



# Proposed Secondary Dwelling

101 White Circle, Mudgee

## Statement of Environmental Effects

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**Prepared for:**

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## **1. Introduction**

This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) for a proposed secondary dwelling at 101 White Circle, Mudgee (herein known as the Site).

The development is described in the following documentation that accompanies the DA and this SEE:

- Architectural Plans
- BASIX Certificate
- Existing dwelling approved plans
- Section 88B Instrument
- Section 10.7 Certificate

This SEE describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. It provides an assessment of the proposed development against the heads of consideration as set out in Section 4.15 of the *Environmental Planning and Assessment Act (EP&A Act) 1979*.

## **2. Description of the Subject Site**

The subject site is located at 101 White Circle, Mudgee (Lot 199/-/DP1119919) within an established residential area. The site is irregular in shape and is approximately 932sqm in size.

The site is relatively level and clear of vegetation. Access to the property is available via a sealed driveway off White Circle.

An existing 4 bedroom/2 bathroom single storey brick dwelling is situated on the site. The dwelling has a double garage and a gross floor area of approximately 177sqm.

The subject site is not mapped as bushfire prone land or flood prone land. The property is not mapped as containing a heritage item, in the vicinity of a heritage item or within a Heritage Conservation Area (HCA). There are no other matters within the Section 88B instrument or Section 10.7 Certificate that would restrict the development of the proposal on the site.

## **3. Surrounding development and streetscape**

The subject site adjoins vacant land zoned RE1 Public Recreation/SP2 Infrastructure to the northeast and residential development in all other directions. The streetscape contains predominantly single dwellings, however, dual occupancy developments are interspersed in vicinity of subject site including 74/A, 111/A, 117/A White Circle and 4/A, 8/A, 10/A, 13/A Florence Circuit.

The proposed secondary dwelling will be consistent with the surrounding streetscape and will be in the rear yard obscured from view from the street.



**Figure 1:** Subject site



**Figure 2:** Surrounding development (site outlined in yellow)

## 4. The Proposal

### 4.1 Description of the Proposal

The proposed development comprises a 2 bedroom, 1 bathroom secondary dwelling in the rear yard of the subject property. The dwelling will be a maximum 3.993m in height and will be of timber/cladding construction with a Colourbond roof.

## 5. Statutory Framework and Development Controls

### 5.1 Legislation

The following Acts are relevant to the Proposal.

#### 5.1.1 Environmental Planning and Assessment Act 1979 (NSW)

The proposed works would require development consent from Mid-Western Regional Council and would be assessed under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 4.15 of the EP&A Act requires that the consent authority take into account the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

This SEE has been prepared to meet the requirements of Section 4.15 of the Act. As a result of this assessment, it is concluded that the secondary dwelling is considered to be acceptable on the subject site.

#### ***Ecologically Sustainable Development***

The encouragement of ecologically sustainable development (ESD) is one of the Objects of the EP&A Act. The principles of ESD are:

- (a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
  - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
  - (ii) an assessment of the risk-weighted consequences of various options,**
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*

*(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*

*(i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*

*(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*

*environmental goals, having been established, should be pursued in the most cost-effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The works are consistent with the principles of Ecologically Sustainable Development. The site has already been cleared and ecological impacts were considered as part of the original subdivision of the site. The works do not require removal of any vegetation and will have a negligible impact on the ecological qualities site.

#### **5.1.2 Environmental Planning and Assessment Regulation 2021 (NSW)**

Section 61 of the *Environmental Planning and Assessment Regulation 2021* prescribes a number of matters that must be taken into consideration by a consent authority in determining a development application, for the purposes of Section 4.15 of the EP&A Act. A review of these matters indicates that none are relevant to the proposed development.

#### **5.1.3 Heritage Act 1977 (NSW)**

The *Heritage Act 1977* protects and aims to conserve the environmental heritage of New South Wales. The subject site is not identified as, or in the vicinity of, a heritage item or Heritage Conservation Area (HCA).

