



STATEMENT OF ENVIRONMENTAL EFFECTS

Project Details

Proposal:	Installation of 'Manufactured Dwelling as Secondary Dwelling'
Subject Site:	Lot 2 / DP 1014531
Zone:	R1- General Residential & R2 Low Density Residential
Lot Size:	23,064 sqm
Date:	January 2024



87 Henry Bayly Drive MUDGEE

This statement has been prepared by Progressive Project Solutions at the request of the application in support of a development application to the Mid-Western Regional Council.

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1. PROJECT SUMMARY

1.1 Proposal

This Statement of Environmental Effects (SoEE) is attached to a proposal at 87 Henry Bayly Drive MUDGEE. The proposal is for the installation of a 'Manufactured Dwelling' as a Secondary Dwelling.



Property Entry – 87 Henry Bayly Drive MUDGEE

1.2 Site Details / Context / Scope of Works

Site Details

The property subject to this application comprises Lot 2 / DP 1014531 – 87 Henry Bayly Mudgee in Mid-Western Regional Council LGA.

The property is an irregular shape lot with a northern boundary being 203.440mtrs, the eastern boundaries 110.200mtrs, the southern boundary 247.065mtrs and the western boundary 100.950mtrs creating a lot size of 23,064sqm.

The lot has a gradual fall from the south to the north over the western area and towards the east on the eastern side. There appears to be a dam on the eastern boundary of the property that seems to be intermittent as opposed to permanent. The property is substantially cleared with a handful of mature trees in the middle of the property. The remainder of the property is covered with native grasses and the area around the dwelling is planted with lawn that is manged by mowing.

The property has an existing dwelling, a detached garage, a detached shed and swimming pool. The existing single-story dwelling is constructed from brick and has a steel roof. The home appears to be under 20 years of age and in excellent condition. The existing sheds that are located close to the dwelling are of a reasonable size and constructed from metal. The swimming pool is just to the north of the dwelling and located within the landscapes area around the dwelling.

There is established landscaped gardens in and around the dwelling that are well maintained with grass and some strategically planted larger trees to create a vegetation buffer and privacy for the dwelling.

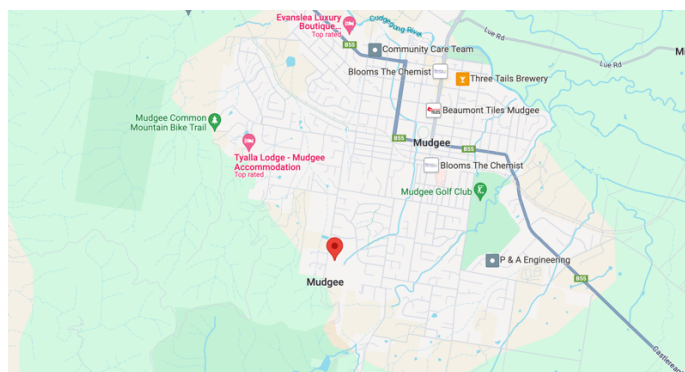
This property is part of what appears to be a small lot rural/residential cluster albeit zoned residential. There are a number of properties to the north, south and west that are small acreage and established with dwellings, sheds and the like. The properties to the east are more traditional urban lots which are also developed with many different styles of homes.

The location would have been originally bushland that has been cleared for agricultural purposes and it is unknown when it was subdivided to its current size.

The property is accessed from the sealed Henry Bayly Drive on the western side of the property. The property has limited services with water being collected and stored onsite along with waste water management dealt with by an approved OSSM. The property has electricity connected and has a council provided garbage service. The land is capable of having a new dwelling installed as a Secondary Dwelling on the site and when developed that will complement the rural landscape.

Site Context

The property is located approximately 3.3 kilometres from the Mudgee Post Office. Mudgee is a city in the Mid-Western Local Government area in central NSW and some 270 kilometres from the centre Sydney.



Property Location Map

The property located in the fringe of the residential area on the south west of the Mudgee town centre. The lot is some 23,064sqm that is located at the end of Henry Bayly Drive.

To the north, east, south & west there are established rural/residential properties of different sizes and shapes with the majority established with dwellings and associated structures.

Scope of Works

The proposed works comprise the installation of a 'Manufactured Dwelling' as a Secondary Dwelling' on the western side of the lot. Physical works include an 800mm 'cut and fill' to the area of the installation of the dwelling, the digging of piers to support the dwelling, drainage works and the installation of an OSSM for waste water.

Access and Parking

The existing driveway access from Henry Bayly Drive and will continue to be used to access the property. There is exiting sufficient area on the property that covers both the primary and proposed secondary dwellings.

Water, Sewer and Drainage

Water will be collected on site from the roof for reuse, sewer will be managed by the installation of an OSSM and stormwater will be collected for reuse with any excess being managed onsite.

Energy and Telecommunications

Energy and telecommunications services are currently provided to the site with this proposal having access to these services.

Landscaping

There is landscaping proposed as part of this application is to grass the new proposed area created by this application.

