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# Statement of Environmental Effects

**Client:** Geoff Tracey

**Project:** Retaining Wall (Retrospective) and Relocation of Existing Retaining Wall

**Site Address:** 10 Harvey Street, Bombira

10 August 2023

**Our Reference:** 42032-PR01\_A

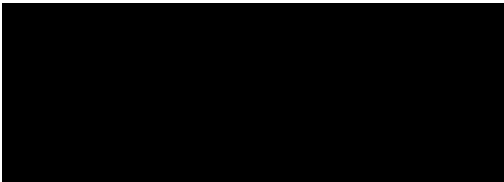
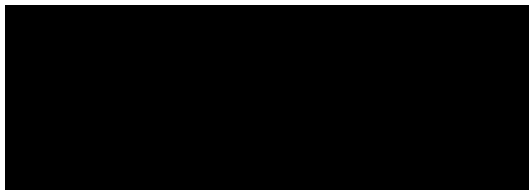
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Barnson Pty Ltd accepts no liability or responsibility for or in respect of any use or reliance upon this report and its supporting material by anyone other than the client.

<b>Project Name:</b>	Retaining Wall (Retrospective) and Relocation of Existing Retaining Wall at 10 Harvey Street, Bombira
<b>Client:</b>	<b>Geoff Tracey</b>
<b>Project Number:</b>	42032
<b>Report Reference:</b>	42032-PR01_A
<b>Date:</b>	10 August 2023

Prepared by:	Reviewed by:
	
Jack Massey B. Urb & Reg. Planning Senior Town Planner	Jim Sarantzouklis MAIBS (Assoc.) MAICD MEHA RPIA Director

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## **1. INTRODUCTION**

### **1.1. Background**

Barnson Pty Ltd has been engaged by Geoff Tracey to prepare information in support of a Development Application (DA) seeking retrospective approval for an existing retaining wall, relocation of an existing retaining wall and associated allotment filling at 10 Harvey Street, Bombira.

The subject site is located on the south eastern side of Harvey Street and has an area of 2031m<sup>2</sup>. The site is currently vacant.

The site is zoned R2 Low Density Residential under the *Mid-Western Regional Local Environmental Plan 2012* (LEP). The proposed development is defined as 'earthworks', which is permissible with consent under Clause 6.3 of the LEP.

This application consists of:

- A completed development application form; and
- PDF copy of this written statement, including plans.

### **1.2. Proponent**

The proponent for the DA is Geoff Tracey.

