

Statement of Environmental Effects	
In Support of a Development Application	
Proposal	<ul style="list-style-type: none"> DWELLING – new, on a 6.15ha allotment IN A 12.35 ha Parcel, at Lot 245 & 368 DP 753642, Cemetery Rd MURRUMBURRAH To request a section 4.6 Variation to LEP to accommodate same over the parcel (12.35ha vs 40ha)
Subject Land Address	Lot 245 DP 754582 and Lot 368 DP 753624
	Cemetery Rd MURRUMBURRAH
Applicant/Owner	[REDACTED]
	[REDACTED]
Appn Prepared By	DA Busters – Development Assistance Services Ph: 0466 722 869 Email: Craig@DAbusters.com
LGA	Hilltops Council – former Harden Shire Council area



View from NW Corner"

DA assisted by:



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

10 April 2024

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
Lot 245/368 Cemetery Rd Murrumburrah – A & K Seaman**

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 no longer exist and this application has been prepared based on the recent 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 holding of two (2) allotments of a larger or equivalent size to other occupied allotments in this hinterland sub catchment on the edge of Murrumburrah, including 2 nearby allotments that are in receipt of 4.6 variations on smaller holdings. and the existence of similar adjacent other dwellings. The most productive use of this land is occupied and used in a semi rural cum agricultural way (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, 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 Seaman will be the applicants/primary contacts, should any technical enquiry arise, please forward these to myself, the contact information is in the letterhead above.

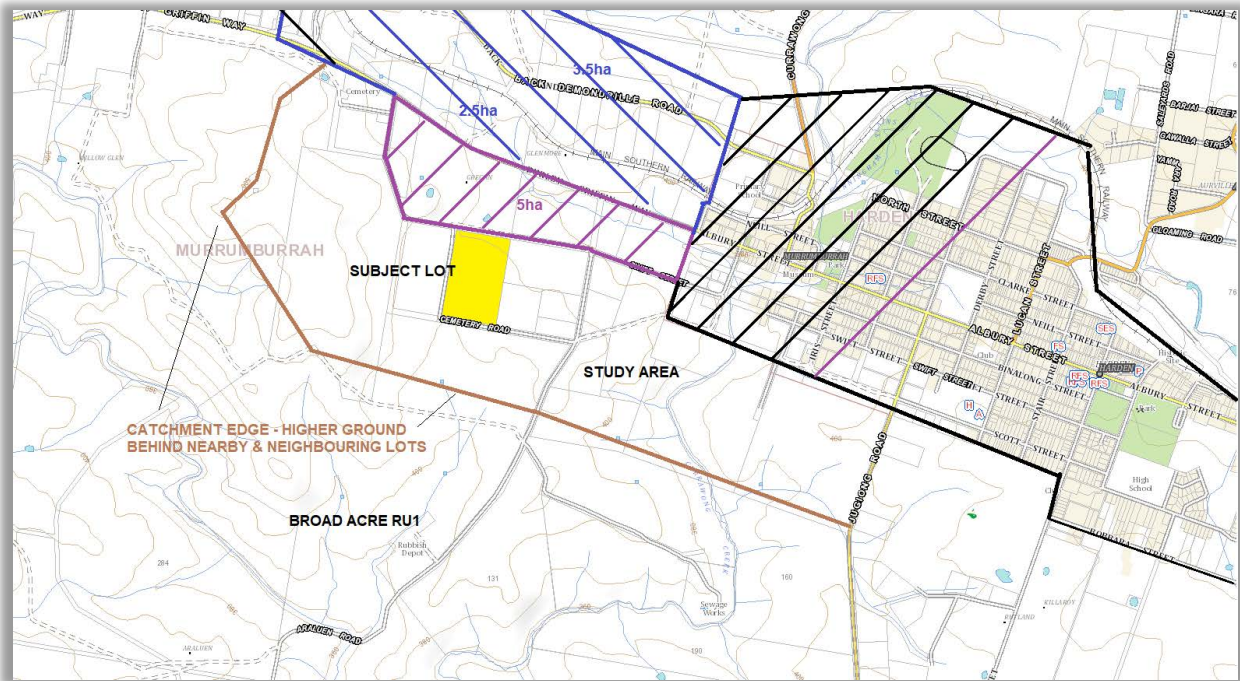
A handwritten signature in black ink, appearing to be 'K Craig Filmer', is written over a light grey circular stamp. The signature is fluid and cursive.

K Craig Filmer
Development & Environmental Health Specialist

A. DESCRIPTION OF DEVELOPMENT:

Property address	Lots 245 & 368 DP 754632 (Parcel to be consolidated prior to OC) Cemetery Rd MURRUMBURRAH	
Proposed structures or works	<p>Dwelling – The dwelling will be a 4 bedroom brick veneer walled, and custom orb colorbond roofed structure, with an Al Fresco extension to the Living Areas engaging the outside areas connectivity. The dwelling will be located in the SE corner of Lot 245 near the junction boundary to be dissolved between the 2 lots.</p> <p>The structure will have a homestead appeal but be set near the higher part 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/horses or the occasional livestock feed pasture crop to enjoy the rural use of the property.</p> <p>The enclosed Living Areas will be approximately 207 sq.m with 30 sq.m al fresco and 14 sq.m Porch. The house will be founded on a slab in a saddle 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.
		  <p>Basalt Colorbond or similar PGH Tourmaline or equiv</p>
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 or of an indicative area to minimise cut/fill.</p> <p>Whilst the land is of a sloping nature from southeast toward the northwest of the land, the site will be set below the nearby hilltop. The location is somewhat more level than the remainder of the land. The site chosen primarily for sweeping views.</p>

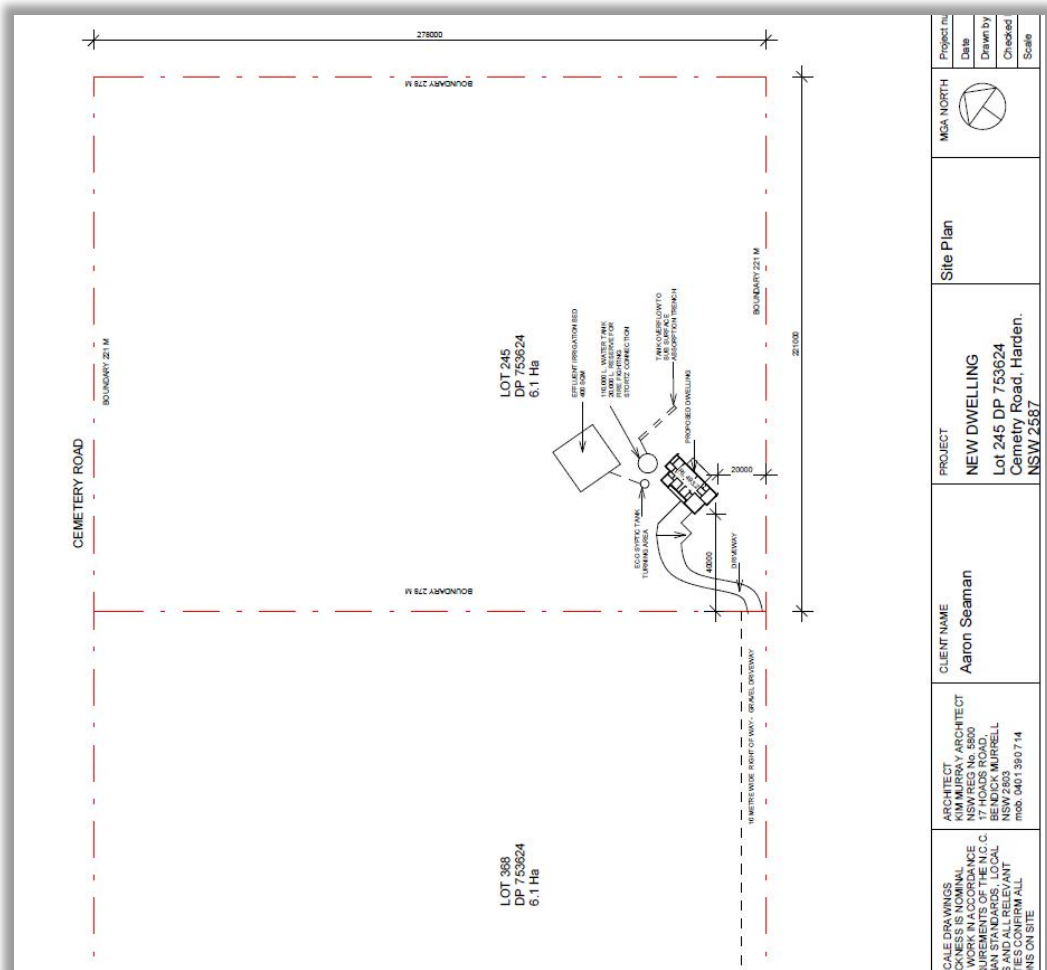
		The access to the land will be readily available off Cemetery Rd which extends off the Burley Griffin Way west of Murrumburrah
	 <p>View from proposed access at south of site</p>	
Tree removal (identify location, size and species of tree/s)	No	No tree removal on site nor in position of dwelling – the site has occasional perimeter trees yet will see more provided once dwelling curtilage established at approval. No trees at proposed site.
Wall and roof height	Yes	Dwelling – When measured from the height of the building pad, the eave height will be 2.7m from floor level, the dominant ridge line will be approximately 5.465m 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 260 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 holding is over 12.3 ha in size. After a roofed footprint of max 260 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: 165m to unformed road bdy (Cemetery – Araluen Rd connector).</p> <p>South: 261m to E-W Cemetery Rd beside Lot 245</p> <p>West: 228m to N-S Cemetery Rd</p> <p>East: 20 m to occupied allotment (neighbour dwelling over high ground adjacent)</p> <p>See site plan as attached to main drawing set.</p>



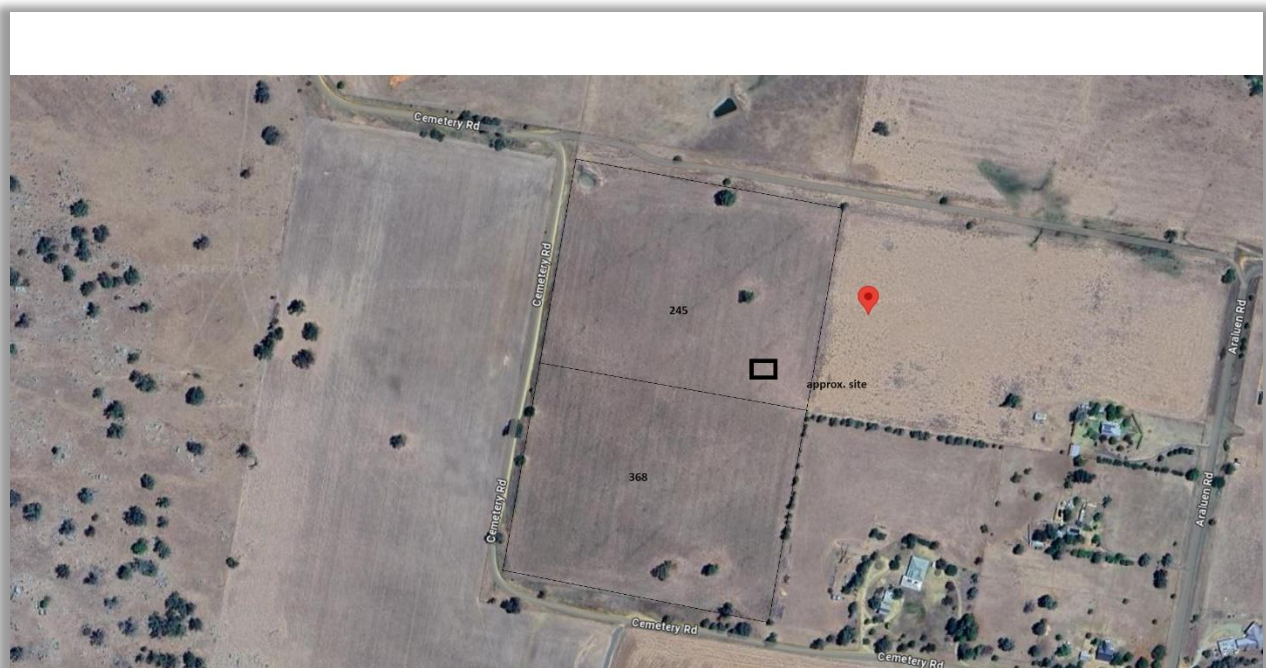
Topographic Map and key features (NSW SIX)



Neighbourhood Aerial (NSW SIX)



Site Plan Extract



Locality Map - Google

B. SITE & LOCALITY DESCRIPTION:

The following details have been shown on the site plan,

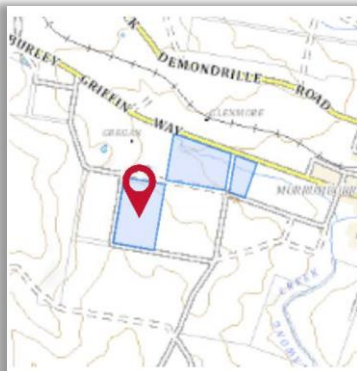
- ☒ site dimensions ☒ site area ☒ north point ☒ scale
☒ existing buildings ☒ proposed buildings ☒ easements ☒ BASIX

