply to the site.</p>

Clause	Complies	Comments
2.2 Zoning	N/A	The site is zoned RU1 – Primary Production
2.3 Zone objectives and land use table	Yes	<p>The development is permitted with consent, in accordance with the land use table, and it is consistent with the objectives of the zone as stated below;</p> <ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. Consistent - Ability to pasture improve and agist stock remains – 9 ha To encourage diversity in primary industry enterprises and systems appropriate for the area. Not Inconsistent – ability remains regardless To minimise the fragmentation and alienation of resource lands. Land is already fragmented, in separate titles and uniquely bound on 2 sides by roads To minimise conflict between land uses within this zone and land uses within adjoining zones. Consistent – land surrounding is in RU1 zone and this proposal will not impact due to topography, soil, slope, rocks, roads, landform To encourage competitive rural production and associated economic development by maintaining and enhancing— Not inconsistent <ul style="list-style-type: none"> (a) local and regional transport and communications connectivity, and (b) accessibility to national and global supply chains. To maintain areas of high conservation value vegetation. Consistent – no impact To encourage development that is in accordance with sound management and land capability practices, and that takes into account the natural resources of the locality. Consistent – location and siting allows maximum ag use of land as possible To protect and enhance the water quality of receiving watercourses and groundwater systems and to reduce land degradation. Consistent – no impact To encourage the development of non-agricultural land uses that are compatible with the character of the zone and sustain high quality rural amenity. Consistent – intent of this application
2.7 Demolition	N/A	No demolition proposed.
2.8 Temporary use of land	N/A	The application is not for the temporary use of land.
4.1 Min Subdiv Lot Size	Complies	Per mapping below, minimum lot size in zone is 24ha and a 4.6 variation is being requested to vary this in this case.
4.1A Dual Occupancy Lot sizes	Complies	n/a
4.2A Dwellings in RU1, RU4 & C3	Lot sizes	Proposed dwelling on 9.0295ha vs 24ha standard – sec 4.6 justification included in this report
4.6 Exceptions to development standards	N/A	Development permissible so no variation sought
5.10 Heritage Conservation	N/A	The allotment, its buildings, nor Adjacent land nor buildings in locality listed as Heritage nor in a HCA
5.16 Subdivision of, or dwellings on, land in certain rural, residential or	N/A	Proposed dwelling on 9.0295ha vs 24ha standard – sec 4.6 justification included in this report

Clause	Complies	Comments
environment protection zones		
6.1 Earthworks	OK	No gross earthworks – minor levelling in and around a saddle between rock outcrops is the proposal.
6.2 Essential Services	Complies	Development consent must not be granted to development unless the consent authority is satisfied the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— (a) the supply of water, <i>Water per BASIX.</i> (b) the supply of electricity, <i>available at west and south of site</i> (c) the disposal and management of sewage, <i>OSM on higher ground</i> (d) stormwater drainage or on-site conservation, <i>disposal on site and away from effluent area as overflow after BASIX tank</i> (e) suitable road access <i>exists – Powderly's Ln access</i>
6.3 Terrestrial Biodiversity	N/A	Not mapped as affected this lot
6.4 Water - Riparian	N/A	Not mapped as affected this lot
6.5 Water – Groundwater Vulnerability	N/A	Not mapped as affected this lot
6.6 Salinity	N/A	Not mapped as affected
6.7 Highly Erodible Soils	N/A	Not mapped as affected
6.8 Drinking Water Catchments	N/A	N/A
6.9 Development along Lachlan & Boorowa Rivers & Lake Wyangla	N/A	N/A
6.10 Development on Carinya Estate	N/A	N/A
6.11 DCP for Urban Release Areas	N/A	N/A

Young Development Control Plan –

<u>Performance outcome</u>	<u>Control</u>	<u>Complies</u>	<u>Comment</u>
PR1 Dwelling sites are identified and are provided with safe connection to the public road network	AR1 Access complies with the provisions of this DCP relating to access to rural properties and RTA requirements.	<input type="checkbox"/> Yes	Ability for access from Powderly's Lane.
PR2(A) Visual and amenity impacts (including glare) on neighbours and the rural landscape are minimised	AR2.1 Minimum setback to road / street boundary (30 metres – RU1 and E3 zone - 20 metres – RU4 zone)	<input type="checkbox"/> Yes	Exceeded as 152m to Powderly's Lane & 440m proposed to Henry Lawson Way – see site plan
	AR2.2 Minimum setback to side or rear boundary ▪ 20 metres – RU1 and E3 zone ▪ 10 metres – RU4 zone	<input type="checkbox"/> Yes	See setbacks outlined earlier – 10m to Northern (yet 104m to edge rock outcrop in neighbouring grazing paddock) – Variation requested yet reasoning is unviable land buffer (rock outcrops) adjacent on Owners own paddock 35m to eastern side and technically complies yet 170m to other side of rock outcrop on neighbours and grazing paddock – setback reasoning per above.
	AR2.3 Minimum setback from ridge – 50 metres	<input type="checkbox"/> Yes	The nearest ridge line is all the way up the top of Powderlys Lan. This lot barely half way up at building site - complies
	AR2.5 Construction materials should minimise glare to roads or nearby dwellings	<input type="checkbox"/> Yes	The dwelling is of mid hue tones being mixed tan bricks and a mid grey roof.
	AR2.6 Dwellings have a residential appearance from the street or road.	<input type="checkbox"/> Yes	The proposed will not be directly visible from a road network whilst driving yet will be noticeable despite being 440m plus from that road boundary. The dwelling aspect is to west and out over the land to the lower SW corner with Henry Lawson Way..
PR2(B) Development does not adversely affect the environment or agricultural pursuits on the subject or neighbouring land	AR2.4 Minimum setback from following land uses: ▪ 200 metres (cropping land, greenhouses) ▪ 150 metres (orchard or vineyard on neighbouring property, sheep and cattle yards) ▪ 75 metres (orchard or vineyard on subject property) ▪ 50 metres (grazing land)	Yes	See setbacks outlined earlier – 10m to Northern (yet 104m to edge rock outcrop in neighbouring grazing paddock) – Variation requested yet reasoning is unviable land buffer (rock outcrops) adjacent on Owners own paddock 35m to eastern side and technically complies yet 170m to other side of rock outcrop on neighbours and grazing paddock – setback reasoning per above.

PR3 Adequate area exists for on-site waste disposal	AR3 The collection and disposal system is designed in accordance with Council Policy 31 (Wastewater Management in Unsewered Areas)	<input type="checkbox"/> Yes	The site at over 9 ha and easily complies with the NSW Guidelines and effluent management can be easily designed on site. The effluent disposal area will need to be on land away from the dwelling per the Council OSM Policy, below the rock outcrop in an area of friable soil. This can easily be achieved even if required to be an AWTS system to above or below ground disposal.
PR4 Dwellings are supplied with potable water and water for fire-fighting	AR4.2 Total water storage on-site shall be the <u>greater</u> of the following: <ul style="list-style-type: none"> ▪ BASIX requirement + 20,000 L, or ▪ 1 bedroom home - 34,000 L 2 bedroom home - 43,000 L 3 bedroom home - 52,000 L 4 bedroom home - 61,000 L 5 bedroom home - 70,000 L 	<input type="checkbox"/> Yes	See BASIX report and Site Plan– Applicant proposes a total 100,000 L Water Tank which caters for policy of ,min 70kL with 20kL fire fighting reserve.
PR5 Land is safe and suitable for a dwelling	AR5 Is the site a former orchard?	<input type="checkbox"/> No	No research can verify the past use of this site as orchard. Complies
PR6 Residential development is designed to reflect vehicle and occupant safety principles	AR6 Dwelling design must comply with one of the deemed to satisfy provisions on section 2.1.5 of the DCP, in order to restrict access to parking areas which are attached or adjacent to dwellings	<input type="checkbox"/> Yes	Detached from vehicle parking area so N/A

D. ASSESSMENT OF THE LIKELY IMPACTS OF THE DEVELOPMENT

Construction – How will construction noise, rubbish removal and sedimentation and erosion controls be managed during construction?

Comments

As the site is well pasture grassed and the impacted area will be at the top of the site and slope, there is a greatly reduced risk of sedimentation and erosion. Notwithstanding this, and due to the minimal depth of cut proposed, sedimentation and erosion measures may need to be put in place to control the exposed area whilst revegetating the land. There is little or no impact risk to watercourses as some 100m-200m of travel would need to occur to the nearest road or site drainage line. Sedimentation and erosion fencing can be employed during building phase.

No construction will occur outside of daylight hours nor on a Sunday or Public Holiday. Setbacks from other dwellings will also assist noise management. All construction rubbish will be contained within a wire fenced area and be removed regularly to the Young Waste Management Station.

Context and setting – Will the development be ...

- visually prominent in the area? ☐ No – the land forms an amphitheatre to the side of Maimuru yet at a distance that the prominence is not high as the development will sit into the hill, not atop it. The dwelling when completed and complemented with plantings will be no different to those surrounding the site, softened into the slope by the tree line on perimeter boundaries and the well grassed site.
- out of character with the area? ☐ No – as described earlier, and in depth below, this is within an area of land not far from the Maimuru Settlement area that has a large cluster of smaller holdings and once recognised for its history in another prior LEP. A large number of dwellings on smaller lots/holdings exist and this proposal would not be inconsistent in this locality.
- inconsistent with the streetscape? ☐ No – not directly visible from adjacent public roads due to placement adjacent shed
- inconsistent with adjacent land uses? ☐ No – see above comment

Privacy - Will the development result in any ...

- privacy issues between adjoining properties, as a result of the placement of windows, decks,
 - ☐ No as a result of the buildings placement, vegetation to curtilage of land (existing neighbours and the proposed development) and also placement of existing shed, along with an upslope behind the proposed dwelling. This coupled with > 300m setback to nearest dwelling
- acoustic issues between adjoining properties as a result of the placement of outdoor areas,
 - ☐ No for the same reasons in previous answer

Overshadowing

- Will the development result in the overshadowing of adjoining properties, resulting in an adverse impact?
 - ☐ No there will be no adverse impact on solar access for neighbours.

Views

- Will the development result in the loss of views enjoyed from neighbouring properties or nearby properties?
 - ☐ No views will not be lost as a result of this development

HILLTOPS LEP 2022

Clause 4.6 Variation Response

Claiming an exemption under Clause 4.2A

Appendix 1 Report (Guidelines on “LEP sec 4.6 Variations” NSW DoPE)		
Claiming a section 4.6 variation		
Proposal		To erect and use a 5 bedroom, rural dwelling on the subject land. Land zoned RU1 – MLS = 24 ha Variance to Clause 4.2A(3)(a)
Address		Lot 322 DP 754582,
		902 Henry Lawson Way (Cnr Powderly’s Lane), Maimuru
Applicant/Owner		Mr John McLachlan
		0478 934 840
Appn Prepared By		Craig Filmer – DA Busters Pty Ltd - 0466 722 869
LGA		Hilltops Council – former Young Shire Council sector
LEP Instrument		HILLTPS Local Environmental Plan 2022
Date		© NOV 2023



Application Form to vary a development standard

Written application providing grounds for variation to development standards

To be submitted together with the development application (refer to EP&A Regulation 2000 Schedule 1 Forms).

1. What is the name of the environmental planning instrument that applies to the land?

Hilltops Local Environmental Plan 2022

2. What is the zoning of the land?

The land is zoned RU1 – Primary Production

3. What are the objectives of the zone?

The objectives of the zone as set out in the LEP are;

RU1 ZONE - HILLTOPS LEP 2023	
ZONE OBJECTIVE	COMMENTARY
<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. 	<i>Consistent - Ability to pasture improve and agist stock remains and/or a hay crop in better years</i>
<ul style="list-style-type: none"> To encourage diversity in primary industry enterprises and systems appropriate for the area. 	<i>Not Inconsistent – ability remains regardless</i>
<ul style="list-style-type: none"> To minimise the fragmentation and alienation of resource lands. 	<i>Land is already fragmented, in separate titles and uniquely bound on 2 sides by roads and applicants own land on another</i>
<ul style="list-style-type: none"> To minimise conflict between land uses within this zone and land uses within adjoining zones. 	<i>Consistent – land surrounding is in RU1 zone and this proposal will not impact due to topography, roads, landform (rock outcrop buffers)</i>
<ul style="list-style-type: none"> To encourage competitive rural production and associated economic development by maintaining and enhancing— 	
<ul style="list-style-type: none"> (a) local and regional transport and communications connectivity, and 	<i>Location accessible to Young on wider Town fringe – airport adjacent</i>
<ul style="list-style-type: none"> (b) accessibility to national and global supply chains. 	<i>not applicable yet sited on a classified road yet accessed off a local road</i>
<ul style="list-style-type: none"> To maintain areas of high conservation value vegetation. 	<i>Consistent as no unique features on site – site is plagued by slope, drainage and rock issues</i>
<ul style="list-style-type: none"> To encourage development that is in accordance with sound management and land capability practices, and that takes into account the natural resources of the locality. 	<i>Consistent – location (top rear corner) and siting allows maximum ag use of land, whilst retaining reasonable dwelling curtilage</i>
<ul style="list-style-type: none"> To protect and enhance the water quality of receiving watercourses and groundwater systems and to reduce land degradation. 	<i>Consistent – minimal impact - single dwelling OSM</i>
<ul style="list-style-type: none"> To encourage the development of non-agricultural land uses that are compatible with the character of the zone and sustain high quality rural amenity. 	<i>Consistent – location and siting allows maximum ag use of land, whilst retaining reasonable dwelling curtilage</i>