### **1.3. Consultant**

Barnson Pty Ltd

Jack Massey

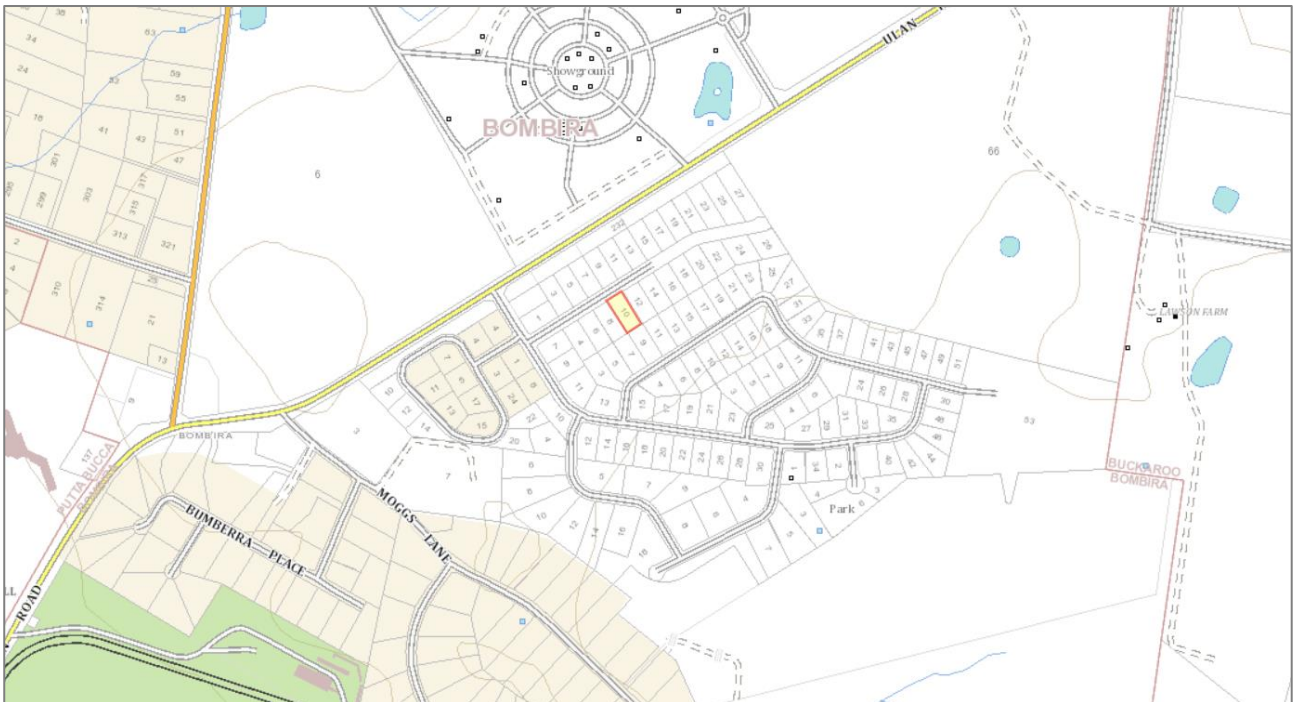
Suite 8 / 11 White Street

Tamworth NSW 2340

## 2. EXISTING ENVIRONMENT

### 2.1. Location and Title

The subject site of this application is Lot 505 DP 1259753, known as 10 Harvey Street, Bombira. The site is located on the south eastern side Harvey Steet, in the suburb of Bombira as shown in Figure 1 below.



Source: (NSW Government Spatial Services, 2023)

**Figure 1 – Site Location**

The site has an overall area of 2031m<sup>2</sup> (refer to Detail Survey in Appendix A of this report). The site has direct frontage to Harvey Street which is a sealed road .

The site is currently vacant and has been subject to recent earthworks, as shown in Figure 2 and Plates 1-2 below.





Source: (NSW Government Spatial Services, 2023)

**Figure 2 – Site Aerial**



**Plate 1 – View of the recently completed earthworks**





**Plate 2 – View of the subject site**

## **2.2. Land Use**

The subject site was recently subject to a subdivision, which created the lot. Residential developments (existing and emerging) surround the site.

## **2.3. Topography and Soils**

The subject site is relatively flat.

## **2.4. Flora and Fauna**

There is no presence of flora or fauna on the site.



## 2.5. Natural Hazards

The site is not mapped as bushfire prone or within a Flood Planning Area under the *Mudgee Regional Local Environmental Plan 2012* (the LEP) or the Department of Planning, Industry and Environment's *ePlanning Spatial Viewer*.

## 2.6. Services

The site contains existing established connections to all essential services including reticulated water, sewer, stormwater, electrical and telecommunications infrastructure. There is an easement to drain water and sewer located at the rear of the site, as shown on the Detail Survey in Appendix A of this report.

## 2.7. Access and Traffic

Vehicular access is gained to the site off the southern side of Harvey Street. A formal access crossover and layback is yet to be established.

## 2.8. Heritage

The site does not contain a heritage listed item according to the *Mid-Western Regional Local Environmental Plan 2012* and the NSW State Heritage Register. The Aboriginal Heritage Information Management System search in Appendix B reveals that there are no Aboriginal items, places or sites on or within proximity to the site.

### 3. PROPOSED DEVELOPMENT

The development application seeks retrospective approval for an existing retaining wall, relocation of an existing retaining wall and associated allotment filling. The subject site of this application is Lot 505 DP 1259753, known as 10 Harvey Street, Bombira.

Works were undertaken on the site, which entailed the establishment of a concrete block retaining wall and associated earthworks/allotment filling. Council's regulatory department confirmed that a Development Application would need to be lodged moving forward, and once the application was approved, a Building Information Certificate would then need to be lodged to allow the works.

The Detail Survey in Appendix A shows the extent of works carried out with the retaining walls. As shown, the retaining wall to the rear of the site encroaches into the sewer and water drainage easement. Council have requested the removal of the retaining wall and associated fill within the easement separately to this application. As such, those works are not included in this application.

The concrete block walls have been positioned on the site with a gravel/free draining base situated beneath each block. The blocks are interlocked throughout the site and are stacked blocks on top of the ground with no concrete footing.

