

## 8.4 DA0078/2024 - Proposed Shed - 13 Harvey Street, Bombira

REPORT BY THE TOWN PLANNER AND BUILDING AND DEVELOPMENT CO-ORDINATOR  
TO 20 MARCH 2024 ORDINARY MEETING  
GOV400105, DA0078/2024

### RECOMMENDATION

**That Council:**

- A. receive the report by the Town Planner and Building and Development Co-Ordinator on the Development Application (DA0078/2024 - Proposed Shed - 13 Harvey Street, Bombira);**
- B. decline/refuse the lifting of the restriction of use sixthly referred to in the s88B Instrument for DP1259753; and**
- C. refuse Development Application (DA0078/2024) for a proposed shed based on the following statement of reasons:**

### STATEMENT OF REASONS

The determination decision was reached for the following reasons:

- 1. The proposed development does not achieve compliance with the Mid-Western Regional Development Control Plan 2013 in terms of Part 3.1 'Outbuildings'**
- 2. The proposed development is not considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979 in terms of the likely impacts of the development on the natural and built environment.**
- 3. The proposed development does not achieve compliance with the Restriction on the Use of Land sixthly referred on the Section 88b Instrument, and will consequently have a negative impact on the rural amenity on approach to the town centre.**
- 4. The close proximity of the shed to Ulan Road will negatively impact on the rural vistas surrounding the Mudgee Township.**

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### Executive summary

|   |  |
|---|--|
| <b>OWNER/S</b>                          | Ms Nicole L Rodda & Mr George Joubert          |
| <b>APPLICANT:</b>                       | Fernleigh Drafting                             |
| <b>PROPERTY DESCRIPTION</b>             | 13 Harvey Street, Bombira – Lot 503 DP 1259753 |
| <b>PROPOSED DEVELOPMENT</b>             | Construction of a shed                         |
| <b>ESTIMATED COST OF DEVELOPMENT:</b>   | \$60,000.00                                    |
| <b>REASON FOR REPORTING TO COUNCIL:</b> | Public Interest Decision                       |
| <b>PUBLIC SUBMISSIONS:</b>              | Nil  |

Council is in receipt of Development Application DA0078/2024 that seeks approval for the construction of a detached shed to be located, in the backyard of 13 Harvey Street, BOMBIRA NSW 2850. The subject land is legally described as Lot 503 DP1259753.

The subject site is a 2020m<sup>2</sup> parcel of land located within the Bombira Residential Estate. The lot has frontage to Harvey Street and backs onto a public reserve before adjoining Ulan Road (See **Figure 1**). Currently existing on site is a dwelling house. The locality is characterised by recently constructed or emerging residential dwellings on large lot sites. Extending beyond the residential estate to the east and south is rural zoned land and vistas of Mudgee's vineyards and mountain ranges.

The application was not required to be notified or advertised in accordance with the Mid-Western Regional Community Participation Plan 2019. No submissions were received during the assessment period.

The proposed development has been assessed in accordance with Council's Development Control Plan (DCP) and the Local Environmental Plan (LEP). The assessment concludes that the proposed development is not consistent with Council's planning controls in relation to Part 3.1 'Outbuildings' of the Mid-Western Regional Council DCP 2013. The key concerns relate to the size of the shed, which does not comply with Council's requirements.

Additionally, the proposed development has been assessed having regard to a Section 88b Instrument restriction on the title of land. The restriction on title specifies that *no above ground structures are to be erected on any lot within an area designated "C"*. It shall be noted that area "C" includes the rear 15m portion of the lot. The proposed shed is located entirely within the 15m area, directly contravening the restriction, and will consequently have a negative impact on the rural amenity on approach to the town centre.

When the application was originally received, the shed was located entirely within the 15m restricted area, and the shed was 168m<sup>2</sup> (12m x 14m) in size. The applicant was requested to address these matters on 4 September 2023 and a follow up correspondence was sent 25 October 2023. A meeting was later held with the landowner on the 14 November 2023 to discuss and resolve the issues raised. After no response was received, a final e-mail was sent 12 December 2023 advising that the application was not supported in its current form and would be refused.

Amended plans and an amended statement of environmental effects was received 20 December 2023 which reduced the size of the shed from 168m<sup>2</sup> to 126m<sup>2</sup>. The location of the shed within the 15m restricted area remained unchanged. While the shed size has been reduced, the amendments have not gone far enough to satisfactorily address Council's concerns, given the shed's location within the restricted area.

Having regard to the aforementioned matters, the application has not been supported by Council staff. The application has been referred to Council for consideration, in that it is a public interest decision and the recommendation is refusal.

## Disclosure of Interest

Nil

## Detailed report

### **Proposed Development:**

Council is in receipt of Development Application DA0078/2024 that seeks approval for the following:

- Construction of a detached steel famed shed at the rear of the lot;
- The shed is to be 12m x 10.5m and have a pitched roof proposed to a height of 4.4m;
- The shed is 126m<sup>2</sup>;
- The shed is to be constructed with colorbond corrugated wall cladding in the colour 'Off White' and colorbond corrugated roofing in colour 'Monolith';
- One (1) awning is proposed to the north east as well as two (2) single roller doors and two (2) 5000L rainwater tanks;
- The shed is open plan but contains and an internal bathroom with a toilet, shower and sink; and
- The owner has advised that the shed is proposed to be used for storage purposes only. Specifically, for the storage of garden tools, a camping trailer, camping equipment and other household tools etc.

The proposed plans and supporting information for the development is included in **Attachment 1** and layouts shown in **Figures 1, 2, 3** and **4**, below:



**Figure 1: Aerial Locality Map**

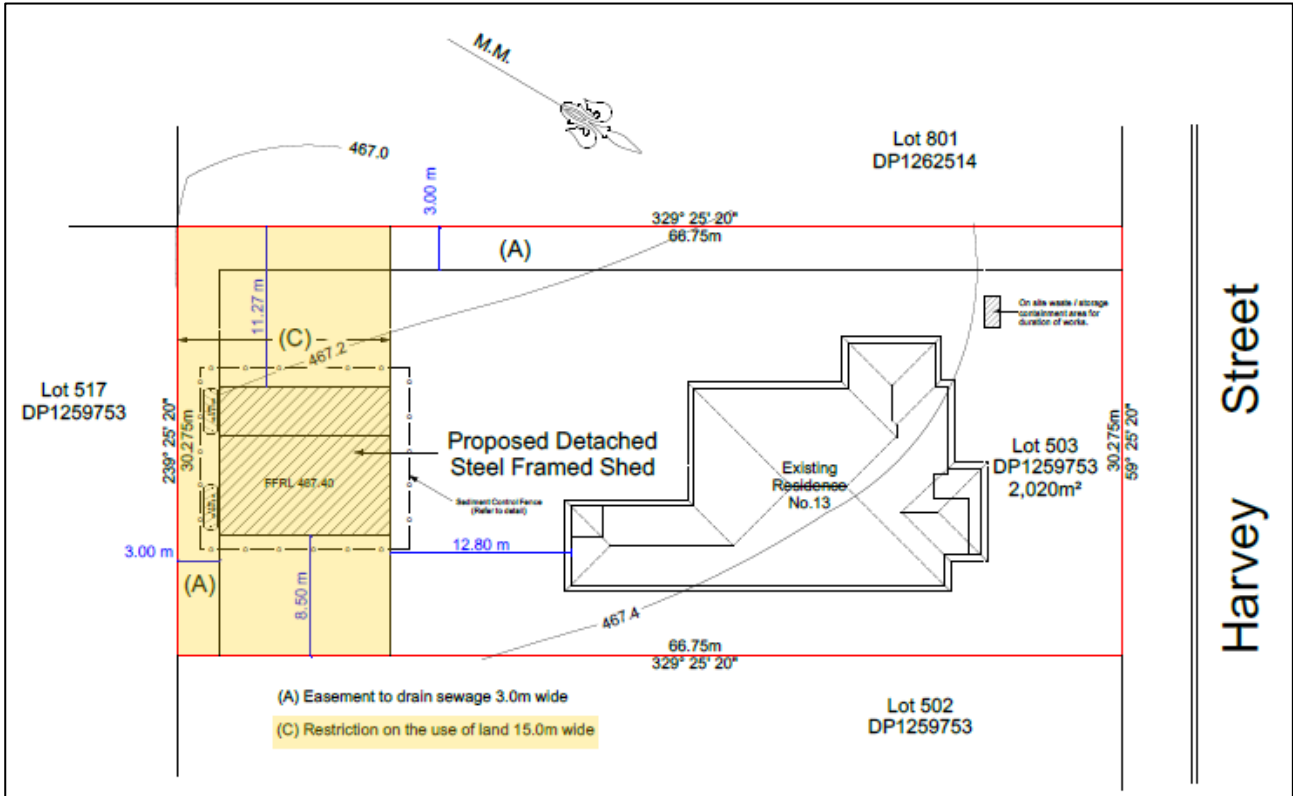


Figure 2: Site Plan (Area "C" highlighted in yellow)