4. What is the development standard being varied? e.g. FSR, height, lot size

Minimum lot size

Clause 4.2A (3)(a) of the LEP reads as follows:

4.2A Erection of dwelling houses and dual occupancies on land in Zone RU1, RU4 or C3	
(1)	<i>The objectives of this clause are as follows—</i> <ul style="list-style-type: none">(a) <i>to minimise unplanned rural residential development,</i>(b) <i>to enable the replacement of lawfully erected dwelling houses and dual occupancies in certain rural and conservation zones.</i>
(2)	<i>This clause applies to land in the following zones—</i> <ul style="list-style-type: none">(a) <i>Zone RU1 Primary Production,</i>(b) <i>Zone RU4 Primary Production Small Lots,</i>(c) <i>Zone C3 Environmental Management.</i>
(3)	<i>Development consent must not be granted for the erection of a dwelling house or dual occupancy on land in a zone to which this clause applies, and on which no dwelling house has been erected, unless the land—</i> <ul style="list-style-type: none">(a) <i>is a lot that is at least the minimum size shown on the Lot Size Map, or</i>(b) <i>is a lot—</i><ul style="list-style-type: none">(i) <i>created before the day on which this Plan commenced, and</i>(ii) <i>on which the erection of a dwelling house or dual occupancy was permissible immediately before that day, or</i>(c) <i>Is a lot—</i><ul style="list-style-type: none">(i) <i>resulting from a subdivision for which development consent was granted before the day on which this Plan commenced, and</i>(ii) <i>on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that day, or</i>(d) <i>would have been a lot referred to in paragraph (a), (b) or (c) had it not been affected by—</i><ul style="list-style-type: none">(i) <i>a minor realignment of boundaries that did not create an additional lot, or</i>(ii) <i>a subdivision creating or widening a public road or public reserve, or</i>(iii) <i>a consolidation with an adjoining public road or public reserve.</i>
(4)	<i>Development consent may be granted for the erection of a dwelling house on land to which this clause applies if—</i> <ul style="list-style-type: none">(a) <i>there is a lawfully erected dwelling house on the land, and</i>(b) <i>the dwelling house to be erected is intended only to replace the existing dwelling house.</i>

In essence, the land is required to be a minimum of 24 ha in order to gain the ability for a dwelling to be erected. The land in question is 9.0295 ha by area from the Crown Plans (22 acres 1 rood 10 perches) total, converted to metric).

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.2A(3)(a) as reproduced above

6. What are the objectives of the development standard?

(a)	to minimise unplanned rural residential development,
(b)	to enable the replacement of lawfully erected dwelling houses and dual occupancies in certain rural and conservation zones.

These provisions are addressed more specifically below

7. What is the numeric value of the development standard in the environmental planning instrument?

24 ha

8. What is proposed numeric value of the development standard in your development application?
- 9.0295 ha (from 1913 Crown Plan at 22 acres 1 rood 10 perches)
9. What is the percentage variation (between your proposal and the environmental planning instrument)?
- The holding is approximately 37.623% of the required holding size. This represents an 62.377% variation.
10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?
- The settlement pattern adjacent would see 1 last dwelling (being a rural type dwelling and associated rural/ag land use still available to the lot) to the existing allotment, for the purpose, and not be out of keeping with this area or the wider area within an arc of 2 - 3km radius of the site north to southwest in the landform bowl area known as Maimuru.
 - The need for a house arises out of security for the premises due to the average adjacent settlement pattern and also to improve the long term prospects of continuing smaller scale agricultural use of this land. The allotment is not a productive lot due to slope, site drainage, rock outcrops and the like. It is far more pragmatic to have an occupied allotment with some rural use rather than rae agricultural use at all.
 - The minimum lot size on the LEP LSZ mapping is founded on preventing further subdivision (or fragmentation) of viable holdings, and makes no account for smaller holdings within an established settlement pattern or unique properties unable to be broad acre farmed. No change in agronomy, geology or geography in this vicinity has occurred to mean that a variance like this, would be inconsistent;
 - The allotment was a former lot with potential under the 1993 LEP and prior where the minimum Lot size was 10ha or not even a consideration prior to 1993. This lot was within 10% of that lot size and is the provision that allowed quite a large deal of the subdivisions within this wider area.
 - The present allotment is consistent with the surrounding similar zoned (and sized) lands in a pocket of properties in this locality between Jack Masling Dve (Maimuru SS Rd) and Bribbaree-Thuddungra Rd which has been tagged as Locality A in some of the attached mapping and statistical analyses. The amenity of this area has already been defined by the development pattern and this application would seek to compliment this background setting and dwelling density in this area.
 - The land is Ag Class 3 Lands from the SEED mapping, YET is heavily impacted by slope and upper ridge soil and drainage issues whereby this classification states moderate to severe limitations on farming. This use would potentially be the highest pragmatic use (occupied medium scale agistment and pasture improvement agriculture) as neighbouring farmers and landholders recently offered this land were not interested.
11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Minimise unplanned rural residential development

It is proffered that from the land's creation through to Young Rural LEP 1993, this land had very real prospects of being occupied as no controls restricted this. Indeed, post War, Maimuru was offered as Soldiers Settlement and was a known locality of 20 to 40 acres settlement lots (8 – 16 ha) where dwellings and living off a smaller patch were actively encouraged. At Young Rural Lands LEP 1993 the land inherited a grandfather ability to have a dwelling as an existing holding. Lot 322 was not in common ownership with neighbouring lands at that time it is understood. This right continued through to 2013 until the Young LEP 2010 supported the State wide control to phase out existing holdings. For the majority of the allotments existence, it has had the right to have a dwelling yet for the last 10 years it has not, and without radical change to Policy or the development of the area, just the stroke of a pen.

The allotment sits isolated from immediate neighbours and at the dwelling proposed site will be 300m from the northern neighbour (the Owner himself), and 280m and 380m from the two adjoining 5.0ha allotments to the south **across Powderly's Lane. These lots** all have a westerly aspect so the impact of this proposal is minimal.

No other lands in the immediate vicinity have a smaller size like this allotment. This allotment gaining a dwelling right, will in no way set a precedent for adjacent other lands, nor stimulate other unplanned subdivision or dwelling intrusion into this locality. This is an isolated one-off poor piece of land that is better served to be occupied rural than abandoned rural land.

The "study area" (aka Maimuru) as identified in this report would make very likely a positive RU4 zone sector and/or with a 4-10ha lot sizes being reasonable, as it was under the 1993 EPI when the majority of settlement in this area occurred. On the majority of the land in this geographic pocket, it is how it has developed and been populated by housing in conjunction with smaller lot agriculture, since settlement has occurred in this area. The land is on poorer soils on a sloped, poorly drained, shallow soiled and rock affected land area, yet the better soils and the larger farming occurs over the hill (East toward Monteagle) to the northeast and east. This land and its adjacent lands **within the western microcatchment from the top of Powderly's Lane**, do not put undue burden on the food bowl lands in the adjacent catchment.

Enable replacement of lawfully erected dwellings.

No known original dwelling on site

12. Is the development standard a performance based control? Give details.

In its strictest sense no, as it is an allotment size more for the wider fringe graduating into the broader RU1 zone among larger holdings in the greater locale further afield. This immediate area was a mix of 5 to 20 ha blocks since before planning instruments in this Shire, forming a patchwork quilt style allotment pattern on the subcatchment that is Maimuru.

The reasoning behind the development standard is explained above, but it is reiterated that whilst it controls broad acre farms, it makes no allowance for smaller or unique properties where amenity and right to farm characteristics of neighbouring lands, are preserved or not affected.

The anomaly of the Draft Hilltops LEP is reiterated that greater attention to detail on RU4 & RU1 lands around existing settled areas, has not had the attention it requires. Existing former Parish lot sizes, development patterns that have occurred due to existing holdings and smaller lots, poorer soils and microcatchments aligned to peri-urban (including settlement localities like Maimuru) rather than rural objectives, in this case defeat the stated objective at 4.2A and even the RU1 zone goals.

Hilltops Council has resolved to address these lands from its studies yet has not undertaken to do so since gazetting of this LEP.

Additional matters to address

As outlined in "Varying Development Standards: A Guide" there are other additional matters that applicants should address when applying to vary a development standard.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

This would continue to leave an unmanned, **poor quality agricultural land's block** and under used paddock/s adjacent other occupied rural lands, without any reasonable care or practical use except occasional grazing, but from off-site control. Proliferation of weeds, higher costs in chemical control of weeds, less likelihood to farm on a serious basis, less protection of natural assets and landform features

of this land are all problems starting to be experienced now. As stated, an occupied rural allotment is a managed and cared for piece of land.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

This is a property that has lost potential rights due to a clause change intended to rectify another matter. This result is unforeseen fallout. This application seeks for this land to have the same rights and entitlements as those in the wider adjacent proximity.

No noticeable difference to adjacent land uses would be obvious by allowing a variation to this land. No impact on neighbouring dwellings or land uses is foreshadowed due to the uniqueness of the circumstances. No impact on serious broad acre farming over the hill and street adjacent would occur from allowing this proposal. Allowing this entitlement and dwelling would actually be consistent with existing development in this locality.

In summary and against the actual test of the objectives of clause 6.1, the following summary is offered;

- (1) The objectives of this clause are as follows—

- (a) to minimise unplanned rural residential development,

Preceding Hilltops LEP 2010, this development would have been potentially permissible due to the land being within 10% of the minimum lot size (and potentially as an existing holding). Therefore it could not be unplanned if for 107 years (17 years under a planning instrument) it was permissible by then planning instruments or lack thereof, before. The land is identical to those occupied and small scale farmed, adjoining & adjacent to the immediate south and alongside Henry Lawson Way to the immediate NW.

- (b) to enable the replacement of lawfully erected dwelling houses in rural and environmental protection zones.

Not applicable – not identified on Parish Crown Plans that a dwelling originally existed.

OWNERS OWN REASONING

In discussing the matter with the owner who has far more experience at farming than the author, he came up with the following reasoning as to why this land is not a productive part of his farm;

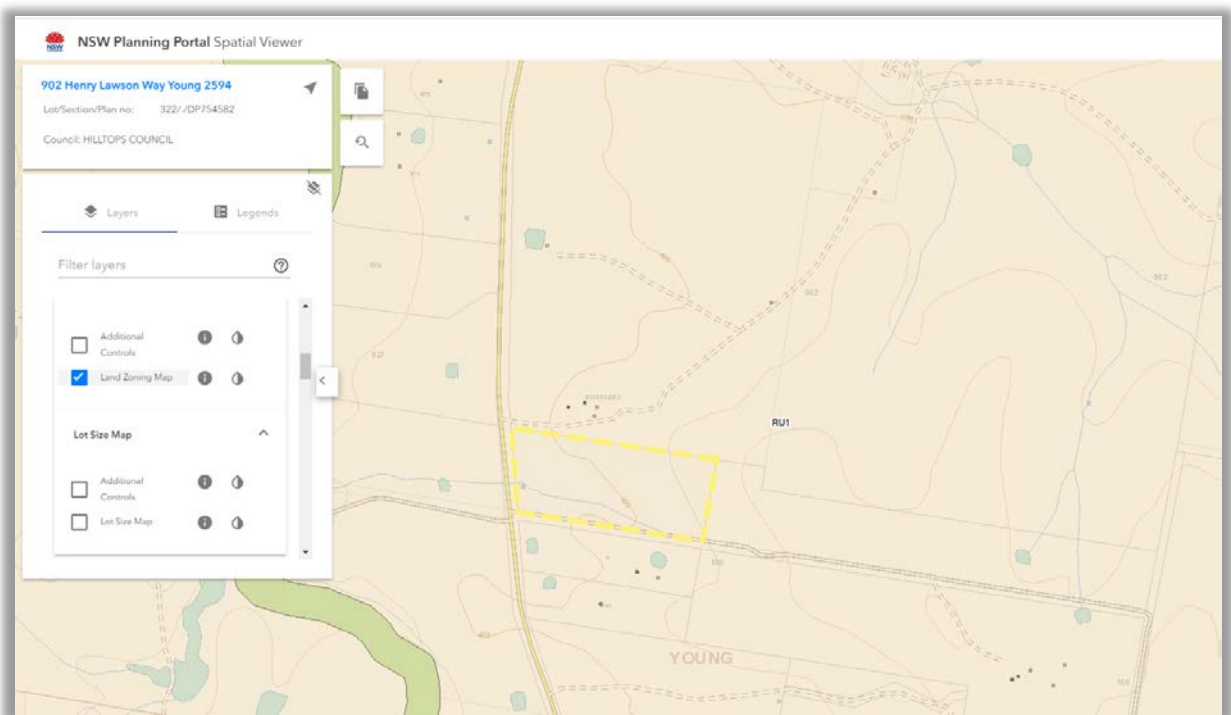
- The lot exists remote of the farm itself, it is difficult to access internally due to slope, rocks and landform;
- The land for the most part is too steep to effectively work
- The land is not productive for anything other than hay but that is in a good year
- To plant to lucerne for hay is a big output series of costs, problematic due to rock outcrops, expensive on fuel due to steepness and offers very little money return
- Drainage lines on lower half get very wet and cannot take a tractor
- Hard to even justify weed management when no return – costly outlay
- Dwellings exist on smaller lots adjacent
- Big farm land is to east and over the ridge
- Owner uses it for occasional horse agistment or sick cattle as a quarantine paddock.

