



ATTACHMENT 6.2.5



Black Springs Road Planning Proposal



PLANNING PROPOSAL

Lot 1 DP876505

502 Black Springs Road

**Budgee Budgee
Parish of Eurundury
County of Phillip**



Report prepared by



DOHERTY SMITH & ASSOCIATES
CONSULTING SURVEYORS

PO Box 87
30 Swift Street
Wellington NSW 2820
P: 02 6845 1403
F: 02 6845 3329

PO Box 8131
74 Astill Drive
Orange NSW 2800
P: 02 6363 1518
F: 02 6360 0903

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PLANNING PROPOSAL

Summary of Proposal

This planning proposal relates to 502 Black Springs Road Budgee Budgee, being Lot 1 DP876505. The subject land is owned by Mrs Joan Lesley McGilvray. Mrs McGilvray is the applicant for this proposal.

The subject land currently has one dwelling standing upon it. The current land use is dryland agriculture. The site is gently sloping with established grasses and scattered old growth and regrowth trees. A small watercourse flows through the land from north to south.

The land is bounded by Black Springs Road to the west, Church Lane to the south and agricultural land to the east and north.

Street Address:	502 Black Springs Road
Town:	Budgee Budgee, NSW
Postcode:	2850
Local Government Area:	Midwestern Regional Council
Lot/DP:	Lot 1 DP876505
Owner:	Mrs Joan McGilvray
Current Zoning of Area	Agriculture
Proposed Zoning Amendment	Rural Small Holdings (Equivalent to R5 Large Lot Residential under Draft Mid-Western Regional LEP 2011)
Number of Existing Lots:	1

Objectives Of Proposal

The subject land is Lot 1 in DP876505. This parcel is currently 32.37 hectares in size. The zoning under the Mid-Western Regional Interim Local Environmental Plan (LEP) is Agriculture. The minimum lot size for this zone under the Interim LEP is 100 hectares.

The land is currently less than the minimum lot size for the Agriculture zone.

Under the Draft Mid-Western Regional LEP 2011, the land is proposed to be zoned RU1 Primary Production. The minimum lot size for this land proposed in the Draft Mid-Western Regional LEP 2011 is 100 hectares.

This planning proposal has been prepared to justify the change in zoning of the subject land. It is proposed that the zoning of Lot 1 in DP876505 be amended to Rural Small Holdings (R5 Large Lot Residential under Draft Mid-Western Regional LEP 2011).

Under the Draft Mid-Western Regional LEP 2011, Zone R5 Large Lot Residential land adjacent to the subject land has a minimum lot size of 12 hectares. It is proposed that the same minimum lot size be applied to the subject land when the Draft LEP is commenced.

Planning Provisions

The subject land is currently zoned Agriculture under the Mid-Western Regional Interim LEP 2008. The objectives of the Agriculture zone are as follows:

- *To protect and maintain land for agriculture and other rural purposes.*
- *To avoid the fragmentation of agricultural land and conflict between land uses, and to restrict unnecessary dwellings and incompatible development.*
- *To provide for other rural land uses, such as mining, extractive industries, forestry and energy generation.*
- *To provide for the protection, enhancement and conservation of areas of significance for nature conservation, of habitat of threatened species, populations and ecological communities and of other areas of native vegetation.*
- *To maintain the scenic amenity and landscape quality of the area.*
- *To promote the sustainable management, use and development of certain land for agriculture, mining and other primary industries.*
- *To promote the conservation of productive agricultural land for agricultural purposes, particularly cropping and grazing.*
- *To preserve the area's open rural landscapes and environmental and cultural heritage values by the maintenance of large holdings accommodating both intensive and extensive forms of agriculture.*
- *To avoid development that would conflict with or unreasonably impact upon the efficient use of land for rural or other primary industries, such as small lot rural residential subdivision and hobby farms.*
- *To protect the residential and visual amenity of existing and future residents of rural areas by applying appropriate building siting and design controls.*
- *To ensure that development does not significantly detract from the existing rural character or create unreasonable or uneconomic demands for provision or extension of public amenities and services.*
- *To permit some non-agricultural land uses and agricultural support facilities, such as rural industries and tourist facilities, which are in keeping with the other zone objectives and which will not adversely affect agricultural capability or capability of the land the subject of the development (or adjoining land).*
- *To encourage high quality advertising signs in association with approved uses that provide business identification, that are appropriately integrated into the site development, and that contribute positively to the visual amenity of the surrounding area.*