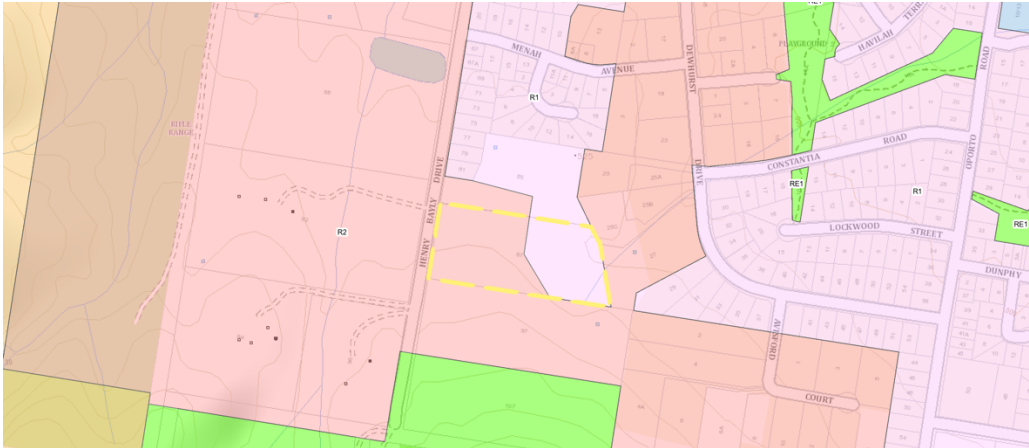
Other Considerations

Nil



1.3 Land Zoning

The site is zoned R1 – General residential & R2 – Low Density Residential – under the Mid-Western Regional Council LEP 2012 (MWRC LEP 2012). ‘Secondary Dwellings’ are permitted with consent. The proposal satisfies the development standards and objectives contained within the SEPP Housing 2021 and the MWRC LEP 2012.



Subject Property Zoning Map

1.4 EP&A 1979 - Considerations

4.1 Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment (EPA) Act 1979 is the principal piece of legislation governing the use and development of land in NSW. The objects of the Act are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The objects of the EPA Act are intended to guide land planning and management. Section 4.15 of the Act lists matters for consideration when assessing and determining an application for development.

This proposal satisfies these aims.

1.5 State Environmental Planning Policies - Considerations

The State Environment Planning Policies (SEPPs) align with the new thematic framework developed by the Department of Planning and Environment. This framework includes the following focus areas: Housing, Transport and Infrastructure, Primary Production, Biodiversity and Conservation, Resilience and Hazards, Industry and Employment, Resources and Energy and Planning Systems.

State Environmental Planning Policy – Exempt & Complying Development Codes 2008

Not Applicable to this application.

State Environmental Planning Policy – Biodiversity and Conservation 2021

The Biodiversity Conservation Act, 2016 was formally implemented to conserve and protect biodiversity values and systems across the State. The legislation lists threatened species and ecological communities (EECs) and outlines processes and procedures in the assessment of these valuable and sensitive environmental species and communities. Council's mapping system which shows where biodiversity and EECs exist and this site is subject to an Endangered Eco Community and Native Vegetation.

Not applicable – no clearing proposed.

State Environmental Planning Policy – Building Sustainability Index: BASIX 2004

The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.

The estimated cost of development proposed is noted within the cost analysis, and a BASIX Certificate has been prepared by the designer satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

A Basix Certificate is not required for this proposal.

State Environmental Planning Policy – Resilience and Hazards 2021

SEPP – Resilience and Hazards required council to consider whether the land is contaminated and to determine whether the proposed use is suitable with or without contamination. Council can require the applicant to conduct a preliminary investigation and subsequent more detailed investigation if warranted.

Where contamination exists and remediation is necessary, council must be satisfied that the remediation will take place before the land is used for the proposed purpose. The property is not listed on either the EPA or Council register of potentially contaminated land and there has been no known historical or current usage that would cause the land to be contaminated.

The property is not listed on the council register or the EPA register for potentially contaminated land and given it has been used for rural purposes for over 20 years contamination is highly unlikely.

Schedule 1 Complying development—Secondary Dwellings Section 54(2)(d)

Part 1 Preliminary

1 Definitions

(1) *In this Schedule—*

Ancillary structure means the following, if associated with a secondary dwelling and not exempt development under the Codes SEPP—

- (a) *an access ramp,*
- (b) *an awning, blind or canopy,*
- (c) *a balcony, deck, patio, pergola, terrace or veranda attached to a principal or secondary dwelling,*
- (d) *a carport attached to a principal or secondary dwelling,*
- (e) *a driveway, pathway or paving,*
- (f) *a fence or screen,*
- (g) *a garage attached to a principal or secondary dwelling,*
- (h) *an outbuilding,*
- (i) *a rainwater tank attached to a principal or secondary dwelling,*
- (j) *a retaining wall,*
- (k) *a swimming pool or spa pool and child-resistant barrier.*

outbuilding means the following, if detached from a principal or secondary dwelling—

- (a) *a balcony, deck, patio, pergola, terrace or veranda,*
- (b) *a cabana, cubby house, fernery, shed, gazebo or greenhouse,*
- (c) *a carport or garage,*
- (d) *a rainwater tank (above ground),*
- (e) *a shade structure.*

(2) *Unless defined in this Schedule, words used in this Schedule have the same meaning as in—*

- (a) *the Codes SEPP, and*
- (b) *for words not defined in the Codes SEPP—the standard instrument.*
- (3) *In this Schedule, the area of the access laneway for a battle-axe lot is excluded in calculating the area of the lot.*

Part 2 Site requirements

2 Lot requirements

(1) *Development for the purposes of a secondary dwelling or an ancillary structure may only be carried out on a lot that—*