Discussions with Council confirmed that the rear retaining wall should be positioned approximately 4.8m from the rear boundary, outside of the sewer easement. Council officers confirmed that this setback would be acceptable. As shown on the Development Plans in Appendix C of this report, the retaining wall has been positioned 4.8m from the rear boundary.

The works subject to the relocation of the retaining wall shall be subject to a Construction Certificate application and the unauthorised works that shall be retained shall be subject to a Building Information Certificate. Both applications are to be lodged following approval of this Development Application.

## 4. LAND USE ZONING

The subject site is zoned R2 Low Density Residential pursuant to the *Mid-Western Regional Local Environmental Plan 2012* (LEP). The proposed development is for 'earthworks', which is permissible with consent in accordance with Clause 6.3 of the LEP.

The permissibility of the proposed development is assessed in terms of the heads of consideration in Section 4.15 of the *Environmental Planning & Assessment Act 1979*, which incorporates consideration of the LEP and the objectives and permissible uses, as outlined in Section 5 of this report.

## 5. PLANNING CONSIDERATIONS

### 5.1. Environmental Planning & Assessment Act 1979

#### 5.1.1. Evaluation

Section 4.15 of the EP&A Act (as amended) requires the Council to consider various matters in regard to the determination of the Development Application.

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *The provisions of:*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iv) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (v) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
  - (vi) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (b) *The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;*
- (c) *The suitability of the site for the development,*
- (d) *Any submissions made in accordance with this act or the regulations,*
- (e) *The public interest.*

The proposed development has been designed with consideration to the following matters, as outlined below.

### 5.2. Environmental Planning Instruments

#### 5.2.1. State Environmental Planning Policy (Resilience and Hazards) 2021

Clause 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021* requires Council to consider the following before granting consent to a DA:



- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Comment: A desktop analysis, including a review of Council's records system, did not reveal any information about the past use of the site. It is reasonable to assume that given the site was recently subject to a subdivision, potential previous contaminating activities and any associated remediation works would have been subject to that application with Council and the site suitably remediated for residential use.

## **5.2.2. Mid-Western Regional Local Environmental Plan 2012**

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

Clause 2.3 of the LEP states:

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

*(1) The Land Use Table at the end of this Part specifies for each zone—*

- (a) the objectives for development, and*
- (b) development that may be carried out without development consent, and*
- (c) development that may be carried out only with development consent, and*
- (d) development that is prohibited.*

*(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*

*(3) In the Land Use Table at the end of this Part—*

- (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and*
- (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.*

*(4) This clause is subject to the other provisions of this Plan.*

*Notes—*

- 1 Schedule 1 sets out additional permitted uses for particular land.*
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act.*
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).*
- 4 Clause 2.6 requires consent for subdivision of land.*
- 5 Part 5 contains other provisions which require consent for particular development.*

Comment: Prelodgement discussions were undertaken with Council to determine the appropriate planning pathway for the earthworks. This was primarily due to the fact that earthworks are not listed within the R2 land use table as a permitted use and the earthworks are not associated with the construction of a residential dwelling.

Council confirmed that Clause 2.3(4) of the LEP makes reference to other clauses that may enable certain works to be carried out with development consent that may not be addressed by the Zone table. In this case, earthworks can be undertaken under Clause 6.3 of the LEP (i.e. development consent is required for earthworks). Therefore the proposal is permissible with development consent under Clause 6.3 of the LEP.

## Land Use Table

The subject site is zoned R2 Low Density Residential pursuant to the *Mid-Western Regional Local Environmental Plan 2012* (LEP). The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposed development is defined as 'earthworks', which is considered to be consistent with the zone objectives as it shall eventually support the residential use of the land.

## Earthworks

Clause 6.3 of the LEP states:

- (1) *The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*
- (2) *Development consent is required for earthworks unless—*
  - (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
  - (b) *the earthworks are ancillary to other development for which development consent has been given.*

Comment: Development consent is required for the subject earthworks, as the earthworks are not considered exempt under this plan or another applicable environmental planning instrument; and the earthworks are not (currently) ancillary to other development for which development consent has been given.

- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters—*
  - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
  - (b) *the effect of the development on the likely future use or redevelopment of the land,*
  - (c) *the quality of the fill or the soil to be excavated, or both,*
  - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*

- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Note—

The [National Parks and Wildlife Act 1974](#), particularly section 86, deals with harming Aboriginal objects.