#### **5.1.4 Biodiversity Conservation Act 2016**

The *Biodiversity Conservation Act 2016* (BC Act) protects species of threatened flora and fauna, endangered populations and endangered ecological communities and their habitats in NSW. It also lists Key Threatening Process that adversely affects threatened species, populations or ecological communities or that may cause species, populations or ecological communities that are not threatened to become threatened.

The proposed secondary dwelling would be constructed in a previously cleared, grassed area within the rear yard of the existing residence. No vegetation removal is required to accommodate the Proposal. As such, threatened fauna species and their populations as listed under the BC Act would not be impacted by the Proposal.

### **5.1.5 Rural Fires Act 1997**

The subject site is not mapped as bushfire prone land and the proposed development is not a Special Fire Protection Purpose (SFPP).

## **5.2 Environmental Planning Instruments**

The following environmental planning instruments are relevant to the Proposal.

### **5.2.1 Mid-Western Regional Local Environmental Plan 2012**

The Mid-Western LEP 2012 is the applicable planning instrument for development on the site. Specific clauses of the Mid-Western LEP 2012 relevant to the proposed subdivision include the following:

#### **Clause 2.3 Zone Objectives and Land Use Table**

The Proposal site is located within the Mid-Western Local Government Area (LGA) and is zoned R1 General Residential under the Mid-Western Local Environmental Plan (LEP) 2012 (see Figure 3). Secondary dwellings are permitted with consent in the R1 General Residential zone.

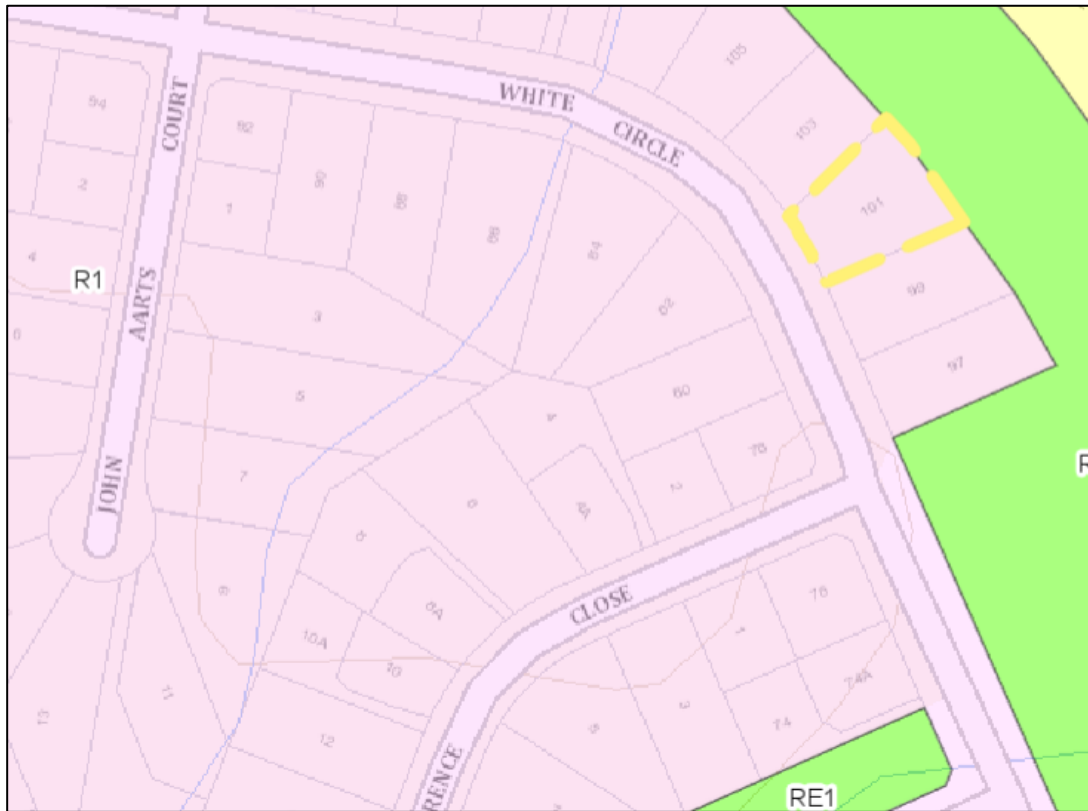
Clause 2.3 of the LEP references the Land Use Table and Objectives for each zone in the LEP. The objectives and permissible land uses in the R1 General Residential zone are as follows:

#### ***Zone R1 Primary Production***

##### ***1 Objectives of zone***

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed secondary dwelling will contribute to the variety of housing types in the Mid-Western LGA and provide more housing for the needs of the local community. The development is therefore consistent with the objectives of the zone.



**Figure 3** Mid-Western LEP 2012 Zoning Map Extract (site outlined in yellow)

**Clause 4.1 Minimum Subdivision Lot Size**

The application does not propose subdivision of the land; therefore this clause is not applicable.

**Clause 4.1 Height of Buildings**

The LEP prescribes a maximum building height of 8.5m for the site. The proposed secondary will be a maximum of 3.993m and therefore complies with this development standard.

**Clause 5.4 Controls Relating to Miscellaneous Permissible Uses**

Clause 5.4 (9) requires the following for secondary dwellings:

If development for the purposes of a secondary dwelling is permitted under this plan on land other than a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater:

- a) 60 square metres
- b) 50% of the total floor area of the principle dwelling



The total floor area for the proposed secondary dwelling is 60.65sqm (excluding the balcony as per GFA definition). The total floor area of the principal dwelling is 177sqm, therefore pursuant to clause (b) a secondary dwelling of maximum total floor area of 88.5sqm is permissible on the site.

The proposed secondary dwelling of 60.65sqm therefore complies with Clause 5.4(9)(b).

#### **Clause 5.10 Heritage Conservation**

The subject site is not identified as, or in the vicinity of, a heritage item or Heritage Conservation Area (HCA).

#### **Clause 5.21 Flood Planning**

The subject land is not mapped as flood affected as flood prone land.

Council's Engineering department were contacted on 4 August 2022 to confirm if any flood related development controls were applicable to the development and it was confirmed that no flood related controls apply to the subject development.

#### **Clause 6.3 Earthworks**

Minimal earthworks are required to facilitate the development. A maximum cut of 200mm and maximum fill of 300mm is proposed, which is permissible as exempt development.

#### **Clause 6.9 Essential Services**

All essential services are available at the property. The development will be connected to the existing infrastructure services.

### **5.2.2 State Environmental Planning Policy (Housing) 2021**

SEPP (Housing) 2021 allows development for the purpose of secondary dwellings to be carried out with consent provided:

*(2) Development consent must not be granted for development to which this Part applies unless—*

*(a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and*

*(b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and*

*(c) the total floor area of the secondary dwelling is—*

*(i) no more than 60m<sup>2</sup>, or*

*(ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.*

*(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—*

*(a) for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,*

*(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

As outlined previously, the proposed secondary dwelling is fully compliant with the maximum floor area requirements. The minimum site area of the site significantly exceeds the 450sqm minimum requirement and number of parking spaces provided on the site will remain the same before the development is carried out. Therefore, the proposal is compliant with the provisions of SEPP (Housing) 2021.

### **5.2.3 Mid-Western Development Control Plan 2013**

The Mid-Western Development Control Plan 2013 (DCP) applies to the development. An assessment against the Part 2 General Housing and Ancillary Structures provisions has been provided below. As can be seen the proposal complies with the relevant provisions of DCP 2013.