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**FIG # 1 - ZONING MAP (RU1)**



**FIG # 2 – Lot Size Mapping (24 ha)**

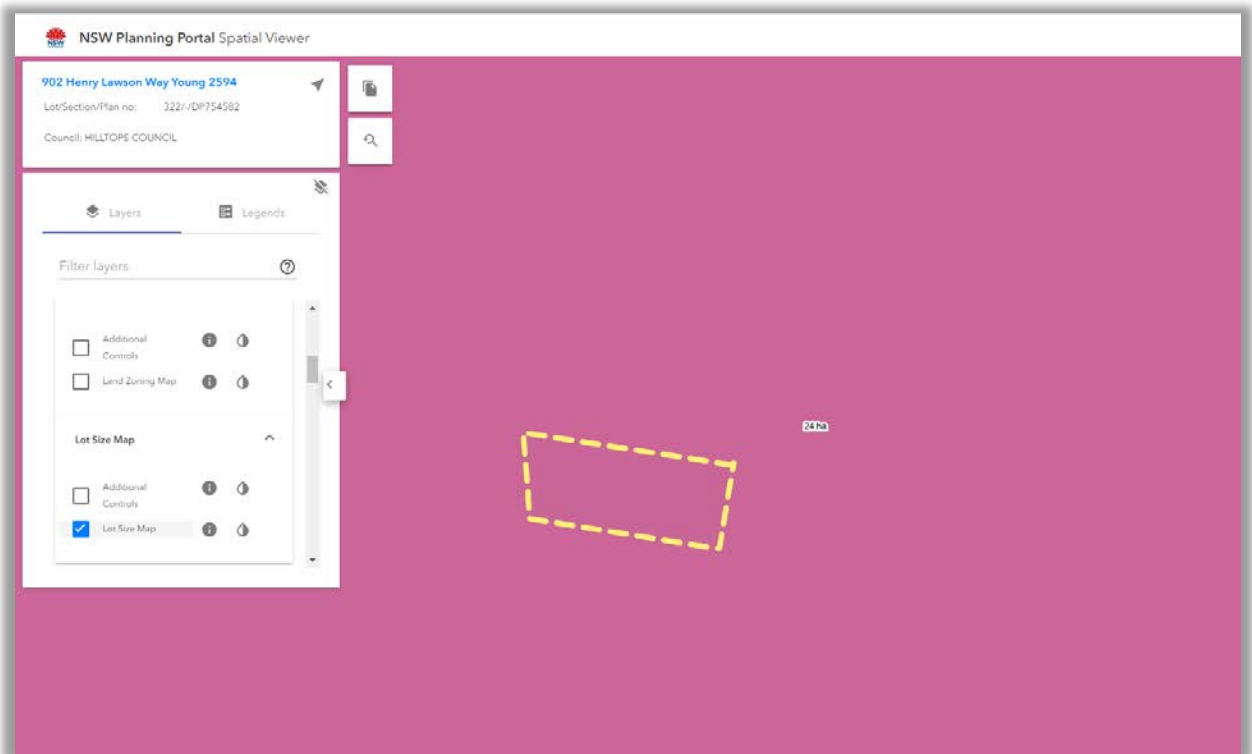


FIG # 3 – AERIAL IMAGE CURRENT NSW SIX(2013)



FIG # 4 – AERIAL IMAGE GOOGLE (2023)









## Statistical Analysis of Holdings – Maimuru

Summaries and statistical analysis follows

| Sector | Lot | Deposited Plan | Area  | House | If House then here |
|--------|-----|----------------|-------|-------|--------------------|
| B      | 114 | 754582         | 2.6   |       |                    |
| B      | 339 | 754582         | 1.4   |       |                    |
| B      | 336 | 754582         | 5.4   |       |                    |
| B      | 337 | 754582         | 4.45  | H     | 4.45               |
| B      | 338 | 754582         | 3.7   |       |                    |
| B      | 214 | 754582         | 28.8  | H     | 28.8               |
| B      | 216 | 754582         | 27    | H     | 27                 |
| B      | 217 | 754582         | 27.8  |       |                    |
| B      | 218 | 754582         | 7.6   |       |                    |
| B      | 327 | 754582         | 2.1   |       |                    |
| B      | 328 | 754582         | 14.6  | H     | 14.6               |
| B      | 224 | 754582         | 9.8   |       |                    |
| B      | 61  | 754582         | 11    |       |                    |
| B      | 223 | 754582         | 21    | H     | 21                 |
| B      | 228 | 754582         | 24.1  | H     | 24.1               |
| B      | 2   | 828004         | 25.7  |       |                    |
| B      | 331 | 754582         | 3.6   | H     | 3.6                |
| B      | 1   | 1075686        | 10.5  | H     | 10.5               |
| B      | 2   | 1075686        | 12.1  | H     | 12.1               |
| B      | 175 | 754575         | 17    | H     | 17                 |
| B      | 176 | 754575         | 16.25 | H     | 16.25              |
| B      | 222 | 754575         | 3.6   | H     | 3.6                |
| B      | 177 | 754575         | 27.75 | H     | 27.75              |
| B      | 178 | 754575         | 26.1  |       |                    |
| B      | 181 | 754575         | 27.1  |       |                    |
| B      | 182 | 754575         | 26.6  |       |                    |
| B      | 185 | 754575         | 4.2   |       |                    |
| B      | 217 | 754575         | 9.6   |       |                    |
| B      | 215 | 754575         | 1.75  | H     | 1.75               |
| B      | 216 | 754575         | 5.3   |       |                    |
| B      | 218 | 754575         | 10.95 |       |                    |
| B      | 186 | 754575         | 18.8  | H     | 18.8               |
| B      | 187 | 754575         | 19.4  |       |                    |
| B      | 188 | 754575         | 20.9  | H     | 20.9               |
| B      | 192 | 754575         | 21.3  | H     | 21.3               |

|          |            |               |            |          |       |
|----------|------------|---------------|------------|----------|-------|
| B        | 193        | 754575        | 21.5       | H        | 21.5  |
| B        | 1          | 1184923       | 25         | H        | 25    |
| B        | 2          | 1184923       | 9.6        | H        | 9.6   |
| B        | 3          | 1184293       | 24.6       | H        | 24.6  |
| B        | 231        | 754575        | 7.5        | H        | 7.5   |
| B        | 229        | 754575        | 8.8        | H        | 8.8   |
| B        | 233        | 754575        | 8.3        | H        | 8.3   |
| B        | 230        | 754575        | 0.9        | H        | 0.9   |
| B        | 1338       | 754611        | 38.8       |          |       |
| B        | 1339       | 754611        | 36.5       |          |       |
| B        | 3          | 700332        | 32.64      |          |       |
| B        | 2          | 700332        | 15.4       |          |       |
| B        | 589        | 754611        | 37.3       |          |       |
| B        | 198        | 754575        | 8          |          |       |
| B        | 236        | 754575        | 7.7        | H        | 7.7   |
| B        | 108        | 754582        | 4.4        |          |       |
| B        | 726        | 709709        | 39         |          |       |
| B        | 2          | 1094116       | 9.3        |          |       |
| A        | 1          | 1185752       | 19.7       | H        | 19.7  |
| A        | 2          | 1185752       | 18.5       |          |       |
| A        | 50         | 754582        | 15.5       |          |       |
| A        | 51         | 754582        | 37.5       | H        | 37.5  |
| A        | 334        | 754582        | 16.2       | H        | 16.2  |
| A        | 7006       | 1031551       | 19.7       |          |       |
| A        | 31         | 617939        | 4.5        | H        | 4.5   |
| A        | 32         | 617939        | 5          | H        | 5     |
| A        | 323        | 754582        | 16         |          |       |
| <b>A</b> | <b>322</b> | <b>754582</b> | <b>9.4</b> | <b>H</b> | 9.4   |
| A        | 6          | 772658        | 2.8        |          |       |
| A        | 5          | 772658        | 20.5       |          |       |
| A        | 4          | 772658        | 11.3       |          |       |
| A        | 34         | 1127105       | 14.5       |          |       |
| A        | 33         | 1127105       | 11.5       |          |       |
| <b>A</b> | 32         | 1127105       | 11.75      | H        | 11.75 |
| A        | 31         | 1127105       | 10.4       | H        | 10.4  |
| A        | 2          | 772658        | 17.2       | H        | 17.2  |
| A        | 7011       | 1024048       | 6.9        |          |       |
| A        | 2          | 114880        | 62.7       | H        | 62.7  |
| A        | 1          | 1029893       | 110.2      |          |       |



|          |     |         |       |   |       |
|----------|-----|---------|-------|---|-------|
| <b>A</b> | 212 | 754582  | 8.7   |   |       |
| A        | 2   | 610505  | 20.2  |   |       |
| A        | 1   | 610505  | 9.3   | H | 9.3   |
| A        | 320 | 754582  | 50    |   |       |
| A        | 1   | 1115409 | 13.35 |   |       |
| A        | 2   | 1115409 | 12.7  |   |       |
| <b>A</b> | 3   | 1115409 | 18.3  |   |       |
| A        | 4   | 1115409 | 10.2  |   |       |
| A        | 5   | 1115409 | 14.5  |   |       |
| A        | 6   | 1115409 | 12    |   |       |
| A        | 7   | 1115409 | 11.4  |   |       |
| A        | 8   | 1115409 | 11.5  | H | 11.5  |
| A        | 332 | 754582  | 1.24  |   |       |
| B        | 297 | 754582  | 33.8  |   |       |
| B        | 1   | 1027418 | 29.5  | H | 29.5  |
| B        | 1   | 1094540 | 25.9  | H | 25.9  |
| B        | 2   | 1094540 | 10.8  | H | 10.8  |
| B        | 3   | 1027418 | 14.5  |   |       |
| B        | 4   | 1027418 | 1.9   |   |       |
| B        | 5   | 1027418 | 11.7  |   |       |
| B        | 6   | 1027418 | 23    |   |       |
| B        | 2   | 1115143 | 106   | H | 106   |
| B        | 1   | 1115143 | 19    | H | 19    |
| B        | 121 | 754582  | 42.25 | H | 42.25 |
| B        | 1   | 754582  | 131.6 |   |       |
| B        | 191 | 754575  | 5.6   | H | 5.6   |
| B        | 209 | 754575  | 8.2   |   |       |
| B        | 208 | 754575  | 7.3   |   |       |
| B        | 190 | 754575  | 9.4   |   |       |
| B        | 189 | 754575  | 21.1  | H | 21.1  |
| B        | 156 | 754575  | 3.8   |   |       |
| B        | 184 | 754575  | 10.1  |   |       |
| B        | 220 | 754575  | 26.5  | H | 26.5  |
| B        | 199 | 754575  | 7.8   |   |       |
| B        | 183 | 754575  | 17.8  |   |       |
| B        | 221 | 754575  | 9.5   | H | 9.5   |
| B        | 180 | 754575  | 10.8  |   |       |
| B        | 179 | 754575  | 12.8  |   |       |
| B        | 206 | 754575  | 4.5   |   |       |

|   |     |         |      |   |      |
|---|-----|---------|------|---|------|
| B | 205 | 754575  | 4.7  |   |      |
| B | 22  | 1099591 | 24.8 | H | 24.8 |
| B | 310 | 754582  | 43.3 |   |      |
| B | 309 | 754582  | 21.4 |   |      |
| B | 308 | 754582  | 23.9 | H | 23.9 |
| B | 307 | 754582  | 23   |   |      |
| B | 238 | 754582  | 25   |   |      |
| B | 313 | 754582  | 17.5 | H | 17.5 |
| B | 329 | 754582  | 0.2  |   |      |
| B | 1   | 882962  | 10.4 |   |      |
| B | 2   | 882962  | 42   | H | 42   |
| B | 21  | 1099591 | 13   | H | 13   |
| B | 314 | 754582  | 24.4 |   |      |
| B | 315 | 754582  | 20.3 | H | 20.3 |
| B | 326 | 754582  | 4    |   |      |
| B | 70  | 754582  | 9.1  |   |      |
| B | 316 | 754582  | 8.6  |   |      |
| B | 317 | 754582  | 16.8 |   |      |
| B | 344 | 754582  | 15.6 | H | 15.6 |
| B | 319 | 754582  | 20.2 | H | 20.2 |
| B | 343 | 754582  | 0.34 | H | 0.34 |
| B | 31  | 754582  | 4.8  | H | 4.8  |
| B | 32  | 754582  | 3.9  | H | 3.9  |
| B | 34  | 754582  | 24.5 | H | 24.5 |
| B | 35  | 754582  | 3    |   |      |
| B | 301 | 754582  | 38.5 | H | 38.5 |
| B | 155 | 754582  | 23.2 | H | 23.2 |
| B | 66  | 754582  | 8.8  |   |      |
| B | 210 | 754582  | 9.3  |   |      |
| B | 304 | 754582  | 19   |   |      |
| B | 305 | 754582  | 45.6 | H | 45.6 |
| B | 1   | 1173264 | 4.7  |   |      |
| B | 1   | 1173264 | 18   | H | 18   |
| B | 234 | 754582  | 19.5 | H | 19.5 |
| B | 222 | 754582  | 19.5 | H | 19.5 |
| B | 221 | 754582  | 20   |   |      |
| B | 220 | 754582  | 16.5 |   |      |
| B | 340 | 754582  | 2.1  |   |      |
| B | 219 | 754582  | 21.5 |   |      |

|   |     |         |           |    |         |
|---|-----|---------|-----------|----|---------|
| B | 330 | 754582  | 4.2       | H  | 4.2     |
| B | 215 | 754582  | 28.6      | H  | 28.6    |
| B | 342 | 257021  | 39.7      |    |         |
| B | 341 | 754582  | 4         | H  | 4       |
| B | 288 | 754582  | 26.3      | H  | 26.3    |
| B | 289 | 754582  | 27.45     |    |         |
| B | 292 | 754582  | 20.9      |    |         |
| B | 1   | 1095005 | 10.6      | H  | 10.6    |
| B | 2   | 1095005 | 10.8      | H  | 10.8    |
| B | 3   | 1095005 | 16.9      | H  | 16.9    |
| B | 4   | 1095005 | 11        | H  | 11      |
| B | 200 | 754582  | 1.6       | H  | 1.6     |
| B | 201 |         | 0.5       |    |         |
| B | 226 |         | 1.07      |    |         |
| B | 204 |         | 0.249     |    |         |
| B | 163 |         | 0.1124    |    |         |
| B | 203 |         | 1.05      | H  | 1.05    |
| B | 225 |         | 1.02      |    |         |
| B | 224 |         | 0.77      |    |         |
| B | 223 | 0       | 0.95      |    |         |
| B | 174 |         | 6.58      |    |         |
| B | 82  |         | 0.344     |    |         |
|   | 207 |         | 0.064     |    |         |
|   |     |         | 2961.0794 | 76 | 1388.89 |