Issue

Present use of the site

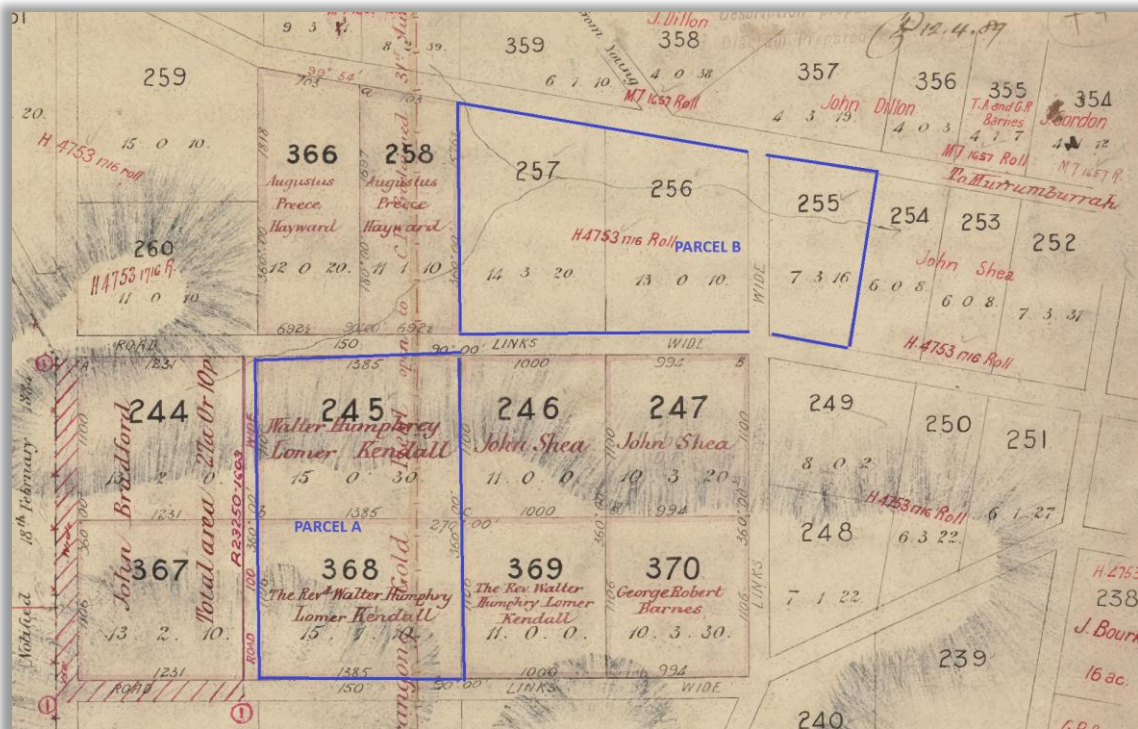
Details

The current use of the land is very infrequent farming (hay crop in a better year – occasional grazing). The land (Lot 245) was subdivided in 1889 and from that time has been in ownership not always consistent with neighbouring lands but of late with adjacent (but not contiguous) Lot 255-257 DP 754632 (differing zone and lot size) and others, worked mostly for agistment between the parcels and for pocket money returns.



Property Details

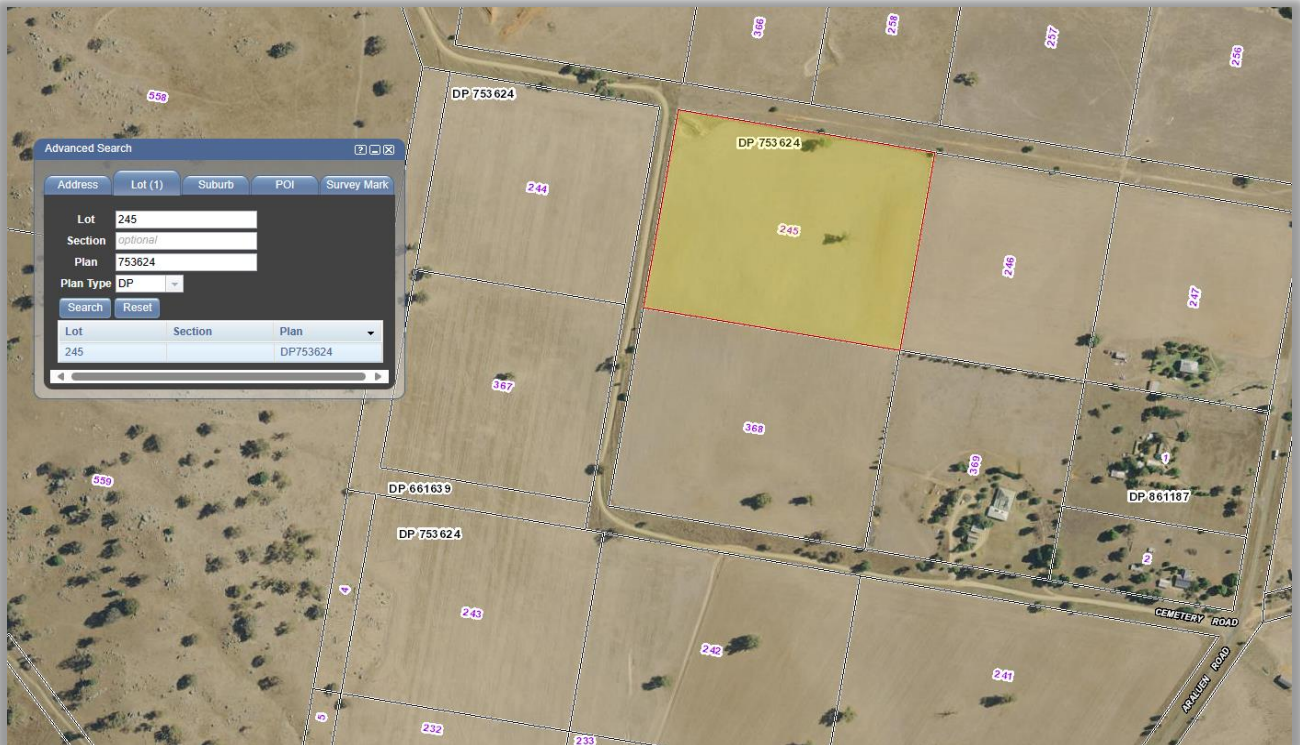
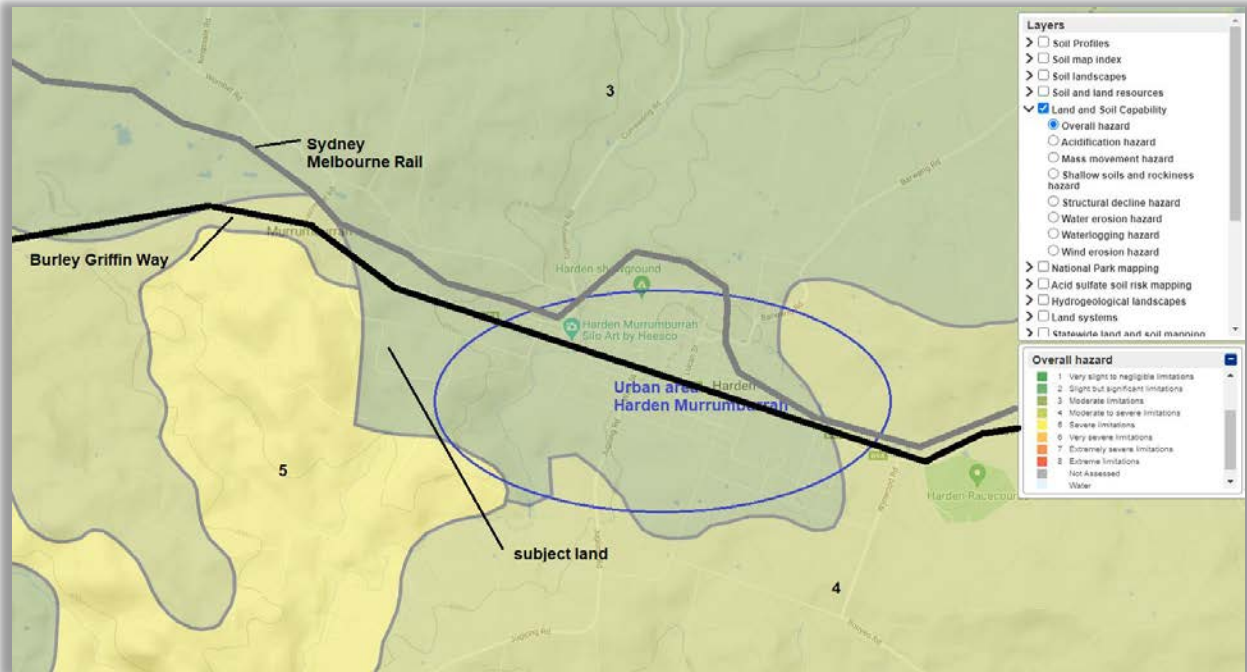
Address: BURLEY GRIFFIN WAY MURRUMBURRAH 2587
 Lot/Section 245/-/DP753624 255/-/DP753624 256/-/DP753624
 /Plan No: 257/-/DP753624 368/-/DP753624
 Council: HILLTOPS COUNCIL



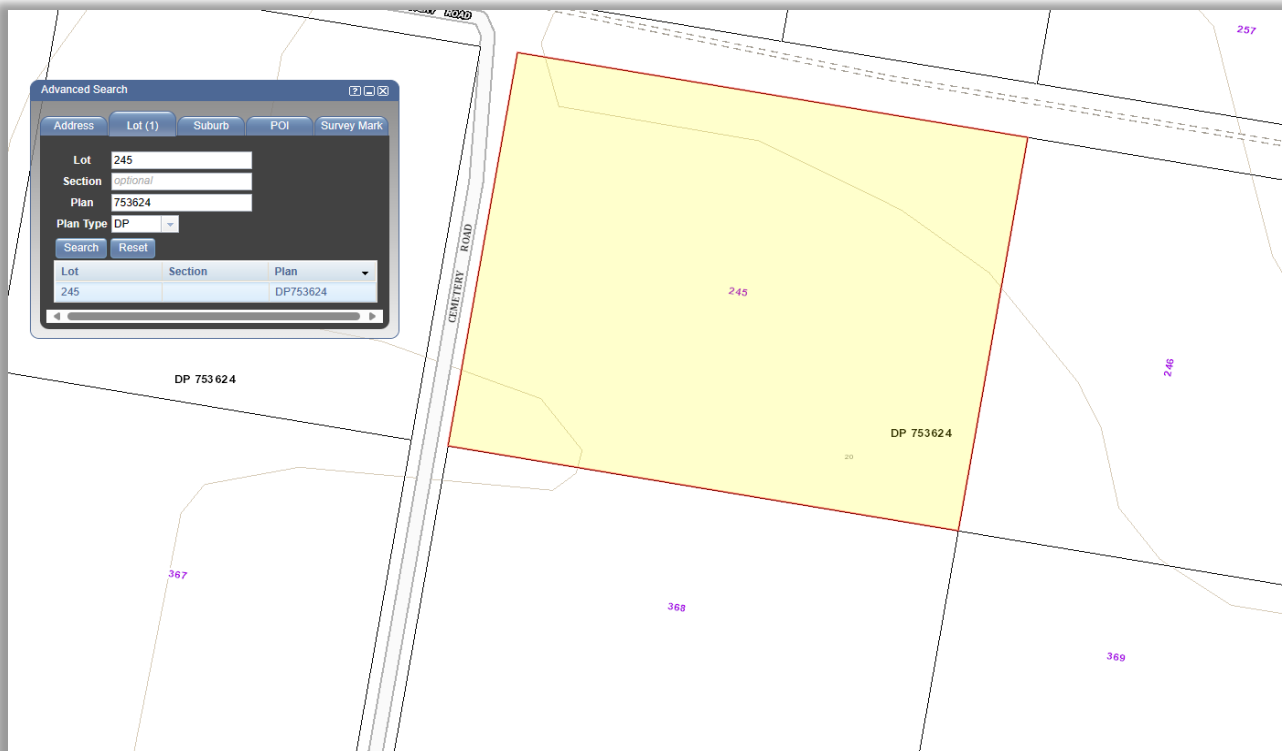
Owner's Holding – 245/368 = 30 ac 2r, 255-257 = 35ac 3r 6p

Past use/s of the site	The former use of the land was as it is - farming (occasional grazing and livestock agistment) on this land. No known orcharding occurred in this locality. The land is constrained by its location between Cemetery and Town, between adjoining dwellings and a rear hilltop, as well as by its size for a holding.
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)	<p>The site is located approximately 3.6km West of the Harden Post Office³ and 1.4km from the centre of Murrumburrah. The land is 400m south of the Burley Griffin Way and as the street name suggests, sited in behind the local Cemetery.</p> <p>As described the site has a grade mostly from southeast to northwest yet also at north of the land with a broad northern grade. The land has power adjacent, roads on 2 sides and is fenced and secured. Reticulated water is available however reticulated sewage is not available to this locality.</p> <p>The proposed dwelling is to be located on a mildly sloped upper area where the land saddles out presenting a view across from East around to Westerly aspects. The access is proposed from Cemetery Rd at south.</p> <p>The land is pasture grassed and suitable only for grazing (hay crop from residual pasture grasses) in occasional good year but with an insufficient number of hay bales yielded to sell or trade) as slope, soil type, surrounding development & aspect permitting only occasional cropping, but mostly pasture improvement for grazing.</p> <p>The land based SEED agricultural soils mapping was searched and the broader locality was found to have Type 3 - 5 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. The land has broader constraints discussed later.</p>

