

Amended Planning Proposal to meet Gateway Conditions

Proposed Amendment(s) to *Blayney Local Environmental Plan 2012* to
Amend Heritage Items (Schedule 5) and Heritage Maps

Prepared on behalf of Blayney Shire Council for submission to the
NSW Department of Planning & Environment

25 August 2015
Version B (**Post Gateway**)

Document Control

Date	Vers.	Purpose	Recipients
26 February 2015	A	Draft for Internal Review	Mark Dicker – Blayney Shire Council Patsy Moppett - BSC
25 August 2015	B	Amended for Consultation Post Gateway in accordance with Gateway Condition 1	Erin Strong - DPE Mark Dicker – Blayney Shire Council Patsy Moppett - BSC

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1. INTRODUCTION

1.1. Aim of Amendment

Blayney Shire Council ('Council') is seeking to update and amend the list of Heritage items in Schedule 5 and the relevant Heritage Maps that form part of *Blayney Local Environmental Plan 2012* ('BLEP2012').

It is proposed to remove four (4) local heritage items from heritage listing, add one (1) new item, and resolve administrative errors or mis-descriptions for another five (5) existing heritage items.

These amendments are due to revisions to the heritage significance of relevant items and/or minor mis-descriptions of listed items and are supported by updated heritage inventory sheets and community / stakeholder consultation.

1.2. Process Overview

This Planning Proposal has been prepared in accordance with the requirements of:

- Letter from DPE dated 5/9/14 notifying Blayney Shire of amended procedures for drafting and notifications of local environmental plans;
- The *Environmental Planning & Assessment Act 1979* ('EP&A Act');
- The Department of Planning (October 2012) '*A guide to preparing planning proposals*';
- Planning Circular No. PS12-006 – *Delegations and independent review of plan-making decisions*; and
- *Blayney Local Environmental Plan 2012* ('BLEP2012').

A gateway determination under Section 56 of the EP&A Act is requested from the Department of Planning & Environment ('Department') to allow this planning proposal to be placed on public exhibition.

We also request delegation to Council (as the Relevant Planning Authority or RPA) of the power to make this amendment to the *Blayney Local Environmental Plan 2012*. Whilst there is no relevant endorsed strategy relating to these heritage amendments they are consistent with the recommendations/ strategies of the *Sub-Regional Rural & Industrial Land Use Strategy* (2008) and sufficient justification has been provided here and/or the amendments are so minor that it is suitable for delegation to be granted.

We submit that there is sufficient detail in this Planning Proposal to justify a positive Gateway Determination considering the low complexity of the proposed amendment and limited impacts of these amendments on appropriate heritage items, conservation areas, and character.

2. RELEVANT STRATEGIES

2.1. Heritage Studies

Heritage is an issue that has traditionally been dealt with either through Shire-wide heritage studies or through site-specific responses. The two most recent heritage studies include:

- a) Blayney Heritage Study (1989) by Perumal Murphy P/L ('1989 Heritage Study');
- b) Community Heritage Study (2010) – David Scobie Architects ('2010 Review').

This Proposal includes updated Heritage Inventory Sheets for all relevant items to justify the proposed amendments. This identifies where these original studies addresses or identified these sites.

2.2. Sub-Regional Rural & Industrial Land Use Strategy

The *Sub-Regional Rural & Industrial Land Use Strategy* for the Councils of Blayney, Cabonne and Orange City (2008) did cover the issue of heritage broadly and provide a review of items on the register of State heritage and National Estate (Local Profile); notes that the local of known and potential heritage items should be considered when addressing future development (Issues Paper); and a set of strategies to preserve and enhance heritage and culture of the Sub-Region (Final Strategy).

The Final Strategy noted that the standard heritage provisions should be included in the new LEP (complete) including an updated list of heritage items and conservation areas. Several relevant strategies include:

Policy Actions	Impact of Proposed Amendments
1.1 Review existing heritage lists to identify what is important to the community in terms of heritage conservation.	This Planning Proposal is part of an ongoing review of heritage lists to identify what is important to the community and whilst it removes 4 items and 1 heritage conservation area it reflects the heritage significance of these properties and adds an additional item.
1.2 Ensure that adequate community consultation is undertaken with respect to identification of heritage items. This is to include discussions with affected landowners.	See the section on Community / Stakeholder Engagement to demonstrate appropriate consultation levels.
3.2 Include a list of heritage items, conservation areas and Aboriginal areas (where appropriate) in the LEP.	This Proposal seeks to update the list of heritage items (all non-Aboriginal items).

The Subregional Strategy was adopted by Council on 28 July 2008 and approved by the NSW Government by letter dated 30 June 2011 from the former NSW Department of Planning & Infrastructure. This demonstrates that this Proposal is broadly consistent with this Strategy.

3. PROPOSED HERITAGE AMENDMENTS

3.1. Significant Changes to Heritage Items

The following tables are a list of the heritage items that are proposed for significant amendment and a table summary of the justification for the amendment.