- (a) *at the completion of the development will have only 1 principal dwelling and 1 secondary dwelling, and*
- (b) *for a lot other than a battle-axe lot—has a boundary with a primary road, measured at the building line, of at least the following—*
 - (i) *if the lot has an area of at least 450m² but not more than 900m²—12m,*
 - (ii) *if the lot has an area of more than 900m² but not more than 1500m²—15m,*
 - (iii) *if the lot has an area of more than 1500m²—18m, and*
- (c) *for a battle-axe lot—has an access laneway of at least 3m in width and measuring at least 12m by 12m, excluding the access laneway.*

Full Compliance

(2) *A lot on which a new secondary dwelling is erected must have lawful access to a public road.*

Full Compliance

(3) *Nothing in this Schedule requires the provision of additional parking spaces for development for the purposes of a secondary dwelling.*

Full Compliance

3 Maximum site coverage of all development

(1) *The site coverage of the principal dwelling, secondary dwelling and all ancillary structures on a lot must be no more than the following—*

- (a) *if the lot has an area of at least 450m² but not more than 900m²—50% of the area of the lot,*
- (b) *if the lot has an area of more than 900m² but not more than 1500m²—40% of the area of the lot,*
- (c) *if the lot has an area of more than 1500m²—30% of the area of the lot.*

(2) *For the purposes of calculating the site coverage, the area of the following is not included—*

- (a) *an access ramp,*
- (b) *the part of an awning, blind or canopy outside the outer wall of a building,*
- (c) *a balcony, deck, patio, pergola, terrace or veranda attached to the principal or secondary dwelling and not enclosed by a wall higher than 1.4m above the floor level,*
- (d) *an eave,*
- (e) *a driveway,*
- (f) *a farm building,*
- (g) *a fence or screen,*
- (h) *a pathway or paving,*
- (i) *a rainwater tank attached to the principal or secondary dwelling,*
- (j) *a swimming pool or spa pool.*

Full Compliance - Primary Dwelling and Secondary Dwelling .4% of lot

4 Maximum floor area for principal and secondary dwellings

(1) *The floor area of a secondary dwelling, excluding an attached ancillary structure, must not be more than—*

- (a) *60m², or*
- (b) *if a larger floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the larger floor area.*

(2) *The total floor area of a principal dwelling, secondary dwelling and all attached ancillary structures must not be more than the following—*

- (a) *if the lot has an area of at least 450m² but not more than 600m²—330m²,*
- (b) *if the lot has an area of more than 600m² but not more than 900m²—380m²,*
- (c) *if the lot has an area of more than 900m²—430m².*

Full Compliance – Secondary Dwelling size complies with the MWRC LEP

(3) In subsection (2)—

attached ancillary structure means *a carport, garage, balcony, deck, patio, pergola, terrace or veranda—*

- (a) *attached to the principal dwelling or secondary dwelling, and*
- (b) *enclosed by a wall higher than 1.4m above the floor level, other than the external wall of the dwelling.*

floor area means *the sum of the areas within the outer face of the external walls of each storey of a dwelling, including an attached ancillary structure, measured at a height of 1.4m above each floor level, excluding—*

- (a) *part of an awning, blind or canopy outside the outer wall of the dwelling,*
- (b) *an eave,*
- (c) *a lift shaft,*
- (d) *a stairway,*
- (e) *a void above a lower storey.*

Secondary Dwelling achieves Full Compliance

5 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandas

(1) The total floor area of all balconies, decks, patios, terraces and verandas on a lot must be no more than 12m² if—

(a) a part of the structure is within 6m from a side or rear boundary, and

(b) the structure has a point of its finished floor level at more than 2m above ground level (existing).

(2) The balcony, deck, patio, terrace or veranda must not have a point of its finished floor level—

(a) if it is located within 3m of a side or rear boundary—more than 2m above ground level (existing), or

(b) if it is located more than 3m but not more than 6m from a side or rear boundary—more than 3m above ground level (existing), or

(c) if it is located more than 6m from a side or rear boundary—more than 4m above ground level (existing).

(3) A detached deck, patio or terrace, including alterations or additions to the deck, patio or terrace, must not have a floor level of more than 600mm above ground level

(existing).

Note—

Development identified in this section may require privacy screens under this Schedule, section 15.

Full Compliance

Part 3 Building heights and setbacks

6 Building height

(1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a

building height above ground level (existing) of more than 8.5m.

Full Compliance – Max Height 5.280 above NGL

(2) Development for the purposes of an ancillary structure must not result in a new building or a new part of an existing building having a building height above ground

level (existing) of more than—

(a) if an outbuilding—4.8m, or

(b) if a fence—1.8m.

Not Applicable

7 Setbacks from roads, other than classified roads

(1) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a

setback from a primary road, other than a classified road, of at least—

(a) the average distance of the setbacks of the 2 nearest dwelling houses on the same side of the primary road and located within 40m of the lot on which the principal dwelling is erected, or

(b) if 2 dwelling houses are not located within 40m of the lot on the same side of the primary road—

(i) for a lot with an area of at least 450m² but not more than 900m²—4.5m, or

(ii) for a lot with an area of more than 900m² but not more than 1,500m²—6.5m, or

(iii) for a lot with an area of more than 1,500m²—10m.

(2) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a

setback from a boundary of the lot with a parallel road that is not a classified road of at least 3m.