**Table 1 Compliance with the Mid-Western DCP 2013**

Objectives and Requirements	Compliance
<b>Part 2.1 General Housing and ancillary structures</b>	
<b>Building setbacks</b>	
<p><u>Zone</u> R1, R2 and R3 where Lot size is greater than 900m<sup>2</sup>, less than 2000m<sup>2</sup>.</p> <p><u>Street</u> 6.5m to building line or average of adjoining properties 7.5 to the garage</p> <p><u>Side/rear</u> 900mm</p>	<p><b>Complies</b></p> <p>The subject property is approximately 932sqm. The secondary dwelling will be located in the rear yard of the property and significantly exceeds the 6.5m setback requirement from the street. The development provides a minimum setback of 900mm to the rear boundary and minimum setback of 1500mm from the side boundary.</p>
<b>Building Height</b>	
<p>Single storey (Single storey dwelling is one that has only one storey (as defined by the BCA) and the Finished Floor Level (FFL) is less than 1 metre above natural ground level.</p>	<p><b>Complies</b></p> <p>The proposal is single storey and the FFL is less than 1m above natural ground level.</p>
<b>Privacy</b>	
<p>Single storey development achieving setbacks do not require specific privacy controls</p>	<p><b>Complies</b></p> <p>The development achieves setbacks therefore privacy controls do not apply.</p>

**Objectives and Requirements**

**Compliance**

**Design**

- 75% of the Private open space and internal living areas should have access to sunlight for 3 hours a day between 9 am and 3 pm with direct access to the main living areas.
- 80m2 of private open space is provided with a minimum dimension of 5 metres.
- No windowless facades at the street frontage(s).
- Street elevations are to include at least 5% of openings including windows, doors.
- Garages – the aggregate width of the garage door or carport shall not exceed 45% of the front elevation of the dwelling.
- For corner allotments no fences, structures or landscaping exceeding 1 metre in height are to be located within the triangle formed by a sight line 12 metres x 6 metres from the intersection of the two street boundary lines.
- Cannot be a transportable or relocated building.

**Complies**

- The private open space areas and internal living areas are north facing. Therefore, 75% of the private open space and internal living areas will have access to sunlight for at least 3 hours a day between 9 am and 3 pm with direct access to the main living areas. Given the siting and design of the development, the proposal will enable the existing dwelling and adjoining dwellings to retain adequate solar access to private open space and internal living areas.
- The proposal will retain well above 80sqm of private open space at the subject property.
- Two windows will be provided on the façade which faces the street.
- Well above 5% of openings including windows and doors are provided to the street frontage.
- No additional garage is proposed.
- The property is not a corner allotment.
- The proposal is not a transportable or relocated building.

**Parking**

Provision for parking of two vehicles behind the building line including at least one space undercover.

**Complies**

Objectives and Requirements	Compliance
	<p>The existing dwelling contains a double garage. No additional parking is proposed for the secondary dwelling. It is considered that adequate vehicular parking can be provided on-site on the driveway or on the street.</p> <p>In accordance with Section 53 of <i>State Environmental Planning Policy (Housing) 2021</i>, a consent authority cannot require more onerous standards for secondary dwellings with regard to parking as follows:</p> <p><i>(2)(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.</i></p> <p>In this regard, the number of parking spaces provided on the site will remain the same as the number of parking spaces provided on the site immediately before the development is carried out. Therefore, the proposal complies with the parking requirements for secondary dwellings.</p>
<b>Utilities</b>	
<ul style="list-style-type: none"> <li>• Buildings and structures are to be located clear of utility infrastructure.</li> <li>• No building can be located within an easement for the purposes of utility infrastructure.</li> <li>• Structures are to be located 1,500 mm for the centre line of the water or sewer main.</li> <li>• Stormwater shall be designed to flow to a gravity system. Alternatives are not acceptable.</li> <li>• No building on overland flowpaths</li> </ul>	<p><b><u>Complies</u></b></p> <ul style="list-style-type: none"> <li>• The secondary dwelling is located clear of all utility infrastructure.</li> <li>• The building will not be located within an easement and all structures will be greater than 1500mm from the centre line of the water or sewer main.</li> <li>• Reticulated water, electricity, telecommunications and sewer are currently provided to the site and it is proposed that the development be connected to the existing infrastructure.</li> <li>• The stormwater will be gravity fed to the street network.</li> <li>• The building will not be on overland flowpaths.</li> </ul>
<b>Fencing</b>	
<b><u>Complies</u></b>	