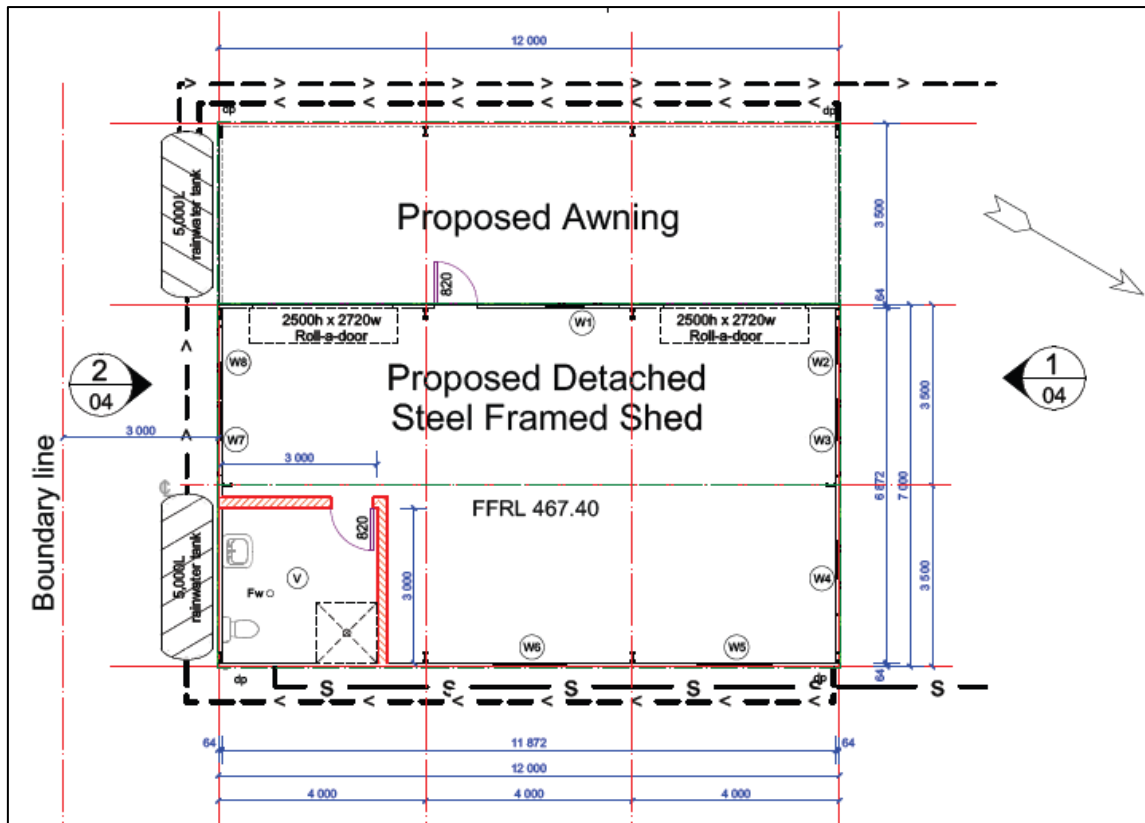


Figure 3: Floor Plan

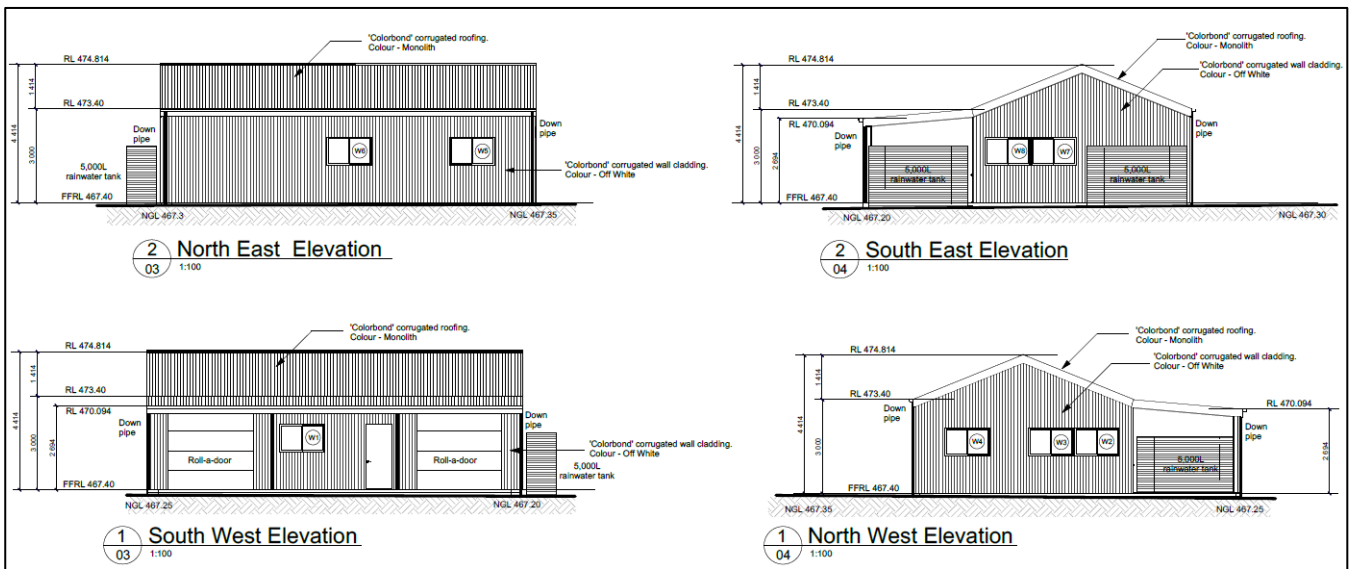


Figure 4: Elevations

**DCP Variation:**

The proposed development seeks a variation to Part 3.1 'Outbuildings' of the Mid-Western DCP 2013. The DCP prescribes the following standards:

*Outbuildings must not negatively affect the amenity of the streetscape or adjoining properties. The following standards apply for urban areas*

| Lot size m <sup>2</sup> | Shed size m <sup>2</sup> |
|-------------------------|--------------------------|
| 2001 - 3000             | 120                      |

The applicant has proposed a shed size of 126m<sup>2</sup> which is a numerical non-compliance of 5%.

Formal justification was submitted in the Statement of Environmental Effects (**Attachment 2**) which states:

- The shed is appropriately sited and will not impact on neighbouring property views despite its size.
- The structure will not cause overshadowing.
- The shed size is necessary to perform its intended use for storage purposes. A reduction in size would invalidate the intended use.
- The structure will be partially obscured from the primary road from the existing dwelling. This will ensure that the structure does not create an adverse precedent in the locality or negatively impact on the visual consistency of the street front from the primary road.
- The variation is minor and is exceeded due to the open awning which has been included in the area calculation.

The above justification submitted by the applicant has been considered by Council staff and the proposal remains unsupported. The size of the shed, coupled with its proposed location – adjoining Ulan Road, is considered to have an undesirable visual impact. The development will differ substantially to the established pattern of development in the street and the exceedance to the shed size will only worsen the visual impact concerns – negative impact on the rural amenity on approach to the town centre.

It is noted that the exceedance is minor and in the instance the shed were proposed in an alternate location, this variation would have less of an impact and may have been supported.

**Restriction on the Use of Land:**

The subject site is burdened by a Restriction on the Use of Land 15m wide (C) which specifies the following:

|   |
|---|
| <p><b>3. Terms of Restrictions on the Use of Land fifthly referred to in the plan:</b><br/>No above ground structures to be erected on any lot within an area designated "C".</p> |
|---|

The architectural plans submitted have proposed the shed entirely within the 15m area. The proposed shed also exceeds the minimum size limits and is proposing a variation. The Statement of Environmental Effects does not discuss the 15m restriction and proposes no planning justification for locating it within this area. As Council is the benefiting party, the power to vary release or modify this restriction lies with Council.

As part of the assessment process, the applicant was given the opportunity to re-design the proposed shed outside the restricted area and to a size that was compliant with the DCP. However, no changes to the design were received, the shed remains oversized, and positioned within the restricted area. Consequently, the proposed location is not supported and the application is recommended for refusal.

**Background History – Restriction on the Use of Land**

The original Development Application for the Bombira Estate subdivision was approved at a Council meeting – DA0152/2015 – Approved – 17 December 2014. A number of modifications have been approved, excepting MA0029/2017, which was refused on 16 August 2017.

MA0029/2017 sought to increase the number of lots which adjoin Ulan Road. The modification was refused by Council with the reason being:

*“That Council has concerns regarding the protection of the rural amenity on approach to the town centre.”*

Council’s determination of the modification application MA0029/2017 was subsequently appealed by the applicant via the Land and Environment Court. During the Section 34 (S34) conciliation conference an offer without prejudice was made including the provision of a Section 88b Restriction for a 15m no-building zone adjacent to the rear boundary adjoining Ulan Road. The offer was put forth and agreed to by Council in the confidential session at the Council meeting held 15 November 2017. Orders were then made on 1 December 2017 by the Court.

This specifically included amendment to Condition 60 of the consent to include reference to a 15m restriction as follows.

60. A Restriction as to User is to be registered on the title of proposed lots 37, 39, 40, 41, 42, 43, 44, 45, 60, 63, 60 and 70 1, 3, 5, 12, 13, 16, 55, 56, 57, 58, 60, 60 stating that no direct access to Ulan Road is permitted.

(AMENDED MA0033/2016)

A Restriction as to User benefitting Council and on terms satisfactory to Council is to be registered on the title to all lots with a boundary to the Ulan Road public reserve (being lots 22-34 shown on plan 23949 P01 Revision E) to the effect that:

- there is to be no direct access to the Ulan Road public reserve from the lot;
- no above ground structures shall be erected on the lot within 15m of the boundary of the lot with the Ulan Road public reserve; and
- all fencing along the boundary to the Ulan Road public reserve is to be post and wire construction only.

(AMENDED MA0029/2017)

**Figure 5 – LEC condition**

Given, the original application was refused on rural amenity grounds, it is clear that the intention of this restriction was to prevent buildings from having an unfavourable visual impact, on the rural approach to town.

This restriction has been strictly applied to date for development on Harvey street and the proposed developments location undermines the intention of this restriction, especially given the size of the shed which also does not comply with the DCP. See Figure 5 below, showing adherence to 15m restricted area.



