

31 July 2017

Our Ref: A34 Birchall PProposal (vers002)

Attn: Planning and Development

The General Manager
Mid-Western Regional Council
PO BOX 86
MUDGEES NSW 2850

Dear Sir,

UPDATED PLANNING PROPOSAL FOR AMENDMENT TO THE LEP TO ALLOW SUBDIVISION FOR ONE NEW LOT 4 DP1043986, 25B DEWHURST DRIVE, MUDGEES

Please accept this updated proposal on behalf of the owners, Mr and Mrs Bruce and Liliana Birchall. The proposal has been amended to address section 117 Direction 5.10 – Implementation of Regional Plans pertaining to the Central West and Orana Regional Plan. The subject land has frontage to Dewhurst Drive and the property has an existing dwelling.

This Planning Proposal relates to an amendment to *Mid-Western Regional Local Environmental Plan 2012* for the relevant Lot Size Map for Lot 4 DP1043986, 25B Dewhurst Drive, Mudgee. The aim of the attached report has been to describe the strategic merit and site suitability for the proposed amendment to the lot size map to accommodate the future development of one additional lot. The current minimum lot size is 10ha, and it is proposed that the minimum be reduced to allow a subdivision in line with the proposed concept plan of future subdivision.

The land has strategic merit for additional residential development, considering:

- The land is already zoned R2 Low Density Residential and is within an identified urban release area (Urban Release Area 8 – South Mudgee Infill 1).
- The proximity to other dwellings and density of development in the locality.
- The topography and aspect of the land lending to views and unique residential development opportunity.
- Provision of reticulated services to the land is achievable.

The planning proposal has included the concept plan to highlight the following: estimation of future lot boundaries and lot size; feasibility of a suitable building site and access arrangement; and the layout of likely future subdivision development and existing and proposed servicing. The land will continue to provide a prestige development opportunity and larger lot size consistent with other adjoining development.

This development can proceed without foreseeable land use conflicts and unreasonable infrastructure costs. As indicated, the subject land is mapped as part of Urban Release Area 8 – South Mudgee Infill 1. The URS suggests that approximately 10 additional lots are available from the labelled Area 8 for the min 600sqm lot size, staged for release in in 5-10yr range (2020-2024). The proposal however will create one additional low density residential lot in the release area and provides additional infill opportunity for Area 8 that is consistent with the setting.

Overall, the planning proposal has made consideration of any constraints to development and is not hindered by any environmental matter. The support of this planning proposal is consistent with development standards expected by the Mudgee community and will complement the other development opportunities for the locality ear marked in the Urban Release Strategy.

Should you require further information in relation to this matter, please do not hesitate to contact myself on mob 0439 724 980.

Yours faithfully



EMMA YULE

BAppSc, Grad Dip URP

Atlas Environment and Planning

THE PROPOSAL

PART 1 - Objectives and intended outcomes of the proposal

1.1 Statement of Intended outcomes

This planning proposal intends:

To amend the Mid-Western Regional Local Environmental Plan 2012 to enable the subdivision of the land for the creation of one new vacant residential lot within the identified parcel (25B Dewhurst Drive), i.e. to facilitate the development of the available 7367m² into two (2) low density residential lots.

1.2 Details of the proposed development to be carried out – Concept Plan

The main purpose of this planning proposal is to make an amendment to the relevant LEP provisions, to enable a residential subdivision. A development concept plan of proposed subdivision has been provided (refer to **Figure 1**). The proposed concept development plan is consistent with the objectives of the R2 Low Density Residential zone. The concept for future development proposes lots having areas of the minimum of 2000m². The Lot 41 will contain the established dwelling. No constraints have been identified to suggest that a dwelling would not be able to be established on the land labelled Lot 42 (Refer to **Appendix A** for plan to scale prepared by Jabek Pty Limited). A concept plan is included to demonstrate that the future development of the land is a feasible development concept. A proposed servicing arrangement has been depicted.

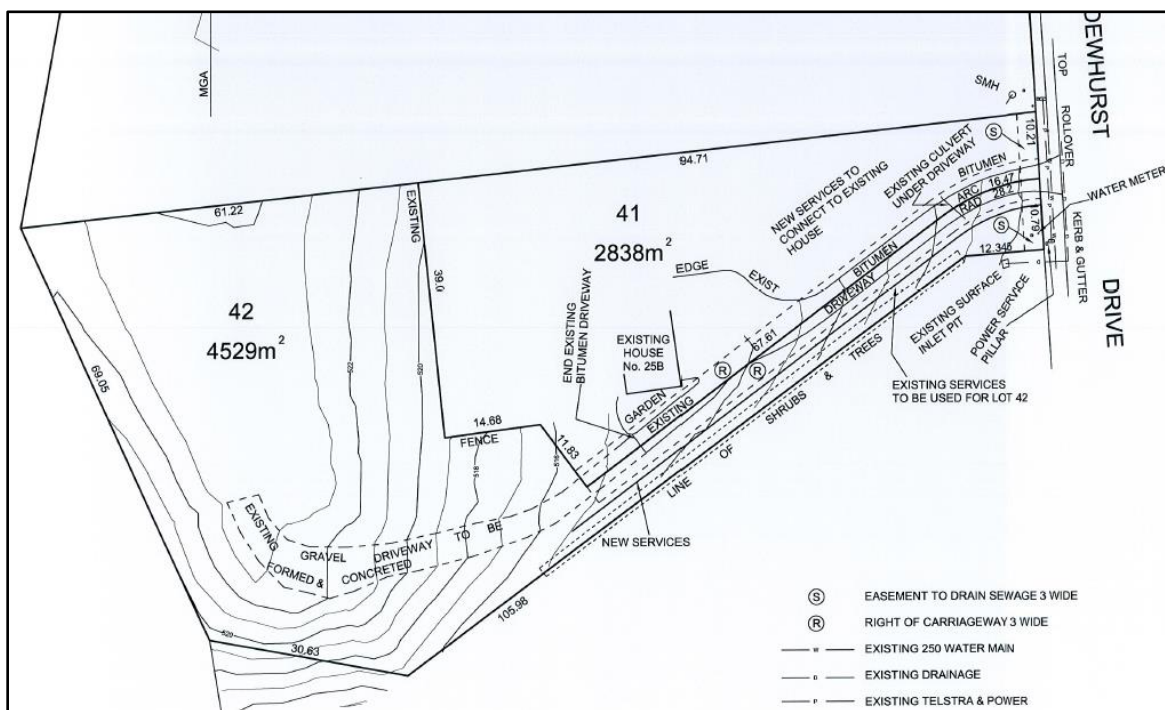


Figure 1: Excerpt from Concept Plan (nts)