Suburb/ Item No.	Item Name / Significance	Address; Property Description	Proposal
Blayney – Item No.59	Blayney Abattoirs and saleyard (former) (Local)	31 Gerty Street Lot 1 DP 134341, Lots 4 & 6 DP871015, Lot 2 DP 881855	Remove from LEP.
Blayney – Item No.78	Cottage and garden (Local)	274 Millthorpe Road Lot 1 DP 168843	Remove from LEP.
Neville – Item No.327	Cottage (Local)	9 Macquarie Street Lot 2 Section 1 DP 37459	Remove from LEP.
Neville – Item No.331	State Pine Forest (Local)	Mount Macquarie Road Lot 2 DP130387; Lots 1, 3 & 4 DP231822; Lots 2 & 4 DP241517; Lot 1 DP526649; Lots 18, 21, 44, 68, 69, 83, 85, 87, 100, 120, 125, 127 & 131 DP750407; Lot 7001 DP1023326; Lot 1 DP1094747	Remove from LEP.
New Item	Lime Siding Cottage	254 Millthorpe Road, Blayney Lot 1 DP 168844, Lot 1 DP 931585	New Item.

The Heritage impacts of the proposed amendments are addressed in the attached Heritage Inventory Sheets and the key justifications summarised into the table below.

Suburb/ Item No.	Proposal / Summary of Justification for Amendment (see attached work from Council's Senior Planner / Heritage Advisor – Patsy Moppett).
Blayney – Item No.59, Blayney Abattoirs and saleyard (former) (Local)	The sale yards and the abattoir are separate sites. Neither the sale yards nor the abattoir are currently operational. The sale yards were decommissioned in ~2005 and there are only remnants of the yards including concrete slabs and some stock yards. The abattoir was closed in 1998 but still retains significant buildings. Whilst both uses were significant in the history of the Town of Blayney and the district the facilities are rather typical and not rare. It is important to note the abattoir was not included as an item of heritage significance in the 1989 Heritage Study and the 2009 inventory sheet lists lots facing Gerty Street (sale yards) but not the abattoir even though the abattoir is mentioned. In effect in 2009 the details were not recorded accurately and the implications of listing were not fully considered and may create a barrier to future remediation and re-use of these sites. It is important that these sites are re-used from an economic and social perspective. Recommendation - That the listing of the abattoir and the sale yards are removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet is retained as a record of this significant complex in the history of the town of Blayney and district. - That the inventory sheet should be revised with accurate information to reflect the site details for both items. It should be regularly reviewed and updated, with the history of the construction and occupation of the site being further investigated.

Suburb/ Item No.	Proposal / Summary of Justification for Amendment (see attached work from Council's Senior Planner / Heritage Advisor – Patsy Moppett).
Blayney – Item No.78 Cottage and garden (Local)	Remove from LEP. Approval for demolition under DA 59/2014. The building was listed in the 2012 LEP but the details in regards to why the building was significant are unclear as the inventory sheets do not relate to the building but may relate to No.254 Millthorpe Road (proposed for listing below). Whilst No.274 Millthorpe Road is still associated with the Blayney lime kilns, the building is not particularly significant from an architectural point of view and no particularly notable occupants or history are known. Now that it has been demolished (with consent) there is no need to retain a heritage listing on the property. There has been some archival recording. The site was not listed in the 1989 Heritage Study. Recommendation That the dwelling listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this low key dwelling in the history of the town of Blayney and the lime kilns. The inventory sheet should be regularly reviewed and updated, with the history of the construction and occupation of the building being further investigated.
Neville – Item No.327 Cottage (Local)	Remove from LEP. This item has been removed at the request of the current land owner. Whilst it is a substantial dwelling built in the Federation style it is typical of a number of dwellings in the district and it has been substantially altered including alloy windows, infill verandahs, and replaced flooring. There are no known associations or social significance. The building was identified as being of heritage significance in the 1989 Heritage Study but was not listed in the previous 1998 LEP. Recommendation That the dwelling listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this significant dwelling in the history of the town of Neville. The inventory sheet should be regularly reviewed and updated, with the history of the construction and occupation of the building being further investigated.
Neville – Item No.331 State Pine Forest (Local)	Remove from LEP. This is a mature State pine forest located on Mount Macquarie managed by Forestry NSW and established from 1955 and is currently due for harvest. Whilst it was never intended that the heritage listing prevented harvesting it was suggested that harvesting be limited to retain some of the current planting around the periphery. This is inconsistent with its forestry function and the current planting does not have special significance warranting protection. The replanting after harvesting is likely to address the need to recognise this historical use of the land. The aesthetic significance will change as it regrows and is harvested but is not sustainable. It was not recognised in the 1989 Heritage Study or the 1998 LEP but a heritage inventory sheet was created in 2009. Recommendation • That the listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this significant landscape feature near the villages of Carcoar and Neville. The inventory sheet should be regularly reviewed and updated. • That the property description of the place be accurately recorded on the inventory sheet.
New Item - Lime Siding Cottage	New Item. The new listing should cover the 'Cottage and outbuildings'. The attached heritage inventory sheet summary demonstrates that these buildings were important examples for the Lime Siding community and associated with the Blayney lime kilns across the road and the Jarman family. It includes a dwelling (substantially rebuilt), cottage and kitchen, blacksmith's shop, hay/workshop shed and sulky shed.