**Figure 5: Adherence to 15m Restricted Area**

While Council as the benefiting authority holds the power to vary release or modify this restriction, in doing so it would contradict the intention of the restriction and would likely result in an unfavourable precedent. That is, if the sheds location is approved, contrary to the 15m restriction, the power of the restriction would be eroded, and likely could not be enforced for future applications of outbuildings.

### **Legislative Requirements**

#### **Environmental Planning and Assessment Act 1979**

#### **Designated Development**

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regs).

## **Integrated Development**

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## **Assessment**

The application has been assessed in accordance with **Section 4.15** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

### **4.15(1)(a) Requirements of Regulations and Policies**

*(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?*

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

The proposed shed does not involve exempt or complying development and is therefore not impacted by the requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Pursuant to section 4.6 of the Policy, a site inspection and a search of council's records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The proposed development is located in close proximity to Ulan Road which is a classified road. However, pursuant to clause 2.119 it does not have direct frontage as the allotment is separated by a public reserve at the rear. Accordingly, no further consideration was considered necessary.

#### **Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)**

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

#### **Clause 1.2 Aims of Plan**

The application is considered generally consistent with the aims of the plan.

#### **Clause 1.4 Definitions**

The proposal is considered under the MWRLEP 2012 as an outbuilding (shed).

The outbuilding (shed) is not explicitly listed as a permitted land use under the Mid-Western LEP. Outbuildings are only permitted where it is ancillary to a **dwelling** that has been approved or has been constructed on the land. As there is an existing dwelling, the shed is permissible.

#### **Clause 2.2 Zoning of Land to Which Plan Applies**

The land is zoned R2 Low Density Residential and is therefore subject to the Plan.

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

The land is zoned R2 Low Density Residential pursuant to the MWRLEP 2012. The proposal, being an outbuilding (shed) ancillary to a dwelling is permissible with consent and complies with the objective of the zone as it will support residential accommodation in the Mudgee Region.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:



## **R2 Low Density Residential**

1. *To provide for the housing needs of the community within a low density residential environment.*

**Comment** The proposal will support to the housing needs of the community as expected in the R2 zone.

2. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

**Comment** The proposal is not expected to hinder other possible permissible land uses within the immediate area.

### **Clause 2.7 Demolition requires development consent**

Not applicable.

### **Clause 4.3 Height of buildings**

The subject site is not mapped to contain a maximum building height.

### **Clause 5.10 Heritage Conservation**

Not applicable.

### **Clause 5.21 Flood planning**

Council's Mapping system indicates the site is not affected by flooding.

### **Clause 6.1 Salinity**

The proposal involves minimal earthworks which is not expected to significantly affect the process of salinisation and is a conditional matter.

### **Clause 6.3 Earthworks**

The proposed development involves minor earthworks as the site is relatively flat land. The works are not expected to generate any significant impacts as listed in Clause 6.3(3) and is a conditional matter.

### **Clause 6.4 Groundwater vulnerability**

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

### **Clause 6.5 Terrestrial biodiversity**

The proposal is not located in any area identified as 'Moderate or High Biodiversity Sensitivity'.

### **Clause 6.7 Active street frontages**

Not applicable. The site is not located within the area mapped as 'Active street frontage'.

### **Clause 6.8 Airspace operations – Mudgee Airport**

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

### **Clause 6.9 Essential Services**

All essential services are existing or can be extended to service the development.

### **Clause 6.10 Visually sensitive land near Mudgee**

The land is not located within the area identified within the visually sensitive land map.

#### 4.15(1)(a) Requirements of Regulations and Policies

##### *(ii) Draft environmental planning instruments (EPI)*

No draft environmental planning instruments apply to the land to which the Development Application relates.

##### *(iii) Any development control plans*

#### **Mid-Western Regional DCP 2013**

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

| <b>DEVELOPMENT CONTROL REQUIREMENT</b>  | <b>COMMENT / COMPLIES</b>                                       |
|---|---|
| <b>Building Setback from the street</b>   |   |
| Zone R2 where 2000m <sup>2</sup> to 1ha: 10m  | Complies  |
| <b>Building Side/Rear setback</b>   |   |
| Zone R2 where 2000m <sup>2</sup> to 1ha: 2.5m   | Complies – Proposed rear setback 3m proposed side setbacks 8.5m |
| <b>Slope and cut and fill</b>   |   |
| The slope of the site does not exceed 15%   | Complies. The site is relatively flat.                          |
| Cut is limited to 1m  | Complies – Not cut proposed                                     |
| Fill is limited to 600mm and is made up of clean fill and is accompanied by a geo-technical assessment demonstrating compaction complies with Australian Standards. | Complies – Proposed 200mm                                       |
| Any cut and fill has been provided with retaining wall including drainage and is set back a minimum 300mm from the allotment boundary.                              | Note applicable. No retaining walls are required.               |
| Fill does not direct stormwater onto adjoining properties and drainage pits for overland flow paths have been provided.   | Complies  |
| Cut / fill is clear of any water or sewer easements.  | Complies  |
| <b>Utilities</b>  |   |
| Buildings are located clear of utility infrastructure   | Complies  |
| Building is not located within an easement for the purpose of utility infrastructure  | Complies  |
| Structures are located a minimum of 1500mm from the centre of water and sewer main  | Complies  |
| Details of water supply and sewer reticulation have been provided:  |   |
| If available within 500m applicant has proposed connection to reticulated network   | Not applicable  |
| Where no water supply is available, applicant has provided a minimum 60,000 litres which includes a minimum of 20,000 litres reserved for firefighting purposes     | Not applicable  |
| Where no reticulated sewer is present, the applicant has proposed onsite disposal in accordance with Section 68 of the Local Government Act 1919                    | Not applicable  |
| If reticulated services have not been proposed the site is a minimum of 5ha in size   | Not applicable  |
| All storm water flows to a gravity system   | Complies  |
| Buildings are not located in the path of overland flow  | Not applicable  |
| <b>Garages, Outbuildings</b>  |   |

| DEVELOPMENT CONTROL REQUIREMENT   | COMMENT / COMPLIES   |
|---|--|
| Outbuildings must not negatively affect the amenity of the streetscape or adjoining properties                                      | The proposed development does not comply with this requirement. The size and location of the shed is likely to have a negative impact on the “ <i>rural amenity on approach to the town centre.</i> ” By proposing the shed in close proximity to Ulan Road there is likely to be an impact on the rural vistas surrounding the Mudgee Township. The intention of the restriction on title was to have a greater buffer to Ulan Road to promote a high level of visual interest and rural appeal when entering town. |
| Urban areas where 2001-3000m <sup>2</sup> : 120m <sup>2</sup> maximum shed size   | The proposal does not comply. The applicant is proposing a shed size of 126m <sup>2</sup> which is a numerical non-compliance of 5%. The applicant has sought a variation to this development control which has been discussed in the preceding sections of this report.   |
| Max building height of 4.5m from natural ground level to the ridge applies in urban areas where the lot is under 2000m <sup>2</sup> | Not applicable the lot is over 2000m <sup>2</sup>  |

**Part 4.7 Tree Preservation Order**

Not applicable. No trees are proposed to be removed.

**Part 5.1 Car Parking**

Not applicable. The proposed shed is not proposed to achieve a car parking requirement. This has already been addressed under the dwelling application.

**Part 5.3 Stormwater Management**

The proposed shed has installed rainwater tanks to manager stormwater. Any overflow can connect to the existing system.

**Part 5.4 Environmental Controls**

All the relevant considerations have been discussed elsewhere in this report.

**4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iia)**

No Planning Agreements are applicable.

**Regulations –4.15(1)(a)(iv)**

**Environmental Planning and Assessment Regulation 2021**

No matters prescribed by the Regulations impact determination of the Development Application.

**Likely impacts of the development – 4.15(1)(b)<sup>1</sup>**

<sup>1</sup> Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

**Context and Setting**

The proposal is not considered appropriate with regards to the surrounding context and setting. The development directly contravenes the restriction on title which prevents structures from being located in the rear portion of the lot. In this regard, the siting and location of the development has not been supported by staff.

***Access, transport and traffic***

The implications of additional traffic and suitable access are discussed throughout this report. The proposal is considered appropriate.

***Public domain***

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

***Utilities***

All relevant utilities are available or can be made readily available to the site.

***Heritage***

Not applicable.

***Other land resources***

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

***Water***

No significant impact expected.

***Soils***

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

***Air and Microclimate***

The development is not expected to impact air quality or microclimatic conditions.

***Flora & fauna***

Not applicable.

***Waste***

Not applicable.

***Energy***

Not applicable.

***Noise & vibration***

Not applicable.

***Natural Hazards***

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues.

***Technological hazards***

Not applicable.

***Safety, security and crime prevention***

Not applicable.

***Social impact in the locality***

Not applicable.

***Economic impact in the locality***

Not applicable.

### **Site design and internal design**

The proposal is sited in an area of the lot which does not permit buildings. The design further has exceeded the minimum size requirements under the DCP. The result of this will be a negative impact to the rural amenity of the area. The proposal has failed to be designed having regard to the restriction on title and the minimum shed size requirements under the DCP. For this reason, staff do not support the design.

### **Construction**

To comply with the BCA where relevant.

### **Cumulative Impacts**

Nil. There are no known impacts

## **Suitability of Site for Development – 4.15(1)(c)**

### **Does the proposal fit in the locality?**

The proposed development is a large shed which has been sited in the rear 15m of the allotment. The design directly contravenes the restriction on title which prohibits development in that location as well as Councils DCP which limits the size of sheds. For this reason, there will be an impact to the streetscape and an impact on the rural amenity of the area. Further, the proposed development is out of place in the street. All other development on Harvey Street has been required to strictly comply with this restriction and as such, the development would look out of place. As a result, the current design is not considered to satisfactory fit in the locality.

