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STATEMENT OF ENVIRONMENTAL EFFECTS



40 GLADSTONE STREET, MUDGEE

Dual Occupancy (Detached) & Boundary Adjustment

12 November, 2024

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared for Adam Boone and forms part of a development application to Mid-Western Regional Council for the erection of a single dwelling to form a dual occupancy and subdivision at 40 Gladstone Street, Mudgee.

The objective of this proposal is to create an additional highly desirable and modern dwelling with an improved layout for future occupants.

The proposal is in accordance with the relevant zone objectives contained in the Mid-Western Regional Local Environmental Plan (MWR LEP) 2012 and generally satisfies the relevant objectives and controls of the Mid-Western Regional Development Control Plan 2013 (MWRDCP) where necessary.

This document is divided into 6 sections. Section 2 contains a site analysis, Section 3 contains details of the proposal, Sections 4 and 5 contain the detailed assessment of the application in accordance with Section 4.15(1) of the Environmental Planning & Assessment (EP&A) Act 1979, and Section 6 concludes the report. The following details accompany this SEE:

- Architectural Plans;
- BASIX Certificate; and
- 4.6 Variation Request.

2 Site Analysis

This section contains a description of the following: The Locality; Site Description; Existing Character and Context; and Surrounding Road Network.

2.1 The Locality

The subject site is located within the town of Mudgee and is located within the Local Government Area (LGA) of Mid-Western Region.



FIGURE 1: LOCATION PLAN (SIX MAPS)

2.2 Site Description

The subject site is a standard corner lot located on the north side of Gladstone Street within the downtown area of Mudgee and is known as 40 Gladstone Street, Mudgee or Lots 1 & 2 DP 196717.

The site is regular in shape, generally flat in topography and contains a total area of 919.77m², which is typical for residential properties in the area.

Existing improvements on the site consist of a single storey dwelling house, mature landscaping, a detached garage and fencing.

2.3 Existing Character and Context

The surrounding area is predominantly residential, characterised by a mixture of single dwellings, multi dwelling housing and commercial uses further to the west.

The property also sits within the Mudgee Heritage Conservation Area (HCA) with many buildings in the immediate area listed as items of environmental heritage or contributory buildings to the HCA.

The outcome of the development is considered to be in keeping with the character of the residential area in that it will have no unreasonable impacts upon the function, environmental criteria, heritage fabric or the residential amenity of the locality.

2.4 Surrounding Road Network

The site has frontage to both Gladstone Street and Lewis Street with vehicular access gained via an existing driveway crossing on Lewis Street. Both Gladstone Street and Lewis Street are two lane sealed roads that provide a connection through Mudgee providing direct access to the downtown core.

Both Gladstone Street and Lewis Street are not identified as a Classified Roads in accordance with the Roads Act 1993 with Council the designated roads authority. The proposed new driveway crossing within the Lewis Street road reserve will require a concurrent S138 approval with the development consent issued for the proposal.

It should be noted that the site currently constitutes 2 lots and this is not proposed to be increased as a result of the proposal. Subsequently, no significant additional potential vehicular movements result from the proposal.

3 Details of the Proposal

It is proposed to undertake the following works upon the site:

- Demolition of a minor portion of the rear of the existing dwelling, detached garage and other minor structures;
- Erection of a new single storey dwelling (to result in a dual occupancy (detached)) comprising 3 bedrooms, open plan living/kitchen area, single garage and rear alfresco area;
- Erection of an addition to the rear of the existing dwelling to facilitate a new single garage, carport and laundry;
- Fencing;
- Removal of 7 insignificant trees; and
- Boundary adjustment to re-orientate the two existing lots into a regular usable orientation making up an area of 567.84m² and 351.93m² respectively. Please note it is expected that the two existing lots will be consolidated prior to issue of a construction certificate and then re-subdivided throughout the construction process.