3.2. Minor (Administrative) Changes to Heritage Items

A number of items within the Blayney Local Environmental Plan 2012 Schedule 5 have typographical errors which require attention. The items themselves are fully documented as to their significance and there is no proposal to remove the items from the Schedule. The anomalies are documented as follows:

Suburb / Item No.	Item Name / Significance	Address, description	Proposal
Blayney – Item No.64	Former Catholic Convent (Local)	40 Hill Street Lot 456 DP 1127058	Property description is wrong. The property should be No. 40, not 42.
Carcoar – Item No.131	Part Roman Catholic Church group (Local)	7-13 Collins Street Lots 17-20 Section 10 DP 758225	Remove Lot 16 from the description. Lot 16 Section 10 DP 758225 (No. 15), is owned by the Catholic Church, but is vacant land, outside the grounds of the heritage items.
Forest Reefs – Item No.365	Forest Reefs Cemetery	Off Convent Lane, Forest Reefs Lot 1 DP 668340, Lot 1 DP 668339, Lot 1 DP 668341, Lot 7300 DP 1146833	Remove reference to Calvert Lane. The cemetery location is off Convent Lane. Adding additional lot (Lot 1 DP 668341) that was missed as part of the original cemetery.

4. PLANNING PROPOSAL

The layout of this section is in accordance with the requirements of the Department of Planning's document dated October 2012 entitled 'Guide to preparing planning proposals'.

4.1. Part 1 – Objectives and Intended Outcomes of Proposed Instrument

Part 1 of the planning proposal should be a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be easily understood by the general community.

The objective of this planning proposal is to make amendments to *Blayney Local Environmental Plan 2012* ('BLEP2012') to update and amend the list of heritage items protected under the planning instrument to accord with community and Council recognition of their heritage significance.

4.2. Part 2 – Explanation of Provisions to be included in Proposed Instrument

Part 2 of the planning proposal provides a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing local environmental plan.

The proposed mechanism(s) to achieve the objective(s) in Part 1 above is to amend *Blayney Local Environmental Plan 2012* (BLEP2012) as follows:

- a) Amend the Heritage Maps to remove / add the relevant heritage items as per this Proposal;
- b) Amend Schedule 5 - Environmental Heritage to remove/add/alter the listing for the relevant heritage items as per this Proposal.

4.3. Part 3 – Justification of Objectives, Outcomes & Process for Implementation

Part 3 of the planning proposal provides a justification that sets out the case for the making of the proposed instrument. The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the planning proposal will have;
- It is not necessary to address the question if it is not considered relevant to the planning proposal (as long as a reason is provided why it is not relevant);
- The level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the instrument can be finalised within the time-frame proposed.

As a minimum a planning proposal must identify any environmental, social and economic impacts associated with the proposal. Generally detailed technical studies are not required prior to the Gateway determination.

Note that more justification has been provided for the addition/removal of heritage items than for minor (administrative) amendments to correct references to existing heritage items.

The Director General has set out the following requirements as matters that must be addressed in the justification of all planning proposals:

4.3.1. SECTION A

1) Is the planning proposal the result of any strategic study or report?

This planning proposal has not been initiated by a shire-wide strategic study or report but does respond to updated heritage inventory information prepared by Council's Senior Planner & Heritage Advisor. This seeks to address the recommendations of the *Subregional Rural & Industrial Land Use Strategy* and the need to regularly update the heritage schedule and listing.

2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The only way to update the local heritage listing in the Local Environmental Plan is to amend them through a Planning Proposal.

4.3.2. SECTION B

3) Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

As stated above, the proposed amendments are consistent with the recommendations of the Subregional Strategy to update the heritage list and appropriately protect and enhance the existing heritage and culture of the Shire.

4) Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Subregional Strategy addressed in Section 5 of this Proposal is the overarching strategy for all land uses in Blayney LGA. In addition, this is supported by local heritage studies. Any discrepancies between local heritage studies over time (particularly the 1989 Heritage Study and the 2010 Review) have been addressed in the justification and result from different interpretations of heritage significance.

The only other local strategy that has high level objectives for development in Blayney LGA is the *Community Strategic Plan 2025*. Its purpose is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving those goals. Future Direction 3 aims to 'Preserve and enhance our heritage and rural landscapes'. Relevant strategies include:

CSP 3.3 – Heritage sites in the natural and built environment are identified and understood	The Statements of Heritage Significance that support these changes updated our understanding of these items.
Performance indicators – Increased signage and information about heritage.	

Therefore, the proposal can be seen to be consistent with Council's local strategies.

5) Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with all of the State Environmental Planning Policies. There are no specific SEPPs that apply to heritage and/or these heritage amendments will not constrain development that is mandated by any SEPPs applicable to the Shire.

6) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is consistent with all of the relevant Ministerial Directions as follows:

1. Employment & Resources
There are a variety of directions that seek to protect employment and resources. Whilst the addition of a new heritage item may affect future development of that item it is an existing dwelling and there is approval by the landowner. For those items that are being removed it will make it easier to redevelop those sites for employment (particularly where they are in an industrial or business zone).
2. Environment & Heritage - 2.3 Heritage Conservation
This is the most relevant Ministerial Direction to this Proposal. It states under subclause (4) that: A draft LEP shall contain provisions that facilitate the conservation of heritage items/objectives/places etc. and Aboriginal objects or places or landscapes. A draft LEP may be inconsistent with this direction only if Council can satisfy the Director-General that the draft LEP complies with Part 5 of the <i>Heritage Act 1977</i> and the significance of the item is conserved by other legislation or regulations or the provisions of the draft LEP that are inconsistent are of minor significance.

The provision of Statements of Heritage Significance attached to this report highlight the reasons for all of the changes including correction of minor mis-descriptions. These Statements have been prepared in accordance with the *Heritage Act* and those items recommended for removal from the heritage schedule are not worthy of local heritage significance / status. We believe this addresses this Direction and is justified by consistency with *Direction 6.3 Site Specific Provisions* addressed below.

3. Housing, Infrastructure & Urban Development

There are a variety of directions that seek to protect housing and infrastructure development. Whilst the addition of a new heritage item may affect future development of that item it is an existing dwelling and there is approval by the landowner. For those items that are being removed it will make it easier to redevelop those sites for housing or infrastructure (where permissible & suitable).

4. Hazard & Risk

A thorough hazard and risk assessment for each site is not required because any amendments to heritage status are unlikely to affect existing development potential and these matters can be addressed as part of any future development application. However, a preliminary review would suggest no additional flood or bushfire or geo-technical hazards from this proposal.

6. Local Plan Making - 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. Whilst this Proposal is not aimed at allowing specific development proposals to be carried out it broadly recognises that heritage status may not be or may be required for particular items based on updated Statements of Heritage Significance.

4.3.3. SECTION C

7) *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

There are no known natural environmental impacts from the proposed changes. The removal of heritage listing from some items may facilitate their future redevelopment (or at least not provide an additional layer that must be addressed). However, any impacts on the natural environment as a result of any future development can be addressed as part of any merit based assessment process.

8) *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Any possible increase in development potential is less related to its heritage status and more to its inherent site constraints and the market, but if relevant, no significant additional development potential is created in areas where this would be inappropriate (e.g. areas of high natural hazard, proximity to existing or proposed extractive industries or primary industries etc.).

9) *Has the planning proposal adequately addressed any social and economic effects?*

The summarised justifications for the proposed amendment in this Proposal (and the attached full heritage inventory sheets) have adequately addressed any social and economic effects of the amendments in terms of the standard requirements for heritage listing. They have also considered constraints posed by heritage listing on economic development (particularly of industrial sites) where additional flexibility may be required. The impact of removing heritage items has been justified by the provision of other suitable heritage protections in the Shire.

4.3.4. SECTION D

10) Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure is required to implement these amendments.

11) What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council has briefly discussed this matter with the NSW Department of Planning & Environment and no issues have yet been raised. Further consultation with other key agencies is recommended in the 'Community Consultation' section below. No Commonwealth authorities are believed to be relevant to this application but this can be determined at the Gateway stage.

4.4. Part 4 – Maps (where relevant) showing Intent of Planning Proposal

If required, the amendments to the Heritage Maps can be prepared prior to the public exhibition period as a Condition of the Gateway Determination. The descriptions in this proposal and attached heritage inventory sheets provide sufficient location of all of the items subject to change (where relevant).

4.5. Part 5 - Community Consultation

4.5.1. Key Stakeholders

The key stakeholders include:

- a) The affected land owners;
- b) Department of Planning & Environment (Gateway Determination process & Heritage branch);
- c) Office of Environment & Heritage (within DPE) for heritage issues;

It is not believed that any of the heritage items are relevant to the National Heritage Trust and no Aboriginal items are included so the National Parks & Wildlife Service does not require consultation.

Additional stakeholders that may need to be notified when the Planning Proposal is on public exhibition include Heritage Council of NSW (advisory body only).

4.5.2. Proposed Notification

In addition to the previous notification of some key stakeholders during the preparation of this Planning Proposal, Council is likely to provide a letter notifying all key stakeholders listed above of the dates that the Planning Proposal is on public exhibition and providing opportunity for further submissions (if required). Council will also ensure adequate notification to the community through key newspapers and other media outlets.

4.5.3. Proposed Public Exhibition & Community Notification

Public Exhibition

Council will provide public notice of a proposed resolution to rezone land and specify a 28 day period during which submissions may be made to Council.

Notice will include:

- a) Notification in the *Blayney Chronicle* newspaper prior to the public exhibition period;
- b) Written notification to all adjacent land owners (as noted above) OR notification through multiple media outlets;
- c) Provision of a copy of the Gateway Determination, Planning Proposal and supporting information at the Council Offices in Blayney.

d) Any other requirements of the Gateway Determination made by the Department.