Ag Class Soils Map



Aerial Image of Allotment – courtesy SIX 2012



**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,

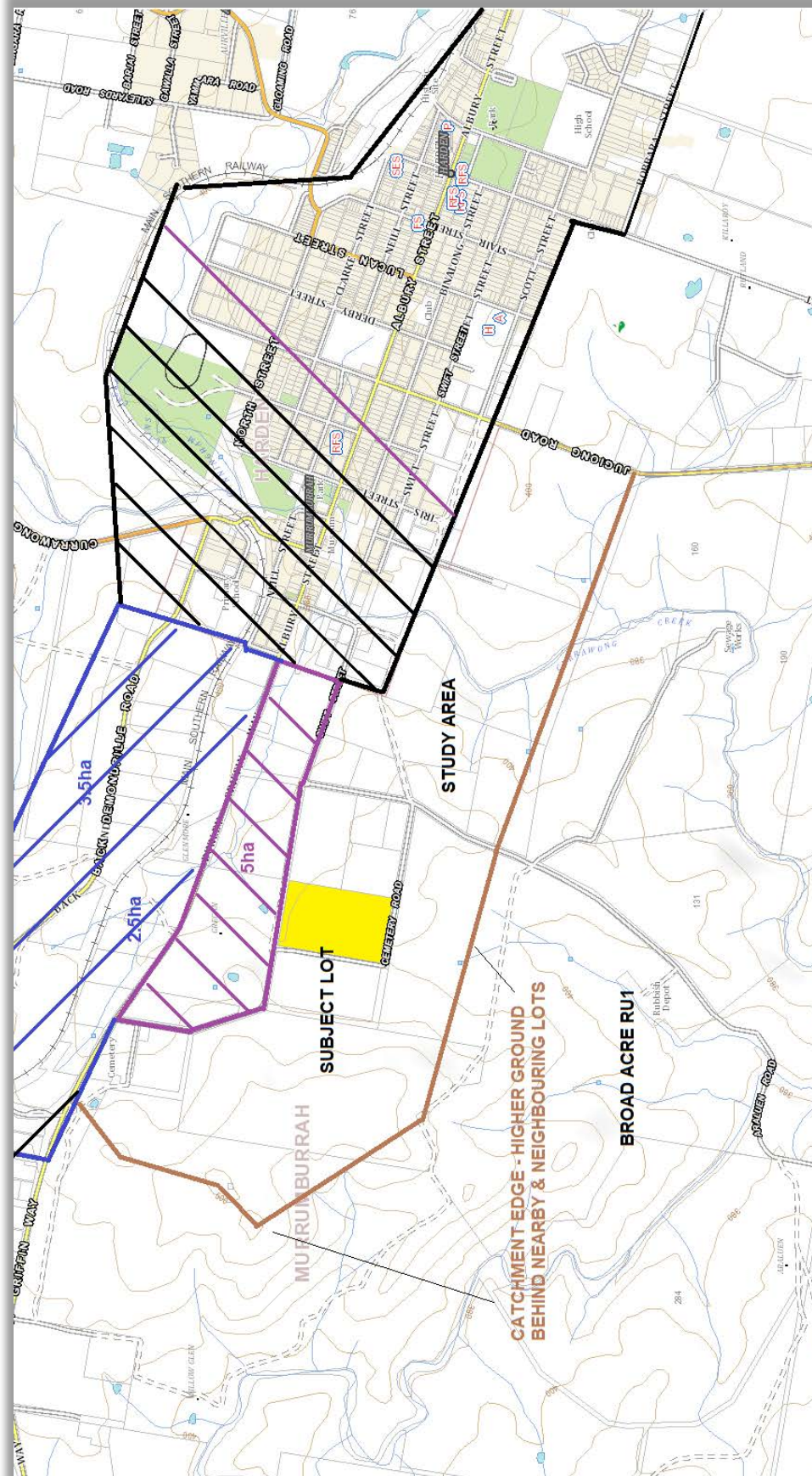
▪

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 semi-rural activities of varying scales (rural feel through to feed cropping, grazing, horses, etc) with > 20 dwellings within 750m to 1km of this larger styled allotment.

There is higher density zones to the north and east, a natural planning boundary of higher ground to the south and west, Township to the East, as well as Highway and Railway to the north also. The Town Cemetery is a barrier to the north west of the lot as well. This leaves the Study Area as a disconnected sector bounded by complications that work against broad acre rural land uses. Coupled with the extent of nearby housing on reduced size allotments, the land has very limited ability to be farmed from an amenity reverse onus perspective.

A settlement pattern aerial image is again reproduced 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 Murrumburrah - Demondrille
Wider Aerial Study Map in appendices

PAST IDO AMENDING LEP WHEN COUNCIL PROVIDES

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	The proposed development is defined as a <i>dwelling house</i> which means, <i>a building containing only one dwelling</i> .
1.9A Suspension of covenants, etc	Yes	No restrictions as to user / covenants apply to the site.
2.2 Zoning	N/A	The site is zoned RU1 – Primary Production

Clause	Complies	Comments
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 or horses remains – 12.34ha parcel 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 3 sides by roads and with other residential uses adjacent 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 (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 due to neighbouring residential uses making real zoned use dubious
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 40ha 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 12.34 ha vs 40ha 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 environment protection zones	N/A	Proposed dwelling on 12.34ha vs 40ha standard – sec 4.6 justification included in this report

Clause	Complies	Comments
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 and retic available.</i> (b) the supply of electricity, <i>available at north of site</i> (c) the disposal and management of sewage, <i>OSM capable</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 – Cemetery Rd 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

DEVELOPMENT CONTROL PLAN / LOCAL APPROVALS POLICY

Presently no DCP applies to the former Harden Shire Council, however the Young DCP 2011 (as amended) has been used broadly as a guiding document by professionals engaged on behalf of the Owner in preparing this application.

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 200m-400m 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 Demondrille 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, not unlike all adjoining dwellings.
- 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 Township of Murrumburrah that has a large cluster of similar occupied fringe of town holdings and once recognised for its history in another prior LEP amending the IDO 1976. A large number of dwellings on smaller lots/holdings exist adjacent and this proposal would not be inconsistent in this locality. 2 other nearby sec 4.6 variations have also been permitted in recent years in the same vain as being applied for.
- 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 building's placement, vegetation to curtilage of land (existing neighbours and the proposed development)
- 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	<ul style="list-style-type: none">DWELLING – new, on a 6.15ha allotment IN A 12.35 ha Parcel, at Lot 245 & 368 DP 753642, Cemetery Rd MURRUMBURRAHTo request a section 4.6 Variation to LEP to accommodate same over the parcel (12.35ha vs 40ha)
Subject Land Address	Lot 245 DP 754582 and Lot 368 DP 753624 Cemetery Rd MURRUMBURRAH
Applicant/Owner	
Appn Prepared By	DA Busters – Development Assistance Services Ph: 0466 722 869 Email: Craig@DAbusters.com
LGA	Hilltops Council – Hilltops LEP 2022



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 / horses remains and/or an occasional 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 yet constrained on a reverse onus basis due to size of holding, nearby dwellings, density of adjacent zones</i>
<ul style="list-style-type: none"> To minimise the fragmentation and alienation of resource lands. 	<i>Land in general area is already fragmented, in separate titles and uniquely bound on all sides by roads, denser zones, existing permitted dwellings from past EPI's and adjacent landform</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). It will be consistent with smaller holdings occupied by dwellings adjacent and in same zone</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 Murrumburrah on wider Town fringe (1.3km to centre of Murrumburrah)</i>
<ul style="list-style-type: none"> (b) accessibility to national and global supply chains. 	<i>not applicable yet sited adjacent 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</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 (where able), 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. 	<p>Consistent – location and siting allows maximum potential small lot ag use of land, whilst retaining reasonable dwelling curtilage</p>
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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;

<p>4.2A Erection of dwelling houses and dual occupancies on land in Zone RU1, RU4 or C3</p>	
(1)	<i>The objectives of this clause are as follows—</i>
(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>
(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>
(a)	<i>is a lot that is at least the minimum size shown on the <u>Lot Size Map</u>, or</i>
(b)	<i>is a lot—</i>
(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>
(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>
(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>
(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 40 ha in order to gain the ability for a dwelling to be erected. The land in question is 12.34 ha by area from the Crown Plans (30 acres 2 roods) 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?

40 ha

8. What is proposed numeric value of the development standard in your development application?

12.34 ha (from 1895 Crown Plan at 30 acres 2 rood 0 perches)

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The holding is approximately 30.85% of the required holding size. This represents an 69.15% variation.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

- The settlement pattern adjacent would see 1 additional 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 area bounded by constraints and already having a high number of dwelling occupied properties despite the zone.
- 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 its size (and inability to get larger due to natural and man made constraints adjacent) and also relative amenity constraints of adjacent nearby holdings with dwellings..
- The minimum lot size on the LEP LSZ mapping is not predicated on an ideal farm size or any active research for almost 50 years since an EPI has existed (Harden IDO 1976), and makes no account for the extent of nearby occupied 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, despite at least 2 serious EPI instrument changes, both moreover conversion LEP's (not strategic) having regard to RU4 and RU1 lands;
- The allotment is within a pocket of RU1 land of this lot size which is constrained beyond ownership pattern, physical landform constraints, adjoining higher density zoned land and also a high occupancy rate on smaller lots and holdings nearby. This renders the farming ability of this land holding to be tokenistic if any.
- The present allotment is consistent with the surrounding similar zoned (and sized) lands in a pocket of properties in this locality between the Town Cemetery to the west, 5, 3.5 and 2.5ha zoned lands to the north (and highway and rail), Murrumburrah to the east, and a ridgeline to the south. Attached is some of the visual mapping and statistical analyses. The amenity of this area has already been defined by the occupied small holding development pattern and this application would seek to compliment this background setting and dwelling density in this area.
- The land in this constrained pocket is Ag Class 3 - 5 Lands from the SEED mapping, YET is heavily impacted by physical, amenity and man-made constraints & issues whereby this classification states moderate to severe limitations on farming is the least of the concerns. This proposed 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.
- This does not permit the unplanned use of the land for residential, it complies with and is consistent with past demonstrated practise in this locality. This is further reinforced by 2 active sec 4.6 approvals in the last 4 – 5 years reinforcing same.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Objective 1 - Minimise unplanned rural residential development

It is proffered that from the land's creation through to Harden IDO 1976, this land had very real prospects of being occupied as no controls restricted this. Several amending LEP's exist to this document and it is recalled as a practitioner in that space by the author of this report, that some rights were permitted in this vicinity via an amending LEP. At Harden LEP 2011 the Shire EPI was updated to a current LEP format without any strategic change to most zones. This lack of strategic work continued through to the current LEP 2022 for Hilltops whereby up to 20 submissions on RU4 and RU1 lands were met with the following commentary at adoption;

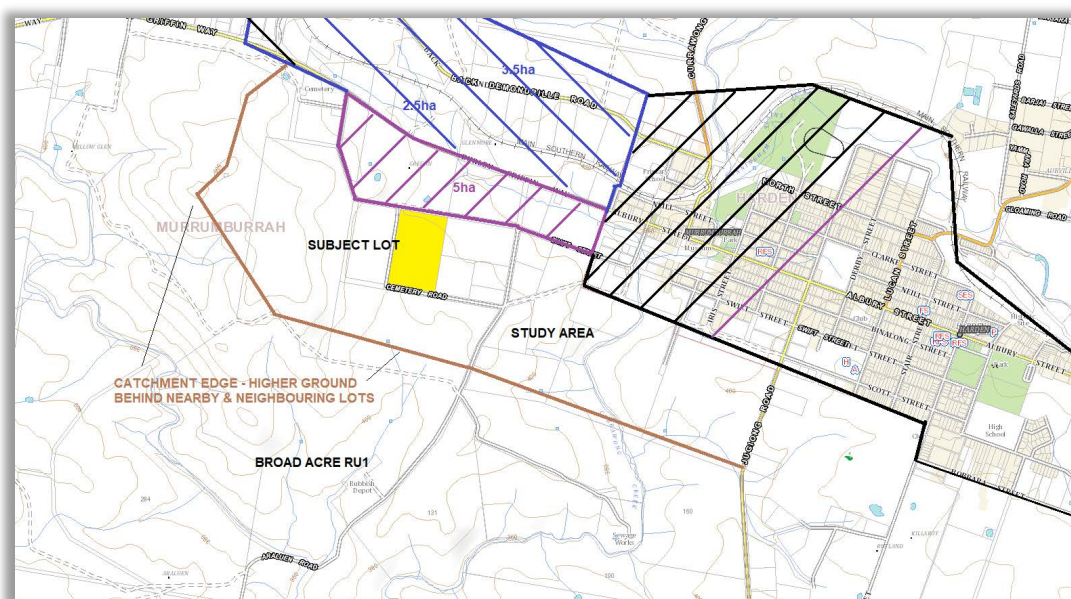
While Council has raised the need to review the effective and efficient use of RU4 lands near Young through Hilltops 2040, Council is unable to fully progress this through the current review of the LEP due to the status of relevant State policy and mapping.

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.

SOURCE - Minimum Lot Size: Submissions and Responses Post Exhibition Hilltops LEP
Post Exhibition Paper – July 2021 Hilltops Local Environmental Plan 2021 at LEP Adoption Report

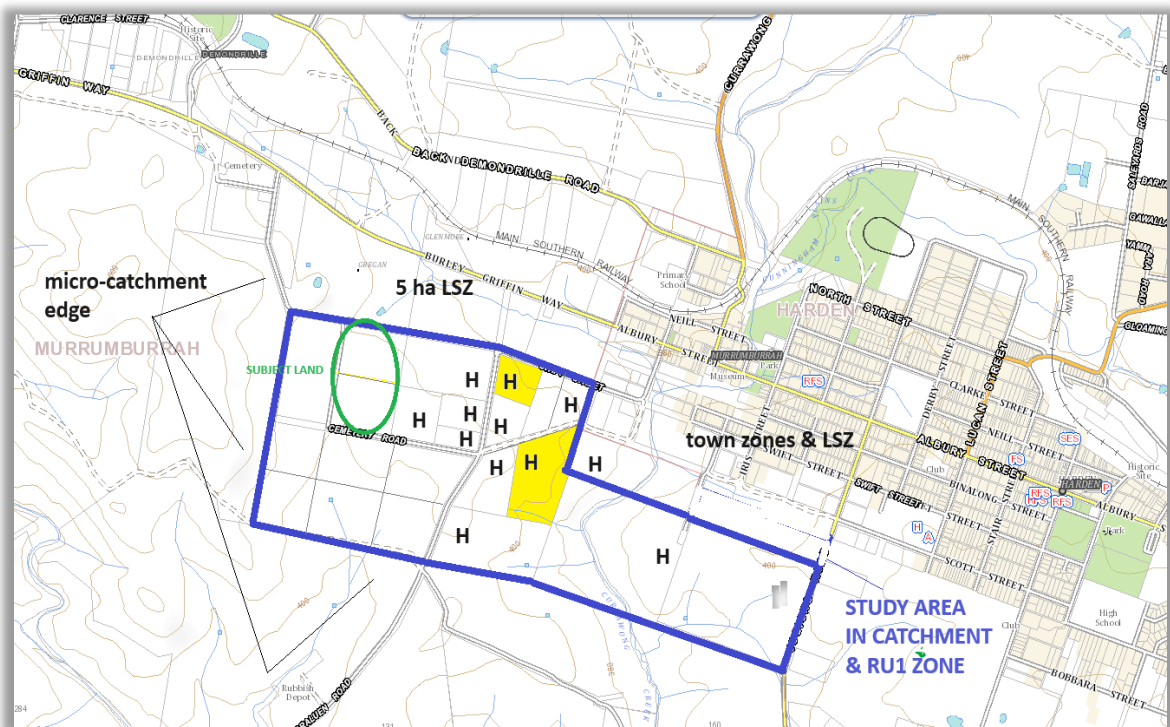
In effect, no strategic work has been done in the former Harden Shire, that has been enacted at EPI for Rural Lands.