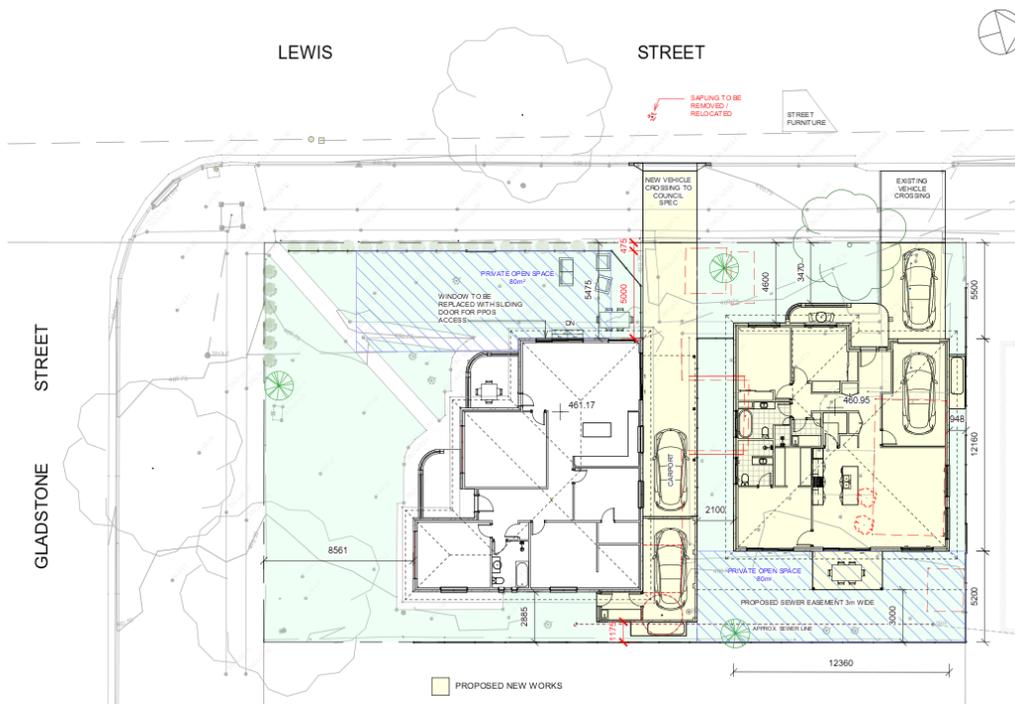


FIGURE 2: LAYOUT (BL DESIGNS)

The proposal will result in an improved dwelling layout throughout the site with improved amenities, whilst presenting to the streetscape in a sensitive manner and commensurate with the qualities of the Mudgee Heritage Conservation Area.

4 Planning Controls

Pursuant to section 4.15(1)(a) of the EP&A Act, this section will assess the compliance with the planning controls applicable to the site and relevant to the proposal pursuant to the relevant heads for consideration. The relevant controls include:

- Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012);
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- Mid-Western Regional Development Control Plan 2013 (MWRDCP 2013).

4.1 Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The subject site is zoned R3 – Medium Density Residential under Council's MWRLEP 2012 (see Figure 3). *Dual Occupancies (detached)* are permissible with consent in the zone under the group definition of *residential accommodation* and the proposal is considered to satisfy the objectives of the zone.

It should be noted that the existing two lots are proposed to be consolidated prior to the issue of a construction certificate for the dual occupancy.



**FIGURE 3: EXTRACT FROM ZONING PLAN
(SOURCE: MID-WESTERN REGIONAL LEP 2012)**

4.1.1 Zone Objectives

The relevant objectives for Zone R3 are stated:

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

Comment: The proposed additional dwelling will allow the site to continue benefiting from a residential use in the medium density residential environment.

2. *To provide a variety of housing types within a medium density residential environment.*

Comment: The proposal is for an additional dwelling, which will not impede a variety of other housing types being developed in the area.

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

Comment: The proposal is for a new additional dwelling, which will not impede other land uses from being considered in the area.

4. *To encourage higher-density residential development that is sympathetic to and compatible with the existing character of the Mudgee Heritage Conservation Area.*

Comment: The proposal creates one additional dwelling where it is most appropriate to do so within the downtown area of Mudgee with close access to services. The design will complement the existing character of the Mudgee HCA and create infill housing that is in keeping with the rhythm of Lewis Street.

In our opinion the proposal is consistent with the relevant objectives of the R3 Medium Density Residential zone as detailed above. The proposal is intended to create one additional dwelling and an improved dwelling layout for the existing dwelling that is commensurate with the size of the property whilst continuing to provide a sympathetic rhythm to the streetscape within the immediate vicinity.

A summary of our assessment of the proposed development against the relevant LEP provisions is in the following table (see Table 1):

4.1.2 Other LEP Provisions

TABLE 1: PROJECT COMPLIANCE – Mid-Western Regional LEP 2012
Site Area : 919.77m ²