Comment: Development consent is required for the subject earthworks, of which this application relies upon for permissibility. There shall be minimal disruption or detrimental effect on existing drainage patterns, soil stability or any cultural heritage items or features surrounding the subject site. Appropriate erosion and sediment controls will be undertaken on the site during development works to prevent or reduce any soil erosion that could occur on the site.

The earthworks shall support the future residential use of the land and is not likely to cause any amenity impacts to adjoining properties. The fill material has been sourced from a certified clean fill provider and does not contain any contaminants or the like.

There are no known relics (Aboriginal or otherwise) located on the subject site and it is assumed that the original subdivision works confirmed that there are no relics located on the site or within proximity. There are no significant waterways located within proximity to the site.

By way of minimising and mitigating the impacts of the earthworks, the following shall be implemented; appropriate erosion and sediment control measures, internal subsoil drainage to ensure the structural stability of the retaining wall, dust suppression mechanisms during development works and post completion, and the developer shall comply with conditions imposed by Council.

### 5.3. Draft Environmental Planning Instruments

No draft Environmental Planning Instruments are applicable to the subject site or development.

### 5.4. Development Control Plans

The *Mid-Western Regional Council Development Control Plan 2013* applies to the proposed development. Given the nature of the proposal, only the relevant provisions of the DCP have been addressed in Table 2 below.

Table 1 – DCP Compliance Table	
Provision	Comment

Part 3 – Discretionary Standards	
Slopes	<p>This section of the DCP provides the following deem to satisfy provisions:</p> <ul style="list-style-type: none"> <li>• <i>Cut is to be limited to 1,000 mm.</i></li> <li>• <i>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.</i></li> <li>• <i>Any cut and/or fill must be provided with retaining walls, drainage and must be setback a minimum of 300 mm from any boundary.</i></li> <li>• <i>Fill must not direct stormwater onto adjoining properties and drainage pits for overland flow paths are to be provided.</i></li> <li>• <i>Cut and fill is not permitted within water or sewer easements</i></li> </ul> <p>Comment: Minimal cut has occurred on the site as the earthworks predominately relate to fill following the installation of the concrete block retaining walls. A geotechnical assessment of the supplied fill shall be undertaken and provided to Council prior to the issue of a Construction Certificate for further works.</p> <p>The north eastern retaining wall, which extends across the majority of the site, has been positioned on the boundary, less than 300mm (albeit not encroaching the boundary). Therefore, it does not comply with Council's setback provisions. A Departure Request is sought and is considered justified in that:</p> <ul style="list-style-type: none"> <li>• The intent of the 300mm setback provision is to ensure subsoil drainage is positioned between the retaining wall and the property boundary. The proponent has installed the subsoil drainage on the inside of the retaining walls, therefore negating the need to provide a setback for drainage;</li> <li>• The proponent wishes to utilise the full extent of the site as a result of the retaining wall construction, hence the positioning of the retaining walls close to the boundaries;</li> <li>• The difference between a 300mm setback and a 0mm setback is negligible in terms of the overall aspect of the subject site. Therefore the reduced setback does not detrimentally impact on the subject site, its future development or neighbouring properties.</li> </ul> <p>The fill does not direct stormwater onto any adjoining properties. The fill slightly drains towards the rear of the site to the stormwater pit/infrastructure. A more formal stormwater management arrangement shall be undertaken as part of the application for a residential dwelling on the site.</p> <p>The associated cut and fill that was undertaken within the rear easement shall be removed (separate to this application as a compliance issue). As a result of the relocation of the rear retaining wall (refer to plans in Appendix</p>



	C), the retaining wall and associated fill shall be positioned outside of the rear easement afforded to the site.
Part 5.3 – Stormwater Management	
<insert>	<p>All stormwater is directed to the rear of the site to a stormwater pit. The subsoil drainage behind the retaining walls also drains towards this pit. No stormwater is or shall be directed to neighbouring properties.</p> <p>A formal Stormwater design shall be prepared as part of a future application for a residential dwelling on the site.</p>
Part 5.4 – Environmental Controls	
All Buildings	<p>This section of the DCP states:</p> <p><i>Appropriate sub-soil drainage must be installed for all slabs, footings, retaining wall and driveways.</i></p> <p>Comment: Subsoil drainage has been installed on the inside of the retaining walls, as advised by the proponent of this application.</p>

## 5.5. Any Planning Agreement entered into

No Planning Agreements entered into are known to exist in relation to the development or site.