The allotment sits in a band of lots (called in this report and below the “Study Area”, constrained by ridges to the west and south, cemetery to the west, higher density lots to the north, Town to the NE and higher density occupied RU1 lots to the east also.



The land is fractured in parcel and holding size within the Study Area due to existing housing on smaller lots.

As will be demonstrated below, the holding subject of this application, comfortably exceeds the lot sizes on average and median within this study area. The lands in question moreover would be suited to a 5 ha lot size in the LEP akin to that existing due to current adjacent occupied holding patterns and constraints.



Housing within Study Area

Objective 2 - 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 40ha is an allotment size without any agricultural science supporting its productivity relative to smaller size. It is an historic value brought to bear in the 1970's and does not support an ideal farm size or activity in a rural shire. 40 ha could not even viably be used as a multi holding share farm size set of paddocks for wheat or sheep. This immediate area was a mix of 3 to 7 ha blocks since before planning instruments in this Shire, forming a patchwork quilt style allotment pattern on the subcatchment that is Demondrille through to Murrumburrah.

The reasoning behind the development standard is explained above, but it is reiterated that whilst it attempts to place controls on broad acre farms, it makes no allowance for smaller or unique properties where amenity and right to farm characteristics of neighbouring lands, are impacted by societal growth (roads, rail, infrastructure [cemetery], existing housing, permitted variance).

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 Demondrille) rather than rural objectives, in this case defeat the stated objective at 4.2A and even the RU1 zone goals. The submission briefing paper attached to the LEP adoption report in 2022 documents this clearly so the current RU1 and RU4 controls are neither strategic nor worthy of protecting in a new document. They have been slated for a review that has not commenced.

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, under sized, disadvantaged holding of poorer 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 across various EPI's. This application seeks for this land to have the same rights and entitlements as those in the wider adjacent proximity. In fact, the applicant proposes to make his land almost double the mean and median size of allotments in the study area.

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.

It would be perceived as being compliant with the objective being varied by allowing a planned and well thought application for residential development in an area proliferated with same.

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,

It is argued that this is allowing planned rural residential subdivision as it is in a geographically challenged local, beset with complications by higher density lands zoned nearby and also numerous occupied smaller lots adjacent, aided by variations Council has already permitted in this area. It is fair to say that this is planned (not unplanned) due to Council's prior precedent and the existence of smaller lot housing in this microcatchment.

- (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

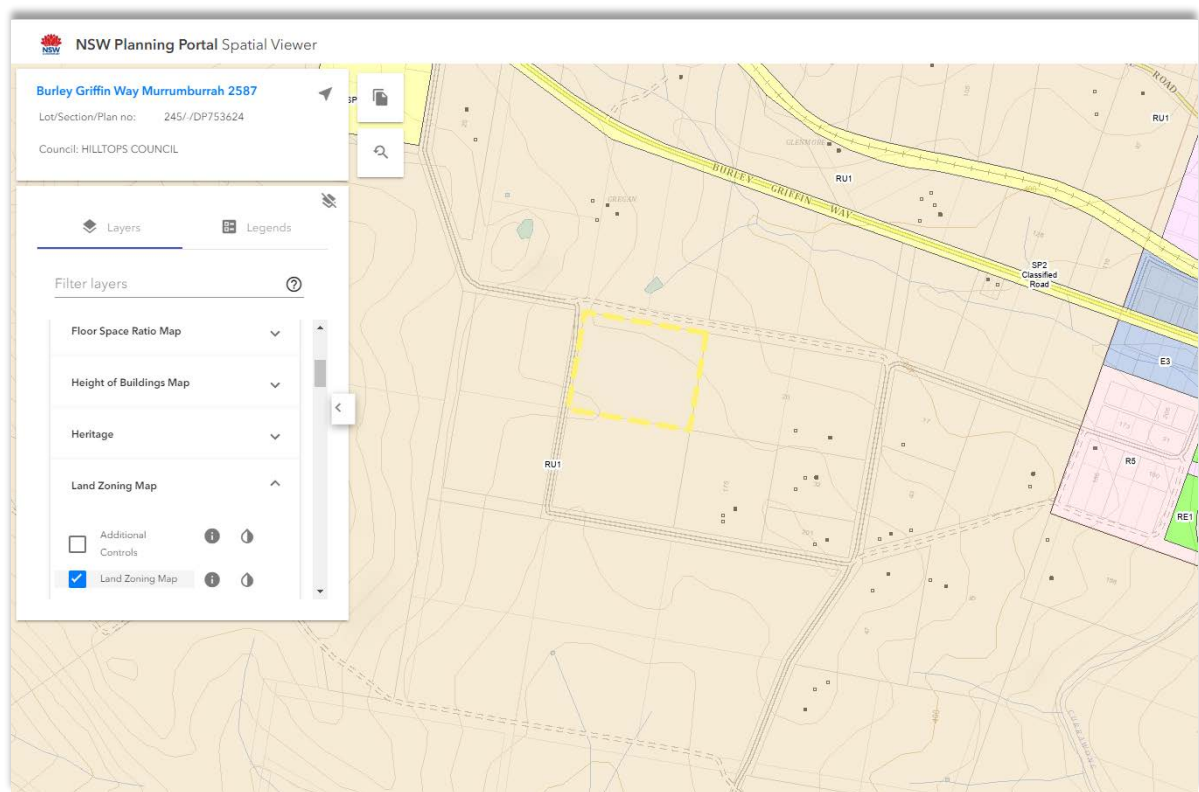
In discussing the matter with the owner who has far more experience at farming than the author, he came up with the following reasoning as to why this land is not a productive part of his farm;

- Poorer soil quality when attempting to farm
- Little or no fertiliser history on land
- Years of weed seed accumulation
- Too small a holding to farm profitably
- Capital costs to try to farm would outweigh returns
- Very difficult to effectively spray and farm due to extent of nearby housing
- No reliable groundwater for stock – town water too expensive
- Domestic feral dog problems this close to major town
- Fox control very complicated without killing pets, dogs etc nearby
- Broad acre contractors are too costly for use on smaller lot size holdings

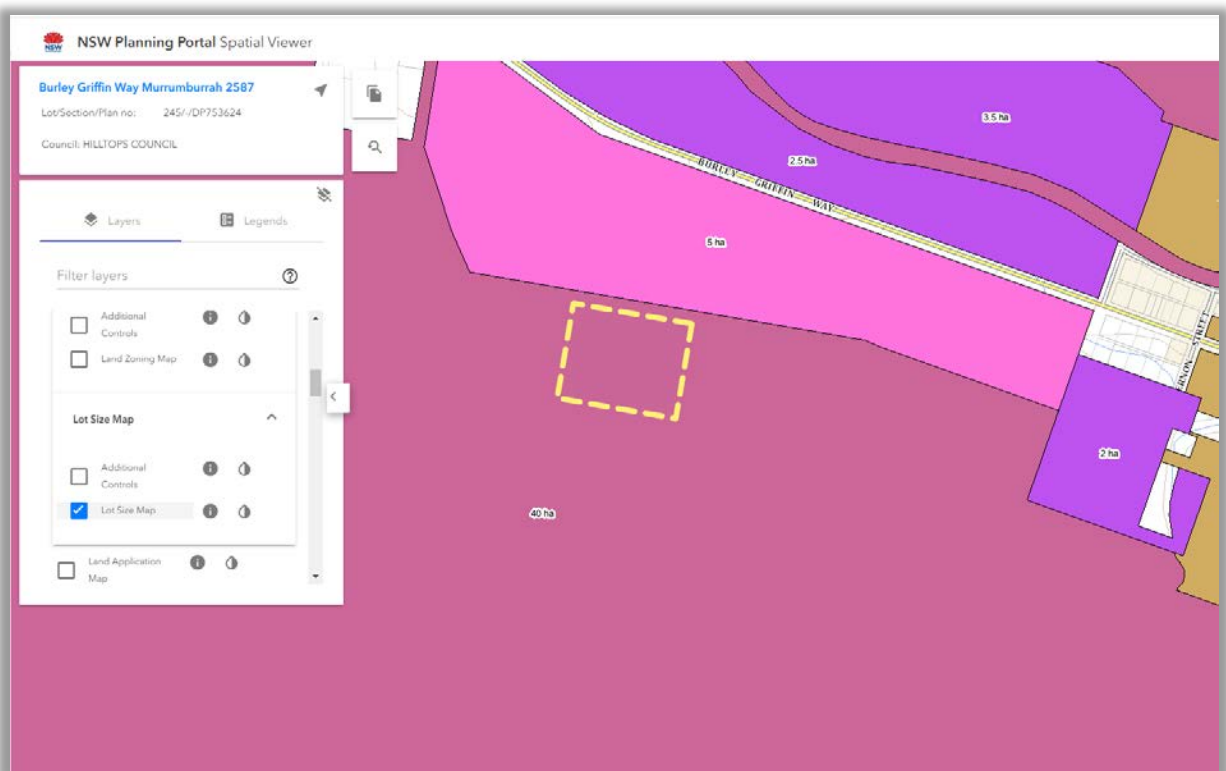
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**FIG # 1 - ZONING MAP (RU1)**



**FIG # 2 – Lot Size Mapping (40 ha yet mixed adjacent)**



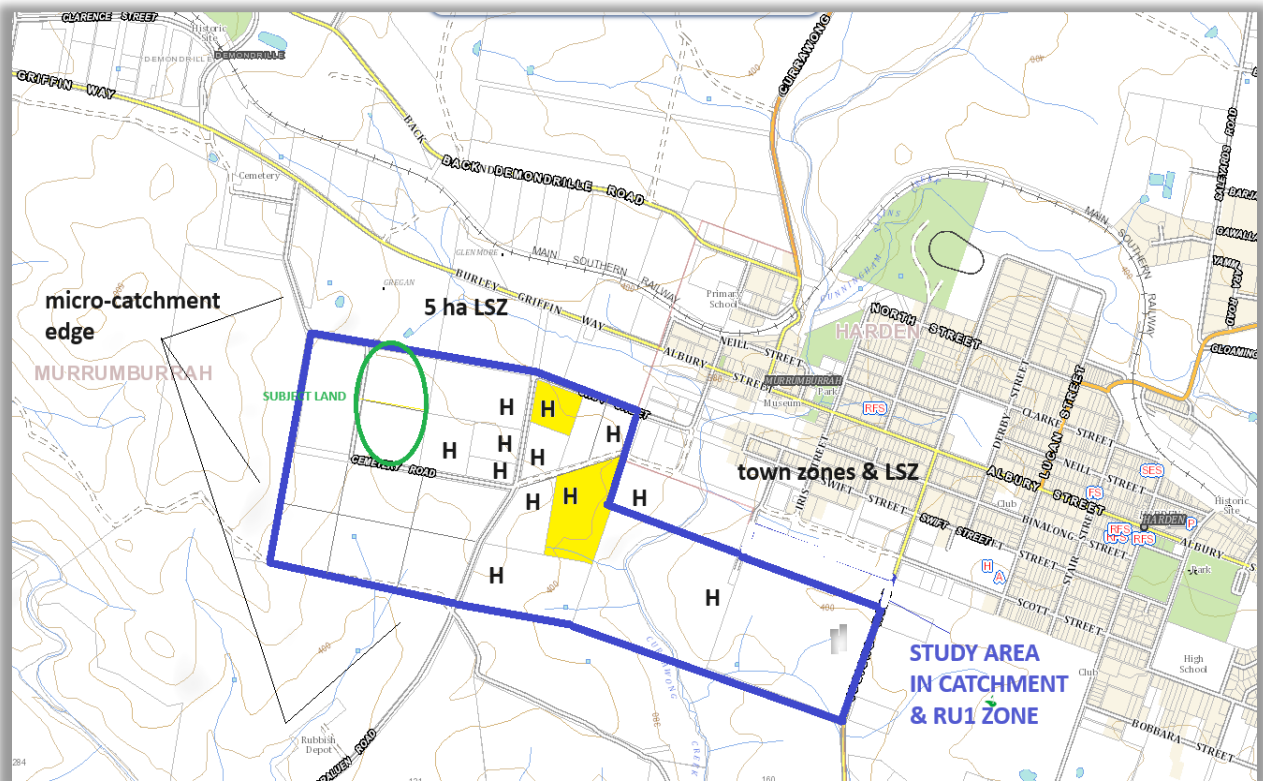
**FIG # 3 – AERIAL IMAGE CURRENT NSW SIX(2013)**