Submissions

Council will accept public submissions up to the close of the public exhibition period. All public submissions will be reviewed and summarised. The outcomes of any public hearing (if required) will also be considered prior to making a recommendation to Council.

Public Hearing

Under Section 57 of the EP&A Act Council must arrange a public hearing in respect of a planning proposal if one is requested by a key stakeholder or member of the public. The public hearing must be presided over by someone who is not a councillor or employee of Council (in the last five years). The presiding person should make a report available to Council on the outcomes of the public hearing.

APPENDICES / ANNEXURES

1. Statements of Heritage Significance



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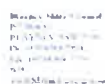
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Project Name: [Name]

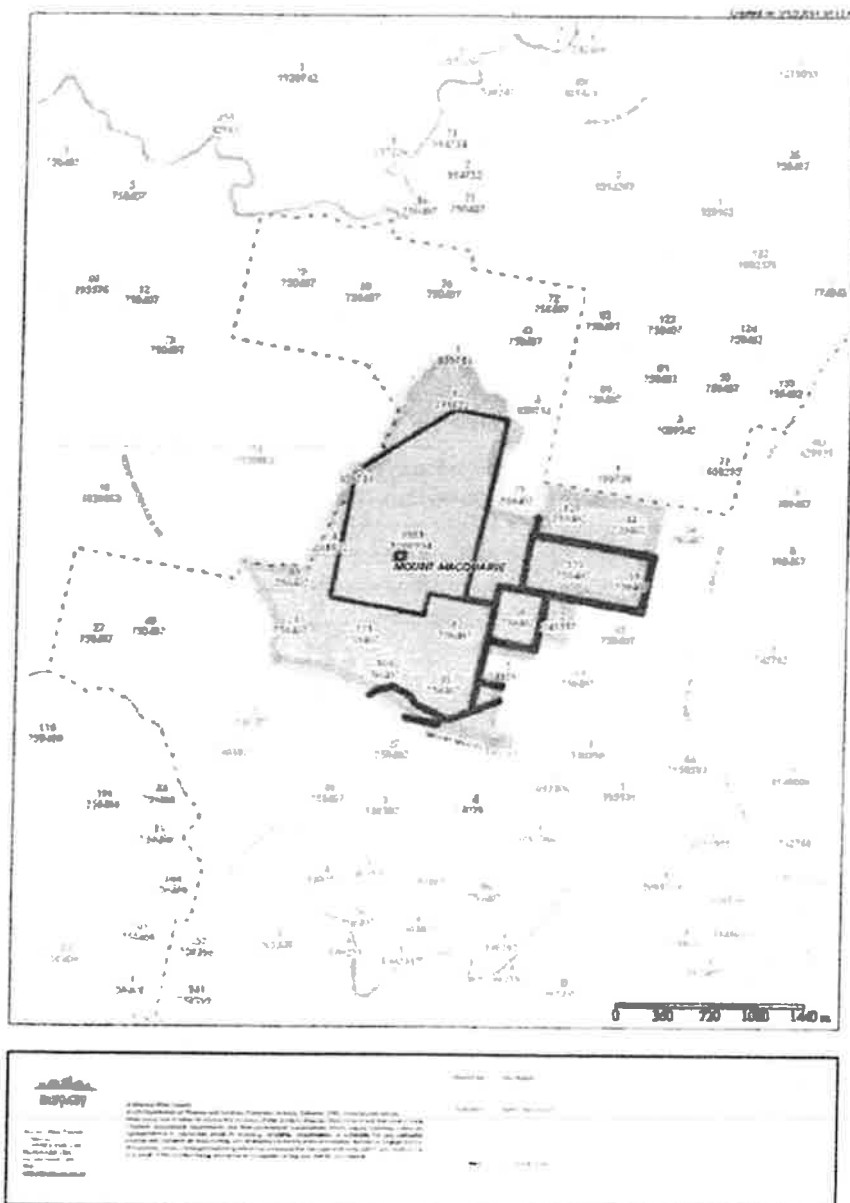
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**274 Millthorpe Road,
 Blayney**