Objectives and Requirements	Compliance
No change to the existing fencing is proposed as part of the application.	
<b>Access</b>	
<p><u>Complies</u></p> <p>No change to existing access arrangements proposed as part of the application.</p>	
<b>Garages Outbuildings and Carports</b>	
<p><u>Complies</u></p> <p>No change proposed as part of the application.</p>	
<b>Ridgelines</b>	
<ul style="list-style-type: none"> <li>Development roofline must not project above the ridgeline where visible from any public road or place.</li> </ul>	<p><u>Complies</u></p> <p>The roofline does not project above the ridgeline where visible from any public road or place.</p>
<b>Slope and cut and fill</b>	
<ul style="list-style-type: none"> <li>The slope of the development site cannot exceed 15degrees.</li> <li>Cut is to be limited to 1,000mm.</li> <li>Fill is restricted to 600 mm. It must be clean fill and a geotechnical assessment issued for the fill to demonstrate compaction to the Australian Standard.</li> </ul>	<p><u>Complies</u></p> <p>The existing development site does not exceed 15 degrees. A maximum cut of 200mm is proposed and a maximum fill of 300mm is proposed. Soil from the cut will be reused on-site as fill. Fill will not be directed onto adjoining properties and cut/fill is not proposed within water or sewer easements.</p>

Objectives and Requirements	Compliance
<ul style="list-style-type: none"> <li>Any cut and/or fill must be provided with retaining walls, drainage and must be setback a minimum of 300 mm from any boundary.</li> <li>Fill must not direct stormwater onto adjoining properties and drainage pits for overland flow paths are to be provided.</li> <li>Cut and fill is not permitted within water or sewer easements.</li> </ul>	
<b>Pools</b>	
<p><b><u>Complies</u></b></p> <p>No pool proposed as part of application.</p>	
<b>Energy Efficiency</b>	
<ul style="list-style-type: none"> <li>New dwelling has a BASIX certificate.</li> </ul>	<p><b><u>Complies</u></b></p> <p>BASIX certificate submitted with application.</p>
<b><u>Permissibility</u></b>	
<ul style="list-style-type: none"> <li>The lot is to comply with the minimum area as designated on the LEP 2012 Lot Size Map or compliance must be achieved with Clause 4.2A for rural dwellings.</li> </ul>	<p><b><u>Complies</u></b></p> <p>The lot complies with the minimum lot size requirement.</p>

## **6. Likely Impacts of the Development**

### **6.1 Natural and Built Environment**

As demonstrated within this report, the proposed secondary dwelling will have negligible impacts on the natural and built environment. The proposal will be constructed on an existing allotment within an established residential area and is fully compliant with the Mid-Western LEP and DCP.

### **6.2 Social and Economic Impact**

It is considered that the proposal would provide a positive social and economic impact on the area by providing additional housing form and choice in a market currently experiencing housing shortage.

### **6.3 Suitability of the site**

It is considered that the site is suitable for the proposed development in that:

- No flora and fauna will be disturbed as a result of this development
- There are no identified constraints which would be considered to prohibit the development as proposed
- Utility services are available and adequate for the development
- There are no hazardous land uses or activities nearby
- The site allows large separation from the existing dwelling
- The proposal will not have any adverse impacts on the streetscape or the amenity of adjoining residences.

## **7. Conclusion**

This SEE has been prepared to meet the requirements of Section 4.15 (1) of the Act, which require a consent authority to take into consideration a number of matters as relevant to the development.

As a result of the assessment, it is concluded that development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.