PART 2 - Explanation of Provisions

One option to achieve the objectives and intended outcomes as described in Part 1 of this proposal, is through the subject land, within current R2 Low Density Residential zoning, to have a corresponding amendment to the lot size map as relevant.

This may be achieved by the following:

1. Lot Size Map (Sheet LSZ_006D) to be amended to reflect a new minimum lot size or inclusion in the labelled "Area A" on the lot size map as referred to in sub clause 4.1(3A)(a).

PART 3 - Justification

This section sets out the reasoning for the proposed changes to the LEP, taking into consideration the intended outcomes and objectives outlined. The following questions are based on requirements contained in NSW Department of Planning and Environment *A guide to preparing planning proposals* (August 2016) and address the need for the planning proposal, provide details sufficient to allow a Gateway determination to be made.

SECTION A - Need for the Planning Proposal

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

YES.

The *Mudgee and Gulgong Urban Release Strategy* prepared for Mid-Western Regional Council (December 2014) by Hill PDA Consulting, referred to as the URS, provides a framework for the release of residential land.

The URS includes guiding principles to inform future residential land release. One such principle refers to the reliance on areas already zoned and nominated for residential development in the first instance to meet future demand. The URS states:

"a substantial amount of residential land already exists in Mudgee and Gulgong for residential purposes. Where possible, future growth should occur in these areas before further rezonings. It may be that some release areas are appropriately zoned but require a change to the lot size controls to facilitate development. In this case Council should consider permitting these changes in accordance with the recommendations provided in this chapter to ensure an adequate supply pipeline is maintained." (URS, page 13-14 and 81).

The subject land is mapped as part of Urban Release Area 8 – South Mudgee Infill 1. The land is included with other land zoned R1 General Residential, and the recommendations correlate to the land to the west of the subject land more accurately. However the guiding principles can be related to the remaining land within the 'Area 8' including the subject land in so far as the land has development potential for one additional lot, which would maximise the use of existing Council infrastructure. It is also noted that though the principles are supported, supply and demand factors are not significant. The proposed one new vacant lot created will not have a significant impact on the supply of low density or general residential housing in Mudgee.

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

YES.

It is considered that the Planning Proposal is the best means of achieving the intended outcomes. Alternative avenues under the current available LEP provisions have been considered that may achieve the outcomes of the proposal; however no options other than LEP amendment have been identified. In this case, a lot size map



amendment is supported as a logical outcome to achieve the objectives of the proposal. The planning proposal should also be reflected in updates to the Comprehensive land Use Strategy and URS.

SECTION B - Relationship to the strategic planning framework

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

The NSW Government released the draft Central West and Orana Regional Plan in May 2016. The Regional Growth Plans generally identify areas suitable for housing and employment expansion in the applicable region. The proposal is consistent with the identified *Goal 4 – Strong Communities and liveable places that cater for the region’s changing population*.

Mudgee, Parkes and Lithgow are identified as important regional centres (supporting the regional cities, Dubbo, Bathurst and Orange). No inconsistencies have been identified with the specific actions identified in the draft Plan. In particular, Action 4.3.1 is noted: *ACTION 4.3.1 Deliver enabling planning controls that facilitate an increased range of housing choices, including infill housing close to existing jobs and services*. This action and the principles of the URS are similar in this regard.

No specific mapping for Mudgee as a regional centre has been included in the Draft Central West and Orana Regional Plan. The potential for regional implications is minimal, with one new dwelling opportunity involved with the proposal.

a. Does the proposal have strategic merit?

YES.

The planning proposal has strategic merit, as:

- The proposal is consistent with the actions of the draft Regional Plan for the Central West and Orana Region.
- The development site has been identified as an opportunity area for residential development in the Mudgee and Gulgong Urban Release Strategy (URS) (which has been endorsed by the Department). The subject R2 zoned land is within the Urban Release Area 8 – South Mudgee Infill 1.
- The subject site is able to be utilised by the current owners for a dwelling site without a significant impact to the overall supply of land to Mudgee within the range 2000-4000m², and more significantly without impacting upon the future development potential of the remaining R1 zoned land within ‘Area 8’ and supply predictions for min. 600m² lots from this area referred to in the URS. This development opportunity is separate to the other available land and circumstances of the remaining land within ‘Area 8’ of the URS. The land zoned R1, is currently confined due to topography, fragmentation of ownership and related access arrangements. The proposed additional lot will not impact on the development potential of the other land, as future access would not be from Dewhurst Drive.
- This planning proposal presents an option to develop land with the requirement for provision of reticulated services only.

- Compatibility with land use established in the locality. The land adjoins existing low density residential development of various lot sizes and R1 General Residential land.
- The site utilises land that is a logical additional dwelling development site considering neighbouring dwellings developed in a similar battle-axe arrangement.
- The proposal will not cause substantial resource outlay by the Council/ratepayer.
- The realization of the development does not depend on the prior development of any other land.
- The proposal is consistent with the guiding principles developed in the URS to ensure future residential land release is sustainable, economic, and provides positive environmental and social outcomes for the LGA.
- Potential environmental constraints to development are identified and overcome in design or can be further investigated at DA stage.
- The scale of the proposal will also not risk an 'over supply' of land into the market.

b. Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:

The natural environment; the existing uses, approved uses, and likely future uses in vicinity to the proposal; the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

One additional low density residential lot at the location is compatible with the surrounding land uses. The additional dwelling entitlement from one new lot will not place any significant demand on infrastructure and services within Mudgee.