The subject land is proposed to be zoned RU1 Primary Production under the Draft Mid-Western Regional LEP 2011. The objectives of the RU1 zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the visual amenity and landscape quality by preserving the area's open rural landscapes, environmental and cultural heritage values.*
- *to promote the unique rural character of Mid Western Regional Council and facilitate a variety of tourist land uses.*

It is proposed to change the zoning of the land to Rural Small Holdings under the Mid-Western Regional Interim LEP 2008. The objectives of the Rural Small Holdings zone are as follows:

- *To enable small-scale commercial agriculture.*
- *To maintain the rural character of the land.*
- *To provide for rural living opportunities on existing allotments greater than 5 hectares and new allotments of at least 10 hectares as one component in the housing choices available in the area the subject of this Plan.*
- *To ensure that development maintains and contributes to the rural character of the locality and minimises disturbances to the landscape and to agricultural activity.*
- *To ensure that development does not adversely affect the rural and residential amenity of the locality.*
- *To ensure that development in rural living areas is compatible with the environmental capability of the land, particularly in terms of the capacity of that land to accommodate on site effluent disposal facilities.*
- *To allow a limited range of non-residential and ancillary land uses that are compatible with, and would not adversely affect, the amenity and environmental characteristics of rural small holding areas.*

Upon the commencement of the Draft Mid-Western Regional LEP 2011, land currently zoned *Rural Small Holdings* will be zoned R5 Large Lot Residential under the Draft Mid-Western Regional LEP. The objectives of the R5 zone are as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Justification

Background

The subject land is currently zoned Agriculture under the Mid-western Regional Interim LEP 2008 and is proposed to be zoned RU1 Primary Production under the Draft Mid-Western Regional LEP 2011. Land to the west of the subject land is zoned Rural Small Holdings (equivalent to R5 Large Lot Residential under the Draft Mid-Western Regional LEP 2011), including Lots 1, 4 & 5 in DP249931 and Lots 102 and 103 in DP1037651.

The land directly north, east and south of the subject land is zoned Agriculture (equivalent to RU1 Primary Production under the Draft Mid-Western Regional LEP 2011). The land to the north is Lots 44 and 136 in DP755429 have areas of approximately 18.2 and 16 hectares respectively. The land directly to the east is Lot 12 in DP1020501. This land has an area of 21.04 hectares.

Land to the east of Lot 12 in DP1020501 including Lots 173, 205 and 188 in DP755429 and Lot 530 in DP850390 is proposed to be zoned R5 Large Lot Residential under the Draft Mid-Western Regional LEP 2011. This land is separated from the subject land by a distance of approximately 110 to 250 metres.

Lots to the west, north and east have existing dwellings upon them. All of the lots in the immediate area have areas of less than 100 hectares. The layout of the land boundaries and dwellings in the area largely conforms with the objectives of the Rural Small Holdings zone (equivalent to the R5 Large Lot Residential zone under the Draft Mid-Western Regional LEP 2011), providing residential housing in a rural setting.

Impacts on scenic quality and environmentally sensitive locations caused by the existing housing density being greater than allowable under the Agriculture zone (or RU1 Primary Production under the Draft Mid-Western Regional LEP 2011) are difficult to assess. Given the long-term nature of development in the area, occurring over the past 150 years, it would appear that the most obvious and noticeable change on the site would have been caused by the initial occupation by European settlers. The land would have been cleared with the intention of being used for agricultural purposes, fenced and dwellings erected. In subsequent years, changes would have been more incremental, including updated and additional dwellings.

The subject land was first surveyed in approximately 1864, consisting of two separate portions of land. At this time, the plan 255-1524 shows the value of improvements on Portion 46 as £40, consisting of "Hut clearing etc". The plan 256-1524 shows the value of improvements on Portion 45 was shown as £12, consisting of "clearing and fencing". The two portions, 45 and 46, which were consolidated to form the subject land, were shown in separate ownership on the original plans.

Since the original survey, some additional clearing of the site appears to have taken place. The original plans both show that survey reference trees were marked within a few metres of each boundary corner. Currently, there are minimal trees near most boundary corners, although many of the reference trees shown may have been removed during road construction.