(3) Development for the purposes of a secondary dwelling or an ancillary structure on a corner lot must result in a new building or a new part of an existing building on

the lot having a setback from the boundary with a secondary road that is not a classified road of at least—

(a) for a lot with an area of at least 450m² but not more than 600m²—2m, or

(b) for a lot with an area of more than 600m² but not more than 1,500m²—3m, or

(c) for a lot with an area of more than 1,500m²—5m.

(4) For the purposes of this section, if a lot is a corner lot—

(a) a boundary that is at least 6m in length is taken to be a boundary with a primary road, and

(b) the other boundaries are taken to be boundaries with a secondary road.

(5) For the purposes of this section, if a lot has contiguous boundaries with a road or roads but is not a corner lot, the lot is taken to have a boundary only with a primary road.

Fully Compliance

8 Setbacks from classified roads

Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a

setback from a boundary with a classified road of less than—

(a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road—the setback specified in the environmental planning instrument, or

(b) otherwise—9m.

Not Applicable

9 Setbacks from side boundaries

(1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or veranda having a setback from a side boundary of less than the following—

(a) for a lot with an area of at least 450m² but not more than 900m²—0.9m,

(b) for a lot with an area of more than 900m² but not more than 1,500m²—1.5m,

(c) for a lot with an area of more than 1,500m²—2.5m.

(2) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or ancillary structure having a setback from a side boundary of less than the sum of—

(a) the amount of the setback specified for the relevant sized lot in subsection (1), and

(b) an amount equal to 25% of the additional building height above 3.8m.

(3) In this section—

new building or ancillary structure means—

(a) a new building or a new part of an existing building with a height of more than 3.8m, and

(b) a new carport, garage, balcony, deck, patio, pergola, terrace or veranda

Full Compliance

10 Setbacks from rear boundaries

(1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building, a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or veranda having a setback from a rear boundary of less than the following—

(a) for a lot with an area of at least 450m² but not more than 900m²—

(i) 3m, and

(ii) if the development results in a new or existing building with a height of more than 3.8m—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 8m,

(b) for a lot with an area of more than 900m² but not more than 1,500m²—

(i) 5m, and

(ii) if the development results in a new or existing building with a height of more than 3.8m—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 12m,

(c) for a lot with an area of more than 1,500m²—

(i) 10m, and

(ii) if the development results in a new or existing building with a height of more than 3.8m—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 15m.

(2) A dwelling on a lot with a rear boundary with a laneway may have a building line that abuts the boundary for up to 50% of the length of the boundary.

Complies with Mid-Western Regional DCP

11 Exceptions to setbacks

(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback of less than 3m from a boundary with a public reserve.

(2) Side and rear setbacks do not apply to the following—

(a) an aerial, antenna, awning or eave,

(b) a flue, chimney, pipe or cooling or heating appliance,

(c) a rainwater tank with a height of more than 1.8m,

(d) another structure associated with the provision of a utility service if it is located at least 450mm from the relevant boundary,

(e) a fence, fascia, gutter, downpipe, light fitting, an electricity or gas meter, a driveway, pathway or paving if it is located within a required setback area to the relevant boundary.

(3) The setback from a road does not apply to—

(a) a driveway, fence, pathway, paving or retaining wall, or

(b) the articulation zone and a building element permitted within the zone.

(4) The setback from a rear boundary required by this Schedule, section 10 does not apply to a lot that has only 3 boundaries, disregarding a boundary of an access lane if the lot is a battle-axe lot.

Not Applicable in this instance

12 Calculating setbacks

(1) For the purposes of determining the 2 nearest dwelling houses in this Schedule, section 7, a dwelling house located on a battle-axe lot must be disregarded.

Not Applicable

(2) For the purposes of calculating the setback of the 2 nearest dwelling houses in this Schedule, section 7—

(a) an ancillary structure must not be included, and

(b) a building element within the articulation zone must not be included.

Not Applicable

(3) For the purposes of calculating the setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.

Not Applicable

(4) For the purposes of calculating the setbacks for an attached secondary dwelling, the height of the secondary dwelling is the vertical distance from ground level

(existing) to the highest point of the secondary dwelling.

Not Applicable

(5) For the purposes of calculating a side or rear setback, the maximum building height of a dwelling on a sloping lot must be used.

Not Applicable

(6) A setback must be calculated at the closest point to the boundary from the building line.

Full Compliance

13 Building articulation

(1) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a front door and a window to a habitable room in the building wall that faces a primary road.

Full Compliance

(2) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a window to a habitable room in the building wall that faces a parallel road.

Full Compliance

(3) A secondary dwelling, other than a secondary dwelling that has a setback from a primary road of less than 3m, may incorporate an articulation zone that extends from the building line to a distance of 1.5m into the required setback from the primary road.

Full Compliance

(4) Development for the purposes of a secondary dwelling on a corner lot must result in either the principal dwelling or the secondary dwelling having a window in a habitable room—

(a) with an area of at least 1m², and

(b) that faces and is visible from a secondary road.

Full Compliance

14 Building elements within the articulation zone to a primary road

(1) The following building elements are permitted in an articulation zone in the setback from a primary road—

(a) an entry feature or portico,

(b) a balcony, deck, patio, pergola, terrace or veranda,

(c) a window box treatment,

(d) a bay window or similar feature,

(e) an awning or other feature over a window,

(f) a sun shading feature.

Full Compliance

(2) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the building.