The land is within existing R2 Low Density Residential zoned land, with a minimum lot size of 10ha, forming a strip of elevated land between R1 zoned developed lots on the opposite side of Dewhurst Drive and partially developed R1 zoned land to the west. One additional residential lot with an area greater than 4500m² is consistent with the low density setting and existing development pattern. The adjoining battle-axe lots to the north zoned R2 are of the following approximate sizes 2074m² and 4300m² with dwellings on each lot; land adjoining to the south zoned R2 is approx. 1ha in area. Land opposite the subject land in Dewhurst Drive zoned R1 has developed lots of various sizes above the minimum of 600m² (generally falling within 800-1000m² range). The variation in zoning and lot size for the developed lots has been a reflection of the past development controls and the elevated nature of the land within the Mudgee township, forming opportunity for prestigious residential properties with larger lot sizes.

The likely approved uses for the surrounding land are further residential lots with min. 600m² in accordance with the URS (Area 8) (west of the site). The additional one (1) lot will not impede the future development of the area. Access to future R1 zoned land would be from opportunities off Henry Bayly Drive or Stirling Court and are not affected by the subject proposal. (Refer to aerial photo below which depict the site conditions from 2009 imagery – Six Viewer Block – Mudgee ASS40Towns 18-11-2009).



Figure 2: Aerial view of the surrounding land with approx. areas shown

The natural environmental features such as topography and overland drainage have been assessed for compatibility with a future dwelling. Existing contours are shown on the concept plan. An existing drainage line traverses along the southern boundary and is not impacted by the proposal. An existing culvert under the driveway is shown on the plan and line of planted shrubs and trees. The site elevation does not restrict the servicing opportunities.

The topography and aspect of the land lending to views to the east over the Mudgee town presents a unique building opportunity. The MWR LEP 2012 Visually Sensitive Land Map reflects the elevation of the site.

Consideration has been made as the visual impact of the development of the site. The topographic attributes can be considered further in a subdivision application and is not envisaged to be restrictive. A level building site is available within the proposed vacant lot. A similar setback and battle-axe arrangement can be achieved as the existing developed land to the north (Lot 52 in DP1178563), also within the mapped visually sensitive land. Overall, the land is not constrained by significant environmental features.



Plate 1: View of the subject land to North West from Dewhurst Drive

Q.4. Is the proposal consistent with Council's Local Strategy or other local strategic plan?

YES.

Mid-Western Regional Comprehensive Land Use Strategy (CLUS)

The Mid-Western Regional Council adopted the CLUS in 2010, which aimed to provide clear direction for growth for the next 15-20 years. The Strategy has informed the comprehensive Mid-Western Regional LEP 2012 and provides a context for future land use. This planning proposal is consistent with the CLUS as it makes the best use of available infrastructure and land within the existing settlement area.

It is noted that the site includes land above the 520 metre contour. This aspect of the site is considered further with reference to Section 2.3.9 of the CLUS.

The CLUS refers to the protection of ridgelines through the following measures:

- *Avoiding development on ridgelines or in location when structures would protrude or interrupt the skyline when viewed from a distance.*

Comment:

The future dwelling development would be at similar setback and elevation as the adjoining property (25 Dewhurst Drive) and the impacts have been assessed as less obtrusive than this existing dwelling and the treed hills will form the skyline when viewed from a distance.

- *Restricting development at a suitable contour level. Presently reticulated service capacity limits development to the 520metre contour to the south and west of Mudjee to reduce the visual protrusion of development in to the hills and is the limit of the development (refer to the Mudjee Town Structure Plan Map).*

Comment:

The Mudjee Town Structure Plan and Section 2.3.9 Ridgelines and rural views of the CLUS, has been considered in relation to the land. The CLUS Figure 3-1 Mudjee Town Structure Plan indicates the 520m contour line indicates a "*Limit to built development to be established by maximum serviceable elevation for reticulated water and the protection of scenic quality*".

The land is within serviceable limits (as determined by Council staff) and reflected by proposed reticulated water and sewer on the proposed concept plan. MWRC has not taken the contour line as a hard limit to development where land can be serviced. (For example: residential lots within Menah Avenue and Stirling Court are above the 520m contour and serviced). This first aspect regarding servicing is considered to be appropriately met with the provision of services to the satisfaction of Council prior to development. The second aspect of the reference to the 520 contour for strategic planning, i.e. the protection of scenic quality is also addressed specifically for this site.

Views from Dewhurst Drive from positions north of the site all have treed hills as a backdrop and a future dwelling would not be noticeable. Views from the road frontage and properties on the opposite side of

Dewhurst Drive would not be affected as the existing development would obstruct most opportunity for views of a future dwelling. The site is not easily seen from the front boundary of the land and will have minor change to the visual outlook if developed (refer to **Plate 2**).

Views of the site from a position approximately 100m south along Dewhurst Drive, present the only opportunity where part of a future dwelling would not completely have a backdrop of treed hills (refer to **Plate 3**). Views from the road level of the likely future dwelling site are obstructed at a greater distance, due to the road alignment, existing development and topography.



Plate 2: View of 25B Dewhurst Drive from frontage to Dewhurst Drive



Plate 3: View of development site from Dewhurst Drive looking to north west

- *Maintain ridgelines (and their buffer areas) and the view corridors to natural and cultural landscapes etc.*

The proposal to facilitate one additional residential lot will not have significant impact to the view corridors (to natural landscapes – treed hills as backdrop to town). The treed ridge line is not proposed to be developed.

- *Careful design of roads and urban structures in more visible sensitive areas to conform to the natural terrain as much as possible.*

No new roads are proposed to facilitate the development. The future design of a dwelling can be considerate to the scenic quality of the location. In this instance the current landowner and occupier of the existing dwelling within 25B Dewhurst Drive is proposing to build and occupy the new dwelling.

