

## Geoff Cox

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**From:** Geoff Cox  
**Sent:** Friday, 30 September 2016 2:05 PM  
**To:** 'Wayne.Garnsey@planning.nsw.gov.au'  
**Subject:** Lodgement of Site Compatibility Certificate Application

GX Nominees Pty Ltd  
(ATF First Mortgage Super Fund)  
PO Box 6137,  
West Gosford NSW 2250.

30 September 2016.

Director Regions,  
Western Department of Planning and Environment,  
PO Box 58, Dubbo NSW 2830.

Attention Ashley Albury.

Dear Sir/Madam,

Further to our email correspondence on the 18 July 2016, and subsequent discussions with Team Leader Wayne Garnsey in relation to a previous site compatibility certificate application, I am pleased to confirm that our company, is to-day forwarding by mail a Site Compatibility Certificate Application, (the Application) to your regional office seeking compatibility approval, for an aged care facility on part of the land over which the Department previously granted Compatibility Certificate Approval for a 206 home retirement village, in Spring Flat Road Mudgee.

The land on which the proposed Age Care Facility is to be located, is Lot 3 DP 1130059, a parcel of land which was owned by Crighton Mudgee Pty Ltd. Recently, this land and two adjoining lots (which comprised the land over which the above referred retirement village was approved) was recently transferred to GX Nominees Pty Ltd (as trustee for the First Mortgage Superannuation fund). In an Annexure 7, we enclose a copy of the Deed of Agreement confirming this transfer of ownership.

Enclosed are three copies of the Application as required, together with a copy of the Application in electronic format.

We assume you would need to consider our application, before you would be in a position to provide us with the cost of your assessment. We be pleased if you could email details of that cost and how you would want those funds to be transferred to the Western Department of Planning and Environment. Immediately we have received details of that cost we will transfer those funds to the Department.

Similarly if you or your assessing officer has any queries in relation to the Application, we would be grateful if those queries could be addressed to the writer at the above referred email address – [Geoff@midcoastproperties.com.au].

Thanking you in anticipation,

Yours faithfully,  Geoffrey Cox, Director, GX nominees Pty Ltd (as trustee for First Mortgage Super Fund).



Planning

SEPP (HOUSING FOR SENIORS OR  
PEOPLE WITH A DISABILITY) 2004  
DIRECTOR-GENERAL'S  
SITE COMPATIBILITY CERTIFICATE  
APPLICATION

Date received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Site compatibility application no. \_\_\_\_\_

LODGEMENT

Instructions to users

This application form is to be completed if you wish to apply to the Director-General of the Department of Planning for a site compatibility certificate under Chapter 3, Part 1A of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP).

A site compatibility certificate is required under section 50(2A) of the Environmental Planning and Assessment Regulation 2000 to accompany development applications for certain proposed developments under the SEPP. The types of development applications to which the Regulation applies are listed in clause 24 of the SEPP.

Before lodging this application, it is recommended that you consult with the Department of Planning concerning your development proposal, including whether a site compatibility certificate is required and what application fee will apply.

To ensure that your application is accepted, you must:

- complete **all** parts of this form, **and**
- submit **all** relevant information required by this form, **and**
- provide **3 copies** of this form and attached documentation,
- provide form and documentation in **electronic format** (e.g. CD-ROM).

NB: The Department of Planning may request further information if your application is incomplete or inadequate.

All applications **must be lodged** with the Director-General, by courier or mail. Applications can be lodged with the relevant regional office of the NSW Department of Planning. Please refer to [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au) for contact details.

PART A — APPLICANT AND SITE DETAILS

A1 APPLICANT FOR THE SITE COMPATIBILITY CERTIFICATE

Company/organisation/agency

GX NOMINEES PTY LTD (AS TRUSTEE FOR FIRST MORTGAGE SUPERFUND)

☐ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Family name

Street address

Unit/street no.

Street name

90

HOWES ROAD S

Suburb or town

State

Postcode

SOMERSBY

NSW

2250

Postal address  
(or mark 'as  
above')

PO Box or Bag

Suburb or town

6137

WEST GOSFORD

State

Postcode

NSW

2250

Daytime telephone

Fax

(0418) 630519

Email

geoff@midcoastproperties.com.au

Mobile

(0418) 630519

A2 SITE AND PROPOSED DEVELOPMENT DETAILS

Identify the land you propose to develop and for which you seek the Director-General's site compatibility certificate.

NAME OF PROPOSAL

MUDGEE AGED CARE FACILITY

STREET ADDRESS

Unit/street no.

Street or property name

LOT 3 DP 1130059

LIONS DRIVE

Suburb, town or locality

Postcode

Local government area

MUDGEE SOUTH

2850

MIDWESTERN REGIONAL COUNCIL



## NAME OF PROPERTY

THE CLARENDON RETIREMENT COMPLEX

## REAL PROPERTY DESCRIPTION

LOT 3 LIONS DRIVE IN DP 1130059

**Attach**—map and detailed description of land.

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands. Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposal applies to more than one piece of land, please use a comma to distinguish between each real property description.

DESCRIPTION OF PROPOSED DEVELOPMENT (as it is to appear on the Director-General's certificate) Refer to the proposed site layout by title or drawing number to enable reference in the certificate.

**Attach**—copy of proposed site layout.**PART B — PROPOSAL'S CONSISTENCY WITH THE SEPP****B1 THE PROPOSED SITE**

Answer the following questions to identify whether the SEPP applies to the land you propose to develop.

1.1. Is the subject site land zoned primarily for urban purposes?

☐ Yes ☒ No

**OR**

1.2. Is the subject site land adjoining land zoned primarily for urban purposes?

☒ Yes ☐ No

**Attach**—copy of zoning extract or other evidence of zoning.

If you have answered **no** to **both** questions 1.1 and 1.2, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

1.3. Are dwelling houses, residential flat buildings, hospitals or special uses permitted on the site?

☒ Yes ☐ No

**Attach**—copy of development control table.

**OR**

1.4. Is the land being used for the purposes of an existing registered club?

☐ Yes ☒ No

If you have answered **no** to **both** questions 1.3 and 1.4, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

1.5. Is the subject site excluded from the application of the SEPP under clause 4(6)—*Land to which Policy does not apply*?

▪ Environmentally sensitive land (Schedule 1).

☐ Yes ☒ No

▪ Land that is zoned for industrial purposes (except Warringah LGA).

☐ Yes ☒ No

▪ Land in Warringah LGA located in localities identified in clause 4(6)(c) of the SEPP.

☐ Yes ☒ No

▪ Land to which Sydney Regional Environmental Plan No. 17—Kurnell Peninsula (1989) applies.

☐ Yes ☒ No

If you have answered **yes** to **any** subsection in question 1.5, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

**SECTION B1 — SUMMARY CHECK**

Continue to fill out this application form **only** if you have answered:

☐ Yes to questions 1.1 and 1.2, **and**

☐ Yes to questions 1.3 and 1.4, **and**

☐ No to **all** subsections in question 1.5.

If you have satisfied the Summary Check—**proceed to Section B2.**

**B2 SITE COMPATIBILITY CERTIFICATE REQUIRED FOR CERTAIN DEVELOPMENT APPLICATIONS**

Identify the reason why you need to apply for a Director-General's site compatibility certificate.

- 2.1. Is the proposed development for the purpose of seniors housing permissible with consent on the land under the zoning of an environmental planning instrument? (See clause 24 [1A].) ☒ Yes ☐ No
- 2.2. Is the proposed development staged development of a kind saved under the savings provisions of the SEPP? (See clause 53.) ☐ Yes ☒ No

If you have answered YES to **either** question 2.1 **or** question 2.2 your proposal does not require a site compatibility certificate. You can submit your application directly to the relevant local council.

2.3. A site compatibility certificate is required because: (see clause 24[1])

- ☐ the land adjoins land zoned primarily for urban purposes ☒ Yes ☐ No
- ☐ the land is within a zone that is identified as 'special uses' (other than land on which hospitals are permitted) ☐ Yes ☒ No
- ☐ the land is used for the purposes of an existing registered club ☐ Yes ☒ No
- ☐ the proposed development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45. ☐ Yes ☒ No

If you have answered NO to **all** subsections in question 2.3, your proposal does not require a site compatibility certificate.

**SECTION B2 — SUMMARY CHECK**

Continue to fill out the application form **only** if you have answered:

- ☐ No to **both** question 2.1 and question 2.2, **and**
- ☐ Yes to **any** subsection in question 2.3 above.

If you have satisfied the Summary Check—**proceed to Section B3.**

**B3 TYPES OF SENIORS HOUSING**

Does the proposed development include any of the following?

If yes, please indicate in the appropriate space/s provided the number of beds or dwellings that are proposed

- ☒ A residential care facility ☒ Yes ☐ No  Beds
- ☐ A hostel ☐ Yes ☒ No  Dwellings
- ☐ Infill self-care housing (urban only and not dual occupancy) ☐ Yes ☒ No  Dwellings
- ☐ Serviced self-care housing ☐ Yes ☒ No  Dwellings
- ☐ A combination of these ☐ Yes ☒ No  Beds  Dwellings

If you answered **yes** to serviced self-care housing—**proceed to Section B4.** Otherwise—**proceed to Part C.**

**B4 GATEWAY FOR SERVICED SELF-CARE HOUSING ON LAND ADJOINING URBAN LAND**

If the proposed development includes serviced self-care housing on land adjoining land zoned primarily for urban purposes, will the housing be provided:

- ☒ for people with a disability? ☒ Yes ☐ No
- ☒ in combination with a residential care facility? ☒ Yes ☐ No
- ☒ as a retirement village within the meaning of the *Retirement Villages Act 1999*? ☒ Yes ☐ No

If you answered **no** to **all** questions in Section B4, it is unlikely that the proposal will satisfy the council when you submit a development application (see clause 17[2] of the SEPP) and also unlikely that a site compatibility certificate would be issued.



**PART C — SITE COMPATIBILITY OF THE PROPOSED DEVELOPMENT**

In this Part, please **attach** documentation to describe the development proposal, its context and strategic justification.

**C1 DEVELOPMENT PROPOSAL INFORMATION****1. CONTEXT**

The context for development can be presented through photos, maps at an appropriate scale and written evidence.

- Location, zoning of the site and representation of surrounding uses
- Description of surrounding environment:
  - built form
  - potential land use conflicts
  - natural environment (including known significant environmental values and resources or hazards)
- Access to services and facilities and access (clause 26):
  - accessibility and interrelationships with the surrounding area—transport infrastructure and services, accessible pedestrian routes
  - location and description of available shops, banks and other retail and commercial services, community services and recreational facilities, medical facilities
- Open space and special use provisions (if relevant)
- Agricultural capability of the site and adjoining land if the proposal affects land not zoned primarily for urban purposes
- Type, values and significance of native vegetation on site, if land is not located in an urban LGA or urban zone listed under Schedule 1 of the Native Vegetation Act 2003. (nb: separate Guideline available for further information)

**2. PROPOSAL**

The proposal can be presented through photos, maps and written evidence

- Description of the proposal including the type(s) of seniors housing proposed including numbers of beds/units, community facilities and any ancillary development
- Site description—natural elements of the site (including known hazards and constraints)
- Building envelope—footprint and height relative to adjoining development/uses and indicative layout of proposed uses in relation to adjoining development/uses
- proposed extent of native vegetation clearing, if land is not located in an urban LGA or urban zone listed under Schedule 1 of the Native Vegetation Act 2003

**3. STRATEGIC JUSTIFICATION**

Brief description of the proposed development—10 pages limit

- Relationship with regional and local strategies
- Public interest reasons for applying for seniors housing in this locality
- Adequacy of services and infrastructure to meet demand

**4. PRE-LODGE MENT CONSULTATION WITH THE CONSENT AUTHORITY (COUNCIL) AND INFRASTRUCTURE/SERVICE PROVIDERS**

Attach evidence of pre-lodgement consultation

- Evidence of consultation
- Description of and response to issues raised in consultation

Note: Pre-lodgement discussion with the council and with agencies such as the Roads and Traffic Authority, Rural Fire Service and providers of infrastructure and services such as health, community, transport, electricity, water, and sewerage infrastructure and services, will assist in preparation and assessment of your application.