Full Compliance

(3) The maximum total area of all building elements within the articulation zone, other than a building element specified in subsection (1)(e) or (f), must be no more than 25% of the area of the articulation zone.

Full Compliance

15 Privacy

(1) A window in a new secondary dwelling, or a new window in an alteration or addition to an existing principal dwelling for the purposes of a new secondary dwelling, must have a privacy screen for a part of the window less than 1.5m above the finished floor level if—

(a) the window—

(i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and

(ii) has a sill height less than 1.5m above that floor level, and

(iii) faces a side or rear boundary and is less than 3m from that boundary, or

(b) the window—

(i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and

(ii) has a sill height less than 1.5m above that floor level, and

(iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.

Full Compliance

(2) Subsection (1) does not apply to a window located in a bedroom where the window has an area of no more than 2m².

Not Applicable

(3) A new balcony, deck, patio, terrace or veranda for the purposes of a new secondary dwelling and any alteration to an existing balcony, deck, patio, terrace or

veranda of a secondary dwelling that has a floor area of more than 3m² must have a privacy screen if the balcony, deck, patio, terrace or veranda is—

- (a) within 3m of a side or rear boundary and has a floor level of more than 1m above ground level (existing), or
- (b) between 3m and 6m of a side or rear boundary and has a floor level of more than 2m above ground level (existing).

Not Applicable

(4) A privacy screen required under subsection (3) must be installed—

- (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or veranda, and
- (b) at the edge of the part of the development within the areas specified in subsection (3)(a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

Not Applicable

Part 4 Landscaping

16 Landscaped area

(1) A lot on which development for the purposes of a secondary dwelling or an ancillary structure is carried out must have a landscaped area of at least the following—

- (a) for a lot with an area of at least 450m² but not more than 600m²—20%,
- (b) for a lot with an area of more than 600m² but not more than 900m²—25%,
- (c) for a lot with an area of more than 900m² but not more than 1500m²—35%,
- (d) for a lot with an area of more than 1500m²—45%.

(2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.

(3) The minimum dimensions of the landscaped area must be more than 2.5m.

Full Compliance

17 Principal private open space

(1) A lot on which development for the purposes of a secondary dwelling is carried out must have more than 24m² of principal private open space.

Full Compliance

(2) The principal private open space may be shared by both the principal dwelling and secondary dwelling and may be in the form of a balcony or deck.

Full Compliance

(3) In this section—

principal private open space means an area—

- (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and
- (b) more than 4m wide, and
- (c) not steeper than a 1:50 gradient.

Full Compliance

Part 5 Earthworks and drainage

18 Earthworks, retaining walls and structural support

(1) Excavation for the purposes of a secondary dwelling or an ancillary structure must not be deeper than a maximum depth, measured from ground level (existing), of—

- (a) if located no more than 1m from any boundary—1m, or*
- (b) if located more than 1m but not more than 1.5m from any boundary—2m, or*
- (c) if located more than 1.5m from any boundary—3m, or*
- (d) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural)—1m.*

Full Compliance – No Acid Sulphate Soils

(2) Fill must not have more than a maximum height, measured from ground level (existing), of—

- (a) if the fill is for the purposes of a secondary dwelling—1m, or*
- (b) if the fill is for the purposes of an ancillary structure—600mm.*
- (3) The height of fill contained wholly within the footprint of a secondary dwelling or an ancillary structure is not limited.*

Full Compliance – Cut and Fill limited to 800mm

(4) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of a secondary dwelling or an ancillary structure is limited to 50% of the landscaped area of the lot.

Not Applicable

(5) The ground level (finished) of the fill must not be used to measure the height of any secondary dwelling or an ancillary structure under this code.

Not Applicable – No Fill Proposed

(6) Support for earthworks more than 600mm above or below ground level (existing) must take the form of a retaining wall or other structural support that—

- (a) a professional engineer has certified is structurally sound, including the ability to withstand the forces of lateral soil load, and*
- (b) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and*
- (c) has adequate drainage lines connected to the stormwater drainage system for the site, and*
- (d) does not result in a retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and*
- (e) is separated from any other retaining wall or structural support on the site by at least 2m, measured horizontally, and*
- (f) has been installed in accordance with any manufacturer's specifications, and*
- (g) if it is an embankment or batter—must have its toe or top more than 1m from any side or rear boundary.*

Not Applicable – No Fill Proposed

Note—

Fill and excavation not associated with a building may be exempt development under the Codes SEPP, clauses 2.29 and 2.30.

19 Drainage

(1) All stormwater collecting as a result of development for the purposes of a secondary dwelling or an ancillary structure must be conveyed by a gravity fed or charged system to—

- (a) a public drainage system, or*
- (b) an inter-allotment drainage system, or*
- (c) an on-site disposal system.*

Stormwater to be connected to tanks on site with overflow managed onsite

(2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must—

(a) if an approval is required under the [Local Government Act 1993](#), section 68—be approved under the Act, or
(b) otherwise—comply with requirements for the disposal of stormwater drainage contained in a development control plan applicable to the land.

Not Applicable

20 Setbacks of secondary dwellings and ancillary structures from protected trees

(1) Development for the purposes of a secondary dwelling, all ancillary structures and associated excavation on a lot, must have a setback from a protected tree on the lot of at least 3m.

