

# Statement of Environmental Effects

Subdivision – Lower Piambong Road Mudgee

**Date:** 21 February 2022

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**Uploaded to the Planning Portal under separate cover**

# 1. Introduction

This Statement of Environmental Effects (SEE) has been prepared by Eight Mile Planning on behalf of the landowners (Perter, Fiona, Walter and Robert Shearman) to accompany a combined development application (DA) for the subdivision certain land on the corner of Lower Piambong Road and Gibsons Lane.

The SEE has been prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg) as well as the requirements of Council.

## Development application details

<b>Proposed development</b>	Torrens Tile Subdivision of 6 existing lots into 9 lots.  Lot size – 2-8 lots 12.5-16 ha, 1 x lot 109.5 ha and a residual rural lot with an area 38.4 ha (no dwelling).
<b>Type of approval</b>	<p><b>Development Consent</b> pursuant to section 4.16(1)(a) EP&amp;A Act 1979</p> <p><b>Concurrent with amendment to planning instrument</b> – Part 3 section 3.39 Making and consideration of certain development applications which provides:</p> <p><i>Nothing in this Act prevents—</i></p> <p><i>(a) the making of a development application to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended, or</i></p> <p><i>(b) the consideration by a consent authority of such a development application subject to this Division.</i></p>
<b>Integrated Development</b>	Approval is required under section 100B of the <i>Rural Fires Act, 1997</i> as part of the site is mapped as fire prone on the NSW Rural Fire Services Bushfire Prone Land Map.
<b>Planning Proposal</b>	<p><b>A Planning Proposal</b> – PP-2021-2259 194 Hill End Road, proposed rezoning to change minimum lot size.</p> <p>Gateway decision 23/3/21</p> <p>Public Exhibition 24/9/21 - 22/10/21</p> <p>Re-exhibition 12/11/21 – 10/12/21</p> <p>Finalisation – approved by Council February 2022 for Publication following Opinion</p>
<b>Real Property description</b>	Lots 22, 72, 82, 83 and 99 DP 756897, and Lot 410 DP 1112456



property. The area proposed to be developed for smaller lots has an elevation of 420m and rising to 510m and then around 620m at the highest point.

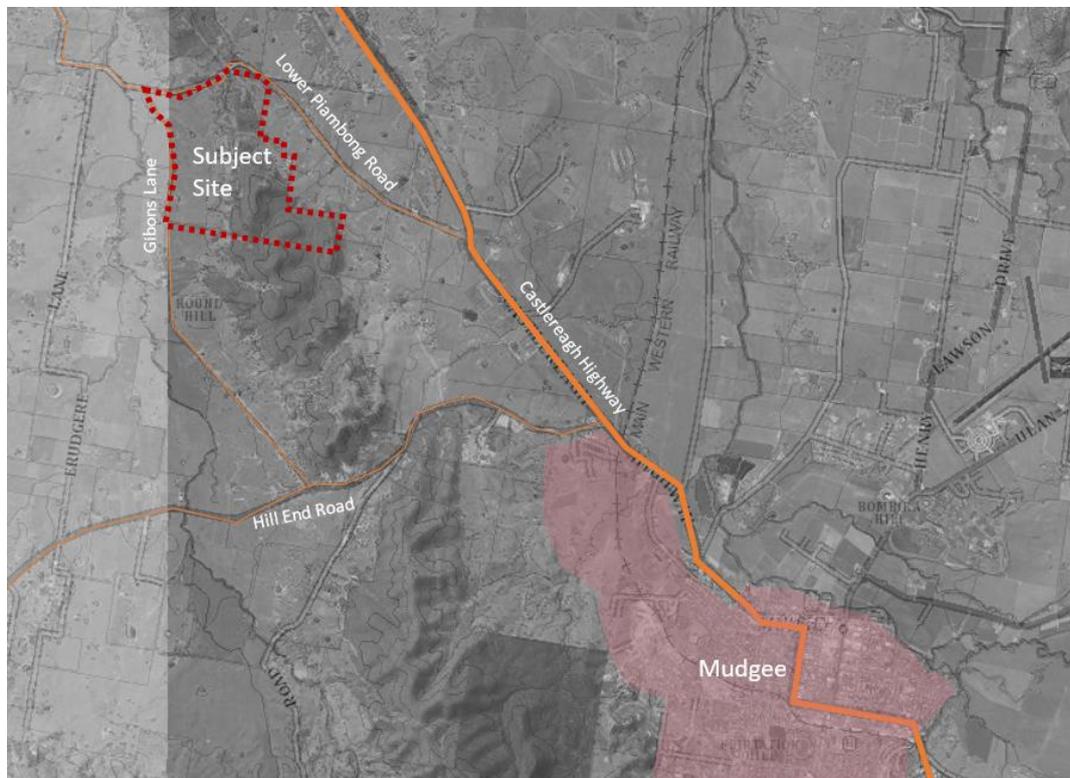
The topography results in a number of first order intermittent drainage lines that flow only following heavy rain events. These have been classified as first order streams under the Strahler stream classification system adopted by Water NSW. Three of these run into farm dams (Lots 22 and Lot 72 DP 756897).