The lot density as first created was higher than that currently allowable under the Agriculture (RU1 Primary Production under Draft Mid-Western Regional LEP 2011) zone. It is likely that most individual portions of land had a dwelling of some form upon them. The current layout in terms of dwellings is similar to what was likely in the first 40 years from the initial occupation by settlers. In the years between the initial occupation and the present, the land has remained largely unchanged, with minimal additional impact caused by the modernisation of dwellings on the lots.

Land Use

The subject land is currently used for dryland agriculture including grazing of stock. The land has one dwelling upon it with associated outbuildings. The existing dwelling is located on the north-western portion of the land. The agricultural capacity of the land is not sufficient for the land to be self-supporting in a financial sense.

As such, the land is a "lifestyle block" allowing rural residential living in relatively close proximity to the town of Mudgee. If the subject land were to be sold it could be expected that a new owner/s would have at least one occupant with a full-time job to supplement any income generated by allowable agricultural pursuits on the land.

Topography and Vegetation

The site is gently undulating, with an overall slope from north to south. A small watercourse runs from north to south through the site. The small watercourse divides the site roughly into two halves. The existing dwelling is located on the land to the west of the small watercourse. Some old growth and regrowth trees exist in the area around the small watercourse and the public roads. The remainder of the site is grassed.

Zone Objectives

It is proposed to change the zoning of the subject lot from *Agriculture* (RU1 Primary Production under the Draft Mid-Western LEP 2011) to *Rural Small Holdings* (R5 Large Lot Residential under the Draft Mid-Western Regional LEP 2011). This will allow the owner of the land to subdivide the land in the future and create one additional lot with dwelling entitlement.

The proposed rezoning of the subject land is in accordance with the zoning of surrounding and adjacent lots to the west and east. Lots directly to the north and east zoned *Agriculture* (RU1 Primary Production under the Draft Mid-Western LEP 2011) are too small to be subdivided even if rezoned to Rural Small Holdings (R5 Large Lot Residential under Draft Mid-Western Regional LEP 2011) with a minimum lot size of 12 hectares.

The compliance or otherwise of the lot with the objectives of these zones is addressed below.

Agriculture

- *To protect and maintain land for agriculture and other rural purposes.*

The land is currently used for dryland grazing of stock and a dwelling, which is maintaining the land for agriculture and other purposes.

- *To avoid the fragmentation of agricultural land and conflict between land uses, and to restrict unnecessary dwellings and incompatible development.*

The land is currently substantially less than the minimum lot size for the zone. Further fragmentation of the land is not proposed. All current development on the land is compatible with the *Agriculture* zone.

- *To provide for other rural land uses, such as mining, extractive industries, forestry and energy generation.*

Nothing prevents the subject land being used for other rural purposes, such as mining, extractive industries, forestry and energy generation.

- *To provide for the protection, enhancement and conservation of areas of significance for nature conservation, of habitat of threatened species, populations and ecological communities and of other areas of native vegetation.*

No known threatened species habitats are located on the subject land. The land preserves native vegetation by maintaining a strip of old growth and regrowth trees along the small watercourse and in the vicinity of the public road reserves.

- *To maintain the scenic amenity and landscape quality of the area.*

The subject land has been used as a rural holding for approximately 150 years. During this time, the land has been cleared of timber and utilised for dryland grazing of stock. The scenic amenity and landscape quality of the area are enhanced by the rural nature of the subject land.

- *To promote the sustainable management, use and development of certain land for agriculture, mining and other primary industries.*

The subject land is too small to represent a sustainable stand-alone agricultural holding.

- *To promote the conservation of productive agricultural land for agricultural purposes, particularly cropping and grazing.*

The subject land is currently used for dryland grazing of stock in conjunction with a rural residential dwelling on the site. The income from agricultural pursuits on the subject land is not considered adequate to sustain the holding as a stand-alone entity.

- *To preserve the area's open rural landscapes and environmental and cultural heritage values by the maintenance of large holdings accommodating both intensive and extensive forms of agriculture.*

The subject land is substantially less than the minimum lot size for the zone and could not be considered a "large holding". Historical records indicate that the land has historically been either the current size or less (consisting of two separate portions of land) since the original crown survey in 1864. The subject land consists of open grasslands, with a small watercourse running from north to south, with one dwelling and associated outbuildings. The open landscapes in the area are maintained by this configuration of buildings and open space.