The applicant has been given the opportunity to re-design, however, has not responded to Councils information request. As such, Council staff have not supported the development and have recommended refusal.

### **Are the Site Attributes conducive to Development?**

The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

## **Submissions made in accordance with Act or Regulations – 4.15(1)(d)**

### **Public Submissions**

The application was not required to be notified or advertised in accordance with the Mid-Western Regional Community Participation Plan 2019. No submissions were received during the assessment period.

### **Submissions from Public Authorities**

No submissions were sought or received from public authorities.

## **The Public Interest – 4.15(1)(e)**

### **Federal, State and Local Government interests and Community interests**

No significant issues in the interests of the public are expected as a result of the proposed development.

### **Consultations**

### **PLANNING**

The application was referred to the planning department for comment, the planning's recommendations were as follows:

Strict compliance with the restriction with no variation. The application is not supported in its current form. It is recommended that the shed be relocated outside of the restricted area, or the application be refused. This restriction was imposed as part of the Section 34 court agreement,

and it has been strictly applied to date. The proposed development undermines the intention of this restriction, especially given the size of the shed and the likely visual impacts. Any variation would further set an unfavourable precedent.

## Community Plan implications

|          |   |
|----------|---|
| Theme    | Looking After Our Community   |
| Goal     | Vibrant towns and villages  |
| Strategy | Maintain and promote the aesthetic appeal of the towns and villages within the region |

## Strategic implications

### Council Strategies

Not Applicable

### Council Policies

Mid-Western Regional Development Control Plan 2013

### Legislation

*Environmental Planning & Assessment Act 1979*

*Environmental Planning & Assessment Regulation 2021*

*Mid-Western Regional Local Environmental Plan 2012*

## Financial implications

As a result of the recommendation of refusal, there is no direct financial implications. However, there may be a future financial implications in the event the decision of refusal is appealed.

## Associated Risks

As a result of the recommendation of refusal, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

HANNAH DRAPER  
TOWN PLANNER

ALINA AZAR  
DIRECTOR DEVELOPMENT

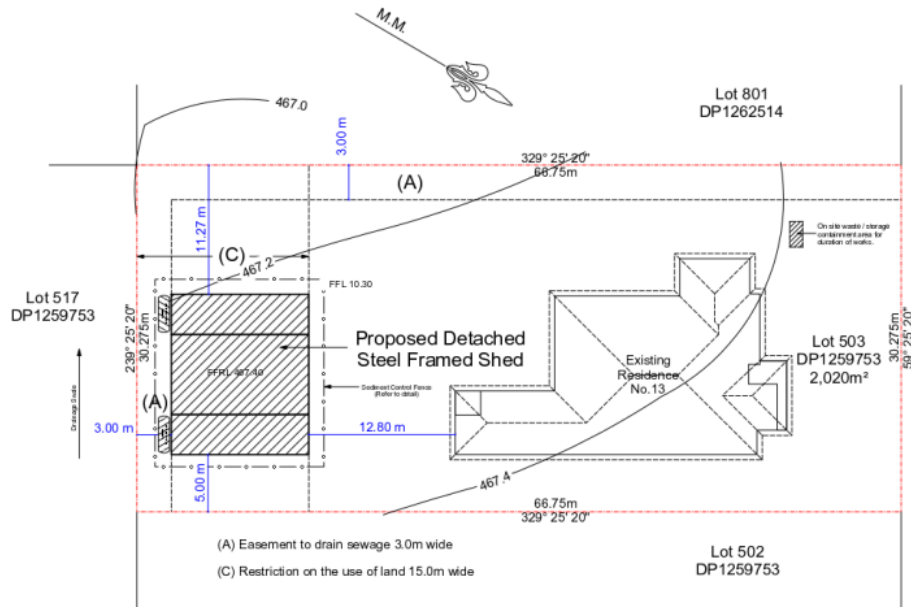
4 March 2024

*Attachments:*

1. Attachment 1 - Architectural Plans.
2. Attachment 2 - Statement of Environmental Effects.
3. Attachment 3 - s88B INSTRUMENT.

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER



1 Site Plan  
 01 1:400

Site Calculations

| Area Summary               | m <sup>2</sup> |
|----------------------------|----------------|
| Existing dwelling .....    | = 318.62       |
| Proposed Shed.....         | = 168.00       |
| Total Site Coverage.....   | = 486.62       |
| Site Area.....             | = 2,020.00     |
| % Total Site Coverage..... | = 24.09%       |
| Landscaped Area.....       | = 1,533.38     |
| % Landscaped Area.....     | = 75.91%       |

ISSUED FOR DEVELOPMENT /  
 CONSTRUCTION CERTIFICATE PURPOSES

Harvey Street

**Sediment Control Notes**

- All erosion and sediment control measures, including revegetation and storage of soil and topsoil, shall be implemented to the standards of the Soil Conservation of N.S.W. and inspected daily by the site manager.
- All drainage works shall be constructed and stabilized as early as possible during development.
- Sediment traps shall be constructed around all inlet pits, consisting of a 300mm wide x 300mm deep trench.
- All sediment basins and traps shall be cleaned when the structures are a maximum of 60% full of soil materials, including the maintenance period.
- All disturbed areas shall be revegetated as soon as the relevant works are completed.
- Soil and top soil stockpiles shall be located away from drainage lines and areas where water may concentrate. All roads and footpaths are to be swept daily.
- Filter shall be constructed by stretching a filter fabric ('Pio pex' or approved equivalent), between posts at 2.0m centres. Fabric shall be buried 200mm along its lower edge.
- Dust prevention measures are to be maintained at all times.

Sediment Control Fence  
 Not to Scale

Provide sediment control fencing on all down hill slopes - unless noted otherwise.



2 Locality Map  
 01 N.T.S.

**Fernleigh**  
 DRAFTING | COUNCIL SERVICES  
 fernleighdrafting.com.au hello@fernleighdrafting.com.au

**Proposed:** Detached Steel Framed Shed  
**Client:** George Joubert  
**Address:** 13 Harvey Street, Mudgee, NSW 2850, Lot 503 / DP 125973  
**Council:** MID-WESTERN REGIONAL COUNCIL

**Plan:** Site Plan

| Revision | Date | Drawn:  | WR         | Sheet:     |
|----------|------|---------|------------|------------|
|          |      | Date:   | July 2023  | 1<br>Of: 6 |
|          |      | Scale:  | 1:400 @ A3 |            |
|          |      | Job No: | 230713     |            |

**Note:** Plans to be printed on A3 to be to scale. Do not scale off plans. All dimensions and natural ground heights to be checked and verified on site.



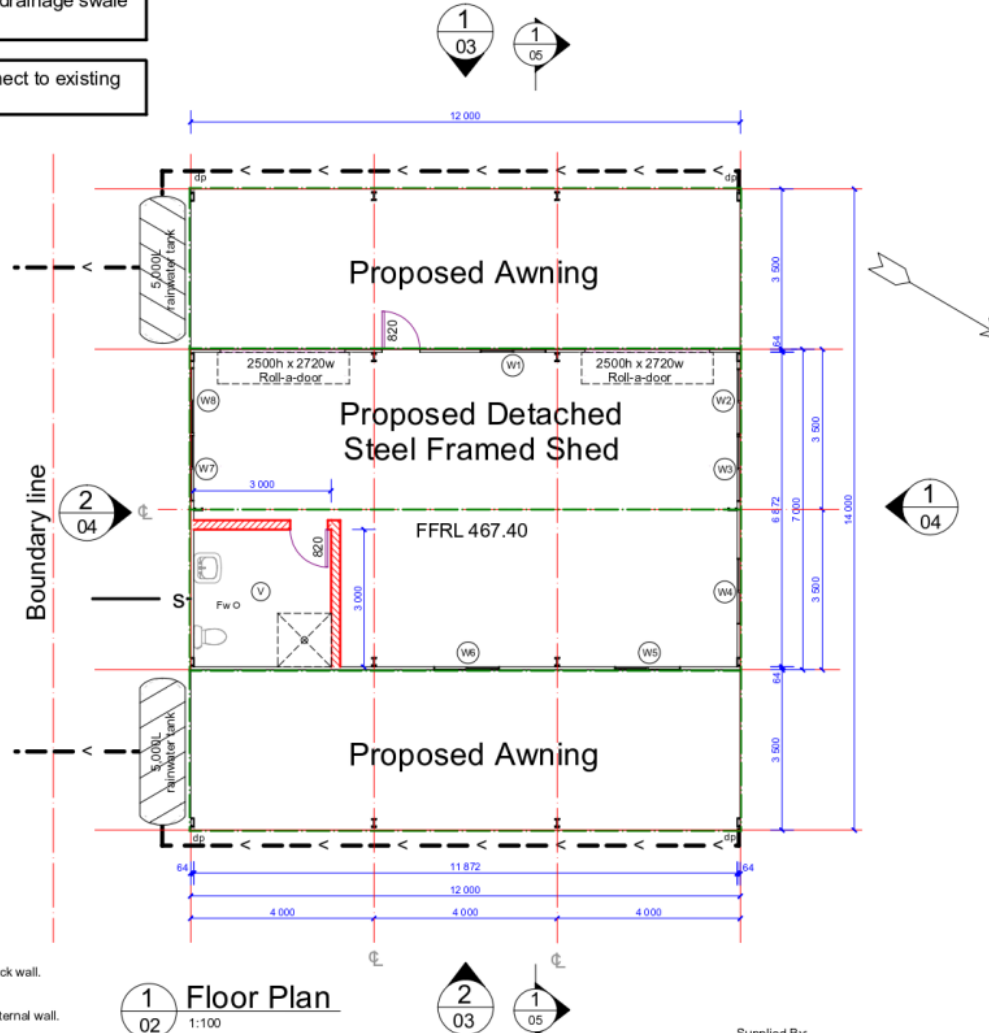
Supplied By:



Provide down pipes as shown and connect to 2 x 5,000L rainwater tanks via 90mm dia. PVC drainage pipes. Tank overflow to be directed to existing drainage swale via 90mm dia. PVC drainage pipes.