LEP Provisions	Complies / Comments
4.1 Minimum subdivision lot size	
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to ensure that subdivision of land occurs in a manner that promotes suitable land uses and development,</p> <p>(b) to minimise any likely impact of subdivision and other development on the amenity of neighbouring properties,</p> <p>(c) to ensure that lot sizes and dimensions are able to accommodate development, consistent with relevant development controls,</p> <p>(d) to ensure that rural lands are not fragmented in a manner that threatens either their future use, or the use of neighbouring land, for agricultural production,</p> <p>(e) to ensure that subdivision does not have an inappropriate impact on the natural environment</p> <p>(f) to maximise the economic potential of, and provide for more intensive, small lot agricultural uses in, areas that are able to access commercial quantities of irrigation water.</p>	<p>Although the development standard prescribed in clause 4.1B supersedes this clause the proposal is still considered to satisfy the objectives of this clause.</p> <p>Refer to the discussion in the separately prepared 4.6 variation request lodged with the development application.</p>
<p>(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.</p>	<p>N/A. Clause 4.1B is being relied upon with regards to the lot sizes created as a result of the proposed subdivision.</p>
<p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<p>N/A</p>
<p>(3A) Despite subclause (3), if the consent authority is satisfied that each lot is, or will be serviced by a water reticulation system and sewerage system—</p> <p>(a) land identified as “Area A” on the Lot Size Map may be subdivided to create lots of at least 2,000 square metres, or</p> <p>(b) land identified as “Area B” on the Lot Size Map may be subdivided to create lots of at least 4,000 square metres.</p>	<p>N/A</p>

<p>(3B) Despite subclause (3), if the consent authority is satisfied that each lot is, or will be serviced by a water reticulation system, land identified as “Area D” on the Lot Size Map may be subdivided to create lots of at least 2 hectares.</p>	<p>N/A</p>
<p>(4) This clause does not apply in relation to the subdivision of any land—</p> <p>(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or</p> <p>(b) by any kind of subdivision under the Community Land Development Act 2021.</p>	<p>N/A. Torrens title subdivision is proposed.</p>
<p>4.1A Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing and residential flat buildings</p>	
<p>(1) The objective of this clause is to achieve planned residential density in certain zones.</p>	<p>The overall lot size of 919.77m² is appropriate and of a sufficient size to facilitate the development of the site as a dual occupancy including providing sufficient curtilage around each dwelling for POS and separation to adjoining sites.</p>
<p>(2) This clause applies to the following land—</p> <p>(a) land within Zone R1 General Residential,</p> <p>(b) land within Zone R3 Medium Density Residential,</p> <p>(c) land in Rylstone or Kandos that is within Zone RU5 Village,</p> <p>(d) for the purposes of a manor house, any land that is within Zone RU5 Village.</p>	<p>Site is zoned R3 Medium Density Residential.</p>
<p>(3) Despite any other provision of this plan, development consent may be granted to development on land to which this clause applies—</p> <p>(a) for the purposes of a dual occupancy (attached), if the area of the lot is equal to or greater than 600 square metres, or</p> <p>(b) for the purpose of a dual occupancy (detached), if the area of the lot is equal to or greater than 800 square metres, or</p> <p>(c) for the purposes of multi dwelling housing, if the area of the lot is equal to or greater than 1,200 square metres, or</p>	<p>Proposal is for a <i>dual occupancy (detached)</i> and the subject site is >800m².</p>

<p>(d) for the purposes of a residential flat building, if the area of the lot is equal to or greater than 1,200 square metres, or</p> <p>(e) for the purposes of a manor house, if the area of the lot is equal to or greater than 1,200 square metres.</p>	
<p>4.1B Exceptions to minimum lot sizes for certain residential development</p>	
<p>(1) This clause applies to the following land—</p> <p>(a) land within Zone R1 General Residential,</p> <p>(b) land within Zone R3 Medium Density Residential,</p> <p>(c) land in Rylstone or Kandos that is within Zone RU5 Village.</p>	<p>Site is zoned R3 Medium Density Residential.</p>
<p>(2) Despite any other provision of this Plan, development consent may be granted to the subdivision of land to which this clause applies if—</p> <p>(a) multi dwelling housing or a dual occupancy is lawfully erected on the land, and</p> <p>(b) the area of each resulting lot will not be less than—</p> <p>(i) 300 square metres for a dual occupancy (attached) or multi dwelling housing, or</p> <p>(ii) 400 square metres for a dual occupancy (detached), and</p> <p>(c) only one dwelling will be located on each lot resulting from the subdivision.</p>	<p>The proposal includes the erection of a <i>dual occupancy (detached)</i> and the subsequent subdivision to create two separate lots.</p> <p>Lot 1 will include a site area of 567.84m², whilst Lot 2 will include a site area of 351.93m².</p> <p>A variation to this development standard is being sought. Refer to the 4.6 variation request lodged separately with this development application that readily demonstrates why it is unreasonable to comply with the minimum 400m² site area development standard in this instance.</p>
<p>(3) Development consent may be granted to a single development application for development to which this clause applies that is both of the following—</p> <p>(a) the subdivision of land into 2 or more lots,</p> <p>(b) the erection of a dual occupancy (attached), dual occupancy (detached) or multi dwelling housing on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—</p> <p>(i) 300 square metres for a dual occupancy (attached) or multi dwelling housing, or</p> <p>(ii) 400 square metres for a dual occupancy (detached).</p>	<p>The proposal seeks the concurrent consent of both the erection of the dual occupancy and the subdivision under the single development application.</p> <p>Refer to comments above.</p>