**C2 STATEMENT ADDRESSING SEPP SITE COMPATIBILITY CRITERIA**

Applicants should provide a statement demonstrating whether the site is suitable for more intensive development and is development for the purposes of seniors housing of the kind proposed in the application compatible with the surrounding environment, having regard to (at least) the following matters for consideration outlined under clause 25(5)(b) of the SEPP:

1. THE NATURAL ENVIRONMENT (INCLUDING KNOWN SIGNIFICANT ENVIRONMENTAL VALUES, RESOURCES, OR HAZARDS), AND THE EXISTING USES AND APPROVED USES OF LAND IN THE VICINITY OF THE PROPOSED DEVELOPMENT.

REFER ATTACHED SCC APPLICATION

2. THE IMPACT THAT THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE USES THAT ARE LIKELY TO BE THE FUTURE USES OF THE LAND IN THE VICINITY OF THE DEVELOPMENT.

REFER ATTACHED SCC APPLICATION

3. THE SERVICES AND INFRASTRUCTURE THAT ARE OR WILL BE AVAILABLE TO MEET THE DEMANDS ARISING FROM THE DEVELOPMENT (PARTICULARLY, RETAIL, COMMUNITY, MEDICAL, AND TRANSPORT SERVICES HAVING REGARD TO THE LOCATION AND ACCESS REQUIREMENTS SET OUT IN CLAUSE 26 OF THE SEPP) AND ANY PROPOSED FINANCIAL ARRANGEMENTS FOR INFRASTRUCTURE PROVISION.

REFER ATTACHED SCC APPLICATION

4. IN THE CASE OF APPLICATIONS IN RELATION TO LAND THAT IS ZONED OPEN SPACE OR SPECIAL USES—THE IMPACT THAT THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE PROVISION OF LAND FOR OPEN SPACE OR SPECIAL USES IN THE VICINITY OF THE DEVELOPMENT.

N/A

5. WITHOUT LIMITING ANY OTHER CRITERIA, THE IMPACT THAT THE BULK, SCALE, BUILT FORM AND CHARACTER OF THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE EXISTING USES, APPROVED USES AND FUTURE USES OF LAND IN THE VICINITY OF THE DEVELOPMENT.

REFER ATTACHED SCC APPLICATION

6. IF THE DEVELOPMENT MAY INVOLVE THE CLEARING OF NATIVE VEGETATION THAT IS SUBJECT TO THE REQUIREMENTS OF SECTION 12 OF THE NATIVE VEGETATION ACT 2003—THE IMPACT THAT THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE CONSERVATION AND MANAGEMENT OF NATIVE VEGETATION (NB: THIS CRITERIA DOES NOT APPLY TO LAND IN URBAN LOCAL GOVERNMENT AREAS OR URBAN ZONES LISTED UNDER SCHEDULE 1 OF THE NATIVE VEGETATION ACT 2003).

N/A

C3 ADDITIONAL COMMENTS

REFER ATTACHED SCC APPLICATION



**PART D — CHECKLIST, PAYMENT AND SIGNATURES****D1 APPLICATION CHECKLIST**

Please check that you have provided all the information required for your application.

I have completed all sections of this application form.

☒ Yes ☐ No

I have attached supporting information. If yes, please check boxes below, as relevant.

☒ Yes ☐ No

- Map and detailed description of land  
 A copy of proposed site layout  
 A copy of zoning extract or other evidence  
 A copy of development control table  
 Proposal information—context, proposal and strategic justification  
 Additional information for statements against site compatibility criteria (optional)

☒  
☒  
☒  
☒  
☒  
☒
I have addressed the following SEPP site compatibility matters in **section C2** of the form.☒ Yes ☐ No

1. Existing environment and approved uses
2. Impact on future uses
3. Availability of services and infrastructure
4. Impact on open space and special uses provision
5. Impact of the bulk and scale of the proposal
6. Impact on conservation and management of native vegetation

☒  
☒  
☒  
☒  
☒  
☒
I have provided **three** hard copies of this form and all relevant supporting information☒ Yes ☐ No

I have provided the application form and supporting information in electronic format

☒ Yes ☐ NoI have enclosed the application fee (see below for details) *AWAITING QUOTATION*☐ Yes ☒ No**D2 APPLICATION FEE**

You are required to pay a fee for the assessment of an application for the Director General's certificate for site compatibility. This fee is based on the estimated number of beds of the SEPP Seniors Housing Facility. The Department may require that you pay a proportion of the total fee with this application. You should consult with the Department before lodging this application to determine the proportion to be paid. The maximum fee payable is \$5000.

Number of beds or dwellings

*60 - 80 BEDS*

Estimated project cost

*\$9,500.00***D3 CERTIFICATE APPLICANT'S AUTHORISATION**

By signing below, I/we hereby:

- apply, subject to satisfying the relevant requirements under State Environmental Planning Policy ((Housing for Seniors or Persons with a Disability) 2004 for a Director-General's site compatibility application pursuant to clause 50(2A) of the Environmental Planning and Assessment Regulation 2000
- provide a description of the proposed seniors housing development and address all matters required by the Director-General pursuant to clause 25(5)(b) of the State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004
- declare that all information contained within this application is accurate at the time of signing.

Signature(s)

In what capacity are you signing if you are not the owner of the land

*DIRECTOR OF COMPANY APPLICANT*

Name(s)

*GEORGEY COX*

Date

*30/9/2016***D4 LAND OWNER'S CONSENT**

As the owner(s) of the land for which the proposed seniors' housing development is located and in signing below, I/we hereby agree to the lodgement of an application for a Director-General's site compatibility certificate.

Signature

Name

*GEORGEY COX*

Date

*30/9/2016*

Signature

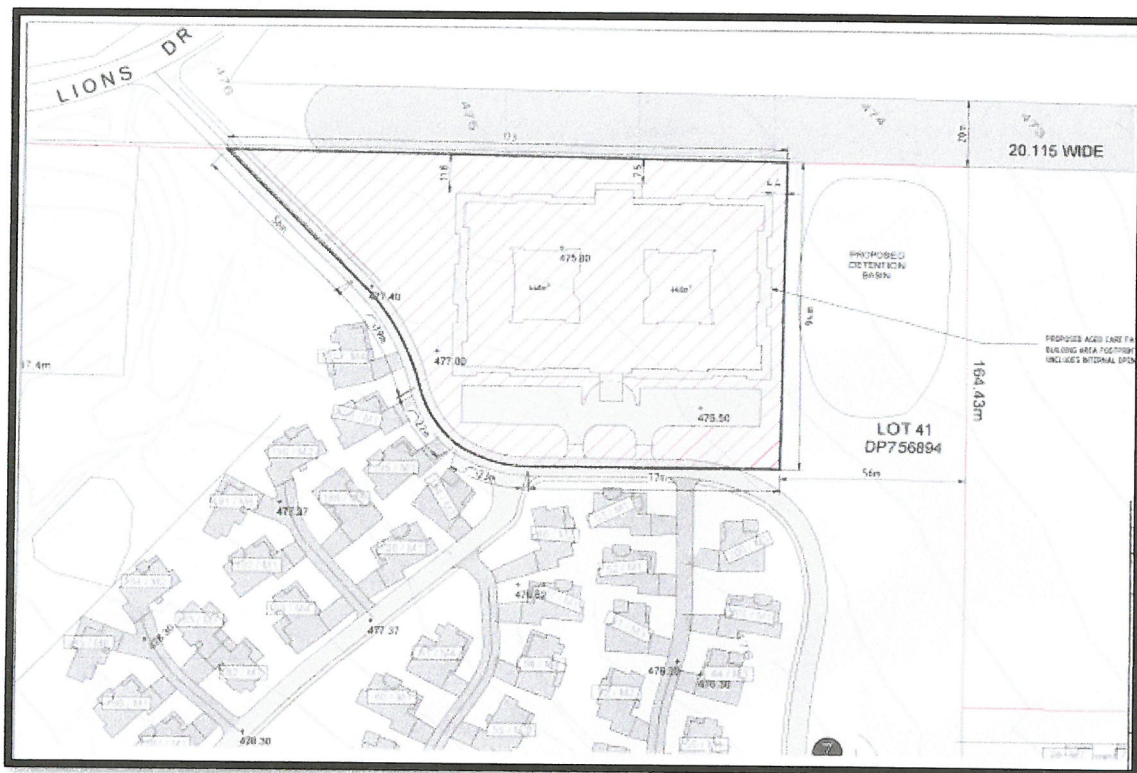
Name

**ACCOMPANYING SUPPORTIVE MATERIAL REPORT FOR  
GX NOMINEES PTY LTD's**

**APPLICATION FOR A SITE COMPATIBILITY  
CERTIFICATE**

**UNDER S.E.P.P.**

**(Housing for Seniors or People with a disability) 2004**



**Application for a proposed 60 – 80 bed aged care facility (ACF) to be located on a 12,410 m<sup>2</sup> portion of a 22.5 ha DA approved Retirement Village located between Spring Flat Road and Lions Drive in Mudgee NSW. (DA No. MA 0009/2010, 21 July 2010 – since ‘commenced’).**

**The above referred approval was for 206 self care homes and associated community facilities (including a clubhouse). However if the ACF is approved, the number of homes in the village will need to be reduced to 194 homes to accommodate the ACF and associated parking space.**



## PART C – SITE COMPATIBILITY OF THE PROPOSED DEVELOPMENT

### C1 DEVELOPMENT PROPOSAL INFORMATION

#### 1. CONTEXT

The site is located approximately 3km south east of Mudgee CBD. Primary access is gained via Spring Flat Road, approximately 200m south of the Castlereagh Highway. Alternate access is available from Lions Drive, adjacent to the northern boundary, from which primary access to the ACF will be established.