Provide sewer pipes as shown and connect to existing septic system.

Drainage Swale



Window Schedule

| Window | Type              | Size         |
|--------|-------------------|--------------|
| W1     | Aluminium Sliding | 900h x 1430w |
| W2     | Aluminium Sliding | 900h x 1430w |
| W3     | Aluminium Sliding | 900h x 1430w |
| W4     | Aluminium Sliding | 900h x 1430w |
| W5     | Aluminium Sliding | 900h x 1430w |
| W6     | Aluminium Sliding | 900h x 1430w |
| W7     | Aluminium Sliding | 900h x 1430w |
| W8     | Aluminium Sliding | 900h x 1430w |

Legend

- Proposed roof line.
- S — Proposed sewer line.
- - - Proposed stormwater drainage line.
- Proposed 200mm thick concrete block wall.
- Fw o Install floor waste.
- (V) Install mechanical vent ducted to external wall.

1 Floor Plan  
1:100

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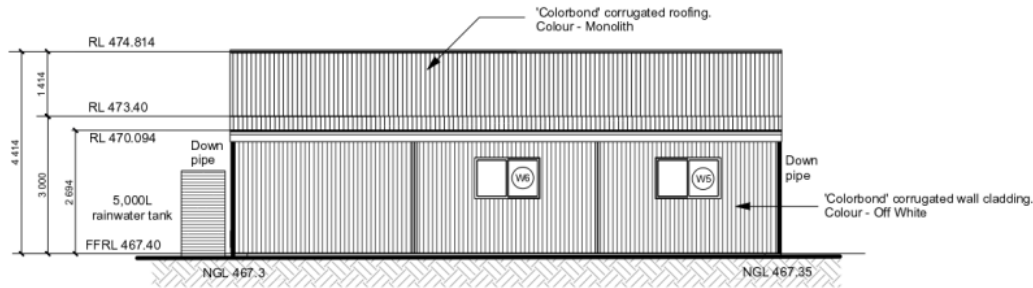
**Proposed:** Detached Steel Framed Shed  
**Client:** George Joubert  
**Address:** 13 Harvey Street, Mudgee, NSW 2850 Lot 503 / DP 125973  
**Council:** MID-WESTERN REGIONAL COUNCIL

**Plan:** Floor Plan

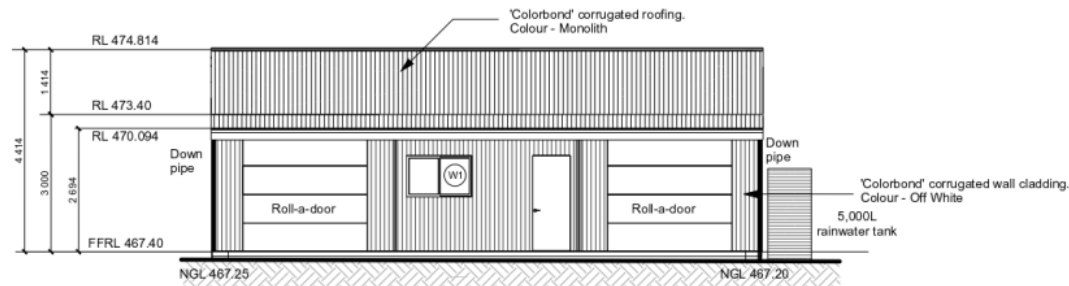
| Revision | Date | Drawn:  | WR         | Sheet:       |
|----------|------|---------|------------|--------------|
|          |      | Date:   | July 2023  | 2<br>of<br>6 |
|          |      | Scale:  | 1:100 @ A3 |              |
|          |      | Job No: | 230713     |              |

Note: Plans to be printed on A3 to be to scale. Do not scale off plans. All dimensions and natural ground heights to be checked and verified on site.





2 North East Elevation  
 03 1:100



1 South West Elevation  
 03 1:100

Window Schedule

| Window | Type              | Size         |
|--------|-------------------|--------------|
| W1     | Aluminium Sliding | 900h x 1430w |
| W2     | Aluminium Sliding | 900h x 1430w |
| W3     | Aluminium Sliding | 900h x 1430w |
| W4     | Aluminium Sliding | 900h x 1430w |
| W5     | Aluminium Sliding | 900h x 1430w |
| W6     | Aluminium Sliding | 900h x 1430w |
| W7     | Aluminium Sliding | 900h x 1430w |
| W8     | Aluminium Sliding | 900h x 1430w |

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**Proposed:** Detached Steel Framed Shed  
**Client:** George Joubert  
**Address:** 13 Harvey Street, Mudgee, NSW 2850 Lot 503 / DP 125973  
**Council:** MID-WESTERN REGIONAL COUNCIL

**Plan:** Elevations

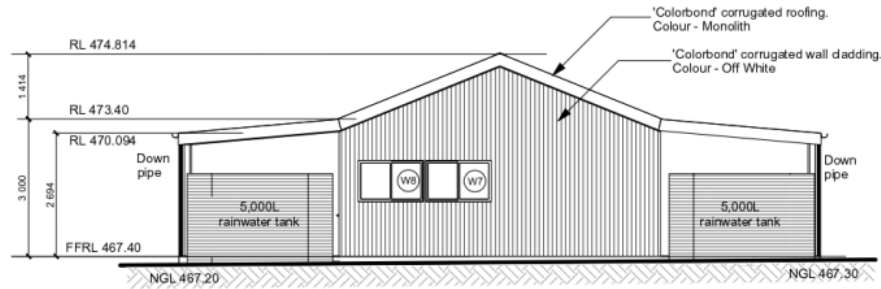
| Revision | Date | Drawn:  | WR         | Sheet:     |
|----------|------|---------|------------|------------|
|          |      | Date:   | July 2023  | 3<br>Of: 6 |
|          |      | Scale:  | 1:100 @ A3 |            |
|          |      | Job No: | 230713     |            |

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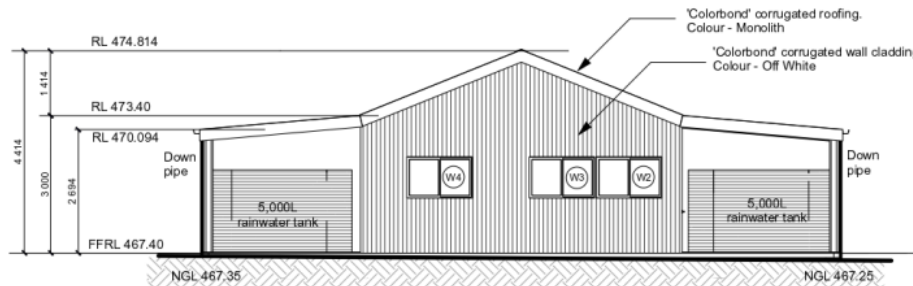
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**2** South East Elevation  
 04 1:100



**1** North West Elevation  
 04 1:100

**Window Schedule**

| Window | Type              | Size         |
|--------|-------------------|--------------|
| W1     | Aluminium Sliding | 900h x 1430w |
| W2     | Aluminium Sliding | 900h x 1430w |
| W3     | Aluminium Sliding | 900h x 1430w |
| W4     | Aluminium Sliding | 900h x 1430w |
| W5     | Aluminium Sliding | 900h x 1430w |
| W6     | Aluminium Sliding | 900h x 1430w |
| W7     | Aluminium Sliding | 900h x 1430w |
| W8     | Aluminium Sliding | 900h x 1430w |

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**Proposed:** Detached Steel Framed Shed

**Client:** George Joubert

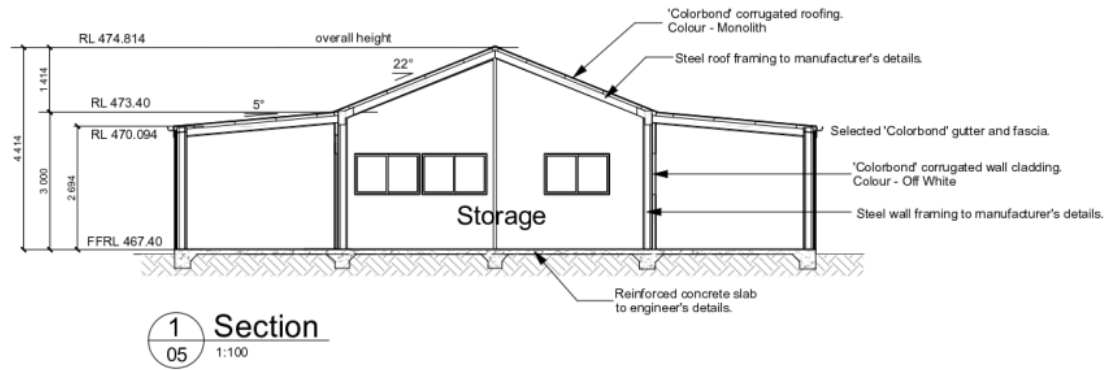
**Address:** 13 Harvey Street, Mudgee,  
 NSW 2850  
 Lot 503 / DP 125973

**Council:** MID-WESTERN REGIONAL COUNCIL

**Plan:** Elevations

| Revision | Date | Drawn:  | WR         | Sheet:     |
|----------|------|---------|------------|------------|
|          |      | Date:   | July 2023  | 4<br>Of: 6 |
|          |      | Scale:  | 1:100 @ A3 |            |
|          |      | Job No: | 230713     |            |

Note: Plans to be printed on A3 to be to scale. Do not scale off plans. All dimensions and natural ground heights to be checked and verified on site.