Clause 4.3 Height of Buildings	
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to establish a maximum height limit to which buildings can be designed in particular locations,</p> <p>(b) to enable infill development that is of similar height to existing buildings and that is consistent with the heritage character of the towns of Mudgee, Gulgong, Kandos and Rylstone.</p>	<p>The proposed dwelling and dwelling addition are of an appropriate height for the context of the area with a combination of hipped, skillion and gable roofing utilised over a single storey dwelling form.</p> <p>This is considered the best design outcome in keeping with the heritage character of Mudgee and the single storey rhythm of the immediate streetscape.</p>
<p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>The maximum height prescribed is 8.5m</p> <p>The proposed dwellings will include a maximum height of 5.84m to the top of the ridge from ground level (existing).</p>
4.6 Exceptions to development standards	
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>The proposal results in an equal outcome to that of a design that would be complying and therefore the provision of an additional dwelling within the R3 zone is a better outcome on balance with all other considerations.</p>
<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p>	<p>The proposal includes creating one lot that is less than the minimum lot size of 400m² for a dual occupancy (detached) as prescribed under clause 4.1B(2) of MWRLEP 2012.</p>
<p>(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</p> <p>(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and</p> <p>(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.</p>	<p>Refer to the separate 4.6 written justification that has been prepared and lodged under separate cover in accordance with the EP&A Regulation 2021.</p>
<p>(4) The consent authority must keep a record of its assessment carried out under subclause (3).</p>	<p>Noted.</p>

(5) (Repealed)	N/A
<p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p>	N/A
(7) (Repealed)	N/A
<p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</p> <p>(c) clause 5.4,</p> <p>(caa) clause 5.5.</p>	The proposal does not include any development standard that is restricted under this clause.
Clause 5.10 Heritage Conservation	
<p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Mid-Western Regional,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p>	The proposal is considered to respectfully conserve the Mudgee HCA in that the new dwelling will present as a sympathetic single storey residence of appropriate proportions within the predominantly single storey streetscape. A similar pitch hipped roof, building materials and curved portico as the existing dwelling has been included for the new dwelling 2 to provide some consistency to the streetscape and allow a gentle contrast between the two dwellings.

<p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>The existing dwelling is of a 1950's bungalow style that has been moderately modified over time. The new dwelling will continue to sit comfortably within the streetscape in a similar manner to the existing dwelling.</p> <p>Replacement tree planting will also be incorporated into the development to offset the removal of the 7 trees from the site. The existing trees are not considered to significantly contribute to the values of the HCA given their size and species.</p>
<p>(2) Requirement for consent Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <ul style="list-style-type: none"> (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, <p>(f) subdividing land—</p> <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance. 	<p>Development consent is being sought for the works described in this SEE and as detailed on the plans accompanying the development application.</p>

<p>(3) When consent not required However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p>	<p>N/A. Development consent is being sought.</p>
<p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>Refer to comments in subclause (1) above.</p> <p>No negative effects expected as a result of the proposal.</p>
<p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p>	<p>N/A. No heritage management document considered necessary.</p>

<p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	
<p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>	<p>N/A. A heritage conservation management plan is not considered necessary.</p>
<p>(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)—</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>N/A. No archaeological sites present on the property.</p>
<p>(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>N/A. No Aboriginal place of heritage significance present on the site.</p>

<p>(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>N/A. The site is not a State heritage item.</p>
<p>(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	<p>N/A. Clause not proposed to be utilised.</p>
<p>6.1 Salinity</p>	<p>The proposal does not involve any major physical works apart from standard footings for the dwellings. Subsequently, no impacts related to salinity are expected. Any salinity related impacts are expected to be addressed with a condition of consent.</p>
<p>6.4 Groundwater vulnerability</p>	<p>The proposal does not involve any major physical works apart from standard footings for the structures. Subsequently, no impacts related to the groundwater table are reasonably expected.</p>

<p>6.9 Essential services</p>	<p>All essential services associated with a residential location are already available and connected to the site.</p> <p>These are not expected to be affected by the proposal with the realignment of the two existing lots readily able incorporate minor servicing arrangements.</p>
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4.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The object of this policy is to provide a mechanism to ensure remediation of contaminated land is undertaken within the planning framework.

Part 4 of the SEPP requires the consent authority (Mid-Western Regional Council), before determining a development application, to consider whether the land is potentially contaminated and if so whether the land is suitable in its current state for the proposed use.