## 5.6. Any Matters Prescribed by the Regulations

For the purposes of Section 4.15(1)(a)(iv) of the EP&A Act, Clause 92 of the *Environmental Planning and Assessment Regulations 2000* (EP&A Regulations) specifies the additional matters a consent authority must take into consideration when determining a DA, none of which apply to the proposed development.

## 5.7. Any Likely Impacts of the Development

### 5.7.1. Context & Setting

The subject site is located in a newly established residential locality, which is characterised by existing and emerging residential dwellings and associated developments. The development shall support the future residential use of the site and is therefore considered consistent with the context and setting of the locality. There shall be no adverse impact on the context or setting in the locality.

### **5.7.2. Access, Transport & Traffic**

A formal access vehicular point shall be established as part of a future application for the residential use of the site.

### **5.7.3. Utilities**

All existing utilities shall be retained and protected where necessary. The relocation of part of the existing retaining wall has been strategically positioned outside of the sewer easement, as instructed by relevant Council officers.

### **5.7.4. Social & Economic Impacts in the Locality**

The proposed development shall support the future residential use of the land and is not considered to have any significant social or economic impact.

### **5.7.5. Other Impacts**

There are no other issues such as flooding, bushfire, flora/fauna etc that would impact upon the development or locality.

## **5.8. Suitability of the Site for the Proposed Development**

The suitability of the site for the proposed development has been addressed in the above sections of this report. There are no prohibitive constraints posed by adjacent developments. There does not appear to be any zoning, planning or environmental matters that should hinder the proposed development of the site. In this regard, it can be concluded that the proposal fits into the locality and the site attributes are conducive for the development.

## **5.9. The Public Interest**

The proposed development is considered to be in the public interest as it provides for earthworks in a suitable location. As outlined throughout this report the development is consistent with the minimum lot size for the area and is not expected to have any adverse off-site impacts.

## 6. CONCLUSION

It is recommended that the proposed development on Lot 505 DP 1259753, known as 10 Harvey Street, Bombira be supported on the following grounds:

- The proposal is considered acceptable in terms of the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*;
- The proposal is permissible with consent and consistent with the relevant development standards and provisions of the *Mid-Western Regional Local Environmental Plan 2012*;
- The proposal complies with the relevant provisions of the *Mid-Western Regional Council Development Control Plan 2013*;
- The proposed development is not anticipated to generate any adverse impacts in the locality; and
- The proposed development is considered suitable for the site and its surrounds.