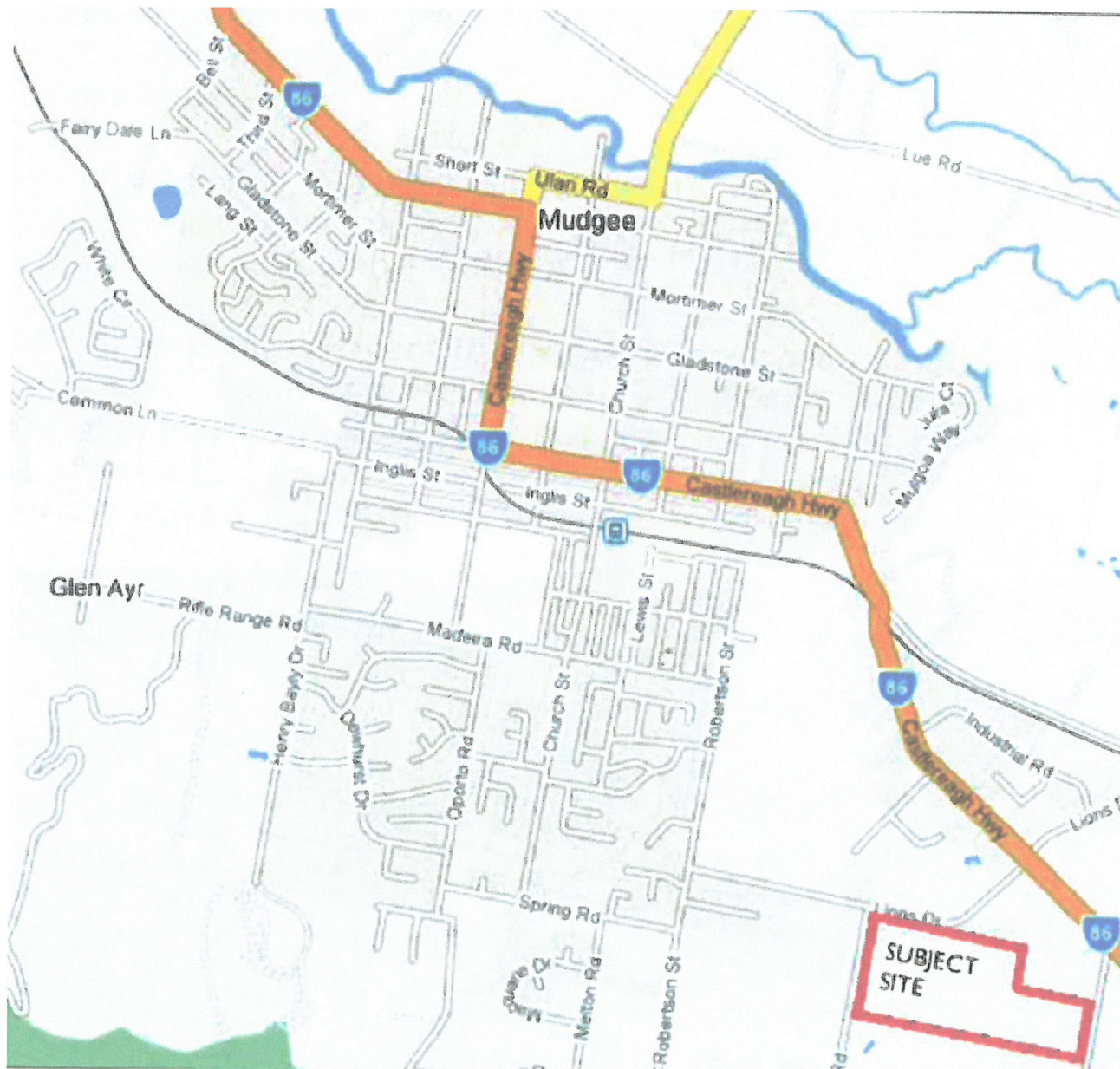


Figure 1 – Location of Subject Land to Urban Centres

- **LOCATION, ZONING AND SURROUNDING USES**

The subject land is currently zoned RU4 primary production small lots under the Mid Western Regional Interim Local Environmental Plan 2008.

- **DESCRIPTION OF SURROUNDING ENVIRONMENT**

This area has traditionally been used for light agricultural uses (predominately grazing) upon small hobby farms on the village edge.

Land to the west is zoned Low Density Residential, being part of Council's urban release area and is currently under development. Typical 'project' style dwellings are common.

Land surrounding and further to the south comprises small rural residential allotments, in fragmented ownership, with some opportunistic grazing and minor rural uses. One surrounding site has a small olive grove.

Land immediately adjacent to the south-west has been acquired by the Catholic Church and preliminary discussions are underway for a Catholic School to be located on this land.

Land immediately to the East of the DA approved retirement village is a larger rural holding used for grazing, but Council has recently resolved to support the rezoning of this 229 ha parcel of this land for a 2 ha rural / residential subdivision.

#### **A) Built Form**

Mudgee is characterised by low-density single storey development (81.2%, 2006 Census). Whilst some heritage architecture has been preserved through local heritage controls, many dwellings have since been replaced with conventional housing, with typical 'project' style dwellings common in more recent developments, including that upon adjacent lands.

The immediate surrounds comprised predominantly single story dwellings and outbuildings on larger rural-residential lifestyle allotments.

All infrastructure services i.e. sealed roads, water, sewer, electricity and telecommunications are extended throughout the urban footprint and into parts of the rural environs.

#### **B) Potential Land Use Conflicts**

There would be no potential land use conflicts.

#### **C) Natural Environment**

The subject land and surrounds are highly modified agricultural landscapes devoid of significant environmental values.

Notwithstanding maps prepared by the NSW Department of Agriculture, which identified the land on which the proposed ACF is intended to be located, as class 2 agricultural land, an agricultural report submitted to NSW Department of Planning and Environment, with the Compatibility Certificate (CC) for the new approved Retirement Village, stated that the classification of the land, 'was more like class 2'.

The above referred CC application for the new approved retirement village was dated 17 April 2008 and was granted on the 26/05/2008 – reference SH 2008 – 0010.



- **ACCESS TO SERVICES AND FACILITIES**

- A) Accessibility and Interrelationships with the Surrounding Area – Transport Infrastructure and Services, Accessible Pedestrian Routes.**

The site located on the southern ‘urban fringe’ of the Mudgee township, approximately 3km from the Mudgee CBD. (Refer Fig. 1).

Whilst the proposed “Seniors Living” Village will provide its own bus transport, there is a regular public bus servicing Lions Drive, (which abuts the site) adjacent to the north western boundary, approximately 80 meters from the ACF.

Mudgee is serviced by a number of taxis. Mudgee airport offers daily flights to/from Sydney (via “Rex”).

Countrylink coach service offers daily travel to/from Sydney by coach to Lithgow, then train to Sydney.

- B) Location and Description of Available Shops, Banks and Other Retail and Commercial Services, Community Services and Recreational Facilities, Medical Facilities.**

Mudgee provides the full range of services that would be expected in a Regional Centre of 23,000 people (2011 Census).

There is the complete hierarchy of Retail and Commercial representation including national majors such as ‘Woolworths’ and ‘Coles’, all five major banks and other small financial institutions, specialty retail and boutique shopping.

There is a very wide range of sporting clubs and organisations located in Mudgee.

Local organisations offering volunteer service to others as well as social interaction include:

- Probus Club of Mudgee
- CWA
- Legacy
- Rotary Club
- Uniting Care – Mudgee Community Visitors Scheme
- Church based groups

The Mid-Western Regional Council LGA is currently serviced by three hospitals and numerous community health services supported by both resident general practitioners and visiting specialists.

A new medical centre has been built on the grounds of the Regional Hospital within the last five years, and recently the size of this centre was expanded. This centre is approximately 2.8km from the proposed new ACF.

The following map details the site’s proximity to relevant services.

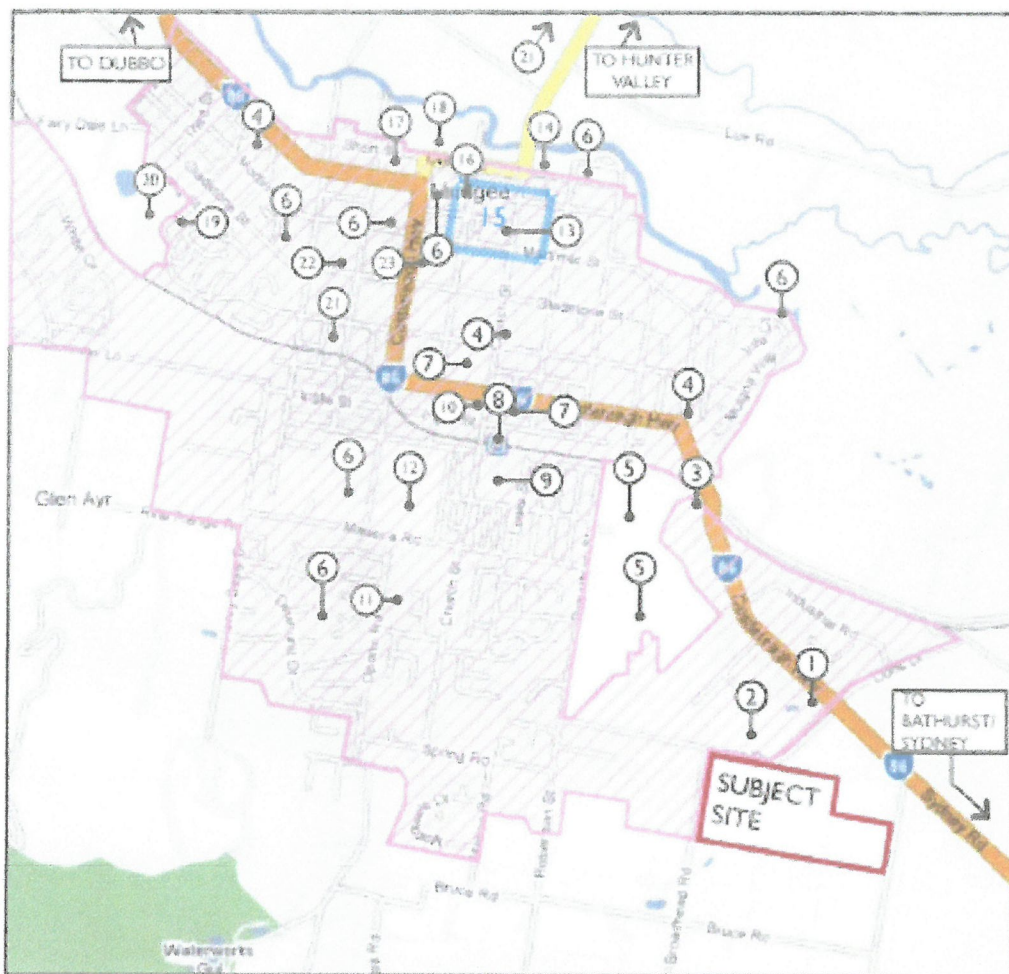


Figure 2A – Proximity to Services

Distance to Services		
1	Service Station	0.9 – 4.0 km
2	Mudgee Tourist & Van Resort	1.4 km
3	Tourist Information	1.9 km
4	Church	2.3 – 5.5 km
5	Golf Course	2.4 km
6	Parks	3.2 – 4.8 km
7	AFL Ground, Tennis Courts	3.4 km
8	Railway Station	3.5 km
9	Mudgee Hospital	2.8 km
10	Fire Station	3.8 km
11	Post Box	3.9 km
12	Mudgee Showground	4.0 km
13	Bank & ATM	4.0 km
14	Swimming Pool	4.0 km
15	CBD	4.3 km
16	Post Office	4.3 km
17	Police Station	4.6 km
18	Riverside Caravan Park	4.7 km
19	Mudgee Nursing Home	5.4 km
20	Playing Fields	5.5 km
21	TAFE	4.6, 9.2 km
22	Pioneer Nursing Home	4.5 km
23	Kananda Retirement Village	4.3 km

Figure 2B – Proximity to Services



- **OPEN SPACE AND SPECIAL USE PROVISIONS**

Mudgee has substantial public open space for passive and active recreation such as sports fields, swimming pools, parks and walkways.

Mudgee provides a golf course, bowling club, netball and tennis and other private/public sporting facilities in the community.

- **AGRICULTURAL CAPABILITY OF SITE IF THE PROPOSAL AFFECTS RURAL LAND**

The land and the land on which the adjoining retirement village has been approved has a negligible agricultural capability.

- **TYPE, VALUES AND SIGNIFICANCE OF NATIVE VEGETATION ON SITE**

There is no significant native vegetation on the site. The land has been previously cleared for grazing.

## **2. PROPOSAL**

- **DESCRIPTION OF THE PROPOSAL INCLUDING TYPE(S) OF SENIORS HOUSING PROPOSED INCLUDING NUMBERS OF BEDS/UNITS, COMMUNITY FACILITIES AND ANY ANCILLARY DEVELOPMENT.**

This project comprises:

An Aged Care Facility, (ACF) of between 60 and 80 beds, (including a dementia wing) built with the additional purpose of being able to provide offsite in-home support facilities to accommodate the needs of the aged and disabled, who have been approved for an 'aged care package'.