## STATISTICAL ANALYSIS OF MAIMURU AND DWELLINGS/HOLDINGS

| SECTOR ANALYSES |            | MLS = 24 Ha | % OF MLS STD |
|-----------------|------------|-------------|--------------|
| <b>ALL</b>      |            |             |              |
|                 | PROPERTIES | 174         |              |
|                 | AVERAGE    | 17.02       | 70.91%       |
|                 | MEDIAN     | 12.7        | 52.92%       |

|                         |            |       |        |
|-------------------------|------------|-------|--------|
| <b>ALL - WITH HOUSE</b> |            |       |        |
|                         | PROPERTIES | 76    |        |
|                         | AVERAGE    | 18.27 | 76.15% |
|                         | MEDIAN     | 16.95 | 70.63% |

|                                  |            |        |        |
|----------------------------------|------------|--------|--------|
| <b>SECTOR "A" ALL PROPERTIES</b> |            |        |        |
|                                  | PROPERTIES | 34     |        |
|                                  | AVERAGE    | 18.68  | 77.84% |
|                                  | MEDIAN     | 13.025 | 54.27% |

|                                           |            |        |        |
|-------------------------------------------|------------|--------|--------|
| <b>SECTOR "A" PROPERTIES - WITH HOUSE</b> |            |        |        |
|                                           | PROPERTIES | 12     |        |
|                                           | AVERAGE    | 17.93  | 74.70% |
|                                           | MEDIAN     | 11.625 | 48.44% |

### KEY ELEMENTS FROM, ANALYSIS

- Neither the average of all lots, or occupied lots in wider Maimuru, or all lots and occupied lots in sector A are even close to the zone minimum lot size (range = 48% - 77% of 24 ha applied in 2010 and 2022 LEP's).
- Generally in the same category, the middle value in each array (median) was even lower. In worst case – localised sector A occupied lands it was 48% of the min Lot Size now applied. (range 48% - 70%)
- The current zone lot size minimum (24ha) serves to arrest potential development as a large amount of lots are below this size (majority)
- Localised Sector A median is just larger than subject lot (11.625 ha vs 9.03 ha) and would not present an issue of gross exception if this lot allowed. Note that 2 x 5ha lots are adjacent the subject lot. (Lots 31 & 32 DP 617939)
- In the main due to landform, allotments east of Henry Lawson Way assimilate with broader larger holdings further east excepting localised around subject allotment.



**That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as per the Five Part Test (*Wehbe v. Pittwater Council* [2007] NSWLEC 827)**

- (i) *The objectives of the standard are achieved notwithstanding non-compliance with the standard*

The objectives of the standard are replicated as follows, and it is considered that the comments provided with respect to each of these standards, and the information contained in the original Clause 4.6 justification, demonstrates that the development is compatible with the objectives, despite the non-compliance, and is therefore unreasonable or unnecessary in the circumstances of the case.

| Objective                                                | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) to minimise unplanned rural residential development, | <p>The subject allotment exists, as it has since the portions were created in the Parish of Burrangong in 1913. This proposal does not intend subdivision but to allow an existing parcel of land a building entitlement where one has evaporated through changing planning standards.</p> <p>The lot size is 9.03ha within a zone locality presently earmarked as a 24ha minimum for a dwelling.</p> <p>The analysis undertaken reveals a 17.02ha average lot size (all lots) in this wider Maimuru, with a median of 12.7 ha. The subject allotment at 9.03ha is smaller yet is in a pocket where occupied lots are smaller. Within the sector A properties 12 of the 33 identified properties have dwellings and these present an average lot size of 17.9ha BUT a median of 11.6ha, only marginally bigger than the subject lot. Two immediately adjacent occupied lots are 5ha and 4.5ha respectively.</p> <p>Due to the wide mix from 750 sq.m to 131ha in the study area it is hard to draw out what is consistent to this wider pocket of mixed land. Possibly 75% of the lots are &lt;5ha with the bigger allotments upsetting the statistical analysis, however the land identified for analysis is generally smaller or equivalent than the standard applied, is an area of occupied rural lands, and this proposal would not present a unique variance to what is presently occurring in this locality.</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Accordingly, it is considered that the objectives of this standard have been achieved, despite the lot being marginally undersized, as it has been demonstrated that the subdivision pattern of the area is not uniform nor does it reflect a wider agricultural land use per se.</p> <p>No change this test.</p>                                                                                                                                                            |
| (b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in certain rural and conservation zones.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | No past or present housing needing replacement                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <i>Further commentary to a) above</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>The site is located in the Maimuru Soldiers Settlement Locality North of Town and within a catchment boundary which runs along the East of the subject lot through to behind the far reach of Maimuru SS RD where it runs North Southward from the Rail crossing to the south, through to Bribaree Rd to the north</p> <p>The Hilltops Settlement Strategy 2022 in the Resolved and Adopted Paper on Minimum Lot Sizes (Attachment D) identifies the following key aims;</p> |
| <p>The recommended objectives within the consolidated Hilltops LEP for minimum lot size are:</p> <ul style="list-style-type: none"> <li>a) to ensure land use and development are undertaken on appropriately sized parcels of land.</li> <li>b) to ensure sufficient land area to promote high levels of residential amenity,</li> <li>c) to ensure new lots have an adequate water supply and can be provided with an effective means of disposal of domestic waste and adequately serviced,</li> <li>d) to create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise the likely adverse impact on the amenity of adjoining developments.</li> <li>e) to prevent fragmentation of primary production agricultural land,</li> <li>f) to minimise potential for land use conflict, particularly between residential land uses and other rural land uses</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>a) The land surrounding the development has consistent or average lower sized land sizes with occupation</li> <li>b) Sufficient land area exists</li> <li>c) The land can utilise rainwater tanks under BASIX and an OSM system without influence on Groundwater, such that no impact on utilities occurs</li> </ul>                                                                                                                     |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>d) As discussed herein, this localised pocket or allotments presents to a median equivalent to the subject allotment, is rural locality type settlement in nature, yet is sized large enough to not present amenity issues to or amongst neighbours.</p> <p>e) Effective primary production land exists to the north and east of the subject allotment over a catchment boundary . The subject land is consistent in environmental attributes, scale and character of the lands to the NW and West all of which are sized and established in such a way to be consistent in their use of the related lands.</p> <p>f) The land is effectively sized and located to not create a land use conflict. It has road on 2 sides, an effective setback to neighbours &gt; 100m, and slope, landform, drainage lines and rocks such that its best use is occupied rural.</p> <p>Accordingly, it is considered that the objectives of this standard have been achieved, despite the lot being undersized, as the land retains the wider character of the locality/microcatchment.</p> |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (ii) *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*

The standard is to attempt to create farm or farm paddock sizing such that agricultural or horticultural (primarily for the Maimuru pocket) food bowl land can be kept and preserved for that purpose. 24 ha is not in any way an ideal farm size and unless intensively farmed for higher density crops or plants (stonefruit or summer fruit), could not be a size to justify a farm income for a dwelling. For these reasons the minimum lot size is actually not an effective planning tool for the objective of the zone. This lot size has been imposed over the top of a holding size varying from 50% to 75% of this size, irrespective of land study or effective analysis in this area. As such, compliance with this standard within a cluster of lands where none of the lots are the required size yet the vast majority are occupied seems nonsensical.

The effective un-impinged broad acre lands exist to the east and north of the subject lot outside of the physical micro catchment that this lot and the related nearby study lands are within. These unimpeded lands are and will continue to be used for broad acre agriculture without impact or affect on the subject allotment from amenity or operational reasons.

- (iii) *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable*

If compliance was required, the subject lot and the proposed development could not move forward in its present form, as there is insufficient land area (per the LEP standard) to accommodate a dwelling. This would leave the allotment to be share farmed or utilised on a random paddock basis in amongst more densely occupied land. This in itself would be dubious unless someone was farming rocks or bad draining paddocks). Otherwise if left to ruin or disregard, the land would waste to nuisance or weed problems being a hindrance moreso than just forgotten land.

- (iv) *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*

The Applicant is aware that Council has previously departed from the development standard, for nearby land at Lot 31 DP 1127105 and Lot 2 DP 772658 (NE across Henry Lawson Way 750m from the subject land). It is similar sized to this subject allotment. Likewise the owner seeks to still utilise for smaller form agricultural uses yet enjoy a dwelling for biosecurity reasons.

- (v) *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone*

The Applicant has suggested that the zoning of the land may be inappropriate, although again makes reference to the submitted documents with Hilltops LEP 2022 at resolution, in particular the rural minimum lot sizes submissions and responses paper. This identifies that Council has done the research, yet due to a few other State Level land based attribute studies, believed it did not have the full answer to examine RU1 & RU4 lands in any detail at this 2022 LEP. The stock response in the adopted paper at LEP adoption states;

Council proposes to undertake further investigations into this matter once the State has finalised proposed mapping and policy for agricultural lands utilising the outcomes from the LSPS document and Rural and Residential Lands Study 2019.

This suggests that whilst maybe the zoning is appropriate, perhaps the minimum lot size is inappropriate. It is also fair to say this may lead one to believe the LEP former status quo is some 30 – 50 year old planning theory still – “ideal farm size” ? Maybe the land would be better served as it was in the 1993 EPI being say RU2 and 10ha ?

**3(b) That there are sufficient environmental planning grounds to justify contravening the development standard, using the objects of the Environmental Planning and Assessment Act, 1979, as per *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118**

The objects of the Act are contained in Section 1.3, and are replicated as follows, and it is considered that the comments provided with respect to each of these objectives, and the information contained in the original Clause 4.6 justification, demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard for this sized allotment.

| Objective                                                                                                                                 | Comment                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and</i> | The creation of one additional entitlement in the local area, which is appropriately serviced (opr able to be sufficiently BASIX satisfied) and contains a reasonably designed development that meets all relevant planning controls, will not impact on the social and economic welfare of the |



|                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>conservation of the State's natural and other resources</i>                                                                                                                                         | community and will not impact on the environment or management of natural resources. It will however, have a positive impact on the local community and neighbourhood being equivalent in size and providing a sense of community. Contravening the minimum lot size for a dwelling (yet equivalent or larger than those adjacent), where the impacts of the development are tangible, measurable and if deemed acceptable, is considered reasonable. This is particularly relevant, where alternates (such as no pragmatic use of the allotment), would leave isolated lots of no farming use nor ability for an occupied use. |
| <i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment</i> | The permission of a right for a dwelling will have positive economic, social and environmental outcomes. An orphaned barely farmed lot would become a weed farm and nuisance to neighbours. An occupied and cared for allotment would be better cared for and provide less impact, better sense of community, a higher level use and maintenance of land, and a better rating outcome for Council in an area of similar sized lots in a consistent sense.                                                                                                                                                                       |
| <i>(c) to promote the orderly and economic use and development of land</i>                                                                                                                             | The erection of another dwelling in this setting, utilises existing infrastructure and services which pass by the land anyway, which in itself is considered to promote the orderly and economic use of the land. The design of the dwelling and subtle site placement in upper rear corner, would be consistent with properties adjacent. .                                                                                                                                                                                                                                                                                    |
| <i>(d) to promote the delivery and maintenance of affordable housing</i>                                                                                                                               | The land having an additional dwelling and habitable permission (where technically it does not at present) aids the delivery of more housing in an area consistently sized for a dwelling, on the fringe of Town. An additional dwelling without subdivision or extraneous costs would be a positive in the dwelling supply pipeline for Young and Maimuru.                                                                                                                                                                                                                                                                     |
| <i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>                              | The land was and still can be used for rural, agistment or small agricultural uses. Occupation by way of a dwelling permission, allows the land to be managed, not allowed to go to weed and be better cared for. Balanced against the sole site input of an OSM system, the ultimate nett gain in better management outweighs this input and is a geographically better outcome to the neighbourhood from an environmental viewpoint.                                                                                                                                                                                          |

|                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)</i>                                  | The nett increase of dwellings by one (1) at this site, does not actively work either for or against this objective, with the impacts of the intended dwelling on European and Aboriginal heritage having been considered in the original SEE. The site was not found to have known cultural significance at the AHIMs search undertaken.                                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(g) to promote good design and amenity of the built environment</i>                                                                                    | The proposed dwelling is modest and low profile in nature. It is set below the shed and sympathetic with the slope and surrounding land on a slightly level saddle of the slope, without cut/fill. The colours are low key and consistent with other housing (existing and proposed) in the locality. The proposal is below the ridge line (the road to the north) and is set into the land when viewed from afar.                                                                                                                                                                                                                                                                                                                           |
| <i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>          | The dwelling will be BCA and legislatively compliant. The provision of an approved OSM system will allow the opportunity to amend and correct some installation issues by prior owners to do with the shed. The dwelling and its related OSM will be a chance to make a compliant site out of past potential errors.                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i> | The provision of a dwelling entitlement and approving a dwelling is to be referred for concurrence at State level, along with this request at Local Govt level. It is believed that what is being applied for is locality consistent and does not create issues of Regional Plan concern nor of Local Environmental Plan concern. Council still has to review and examine how it best deals with the merged Council's and RU4 and RU1 outcomes. This locality of wider Maimuru makes sense to be RU2 or RU4 lands of varying sizes, simply to call it what it already is, and is capable of being on the fringe of Town. Were it to continue as RU1 larger lot, this is simply a sterilisys measure. Currently these decisions are in limbo. |
| <i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i>                                          | The provision of this permission, does not actively work either for or against this objective.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

It is considered that the objectives of the Dwelling rights clause at the LEP (sec 4.2A) along with its parent legislation (EP&A Act 1.3) are met or considered reasonable in this case and do not make for concerns at local or regional level. The provision of an additional dwelling house in this locality is locally consistent.