Clause 4.6(1) of the SEPP prescribes the specific considerations for the consent authority as noted below:

- (1) A consent authority must not consent to the carrying out of any development on land unless—*
 - (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: No potentially contaminating activities are undertaken on the property or have been known to have been undertaken on the property. No further consideration of the SEPP is considered necessary.

4.3 Mid-Western Regional Development Control Plan 2013

The Mid-Western Regional DCP 2013 applies to the site and the proposed development.

Part 3.1 'Residential Development in Urban Areas' contains specific controls relating to the proposal and the relevant sections, as they relate to a dual occupancy, are addressed in the table below.

TABLE 2: PROJECT COMPLIANCE – Mid-Western Regional DCP 2013									
Relevant sections applicable to this proposal.									
DCP Provisions	Complies / Comments								
<p>Building setbacks</p> <p>The deem to satisfy controls for a lot size of <900m² for each of the resultant lots are:</p> <table border="1"> <thead> <tr> <th>Zone</th> <th>Street</th> <th>Side/Rear</th> <th>Secondary Frontage for Corner Lots *</th> </tr> </thead> <tbody> <tr> <td>R1, R2 and R3 where Lot size is less than 900m²</td> <td>4.5m to building line 5.5m to the garage</td> <td>900mm</td> <td>0m for garages in laneways 2m to side boundary</td> </tr> </tbody> </table>	Zone	Street	Side/Rear	Secondary Frontage for Corner Lots *	R1, R2 and R3 where Lot size is less than 900m ²	4.5m to building line 5.5m to the garage	900mm	0m for garages in laneways 2m to side boundary	<p><u>Dwelling 1</u></p> <p>Southern street setback: Existing.</p> <p>Western street setback: Existing.</p> <p>Northern side setback: 0mm to the garage and carport in relation to the new boundary.</p> <p>Rear eastern setback: 1175mm to new laundry and garage.</p> <p><u>Dwelling 2</u></p> <p>Western street setback: 4.6m to dwelling, 3.47m to front porch.</p> <p>Northern side setback: 948mm.</p> <p>Southern side setback: 2100mm in relation to the new boundary.</p> <p>Rear eastern setback: 5m to the dwelling, 3m to patio.</p> <p>Refer to discussion at the end of this table regarding variations..</p>
Zone	Street	Side/Rear	Secondary Frontage for Corner Lots *						
R1, R2 and R3 where Lot size is less than 900m ²	4.5m to building line 5.5m to the garage	900mm	0m for garages in laneways 2m to side boundary						
<p>Building height</p> <p>The deem to satisfy controls are:</p> <p>Deem to satisfy is a single storey building with a FFL of less than 1 metre above Natural Ground Level.</p>	<p>Proposal is single storey with a FFL generally at ground level with some minor elevation to cater for local site topography.</p>								

<p>Site coverage</p> <p>The deem to satisfy control is:</p> <p>Deem to satisfy is 35% site coverage</p>	<p>The DCP allows for a maximum site coverage of 50% for dual occupancy development.</p> <p><u>Lot 1</u></p> <p>27.5% site coverage proposed.</p> <p><u>Lot 2</u></p> <p>41% site coverage proposed.</p>
<p>Solar access</p> <p>The deem to satisfy control is:</p> <p>Deem to satisfy Living areas and private open space areas are to be located with a northerly aspect (i.e. on the north or eastern side of the building).</p>	<p><u>Dwelling 1</u></p> <p>The existing open plan living area will be retained in the same position within the dwelling with a northern orientation. Solar access to this area will remain unchanged with the carport replacing the existing awning to a similar height and footprint.</p> <p>The new location for the POS will achieve northern and western solar access providing a suitable area for enjoyment of this space throughout the winter months.</p> <p><u>Dwelling 2</u></p> <p>The open plan living area and POS are both orientated to the north and east for excellent solar access.</p>
<p>Privacy</p> <p>The deem to satisfy control is:</p> <p>Deem to satisfy Dwellings must be single storey and have a finished floor level less than 1,000 mm above the natural ground level.</p>	<p>Complies, as noted previously.</p>
<p>Parking</p> <p>The deem to satisfy control is:</p> <p>Deem to Satisfy Two (2) spaces per dwelling</p>	<p><u>Dwelling 1</u></p> <p>Two stacked spaces provided in the form of a single garage and a single carport.</p> <p>The front fencing has been appropriately positioned to allow suitable sight lines for reversing vehicles.</p> <p><u>Dwelling 2</u></p> <p>Two stacked spaces provided in the form of a single garage and a single open hard stand space upon the driveway.</p>