The site chosen for this facility, is ideally positioned, in as much as it has access from Lions Road, in Mudgee, only a couple of hundred metres from the Cumberland Highway on the eastern side of the town, on land currently approved for a 206 home self care retirement village. (Modified development consent No. MA0034/2012, granted 21 July 2010, and subsequently 'commenced'.)

The original Development Application, for the above referred retirement village was lodged with Midwestern Council in 2010 was supported with an approved Compatibility Certificate approval reference SH 2008 – 0010 dated 26 May 2008. (File Ref. No. D08/00037-1)

The size of the proposed ACF will be determined by the selected operator who will have regard to the significant changes being proposed to govern the provision of care for the aged and disabled from early 2017 by the Federal Government's Department of Health and Ageing.

To confirm that there is ample room within the proposed separate 12,410m<sup>2</sup> lot within the boundaries of the 206 home DA approved Retirement Village, a typical plan of an approved 80 bed Aged Care Facility of 4758m<sup>2</sup>, and a parking lot of 475m<sup>2</sup> is attached. It will be noted that the ACF is provided with two internal courtyards each of 440m<sup>2</sup> has been incorporated into this plan. Refer – Figure 7

- **SITE DESCRIPTION – NATURAL ELEMENTS OF THE SITE (INCLUDING KNOWN HAZARDS AND CONSTRAINTS).**

The proposed 12,410m<sup>2</sup> site on which the proposed Aged Care Facility (ACF) is planned to be located is currently part of Lot 3 DP 1130059, the access to which is located in Lions Drive Mudgee.

Lot 3 is currently 11.97 ha in size, and the application to Midwestern Council to excise the 12,410m<sup>2</sup> ACF lot from Lot 3 in DP1130059, will be lodged with an application to incorporate an adjoining lot, Lot 4 in DP1164833 (which lot has no road or service access) in to the residue of Lot 3. (Refer Figure 4).

The site is generally level (below 5% gradient) with the site falling to the North to Sawpit Gully.



Figure 3 – Aerial image of site

#### **A) Stormwater**

Recently the owners of the site retained their engineers to reassess the approved engineering proposal which accompanied the retirement village development application, to consider a modification of those plans, with a view to detaining all stormwater on the site.

The report produced determined that all excess stormwater could be detained on site, to ensure that all run off would not increase beyond the existing undeveloped state of the land, up to and including the 100 year ARI. It is proposed that stormwater from the Age Care Facility will be dealt with similarly.





Figure 4. Aerial view of proposed combined ACF and Retirement Village site.

## B) Flooding

The site is flood free according to Council's Flood Prone Land map.

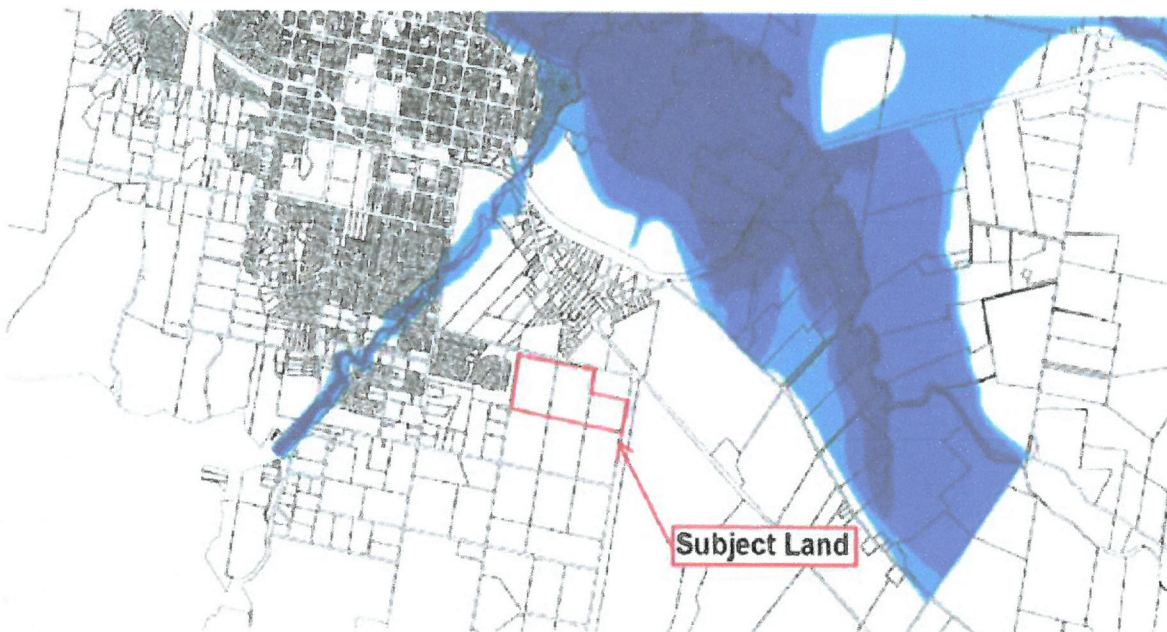


Figure 5 – Flood Prone Land, Source, Sheet 13, MWRC Interim LEP 2008.



### C) Bushfire Risk

Given the flat topography of the site and cleared nature of the surrounding farmland, the site is not mapped as bushfire prone on the B.P.F. land maps held by Council. This is validated by Council's planning certificates attached as Annexure 1 and Council's Bushfire Prone Land map below.

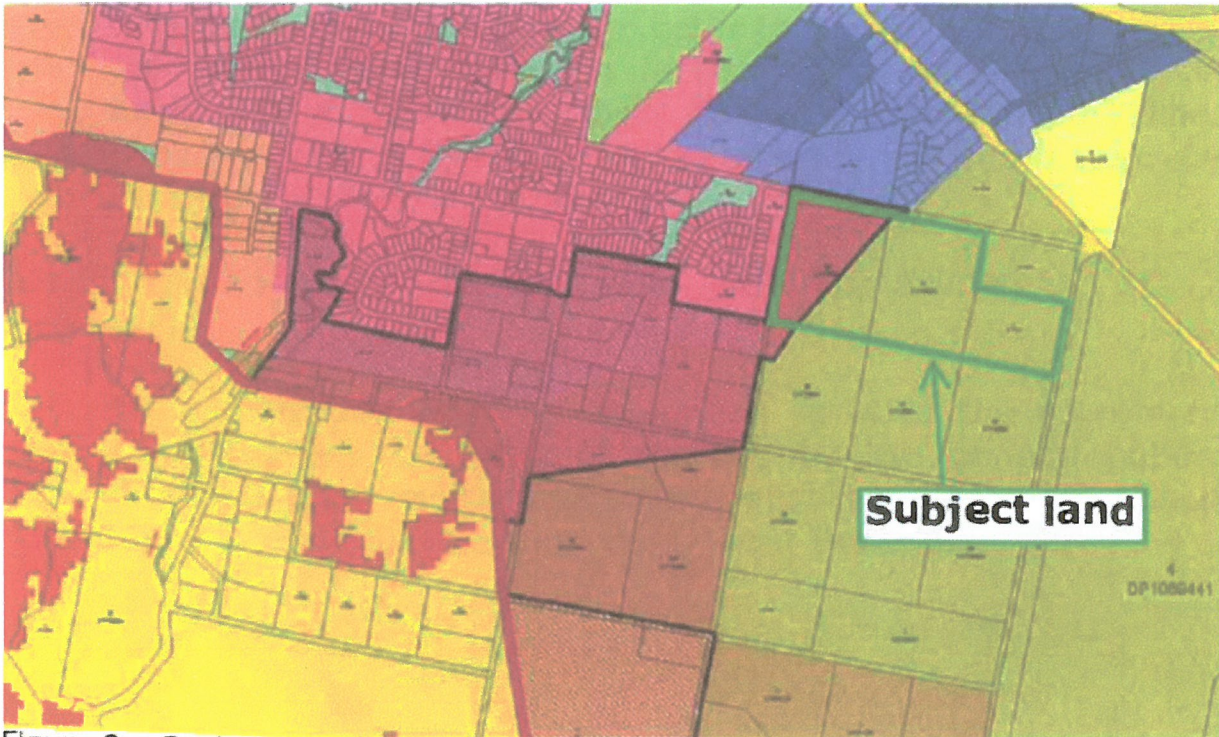


Figure 6 – Bush Fire Prone Land

- **BUILDING ENVELOP** – footprint and height relative to adjoining development/uses and indicative layout of proposed uses in relation to adjoining development/uses.

Refer plan of an 80 bed ACF on proposed 12410m<sup>2</sup> lot.

The proposed single storey 80 bed ACF will have ample curtilage with 4.4m clearance to a landscaped water feature to the east and a minimum of 7.5m to a closed 'paper' road to the north.

The Mudgee township is characterised by low density, single storey detached dwellings on approximately 1000m<sup>2</sup> lots.

Typical single storey 'project style' dwelling construction is occurring on new urbane release lands to the west of the site.

Further surrounding development comprised predominantly single storey dwellings and outbuildings on larger rural-residential lifestyle allotments.



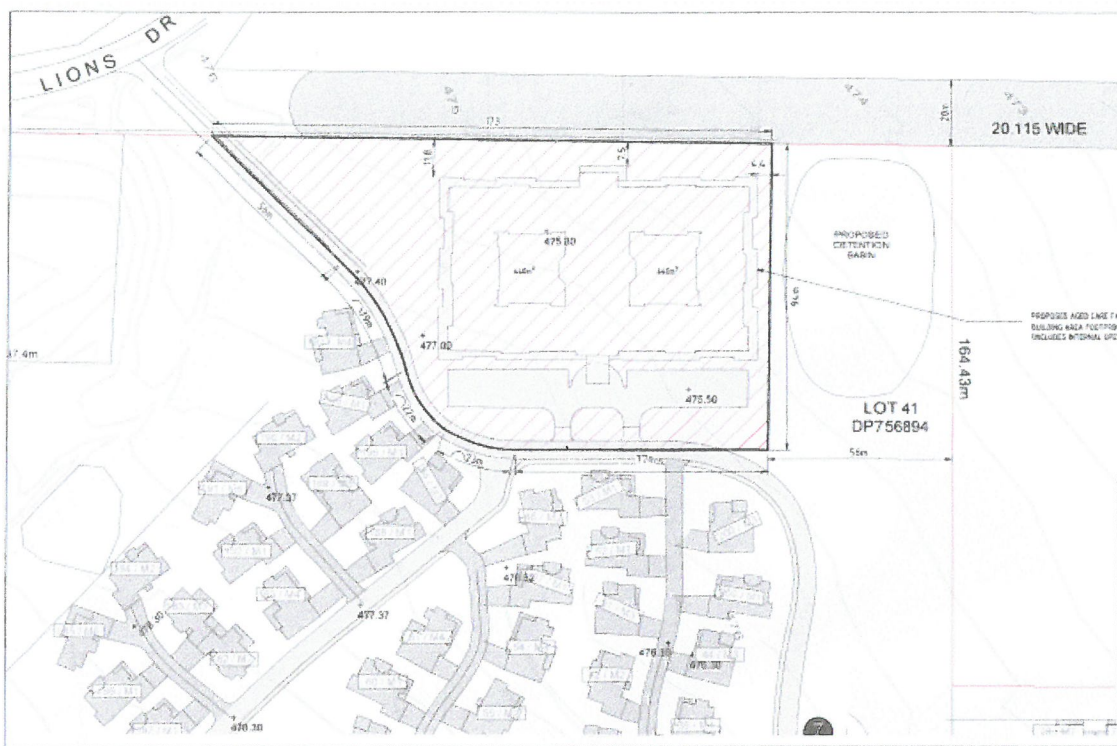


Figure 7 – Plan of 80 bed ACF on 12410m<sup>2</sup> lot

- **PROPOSED EXTENT OF CLEARING OF NATIVE VEGETATION**

None – NOT APPLICABLE

### 3. STRATEGIC JUSTIFICATION

- **BRIEF DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The proposed ACF is planned to be of between 60 and 80 beds with the final size determined after more detailed studies have been completed and the impact of changes proposed by the Federal Government in regard to aged care delivery.