## 7. REFERENCES

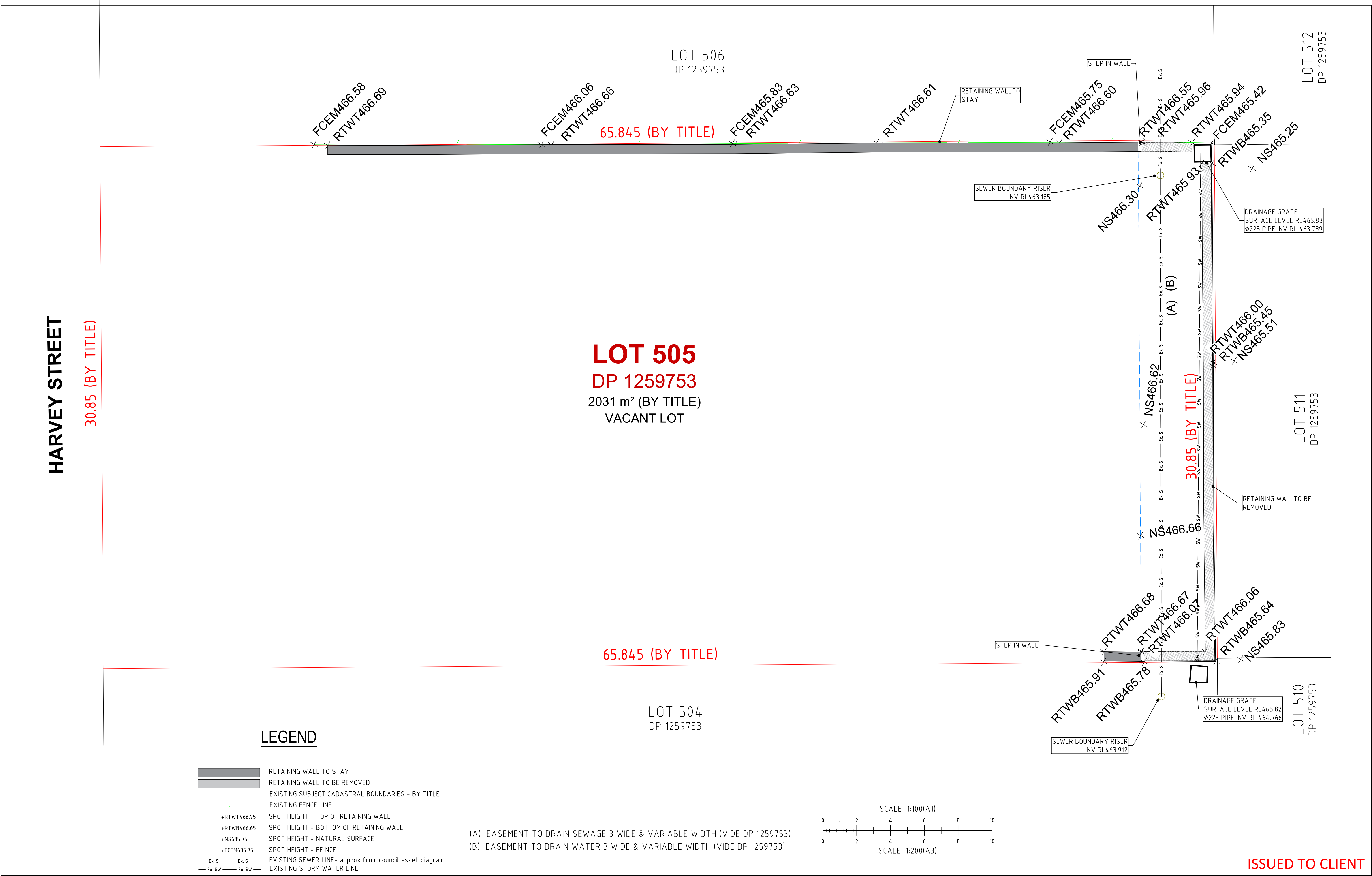
- NSW Government. (2017, September 1). *Biodiversity Value Map*. Retrieved from <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap>
- NSW Government Spatial Services. (2023, July 30). *Six Maps*. Retrieved from <http://maps.six.nsw.gov.au/>





## APPENDIX A

# Detail Survey



**BARNSON PTY LTD**  
1300 BARNSON (1300 227 676)  
generalenquiry@barnson.com.au  
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Bathurst | Dubbo | Mudgee | Sydney | Tamworth

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Client: GEOFF TRACY  
Project: SITE SURVEY AT LOT 505 IN DP 1259753 10 HARVEY STRETT, BOMBIRA, 2850  
Drawing Title: SITE SURVEY PLAN

Rev Date Amendment  
A 19/07/2023 ISSUED TO CLIENT

Survey BT & BS Certification  
Drawn BT  
Check RB Drawing Number  
Original Sheet Size = A1 42032\_L01 Revision  
A