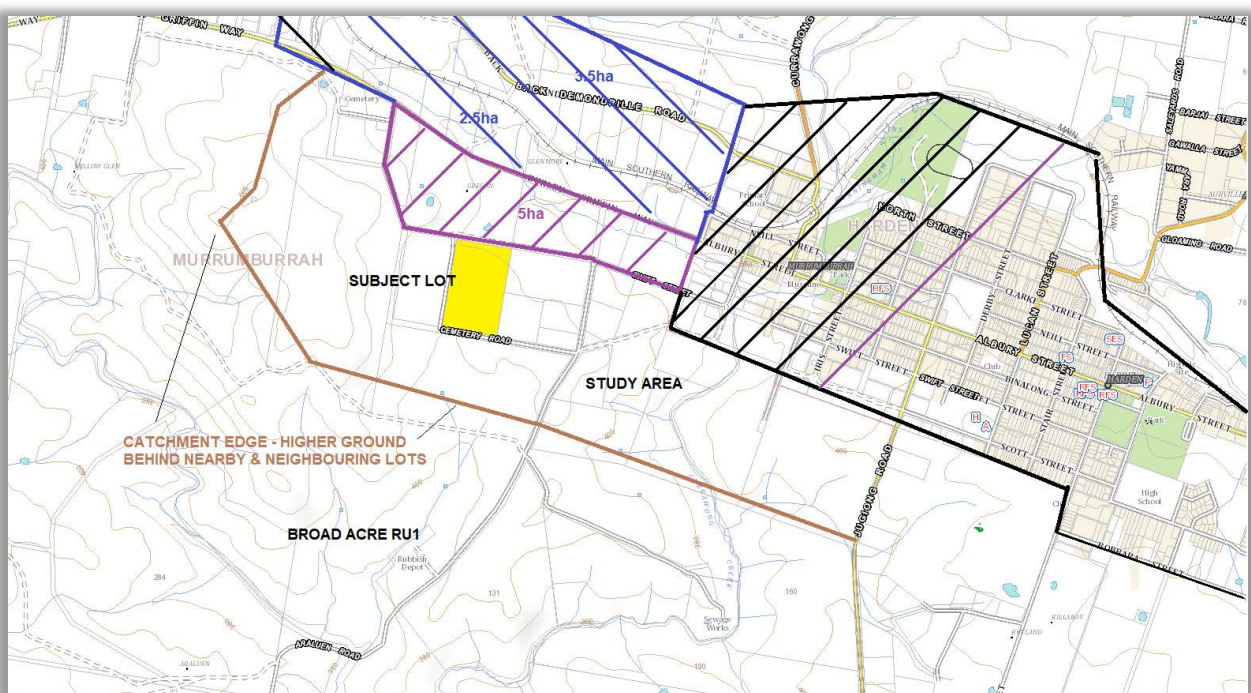
**FIG # 4 – AERIAL IMAGE GOOGLE (2023)**







**Holding Pattern Assessment**  
 Yellow = 4.6 variations already permitted, H = current dwelling



**Holding Pattern Assessment**  
 Yellow = subject holding  
 See below for calculations (sizes in hectares)

## Statistical Analysis of Holdings – Demondrille to Murrumburrah

### STUDY AREA

Summaries and statistical analysis follows

| LOT | DP             | AREA (ha)    | DWELLING   | if dwell exists - size |
|-----|----------------|--------------|------------|------------------------|
| 244 | 753624         | 5            |            |                        |
| 367 | 753624         | 5            |            |                        |
| 243 | 753624         | 5            |            |                        |
| 232 | 753624         | 5            |            |                        |
| 242 | 753624         | 5            |            |                        |
| 233 | 753624         | 5            |            |                        |
| 241 | 753624         | 7.5          |            |                        |
| 234 | 753624         | 6.25         |            |                        |
| 245 | 753624         | 6.15         |            |                        |
| 368 | 753624         | 6.2          |            |                        |
| 246 | 753624         | 4.25         |            |                        |
| 369 | 753624         | 4.4          | H          | 4.4                    |
| 247 | 753624         | 4.4          | H          | 4.4                    |
| 1   | 861187         | 2.75         | H          | 2.75                   |
| 2   | 861187         | 1.65         | H          | 1.65                   |
| 235 | 753624         | 5            | H          | 5                      |
| 240 | 753624         | 5.5          | H          | 5.5                    |
| 371 | 753624         | 5            |            |                        |
| 1   | 1263990        | 9.9          | H          | 9.9                    |
| 236 | 753624         | 6.5          |            |                        |
| 237 | 753624         | 4            |            |                        |
| 324 | 753624         | 4.3          |            |                        |
| 322 | 753624         | 6.2          |            |                        |
| 321 | 753624         | 4.1          | H          | 4.1                    |
| 320 | 753624         | 2.75         |            |                        |
| 319 | 753624         | 1.65         |            |                        |
| 238 | 753624         | 6.5          | H          | 6.5                    |
| 251 | 753624         | 2.55         | H          | 2.55                   |
| 250 | 753624         | 2.8          |            |                        |
| 248 | 753624         | 3            | H          | 3                      |
| 249 | 753624         | 3.25         | H          | 3.25                   |
| 62  | 753624         | 12.15        |            |                        |
| 63  | 753624         | 12.15        |            |                        |
| 64  | 753624         | 12.15        |            |                        |
|     | <b>TOTAL</b>   | 183          | 12         | 53                     |
|     | <b>AVERAGE</b> | <b>5.382</b> | <b>AVE</b> | <b>4.41667</b>         |
|     | <b>med</b>     | <b>5.00</b>  | <b>med</b> | <b>4.25</b>            |

## IN SUMMARY

### All Lots in Study Area

Average Lot Size = 5.382ha

Median Lot Size = 5.0 ha

### Lots with Dwellings

Average Lot Size = 4.41667ha

Median Lot Size = 4.25 ha

### Subject lot/parcel

Lot 245 = 6.15ha (**139.2%** size of occupied average lot in Study area)

Parcel = 12.34ha (**279%** size of average occupied lot in study area)

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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 Murrumbulla in 1895. This proposal does not intend subdivision but to allow an existing parcel (2 lots consolidated) of land a building entitlement where one has evaporated through changing planning standards.</p> <p>The combined lot (parcel) size is 12.34ha within a zone locality presently earmarked as a 40ha minimum for a dwelling.</p> <p>The analysis undertaken reveals a 5.38ha average lot size (all lots) in this wider Demondrille to Murrumburrah Study Area, with a median of 5 ha. The subject parcel at 12.34ha is larger and is in a pocket where occupied lots are smaller. Within the occupied lots analyses, the average (4.41667ha) and Median (4.25ha) allotment sizes are almost a factor of 2.75 times less than the parcel size proposed and for which a dwelling is sought.</p> <p>Due to the wide mix from 1.6 to 12.15ha in the study area it is hard to draw out what is consistent to this wider pocket of mixed land. Of the subject study area, the proposed parcel will exceed ALL other lot sizes in the Study locality when it becomes a lot through this process.</p> <p>Accordingly, it is considered that the objectives of this standard have been achieved in excess, despite the lot being undersized to the current given zone minimum, as</p>

	<p>it has been demonstrated that the subdivision pattern of the area is not uniform nor does it reflect a wider agricultural landuse 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 on subject land yet wider immediate locality consistency if permitted
<i>Further commentary to a) above</i>	<p>The site is located in a heavily constrained pocket as discussed previously in this report. It is surrounded by differing and smaller lot sizes, infrastructure (roads/rail/cemetery), geographical boundaries, township and also denser developed smaller lots throughout and adjacent including 4.6 variances.</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"> a) to ensure land use and development are undertaken on appropriately sized parcels of land. b) to ensure sufficient land area to promote high levels of residential amenity, 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, 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. e) to prevent fragmentation of primary production agricultural land, f) to minimise potential for land use conflict, particularly between residential land uses and other rural land uses 	
	<ul style="list-style-type: none"> a) The land surrounding the development has consistent or average lower sized land sizes with dwellings b) Sufficient land area exists c) The land can utilise rainwater tanks under BASIX and an OSM system without influence on Groundwater, such that no impact on utilities occurs – as well reticulated water passes the site d) As discussed herein, this localised pocket or allotments presents to a median equivalent to considerably less than the subject parcel/proposed

	<p>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 broader to the south and west of the subject allotment over a sub-catchment boundary . The subject land is consistent in environmental attributes, scale and character of the lands to the east 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 > 100m, and slope, landform and drainage lines 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>
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- (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 wider western sand southern lands of Harden-Murrumburrah) food bowl land can be kept and preserved for that purpose. 40 ha is not in any way an ideal farm size and unless intensively farmed for higher density crops or plants (stonefruit or summer fruit which are not farmed in this locality), 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 irrespective of any 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 west and south of the subject lot outside of the physical micro catchment that this lot and the related nearby study lands are within. These wider 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 utilised on a random paddock basis (maybe) in amongst more densely occupied land. This in itself would be dubious unless someone was over capitalising on constrained and sensitive lands adjacent housing). 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 2 allotments in the last 5 years on Araluen Rd nearby. These were indeed smaller sized to this subject allotment. Likewise the owner seeks to still utilise for rural 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” or some other reasoning that led to other lands immediately adjoining being 5ha or 3.5ha or 2.5ha sized ?

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 (or 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 community and will not impact on the environment or management of natural resources. It will however, have a

<i>conservation of the State's natural and other resources</i>	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 wider Harden-Murrumburrah.
<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</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

<i>heritage (including Aboriginal cultural heritage)</i>	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 reasonable 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 deemed concurrence from State now. 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 Murrumburrah 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 sterilisation measure. Currently these decisions are in strategic limbo by Council.
<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.

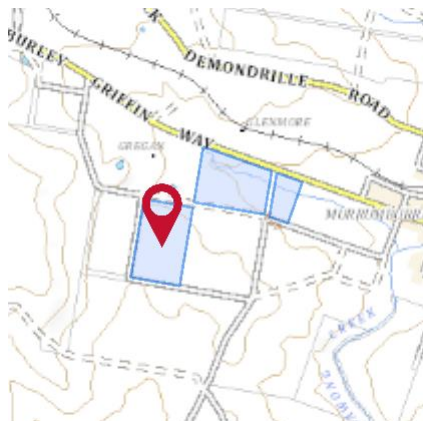
APPENDIX # 2

NSW eSpatial Portal Report



Property Report

BURLEY GRIFFIN WAY MURRUMBURRAH 2587



Property Details

Address:	BURLEY GRIFFIN WAY MURRUMBURRAH 2587		
Lot/Section	245/-/DP753624	255/-/DP753624	256/-/DP753624
/Plan No:	257/-/DP753624	368/-/DP753624	
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	40 ha
	5 ha
Heritage	NA
Land Reservation Acquisition	NA
Foreshore Building Line	NA

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

BURLEY GRIFFIN WAY MURRUMBURRAH 2587

- 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 (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 (Sustainable Buildings) 2022: Land Application (pub. 29-8-2022)
- 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: 245/753624

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
9/4/2024	3:23 PM	9	15/3/2024

LAND

LOT 245 IN DEPOSITED PLAN 753624
AT MURRUMBURRAH
LOCAL GOVERNMENT AREA HILLTOPS
PARISH OF MURRIMBOOLA COUNTY OF HARDEN
(FORMERLY KNOWN AS PORTION 245)
TITLE DIAGRAM CROWN PLAN 11.1657

FIRST SCHEDULE

AARON KEITH SEAMAN
KIMBERLEY JANE SEAMAN
AS JOINT TENANTS (T AR292101)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- * 2 AS421244 CAVEAT BY DISTRIBUTION ENERGY STORAGE PROJECT NO 5
PTY LTD

NOTATIONS

NOTE: THIS FOLIO MAY BE ASSOCIATED WITH A CROWN TENURE WHICH IS
SUBJECT TO PAYMENT OF AN ANNUAL RENT. FOR FURTHER DETAILS CONTACT
CROWN LANDS.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

SEAMAN

PRINTED ON 9/4/2024



PLAN

of 12 Suburban Portions Numbered 235,258,244 to 247 and 366 to 371
Parish of Murrumboola - Town of Murrumburrah

Sale at Murrumburrah 22nd Aug^t 1893

Portions 244,245 & 367 not bid for
Pt. For 367 easement acquired for Transmission Line Gaz. 14-55
20. Or. 33p., resumed from pors., 244 and 367 for road R. 23250-1603, Gaz. 6.9.46, Rds 42-58.
SALE AT MURRUMBURRAH 21st Jan 87
SUBURBAN LOTS A to L
PORTIONS 235, 244, to 247, 258, 366 to 371.
Vide AL^l 87-1667 portion 246 sold
remaining lots not bid for

COUNTY OF HARDEN

Sale at Murrumburrah 18th Nov^r 1889

Portions 235 244,245,258,366 to 370
For 366 sold to Aug. P. Hayward D.P.
" 370 " Geo. Rob^t Barnes D.P.
other lots not bid for.