As background – from February 2017 significant changes in regard to the delivery of in-home care services are due to come into effect which will see increased consumer choice and the likely rationalisation of providers delivering services. The roll-on effect of these changes and the impact that changes in in-home service delivery will have on residential care is yet to be seen, however the most likely impact will be:

- Care recipients being serviced in-home for longer periods of time
- Significant increase in the level of frailty and complexity of care for persons who ultimately enter residential care.
- The demand in numerical terms for residential care still increasing due to the demographic ageing population and persons living longer.

The co-location of the planned seniors housing alongside a residential aged care facility which also operates outreach in-home services would obviously be well positioned in addressing these trends.

- **RELATIONSHIP WITH REGIONAL AND LOCAL STRATEGIES**

Midwestern Regional Council commissioned Hill PDA Consulting to undertake an Urban Release Strategy for Mudgee and Gulgong early in 2014 which was tabled at a Council meeting in late 2014.

This report contained an Australian Bureau of Statistics graph from the 2011 Census identifying the age distribution of the residents in the LGA which attested to the over 55 population in 2011 represented 31% of the population (which was identical to the regional NSW average), no recommendations were made in that report concerning the need for more specialist accommodation that an Aged Care Facility can provide.

This site currently adjoins land zoned Low Density Residential and is located immediately adjacent to one of Council's recent urban release areas, which is currently being developed. Further afield, land to the south west is currently zoned Investigation. The broad objective of this zone is to protect this land from further fragmentation. The proposed development supports this objective.

- **PUBLIC INTEREST REASONS FOR APPLYING FOR AN AGED CARE FACILITY IN THIS LOCATION**

Mudgee is the major Regional Centre for the Mid Western Local Government area with numerous smaller hierarchy urban areas (Gulgong, Kandos, Rylstone) that depend on, and inter-relate to, Mudgee for higher level services, such as medical and retail.

Further, according to NSW Health, the demographics of Mudgee LGA indicated an over 55 year old population of 27.7% in 2005 (30.6% in 2006 Census), with the projection that this age cohort will rise to 38.8% in 2025 (NSW Health). This demographic change is depicted in the following population pyramid.

Further, Mid Western Regional Council Social Report 2006, states that over the 18 years from 2001 to 2019, the population aged over 55 years is expected to increase by 2479 persons. This is a 42.23% increase compared to an estimate 23.5% increase for the population as a whole.

Currently, there are only six small facilities providing retirement village style accommodation in the Mid Western Regional Council area (including permanent beds at the local country hospital(s)). There are waiting lists for these facilities. An extract from Council's Social Report is provided at Annexure 2.

The proposal represents an opportunity to serve a substantial catchment of long-term ageing residents who can retire to a major regional centre to better access necessary services without having to relocate to the Eastern Seaboard to secure modern well serviced, self care accommodation away from their existing long-term support, such as family and friends.

The site chosen for this Aged Care Facility is ideally positioned in as much as it will be located next to a new 194 home self care retirement village, and diagonally opposite the largest manufactured home estate in Mudgee, which will maximise the opportunity for spouses living in these villages to visit partners who may subsequently be affected with dementia or specialised care needs.



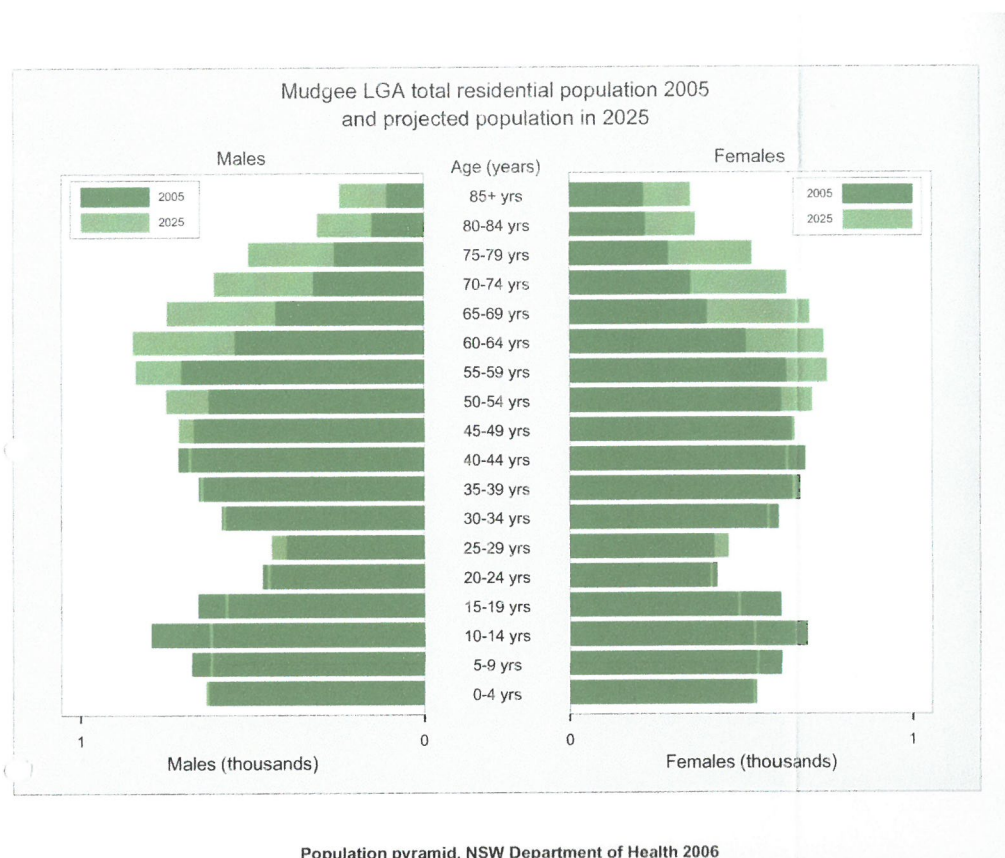


Figure 8 – Population pyramid, NSW Department of Health 2006

#### • ADEQUACY OF SERVICES AND INFRASTRUCTURE TO MEET DEMAND

The Mid-Western Regional Council area is currently serviced by three hospitals and numerous community health services supported by both resident general practitioners and visiting specialists.

Retail and Commercial Services are of a standard that would be expected in a Major Regional centre with full Banking Services, national and chain stores, as well as boutique and specialty shopping facilities.

The town enjoys a variety of social and recreational clubs/facilities and offers a variety of support services.

The town has daily access to Sydney travel by air & coach. The town is also serviced by local bus, taxi and hire car services.

Mudgee is not subject to local water restrictions, with adequate supply in the Windamere Dam and underground reserves. Council, as local water and sewer authority, is also proactive in planning for future growth by planned upgrades to its Mudgee Sewer Scheme, and is soon to commence a major review of assets to ensure required works over the next 25 years are captured.

The site adjoins residentially zoned land to the west and has water and sewer access. A copy of Council's sewer diagram is provided as Annexure 3.

## **C2 STATEMENT ON THE PROPOSAL SEPP SITE COMPATABILITY CRITERIA**

**CRITERIA 1: The natural environment values (including known significant environmental values, resources or hazards), and the existing uses and approved uses of land in the vicinity of the proposed development.**

The current physical environment of the site is a highly modified agricultural landscape, currently used for grazing purposes. The site has no significant environmental values.

While the site is mapped as 'prime' agricultural land, further analysis and ground trothing by a qualified consultant revealed a much lesser standard. The immediate locality is subject to fragmented holdings in separate ownerships. Nonetheless, true 'prime' agricultural land is well represented in the other parts of the locality and surrounds.

The highly managed pastures upon the site present a minimal bushfire hazard and the site is not mapped as bush fire prone. Due to the gentle slope of the land and the stable nature of the soils there are no slippage or instability issues.

The S149 Certificates (Enclosed Annexure 1) does not identify any environmental or policy prohibitions or constraints to the site.

The subject site adjoins land zoned Low Density Residential and this land is located immediately adjacent other residentially zoned land and in close proximity to other land identified for future urban release.

**CRITERIA 2: The impact that the proposed development is likely to have on the uses that are likely to be the future uses of the land.**

The impact of the proposed development will see the slow retirement of the very minimal agricultural uses on the site of the proposed development as the proposed "senior living" project materialises (combined retirement village and ACF). This form of development is consistent with the urban release area located immediately adjacent to the west and to the north east. In addition, preliminary discussions for a Catholic School immediately adjacent to the south west boundary of the DA approved retirement village continue on land purchased by the Church for that purpose (land identified as Lot 40 in DP756894).

The development will connect with the existing nearby hard infrastructure such as roads, water and sewer as verified by independent civil engineering consultants and in discussion with Council staff. If this development did not occur, it is likely that this site would be used for some other form of urban development in the foreseeable future. Currently, proposed adjacent uses would likely see the site's current use change in the sort to medium term, irrespective of this proposal. An advantage of this proposal is that it is part of a co-ordinated "master plan" to address the long term needs of the aged and disabled.



**CRITERIA 3: The services and infrastructure that are or will be available to meet the demands arising from the development (particularly retail, community, medical and transport services having regard to the location and access requirements set out in Clause 26 of the SEPP) and a proposed financial arrangements for infrastructure provision.**

Mudgee's retail and commercial Services include all major banks and financial institutions, National supermarkets such as 'Woolworths' and 'Coles' and other major chain and independent retail outlets.

There is extensive existing service and infrastructure resources currently provided in Mudgee, these include public and private health facilities and specialist practitioners. It is proposed to include professional consulting room(s) within the development and make service arrangements for the use of these rooms with local professional for on-site access by residents.

Access to Mudgee CBD (3 kilometres from the site) is via a sealed road with a scheduled bus route (No. 560) running Monday to Friday, twice morning and twice afternoon on an existing route which abuts the subject land (Refer Annexure 4). The development will also have its own bus with a regular timetable for residents.

The subject land and existing pathways to transport are generally of a 1:40 to flat gradient.

In relation to the financial arrangements for infrastructure provisions, where facilities are not provided in the development or within ancillary developments associated with the Aged Care Facility, external contractors will be retained on a user pays basis.

**CRITERIA 4: In the case of applicants in relation to land is zoned open space or special uses – the impact that the proposed development is likely to have on the provision of land for open space or special uses in the vicinity of the development.**

NOT APPLICABLE TO THIS APPLICATION

**CRITERIA 5: Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and further uses of land in the vicinity of the development.**

The project is a development of low-density single storey construction built in accordance with the stringent guidelines governing the construction of ACF's. The site will be extensively landscaped, such that the end result will be a significant improvement to the rural-urban interface than can often occur with convention urban release areas.

As the development will be located between existing urban development (the new DA approved retirement village) similar low density single storey development, and the likely future school site further to the south, it will have minimal impact in built form with the uses compatible with the general residential environment.

Annexures for Site Compatibility Application... 30th September  
2016

Property..Lot 3 D.P. 1130059, Lions Drive Mudgee NSW

Applicant.. G X Nominees Pty Ltd (As trustee for First Mortgage  
Superannuation Fund)

Annexures.