- *Major infrastructure for example, electricity and servicing infrastructure and mobile phone towers should not be located near ridgelines where other practical locations are available.*

Not applicable to this proposal.

- *Retain identified habitat corridors which exist on ridgelines. These areas can provide connected vegetation which provides potential for habitat values within the ridge top regions.*

The development is consistent. The planning proposal does not include any land that has native habitat or tree stands. The new dwelling opportunity will not affect the connectivity of any habitat areas.

Mudgee and Gulgong Urban Release Strategy (URS)

The subject land is mapped as part of Urban Release Area 8 – South Mudgee Infill 1. The URS suggests that approximately 10 additional lots are available from the labelled Area 8 for the min 600sqm lot size, staged for release in in 5-10yr range (2020-2024). The proposal however will create one additional low density residential lot in the release area. The URS has referred to the demand being met for this low density lot type in Mudgee. The creation of one (1) additional development lot will not have a significant impact on supply and demand of low density residential lots (i.e. unlikely to have any detriment to the economic viability of greenfield development or cause adverse impacts on housing affordability). The URS notes that the land within Area 8 is well located to Mudgee’s Town Centre and maximises use of existing infrastructure.

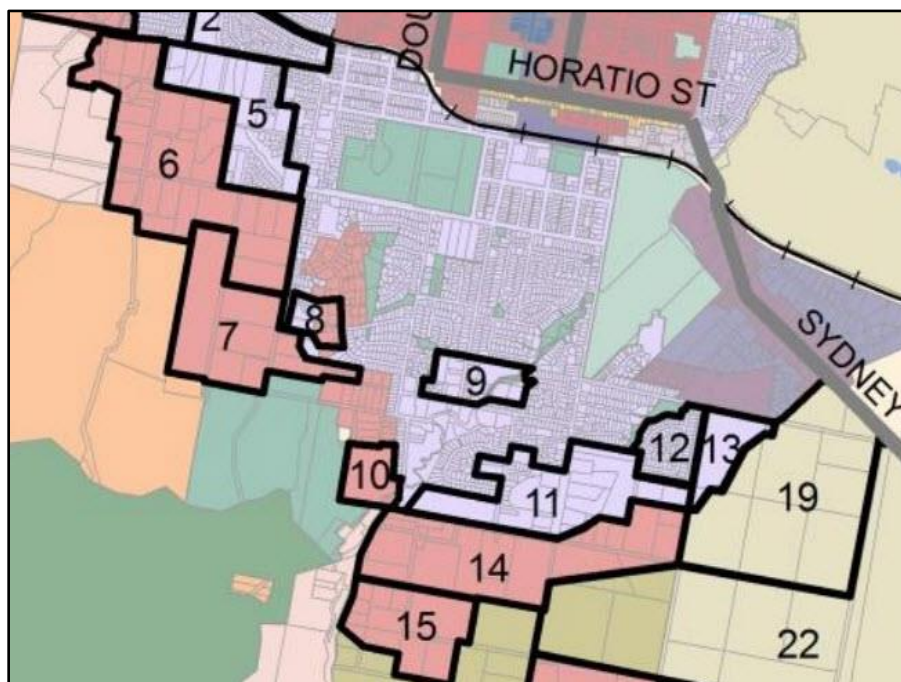


Figure 3: Excerpt from URS Figure 2 Mudgee Urban Release Areas and LEP 2012 Zoning

The inclusion of the land in an amendment to the MWR LEP 2012 is consistent with the ‘Guiding Principles’ for release of residential land. See below:

Guiding Principles

- **Encourage higher density residential development in Mudgee and Gulgong town centres –**
N/A - The land subject to the planning proposal is not within walking distance to the Mudgee CBD, and higher density development is not appropriate at this particular site.

- **Rely on areas already zoned and nominated for residential development in the first instance to meet future demand –**

The URS acknowledges with this principle that some release areas are appropriately zoned but require a change to the lot size controls to facilitate development. The subject site within Urban Release Area 8 – South Mudgee Infill 1, is already zoned for residential purposes and amendment to the lot size map will facilitate the development of one additional dwelling lot.

- **Maximise use of existing Council infrastructure –**

Council's servicing infrastructure exists at the locality and would be utilised for the proposal in accordance with the URS principles.

- **Encourage and meet demand for a diverse range of housing types and lots sizes –**

The location of the property represents a logical location for a residential dwelling adjoining existing residential lots. The low density lots proposed to be created (2838m² and 4529m²) are consistent with the variation of lot size for this type of lot in the Mudgee Township. New housing will likely be a detached single storey dwelling.

- **Facilitate orderly and coordinated approach to residential growth –**

The supply of low density lot size (2000-4000sqm) lots is affected by the LEP provision (LEP clause 4.1) regarding provision of reticulated services, whereby land may be earmarked for further subdivision with the requirement for reticulated servicing; however the fragmented ownership of many areas and current lack of available services will impact supply. Despite this, the URS predicts there is an expected supply adequate to meet the demand for low density lots in Mudgee. This planning proposal only has opportunity for one new vacant lot and does not attempt to address any wider demand for residential land. The proposal seeks to provide opportunity for the landowner to best utilise the available services and land for appropriate infill development aimed for future occupation by the current landowner. The land is unique in circumstance and physical features and will provide a site specific development opportunity that as infill development is supportive of the principles of the URS, but is insignificant to the supply overall. The planning proposal is not of a scale likely to affect the timing of release of any identified residential release areas in the URS.

- **Ensure a pipeline supply buffer exists –**

Council should have 5 years' worth of land zoned for each residential type as a buffer to avoid future shortage. No single development on its own meets the predicted land supply required as determined in the URS for the 0-5yr staging. As indicated, the one new lot will be immaterial to land supply values and land release triggers, where predicted demand is 75 lots over 5 yrs (15 lots per annum). Further the planning proposal will not have any detriment to the pipeline supply (Area 8) for other higher density residential development that is predicted for this release area.