The site is sparsely vegetated with exotic grasses and paddock trees through the lower slopes and heavily vegetated across the top of the hills which are dominated by woodland classified as Tumbledown Gum woodland. Areas of White Box Black Cypress Pine area also present in the upper reaches of Lot 99 DP 756897.

An aerial image of the site, showing its context is provided in **Figure 1**.

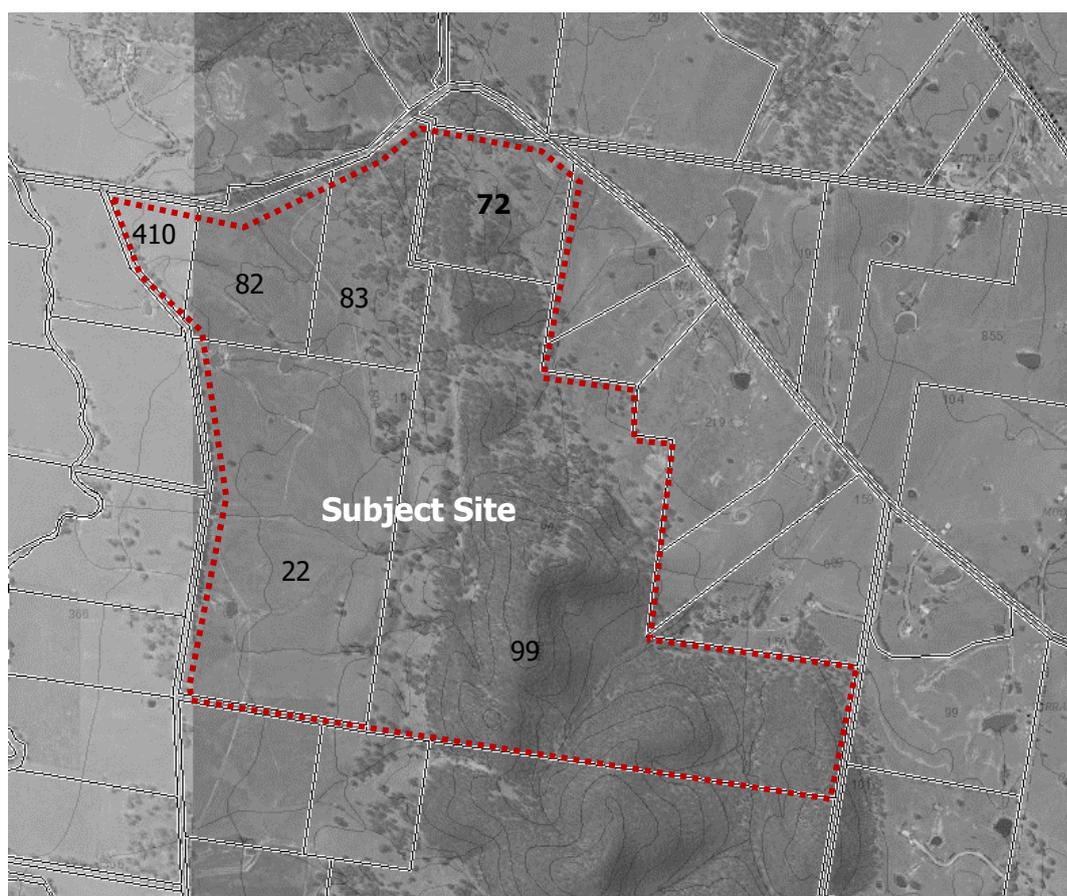
The Planning Proposal relates to a larger portion of the Darthula property at 194 Hill End Road, however, as noted above, the DA considers only a small area to the north west.