<p>Landscaping</p> <p>The DCP requires landscaping of a quality nature, low maintenance and positioned to improve energy losses and gains to the dwelling.</p>	<p>The proposal is capable of incorporating high quality landscaping throughout, including the retention of the established Lewis Street boundary screening vegetation to assist with screening of the new front POS fencing.</p> <p>Hard surface areas within the front setback areas have been limited to ensure maximum opportunity for landscaping.</p>
<p>Open space</p> <p>The deem to satisfy control is:</p> <p style="text-align: center;"><small>Deem to satisfy</small></p> <p style="text-align: center;"><small>Private open space to be on the northern or eastern side of dwelling with direct access to living areas. Area to be 80m² with a minimum dimension of 5 metres.</small></p>	<p><u>Dwelling 1</u></p> <p>A minimum 80m² of POS with minimum dimension of 5m is provided within the Lewis Street setback area where direct connection to the existing living area can be retained and northern orientation is achieved.</p> <p><u>Dwelling 2</u></p> <p>A minimum 80m² of POS with minimum dimension of 5m is provided within the rear yard where direct connection to the living area is available and northern orientation is achieved.</p> <p>Refer to the discussion at the end of this table regarding the provision of POS.</p>
<p>Corner lots</p> <p>The DCP requires the development to address both street frontages and not incorporate utility windows into a street elevation.</p>	<p>The existing dwelling will continue to address both street frontages in a similar manner.</p>
<p>Fencing</p> <p>The deem to satisfy control is:</p> <p style="text-align: center;"><small>Deem to Satisfy</small></p> <p style="text-align: center;"><small>1.8 metre high fence to all boundaries including private open space areas. All fencing forward of building line cannot be 'Colorbond' (All Residential zones excluding R5 zone).</small></p>	<p>The new front fencing proposed for the Dwelling 1 POS area is to be erected of colorbond 'Woodland Grey' material and screened utilising the existing established landscaping to assist with softening to the streetscape.</p> <p>It should be noted that the proposal will also include the demolition of the existing 1.8m high colorbond fencing that extends along a significant portion of the Lewis Street frontage. Consequently, the proposal will improve the streetscape presentation on balance as a result.</p>

<p>Infrastructure</p> <p>The DCP requires surface infrastructure to not be within street setback or visible from the street.</p> <p>Garbage storage areas are to be screened.</p>	<p>No infrastructure is proposed within the front setback areas of the site.</p> <p>Garbage bins will be stored in the rear/side yard area of the dwellings and can be readily maneuvered through the site to the street.</p>
<p>Garages, outbuildings</p> <p>The DCP identifies several controls relating to garages and outbuildings including floor area and height.</p>	<p>N/A.</p>
<p>Development near ridgelines</p> <p>The DCP prescribes controls relating to sensitive architectural design and building placement in proximity to ridgelines.</p>	<p>N/A. Property not near a ridgeline.</p>
<p>Slopes</p> <p>The deem to satisfy controls are:</p> <div data-bbox="183 905 756 1129" style="background-color: #008080; color: white; padding: 5px;"> <p style="text-align: center; margin: 0;">Deem to Satisfy</p> <ul style="list-style-type: none"> Cut is to be limited to 1,000 mm. 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. Any cut and/or fill must be provided with retaining walls, drainage and must be setback a minimum of 300 mm from any boundary. Fill must not direct stormwater onto adjoining properties and drainage pits for overland flow paths are to be provided. Cut and fill is not permitted within water or sewer easements </div>	<p>The site is generally flat and only minor earthworks will be required to prepare the site for construction.</p>
<p>Access</p> <p>All weather vehicle access is required to ensure that emergency services (fire, ambulance, police) are able to access the dwelling at all times.</p>	<p>Each dwelling will include suitable all weather access for emergency services access.</p>
<p>Relocated dwellings</p> <p>Dwellings proposed to be re-sited must be of a suitable standard both aesthetically and structurally.</p>	<p>N/A. No relocated dwelling to be utilised.</p>
<p>Adaptability</p> <p>Adaptable housing design must incorporate practical and flexible features to meet the changing needs of residents of different ages and abilities over time. For example, hobless shower area, space for wheelchair access, height of light switches, arrangement and size of rooms.</p>	<p>N/A. No adaptable housing proposed.</p>

<p>Design principles</p> <p>The DCP lists 11 broad design principles to be considered when undertaking residential development.</p>	<p>The proposal is considered to achieve all of the relevant design principles as discussed throughout this report.</p>
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Part 7.1 of the MWRDCP 2013 also contains provisions regarding subdivision. As the two lots being created are a result of a boundary adjustment only, located within an established residential area and form a regular developable shape, the proposal is expected to readily satisfy the provisions of Part 7.1 of the DCP.

POS Discussion

The proposal includes the provision of a POS area within the front setback for Dwelling 1.