**Item No. 78
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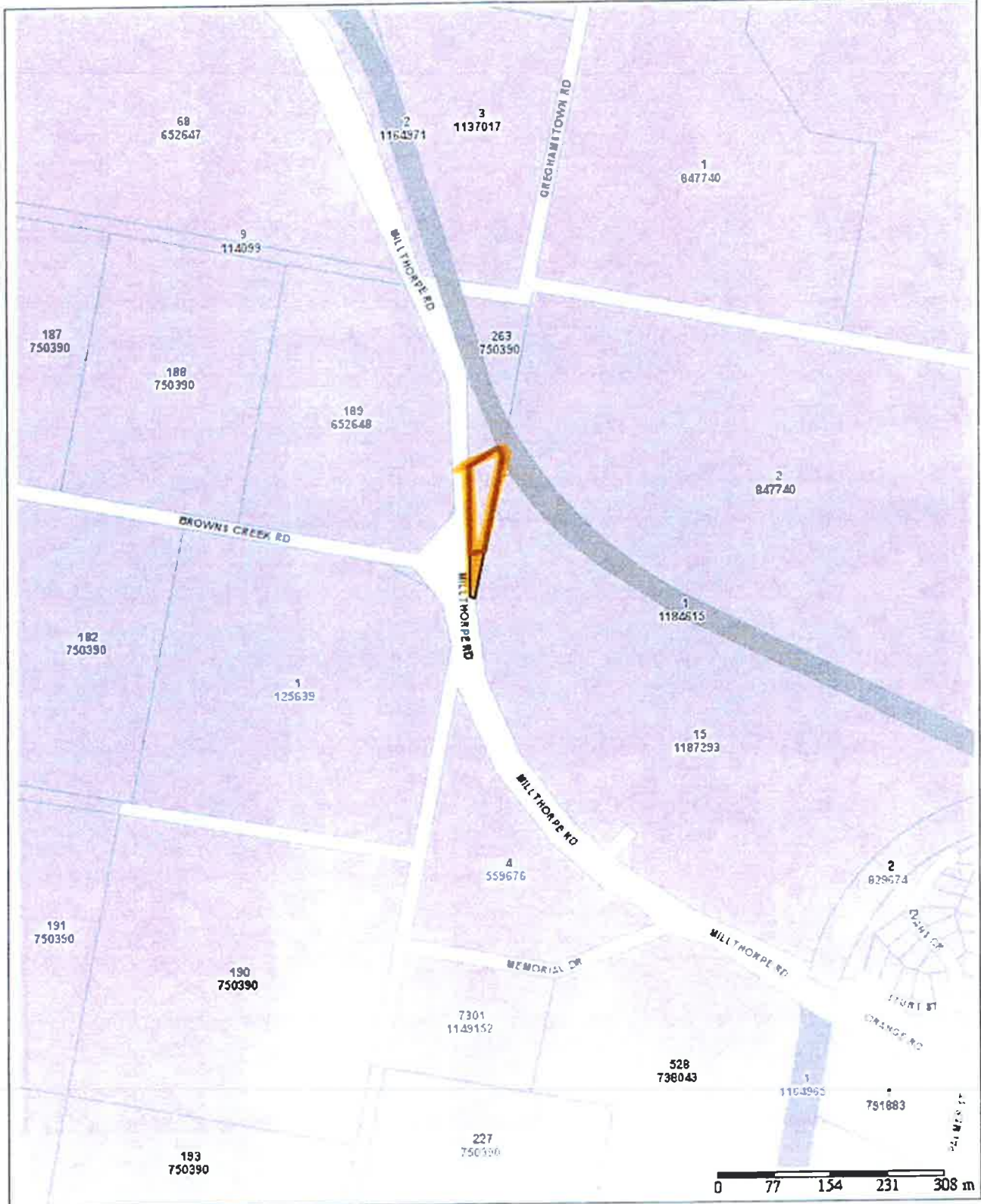
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9 Macquarie Street,
Neville
Item No. 327
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Mount Macquarie State Forest