- *To avoid development that would conflict with or unreasonably impact upon the efficient use of land for rural or other primary industries, such as small lot rural residential subdivision and hobby farms.*

The subject land conforms more closely to the objectives of the Rural Small Holdings zone, as demonstrated below. No conflict with adjoining rural small holdings zoned land currently exists, as the subject land is currently used in a manner more in compliance with this zone.

- *To protect the residential and visual amenity of existing and future residents of rural areas by applying appropriate building siting and design controls.*

There is one existing dwelling on the subject land. This building has been appropriately sited to protect the residential and visual amenity of existing and future residents.

- *To ensure that development does not significantly detract from the existing rural character or create unreasonable or uneconomic demands for provision or extension of public amenities and services.*

No new development is currently proposed for the subject land. And new development proposed for the land which will require development consent will be the subject of a separate development application.

- *To permit some non-agricultural land uses and agricultural support facilities, such as rural industries and tourist facilities, which are in keeping with the other zone objectives and which will not adversely affect agricultural capability or capability of the land the subject of the development (or adjoining land).*

The subject land is not used for a non-agricultural or agricultural support facility.

- *To encourage high quality advertising signs in association with approved uses that provide business identification, that are appropriately integrated into the site development, and that contribute positively to the visual amenity of the surrounding area.*

No advertising signs exist on the subject land and none are proposed for the site.

Rural Small Holdings

The subject land complies with the objectives of the Rural Small Holdings zone as follows:

- *To enable small-scale commercial agriculture.*

The subject land enables small-scale commercial agriculture.

- *To maintain the rural character of the land.*

The subject land maintains the rural character of the land and is visually similar to adjacent land, which is also of rural character.

- *To provide for rural living opportunities on existing allotments greater than 5 hectares and new allotments of at least 10 hectares as one component in the housing choices available in the area the subject of this Plan.*

The subject land is considered to be a rural lifestyle block, with an agricultural lifestyle and setting. The income produced by agricultural pursuits on the subject land is not considered adequate for the holding to be a sustainable stand-alone entity.

- *To ensure that development maintains and contributes to the rural character of the locality and minimises disturbances to the landscape and to agricultural activity.*

The rural character of subject land is very similar to adjoining land and other land in the locality. No disturbances to the landscape or agricultural activity are apparent in the area.

- *To ensure that development does not adversely affect the rural and residential amenity of the locality.*

No new development is currently proposed on the subject land.

- *To ensure that development in rural living areas is compatible with the environmental capability of the land, particularly in terms of the capacity of that land to accommodate on site effluent disposal facilities.*

No new development is currently proposed on the subject land. Any new development proposed for the subject land which will require a development consent will be the subject of a development application.

- *To allow a limited range of non-residential and ancillary land uses that are compatible with, and would not adversely affect, the amenity and environmental characteristics of rural small holding areas.*

The land is not used for a non-residential or ancillary use and nothing on the subject land adversely affects the amenity and environmental characteristics of rural small holding areas.

The *Rural Small Holdings* zone under the Mid-Western Regional Interim LEP 2008 is proposed to be amended to become the R5 Large Lot Residential Zone under the Draft Mid-Western Regional LEP 2011. The subject land conforms to the objectives of this zone as shown below.

R5 Large Lot Residential zone under the Draft Mid-Western Regional LEP 2011

The site currently conforms to the objectives of the R5 Large Lot Residential zone as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*

The site currently provides one residential dwelling in a rural setting. The site has minimal impact on any environmentally sensitive locations and the scenic quality of the area.

- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*

Any future development of the area will be able to occur in an orderly manner. The layout of the site will not hinder any such future development. Should the owner proceed with an application to subdivide and create a new lot within the R5 Large Lot Residential zone, the creation of an additional dwelling entitlement will have minimal impact on the potential for future development of urban areas within the vicinity.

- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

Changing the zone of the subject land to Rural Small Holdings (R5 Large Lot Residential under Draft Mid-Western Regional LEP 2011) will theoretically allow the creation of one new lot, with dwelling entitlement, subject to approval by Council and other authorities. The addition of one new dwelling entitlement will create a demand for a new connection to electricity supply and telecommunications supply.

Overhead electricity exists on the subject land and services the existing dwelling as well as land to the east. A new connection to this overhead supply is possible, subject to approval by Essential Energy.

Telecommunications infrastructure exists to service the subject land and adjacent lots. A new connection to this infrastructure is possible, subject to approval by the relevant service provider.

Water supply will have to be provided on site by the land owner, in accordance with Council's requirements.