- 1) Mid-Western Council's 149 Certificate
- 2) Retirement Village Approval MA 0034/2012 16/8/2016
- 3) Mid-Western Regional Council Letter confirming location of  
Sewer main
- 4) Site Compatibility Approval for 206 home Retirement Village
- 5) Master Plan of combined Retirement Village/ ACF
- 6) Pre-lodgement correspondence with Mid-Western Regional  
Council.
- 7) Confirmation of ownership of land on which the proposed  
development is to be located...Lot 3 D.P. 1130059

\*\*\*\*\*



**PLANNING CERTIFICATE**

Applicant:

Gx Nomwees Pty Ltd  
Po Box 6137  
WEST GOSFORD NSW 2250

**PLANNING CERTIFICATE UNDER  
SECTION 149 ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT 1979**

Certificate No.: PC0104/2016

Receipt No: 344426

Date: 07 August 2015

Property No: 21377

Customer Ref: Crighton Mudgee  
Pty Limited

Owner (as recorded by Council):

Crighton Mudgee Pty Limited  
C/- De Vries Tayeh  
PO Box 218  
PARRAMATTA NSW 2124

Property Address: 38 Spring Flat Road SPRING FLAT NSW 2850

Property Description: Lot B DP 162225  
Lot 3 DP 1130059  
Lot 4 DP 1164833

The Environmental Planning and Assessment Act 1997 commenced operation on the 1 July 1998. As a consequence of this Act the information contained in this certificate needs to be read in conjunction with the provisions of the Environmental Planning and Assessment (Amendment) Regulation 1998, Environmental Planning and Assessment (Further Amendment) Regulation 1998 and Environmental Planning and Assessment (Savings and Transitional Regulation 1998).

**SECTION A INFORMATION PROVIDED PURSUANT TO SECTION 149(2) OF THE ACT**

**MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012**

This planning instrument was published 10 August 2012 on the NSW Legislation website and applies to all the land within Mid-Western Region Local Government Area.

**AMENDMENTS TO MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012**

Amendment No.1 - Temporary Workers' Accommodation - Published 10 August 2012 on the NSW Legislation website

**CURRENTLY THE LAND IS ZONED:**

**RU4 Primary Production Small Lots**

Note: where two or more zones appear the property is affected in part by each zone.  
LAND USE ZONING TABLE:

The following land use zoning table(s) apply to the land the subject of this Certificate.

**Zone RU4 Primary Production Small Lots**

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Intensive plant agriculture; Roads; Water reticulation systems

3 Permitted with consent

Cellar door premises; Dwelling houses; Farm buildings; Home industries; Plant nurseries; Roadside stalls; Any other development not specified in item 2 or 4

4 Prohibited

Air transport facilities; Amusement centres; Attached dwellings; Backpackers' accommodation; Boarding houses; Boat building and repair facilities; Boat launching ramps; Boat sheds; Car parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Crematoria; Exhibition homes; Exhibition villages; Freight transport facilities; Group homes; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Hostels; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Industries; Intensive livestock agriculture; Jetties; Livestock processing industries; Marinas; Mooring pens; Moorings; Mortuaries; Multi dwelling housing; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Sawmill or log processing works; Semi-detached dwellings; Seniors housing; Service stations; Sex services premises; Shop top housing; Signage; Stock and sale yards; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Wholesale supplies

**SECTION B: OTHER PRESCRIBED INFORMATION PURSUANT TO SECTION 149(2) OF THE ACT**

As at the date of this Certificate the following State Environmental Planning Policies, Development Control Plans, Directions under Environmental Planning and Assessment Act and other Special Provisions apply.

State Environmental Planning Policy (Affordable Rental Housing) 2009

This policy aims to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

State Environmental Planning Policy BASIX 2004

The purpose of the SEPP is to encourage sustainable residential development. An application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.



State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The aim of this policy is to provide streamlined development processes for development that complies with specific development standards.

It identifies exempt and complying development codes that have state wide application including the General Exempt Development Code, the General Housing Code, Housing Internal Alterations Code and General Commercial and Industrial Code.

State Environmental Planning Policy (Infrastructure) 2007

The aim of this policy is to facilitate the effective delivery of infrastructure across the state and repeals a number of other previous SEPP's.

It provides development controls related to air transport, correctional centres, educational establishments, electricity generating works, electricity transmission and distribution, flood mitigation, forestry, emergency services facilities, gas transmission or distribution, health services facilities, housing and group homes and many other facilities.

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

This policy is to ensure that suitable provision is made for ensuring safety of persons using temporary structures and encourage the protection of the environment at such locations.

State Environmental Planning Policy (Rural Lands) 2008

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes.

It identifies rural planning principles and rural subdivision principles, will implement measures designed to reduce land use conflict, identifies state significant agricultural land and amends provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The SEPP consolidates and updates many existing planning provisions related to mining, petroleum production and extractive industries as well as introducing new provisions to ensure that potential environmental and social impacts are adequately addressed during the assessment and determination of development proposals.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This policy aims to increase availability and to provide a wider choice of residential accommodation for seniors or people with a disability. The policy establishes development standards and requirements for support services.

SEPP No 15 - 9 April 1998 - Rural Landsharing Communities

This Policy aims to encourage and facilitate development of rural landsharing communities to collectively manage land in an environmentally sensitive and sustainable manner and to provide for low cost housing. The Policy establishes criteria for rural landsharing community development, matters for Council consideration, environmental considerations, site analysis and management requirements for development proposed under the Policy.

SEPP No 21 - Caravan Parks

This Policy outlines requirements for development consent principally in relation to long term use of sites in caravan parks and for subdivision by long leases.

Development Consent is not required for installation or placement of moveable dwellings on sites in lawfully operating caravan parks.

SEPP No 30 - 8 December 1989, Amended 28 August 1993, 24 February 1995 and 11 June 1999 - Intensive Agriculture

This Policy requires development consent for cattle feedlots having a capacity of 50 or more head of cattle, piggeries having a capacity of 200 or more pigs or 20 or more breeding sows. This Policy also aims to extend the definition of the term "rural industry" where used in environmental planning instruments so as to include within the meaning of that term composting facilities and works, including facilities and works for the production of mushroom substrate.

SEPP No 33 - 13 March 1992 - Hazardous and Offensive Development

This Policy redefines hazardous and offensive developments and specifies that such proposals be advertised, be well documented and that Council consider any measures taken to mitigate their impact.

SEPP No 36 - 16 July 1993 - Manufactured Homes Estates

This Policy aims to facilitate the establishment of well designed and properly serviced manufactured home estates in suitable locations as an alternative to traditional housing.

SEPP No 44 - Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.

The Policy applies to all land with an area of more than one hectare to which a Development Application has been made.

SEPP No 55 - Remediation of Land

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The Policy applies to the whole state, to ensure that remediation is permissible development and is always carried out to a high standard. It specifies when consent is required for remediation and lists considerations that are relevant when rezoning land and determining development applications.

SEPP No 62 - Sustainable Aquaculture

The aims and objectives of this Policy are to encourage sustainable aquaculture, including sustainable oyster aquaculture, in the State, namely, aquaculture development which uses, conserves and enhances the community's resources so that the total quality of life now and in the future can be preserved and enhanced.

SEPP No 64 - Advertising Signage

This Policy provides controls which will improve the quality of outdoor advertising and our environment.



SEPP No 65 - 26 July 2002 - Design Quality of Residential Flat Development

This Policy aims to improve the design quality of residential flat developments in New South Wales.

State Environmental Planning Policy (State and Regional Development) 2011

The purpose of the SEPP is to identify development that is State significant development, State significant infrastructure and critical State significant infrastructure. It also confers functions on joint regional planning panels to determine development applications.

State Environmental Planning Policy (Major Development) 2005

The purpose of the SEPP is to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State.

Mid-Western Regional Development Control Plan 2013

This plan provides guidelines for all types of development within the Mid-Western Regional Council Local Government Area. It replaces all of the separate Development Control Plans and includes standards for Residential, industrial, commercial, wind farm, temporary workers accommodation, signage and other forms of development.

Land Not Within Conservation Area

The land the subject of this Certificate is not within a Heritage Conservation Area as identified in the Mid-Western Regional LEP 2012.

Not an Item of Environmental Heritage

The land the subject of this certificate is **not** identified in Schedule 5 of the Mid-Western Regional LEP 2012 as an item of Environmental Heritage.

Dwelling Houses - RU4 Primary Production Small Lots Zone

Mid-Western Regional Local Environmental Plan 2012 specifies a minimum lot size of 20 hectares for the erection of a dwelling in this zone. Please note that there may be other provisions in the LEP that may apply if the land does not meet the minimum allotment size.

Approval must be obtained either through the Development Application or Complying Development Certificate process prior to the erection of a dwelling on this land.

The Land is Not Subject to Road Widening

Council's records indicate that the land the subject of this Certificate is NOT affected by any road widening or road re-alignment under:

- 1) Division 2 of the Roads Act, 1993;
- 2) Section 262 of the former Local Government Act, 1919;
- 3) Any Environmental Planning Instrument
- 4) Any resolution of Council.

Coastal Protection

Council has not been notified, by the Department of Public Works, that the land the subject of this Certificate is affected by the operation of Section 38 or 39 of the Coastal Protection Act, 1979.

Risk of Land Slip or Subsidence

No information available re land slip or subsidence. Land is not within a Proclaimed Mine Subsidence District.

Identified Critical Habitat

The land the subject of this Certificate does not contain any identified critical habitats.

No Acquisition by Public Authority

The land the subject of this certificate is NOT subject to acquisition by a public authority under a planning scheme or a draft planning instrument.

State Significant Development - Land is not Subject

The land the subject of this Certificate is not the subject of an order by the Minister for Planning and Infrastructure regarding State Significant development pursuant to Section 89C(3).

SEPP (Exempt & Complying Development Codes) 2008

Complying Development may be carried out on this land under the State Environmental Planning Policy SEPP (Exempt and Complying Development Codes) 2008.

Note: For land that is bushfire prone or a flood control lot MUST satisfy additional requirements of the SEPP (Exempt & Complying Development Codes) 2008. Please contact Council to discuss these requirements.

Section 94 Development Contributions Plan

Council's Section 94 Plan applies to future commercial/ retail/ industrial development within the Mudgee Town Centre and subdivision within the Mid-Western Regional Council Local Government Area. Contact Council's Planning Department for any queries regarding this matter.



Section 94A Development Contributions Plan

Council's Section 94A Plan applies to future commercial/ retail/ industrial/ tourism development outside of the Mudgee Town Centre and Residential Development within the Mid-Western Regional Council Local Government Area. Contact Council's Planning Department for any queries regarding this matter.

Land May be Subject to Flood Management Plan

The land the subject of this certificate is not within the Flood Risk Precincts identified by the Mudgee Floodplain Management Study. The provisions of the Floodplain Management Plan may also apply to land that is affected by localised flooding.

Land is Not Bushfire Prone

The land the subject of this certificate has not been identified as being bush fire prone in accordance with the Environmental Planning and Assessment Act 1979 and Mid-Western Regional LGA Bush Fire Prone Land map.

SECTION C: ADDITIONAL INFORMATION PURSUANT TO SECTION 149(5) OF THE ACT

Development Consent Has Not Been Granted

Council's records indicate that Development Consent with respect to the land the subject of this Certificate has NOT been granted within the last five years.

Tree Preservation Order

The land the subject of this Certificate may be affected by a Tree Preservation Order. An application is required from Council for removal of trees that are listed on Council's significant tree register.

For further information please contact  
Planning & Development Section

Certificate No. 1495 934891

  
-----  
SENIOR PLANNER/TEAM LEADER

**END OF 149 CERTIFICATE**

Prospective buyers should consider requesting a Section 64 Certificate from Council. A Section 64 Certificate will provide information on current Weed Control Notices on the property and/or any debt on the land in relation to noxious weeds and their control. (These debts and outstanding notices remain with the property when sold and become the responsibility of the purchaser.)