- **Protect employment lands and high value agricultural land –** The subject land is in close proximity to the township of Mudgee and developed residential lifestyle lots. The land is not prime agricultural land. The proposal will align with this principle. Topographic attributes, residential land and roads separate the site from other rural land.

- **Avoid environmentally sensitive areas and natural hazards** - Residential growth should not encroach on areas identified as environmentally sensitive areas or natural hazards. The concept design has demonstrated that an environmentally sensitive lot design can be implemented at the site, with the plateau providing a suitable dwelling site with minimal visual impact.

Mid-Western Region Towards 2030 Community Plan

The goals of the Community Plan have been reviewed. The proposal does not compromise the main entrance corridor to the Mudgee Township. The proposal will support the goal of providing a vibrant town. The planning proposal presents opportunity for high amenity community whereby development is appropriately located and sensitive to surrounding land uses and environmental aspects.

Mid-Western Regional - Economic Development Strategy

Mid-Western Regional Council has prepared an Economic Development Strategy (EDS) outlining a future economic direction for the Region in the next 10 years, to June 2020. The EDS provides a broad framework for the various lead agencies and stakeholders involved in economic development to identify their roles and engage in economic development initiatives for the Region. The planning proposal will have negligible impact on economic development.

Q.5. Is the planning proposal consistent with applicable state environmental planning policies?

Yes. The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies as discussed below.

SEPP	Applicable/Consistency
1 – Development Standards	Not relevant to planning proposal.
14 – Coastal Wetlands	Not relevant to planning proposal.
19 – Bushland in Urban Areas	Not relevant to planning proposal.
21 – Caravan Parks	Not relevant to planning proposal.
26 – Littoral Rainforests	Not relevant to planning proposal.
30 – Intensive Agriculture	Not relevant to planning proposal.
33 – Hazardous and Offensive Development	Not relevant to planning proposal.
36 – Manufactured Home Estates	Not relevant to planning proposal.
44 – Koala Habitat Protection	Not relevant to planning proposal.
47 – Moore Park Showground	Not relevant to planning proposal.
50 – Canal Estate Development	Not relevant to planning proposal.
52 – Farm Dams and other works in Land and Water Management Plan Areas	Not relevant to planning proposal.
55 – Remediation of Land	Proposal is consistent. <i>See comments below.</i>
62 – Sustainable Aquaculture	Not relevant to planning proposal.
64 – Advertising and Signage	Not relevant to planning proposal.
65 – Design Quality of Residential Flat Development	Not relevant to planning proposal.
70 – Affordable Housing (Revised Schemes)	Not relevant to planning proposal.
71 – Coastal Protection	Not relevant to planning proposal.
Affordable Rental Housing 2009	Not relevant to planning proposal. Through the provision of a variety of housing choices, the housing options in Mudgee will potentially cater to a range of income levels. The development proposal is not to adversely affect rental housing.
Building Sustainability Index BASIX 2004	Future development for housing will be required to address the provisions of BASIX.

SEPP	Applicable/Consistency
Exempt and Complying Development Codes 2008	Not relevant to planning proposal.
Housing for Seniors or People with a Disability 2004	Future development will be able to deliver accessible housing.
Infrastructure 2007	Not relevant to planning proposal.
Integration and Repeals 2016	Not relevant to planning proposal.
Kurnell Peninsula 1989	Does not apply to MWRC LGA.
Kosciusko National Park – Alpine Resorts 2007	Not relevant to planning proposal.
Major Development 2005	Not relevant to planning proposal.
Sydney Region Growth Centres 2006	Not relevant to planning proposal.
Mining and Petroleum Production and Extractive Industries 2007	Not relevant to planning proposal.
Miscellaneous Consent Provisions 2007	Not relevant to planning proposal.
Penrith Lakes Scheme 1989	Does not apply to land within MWRC LGA.
Rural Lands 2008	Not relevant to planning proposal.
State and Regional Development 2011	Not relevant to planning proposal. The planning proposal does not include any state significant development.
State Significant Precincts 2005	Not relevant to planning proposal.
Sydney Drinking Water Catchment 2011	Does not apply to land within MWRC LGA.
Sydney Region Growth Centres 2006	Does not apply to land within MWRC LGA.
Three Ports 2013	Does not apply to land within MWRC LGA.
Urban Renewal 2010	Does not apply to land within MWRC LGA.
Western Sydney Employment Area 2009	Not relevant to planning proposal.
Western Sydney Parklands 2009	Not relevant to planning proposal.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) applies to the whole of the State of NSW and is required to be considered in a rezoning proposal under Clause 6 of SEPP 55. The subject land has only been historically developed for residential purposes.

The land (Lot 4 DP 1043986) was purchased as a vacant residential lot in 2002. The existing dwelling was built by the current landowners in 2004. The land has not had other tenants or occupants. No sheds or structures

have been demolished. Historically the land was likely to be part of a greater grazing property prior to residential subdivision.

Given the previous use of the site (i.e. residential component and possible historical grazing) the likelihood of contamination indicating the land is not suitable for the proposed concept is minimal.

Site inspection has been carried out by suitably qualified person (September 2016) to identify any indication of site contamination. No evidence was identified that would indicate the need for further detailed investigations. No evidence of fill having been brought to the site was noted. Some earthworks for the levelling of the land within the proposed Lot 42 appear to have been carried out, exposing the natural gravelly soils (minimal topsoil occurring at the location) (see **Plate 4** and **Plate 5** below). At the time of inspection soil top soil was stockpiled at the site for use in the existing garden areas (received from a landscaping business).

The site has not been subject to any known industrial processes and such uses have not been permitted by the residential zoning. No known home industry has been carried out. Any localised surface soil contamination that potentially may occur is from oil/fuel due to a vehicle leak when driving or parked on the existing residential land. This is a very minor risk and no areas of such minor surface contamination have been identified at this site. Where the natural gravelly surface soils have sufficient topsoil, grasses and weeds occur. No areas of land have been identified as requiring remediation before the land can be used for an additional dwelling development. The Planning Proposal is consistent with SEPP 55.