All works to be completed in accordance with the performance requirements of the National Construction Code (NCC) 2022 Volume 2

Detached Portal Frame Sheds

**Part H1 Structure (dealt with in Engineering)**

- H1P1 Structural reliability and resistance
- H1P2 Buildings in flood areas
- H1D2 Structural provisions
- H1D3 Site preparation
- H1D4 Footings and slabs
- H1D6 Framing
- H1D7 Roof and wall cladding
- H1D8 Glazing
- H1D9 Earthquake areas
- H1D10 Flood hazard areas
- H1D11 Attachment of framed decks and balconies to external walls of buildings using a waling plate
- H1D12 Piled footings

**Part H2 Damp and weatherproofing (dealt with in Engineering)**

- H2P1 Rainwater management
- H2P2 Weatherproofing
- H2P4 Drainage from swimming pools
- H2D2 Drainage

**Part H3 Fire safety (dealt with in Engineering)**

- H3D1 Deemed-to-Satisfy Provisions
- H3D2 Fire hazard properties and non-combustible building elements
- H3D3 Fire separation of external walls

**Part H4 Health and amenity**

- H4P1 Wet areas
- H4P2 Room heights

**Part H5 Safe movement and access**

- H5P1 Movement to and within a building

**Part H7 Ancillary provisions and additional construction requirements (dealt with in Engineering)**

- H7P1 Swimming pool access
- H7P2 Swimming pool reticulation systems
- H7P5 Buildings in bushfire prone areas

\*If any fill is required on site, Class 'P' is applicable.

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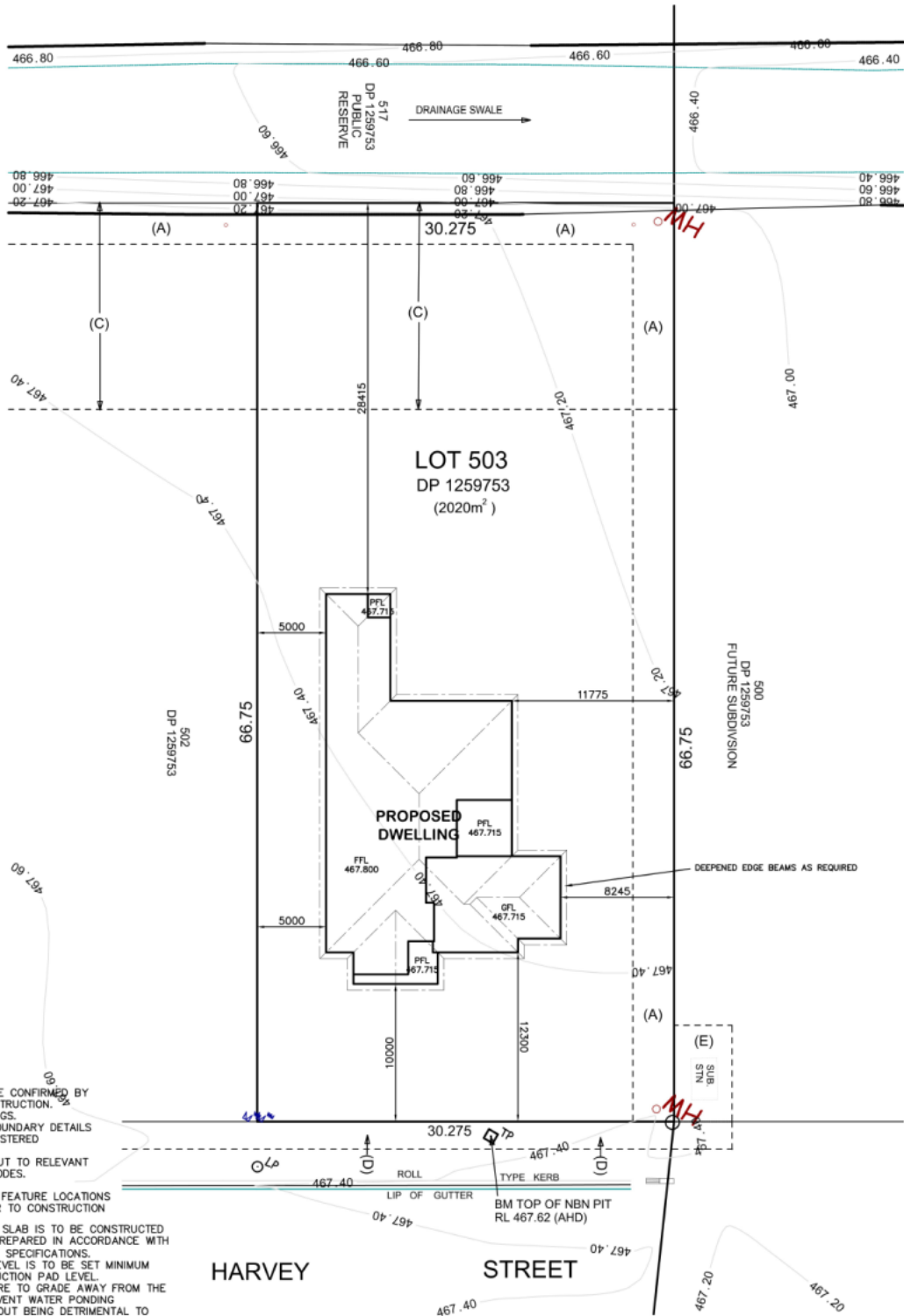
**Proposed:** Detached Steel Framed Shed  
**Client:** George Joubert  
**Address:** 13 Harvey Street, Mudgee, NSW 2850, Lot 503 / DP 125973  
**Council:** MID-WESTERN REGIONAL COUNCIL

**Plan:** Section

| Revision | Date | Drawn:  | WR         | Sheet:        |
|----------|------|---------|------------|---------------|
|          |      | Date:   | July 2023  | 5<br>Of:<br>6 |
|          |      | Scale:  | 1:100 @ A3 |               |
|          |      | Job No: | 230713     |               |

Note: Plans to be printed on A3 to be to scale. Do not scale off plans. All dimensions and natural ground heights to be checked and verified on site.

- (A) - EASEMENT TO DRAIN SEWAGE 3m WIDE
- (C) - RESTRICTION ON THE USE OF LAND 15m WIDE
- (D) - EASEMENT FOR UNDERGROUND POWERLINES 1m WIDE
- (E) - EASEMENT FOR MULTI-PURPOSE ELECTRICAL INSTALLATION 4.2m WIDE



- ALL DIMENSIONS ARE TO BE CONFIRMED BY THE BUILDER PRIOR TO CONSTRUCTION. DO NOT SCALE FROM DRAWINGS. BUILDING SET OUT & SITE BOUNDARY DETAILS TO BE CONFIRMED BY A REGISTERED SURVEYOR. ALL WORK TO BE CARRIED OUT TO RELEVANT STANDARDS AND BUILDING CODES.
- ALL SURFACE LEVELS AND FEATURE LOCATIONS ARE TO BE CONFIRMED PRIOR TO CONSTRUCTION
- THE PROPOSED RESIDENCE SLAB IS TO BE CONSTRUCTED ON A LEVEL BUILDING PAD PREPARED IN ACCORDANCE WITH THE STRUCTURAL ENGINEER'S SPECIFICATIONS. THE MAIN FINISHED FLOOR LEVEL IS TO BE SET MINIMUM 300mm ABOVE THE CONSTRUCTION PAD LEVEL. FINISHED SURFACE LEVELS ARE TO GRADE AWAY FROM THE BUILDING PERIMETER TO PREVENT WATER PONDING NEAR EXTERNAL WALLS WITHOUT BEING DETRIMENTAL TO NEIGHBOURING PROPERTIES. THE BUILDER IS TO CONFIRM AVAILABLE FALLS TO SEWER CONNECTION POINTS & STORMWATER DISCHARGE POINTS PRIOR TO ESTABLISHING THE BUILDING FINISHED FLOOR LEVEL.



|                   |                      |              |
|-------------------|----------------------|--------------|
| DATE:<br>05.11.21 | SCALE:<br>1:300 (A3) | DRAWN:<br>WP |
| SHEET:<br>5 / 8   | JOB No:<br>21138     | ISSUE:<br>F  |

DRAWING:  
 SITE PLAN  
 LOT 503 HARVEY STREET, MUDGEE  
 MAAS GROUP PROPERTIES



# STATEMENT OF ENVIRONMENTAL EFFECTS



DATE: 01/08/2023

**Applicant: George Joubert**

**Address: 13 Harvey Street Bombira Estate Mudgee 2850 (503/-/DP1259753)**

**Proposed Structure(s) and Size(s): Detached Steel Framed Shed (168m<sup>2</sup>)**



*Image 1: Current Site Image*

## Current Use

1. **Zoning:** R2 Low Density Residential
2. **Land Size:** 2,020m<sup>2</sup>
3. **Land Use:** Residential
4. **Existing Structures:**
  - a. Dwelling (318.62m<sup>2</sup>)

## Building details

1. The development will involve the construction of Steel Portal Frame Shed **168 m<sup>2</sup>** in size (Total Roof).
2. The floor system will be a **Concrete Slab**.
3. The design of the Structure will be an American Barn with roof pitch of **22 and 5** degrees.
4. Stormwater from the roof will connect to **the two proposed 5,000 Litre Rainwater Tanks**.
5. The discharge point **will be to the existing drainage swale**.
6. The lowest eave height will be **2.694** m from the finished floor level.
7. The apex height of the garage building (from finished floor level) will be **4.414** m.
8. The roof will be cladded in **Corrugated** roof cladding.
9. The walls will be cladded in **Corrugated** wall cladding.
10. The building will not be dominant in visual appearance.