PO BOX 156  
MUDGEE NSW 2850

86 Market Street MUDGEE  
109 Herbert Street GULGONG  
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850  
Fax: (02) 6378 2815

email: council@midwestern.nsw.gov.au

Sarah Armstrong:ah P0973261

16 August 2012

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DA\Amend 628001.docx



Crighton Mudgee Pty Limited  
PO Box 3369  
TUGGERAH NSW 2259

Dear Sir/Madam

**SECTION 96 APPLICATION NO: MA0034/2012 – HOUSING COMPLEX FOR AGED  
PERSONS / PEOPLE WITH DISABILITIES - LOT 197 DP 756894 LOT 41 DP 756894  
LOT 1 DP 577656 LOT B DP162225 LOT 2 DP 577656  
SPRING FLAT ROAD SPRING FLAT NSW 2850**

Reference is made to the original development application (DA0370/2009) approved by Council on 21 April 2010.

An amended development consent No. MA0034/2012 is now attached.

The consent is a legal document and should be kept for your future reference as the development proceeds. It should be noted that commencement of the development implies your acceptance of the conditions of consent.

Should you have any query regarding the consent or associated conditions, do not hesitate to contact myself or the appropriate Council officer.

Yours faithfully

A handwritten signature in black ink, appearing to read "Gary Bruce".

**GARY BRUCE  
MANAGER STATUTORY PLANNING**





PO BOX 156  
MUDGEE NSW 2850

86 Market Street MUDGEE  
109 Herbert Street GULGONG  
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850  
Fax: (02) 6378 2815

email: council@midwestern.nsw.gov.au

## Notice of Amended Determination of a Development Application

Issued under the *Environmental Planning and Assessment Act 1979* Section 96 (2))

<b>Our Ref:</b>	Sarah Armstrong:ah P0973261	<b>Sec 96 No:</b>	MA0034/2012
<b>Applicant:</b>	Crighton Mudgee Pty Limited PO Box 3369 TUGGERAH NSW 2259	<b>Land to be Developed:</b>	Lot 197 DP 756894 Lot 41 DP 756894 Lot 1 DP 577656 Lot 2 DP 577656
<b>Proposed Development:</b>	Units for Aged/People with Disabilities	<b>Building Code of Australia Classification:</b>	n/a
<b>Date of Determination:</b>	17 July 2012		
<b>Determination:</b>	<b>CONSENT GRANTED</b> subject to conditions set out below		
<b>Consent to operate from:</b>	21 July 2010	<b>Consent to lapse on:</b>	21 July 2015

Original DA No: 0370/2009

Section 96 No: MA0034/2012 - modification of Conditions 78 and 80.

### CONDITIONS

### APPROVED PLANS

1. Development is to be carried out generally in accordance with stamped approved plans:
  - DA00 Rev 8.0 Title Sheet and Drawing Schedule
  - DA01 Rev 8.0 Site Analysis Plan
  - DA02 Rev 8.0 Site Masterplan
  - DA03 Rev 8.0 Site Landscape Masterplan
  - DA04 Rev 8.0 Development Response to Site Analysis Plan
  - DA05 Rev 8.0 Typical Residential Cluster Landscape Concept
  - DA06 Rev 8.0 Development Response and SEPP (Seniors Living) 2004 Compliance
  - DA07 Rev 8.0 Village Facilities – Plan
  - DA08 Rev 8.0 Village Facilities – Clubhouse
  - DA09 Rev 8.0 Village Facilities – Other Buildings
  - DA11 Rev 8.0 Village Facilities – Landscape Concept
  - DA13 Rev 9.0 Staging Plan
  - DA14 Rev 8.0 Houses Type M1
  - DA15 Rev 8.0 Houses Type M2
  - DA16 Rev 8.0 Houses Type M3, M4 & M5

DA17 Rev 8.0 Houses Type M5s, M6 & M7  
DA18 Rev 8.0 House Compliance Plan and Landscape Concept Plan  
DA19 Rev 8.0 Site Sections & Landscape Concepts  
DA20 Rev 8.0 Miscellaneous Project Information  
DA21 Rev 8.0 Site Survey

and the Application received by Council on 7th June 2009 except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

## GENERAL CONDITIONS STAGES A1 TO A12 & STAGES B13 TO B21

***The following conditions have been applied to ensure that the use of the land and/or building is carried out in a manner that is consistent with the aims and objectives of the environmental planning instrument affecting the land.***

2. All buildings and pedestrian access must be provided with adequate means of access for persons with disabilities in order to comply with the Building Code of Australia and the Disability Discrimination Act 1992.

In this regard, the applicant must submit an access design detail for the Development which has been certified by a qualified Accredited Access Advisor\* with the Construction Certificate application.

### NOTE

- 1: Compliance with the Building Code of Australia only, may still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.
- 2: \* A qualified Accredited Access Advisor is a current member of:-  
Association of Consultants in Access Australia Inc  
326 Autumn Street, HERNE HILL, VICTORIA 3218  
Ph (03) 5221 2820  
EMAIL: [secretary@access.asn.au](mailto:secretary@access.asn.au) WEB: [www.access.asn.au](http://www.access.asn.au)
- 3: A qualified Accredited Access Advisor should carry current and relevant public liability and public indemnity insurance for the practice of their trade.
3. The applicant must also consider the requirements of the Disability (Access to Premises-Buildings) Standards which would be applicable to the development.
4. The access to Lion's Drive shall provide a secondary access for the development.
5. The proposed development shall be constructed and operated as 'serviced self contained dwellings' in accordance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
6. The proposed development shall only accommodate:
  - (a) seniors or people who have a disability,
  - (b) people who live within the same household with seniors or people who have a disability,
  - (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.





PO BOX 156  
MUDGEE NSW 2850

86 Market Street MUDGEE  
109 Herbert Street GULGONG  
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850  
Fax: (02) 6378 2815  
email: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

(insert reference) DD0270/2013  
Our Ref: 21377

19 December 2012

Your Ref: Mudgee DD

Crichton Mudgee Pty Limited  
PO Box 3369  
TUGGERAH NSW 2259

Dear Sir/Madam

**DRAINAGE DIAGRAM - 38 SPRING FLAT ROAD SPRING FLAT NSW 2850**

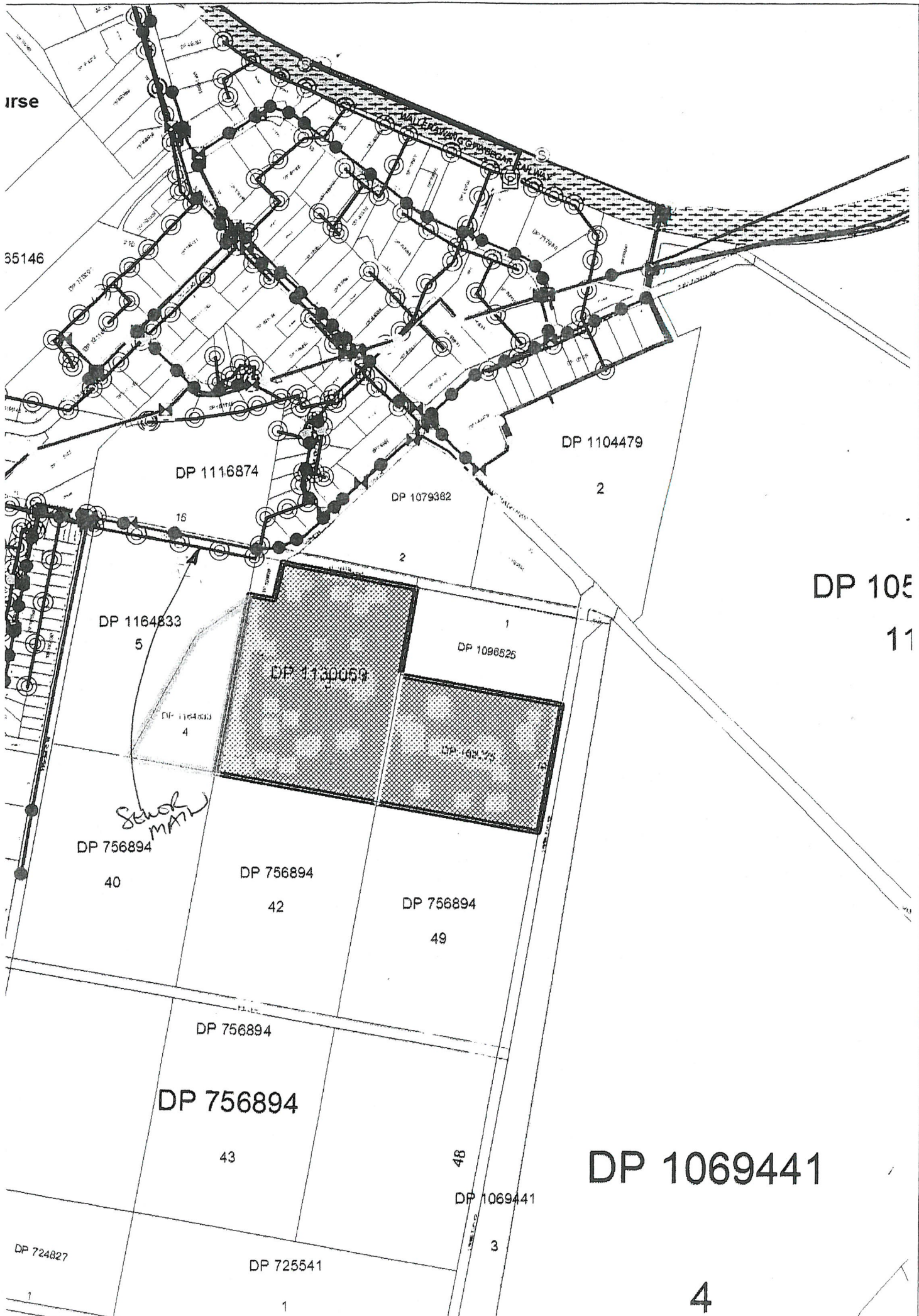
**LEGAL DESCRIPTION:** Lot 4 DP 1164833  
Lot 3 DP 1130059  
Lot B DP 162225

With reference to the abovementioned drainage diagram application lodged with Council on 19 December 2012, we wish to advise that Council is unable to supply you with a drainage diagram for this parcel of land as the sewer main does not extend past the town boundary.

Yours faithfully

**SIMON STAINES**  
**TEAM LEADER - CUSTOMER SERVICE**

A handwritten signature in black ink, appearing to read "Simon Staines", written over a horizontal line.







NSW GOVERNMENT  
Department of Planning

Office of the Director General

Crighton Mudgee Pty Ltd  
PO Box 3369  
TUGGERAH NSW 2259

Contact: Wayne Garnsey  
Phone: (02) 6841 7528  
Fax: (02) 6884 8483  
Email: wayne.garnsey@planning.nsw.gov.au

Our ref: SH2008-0010  
File: D08/00037-1

Dear Sir/Madam,

**Subject: Determination of application for a Site Compatibility Certificate under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.**

I refer to your application of 17 April 2008 for a Site Compatibility Certificate under Clause 25 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the SEPP) in relation to the proposed seniors housing development at Lots 197 & 41, DP 756894; Lot B, DP 162225; Lots 1 & 2, DP 577656, Spring Flat Road, Mudgee South, Mid-Western Regional LGA.

I have made the determination to issue the Site Compatibility Certificate under Clause 25(4)(a) of the SEPP on the basis that the site of the proposed development is suitable for more intensive development and that development for the purposes of seniors housing of the kind proposed in the application is compatible with the surrounding environment, having had regard to the criteria specified in Clause 25(5)(b).