Based on the known features of the site and years that residential land use has occurred, no site contamination is likely. Detailed investigations are not warranted. It is concluded, based on the available information and conditions at site inspection that a future subdivision to create one new entitlement, should not be hindered due to potential for site contamination.



Plate 4: Aerial View of 25B Dewhurst Drive (May 2016) depicting natural gravelly surface



Plate 5: View of site depicting level building opportunity adjacent existing dwelling (May 2016)

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

Section 117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning and Infrastructure to issue directions regarding the content of LEPs to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions.

The proposal is consistent with those 117 Directions that are relevant to the site. An overview of applicable directions and compliance is included in **Table 1**.

Table 1: Section 117 Ministerial directions

	Section 117 Ministerial directions	Compliance of Planning Proposal
1.1	Business and Industrial Zones	N/A - Land is zoned R2 Low Density Residential and is not proposed to be changed by the proposal.
1.2	Rural Zones	N/A.
1.3	Mining, Petroleum Production and Extractive Industries	No mining or extractive industry occurs in vicinity to the development site (within an urban residential zone). Consideration of mapped industry and resource lands has not identified any affected resources. The subject land is surrounded by residential zoned land.
1.4	Oyster Aquaculture	N/A
1.5	Rural Lands	Does not apply as the proposal does not include rural or environmental protection zoned land.
2.1	Environment Protection Zones	The development land is partially affected by visually sensitive land. The LEP provisions relating the visually sensitive land near Mudgee are not proposed to be altered by the proposal. Potential for visual intrusion has been assessed as part of the proposal. The environmental protection standards and clause 6.10 of the MWRLEP 2012 will be applied to any future development and further assessment of a house design can be made at the DA stage to ensure the standards are applied.
2.2	Coastal Protection	N/A
2.3	Heritage Conservation	No items of European heritage are identified in vicinity of the subject site. The planning proposal adopts measures that facilitate the conservation of environmental heritage. Due diligence and mitigation measures are to be followed that will ensure the protection of any unknown Aboriginal heritage items occurring within vicinity of the future development lands. An

Section 117 Ministerial directions		Compliance of Planning Proposal
		AHIMS Search has been undertaken and attached to this proposal.
2.4	Recreation Vehicle Areas	N/A
2.5	E2 & E3 zones and Environmental Overlays in Far North Coast LEPs	N/A
3.1	Residential Zones	Applicable as the subject land is within the R2 Low Density Residential Zone. The planning proposal will make efficient use of the existing infrastructure and will be serviced to a standard consistent with other adjoining low density residential development prior to subdivision. In accordance with the Direction the planning proposal has made reference to the amendment to contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it – this can be achieved through use of existing clause 4.1(3A) and a map amendment to apply Area A. The planning proposal is consistent with the objectives of the Direction as depicted in the concept plan.
3.2	Caravan Parks and Manufactured Home Estates	N/A
3.3	Home Occupations	The planning proposal is consistent with this Direction, and the capacity for any future dwelling to accommodate small businesses will not be hindered.
3.4	Integrating Land Use and Transport	The proposal has considered the existing infrastructure, residential development patterns, and local transport issues when developing the concept plan for future subdivision. The proposal is consistent with the direction. The addition of one new dwelling and traffic associated onto Dewhurst Drive is acceptable.
3.5	Development Near Licensed Aerodromes	N/A
3.6	Shooting Ranges	N/A
4.1	Acid Sulfate Soils	N/A
4.2	Mine Subsidence and Unstable Land	N/A
4.3	Flood Prone Land	N/A

Section 117 Ministerial directions		Compliance of Planning Proposal
4.4	Planning for Bushfire Protection	Mid-Western Regional LGA has a bushfire prone land map prepared under s146 of the <i>Environmental Planning and Assessment Act 1979</i> . The planning proposal is not affected by the mapped bushfire prone land.
5.1	Implementation of Regional Strategies	N/A. The Direction applies to land within the land applicable to the areas of the Far North Coast; Lower Hunter; South Coast; Sydney–Canberra Corridor; Central Coast and Mid North Coast.
5.2	Sydney Drinking Water Catchment	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A
5.9	North West Rail Link Corridor Strategy	N/A
5.10	Implementation of Regional Plans	The subject land falls within the area of Central West and Orana Regional Plan. At the time of original proposal the plan was in draft form. The proposal was consistent with the regional strategy as exhibited and at the time was in the submission review period. The Central West and Orana Regional Plan 2036 was implemented Jun 2017. The Plan is the NSW Government's strategy for guiding land use planning decisions for the Central West and Orana region for the next 20 years. The proposal maintains consistency with the Regional Plan. The proposal will have negligible regional impact providing one new dwelling entitlement within an identified regional centre i.e. Mudgee. A priority for Mudgee is to support appropriately located and serviced land for residential development. This proposal is consistent with the Regional Plan.
6.1	Approval and Referral Requirements	This direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The planning proposal does not include LEP provisions requiring concurrence, consultation or referral.