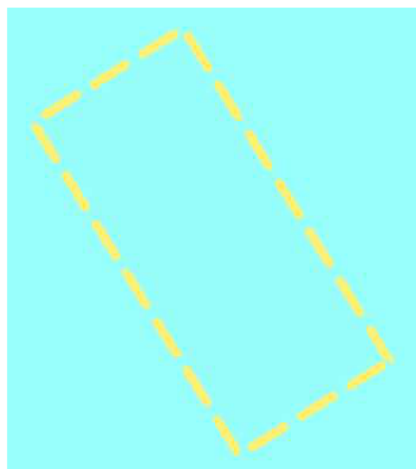
### Site disturbance and placement

1. **Minor** Earthworks will be required to cut and fill site.
  - a. **No** cut is required.
  - b. **0.2m** fill is required.
  - c. An on site waste storage area will be used and will remain in place until the construction is completed.
  - d. A silt/sediment fence will be constructed on the low side of the disturbed earth and maintained for the duration of works.
  - e. All surfaces disturbed are to be returned to a state that will prevent ongoing erosion and sediment.
2. No native flora or fauna shall be disturbed.
3. **No** trees are required to be removed.
4. No Industrial or commercial activities have been conducted on the site in recent years.
5. Proposed ancillary building is not a shipping container.
6. Proposed is setback **12.8** m behind primary dwelling.
7. Proposed is setback **5** m from nearest side boundary.
8. Proposed is setback **3** m from rear boundary.
9. Placement of the shed will not cast adverse shadows on neighbouring properties and is designed to maintain neighbouring privacy.
10. No sewer or stormwater will be affected. All sewer and stormwater will be connecting to existing services and all plumbing will be conducted in accordance with AS AS 3500.
11. The proposed structure is NOT a waterfront property or encroaching on crown land.
12. The development shall be carried out in accordance with the Building Code of Australia.
13. The proposed development will in no way have impact regarding special design features.
14. There will be no disturbance to traffic flow, noise pollution, and historical or archaeological aspects or on soil erosion.
15. There will be no excessive waste or wastewater created during construction.

### Planning layers

#### a. Protection

- I. The proposed development **IS** within **Groundwater Vulnerability** defined area. (see below *Groundwater Vulnerability map*):
  - a. The proposal does not represent a high risk for potential ground water contamination.



- II. The proposed development is **NOT** within a **Riparian Water course**.
- III. The proposed development is **NOT** affected by **Terrestrial Biodiversity** defined land and is not near a **Terrestrial Biodiversity** defined area.
- IV. The proposed development is **NOT** within a **Conservation area**
- V. The proposed development is **NOT** within a **Acid Sulphate soils** affected area
- VI. The proposed development is **NOT** within **Drinking Water Catchment** area.

**b. Mines Subsidence**

- I. The proposed development is **NOT** within a Mines Subsidence affected area

**c. Hazard**

- I. **Bushfire** The property is **NOT** within a bush fire prone zone.
- II. **Flood.** The proposed development is **NOT** in a Flood prone land.

**Development Control Plan Compliance and Variations**

| DCP Item   | Compliant | Non-Compliant |
|--|-----------|---------------|
| <b>Total Building Size/Floor Space</b><br>DCP: 120m2.<br>Proposed: 168m2.  |           | <b>X</b>      |
| <b>Maximum Wall Height</b><br>DCP: 4.5m.<br>Proposed: 4.414m.  | ✓         |               |
| <b>Minimum Front Boundary/Primary Building Line Setback</b><br>DCP: 10m.<br>Proposed: 12.8m Behind Dwelling.   | ✓         |               |
| <b>Minimum Side Boundary Setback</b><br>DCP: 2.5m.<br>Proposed: 5m.  | ✓         |               |
| <b>Minimum Rear Boundary Setback</b><br>DCP: 2.5m.<br>Proposed: 3m.  | ✓         |               |
| <b>Cut Required</b><br>DCP: 1m.<br>Proposed: No Cut Proposed.  | ✓         |               |
| <b>Fill Requirement</b><br>DCP: 0.6m.<br>Proposed: 0.2m.   | ✓         |               |
| <b>Variation:</b>  |           |               |
| <p><b>Item:</b><br/> <b>Total Building Size/Floor Space</b><br/>                     DCP: 120m2.<br/>                     Proposed: 168m2.<br/> <b>Justification:</b></p> <ul style="list-style-type: none"> <li>• The shed is appropriately sited and will not impact on neighbour’s views of prominent ridgeline despite it’s size. This will ensure that the structure does not impact on any neighbouring properties if approved.</li> </ul> |           |               |

- The structure will not cast any adverse shadows on neighbouring properties despite it's size on account of it's setback to neighbouring properties.
- The size of the proposed shed is necessary for it to perform it's intended use. The shed will be used for the storage of trailers and camping gear, as well as household tools and other household overflow items. A reduction in the floor space of the proposed would invalidate this use which is undesirable.
- The structure will be partially obscured from the primary road on account of the placement of the existing dwelling on the site. This will ensure that the structure does not create an adverse precedent in the locality or negatively impact on the visual consistency of the street front from the primary road.

**Prepared by Fernleigh Drafting**

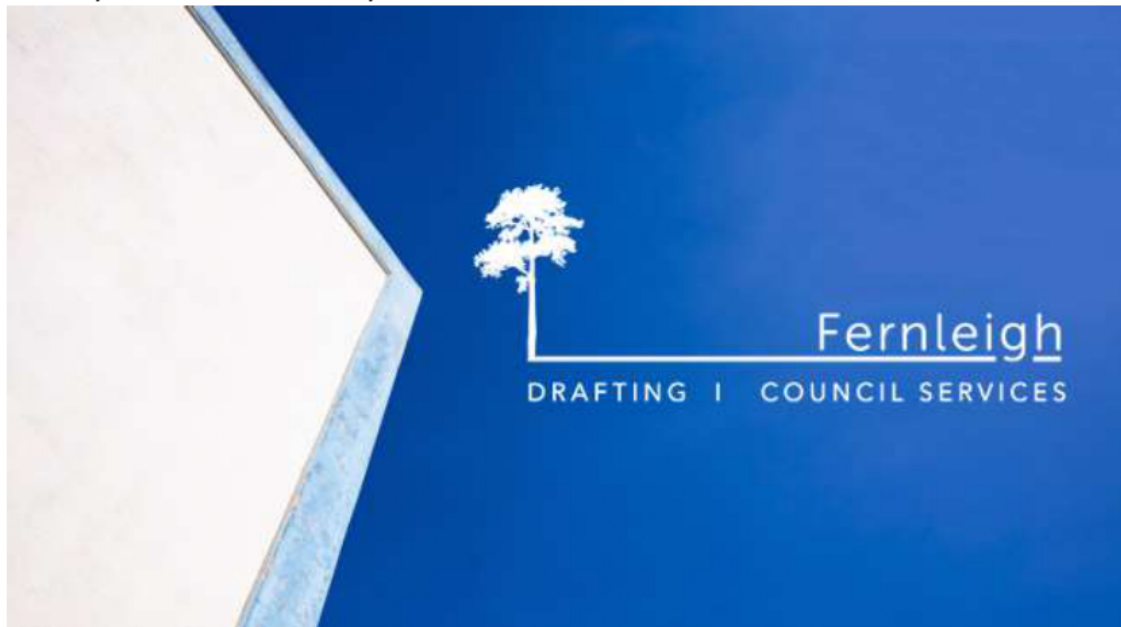
[admin@fernleighbuilding.com.au](mailto:admin@fernleighbuilding.com.au)

**(02) 7902 5111**

[www.fernleighbuilding.com.au](http://www.fernleighbuilding.com.au)

**P.O. BOX 57 Camden, 2570 NSW**

**Unit 3G, 49 The Northern Road, Narellan**





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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 1 of 8)

Plan **DP1259753**

Plan of subdivision of Lot 216 in DP 1259749 and Lot 400 in DP 1259751 covered by Subdivision Certificate No. SC036/2021

**Full name and address of the owner of the land**

Maas Group Properties Bombira Pty Limited  
 ACN 60 632 462 581  
 3/148 Brisbane Street  
 DUBBO NSW 2830

**Part 1 (Creation)**

| Number of item shown in the intention panel on the plan. | Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan. | Burdened lot(s) or parcel(s).                          | Benefited lot(s), road(s), bodies or Prescribed Authorities. |
|--|---|--|--|
| 1  | Easement to Drain Sewage 3 Wide and Variable Width (A)  | Lot 501 to Lot 516 Inclusive                           | Mid-Western Regional Council                                 |
| 2  | Easement to Drain Water 3 Wide and Variable Width (B)   | Lots 504 to 507 Inclusive<br>Lots 514 to 516 inclusive | Mid-Western Regional Council                                 |
| 3  | Easement for Water Supply 3 and 3.75 Wide (S)   | Lots 501, 506, 512                                     | Mid-Western Regional Council                                 |
| 4  | Restrictions on the use of Land   | Lots 501 to 516 inclusive                              | Every Lot in the Plan other than Lot 517                     |
| 5  | Restrictions on the use of Land   | Lots 501 to 516 inclusive                              | Mid-Western Regional Council                                 |
| 6  | Restrictions on the use of Land (C)   | Lots 501 to 503 inclusive                              | Mid-Western Regional Council                                 |

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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 2 of 8)

Plan **DP1259753**

Plan of subdivision of Lot 216 in DP 1259749 and Lot 400 in DP 1259751 covered by Subdivision Certificate No SC 236/2021