**Figure 1 Subject site**



Source: SixMaps, 2021, Edited.

The DA relates to the following land; Lots 22, 72, 82, 83 and 99 DP 756897, and Lot 410 DP 1112456; as illustrated in **Figure 2**.

**Figure 2 Subject Lots**

Source: SixMaps base map (edited) 2021

## 1.2 Planning Proposal

A Planning Proposal (PP-2021-2259) was lodged in September 2020. The objective of the proposal is to change the zone on part of the property from RU1 Primary Production to R5 Large Lot Residential with a corresponding minimum lot size (MLS) of 12ha.

The Planning Proposal was supported by Council in December 2020 and received a Gateway Determination from the Department of Planning, Industry and Environment (DPIE) on 26 March 2021. The proposal was exhibited for 28 days from 24 September 2021 and again following an oversight concluding 10<sup>th</sup> December 2021.

There were no submissions received during the second public exhibition. Council received three submissions. The issues raised are outlined below. The comment has been included in the context of the DA rather than the planning proposal.

Submission	Issue	Comment in relation to the DA
1	State of repair of Lower Piambong Road at the intersection of Gibsons Lane. Short sight distance.	The DA proposed the upgrade of Gibsons Lane to accommodate the additional dwellings. At this time it is an unmaintained local road. The additional properties accessing the road will see it upgraded to a maintained local road consistent with Council policy.

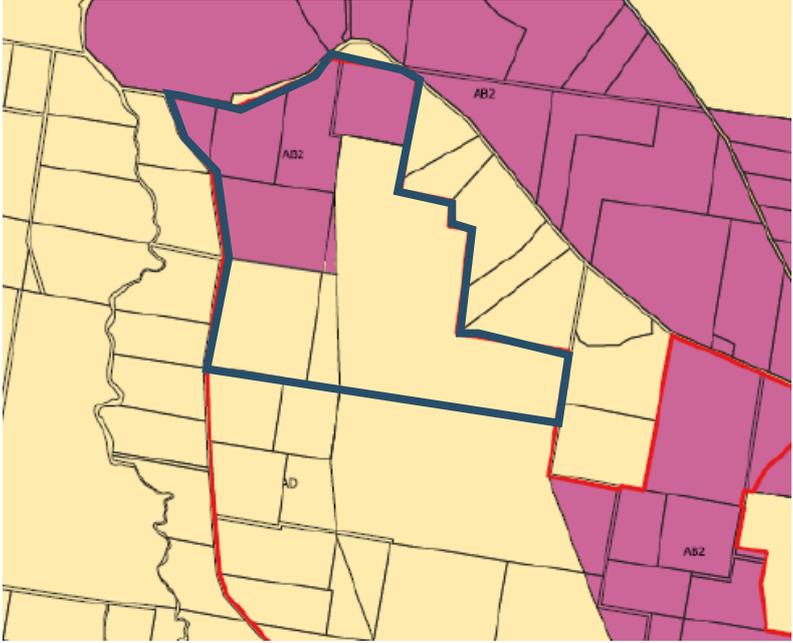
Submission	Issue	Comment in relation to the DA
		Lower Piambong Road is a maintained local road. The condition of the road is managed through the ordinary operation works program.
2	Generally relating to the rezoning process and adequacy of Councils process for rezoning	Not Applicable. No specific matters for consideration relevant to the DA.
3	Crown Lands – no objection	Not applicable

The Planning Proposal was considered by Council again on February 2<sup>nd</sup> 2022 and Council resolved to exercise its delegation and make the plan following the receipt of an Opinion by Preliminary Counsel. The amendment is now imminent.

The technical documentation prepared to demonstrate the suitability of the site for lifestyle development with a minimum lot size of 12 ha has been included in the DA as supporting documentation.