Sale at Murrumburrah 24th March 1888

Portions 235, 244, 247, 245, 258 & 366 to 371
For 247 sold to John Shea other lots not bid for B^a p^d

Sale at Murrumburrah 11th Sept^r 1896

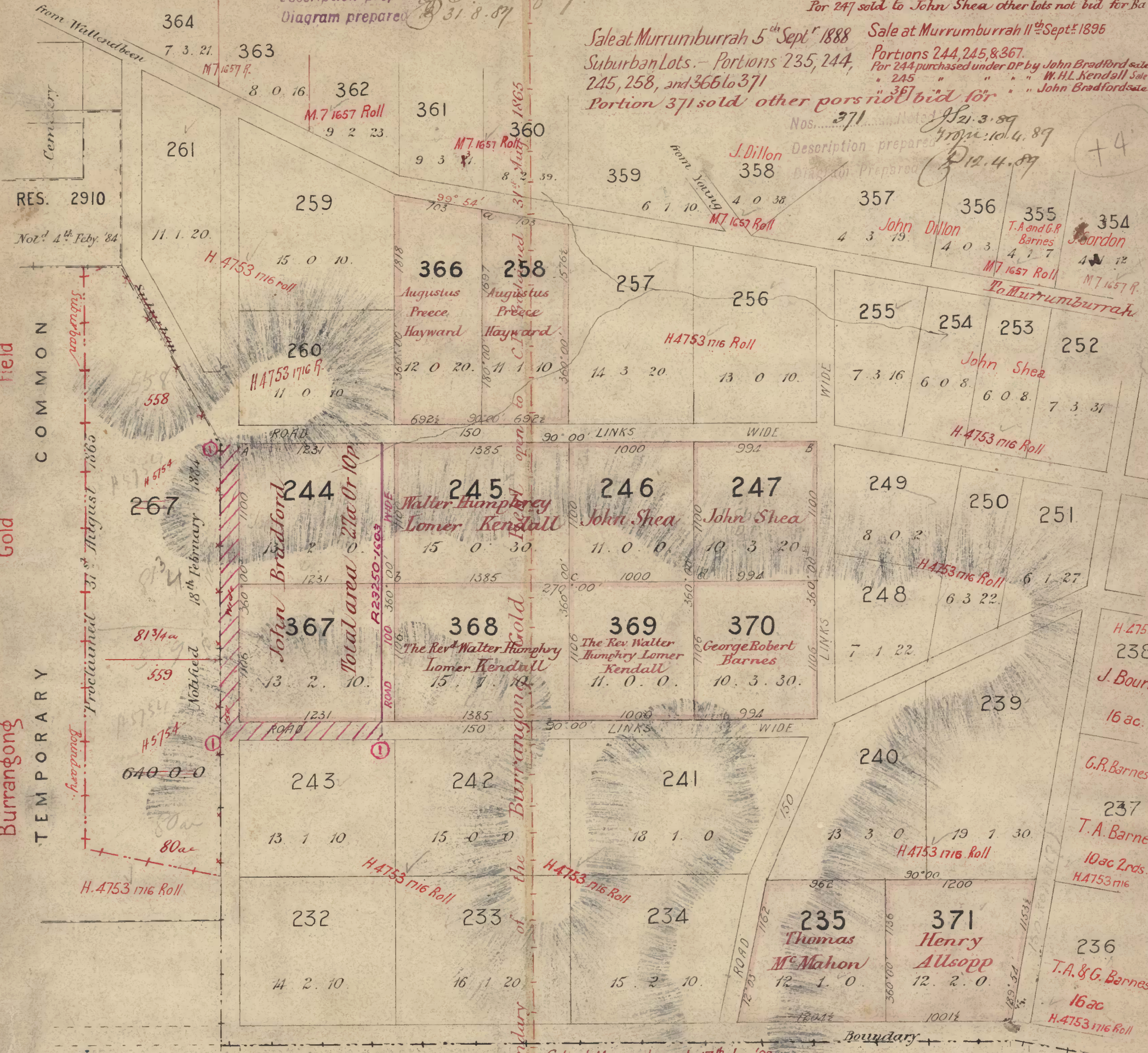
Portions 244, 245, & 367.
For 244 purchased under D.P. by John Bradford sale com.
" 245 " " " W.H.L. Kendall sale com.
" 367 " " " John Bradford sale com.

Sale at Murrumburrah 5th Sept^r 1888

Suburban Lots. - Portions 235, 244,
245, 258, and 366 to 371
Portion 371 sold other pors not bid for

Sale at Murrumburrah 12th Sept^r 1896

Portions 244, 245, & 367.
For 244 purchased under D.P. by John Bradford sale com.
" 245 " " " W.H.L. Kendall sale com.
" 367 " " " John Bradford sale com.



Sale at Murrumburrah 10th Feb^r 1892

Portion 369 sold
Closed road Gaz. 6.9.46 Rds 42-58 5a. Or. 36p. Granted to Percy James
Robert Clarke under Sec. 12 Public Roads Act 1902 Rds 46-820
See also H 4753r, 6600, 6594-176 & R 23250-1603

Sale at Murrumburrah 17th Jan^y 93

Portions 235, 244, 245, 258, 367 & 368.
Portion 235 sold to Thomas M^c Mahon D.P. Bal^d
" 258 " Augustus Preece Hayward D.P. Bal^d
" 368 " Walter Humphrey L^r Kendall D.P. Bal^d
Other lots offered not bid for

Reference	To	Corners	No.	Notes
Cor	Bearing	From	Links	Neon Tree
a	32° 20'	Box	30	366-258
b	106° 50'	Box	51	244-245 367-368
c	234° 20'	Box	41	245-246 368-369
d	282° 08'	Cum	56	246-247 369-370

Reference	To	Corners	No.	Notes
Cor	Bearing	From	Links	Neon Tree
a	32° 20'	Box	30	366-258
b	106° 50'	Box	51	244-245 367-368
c	234° 20'	Box	41	245-246 368-369
d	282° 08'	Cum	56	246-247 369-370

Scale 8 chains to an Inch

I hereby certify that this Survey has been made
in accordance with the Circular of the 18th Dec 1880 No 8051
and that the line A B is the basis of Survey.

Metcalfe

11.1657

PLAN MICROFILMED
NO ADDITIONS OR AMENDMENTS TO BE MADE

System Document Identification

Form Number:08X-e
Template Number:x_nsw11
ELN Document ID:1473653982

Land Registry Document Identification

CAVEAT
New South Wales
Section 74F Real Property Act 1900

AS421244

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

WARNING: Care should be exercised in completing a caveat form. An unsupported caveat may be challenged in the Supreme Court; compensation may be awarded for lodging a caveat without justification (section 74P Real Property Act 1900). Failure to observe the requirements of regulations 7 and 8 of the current Real Property Regulation may make the caveat invalid.

LODGED BY:

Responsible Subscriber: JURISBRIDGE LEGAL ABN 19149940161
Address: L 46, 680 George ST
Sydney 2000
Email: info@jurisbridgelegal.com.au
ELNO Subscriber Number: 9802
Customer Account Number: 501468B
Document Collection Box: 1W
Client Reference: 218730 ACEnergy

LAND TITLE REFERENCE

245/753624

CAVEATOR

DISTRIBUTION ENERGY STORAGE PROJECT NO 5 PTY LTD ACN 659451528
Registered company
L 10
530 Collins ST
MELBOURNE VIC 3000

NAME AND ADDRESS FOR SERVICE OF NOTICES ON THE CAVEATOR

Street Address
JURISBRIDGE LEGAL
L 46
680 George ST
Sydney NSW 2000

REGISTERED PROPRIETOR AFFECTED BY THIS CAVEAT

AARON KEITH SEAMAN
SUNNYSIDE
20 ARALUEN RD
MURRUMBURRAH NSW 2587
KIMBERLEY JANE SEAMAN
SUNNYSIDE
20 ARALUEN RD
MURRUMBURRAH NSW 2587

Based on the claim to an Estate or Interest in Land in the land specified, the Caveator prohibits the Registrar General from taking the actions specified in this Caveat.

ACTION PROHIBITED BY THIS CAVEAT

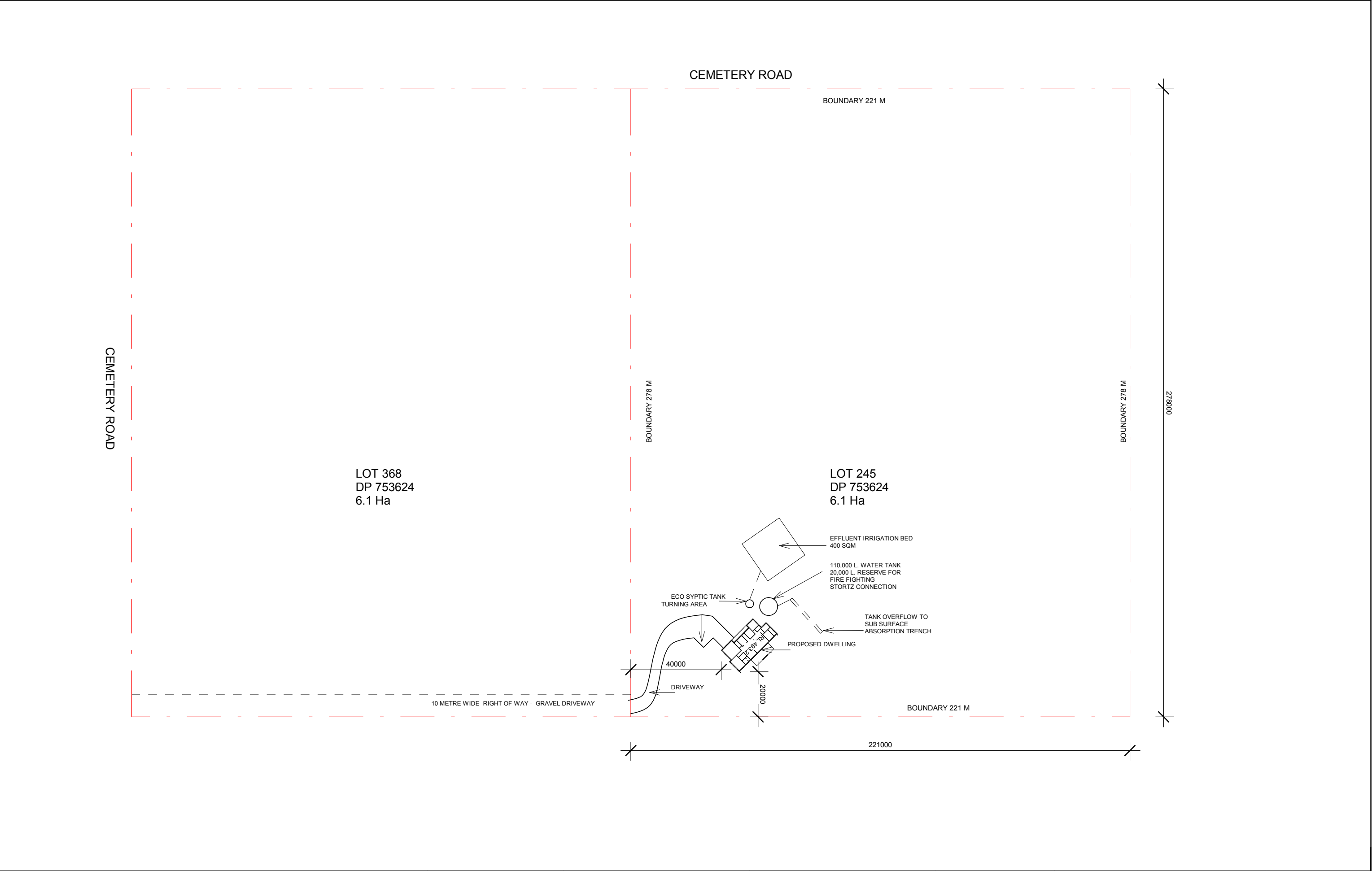
- 1. The recording in the Register of any dealing other than a plan affecting the estate or interest claimed by the Caveator.
- 2. The registration or recording of any plan other than a delimitation plan affecting the estate or interest claimed by the Caveator.
- 4. The granting of any possessory application with respect to the land in the Torrens Title referred to above.
- 7. The recording in the Register of a Writ affecting the estate or interest claimed by the Caveator.

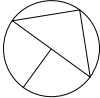
ESTATE OR INTEREST CLAIMED

Date: 26/08/2022

APPENDIX # 4

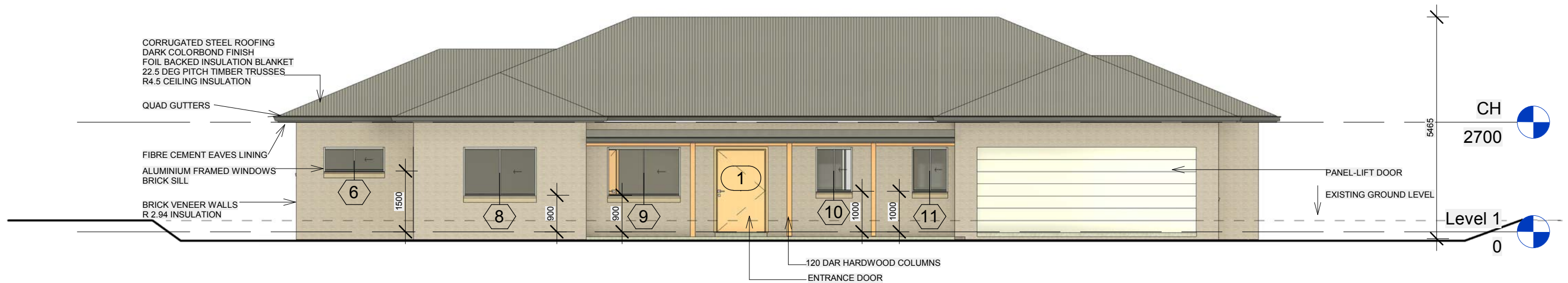
Development Plans



DATE	AMENDMENT	No.	DO NOT SCALE DRAWINGS WALL THICKNESS IS NOMINAL EXECUTE WORK IN ACCORDANCE WITH REQUIREMENTS OF THE N.C.C. AUSTRALIAN STANDARDS, LOCAL COUNCILS AND ALL RELEVANT AUTHORITIES CONFIRM ALL DIMENSIONS ON SITE	ARCHITECT KIM MURRAY ARCHITECT NSW REG No. 5800 17 HOADS ROAD, BENDICK MURRELL NSW 2803 mob. 0401 390 714	CLIENT NAME Aaron Seaman	PROJECT NEW DWELLING Lot 245 DP 753624 Cemetry Road, Harden. NSW 2587	Site Plan	MGA NORTH 	Project number	24-725	DRAWING NUMBER 01
									Date	19.02.24	
									Drawn by	Author	Revision No.
									Checked by	Checker	
									Scale	1 : 1500	