**APPENDIX # 2**

**NSW Planning Portal Report**



# Property Report

902 HENRY LAWSON WAY YOUNG 2594



## Property Details

Address: 902 HENRY LAWSON WAY YOUNG 2594  
Lot/Section 1/-/DP1029893 2/-/DP114880 2/-/DP610505  
/Plan No: 212/-/DP754582 322/-/DP754582  
Council: HILLTOPS COUNCIL

## Summary of planning controls

Planning controls held within the Planning Database are summarised below. The property may be affected by additional planning controls not outlined in this report. Please contact your council for more information.

|                              |                                                          |
|------------------------------|----------------------------------------------------------|
| Local Environmental Plans    | Hilltops Local Environmental Plan 2022 (pub. 23-12-2022) |
| Land Zoning                  | RU1 - Primary Production: (pub. 23-12-2022)              |
| Height Of Building           | NA                                                       |
| Floor Space Ratio            | NA                                                       |
| Minimum Lot Size             | 24 ha                                                    |
| Heritage                     | NA                                                       |
| Land Reservation Acquisition | NA                                                       |
| Foreshore Building Line      | NA                                                       |
| Terrestrial Biodiversity     | Biodiversity                                             |

## Detailed planning information

### State Environmental Planning Policies which apply to this property

State Environmental Planning Policies can specify planning controls for certain areas and/or types of development. They can also identify the development assessment system that applies and the type of environmental assessment that is required.

This report provides general information only and does not replace a Section 10.7 Certificate (formerly Section 149)



# Property Report

902 HENRY LAWSON WAY YOUNG 2594

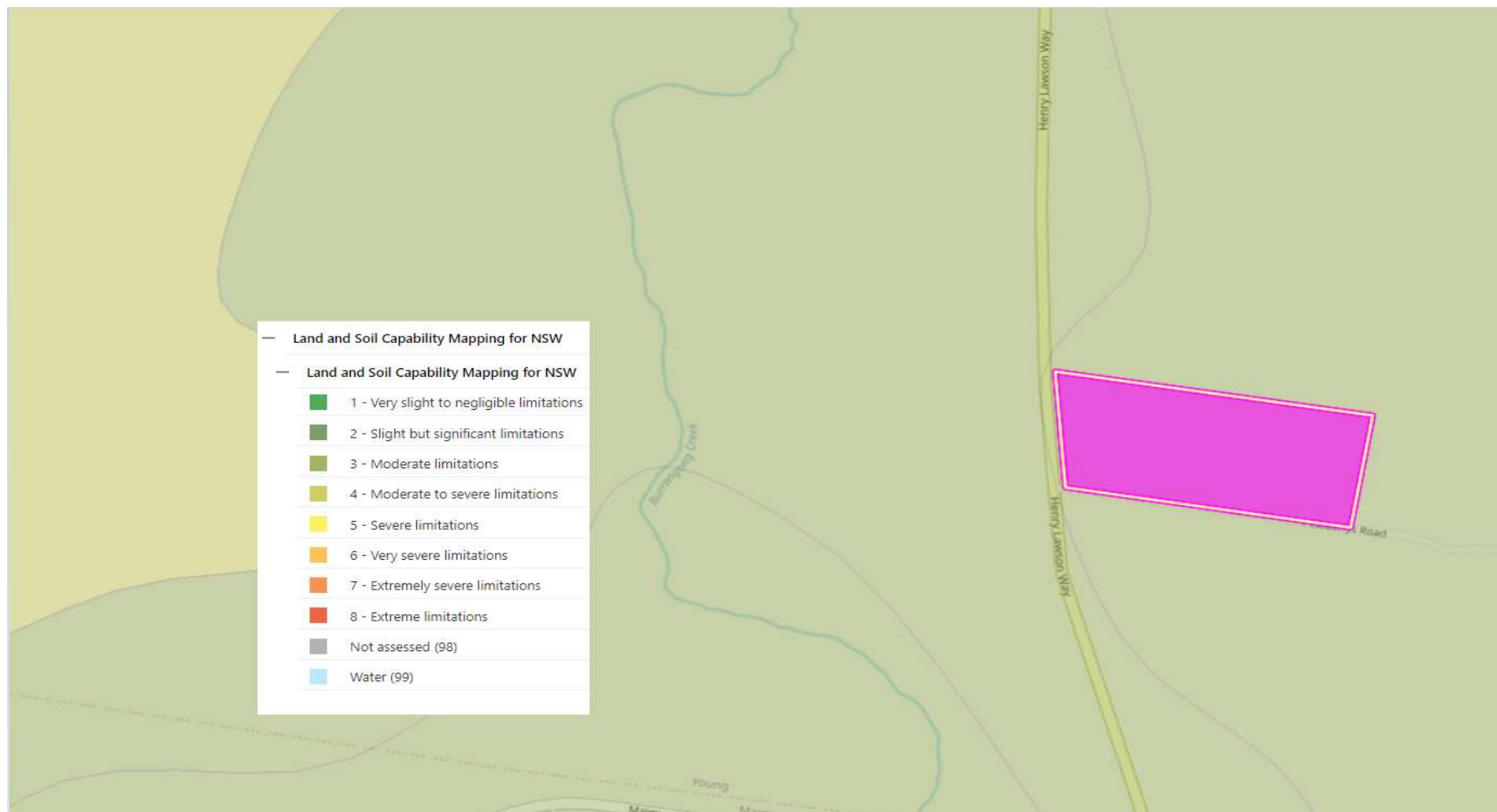
- State Environmental Planning Policy (Biodiversity and Conservation) 2021: Allowable Clearing Area (pub. 21-10-2022)
- State Environmental Planning Policy (Biodiversity and Conservation) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004: Land Application (pub. 25-6-2004)
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008: Land Application (pub. 12-12-2008)
- State Environmental Planning Policy (Housing) 2021: Land Application (pub. 26-11-2021)
- State Environmental Planning Policy (Industry and Employment) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Planning Systems) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Primary Production) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Resilience and Hazards) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Resources and Energy) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy (Transport and Infrastructure) 2021: Land Application (pub. 2-12-2021)
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development: Land Application (pub. 26-7-2002)

## Other matters affecting the property

Information held in the Planning Database about other matters affecting the property appears below. The property may also be affected by additional planning controls not outlined in this report. Please speak to your council for more information

|                                      |                                                                                                                                                                                      |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.5 m Buffer around Classified Roads | Classified Road Adjacent                                                                                                                                                             |
| Land near Electrical Infrastructure  | This property may be located near electrical infrastructure and could be subject to requirements listed under ISEPP Clause 45. Please contact Essential Energy for more information. |
| Local Aboriginal Land Council        | YOUNG                                                                                                                                                                                |
| Regional Plan Boundary               | South East and Tablelands                                                                                                                                                            |

This report provides general information only and does not replace a Section 10.7 Certificate (formerly Section 149)





## **APPENDIX # 3**

**Crown Plan**

**&**

**Title**



FOLIO: 322/754582

-----

| SEARCH DATE | TIME    | EDITION NO | DATE     |
|-------------|---------|------------|----------|
| -----       | ----    | -----      | ----     |
| 28/8/2023   | 9:38 AM | 2          | 2/9/2018 |

LAND

-----

LOT 322 IN DEPOSITED PLAN 754582  
LOCAL GOVERNMENT AREA HILLTOPS  
PARISH OF BURRANGONG COUNTY OF MONTEAGLE  
(FORMERLY KNOWN AS PORTION 322)  
TITLE DIAGRAM CROWN PLAN 6376.1780

FIRST SCHEDULE

-----

KENNETH JOHNSON MCLACHLAN  
MARIANNE THERESE MCLACHLAN  
AS JOINT TENANTS (T AF488003)

SECOND SCHEDULE (3 NOTIFICATIONS)

-----

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND  
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 PROVISIONS OF S. 235A CROWN LANDS CONSOLIDATION ACT 1913 AS TO  
BOUNDARIES TO RIVERS AND LAKES
- 3 AF488004 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

john mclachlan

PRINTED ON 28/8/2023

Partly cancels M444.1780

*L.B.<sup>03</sup>. 10510*

Subdivision



# Survey

PLAN OF ~~127-87~~ PORTION ~~5~~ 322

County of Montegle  
Land District of Young

*Parish of Burrangong*  
*Land Board District of Wagga Wagga*

Resumed Area N<sup>o</sup>

Pastoral Holding Eastern Division.

Proposed to be ~~Applied for~~ <sup>surrendered</sup> under the 47<sup>th</sup> Section of the Crown Lands Act of 1895 by <sup>Herbert Edward Barritt and</sup> ~~Robert Thomson, Melrose.~~

*Within the Burrangong Gold Field  
Proclaimed 31<sup>st</sup> August 1866*

Por. N.º      C.P. N.º

Por. N.º      C.L. N.º

The part proposed to be Surrendered is shewn by Red tint  
the original portion by Red edging

*Includes part of Edward Taylors freehold portion 5  
To partly cancel M 444 1780 on surrender of deeds*

pt of Por, 5 surrendered under Sec. 47 C.L.A. of 1895 vide Aln 04-5439

Pt of Por 3<sup>rd</sup> declared to be Crown Lands, vide Gaz. 6<sup>th</sup> Aug 04

and improvements surrendered to the Crown, vide *Aln.* 04.5226

Within C.R. 38159 Notified, 6<sup>th</sup> August '04-Rev<sup>kd</sup> 10<sup>th</sup> January 1912

Sp. Lse 07-41 (252/400) Frederick Alexander Waugh Withdrawn Vide MS L<sup>s</sup> 08.14/141

P1J-S and CR 47383 from Sale R 47384 from Lease generally Notified 10<sup>th</sup> January 1912  
 Part Sp. L 1943 Oct. 6 Everard Christopher P. 204 Refused vide 19-21260 204 4336

Within Reserve for Classification Notified 6<sup>th</sup> February 1920 Revoked 22<sup>nd</sup> July 1921

Part Sp Lse 20:58 Dec 1<sup>st</sup> Everand Christopher Powder/ y for Grazing & Agriculture

SP: C.P. 23-10 April 10<sup>th</sup> Conv'n/ Everard Christopher Powderly Sale completed H E Barritt and T Melrose

# PLAN MICROFILMED

NO ADDITIONS OR AMENDMENTS TO BE MADE

For marking as per 322 vide sketch  
with LB. 23.3507/3

Plan approved for 22a/r/10p

*Godwinfield*  
Draftsman in Charge

18<sup>th</sup> November 1924

Boundary lengths altered for Surrender purposes  
Exam<sup>d</sup> for Surrender

Azimuth taken from ac

*Field Book Vol 7521 Folio 83*

### Reference to Corners

| Corner | Bearing                  | From                 | Links           | N° on Tree           |
|--------|--------------------------|----------------------|-----------------|----------------------|
| a      | 74° 15'                  | Gum                  | 102.7           | ↑                    |
| b      | <del>69° 36'</del>       | <del>numbered</del>  | <del>69.5</del> | <del>322</del>       |
| c      | <del>Reg. numbered</del> | <del>tree gone</del> |                 | <del>322, 323.</del> |
| d      | 341° 27'                 | Dead                 | 68.5            | 5                    |
|        | 240° 21'                 | Do                   | 64.7            | 204                  |
| e      | 296° 10'                 | Gum                  | 36.8            | ↑ 322.               |
| f      | 131° 35'                 | Apple                | 84.2            | ↑                    |

started on Hand Office Maps  
 E. B. Linderson 12-11-24  
 2-11-24

Value of Improvements  
Ringing £1.20 ✓  
Fence £3.10.0 ✓

### Reference to Traverse

| Line | Bearing | Distance |
|------|---------|----------|
| 23.  |         |          |

0646 I hereby certify that I in person made and on the 4<sup>th</sup> Sept<sup>r</sup> 1903 completed the survey represented on this plan on which are written the bearings and lengths of the lines measured by me and I declare that the survey has been executed in accordance with the regulations published for the guidance of licensed Surveyors and the practice of the Department of Lands.