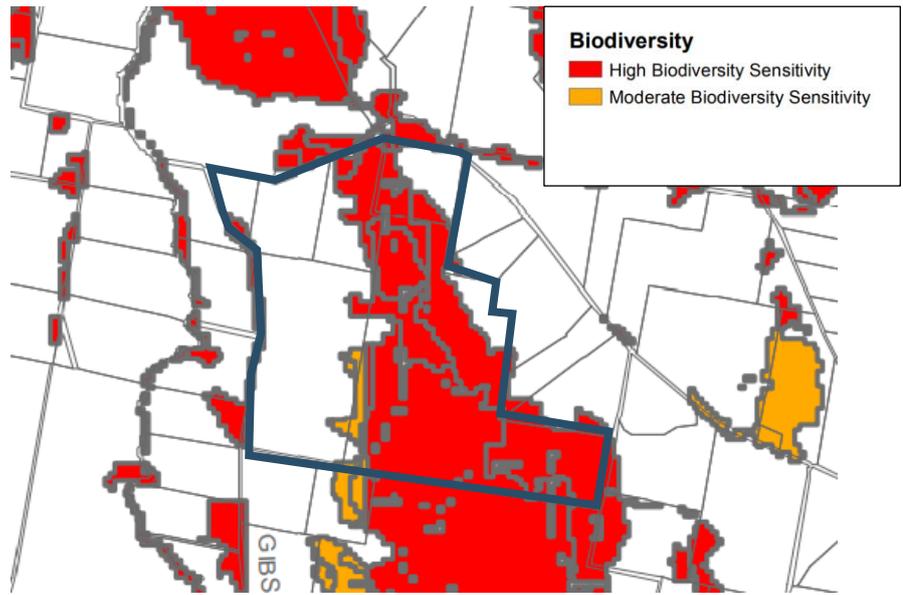
# 1.3 Key Planning Controls

The Mid-Western Local Environmental Plan (MWLEP) is the principle environmental planning instrument. However, the proposal is based on the draft MWLEP. The following key development controls apply:

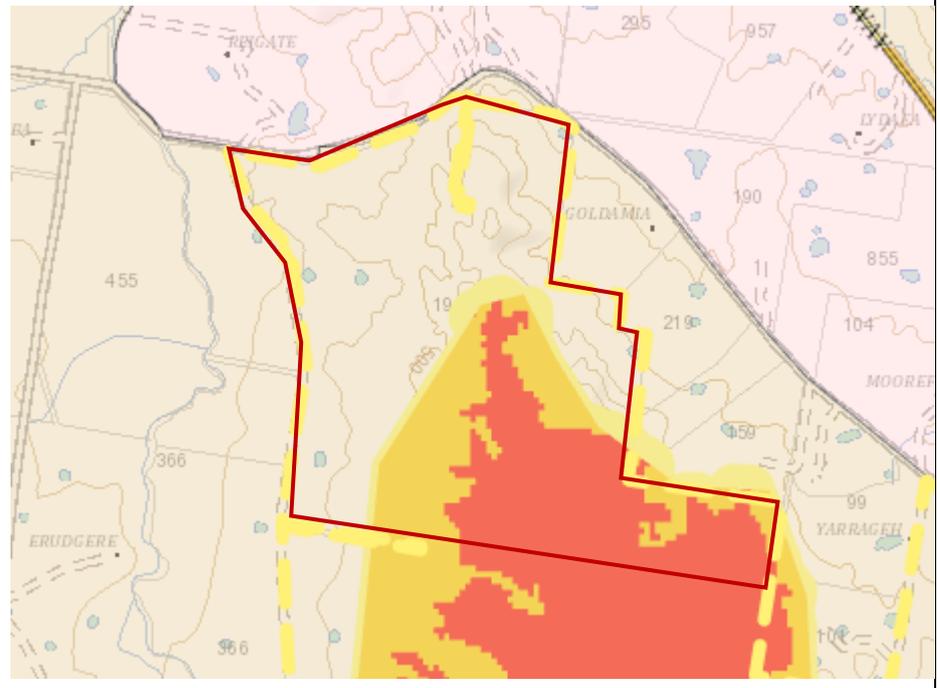
<p><b>Proposed Zone</b></p>	<p>R5 Large Lot Residential (existing zone (RU1 Primary Production))</p> 
<p><b>Minimum Lot size</b></p>	<p>12ha for R5 zone and 100ha for RU1 zone</p> 

**Sensitive Biodiversity**

Impacts the residue 100ha lot and a small portion of the proposed R5 land.