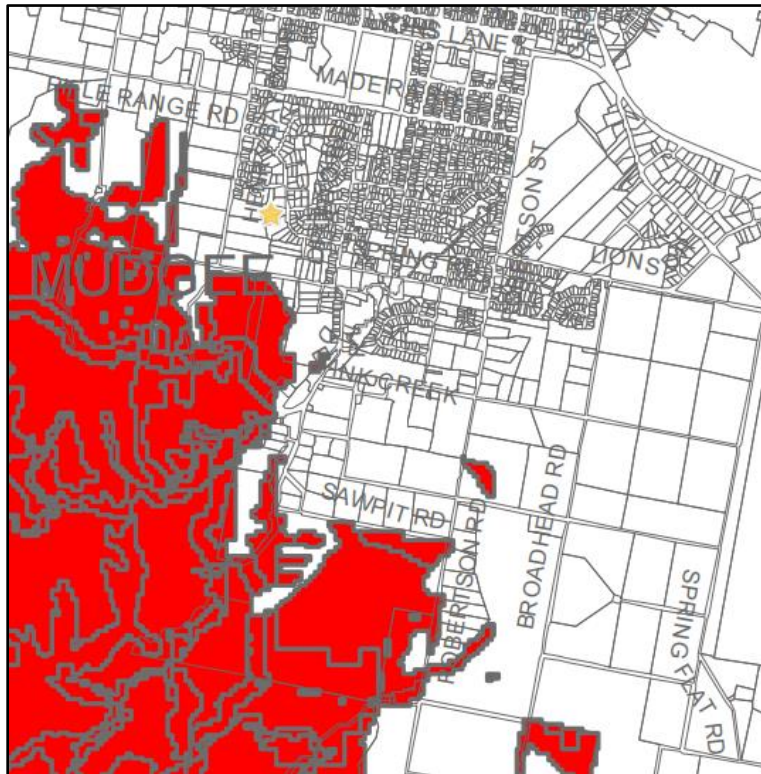
	Section 117 Ministerial directions	Compliance of Planning Proposal
6.2	Reserving Land for Public Purposes	N/A – Land for public purposes is not included in the development concept.
6.3	Site Specific Provisions	N/A – the proposed LEP amendment does not require site specific provisions.
7.1	Implementation of a Plan for Growing Sydney	N/A
7.2	Implementation of Greater Macarthur Land Release Investigation	N/A

SECTION C - Environmental, Social and Economic Impact

Q.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?

The map below depicts the site in regard to the MWR LEP 2012 Sensitivity Biodiversity mapping. The land has nil constraint due to biodiversity with the majority of the surrounding land cleared for residential purposes.

The planning proposal is not likely to cause any impact on critical habitat or threatened species, populations or ecological communities. Site specific native flora and fauna survey is not warranted at this stage.



(Excerpt MWR LEP 2012 – Sensitivity Biodiversity Map (sheet BIO_006))

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

With reference to *A Guide to Preparing Planning Proposals*, technical studies to address an identified issue should be undertaken following the initial Gateway determination. Such studies together with community and public authority consultation can explore the mitigation of any potential impacts.

The planning proposal constraints assessment has not identified any specific technical assessment that would be required. No specific studies have been identified that would be required to be carried out to determine the suitability or impacts of the proposed LEP amendment.

Heritage

Heritage aspects relevant to the site have been considered. **Appendix B** provides the AHIMS search results carried out for the wider locality. With a buffer of 1km, three (3) recorded items are known for the locality, with a buffer of 200m, zero (0) items are recorded. The consideration of the likelihood for occurrence of Aboriginal heritage and due diligence assessment processes will be able to be carried out in the future at DA stage. The occurrence of heritage would be able to be managed in the future and the development impacts assessed as a development layout is finalised. As such heritage aspects are not likely to impact significantly on the timeframe of a planning proposal.

Q.9. How has the planning proposal adequately addressed any social and economic effects?

In this instance the social impacts are minor, with one new dwelling entitlement involved. Over recent years, & since the time of the CLUS, Mudgee has experienced a dynamic population growth influenced by mining activity in the region. The planning proposal with one new entitlement will by no means have a significant impact on the response to the gap analysis and recommendations to accommodate growth for Mudgee into the future as identified in the most recent strategic planning document, the Mudgee and Gulgong Urban Release Strategy. Similarly it is not expected that the proposal will have any significant impact on the economic development, and demand for community services of Mudgee.

The CLUS supports diversity in housing options. The strategy indicates that the lack of diversity in housing types arguably affects the ability of a diverse population, such as found in Mudgee, to find accommodation to suitably meet their needs. The subject land would offer a low density opportunity which offers a unique setting in a mostly established area, while simultaneously utilising existing infrastructure and having minimal environmental impact. A change in land zoning is not required. This ensures future development can proceed without foreseeable land use conflicts and unreasonable infrastructure costs.

1.3 SECTION D - State and Commonwealth interests

Q.10. Is there adequate public infrastructure for the planning proposal?

Mudgee is able to accommodate one additional lot in the South Mudgee /Dewhurst Drive area without any substantial concern. The site has current electricity and telecommunication services that would be assessed for extension to service additional lots. Servicing of public infrastructure will require consultation with appropriate public authorities at the design stage. The concept plan has been prepared with services shown (existing and proposed) to demonstrate Council servicing standards are able to be met.

The proposal will not generate a significant increase to local traffic which would warrant a full traffic and engineering assessment of the existing road system. The current provisions within MWRC Development Control Plan 2013 will be able to be met in any new roads and lot design. This can be addressed at DA stage.

Q.11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning proposal?

A summary of the views of State and Commonwealth Public Authorities will be provided following gateway determination.

PART 4 - Mapping

MWRC has a SI LEP in force and mapping should be carried out consistently with the requirements of the Standard technical requirements for LEP maps. The land subject to the planning proposal is included within Land Zoning Map (Sheet LZN_006E) which is depicted in **Figure 4**. The land is currently zoned R2 Low Density Residential, which is consistent with the objectives of the development.