The new dwelling entitlement will increase traffic movements on Council's roads and waste from the new dwelling will have to be disposed of in Council's waste treatment facilities. The road network is adequate for an increase in traffic caused by a new dwelling, subject to approval by Council. Waste treatment facilities are sufficient to cater for the increase in waste caused by a new dwelling, subject to approval by Council.

Any new dwelling on the site will be the subject of approval by Council and other authorities. This approval will have to address the provision of public services to the site. It is anticipated that the addition of one new dwelling on the site will not unreasonably increase the demand for public services or public facilities.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Adjoining land is zoned Agriculture (RU1 Primary Production under Draft Mid-Western Regional LEP 2011) or R5 Large Lot Residential. The nature of these zones is in harmony, allowing for primary production within a framework of farm units of varying size.

The *Agriculture* zone under the Mid-Western Regional Interim LEP 2008 is proposed to be amended to become the RU1 Primary Production zone under the Draft Mid-Western Regional LEP 2011. The subject land partially conforms to the objectives of this zone as shown below.

RU1 Primary Production under Draft Mid-Western Regional LEP 2011

The subject land does not fully comply with the objectives of the RU1 Primary Production zone under Draft Mid-Western Regional LEP 2011 as demonstrated below:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

The subject land is too small to provide a sustainable primary industry if considered as a stand-alone unit. Any primary industry activity undertaken on the site is secondary to the primary use of rural residential. The natural resource base is able to be enhanced, but the financial drain of enhancements means that the already unsustainable farm unit will be drawing money and resources from outside sources.

- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*

The surrounding area consists of varied agricultural pursuits including dryland grazing of stock, dryland cropping and some intensive agriculture including vineyards. The subject land and land to the east is generally used for dryland grazing of stock. Such a primary industry is suitable within the zone and area.

- *To minimise the fragmentation and alienation of resource lands.*

The subject land is already substantially less than the recommended minimum lot size for the zone. While further fragmentation of the land is not likely under this zone, the layout of lots in the area is consistent with that of the subject land.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Adjoining land is zoned Agriculture (RU1 Primary Production under Draft Mid-Western Regional LEP 2011) or R5 Large Lot Residential. The nature of these

zones is in harmony, allowing for primary production within a framework of farm units of varying size.

- *To maintain the visual amenity and landscape quality by preserving the area's open rural landscapes, environmental and cultural heritage values.*

The subject land maintains the visual amenity and landscape quality of the area. The site retains open rural landscapes. The environmental quality of the site is enhanced by the small watercourse which runs through from north to south. Vegetation in the area of the small watercourse consists of some old growth trees with some regrowth trees, providing diversity in flora species and shelter for native fauna. There are no known items of cultural heritage on the site, however nothing on the site prevents the preservation of any such items.

- *to promote the unique rural character of Mid Western Regional Council and facilitate a variety of tourist land uses.*

Nothing on the site prevents the promotion of the unique rural character of Mid Western Regional Council or the facilitation of a variety of tourist land uses.