The DCP notes that a variation can be considered where there are circumstances to support the proposal and the objectives of the relevant standard are still achieved. This is discussed below and concludes that the objectives and intent of the control are readily achieved and that support can be given by the consent authority.

The objectives of the ‘open space’ standard are as follows:

- a) *Sufficient open space must be provided for the use and enjoyment of the residents.*

Comment: Although the POS is being relocated from the northern portion of the site for the existing dwelling 1 to the Lewis Street frontage, it is still of a sufficient complying size to accommodate a range of activities including outdoor cooking (existing patio) and play areas. The nominated area is supported by an abundance of additional supplementary area within the Gladstone Street frontage where the dwelling benefits from a larger than average front yard area.

Appropriate landscaping has been included, both within the Lewis Street and Gladstone Street frontages, to provide privacy and screening to the primary area of the POS.

- b) *A plan shall be submitted which demonstrates that the dimensions of the open space provides for functional space, including placement of outdoor furniture.*

Comment: Appropriate areas for the placement of outdoor furniture have been incorporated into the layout, including both within the primary outdoor area and the existing patio that also extends from the living area.

- c) *Open space areas provided must be suitably located and landscaped to obtain adequate sunlight and protection from prevailing winds.*

Comment: The dwelling 1 POS achieves excellent northern solar access whilst also being afforded screen fencing and landscaping to provide protection from prevailing winds to create a user friendly space all year round.

d) Private open space for dual occupancy development is to be a minimum area of 80m² and have a minimum dimension of 5 metres (depth and width).

Comment: Both POS's comply with the minimum requirement.

e) Private open space for dual occupancy development is to be located behind the front building line and on the northern, eastern or western side of the dwelling.

Comment: The POS for dwelling 1 is positioned on the western side of the dwelling whilst also achieving excellent northern orientation. Although the POS is positioned in front of the Lewis Street building line it is still generally set behind the Gladstone Street building line. The Gladstone Street frontage is considered the primary frontage where the dwelling presents dominantly to the street both through the presence of the main entry and portico together with the broad front yard area.

Consideration in the design review process was given to retaining a POS area within the northern aspect of dwelling 1, however this would have necessitated the provision of parking, garages and a driveway within the Gladstone Street frontage. The retention of the dominant presentation of the dwelling to Gladstone Street and the HCA was identified as the optimum outcome for the development on balance. Subsequently, the positioning of the POS within the Lewis Street frontage was considered essential in achieving the best outcome for the site.

Setback Variations

The proposal results in a variation to the 'deemed to satisfy' controls regarding side setbacks. A side setback of 0mm to the garage/carport is being proposed to the new northern side boundary of dwelling 1.

Furthermore, a setback of 3.47m to the front portico of dwelling 2 is also proposed. The 'deemed to satisfy' control for front setbacks is 4.5m to the building line and 5.5m to garages for a lot size of 351.93m², as proposed.

The DCP notes that a variation can be considered where there are circumstances to support the proposal and the objectives of the relevant standard are still achieved. This is discussed below and concludes that the objectives and intent of the control are readily achieved and that support can be given by the consent authority.

The objectives of the 'setback' standards are discussed below in relation to both variations as relevant:

a) Setbacks must be compatible with the existing and/or future desired streetscape.

Comment: The dwelling 2 street setback variation includes only the open front portico element, which forms an integral part of the development overall by creating a similar curved element to the streetscape in a similar manner to that of dwelling 1. The portico is acting as an articulation zone element with the actual building line of the dwelling setback at a complying 4.5m from the Lewis Street boundary.

The dwelling is not oversized, incorporating a modest floor area, which has needed to fit within the restrictions of the smaller lot size that is justified within the 4.6 variation request. The dwelling will contribute to the variety of setbacks along Lewis Street, which includes a steady rhythm of other dwellings throughout the immediate area that are positioned closer to the street boundary as expected in the HCA. These examples include 20 and 30 Lewis Street together with 37 Gladstone Street, all within immediate proximity to the site.

Similarly, the 0m side setback proposed for the garage and carport of dwelling 1 will also sit comfortably within the streetscape with no jarring or negative impact upon the streetscape as a result of their position recessed into the site. This is greatly assisted by the proposed 2.1m setback of dwelling 2 to the new boundary to give the impression of a consistent and appropriate building separation within the rhythm of the Lewis Street streetscape.

Furthermore, as noted above the design intent is to preserve the Gladstone Street frontage by positioning the dwelling 1 garage at the rear and not within the Gladstone Street setback area. The footprint of the existing dwelling is dictating how to incorporate the necessary facilities into the site, as discussed in the separate 4.6 variation request.

b) Side or rear building setbacks are to demonstrate no unreasonable adverse impact on the privacy or solar access of adjoining properties.