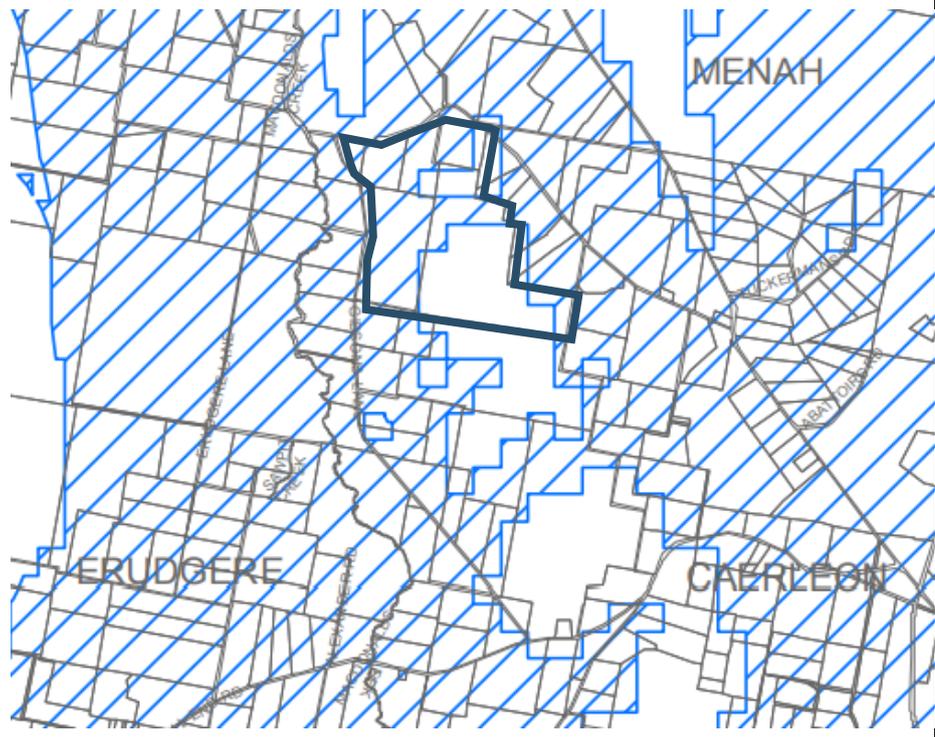


**Bushfire**



**Ground water vulnerability**

The site is identified as including areas of groundwater vulnerability



The relevant provisions in the MWLEP are considered in the assessment in Section 4.

## 2. Consultation with Council

A preliminary meeting was held with Council on 4 November 2021. The key issues are outlined below.

Discussion Point	Response
Contamination – PSI undertaken with Planning Proposal	There PSI ( <b>Appendix D</b> ) indicated some potential for contamination associated with the former sheep dip on the property. This part of the site is not including in this DA. Further site contamination was not considered necessary.
Building Envelopes	Have been provided on the plan ( <b>Appendix A</b> ). Location of building envelopes to avoid the need to clear any vegetation other than exotic grass.
Aboriginal cultural heritage	AHIMS Search ( <b>Appendix E</b> ) has been undertaken and no sites recorded on the property. The land to be developed has been historically cultivated and grazed and is absent of topographic or landscape features that would signify a high probability of sites. Any extraordinary finds will be managed under the <i>National Parkes and Wildlife Act, 1979</i> .
Bushfire	Although only a small portion of the site is mapped as bushfire prone on the published maps, an assessment has been undertaken and included in the DA package ( <b>Appendix B</b> ).
Biodiversity	A Flora and Assessment was undertaken for the Planning Proposal ( <b>Appendix C</b> ). As noted above, building envelopes have been located to avoid significant vegetation. A BDAR is not required as the proposal will exceed the trigger.
Site Drainage	The mapping indicates 1 <sup>st</sup> and 2 <sup>nd</sup> order Strahler classified drainage. The E-tool was reviewed. The drainage lines are absent defined channels or a high bank and do not meet the criteria for classification as a “river” for the purpose of the Water Management Act. These areas are largely avoided. No further assessment was required.
Electricity	Proposed Lots 2-8 will be connected to the grid. Electricity service is available to proposed Lot 1, however, it is not intended to be connected.
Upgrade of Gibsons Lane	The additional dwellings using the lane will be 5 and the road will be upgraded to a minor local road. This will require a s138 approval which is also being sought in the DA. The local access gates are marked on the plan. There is an existing track that is used to provide property access to the western portion of the property at present and this access will be maintained. No trees are proposed to be removed in the upgrade of the road. The detailed design will determine the geometry of the road and treatment of drainage. It was confirmed in the meeting with Council that the detailed design was not required to be submitted with the DA and that the road standard would be conditioned.
Referrals	The DA will be referred to Essential Energy, Transgrid and NSW RFS. A TfNSW referral was not required.