Full Compliance – No trees on site of proposal

(2) The following ancillary structures are permitted within the setback if the development does not require a cut or fill of more than 0.15m below or above ground level (existing)—

(a) an access ramp,

(b) a driveway, pathway or paving,

(c) an awning, blind or canopy,

(d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.

Full Compliance – No trees on site of proposal

(3) In this section—

protected tree means a tree that requires a separate permit or development consent for pruning or removal, but does not include a tree that may be removed without development consent under Chapter 3.

Note—

A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on adjoining land are required to be pruned or removed.

Parking

53 Non-Discretionary development standards—the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

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

(a) for a detached secondary dwelling—a minimum site area of 450m²,

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

Full Compliance

State Environmental Planning Policy – Industry and Employment 2021

Not applicable to this application

State Environmental Planning Policy – No. 47 Moore Park Showground

Not applicable to this application

State Environmental Planning Policy – No. 65 Design Quality of Residential Apartment Development

Not applicable to this application

State Environmental Planning Policy – Planning Systems 2021

Not applicable to this application – not State or Regional significant development

State Environmental Planning Policy – Precincts ‘Central River City’ 2021

Not applicable to this application

State Environmental Planning Policy – Precincts Regional 2021

Not applicable to this application – not a Part 3A Project

State Environmental Planning Policy – Precincts Western Parkland City 2021

Not applicable to this application

State Environmental Planning Policy – Primary Production 2021

Not applicable to this application

State Environmental Planning Policy – Resources and Energy 2021

Not applicable to this application

State Environmental Planning Policy – State Significant Precincts 2005

Not applicable to this application

State Environmental Planning Policy – Transport and Infrastructure 2021

Not applicable to this application

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Part 1. Preliminary

Aims of Plan

This Plan aims to make local environmental planning provision for land in Mid-Western Regional LGA in accordance with the relevant standard Environmental Planning Instrument under Section 3.2 of the Act.

(2) The particular aims of this Plan are as follows—

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

The land is zoned R1 & R2 with the proposal being for the ‘Installation of a Manufactured Home as a Secondary Dwelling’ and as such has no bearing on this intent.

(a) to promote growth and provide for a range of living opportunities throughout Mid-Western Regional,

With the proposal being for the ‘Installation of a Manufactured Home as a Secondary Dwelling’ this satisfies this intent as it is providing another form of accommodation in the LGA.

(b) to encourage the proper management, development and conservation of resources within Mid-Western Regional by protecting, enhancing and conserving—

(i) land of significance to agricultural production, and

The land is zoned residential

(ii) soil, water, minerals and other natural resources, and

This proposal will have no effect on the above intent by virtue of the minimal size of the proposal.

(iii) native plants and animals, and

The proposal will have no effect on plants or wildlife.

(iv) places and buildings of heritage significance, and

The location is not impacted by any heritage items or issues.

(v) scenic values,

The proposed location of the secondary dwelling is to the west of the property behind an existing vegetation buffer that effectively screens the dwelling from having any impact on views from the road or neighbouring properties.

(c) to provide a secure future for agriculture through the protection of agricultural land capability and by maximising opportunities for sustainable rural and primary production pursuits,

This is a residential proposal is not tied to any form of agriculture or primary production.

(d) to foster a sustainable and vibrant economy that supports and celebrates the Mid-Western Regional's rural, natural and heritage attributes,

This is a residential proposal that will have little if any effect on the rural, natural and heritage values of the area.

(e) to protect the settings of Mudgee, Gulgong, Kandos and Rylstone by—

(i) managing the urban and rural interface, and

(ii) preserving land that has been identified for future long-term urban development, and

The subject lot is zoned both R1 General Residential and R2 Low Density Residential and this application is not for subdivision effectively keeping the status quo as far as future lots are concerned.

(iii) promoting urban and rural uses that minimise land use conflict and adverse impacts on amenity, and

The proposal being for the 'Installation of a Manufactured Home as a Secondary Dwelling' will not create any conflict or adverse impacts because of the low-level nature of the dwelling and its proposed location hidden behind existing vegetation buffers.

(iv) conserving the significant visual elements that contribute to the character of the towns, such as elevated land and the rural character of the main entry corridors into the towns,

This low-key proposal for a secondary dwelling is proposed on a lot on the south west edge of the existing urban away from any substantial transport corridors and as such will have no impact.

(f) to match residential development opportunities with the availability of, and equity of access to, urban and community services and infrastructure,

It is clear that Henry Bayly Drive has minimal council 'hard' infrastructure and whilst on the edge of the urban area it is difficult to see this changing much in the future. The lot is located close enough to the Mudgee town centre that it is not at any disadvantage when it comes to access to community services and infrastructure.

(g) to promote development that minimises the impact of salinity on infrastructure, buildings and the landscape

Not applicable to this proposal.

Land Use Table

The property is zoned R1 General Residential & R2 Low Density Residential in the Mid-Western Regional LEP 2012.

Objectives of Zone R1 – General Residential

- *To provide for the housing needs of the community.*

The proposal is for a Secondary Dwelling that adds additional housing to the area and in this case for an elderly family member.

- *To provide for a variety of housing types and densities.*

Secondary Dwelling are a specific type of housing.

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

Being a Secondary Dwelling, the proposal provides accommodation and not service and Facilities.

Objectives of Zone R2 – Low Density Residential

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

A Secondary Dwelling provides a different form of housing by virtue of being on the same lot as an existing dwelling. In most cases the Secondary Dwelling provides housing for elderly family members at the same address as other family members.