2 North
1 : 100

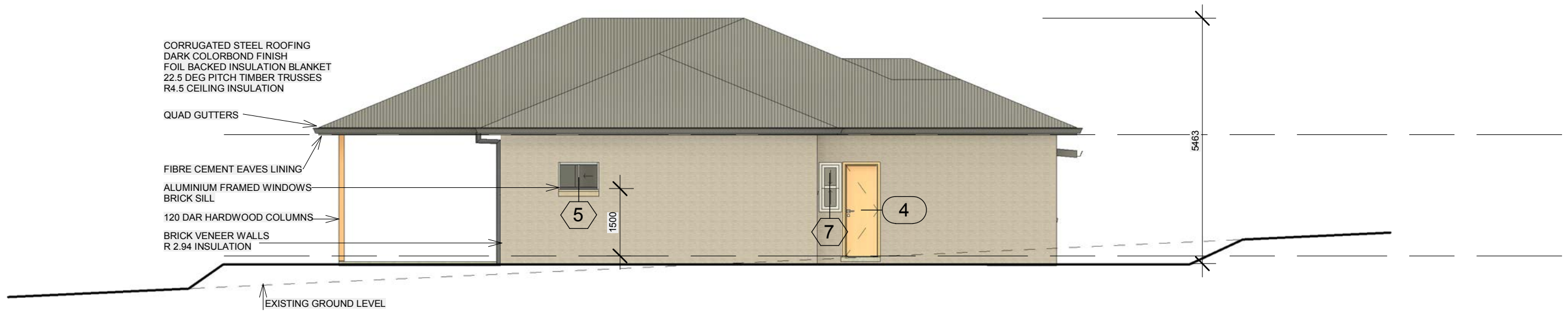


3 South
1 : 100

DATE	AMENDMENT	No.	DO NOT SCALE DRAWINGS WALL THICKNESS IS NOMINAL EXECUTE WORK IN ACCORDANCE WITH REQUIREMENTS OF THE N.C.C. AUSTRALIAN STANDARDS, LOCAL COUNCILS AND ALL RELEVANT AUTHORITIES CONFIRM ALL DIMENSIONS ON SITE		ARCHITECT KIM MURRAY ARCHITECT NSW REG No. 5800 17 HOADS ROAD, BENDICK MURRELL NSW 2803 mob. 0401 390 714	CLIENT NAME Aaron Seaman	PROJECT NEW DWELLING Lot 245 DP 753624 Cemetery Road, Harden. NSW 2587	North Elevation South Elevation	Project number 24-725		DRAWING NUMBER 03
									Date	19.02.24	
									Drawn by	Author	
									Checked by	Checker	
									Scale	1 : 100	Revision No.

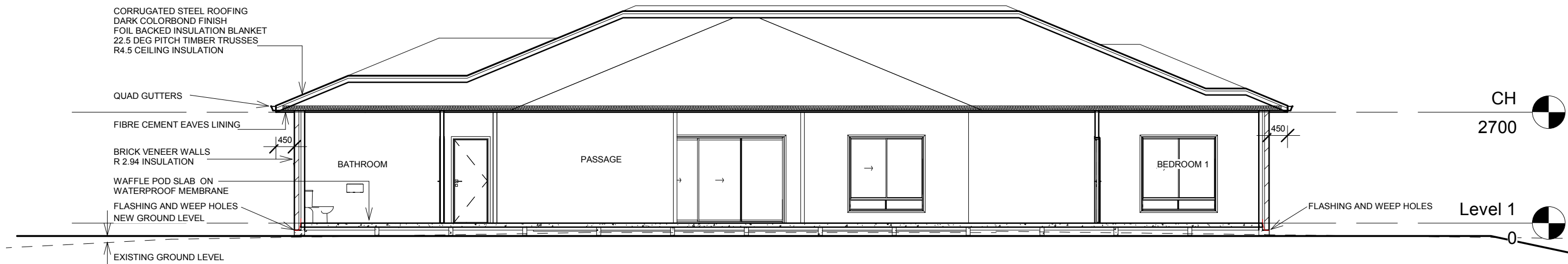


1 East
1 : 100

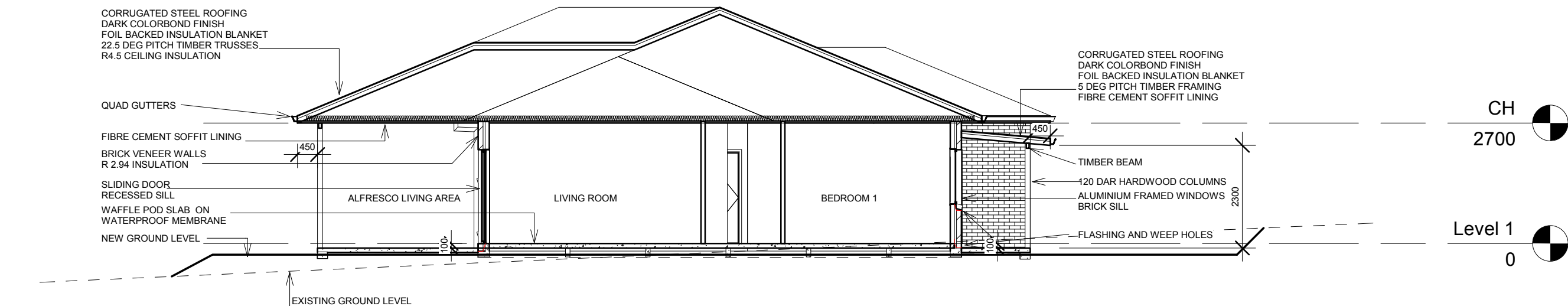


2 West
1 : 100

DATE	AMENDMENT	No.	DO NOT SCALE DRAWINGS WALL THICKNESS IS NOMINAL EXECUTE WORK IN ACCORDANCE WITH REQUIREMENTS OF THE N.C.C. AUSTRALIAN STANDARDS, LOCAL COUNCILS AND ALL RELEVANT AUTHORITIES CONFIRM ALL DIMENSIONS ON SITE	ARCHITECT KIM MURRAY ARCHITECT NSW REG No. 5800 17 HOADS ROAD, BENDICK MURRELL NSW 2803 mob. 0401 390 714	CLIENT NAME Aaron Seaman	PROJECT NEW DWELLING Lot 245 DP 753624 Cemetry Road, Harden. NSW 2587	East elevation West elevation		Project number	24-725	DRAWING NUMBER 04
									Date	19.02.24	
									Drawn by	Author	
									Checked by	Checker	
									Scale	1 : 100	Revision No.

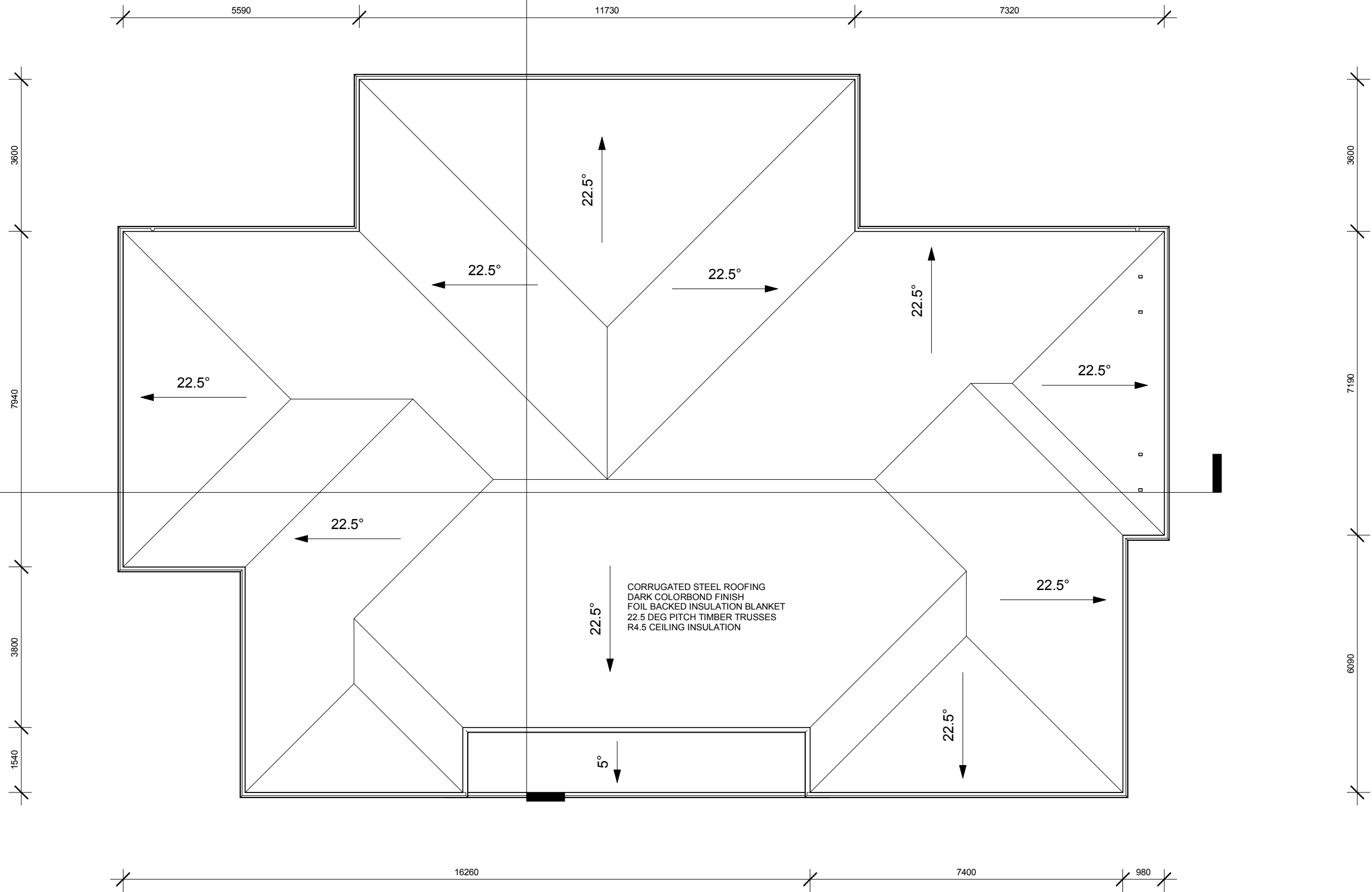


1 Section 1
1 : 100

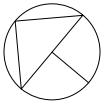


2 Section 2
1 : 100

DATE	AMENDMENT	No.	DO NOT SCALE DRAWINGS WALL THICKNESS IS NOMINAL EXECUTE WORK IN ACCORDANCE WITH REQUIREMENTS OF THE N.C.C. AUSTRALIAN STANDARDS, LOCAL COUNCILS AND ALL RELEVANT AUTHORITIES CONFIRM ALL DIMENSIONS ON SITE	ARCHITECT KIM MURRAY ARCHITECT NSW REG No. 5800 17 HOADS ROAD, BENDICK MURRELL NSW 2803 mob. 0401 390 714	CLIENT NAME Aaron Seaman	PROJECT NEW DWELLING Lot 245 DP 753624 Cemetery Road, Harden. NSW 2587	SECTIONS			Project number	24-725	DRAWING NUMBER 05
										Date	19.02.24	
										Drawn by	Author	
										Checked by	Checker	Revision No.
										Scale	1 : 100	



1 Roof Plan
1 : 100

DATE	AMENDMENT	No.	DO NOT SCALE DRAWINGS WALL THICKNESS IS NOMINAL EXECUTE WORK IN ACCORDANCE WITH REQUIREMENTS OF THE N.C.C. AUSTRALIAN STANDARDS, LOCAL COUNCILS AND ALL RELEVANT AUTHORITIES CONFIRM ALL DIMENSIONS ON SITE	ARCHITECT KIM MURRAY ARCHITECT NSW REG No. 5800 17 HOADS ROAD, BENDICK MURRELL NSW 2803 mob. 0401 390 714	CLIENT NAME Aaron Seaman	PROJECT NEW DWELLING Lot 245 DP 753624 Cemetry Road, Harden. NSW 2587	ROOF PLAN	MGA NORTH 	Project number	24-725	DRAWING NUMBER 06
									Date	19.02.24	
									Drawn by	Author	Revision No.
									Checked by	Checker	
									Scale	1 : 100	

APPENDIX # 5

BASIX

BASIX[®]Certificate

Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1736281S

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

Secretary

Date of issue: Friday, 16 February 2024

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



Project summary

Project name	725
Street address	20 ARALUEN Road MURRUMBURRAH 2587
Local Government Area	Hilltops Council
Plan type and plan number	Deposited Plan DP753624
Lot no.	245
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4

Project score

Water	✓ 95	Target 40
Thermal Performance	✓ Pass	Target Pass
Energy	✓ 61	Target 61
Materials	✓ -72	Target n/a

Certificate Prepared by

Name / Company Name: KIM MURRAY

ABN (if applicable): 66371799107

Description of project

Project address	
Project name	725
Street address	20 ARALUEN Road MURRUMBURRAH 2587
Local Government Area	Hilltops Council
Plan type and plan number	Deposited Plan DP753624
Lot no.	245
Section no.	-
Project type	
Project type	dwelling house (detached)
No. of bedrooms	4
Site details	
Site area (m ²)	61260
Roof area (m ²)	361
Conditioned floor area (m ²)	228.4
Unconditioned floor area (m ²)	14.6
Total area of garden and lawn (m ²)	0
Roof area of the existing dwelling (m ²)	0

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	
Project score		
Water	<div><div>✔</div><div>95</div></div>	Target 40
Thermal Performance	<div><div>✔</div><div>Pass</div></div>	Target Pass
Energy	<div><div>✔</div><div>61</div></div>	Target 61
Materials	<div><div>✔</div><div>-72</div></div>	Target n/a

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
Fixtures			
The applicant must install showerheads with a minimum rating of 3 star (> 7.5 but <= 9 L/min) 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 3 star in the kitchen in the development.		✓	
The applicant must install basin taps with a minimum rating of 3 star in each bathroom in the development.		✓	
Alternative water			
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 361 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"> all toilets in the development the cold water tap that supplies each clothes washer in the development 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.) all hot water systems in the development 		✓ ✓ ✓ ✓	✓ ✓ ✓ ✓