Item No 331 — REMOVE FROM LEP

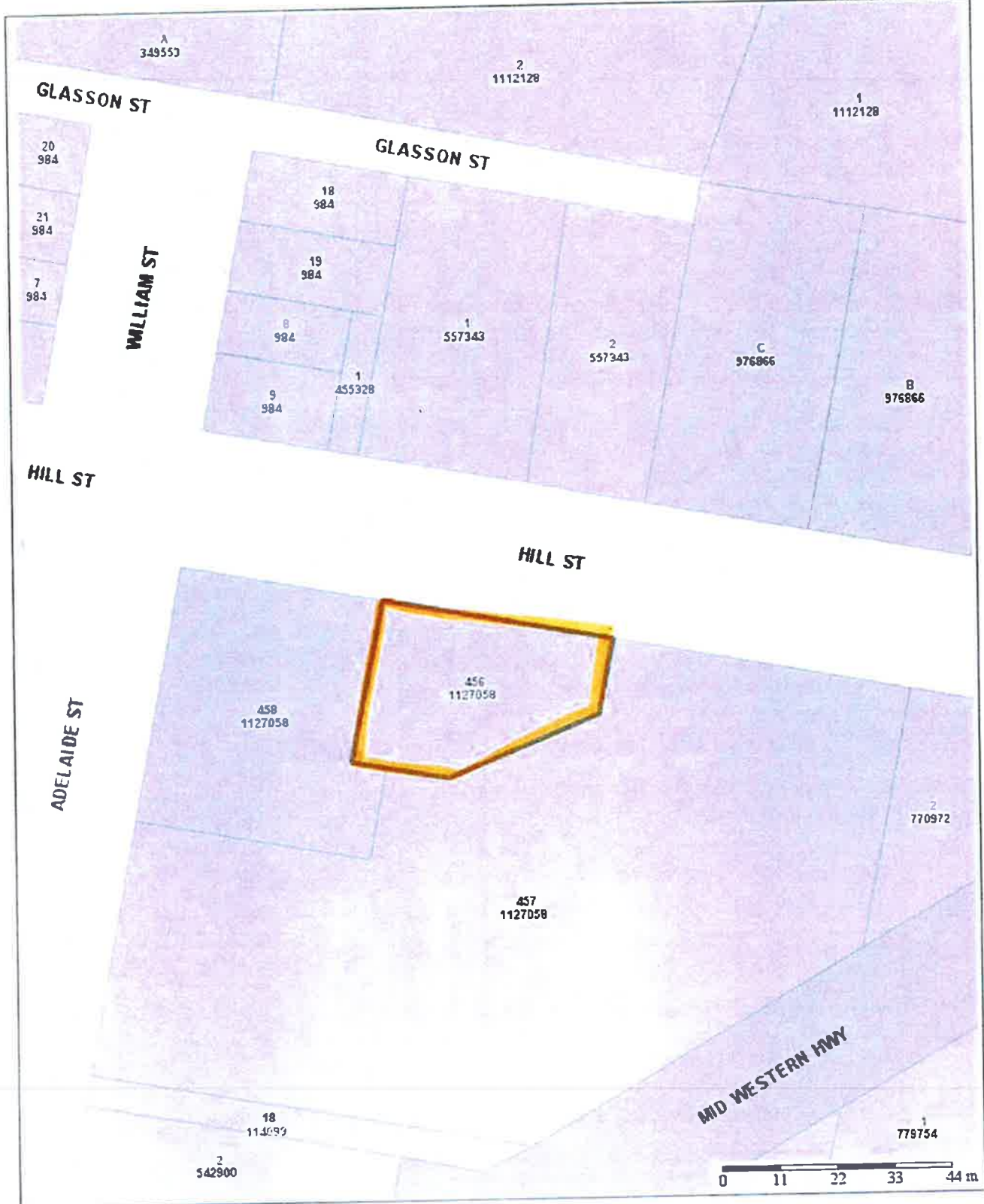


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**254 Millthorpe Road,
Blayney
NEW ITEM PROPOSED**



Blayney Shire Council
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 www.blayney.nsw.gov.au

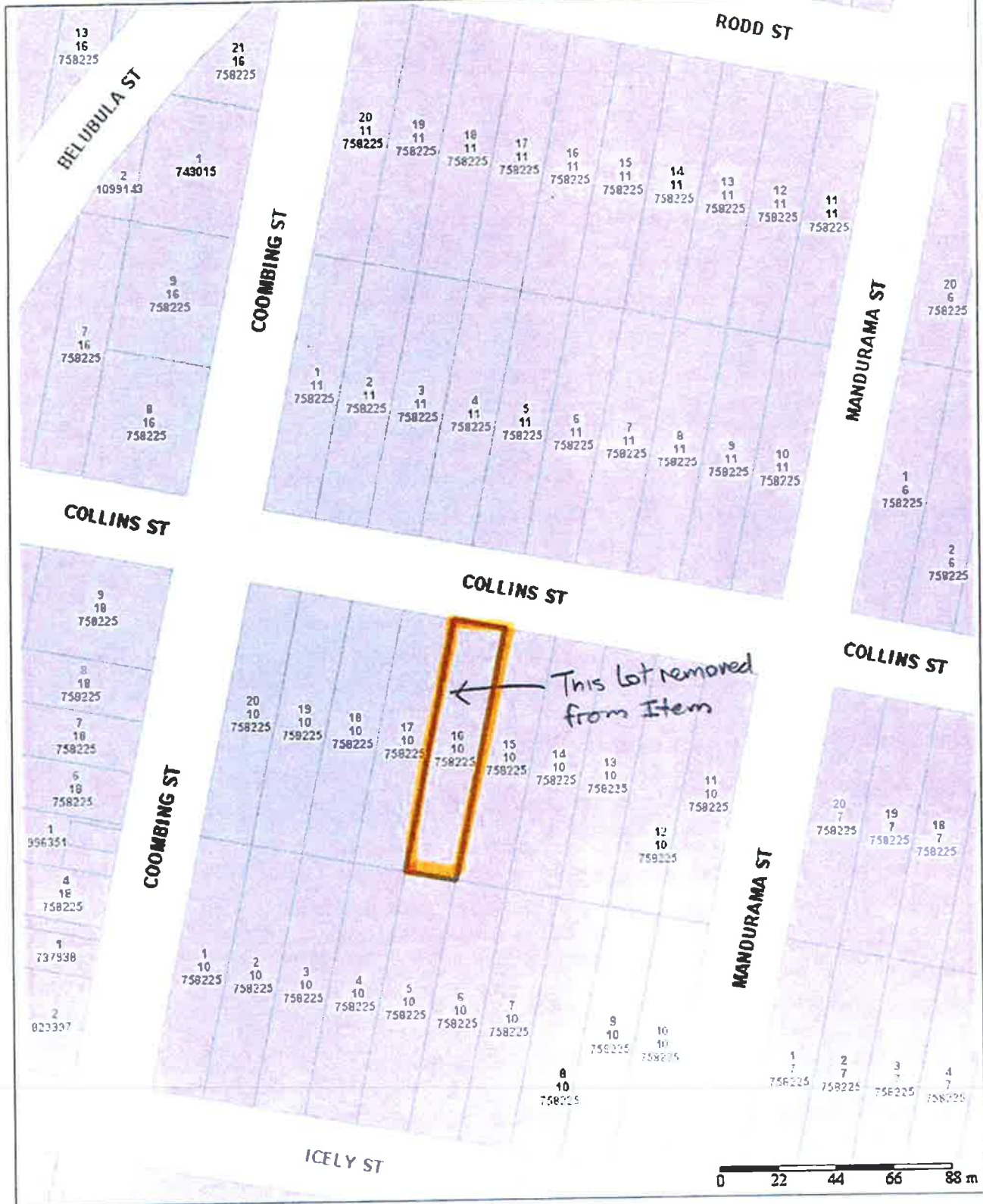
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ITEM NO. 64
40 Hill Street, Blayney
 Change to Property Desc.
 Not No 42.