Conclusion

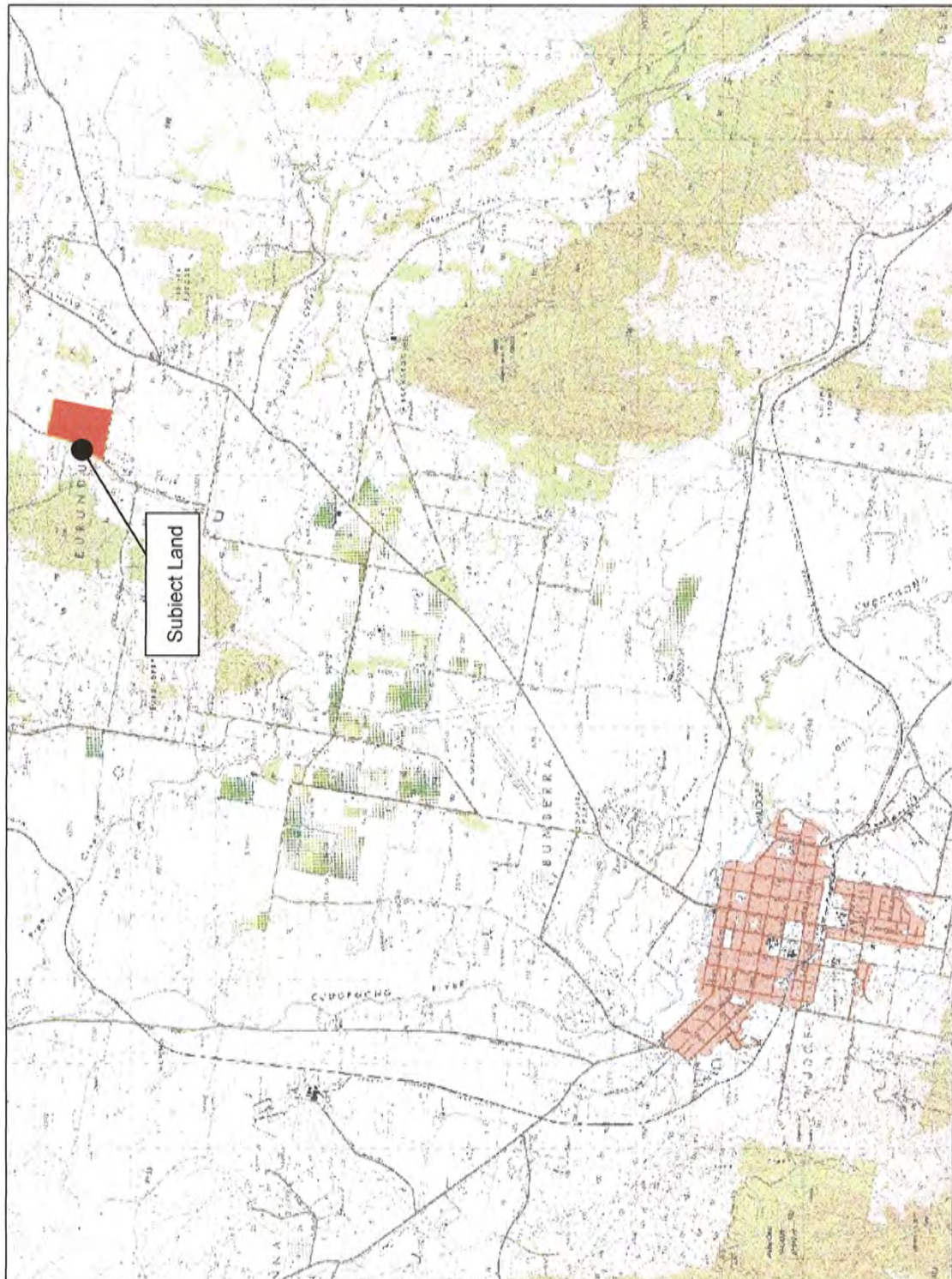
The proposed change in zone of the subject land is suitable when considering the objectives of the proposed Rural Small Holdings zone, as well as the R5 Large Lot Residential under Draft Mid-Western Regional LEP 2011. The subject land is less suited to the Agriculture zoning currently applied to it, being RU1 Primary Production under the Draft Mid-Western Regional LEP 2011. The format of boundaries in the area is well suited to the Rural Small Holdings and R5 Large Lot Residential zones, with many existing lots of a suitable size and shape. No known environmental or cultural heritage issues prevent the change in zone.

The proposed rezoning is suitable for the subject land.