**APPENDIX B**  
**AHIMS Search**

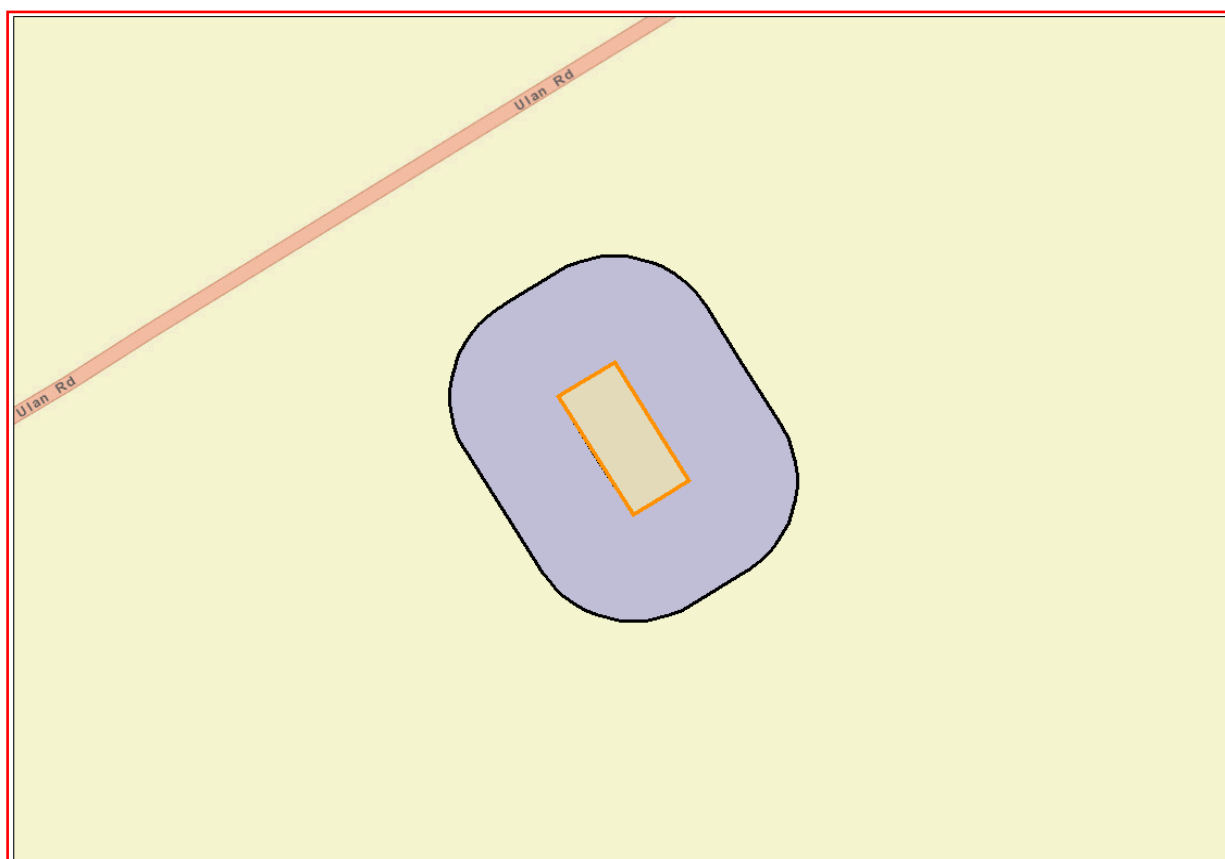
Barnson  
Suite 6 11 White Street  
Tamworth New South Wales 2340  
Attention: Jack Massey  
Email: jmassey@barnson.com.au

Date: 01 August 2023

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 505, DP:DP1259753, Section : - with a Buffer of 50 meters, conducted by Jack Massey on 01 August 2023.**

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *



**If your search shows Aboriginal sites or places what should you do?**

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(https://www.legislation.nsw.gov.au/gazette\)](https://www.legislation.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW upon request

**Important information about your AHIMS search**

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

**APPENDIX C**

**Development Plans**





**LEGEND**

EXISTING RETAINING WALL

**BARNSON PTY LTD**

**address.** Unit 4, 108-110 Market Street  
Mudgee, NSW 2850  
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**web.** barnson.com.au

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Rev.	Date.	Amendment.
A	01.08.2023	ISSUE FOR DA
B	10.08.2023	REVISE RETAINING WALL SETBACK TO 4.8m

**Project.**  
**PROPOSED RETAINING WALL**

**Site Address.**  
10 HARVEY STREET BOMBIRA 2850

**Client.**  
GEOFF TRACY

**Drawing Title.**  
**EXISTING SITE PLAN**

**Scale.** As indicated @ A1  
**Sheet.** 01 of 02  
**Project No.** 42032

**Drawn.**  
**Checked.**  
**Revision.**

**Drawing No.**

**LO**  
**KG**  
**B**

**DA ISSUE**

**42032-**  
**A01**





LEGEND

- EXISTING RETAINING WALL
- PROPOSED RETAINING WALL
- RETAINING WALL TO BE REMOVED

BARNSON PTY LTD

address. Unit 4, 108-110 Market Street  
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Rev.	Date.	Amendment.
A	01.08.2023	ISSUE FOR DA
B	10.08.2023	REVISE RETAINING WALL SETBACK TO 4.8m

Project.  
**PROPOSED RETAINING WALL**

Site Address.  
10 HARVEY STREET BOMBIRA 2850

Client.  
GEOFF TRACY

Drawing Title.  
**PROPOSED SITE PLAN**

Scale. As indicated @ A1  
Sheet. 02 of 02  
Project No. 42032

Drawn.  
Checked.  
Revision.

Drawing No.

**DA ISSUE**

42032-  
**A02**