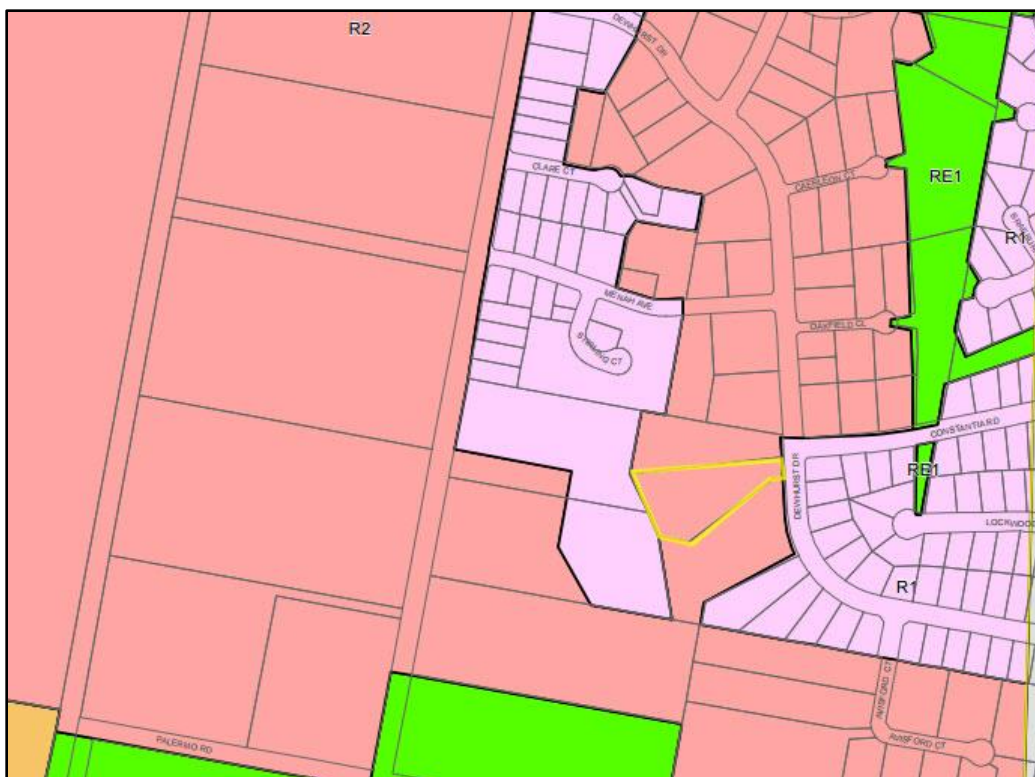


Figure 4: No Proposed change to zoning map (excerpt Land Zoning Map - Sheet LZN_006D)

The corresponding lot size map is proposed to be amended to allow the minimum lot size proposed (subject to provision of reticulated services). The land is included within Lot Size Map (Sheet LSZ_006D which is proposed to be amended (see **Figure 5**). The map could be amended with a label to include the land within 'Area A' as referred to in clause 4.1(3A) of the Mid-Western Regional LEP 2012.

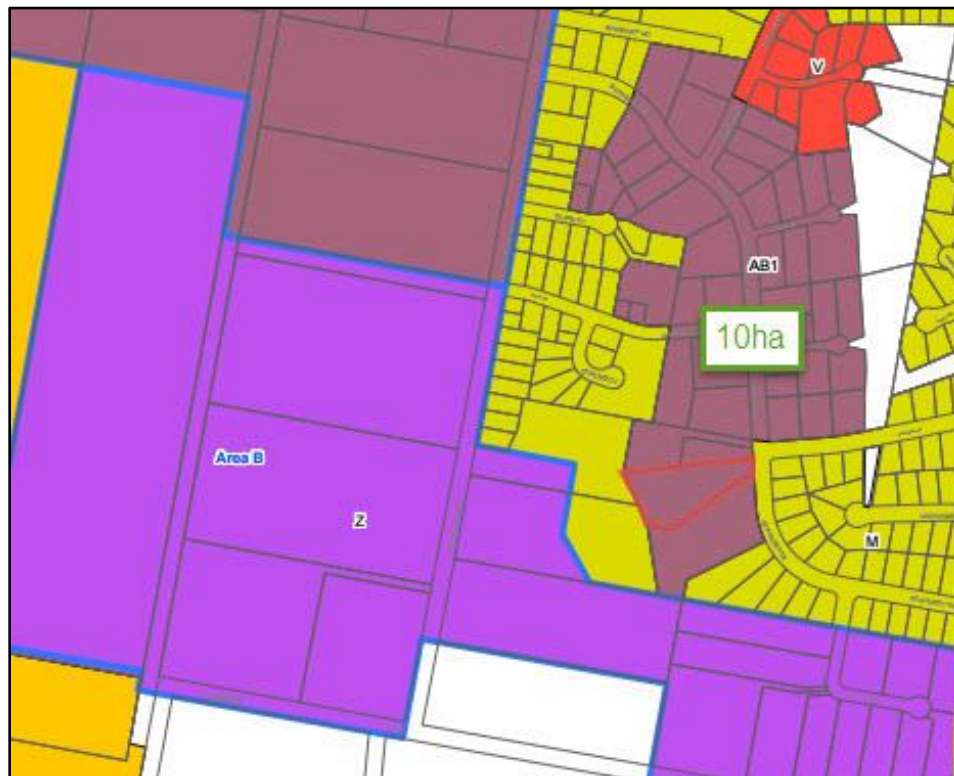


Figure 5: Excerpt Lot Size map (Sheet LSZ_006) showing location of site

PART 5 - Community Consultation

Community consultation for the Planning Proposal would be undertaken in accordance with the consultation requirements set out in *A guide to preparing local environmental plans* (DoP 2009).

The consultation requirements for this Planning Proposal are expected to be confirmed by the Department of Planning and Infrastructure (DP&I) at the gateway determination.

PART 6 – Project Timeline

This will be prepared with MWRC if supported.



Appendix A - Concept Plan

(prepared by Jabek Pty Ltd on behalf of the owner)





Appendix B – AHIMS Search





AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : A34 Birchall

Client Service ID : 253355

Atlas Environment & Planning
46 Market Street
Mudgee New South Wales 2850
Attention: Emma Yule
Email: yule.atlas@gmail.com

Date: 09 November 2016

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 4, DP:DP1043986 with a Buffer of 200 meters, conducted by Emma Yule on 09 November 2016.

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 the Office of the Environment and Heritage 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. *



AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : A34 Birchall 1km

Client Service ID : 253356

Atlas Environment & Planning
46 Market Street
Mudgee New South Wales 2850
Attention: Emma Yule
Email: yule.atlas@gmail.com
Dear Sir or Madam:

Date: 09 November 2016

AHIMS Web Service search for the following area at Lot : 4, DP:DP1043986 with a Buffer of 1000 meters, conducted by Emma Yule on 09 November 2016.

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 the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

3	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](http://www.nsw.gov.au/gazette) (<http://www.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage 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.



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.
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