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

Being a Secondary Dwelling, the proposal provides accommodation and not service and Facilities.

This proposal meets the objectives of the R1 and R2 zones. In this instance the Secondary Dwelling is proposed on the part of the property zoned R2.

Part 5 Miscellaneous Provisions

5.24 Controls relating to miscellaneous permissible uses.

(9) Secondary dwellings on land other than land in a rural zone If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—

(a) 60 square metres,

(b) 50% of the total floor area of the principal dwelling.

The existing 'Primary Dwelling' is 336.7sqm and the proposed 'Secondary Dwelling' is 93.04sqm which equates to just under 28%.

The proposal complies with the LEP.



Part 6. Additional Local Provisions

6.3 Earthworks

(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

The works are not exempt and this case fall under the Mid-Western DCP and associated Planning instruments.

(b) the earthworks are ancillary to other development for which development consent has been given.

The earthworks in this process are associated with the installation of a dwelling.

(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,

The impact on stability and drainage patterns are minimal given the size of the project and the location of the proposal within the property boundaries.

(b) the effect of the development on the likely future use or redevelopment of the land,
The earthworks are associated with the installation of a dwelling and given the minimal nature of the proposal there is no likely impact of the future use of the land should the dwelling was ever be removed.

(c) the quality of the fill or the soil to be excavated, or both,
The quality of the fill is unknown, however given the proposal is for 'cut and fill' with Any excess being used for landscaping on the property the effects will be minimal.

(d) the effect of the development on the existing and likely amenity of adjoining properties,
This proposal will have minimal effect on adjoining properties given the distance of the proposal from the boundary

(e) the source of any fill material and the destination of any excavated material,
No excess fill will leave the site.

(f) the likelihood of disturbing relics,
Should any relics be disturbed appropriate action covered in the Due Diligence Report attached to this application.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
Given the location of the project and its distance from any catchment or environmentally sensitive area any impacts are minimal.

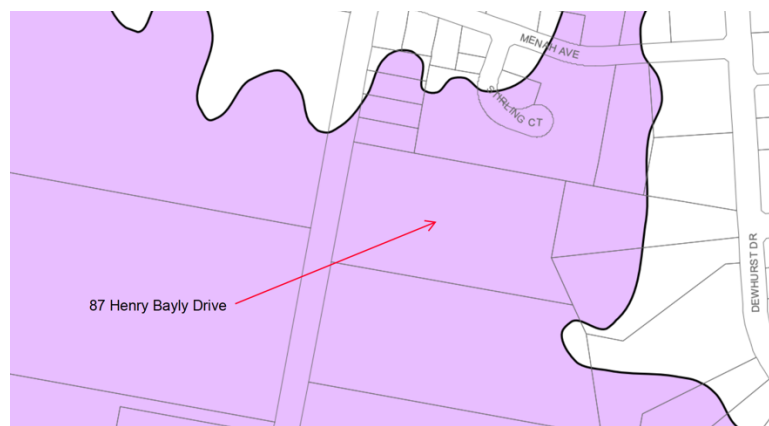
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The minimal nature of the project and proposed sediment control measures minimise and mitigate and impacts of this proposal.

Note—

The *National Parks and Wildlife Act 1974*, particularly section 86, deals with harming Aboriginal objects

6.10 Visually sensitive land near Mudgee



Visually Sensitive Lands Map

- (1) The objective of this clause is to protect the visually and environmentally significant land on the urban fringe of the town of Mudgee.
- (2) This clause applies to land shown as “Visually Sensitive Land” on the *Visually Sensitive Land Map*.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
 - (a) will complement the visual setting forming the backdrop to Mudgee, and
The proposal is on the outer edge of the urban area to the south west of the Mudgee City Centre. The proposal is effectively hidden by established vegetation buffers and not seen from any public vantage point of public road.
 - (b) will be designed, set back and sited to respond sympathetically to the landform of the site on which the development is proposed to be carried out and will minimise visual intrusion.
The proposal is on the outer edge of the urban area to the south west of the Mudgee City Centre. The proposal is effectively hidden by established vegetation buffers and not seen from any public vantage point of public road.

The proposal complies with the Housing SEPP guidelines and as such achieves full compliance.



1.8 Environmental Considerations

Historical & Current Use of Land

The property is located inside an established residential area to the south west of the Mudgee CBD area in the Mid-Western Regional LGA. This land has been subdivided for residential purposes for many years. It would have been native bushland prior to subdivision.

Demolition

There is no demolition proposed in this instance

Contamination

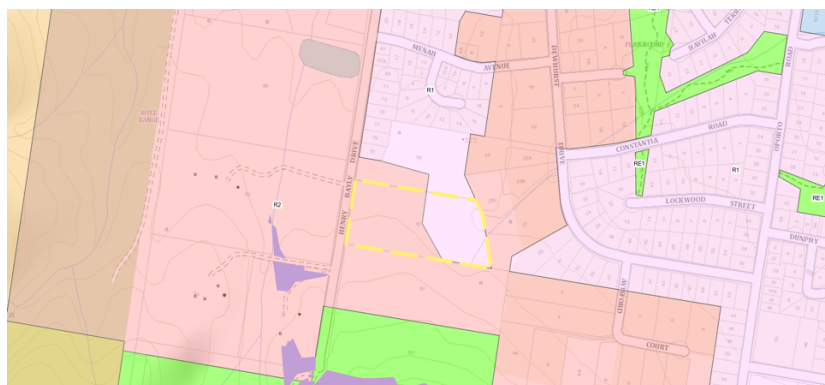
There is no known contamination on this site. It is not listed on the PCC or EPA list of contaminated sites.