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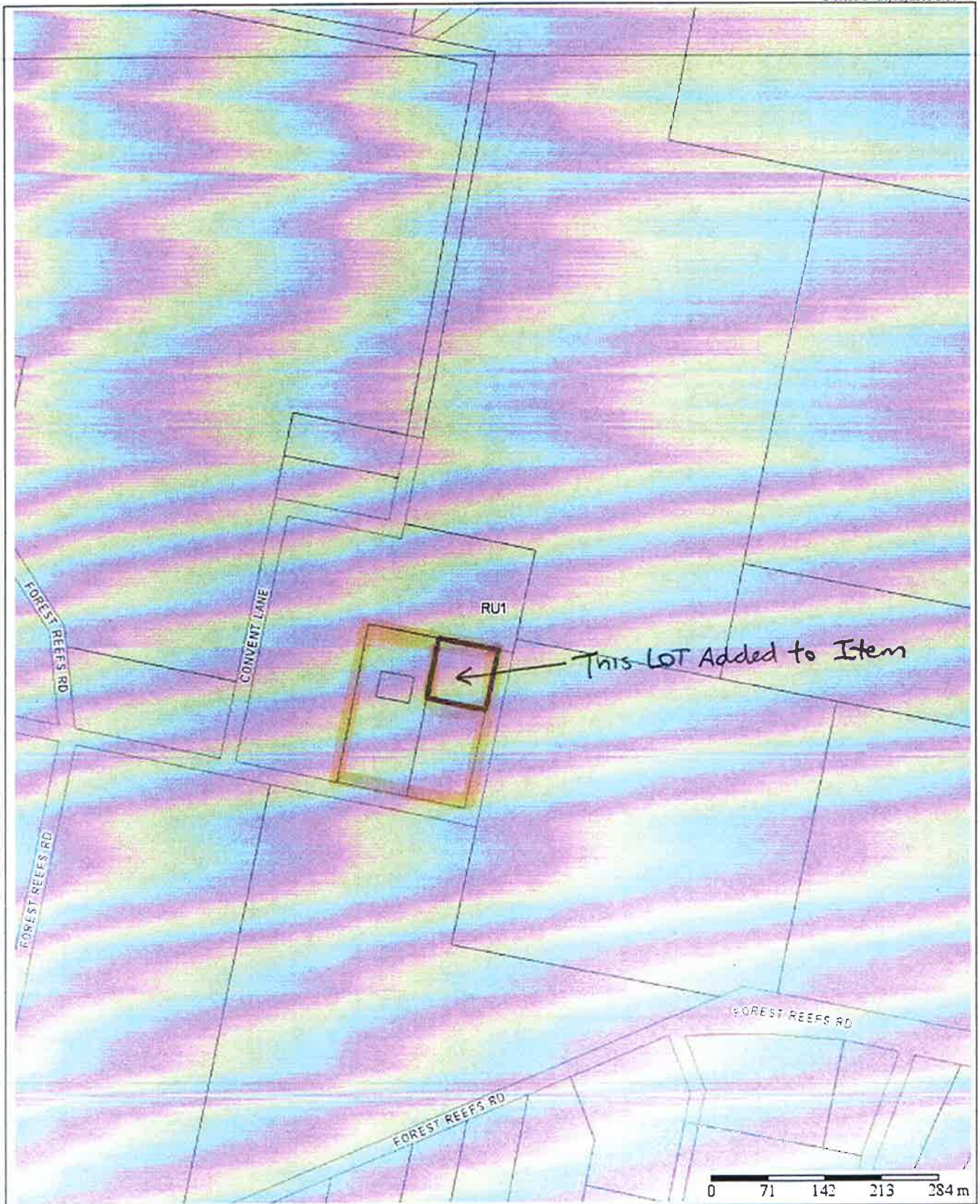
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**15 Collins Street,
Carcoar**

**Item No 131
REMOVE Lot 16 from ITEM**



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Item No 365
 Convent Lane (not Calvert Ln)
 Addition of Lot 1 DP 668341