Transmitted to the District Surveyor with my letter of 12<sup>th</sup> Oct<sup>r</sup> 1903 N<sup>o</sup> 78

Voucher N<sup>o</sup> 03. 73 Passed for £4-8-2 At 5<sup>th</sup> Nov 1902

Calculation Book No 2114 Folio 38

Checked and Charted. *M. J. Gaffney* 24<sup>th</sup> October 1983

Examined and  
Plan approved } 5<sup>th</sup> November 1962

Scale 20 Chains to an Inch

~~M6376~~ M6376 1780

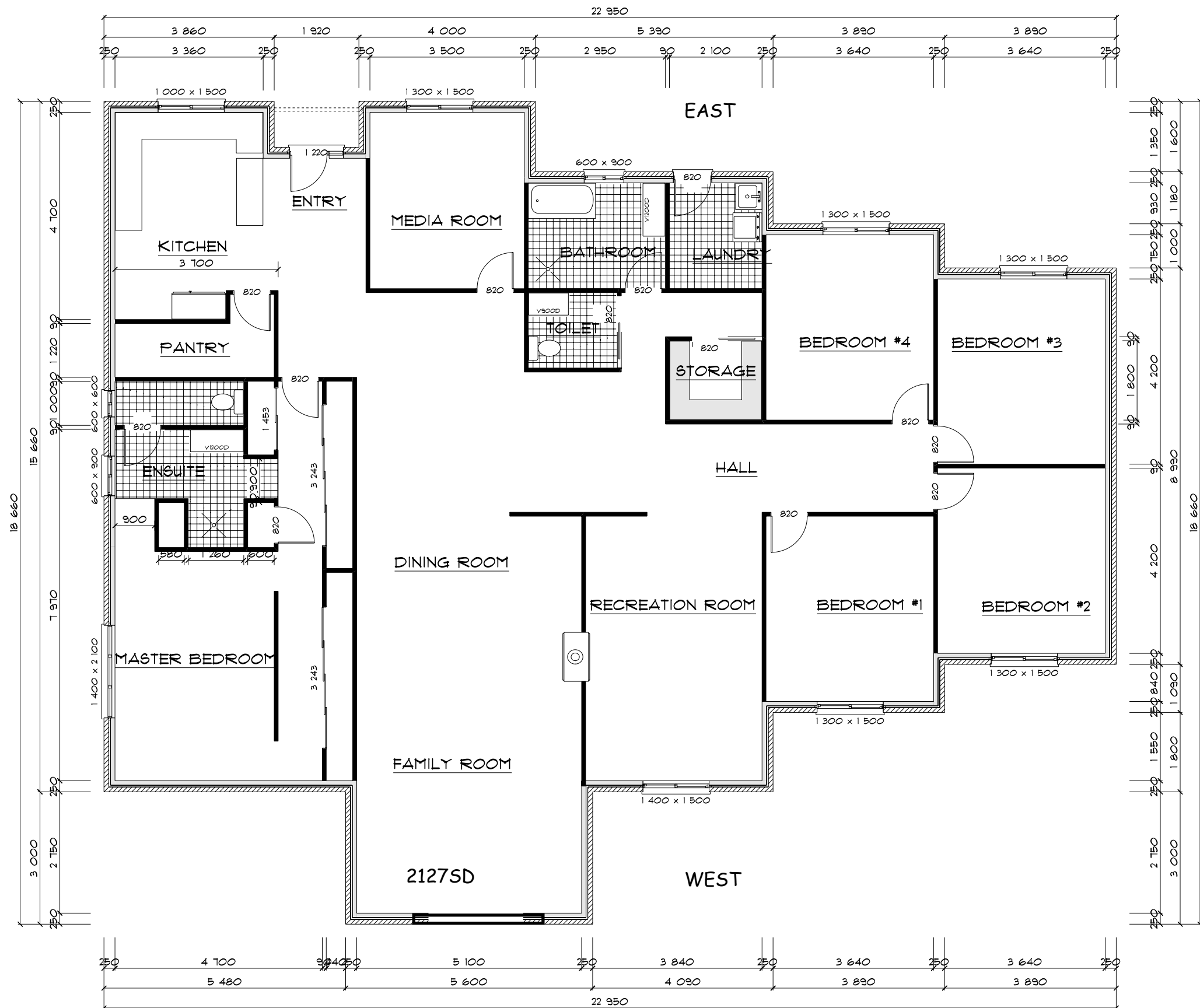
Draftsman in Charge

## **APPENDIX # 4**

### **Development Plans**



NORTH



SOUTH

# MAIN FLOOR

SCALE: 1:100

**GENERAL NOTES.**  
ALL DIMENSION SHOWN IN MILLIMETERS UNLESS NOTED OTHERWISE  
ALL DIMENSION & LEVELS ARE TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION.  
DON'T SCALE FROM DRAWING. ALL WRITTEN DIMENSION TAKE PRECEDENCE & MUST BE CONFIRMED ON SITE.  
ALL SITE DIMENSION BUILDING SETBACKS & THE LOCATION OF ANY BUILDING ENVELOPES, SERVICES OR EASEMENTS TO BE CONFIRMED BY BUILDER OR REGISTERED SURVEYOR AT THE TIME OF SETOUT.  
ALL NEW STORMWATER DRAINAGE & SEWAGE TO BE CARRIED OUT IN ACCORDANCE WITH THE BCA & LOCAL AUTHORITY REQUIREMENTS.  
ALL PLUMBING TO AS 3500 & THE NATIONAL PLUMBING & DRAINAGE CODE

ALL WORK TO COMPLY WITH BUILDING CODE OF AUSTRALIA & ALL RELEVANT AUSTRALIAN STANDARDS.  
ALL STRUCTURAL ELEMENTS TO BE DESIGNED OR CERTIFIED BY A PRACTISING STRUCTURAL ENGINEER.  
CONCRETE SLABS & FOOTINGS TO BE DESIGNED IN ACCORDANCE WITH AS 2810.1 RESIDENTIAL SLABS & FOOTINGS.  
ALL TIMBER USED IN THE BUILDING TO COMPLY WITH AS 1684 RESIDENTIAL TIMBER FRAMED CONSTRUCTION.  
PROTECTION OF THE NEW BUILDING FROM TERMITES TO BE CARRIED OUT IN ACCORDANCE WITH THE BCA & ALL RELEVANT LOCAL AUTHORITIES.  
CONSTRUCTION OF ANY STAIRWAYS OR BALUSTRADES TO COMPLY WITH BCA REQUIREMENTS.  
ALL STRUCTURES TO BE MAINTAINED IN A STABLE CONDITION AT ALL TIMES WITHOUT OVERSTRESSING DURING OR AFTER CONSTRUCTION.

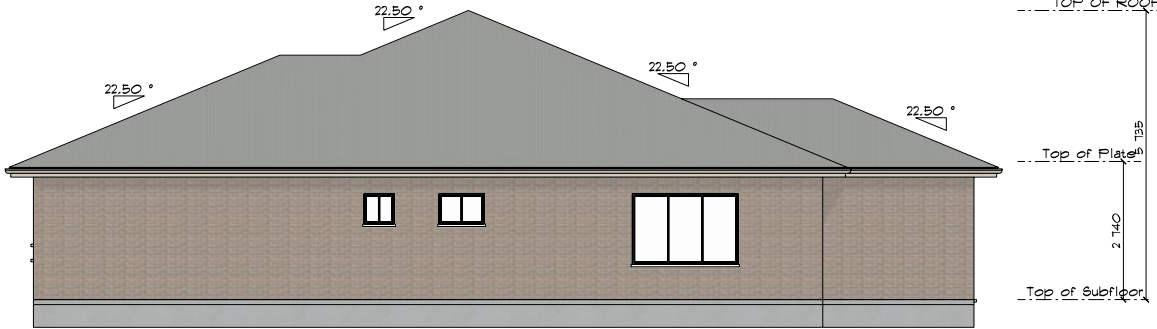
|                                               |                           |                                 |
|-----------------------------------------------|---------------------------|---------------------------------|
| John McLachlan                                |                           |                                 |
| Site Address: 902 Henry Lawson Way Young 2594 |                           |                                 |
| SCALE: 1:100                                  | Floor Plan<br>Page No : 1 | DRAWN BY:<br>Mark<br>0429824613 |
| DATE: 8/09/2023                               |                           |                                 |



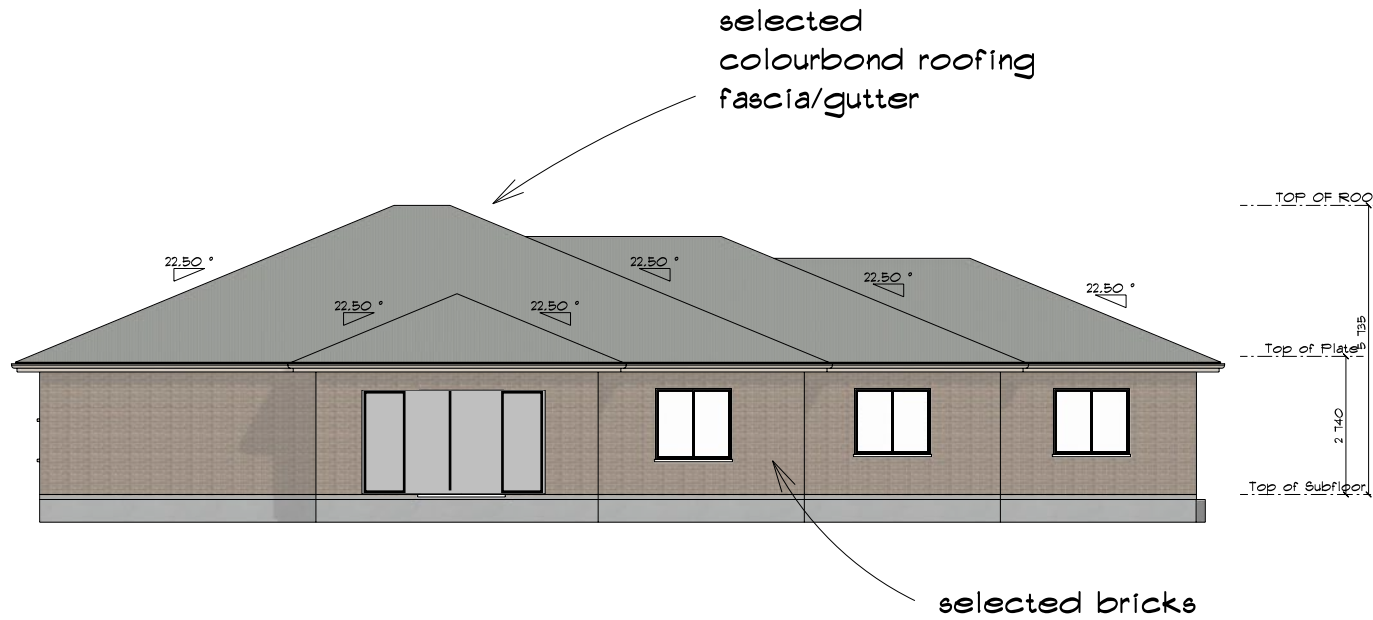




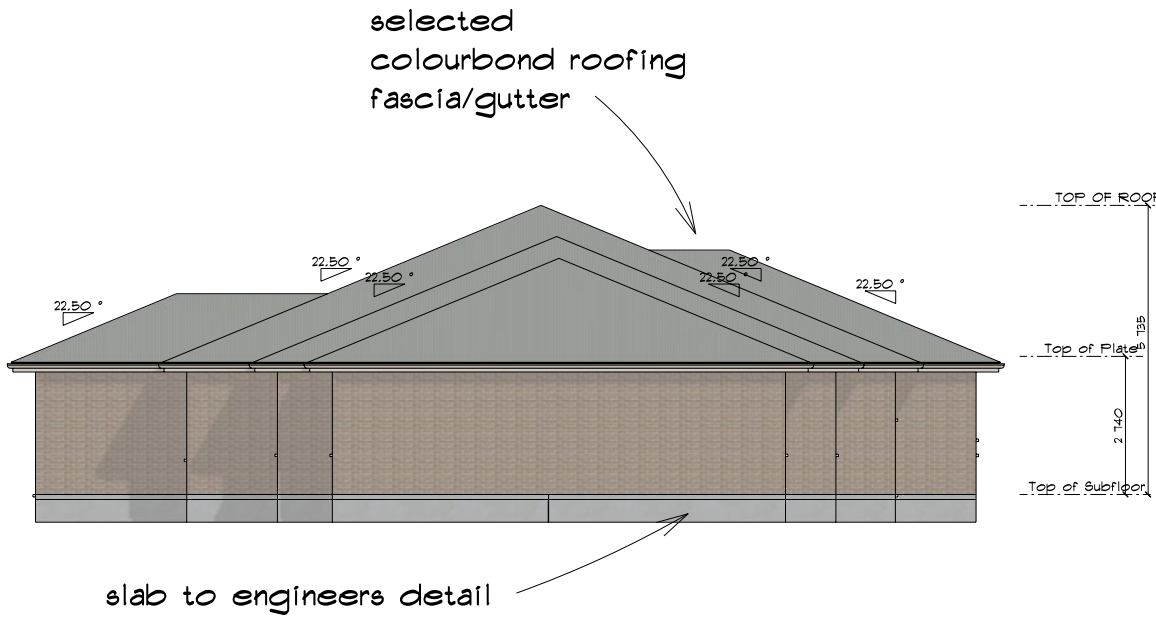
NORTH ELEVATION  
SCALE: 1:150



WEST ELEVATION  
SCALE: 1:150



SOUTH ELEVATION  
SCALE: 1:150



EAST ELEVATION  
SCALE: 1:150

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |                                                                                      |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------|--|
| <p><b>GENERAL NOTES.</b></p> <p>ALL DIMENSIONS SHOWN IN MILLIMETERS UNLESS NOTED OTHERWISE<br/>ALL DIMENSION &amp; LEVELS ARE TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION.<br/>DON'T SCALE FROM DRAWING. ALL WRITTEN DIMENSION TAKE PRECEDENCE &amp; MUST BE CONFIRMED ON SITE.<br/>ALL SITE DIMENSION BUILDING SETBACKS &amp; THE LOCATION OF ANY BUILDING ENVELOPES, SERVICES OR EASEMENTS TO BE CONFIRMED BY BUILDER OR REGISTERED SURVEYOR AT THE TIME OF SETOUT.<br/>ALL NEW STORMWATER DRAINAGE &amp; SEWAGE TO BE CARRIED OUT IN ACCORDANCE WITH THE BCA &amp; LOCAL AUTHORITY REQUIREMENTS.<br/>ALL PLUMBING TO AS3500 &amp; THE NATIONAL PLUMBING &amp; DRAINAGE CODE</p> <p>ALL WORK TO COMPLY WITH BUILDING CODE OF AUSTRALIA &amp; ALL RELEVANT AUSTRALIAN STANDARDS.<br/>ALL STRUCTURAL ELEMENTS TO BE DESIGNED OR CERTIFIED BY A PRACTISING STRUCTURAL ENGINEER.<br/>CONCRETE SLABS &amp; FOOTINGS TO BE DESIGNED IN ACCORDANCE WITH AS 2870.1 RESIDENTIAL SLABS &amp; FOOTINGS.<br/>ALL TIMBER USED IN THE BUILDING TO COMPLY WITH AS 1684 RESIDENTIAL TIMBER FRAMED CONSTRUCTION.<br/>PROTECTION OF THE NEW BUILDING FROM TERMITES TO BE CARRIED OUT IN ACCORDANCE WITH THE BCA &amp; ALL RELEVANT LOCAL AUTHORITIES.<br/>CONSTRUCTION OF ANY STAIRWAYS OR BALUSTRADES TO COMPLY WITH BCA REQUIREMENTS.<br/>ALL STRUCTURES TO BE MAINTAINED IN A STABLE CONDITION AT ALL TIMES WITHOUT OVERSTRESSING DURING OR AFTER CONSTRUCTION.</p> |  | <p>John McLachlan</p> <p>Site Address: 902 Henry Lawson Way      Young      2594</p> |  |
| SCALE: 1:150                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  | Elevations<br>Page No : 3                                                            |  |
| DATE: 11/09/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | DRAWN BY:<br>Mark<br>0429824613                                                      |  |