Water Commitments

Show on
DA plans

Show on CC/CDC
plans & specs

Certifier
check

- all indoor cold water taps (not including taps that supply clothes washers) in the development



Thermal Performance and Materials commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Do-it-yourself Method			
General features			
The dwelling must be a Class 1 dwelling according to the National Construction Code, and 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.	✓	✓	✓
The applicant must adopt one of the options listed in the tables below to address thermal bridging in metal framed floor(s), walls and ceiling/roof of the dwelling.	✓	✓	✓
The applicant must show through receipts that the materials purchased for construction are consistent with the specifications listed in the tables below.			✓

Construction	Area - m ²	Additional insulation required	Options to address thermal bridging	Other specifications
floor - concrete slab on ground, waffle pod slab.	212	nil;not specified	nil	
garage floor - concrete slab on ground, waffle pod slab.	34.8	none	nil	
external wall: brick veneer; frame: timber - H2 treated softwood.	all external walls	2.94 (or 3.50 including construction);fibreglass batts or roll + reflective foil in the cavity	nil	wall colour: Medium (solar absorptance 0.48-0.7)

Construction	Area - m ²	Additional insulation required	Options to address thermal bridging	Other specifications
internal wall shared with garage: plasterboard; frame: timber - H2 treated softwood.	28	1.08 (or 1.50 including construction);fibreglass batts or roll	nil	
internal wall: plasterboard; frame: timber - H2 treated softwood.	173	none	nil	
ceiling and roof - flat ceiling / pitched roof, framed - metal roof, timber - H2 treated softwood.	361	ceiling: 4.5 (up), roof: foil backed blanket ;ceiling: fibreglass batts or roll; roof: foil backed blanket.	nil	roof space ventilation: unventilated; roof colour: medium (solar absorptance 0.48-0.59); ceiling area fully insulated

Note	<ul style="list-style-type: none"> Insulation specified in this Certificate must be installed in accordance with the ABCB Housing Provisions (Part 13.2.2) of the National Construction Code.
Note	<ul style="list-style-type: none"> If the additional ceiling insulation listed in the table above is greater than R3.0, refer to the ABCB Housing Provisions (Part 13.2.3 (6)) of the National Construction Code.
Note	<ul style="list-style-type: none"> In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.
Note	<ul style="list-style-type: none"> Thermal breaks must be installed in metal framed walls and applicable roofs in accordance with the ABCB Housing Provisions of the National Construction Code.

Thermal Performance and Materials commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Ceiling fans			
The applicant must install at least one ceiling fan in at least one daytime habitable space, such as living room.	✓	✓	✓
The applicant must install at least one ceiling fan in each bedroom.	✓	✓	✓
<ul style="list-style-type: none"> The minimum number and diameter of ceiling fans in a daytime habitable space must be installed in accordance with the ABCB Housing Provisions (Part 13.5.2) of the National Construction Code . 	✓	✓	✓

Thermal Performance and Materials commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Glazed windows, 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 glazed window and 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"> The applicant must install windows and glazed doors in accordance with the height and width, frame and glazing types listed in the table. 	✓	✓	✓
<ul style="list-style-type: none"> Each window and glazed door must have a U- value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) within the range listed. Total system U values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. 		✓	✓
<ul style="list-style-type: none"> Overshadowing buildings/vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column. 	✓	✓	✓
The applicant must install the skylights described in the table below, in accordance with the specifications listed in the table. Total skylight area must not exceed 3 square metres (the 3 square metre limit does not include the optional additional skylight of less than 0.7 square metres that does not have to be listed in the table).	✓	✓	✓

Glazed window/door no.	Orientation	Maximum height (mm)	Maximum width (mm)	Frame and glass specification	Shading device (Dimension within 10%)	Overshadowing
W01	NE	1500.00	1800.00	aluminium, double glazed (U-value: <=3.5, SHGC: >0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W02	NE	600.00	1500.00	aluminium, double glazed (U-value: <=3.5, SHGC: >0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W03	NE	1800.00	1800.00	aluminium, double glazed (U-value: <=3.5, SHGC: >0.49)	verandah 3600 mm, 1800 mm above base of window or glazed door	not overshadowed

Glazed window/door no.	Orientation	Maximum height (mm)	Maximum width (mm)	Frame and glass specification	Shading device (Dimension within 10%)	Overshadowing
D02	NE	2100.00	3200.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	verandah 3600 mm, 2700 mm above base of window or glazed door	not overshadowed
W04	NE	1800.00	1800.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	verandah 3600 mm, 1800 mm above base of window or glazed door	not overshadowed
D03	NE	2100.00	1800.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W13	SE	1800.00	900.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W14	SE	1800.00	900.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W06	SW	600.00	1500.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W08	SW	1200.00	1800.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W09	SW	1100.00	600.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W10	SW	1100.00	900.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W11	SW	1100.00	900.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed
W05	NW	600.00	900.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed


Glazed window/door no.	Orientation	Maximum height (mm)	Maximum width (mm)	Frame and glass specification	Shading device (Dimension within 10%)	Overshadowing
W07	NW	1100.00	500.00	aluminium, double glazed (U-value: ≤ 3.5 , SHGC: > 0.49)	eave 450 mm, 600 mm above head of window or glazed door	not overshadowed


Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Hot water			
The applicant must install the following hot water system in the development, or a system with a higher energy rating: electric heat pump with a performance of 21 to 25 STCs or better.	✓	✓	✓
Cooling system			
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 - ducted; Energy rating: 3 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 - ducted; Energy rating: 3 star (cold zone)		✓	✓
Heating system			
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 - ducted; Energy rating: 3 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 - ducted; Energy rating: 3 star (cold zone)		✓	✓
Ventilation			
The applicant must install the following exhaust systems in the development: At least 1 Bathroom: no mechanical ventilation (ie. natural); Operation control: n/a		✓	✓
Kitchen: no mechanical ventilation (ie. natural); Operation control: n/a		✓	✓
Laundry: natural ventilation only, or no laundry; Operation control: n/a		✓	✓
Artificial lighting			
The applicant must ensure that a minimum of 80% of light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Natural lighting			
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.	✓	✓	✓


Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
The applicant must install a window and/or skylight in 3 bathroom(s)/toilet(s) in the development for natural lighting.	✓	✓	✓
Other			
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: 09 April 2024

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

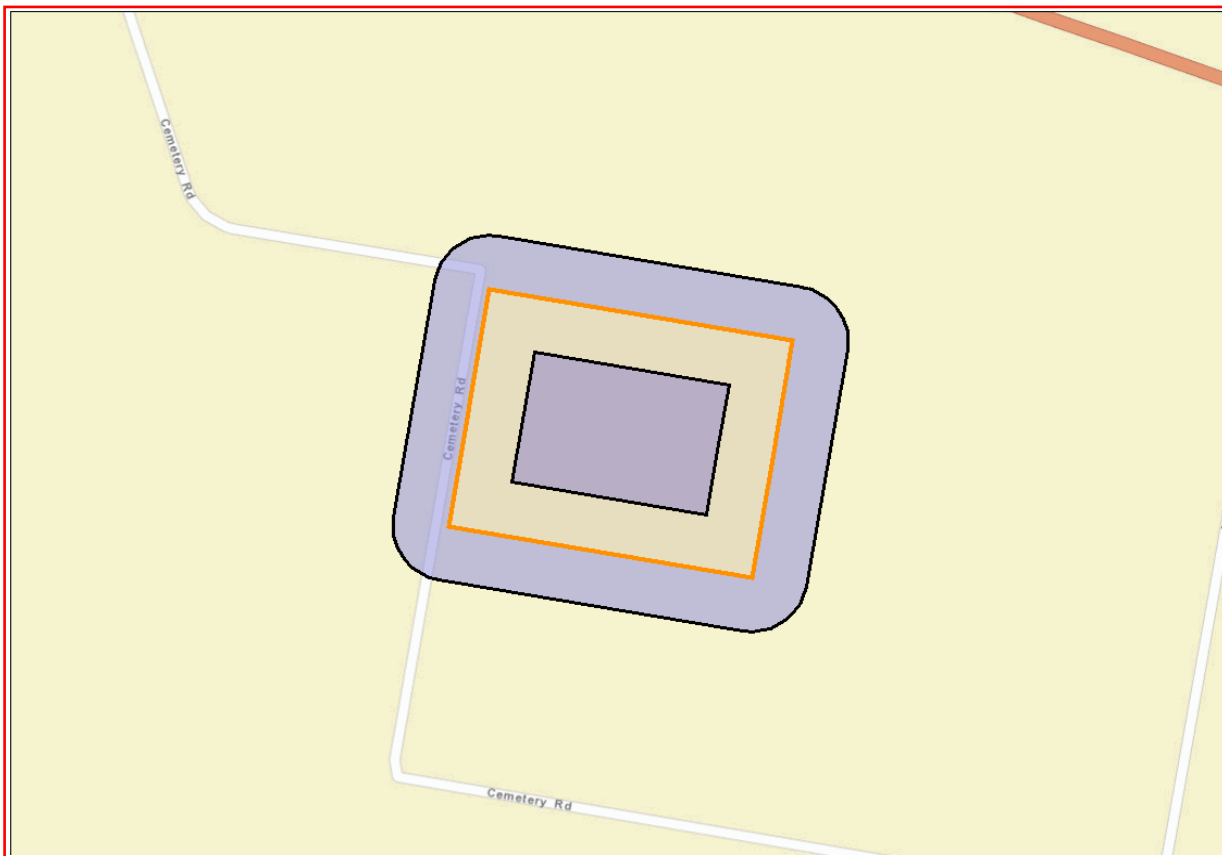
Attention: Kenneth Filmer

Email: craig@dabusters.com

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 245, DP:DP753624, Section : - with a Buffer of 50 meters, conducted by Kenneth Filmer on 09 April 2024.

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 to 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 your local council 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 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		09/04/2024 3:53 PM
1. Biodiversity Values (BV) Map - Results Summary (Biodiversity Conservation Regulation Section 7.3)		
1.1	Does the development Footprint intersect with BV mapping?	no
1.2	Was <u>ALL</u> BV Mapping within the development footprint added in the last 90 days? (dark purple mapping only, no light purple mapping present)	no
1.3	Date of expiry of dark purple 90 day mapping	N/A
1.4	Is the Biodiversity Values Map threshold exceeded?	no
2. Area Clearing Threshold - Results Summary (Biodiversity Conservation Regulation Section 7.2)		
2.1	Size of the development or clearing footprint	1,215.8 sqm
2.2	Native Vegetation Area Clearing Estimate (NVACE) (within development/clearing footprint)	0.0 sqm
2.3	Method for determining Minimum Lot Size	LEP
2.4	Minimum Lot Size (10,000sqm = 1ha)	400,000 sqm
2.5	Area Clearing Threshold (10,000sqm = 1ha)	10,000 sqm
2.6	Does the estimate exceed the Area Clearing Threshold? (NVACE results are an estimate and can be reviewed using the Guidance)	no
REPORT RESULT: Is the Biodiversity Offset Scheme (BOS) Threshold exceeded for the proposed development footprint area?		no
(Your local council will determine if a BDAR is required)		

What do I do with this report?

- If the result above indicates the BOS Threshold has been exceeded, your local council may require a Biodiversity Development Assessment Report with your development application. Seek further advice from Council. An accredited assessor can apply the Biodiversity Assessment Method and prepare a BDAR for you. For a list of accredited assessors go to: <https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>.
- If the result above indicates the BOS Threshold has not been exceeded, you may not require a Biodiversity Development Assessment Report. This BMAT report can be provided to Council to support your development application. Council can advise how the area clearing threshold results should be considered. Council will review these results and make a determination if a BDAR is required. Council may ask you to review the area clearing threshold results. You may also 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*.
- If a BDAR is not required by Council, you may still require a permit to clear vegetation from your local council.
- If all Biodiversity Values mapping within your development footprint was less than 90 days old, i.e. areas are displayed as dark purple on the BV 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 1.3 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 or Council disagree with the area clearing threshold estimate results from the NVACE in Line Item 2.6 above (i.e. area of Native Vegetation within the Development footprint proposed to be cleared), review the results using the [Guide for reviewing area clearing threshold results from the BMAT Tool](#).

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: _____

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Biodiversity Values Map and Threshold Tool

The Biodiversity Values (BV) Map and Threshold Tool identifies land with high biodiversity value, particularly sensitive to impacts from development and clearing.

The BV map forms part of the Biodiversity Offsets Scheme threshold, which is one of the factors for determining whether the Scheme applies to a clearing or development proposal. You have used the Threshold Tool in the map viewer to generate this BV Threshold Report for your nominated area. This report calculates results for your proposed development footprint and indicates whether Council may require you to engage an accredited assessor to prepare a Biodiversity Development Assessment Report (BDAR) for your development.

This report may be used as evidence for development applications submitted to councils. You may also use this report when considering native vegetation clearing under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 vegetation in non-rural areas.

What's new? For more information about the latest updates to the Biodiversity Values Map and Threshold Tool go to the updates section on the [Biodiversity Values Map webpage](#).

Map Review: Landholders can request a review of the BV Map where they consider there is an error in the mapping on their property. For more information about the map review process and an application form for a review go to the [Biodiversity Values Map Review webpage](#).

If you need help using this map tool see our [Biodiversity Values Map and Threshold Tool User Guide](#) or contact the Map Review Team at map.review@environment.nsw.gov.au or on 1800 001 490.





Biodiversity Values Map



558.6 0 279.28 558.6 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

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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.

Imagery © Airbus DS/Spot Image 2016

© NSW Department of Customer Service, Basemaps 2019

© NSW Department of Planning and Environment

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.

APPENDIX # 7

Council 4.6 Register

(4 variations adjacent Harden as highlighted)