However, there is potential for salinity impacts at the subject site. Further, there may be potential for undesirable on and off site salinity impacts unless appropriate management and mitigation measures are undertaken. Therefore salinity risks will need to be addressed when submitting a development application to Council for the proposed development.

Should you have any further enquiries about this matter, I have arranged for Mr Wayne Garnsey, Acting Senior Planner – Western Region, to assist you. Mr Garnsey may be contacted at the Department's Dubbo Office on telephone number (02) 6841 7528.

Yours sincerely

*Sam Haddad*

Sam Haddad  
Director General

26/5/2008

## Seniors Housing Determination of Certificate of Site Compatibility

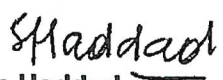
Part 1A of *State Environmental Planning Policy* (Housing for Seniors or People with a Disability) 2004

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I, the Director-General of the Department of Planning, pursuant to Clause 25(4)(a) of the *State Environmental Planning Policy* (Housing for Seniors or People with a Disability) 2004, determine the application made by Crighton Mudgee Pty Ltd on 17 April 2008 by issuing this certificate.

I certify that in my opinion :

- The site described in Schedule 1 is suitable for more intensive development; and
- The development described in Schedule 2 is compatible with the surrounding environment, having had regard to the criteria specified in Clause 25(5)(b).

  
**Sam Haddad**  
Director-General  
Department of Planning

Date certificate issued: 26 May 2008.

**Please note:** This certificate will remain current for 24 months from the date of issue.

---

### SCHEDULE 1

**Site description:** Lots 197 & 41 DP 756894; Lot B, DP 162225; Lots 1 & 2, DP 577656, Spring Flat Road, Mudgee

**Applicant:** Crighton Mudgee Pty Ltd

**Council:** Mid-Western Regional Council

---

### SCHEDULE 2

**Applicant:** Crighton Mudgee Pty Ltd

**Project description:** A maximum of 205 serviced self-care dwellings with ancillary services on part of the land to the east of Sawpit Gully.

**Requirements imposed upon determination:**

- (1) That salinity risks are to be addressed by Council when considering any development application for a Seniors Living development on the subject site and appropriate management and mitigation measures are to be undertaken in accordance with the recommendations of the '*Salinity Constraints Investigation for the Mudgee and Gulgong Areas 2006*'.
  - (2) The final number of serviced self-care dwellings on the subject site is to be determined by Council subject to resolution of environmental issues and detailed design.
  - (3) Staging of the development – Details are to be provided to ensure that the amenities component of the development, associated with serviced self care housing as defined in Clause 13(3), occurs in Stage One of the development.
-



# ANNEXURE 5





**Geoff Cox**

---

**From:** Drew Roberts [Drew.Roberts@midwestern.nsw.gov.au]  
**Sent:** Friday, 3 June 2016 4:16 PM  
**To:** Geoff Cox  
**Subject:** Aged Care Facility

Hi Geoff,

With regards to the Aged Care Facility proposal on Lot 3 DP 1130059, a review of the Seniors Living SEPP suggests that it may be permissible with consent subject to obtaining a new site compatibility statement as per clause 24 of the SEPP. The original compatibility statement would have only been valid for a period of 24 months, after which point any new development application for a different form of Seniors Housing would require a fresh certificate as per clause 25(9).

Happy to discuss with you or Tony Tuxworth should you require any further clarification.

Regards,

Drew Roberts  
Senior Town Planner  
Mid-Western Regional Council

t 02 6378 2850 |  
f 02 6378 2815 | e [drew.roberts@midwestern.nsw.gov.au](mailto:drew.roberts@midwestern.nsw.gov.au)  
a 86 Market Street | PO Box 156 Mudgee NSW 2850  
w [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au)  
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## Geoff Cox

---

**From:** Lindsay Dunstan [Lindsay.Dunstan@midwestern.nsw.gov.au]  
**Sent:** Friday, 3 June 2016 9:02 AM  
**To:** Geoff Cox  
**Cc:** Drew Roberts  
**Subject:** Subdivision Aged Care Facility

Hi Geoff,

With regards to 38 Spring Flat Road and our meeting this morning concerning the same I can advise that a review of Council's LEP 2012 has unfortunately not revealed any mechanism/clause that could be applied to allow a subdivision or boundary adjustment between the three lots – as the lot/s created would be below the minimum lot size. The SEPP deals with land use approvals and allows you to utilise adjoining landuses, but unfortunately subdivision is under local controls and there are no exemptions available.

Additionally, we have requested the hard file relating to the original consent for the 'Seniors Living' development. Once we have reviewed the file I will provide some further advice regarding the permissibility etc of the Aged Care Facility. The file should be available by tomorrow so I am anticipating to get you a response by either tomorrow afternoon or Monday.

Regards,

Lindsay Dunstan  
Manager Statutory Planning  
Mid-Western Regional Council

t 02 6378 2850

f 02 6378 2815 | e [lindsay.dunstan@midwestern.nsw.gov.au](mailto:lindsay.dunstan@midwestern.nsw.gov.au)

a 86 Market Street | PO Box 156 Mudgee NSW 2850

w [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au)

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# ANNEXURE 7

**Geoff Cox**

---

**From:** Don Henderson [donh@conditsis.com]  
**Sent:** Monday, 15 August 2016 11:50 AM  
**To:** Geoff Cox  
**Subject:** G X Nominees Pty Ltd mortgage to Crighton Mudgee Pty Ltd in liquidation  
**Attachments:** Deed signed by Liquidator.pdf

Dear Geoff

See the attached Deed signed by the liquidator.

We shall provide you with a full report and our tax invoice shortly.

Regards

Don Henderson

Solicitor



PO BOX 1357 Gosford NSW 2250

DX 7237 Gosford

Suite 305, Level 3, Kensmen Building 131-133 Donnison St Gosford

☎ 02 4324 5688

📠 02 4323 2184

✉ [donh@conditsis.com](mailto:donh@conditsis.com)

🌐 [www.conditsis.com](http://www.conditsis.com)

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## DEED OF AGREEMENT

This deed is made on the 15<sup>TH</sup> day of August 2016

**BETWEEN: G X NOMINEES PTY LIMITED ACN 109 303 586 ("the Mortgagee");**

**AND: CRIGHTON MUDGEE PTY LIMITED (In Liquidation) ACN 130 075 795  
("the Mortgagor")**

### Background

- A. On 16 May 2013 Riad Tayeh and David Solomons were appointed as Joint and Several Liquidators of the Mortgagor ("the Liquidators").
- B. On 16 May 2013 the Mortgagor was the registered proprietor of the land in Certificates of Title Folio Identifiers 4/1164833, 3/1130059 and B/162225, known as 38 Spring Flat Road Spring Flat ("the land") subject to first registered Mortgage No. AH510681A in favour of the Mortgagee.
- C. By letter dated 19 December 2013 the Mortgagee served upon the Liquidators a notice pursuant to Section 57 (2) (b) of the Real Property Act 1900, a copy of which is attached to this Deed.
- D. The land is vacant and the Mortgagor owns no fixed or moveable assets which are located on the land.
- E. The Mortgagee has notified the Mortgagor that it wishes to enter into possession of the land and has indicated that if the Liquidators do not consent, it will commence proceedings for orders for possession in order to exercise its rights under the Mortgage.

### Operative part

- 1. The Mortgagor consents to the Mortgagee taking possession of the land, effective on the date of this deed.
- 2. On and from the date of this deed, the Mortgagee assumes responsibility for:
  - (a) any applicable insurances;
  - (b) the payment of all liabilities payable in relation to the land (including without limitation any applicable rates and taxes); and
  - (c) its reasonable costs incurred in selling the land, subject to its rights of recovery of same pursuant to the Mortgage.

3. The Mortgagee agrees that any improvements to, development of or promotion of the land (other than the sale of the land as is) by the Mortgagee (or its employees or agents) on and from the date of this deed shall be at the Mortgagee's own cost and the Mortgagor or the Liquidators shall not be liable to pay, reimburse or compensate the Mortgagee in respect of any such costs or expenses.
4. The Mortgagee acknowledges that it enters into possession of the land in its current state and condition and has satisfied itself of the state and condition of the land prior to entering into this Deed
5. The Mortgagee hereby releases and forever discharges the Liquidators from any claim (whether in contract, equity or pursuant to any statute), cost, demand, suit, action the Mortgagee has or may have, directly or indirectly, in relation to the land.
6. To the extent necessary, the Mortgage is hereby varied by reason of the inclusion of clauses 4 and 5 to this deed.
7. The date of this Deed, shall be the date of first execution by a party.
8. This Deed shall be deemed effective and binding upon electronic exchange of executed counter-parts signed by the parties and in such event, the parties undertake to exchange original executed counter-parts within 7 days thereafter.

Executed as a deed by the parties in New South Wales

Signed sealed and delivered by  
G X Nominees Pty Limited ACN 109 303 586  
pursuant to Section 127 of the Corporations Act 2001:

.....  
Geoffrey John Cox  
Director

.....  
Andrew Douglas Cox  
Director


Signed sealed and delivered by  
Crighton Mudgee Pty Limited (in Liquidation) ACN 130 075 795  
pursuant to Section 127 of the Corporations Act 2001:

  
.....  
David Solomons  
Joint and Several Liquidator

Signed by  
David Solomons before me:


  
.....  
David Solomons

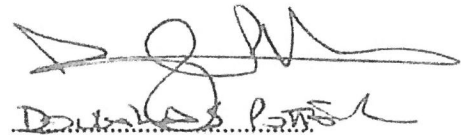
Witness - print name

  
.....  
W. MacKinnon

Signed by

Riad Tayeh before me:

  
.....  
Riad Tayeh

  
.....  
W. MacKinnon  
Witness - print name



**Espreon Online Information System  
NSW LPI Title Search**LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH  
-----FOLIO: 3/1130059  
-----

SEARCH DATE	TIME	EDITION NO	DATE
30/7/2012	1:09 PM	2	31/8/2011

LAND  
-----

LOT 3 IN DEPOSITED PLAN 1130059  
AT SPRING FLAT  
LOCAL GOVERNMENT AREA MID-WESTERN REGIONAL  
PARISH OF MUDGEE COUNTY OF WELLINGTON  
TITLE DIAGRAM DP1130059

FIRST SCHEDULE  
-----CRIGHTON MUDGEE PTY LIMITED (T AG466628)SECOND SCHEDULE (5 NOTIFICATIONS)  
-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 LAND EXCLUDES MINERALS WITHIN THE PART SHOWN SO INDICATED IN THE  
TITLE DIAGRAM - SEE CROWN GRANT
- 3 QUALIFIED TITLE. CAUTION PURSUANT TO SECTION 28J OF THE REAL  
PROPERTY ACT, 1900. ENTERED 16.06.2003 AS REGARDS THE PART IN BK  
4388 NO.387.
- 4 DP577656 EASEMENT FOR WATER PIPELINE APPURTENANT TO THE  
PART(S) OF THE LAND SHOWN SO BENEFITED IN THE TITLE  
DIAGRAM
- 5 DP1130059 EASEMENT TO DRAIN WATER VARIABLE WIDTH AFFECTING THE  
PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM

NOTATIONS  
-----

UNREGISTERED DEALINGS: NIL

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

12-0420 mb

PRINTED ON 30/7/2012

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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**Search of Folio: DP 3/1130059 Date: 30-07-12 Time: 13:09:42.352**

NELSON PARTNERS AUSTRALIA

Req:R246407 /Doc:DP 1130059 P /Rev:24-Oct-2011 /Sts:SC:OK /Prt:30-Jul-2012 13:14 /Pgs:ALL /Seq:1 of 3  
Ref:12-0420 mb /Src:E