## **APPENDIX # 5**

### **BASIX**

Certificate number: 1427222S

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Secretary

Date of issue: Wednesday, 27 September 2023

To be valid, this certificate must be lodged within 3 months of the date of issue.




Planning,  
Industry &  
Environment

| Project summary           |                                                                                        |             |
|---------------------------|----------------------------------------------------------------------------------------|-------------|
| Project name              | MCLACHLAN_A                                                                            |             |
| Street address            | 902 HENRY LAWSON Way YOUNG 2594                                                        |             |
| Local Government Area     | Hilltops Council                                                                       |             |
| Plan type and plan number | deposited 754582                                                                       |             |
| Lot no.                   | 322                                                                                    |             |
| Section no.               | -                                                                                      |             |
| Project type              | separate dwelling house                                                                |             |
| No. of bedrooms           | 5                                                                                      |             |
| Project score             |                                                                                        |             |
| Water                     |  89   | Target 40   |
| Thermal Comfort           |  Pass | Target Pass |
| Energy                    |  44   | Target 35   |

| Certificate Prepared by |                    |
|-------------------------|--------------------|
| Name / Company Name:    | DA Busters Pty Ltd |
| ABN (if applicable):    | 56616643308        |

# Description of project

| Project address                    |                                 |
|------------------------------------|---------------------------------|
| Project name                       | MCLACHLAN_A                     |
| Street address                     | 902 HENRY LAWSON Way YOUNG 2594 |
| Local Government Area              | Hilltops Council                |
| Plan type and plan number          | Deposited Plan 754582           |
| Lot no.                            | 322                             |
| Section no.                        | -                               |
| Project type                       |                                 |
| Project type                       | separate dwelling house         |
| No. of bedrooms                    | 5                               |
| Site details                       |                                 |
| Site area (m²)                     | 90290                           |
| Roof area (m²)                     | 310                             |
| Conditioned floor area (m2)        | 246.5                           |
| Unconditioned floor area (m2)      | 30.47                           |
| Total area of garden and lawn (m2) | 200                             |

| Assessor details and thermal loads                                |                                                                                                    |
|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Assessor number                                                   | n/a                                                                                                |
| Certificate number                                                | n/a                                                                                                |
| Climate zone                                                      | n/a                                                                                                |
| Area adjusted cooling load (MJ/m².year)                           | n/a                                                                                                |
| Area adjusted heating load (MJ/m².year)                           | n/a                                                                                                |
| Ceiling fan in at least one bedroom                               | n/a                                                                                                |
| Ceiling fan in at least one living room or other conditioned area | n/a                                                                                                |
| Project score                                                     |                                                                                                    |
| Water                                                             |  89 Target 40     |
| Thermal Comfort                                                   |  Pass Target Pass |
| Energy                                                            |  44 Target 35    |

## Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

| Water Commitments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  | Show on DA plans | Show on CC/CDC plans & specs | Certifier check       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------|------------------------------|-----------------------|
| <b>Fixtures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                  |                              |                       |
| The applicant must install showerheads with a minimum rating of 4 star (> 6 but ≤ 7.5 L/min plus spray force and/or coverage tests) in all showers in the development.                                                                                                                                                                                                                                                                                                                                  |  |                  | ✓                            | ✓                     |
| The applicant must install a toilet flushing system with a minimum rating of 4 star in each toilet in the development.                                                                                                                                                                                                                                                                                                                                                                                  |  |                  | ✓                            | ✓                     |
| The applicant must install taps with a minimum rating of 4 star in the kitchen in the development.                                                                                                                                                                                                                                                                                                                                                                                                      |  |                  | ✓                            |                       |
| The applicant must install basin taps with a minimum rating of 4 star in each bathroom in the development.                                                                                                                                                                                                                                                                                                                                                                                              |  |                  | ✓                            |                       |
| <b>Alternative water</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |                  |                              |                       |
| Rainwater tank                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |                  |                              |                       |
| The applicant must install a rainwater tank of at least 100000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.                                                                                                                                                                                                                                                                                       |  | ✓                | ✓                            | ✓                     |
| The applicant must configure the rainwater tank to collect rain runoff from at least 310 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).                                                                                                                                                                                                                                                                         |  |                  | ✓                            | ✓                     |
| The applicant must connect the rainwater tank to:                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                  |                              |                       |
| <ul style="list-style-type: none"> <li>all toilets in the development</li> <li>the cold water tap that supplies each clothes washer in the development</li> <li>at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)</li> <li>all hot water systems in the development</li> <li>all indoor cold water taps (not including taps that supply clothes washers) in the development</li> </ul> |  |                  | ✓<br>✓<br>✓<br>✓<br>✓        | ✓<br>✓<br>✓<br>✓<br>✓ |

| Thermal Comfort Commitments                                                                                                                         |  |   |   |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|--|---|---|---|
| General features                                                                                                                                    |  |   |   |   |
| The dwelling must not have more than 2 storeys.                                                                                                     |  | ➤ | ➤ | ➤ |
| The conditioned floor area of the dwelling must not exceed 300 square metres.                                                                       |  | ➤ | ➤ | ➤ |
| The dwelling must not contain open mezzanine area exceeding 25 square metres.                                                                       |  | ➤ | ➤ | ➤ |
| The dwelling must not contain third level habitable attic room.                                                                                     |  | ➤ | ➤ | ➤ |
| Floor, walls and ceiling/roof                                                                                                                       |  |   |   |   |
| The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below. |  | ➤ | ➤ | ➤ |

| Construction                                   | Additional insulation required (R-Value) | Other specifications                                |
|------------------------------------------------|------------------------------------------|-----------------------------------------------------|
| floor - concrete slab on ground                | nil                                      |                                                     |
| external wall - brick veneer                   | 2.06 (or 2.60 including construction)    |                                                     |
| ceiling and roof - flat ceiling / pitched roof | ceiling: 3.5 (up), roof: foil/sarking    | unventilated; medium (solar absorptance 0.475-0.70) |

|      |                                                                                                                                                              |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Note | • Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.                             |
| Note | • In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials. |

| Thermal Comfort Commitments                                                                                                                                                                                                                                                                                                                                                   |  |  |                  |                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|------------------|------------------------------|
| Windows, glazed doors and skylights                                                                                                                                                                                                                                                                                                                                           |  |  |                  |                              |
| The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. Relevant overshadowing specifications must be satisfied for each window and glazed door.                                                                                                                    |  |  |                  |                              |
| The dwelling may have 1 skylight (<0.7 square metres) which is not listed in the table.                                                                                                                                                                                                                                                                                       |  |  |                  |                              |
| The following requirements must also be satisfied in relation to each window and glazed door:                                                                                                                                                                                                                                                                                 |  |  |                  |                              |
| <ul style="list-style-type: none"> <li>For the following glass and frame types, the certifier check can be performed by visual inspection. <ul style="list-style-type: none"> <li>- Aluminium single clear</li> <li>- Aluminium double (air) clear</li> <li>- Timber/uPVC/fibreglass single clear</li> <li>- Timber/uPVC/fibreglass double (air) clear</li> </ul> </li> </ul> |  |  |                  |                              |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  | Show on DA plans | Show on CC/CDC plans & specs |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  | ✓                | ✓                            |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  | ✓                | ✓                            |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  | ✓                | ✓                            |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  |                  |                              |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  |                  |                              |
|                                                                                                                                                                                                                                                                                                                                                                               |  |  |                  |                              |

| Window/glazed door no. | Maximum height (mm) | Maximum width (mm) | Type                     | Shading Device (Dimension within 10%)                   | Overshadowing    |
|------------------------|---------------------|--------------------|--------------------------|---------------------------------------------------------|------------------|
| North facing           |                     |                    |                          |                                                         |                  |
| W01                    | 1400                | 2100               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W02                    | 600                 | 900                | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W03                    | 600                 | 600                | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| East facing            |                     |                    |                          |                                                         |                  |
| W04                    | 1000                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W05                    | 1300                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W06                    | 600                 | 900                | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |



| Window/glazed door no. | Maximum height (mm) | Maximum width (mm) | Type                     | Shading Device (Dimension within 10%)                   | Overshadowing    |
|------------------------|---------------------|--------------------|--------------------------|---------------------------------------------------------|------------------|
| W07                    | 1300                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W08                    | 1300                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| D01                    | 2100                | 820                | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| <b>West facing</b>     |                     |                    |                          |                                                         |                  |
| W09                    | 1300                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W10                    | 1300                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| W11                    | 1400                | 1500               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |
| D02                    | 2100                | 2700               | aluminium, single, clear | eave 450 mm, 200 mm above head of window or glazed door | not overshadowed |

| Energy Commitments                                                                                                                                                                                                                                                                                                                                                                                                      | Show on DA plans | Show on CC/CDC plans & specs | Certifier check |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------------------|-----------------|
| <b>Hot water</b>                                                                                                                                                                                                                                                                                                                                                                                                        |                  |                              |                 |
| The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 5 stars.                                                                                                                                                                                                                                                 | ✓                | ✓                            | ✓               |
| <b>Cooling system</b>                                                                                                                                                                                                                                                                                                                                                                                                   |                  |                              |                 |
| The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 5 star (cold zone)                                                                                                                                                                                                                                 |                  | ✓                            | ✓               |
| The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 5 star (cold zone)                                                                                                                                                                                                                                     |                  | ✓                            | ✓               |
| The cooling system must provide for day/night zoning between living areas and bedrooms.                                                                                                                                                                                                                                                                                                                                 |                  | ✓                            | ✓               |
| <b>Heating system</b>                                                                                                                                                                                                                                                                                                                                                                                                   |                  |                              |                 |
| The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 5 star (cold zone)                                                                                                                                                                                                                                 |                  | ✓                            | ✓               |
| The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 5 star (cold zone)                                                                                                                                                                                                                                     |                  | ✓                            | ✓               |
| The heating system must provide for day/night zoning between living areas and bedrooms.                                                                                                                                                                                                                                                                                                                                 |                  | ✓                            | ✓               |
| <b>Ventilation</b>                                                                                                                                                                                                                                                                                                                                                                                                      |                  |                              |                 |
| The applicant must install the following exhaust systems in the development:                                                                                                                                                                                                                                                                                                                                            |                  |                              |                 |
| At least 1 Bathroom: individual fan, not ducted; Operation control: manual switch on/off                                                                                                                                                                                                                                                                                                                                |                  | ✓                            | ✓               |
| Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off                                                                                                                                                                                                                                                                                                                              |                  | ✓                            | ✓               |
| Laundry: natural ventilation only, or no laundry; Operation control: n/a                                                                                                                                                                                                                                                                                                                                                |                  | ✓                            | ✓               |
| <b>Artificial lighting</b>                                                                                                                                                                                                                                                                                                                                                                                              |                  |                              |                 |
| The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps: <ul style="list-style-type: none"> <li>at least 5 of the bedrooms / study; dedicated</li> </ul> |                  | ✓                            | ✓               |

| Energy Commitments                                                                                                                                                          |  | Show on DA plans | Show on CC/CDC plans & specs | Certifier check            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------|------------------------------|----------------------------|
| <ul style="list-style-type: none"> <li>• at least 3 of the living / dining rooms; dedicated</li> <li>• the laundry; dedicated</li> <li>• all hallways; dedicated</li> </ul> |  |                  | <p>➤</p> <p>➤</p> <p>➤</p>   | <p>➤</p> <p>➤</p> <p>➤</p> |
| <b>Natural lighting</b>                                                                                                                                                     |  |                  |                              |                            |
| The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.                                                                    |  | ➤                | ➤                            | ➤                          |
| The applicant must install a window and/or skylight in 3 bathroom(s)/toilet(s) in the development for natural lighting.                                                     |  | ➤                | ➤                            | ➤                          |
| <b>Other</b>                                                                                                                                                                |  |                  |                              |                            |
| The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.                                                                                    |  |                  | ➤                            |                            |
| The applicant must construct each refrigerator space in the development so that it is "well ventilated", as defined in the BASIX definitions.                               |  |                  | ➤                            |                            |
| The applicant must install a fixed outdoor clothes drying line as part of the development.                                                                                  |  |                  | ➤                            |                            |

## Legend

In these commitments, "applicant" means the person carrying out the development.