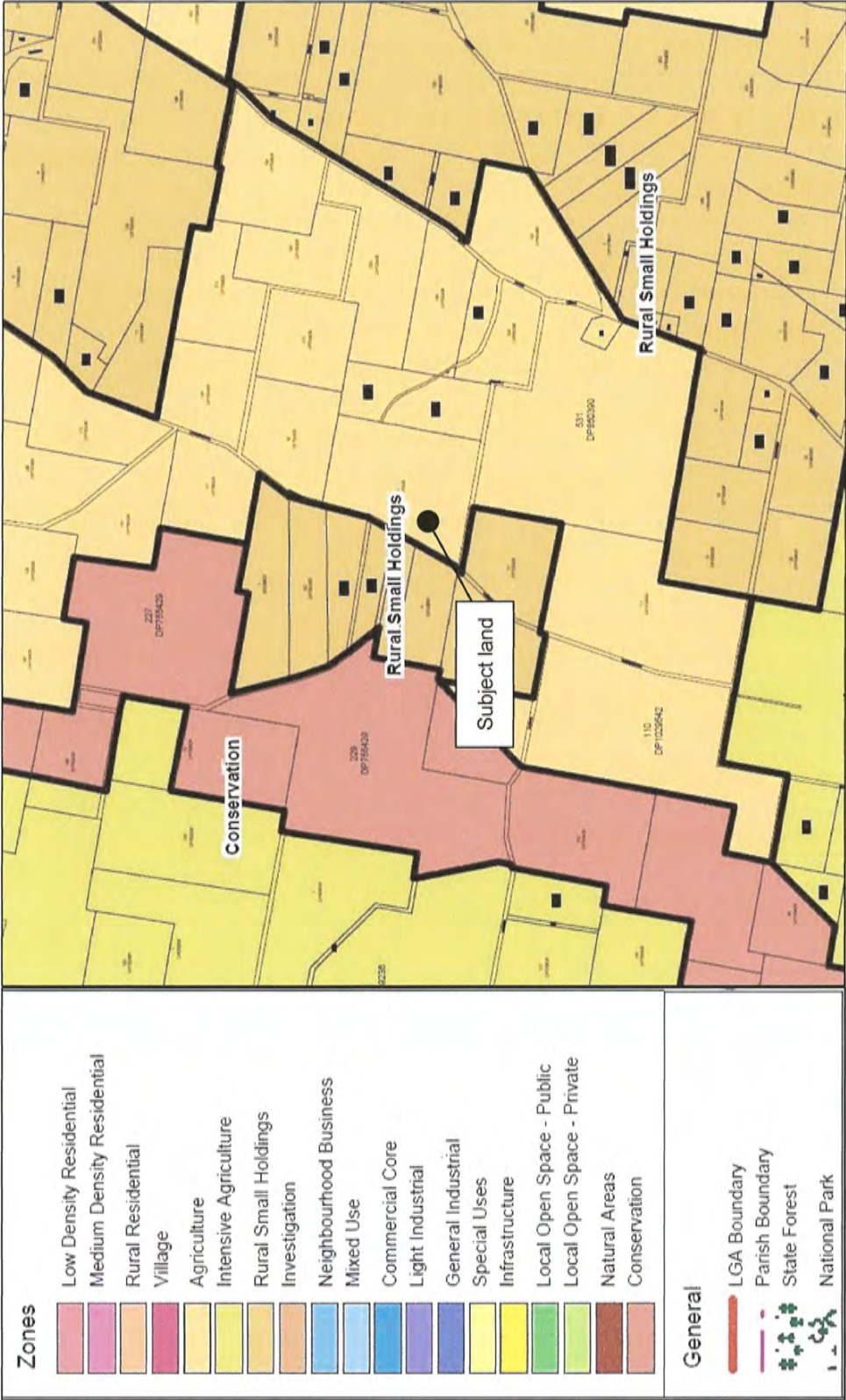
Eric Smith

B.Surv. MIS Aust.
Surveyor Registered Under The
Surveying and Spatial Information Act, 2002

Appendix A – Diagrams



Locality map showing site in relation to Mudgee
(Image copyright LPI 2012)



Current zoning of subject land and surrounding area
Mid-Western Regional Interim Local Environmental Plan 2008