**Part 1A (Release)**

| Number of item shown in the intention panel on the plan. | Identity of easement or profit à prendre to be released and referred to in the plan. | Burdened lot(s) or parcel(s). | Benefited lot(s), road(s), bodies or Prescribed Authorities. |
|--|--|-------------------------------|--|
| 1  | Right of Carriage Way 20 Wide (DP 1237183)   | Lot 211 in DP 1237183         | Lot 400 in DP 1259751  |
| 2  | Right of Carriage Way 22 Wide (DP 1259749)   | Lot 400 in DP 1259751         | Lot 216 in DP 1259749  |

**Part 2 (Terms)**

**1. Terms of the Restrictions fourthly referred to in the plan:**

**Building Requirements**

- (a) No building or buildings shall be erected or be permitted to remain erected on the lot burdened other than with external walls of new materials, being of brick, brick veneer, stone concrete, glass, cement render or cellulose fibre reinforced cement building sheets externally coated with a seamless textured trowel on acrylic material to a minimum of 2mm thickness ("Specified Materials"). This restriction shall not apply to infill panels and gable ends in a building having external walls of any of the Specified Materials or combination of the Specified Materials where the total area of the infill panels and gable ends does not exceed 10% of all the external walls of the building, unless approved in writing by Maas Group Properties Bombira Pty Limited.
- (b) No building or buildings shall be erected or be permitted to remain erected on the lot burdened that
  - (i) Is a transportable or demountable building;
  - (ii) Is an attached dwelling; and
  - (iii) Has a living area of less than 200 square meters (including garages, carports and verandahe) under the one roof.
- (c) No more than one main building may be erected or permitted to remain on the lot burdened.
- (d) No building shall be erected or permitted to remain on the lot burdened having a roof of fibre cement or asbestos cement or fibre glass or any other material of a similar nature or aluminium or steel decking of any nature other than steel treated with a non-reflective surface.
- (e) No garage or outbuilding shall be erected or permitted to remain on the lot burdened except until after or concurrently with the erection of the main building on the lot burdened, and no garage, shed or outbuilding shall be more than a single storey.

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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 3 of 8)

Plan **DP1259753**

Plan of subdivision of Lot 216 in DP 1259749  
and Lot 400 in DP 1259751 covered by  
Subdivision Certificate No SC036/2021

**Residential Use**

- (f) No main building erected on the lot burdened shall be used for any purpose other than as a single dwelling house which does not include a residential flat building.
- (g) The lot burdened may not be used for temporary accommodation or the storage of mobile homes or caravans.
- (h) No dairy, brick yard, tannery, poultry farm, piggery, kennels, quarry or other noxious, noisome or offensive occupation, trade or business can be carried out on the lot burdened.

**Rubbish, Machines and Vehicles**

- (i) No materials (except as required in the course of building) rubbish or excess soil can be kept or stored on the lot burdened.
- (j) No plant, machinery or vehicles having a tare weight in excess of 5 tonnes or unused, out of order or not functional can be parked or stored on the lot burdened.
- (k) No truck yards, earth moving business or welding shops or operations of a similar nature shall be carried out on the lot burdened.

**Fencing**

- (l) No fences shall be erected or permitted to be erected on the street frontage unless approved in writing by Maas Group Properties Bombira Pty Limited.
- (m) In the case of a corner lot, no fence is to be constructed between the front street alignment and the house building line unless approved in writing by Maas Group Properties Bombira Pty Limited.
- (n) No fence shall be erected on the lot burdened other than of materials and colours as approved in writing by Maas Group Properties Bombira Pty Limited.
- (o) No fence shall be erected on the lot burdened to divide it from any adjoining land without prior consent in writing of Maas Group Properties Bombira Pty Limited (its successors and assigns other than purchasers on sale) provided that such consent shall not be refused if:
  - (i) The fence is erected without expense to Maas Group Properties Bombira Pty Limited its successors and assigns; and
  - (ii) The fence is: 1.2 metres in height, with rabbit proof wire mesh 900 mm high on the bottom section, with a single strand of plain wire above the rabbit proof mesh, star post supports every three (3) metres; and constructed at the commencement of each boundary will be two hard wood posts set 3 metres apart with rabbit proof mesh 900 mm high on the bottom section with a single wire strand above the rabbit proof mesh in between the two posts; or as otherwise approved by Maas Group Properties Bombira Pty Limited;

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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 4 of 8)

Plan **DP1259753**

Plan of subdivision of 1 of 216 in DP 1259749  
and Lot 400 in DP 1259751 covered by  
Subdivision Certificate No. SC036/2021

**Advertising**

- (p) No advertisement hoarding or sign of any description other than a "for sale" real estate sign shall be erected or displayed on the lot burdened.

**Carport**

- (q) No carport may be erected or permitted to remain on the lot burdened unless the roof has a pitch and character consistent with the existing dwelling.
- (r) No carport or garage on the lot burdened is to be enclosed or converted to habitable areas unless the external walls and windows have a character consistent with the existing dwelling and are constructed from the same materials.
- (s) No additions shall be erected or permitted to remain on the lot burdened unless any street facing façade of the addition is constructed with the same material and in a character consistent with the existing dwelling.

**Landscaping**

- (t) The owner of the lot burdened must not and must not authorise or permit any removal, damage or harm to the landscaping on the lot burdened including any plants or trees.

**Satellite Dish**

- (u) No satellite dish may be placed or allowed to remain on any building or structure on the lot burdened unless the satellite dish is placed to minimise the public view of the satellite dish.

**Animals**

- (v) No pigs, bees, roosters, pigeons, greyhounds, livestock, horses, poultry or other animals apart from domestic pets, including cats, dogs, caged birds and fish may be kept on the lot burdened.

**Subdivision**

- (w) The lot burdened may not be subject to further subdivision, boundary adjustment or be changed from the original lot size unless authorised in writing by Maas Group Properties Bombira Pty Limited.

**Miscellaneous**

- (x) No Driveways or paths shall be constructed or permitted to remain on the lot burdened forward of any building erected on the lot burdened unless they are constructed of coloured concrete pavers, clay pavers, coloured stamped concrete or gravel (edged with pavers).
- (y) No rainwater tank constructed from silver or uncoloured galvanised iron may remain on the lot burdened.

**Display Home**

- (z) The lot burdened must not be used for the purpose of the building a display or exhibition house other

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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 5 of 8)

Plan **DP1259753**

Plan of subdivision of Lot 216 in DP 1259749  
and Lot 400 in DP 1259751 covered by  
Subdivision Certificate No. SC03612021

than by Maas Group Properties Bombira Pty Limited or with the consent of Maas Group Properties Bombira Pty Limited.

**Release or Modification**

- (aa) No release, variation or modification of any restriction set out in this covenant is permissible unless Maas Group Properties Bombira Pty Limited has approved such action and in the case of substantial variations (as determined by Maas Group Properties Bombira Pty Limited) unless all adjoining property owners have also been consulted.
- (bb) Approval or refusal shall not be deemed to be unreasonable if a Certified Planner nominated by Maas Group Properties Bombira Pty Limited has certified that the proposal does or does not conform with the general standards of design and planning of the development and the proposal is desirable or undesirable by reason of the effect that it would have upon the development, appearance, health or amenity of the neighbourhood or any part of it.
- (cc) Maas Group Properties Bombira Pty Limited can consent to any exception of the restrictions set out in this covenant where the consent is set out in writing signed by a director of Maas Group Properties Bombira Pty Limited.

**Name of person empowered to release, vary or modify restriction fourthly referred to in the plan:**

Maas Group Properties Bombira Pty Limited while it is the registered proprietor of any lot in the plan, thereafter the registered proprietors of the lots benefited.

**2. Terms of the Restrictions fifthly referred to in the plan:**

**Requirements for the Control of Stormwater Runoff**

- (a) A Stormwater Drainage System must ensure that 75% of all roof stormwater runoff from a dwelling erected on each lot burdened must be directed to stormwater tanks configured to provide no less than 2,000 litres of detention storage capacity in excess of any other Basix requirements.
- (b) The requirement for detention storage is as generally detailed in the Stormwater Management Report Bombira Estate 82018276-01 dated 15 January 2020 prepared by Cardno (NSW/ACT) Pty Ltd.
- (c) The outlet from the tank's detention storage is to be limited by an orifice plate with no greater than a 25 mm opening.
- (d) The effective detention storage capacity of the tank is determined as being the volume between the invert level of the detention outlet pipe and the level of the tank overflow pipe and must not include any other water storage for re-use that may be required under a BASIX Certificate.



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**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919**

(Sheet 6 of 8)

Plan **DP1259753**

Plan of subdivision of Lot 216 in DP 1259749  
and Lot 400 in DP 1259751 covered by  
Subdivision Certificate No. SC036/2021

- (e) After appropriate detention all runoff from roof or other developed impervious surfaces is to be directed to the Legal Point of Discharge for the Lot which may be either a kerb outlet or inter-allotment drain.
- (f) No modifications to the detention tank or outlets are to be made without prior consent of Mid-Western Regional Council
- (g) Council reserves the right to undertake inspection at any time, subject to notice of no less than 48 hours being provided, of all tanks, pipes and any other drainage infrastructure to confirm effective operation of the detention devices and to require the owner to repair or re-instate to Council satisfaction the effective operation of the detention tanks

**3. Terms of Restrictions on the Use of Land sixthly referred to in the plan:**

- (a) There is no direct access permitted from the lot to Ulan Road public reserve from the burdened lot;
- (b) no above ground structures shall be erected on the burdened lot within 15m of the boundary of the burdened lot with the Ulan Road public reserve; and
- (c) all fencing along the boundary to the Ulan Road public reserve is to be post and rail construction only.

**Name of person empowered to release, vary or modify restriction fifthly and sixthly referred to in the plan:**

Mid-Western Regional Council.