Commitments identified with a  in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Commitments identified with a  in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.

Commitments identified with a  in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate(either interim or final) for the development may be issued.

## **APPENDIX # 6**

### **AHIMS SEARCH**

### **BMAT SEARCH**

Kenneth Filmer

Date: 02 November 2023

18 Pineview Cct 91 Boorowa Street Young  
Young New South Wales 2594

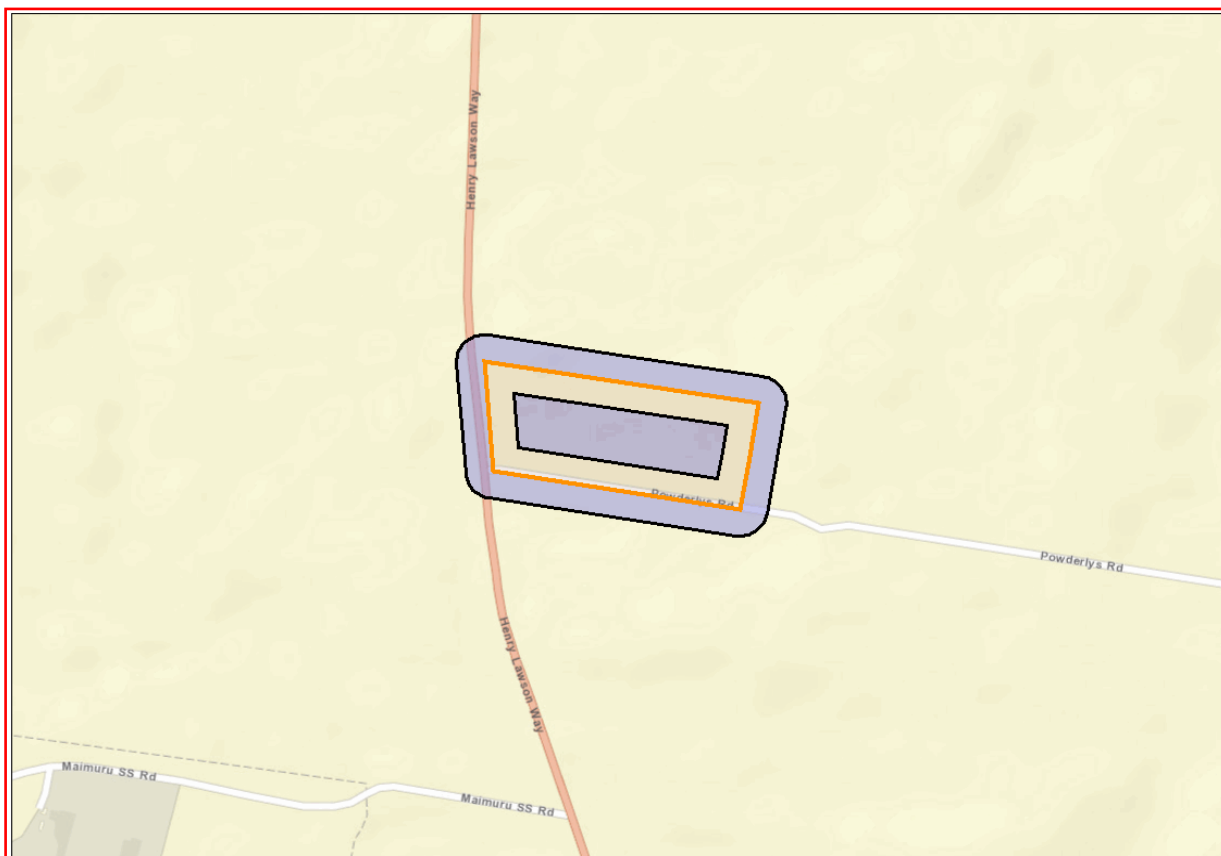
Attention: Kenneth Filmer

Email: craig@dabusters.com

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 322, DP:DP754582, Section : - with a Buffer of 50 meters, conducted by Kenneth Filmer on 02 November 2023.**

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

|   |                                                                       |
|---|-----------------------------------------------------------------------|
| 0 | Aboriginal sites are recorded in or near the above location.          |
| 0 | Aboriginal places have been declared in or near the above location. * |



**If your search shows Aboriginal sites or places what should you do?**

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(https://www.legislation.nsw.gov.au/gazette\)](https://www.legislation.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW upon request

**Important information about your AHIMS search**

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

## Biodiversity Values Map and Threshold Report

This report is generated using the Biodiversity Values Map and Threshold (BMAT) tool. The BMAT tool is used by proponents to supply evidence to a consent authority to determine whether or not a Biodiversity Development Assessment Report (BDAR) is required under [the Biodiversity Conservation Regulation 2017 \(Cl. 7.2 & 7.3\)](#).

The report provides results for the proposed development footprint area identified by the user and displayed within the blue boundary on the map.

There are two pathways for determining whether or not a BDAR is required for the proposed development:

1. Is there Biodiversity Values Mapping?
2. Is the 'clearing of native vegetation area threshold' exceeded?

| Biodiversity Values Map and Threshold Report                                                                                                                                                                                                |                                                                                                                                                     |                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Date of Report Generation                                                                                                                                                                                                                   |                                                                                                                                                     | 02/11/2023 6:55 AM |
| Biodiversity Values (BV) Map Threshold - Results Summary                                                                                                                                                                                    |                                                                                                                                                     |                    |
| 1                                                                                                                                                                                                                                           | Does the development Footprint intersect with BV mapping?                                                                                           | no                 |
| 2                                                                                                                                                                                                                                           | Was ALL of the BV Mapping within the development footprinted added in the last 90 days? (dark purple mapping only, no light purple mapping present) | no                 |
| 3                                                                                                                                                                                                                                           | Date of expiry of dark purple 90 day mapping*                                                                                                       | N/A                |
| 4                                                                                                                                                                                                                                           | Is the Biodiversity Values Map threshold exceeded?                                                                                                  | no                 |
| Area Clearing Threshold - Results Summary                                                                                                                                                                                                   |                                                                                                                                                     |                    |
| 5                                                                                                                                                                                                                                           | Size of the development or clearing footprint                                                                                                       | 395.9 sqm          |
| 6                                                                                                                                                                                                                                           | Native Vegetation Area Clearing Estimate (NVACE)                                                                                                    | 395.9 sqm          |
| 7                                                                                                                                                                                                                                           | Method for determining Minimum Lot Size                                                                                                             | LEP                |
| 8                                                                                                                                                                                                                                           | Minimum Lot Size (10,000sqm = 1ha)                                                                                                                  | 240,000 sqm        |
| 9                                                                                                                                                                                                                                           | Area Clearing Threshold (10,000sqm = 1ha)                                                                                                           | 5,000 sqm          |
| 10                                                                                                                                                                                                                                          | Is the Area Clearing Threshold exceeded?                                                                                                            | no                 |
| Is the proposed development assessed above the Biodiversity Offsets Schema (BOS) threshold?<br>Exceeding the BOS threshold will require completion of a Biodiversity Development Assessment Report (BDAR). More details provided on page 2. |                                                                                                                                                     | no                 |

## What do I do with this report?

- If the result above indicates a BDAR is required, a Biodiversity Development Assessment Report may be required with your development application. Go to <https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor> to access a list of accredited assessors. An accredited assessor can apply the Biodiversity Assessment Method and prepare a BDAR.
- If the result above indicates a BDAR is not required, you have not exceeded the BOS threshold. This report can be provided to Council to support your development application. You may still require a permit from your local council. Review the development control plan and consult with council. You may still be required to assess whether the development is “likely to significantly affect threatened species” as determined under the test in Section 7.3 of the Biodiversity Conservation Act 2016. You may also be required to review the area where no vegetation mapping is available.
- If all Biodiversity Values mapping within your development footprint are less than 90 days old, i.e. mapping is displayed as dark purple on the map, a BDAR may not be required if your Development Application is submitted within that 90 day period. \*Any BV mapping less than 90 days old on this report will expire on the date provided in Line item 3 above.

For more detailed advice about actions required, refer to the Interpreting the evaluation report section of the [Biodiversity Values Map Threshold Tool User Guide](#).

## Review Options:

- If you believe the Biodiversity Values mapping is incorrect please refer to our [BV Map Review webpage](#) for further information.
- If you disagree with the NVACE result for Line Item 6 above (i.e. area of Native Vegetation within the Development footprint proposed to be cleared) you can undertake a self-assessment. For more information about this refer to the Guide for reviewing BMAT Tool area clearing threshold results.

## Acknowledgement

I, as the applicant for this development, submit that I have correctly depicted the area that will be impacted or likely to be impacted as a result of the proposed development.

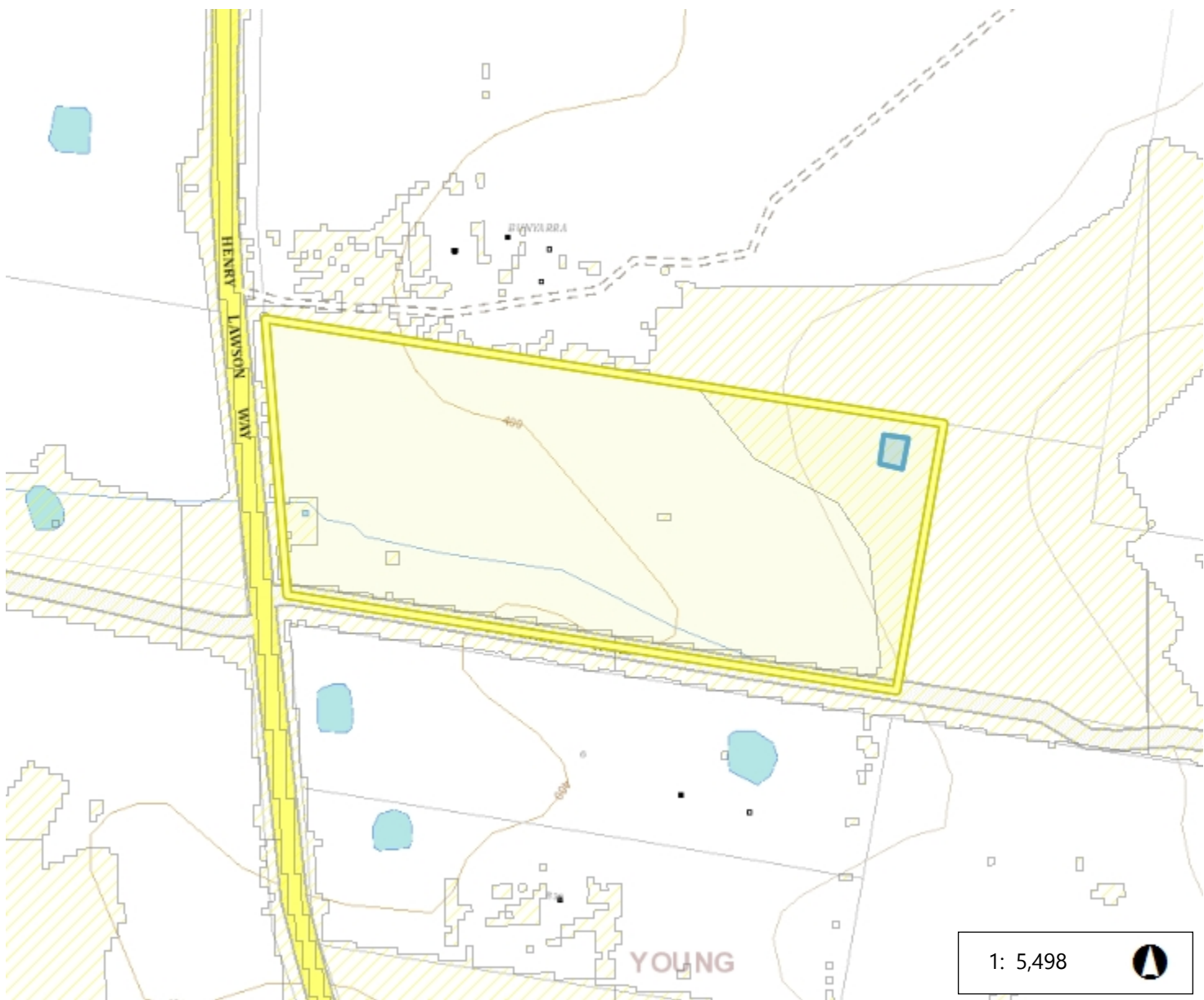
Signature: \_\_\_\_\_

(Typing your name in the signature field will be considered as your signature for the purposes of this form)

Date: \_\_\_\_\_

02/11/2023 06:55 AM

# Biodiversity Values Map



279.3 0 139.64 279.3 Metres

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

Legend

- Biodiversity Values that have been mapped for more than 90 days
- Biodiversity Values added within last 90 days
- Native Vegetation Area Clearing Estimate (NVACE)
- Development area selected by proponent

02/11/2023 06:55 AM

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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The results provided in this tool are generated using the best available mapping and knowledge of species habitat requirements.

This map is valid as at the date the report was generated. Checking the [Biodiversity Values Map viewer](#) for mapping updates is recommended.