Site Constraints

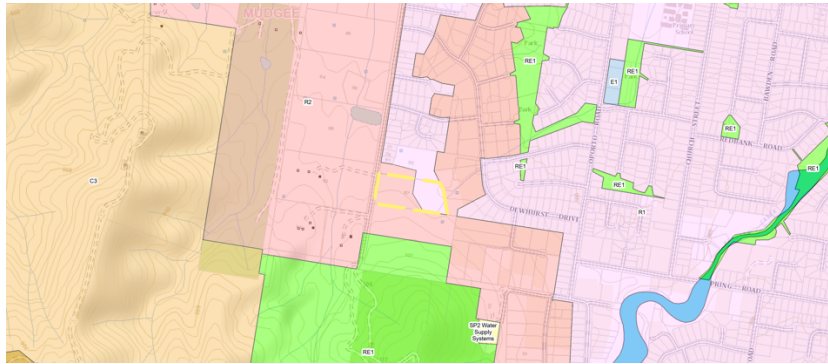
The site is not constrained by Bushfire, Biodiversity or any other constraint that would prevent the proposal from proceeding., the following measures are proposed to mitigate these constraints:



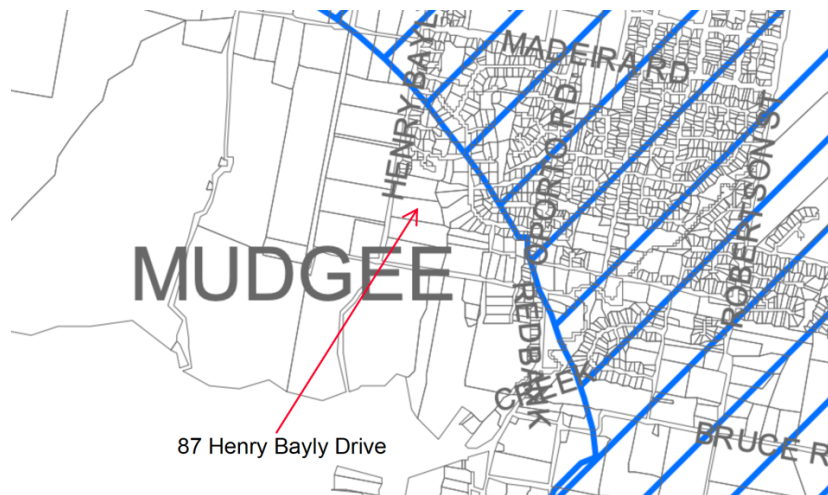
Bushfire Mapping – not affecte



Biodiversity Mapping – not affected



Flood Mapping – not affected



Groundwater Vulnerability Map – not affected

Proposed Earthworks

The extent of earthworks in this instance is set out in the DA drawings and limited and 800mm ‘cut and fill’ and to the drilling of holes for piers to support the dwelling, drainage & OSSM works

Sediment Control Measures

See attached DA documentation

Site Engineering Considerations

There are no engineering implications with this application.

Energy Efficiency

Not applicable to this proposal.

BCA Compliance

Applicable to this proposal and compliant.

Heritage Implications

There are no heritage implications with this proposal.

Indigenous Due Diligence

An Indigenous Due Diligence Report and an AHIMS search are attached to this application.

1.9 Impact of the Proposal

Existing Structures on Land

The subject site has an existing dwelling, a detached Garage, a detached Shed & a Swimming Pool.

Boundary Setbacks

Boundary setbacks comply with the DCP for this proposal.

Building Height

Height complies with the DCP.

Bulk & Scale

There are no issues with the 'Bulk and Scale' of the proposal. The lot size is 20,064 sqm and the proposed total of the structures being 535.4sqm or 2.32% of the site.

General Design Principles

Applicable to this application.

Shadowing

No shadowing in this instance.

Streetscape Influence

No adverse influence in this instance.

Impacts on Neighbouring Properties

a. **Privacy Effects**

Nil effect on any neighbours.

b. **Noise Effects**

Nil effect on any neighbours.

c. **Loss of Views**

Nil effect on any neighbours.

Site Area – Private Open Space

Ample POS in this instance.

Access to Site

Existing access is from Henry Bayly Drive and there is no intention or desire to change the access as part of this application.

Fencing

Fencing is not part of this proposal

Construction Management Plan & Waste Management Plan

Attached to this application

2.0 Conclusion

The site, described in this report Lot 2 / DP 1014531 – 87 Henry Bayly Drive Mudgee is capable of having a 'Manufactured Dwelling installed as a Secondary Dwelling'.

Considerations include impacts on biodiversity, constraints, indigenous, heritage and other issues do not impact this proposal.

Secondary Dwellings are permissible under the Housing SEPP 2021 and the Mid-Western Regional Council LEP and satisfactory to the objectives of R1 & R2 zoned land

The proposed development is consistent with the provisions of the EP&A Act, SEPP's, MWRC LEP & DCP and would not have any adverse environmental impacts on the locality.

In this regard, the subject site would be considered to be suitable for the proposed development as presented in this application.