Comment: The garage/carport will generally have no impact upon adjoining properties as the structure is single storey and positioned on the northern side boundary where no solar access benefits are to be gained by providing a compliant setback. Additionally, the garage and carport will have no association with the adjoining dwelling 2 with regards to privacy or overlooking given the non-habitable nature of this part of the dwelling and no windows incorporated into the northern facade. On the contrary the positioning of the garage to the northern side of dwelling 1 will improve separation to the new dwelling 2 adjacent.

c) Garages are to be setback a minimum of 5.5 metres from the front boundary.

Comment: Both garages are setback a minimum of 5.5m, further assisting with minimising any impacts of the development overall upon the streetscape.

d) Side and rear walls within 900mm and eaves within 450mm of boundaries are to comply with the BCA requirements for fire rating.

Comment: Both the carport and garage are readily capable of being constructed in accordance with the relevant BCA requirements with regards to fire separation.

For the reasons stated above the variations are considered warranted in this instance with the small lot size of dwelling 2, resulting from the existing footprint of dwelling 1, being the primary driver in dictating the development potential of the site.

5 Planning Assessment

This section will consider the following: the Assessment of Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15(1)(b),(c) and (e).

5.1 Assessment of Natural Environmental Impact – S4.15 (1)(b)

5.1.1 Micro Climate Impacts

The proposed development is unlikely to result in any adverse effects to the micro-climate in the locality.

5.1.2 Water & Air Quality Impacts

The proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality.

5.2 Assessment of Built Environment Impacts – S4.15 (1)(b)

5.2.1 Impact on the Areas Character

The surrounding built environment comprises a mix of single dwellings, higher density residential development and commercial developments within the Mudgee HCA. The proposal will not impact this character as discussed throughout this report.

5.2.2 Privacy, Views & Overshadowing Impacts

The proposed development will not impede the existing privacy or views of the subject or surrounding lots. The development will not provide overshadowing within the subject or adjoining lots given the corner lot context and single storey nature of the proposal.

5.2.3 Aural & Visual Privacy Impacts

The proposed development, being within a standard residential area and generally compliant with the relevant planning provisions, will not result in any significant privacy concerns for adjoining properties.

5.2.4 Environmentally Sustainable Development

The proposal will have minimal impact with regards to ESD subject to standard conditions imposed by the consent authority.

5.3 Assessment of the Site Suitability – 4.15(1)(c)

5.3.1 Proximity to Service and Infrastructure

As outlined, the site is accessible via both Lewis Street and Gladstone Street. As the site already contains an existing dwelling, electricity, water, sewer, stormwater, internet and telephone are also readily available.

5.3.2 Traffic, Parking & Access

The development will not increase the traffic volume for the area, as the proposal is for a dual occupancy upon a site that constitutes 2 existing lots. It is expected that the current road network is capable of continuing to support the minimal traffic movements.

5.3.3 Hazards

The site is not subject to any known hazards such as bushfire threat, landslip and the like that are relevant to residential development.

The site sits within the PMF as identified within the Mudgee Flood Study 2021. The dwellings have incorporated a suitable floor level with a 300mm freeboard applied.

5.4 The Public Interest – 4.15(1)(e)

5.4.1 Social and Economic Impact

The proposal will make a positive contribution to the Mid-Western Region by facilitating the improvement of housing stock and the creation of employment.

5.4.2 The Public Interest

The proposal is in the public interest as it satisfies the objectives of the MWRLEP 2012 and MWRDCP 2013 and will not set any undesirable planning precedents.

6 Conclusion

The proposed development has been assessed in accordance with Section 4.15(1) of the EP&A Act 1979 and Council's planning instruments. The proposal is permissible in the R3 Medium Density Residential Zone under the Mid-Western Regional LEP 2012 and in our opinion is consistent with the relevant objectives of the Zone.

As discussed throughout the SEE, the crux of the proposal is to facilitate the erection of an additional dwelling together with an updated existing dwelling that will blend seamlessly into the existing streetscape with no exacerbated impacts with regards to the Mudgee Heritage Conservation Area and no impact upon any nearby items of environmental heritage. The proposal is generally compliant with the provisions of the MWRDCP 2013, with the POS arrangement and setbacks considered reasonable for the circumstances of the site and on balance with all other considerations.

The creation of an undersized lot, through what is essentially a boundary adjustment (no new lots created), has been demonstrated in the separately prepared 4.6 written variation request to be the most appropriate outcome on balance. The critical factor regarding the existing dwelling footprint and the need to design around this site constraint is well founded with regards to demonstrating that it is unreasonable to apply the minimum lot size development standard of 400m² (4.1B(2) of MWRLEP 2012) in this instance.

For the above reasons the proposal is considered to be in the public interest and is recommended for approval subject to standard conditions.