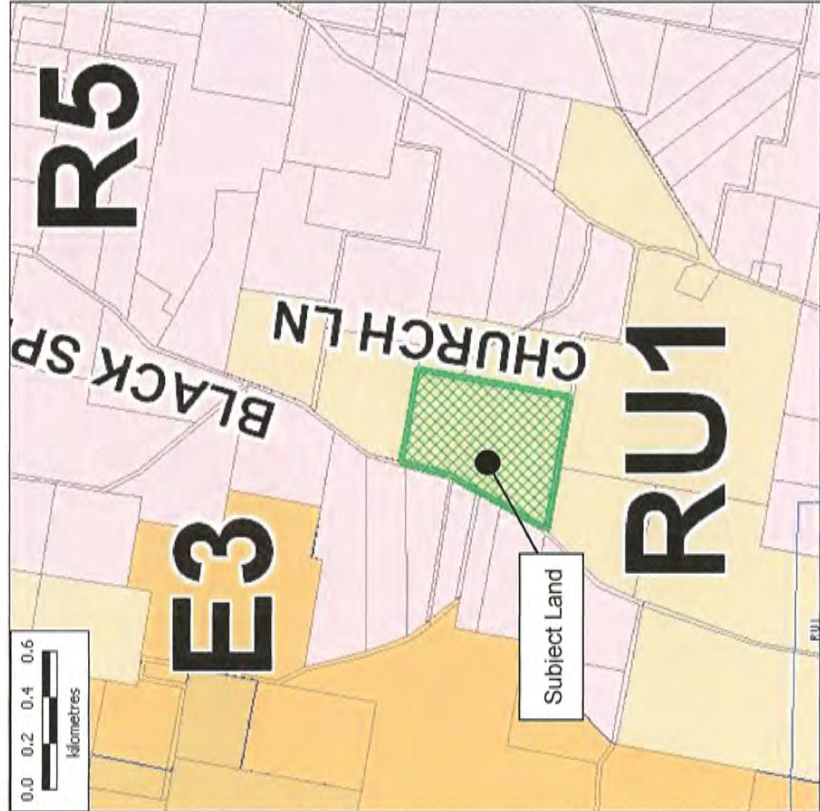


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Zoning of subject land and surrounding area

Draft Mid-Western Regional Local Environmental Plan 2011

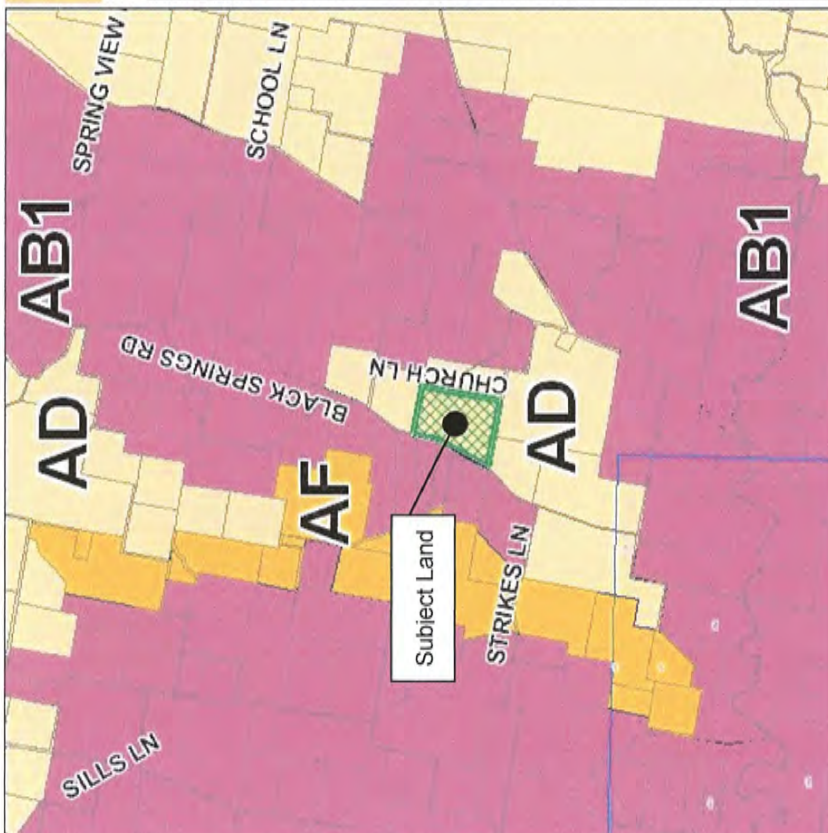
Land Zoning Map

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- Height of Building Map_Sheet_1
- Height of Building Map_Sheet_2
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- Land Zoning Map_Sheet_2
- Land Zoning Map_Sheet_3
- Land Zoning Map_Sheet_4
- Biodiversity Map_Sheet_1
- Biodiversity Map_Sheet_2
- Biodiversity Map_Sheet_3

Minimum lot size subject land and surrounding area
Draft Mid-Western Regional Local Environmental Plan 2011
Minimum Lot Size Map

Appendix B – Site Plan



This plan was prepared for MR BRUCE MCGILVRAY as a proposed subdivision to accompany a subdivision application to MIDWESTERN REGIONAL COUNCIL and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of council and to any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.

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DOHERTY SMITH & ASSOCIATES
CONSULTING SURVEYORS

PO Box 87
WELLINGTON
NSW 2800
P: 6845 1403
F: 6845 3329
www.dohertysmith.com.au
dsa@dohertysmith.com.au

Project

MR BRUCE MCGILVRAY

Plan Title

EXISTING SITE PLAN
LOT 1 DP876505
502 BLACK SPRINGS RD , MUDGE

Approved

Eric Smith

Date

22/3/2012

Drawing Number

12022-DA1