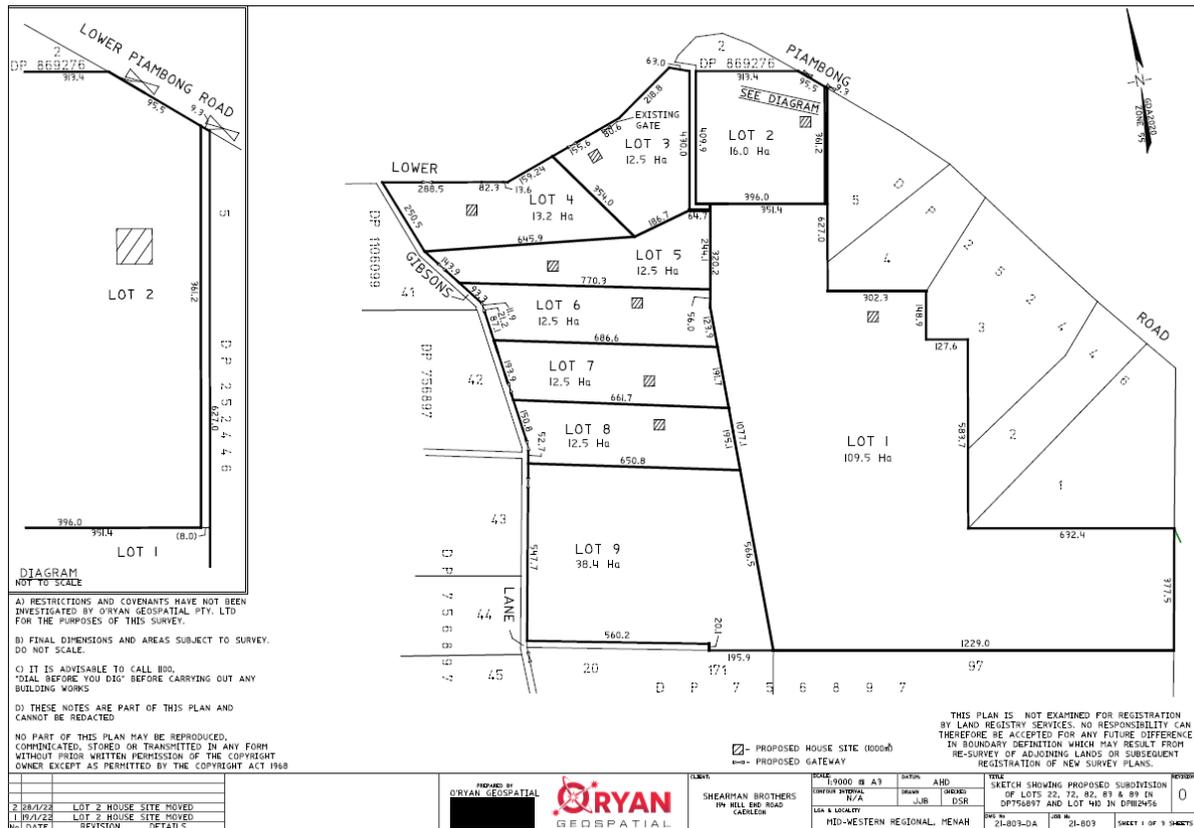


# 3. The proposal

The development application is seeking approval for the subdivision of land into 7 lifestyle lots ranging 12.5-16ha and 109.5 ha rural lot. A residual lot with an area of 38.4ha will also be created by the subdivision which will have a restriction on title preventing the erection of a dwelling.

The general arrangement of the subdivision is shown in the subdivision plan (refer **Figure 3**). The proposal includes the civil works associated with the development include the upgrade to Gibsons Lane and new property access on Gibsons Lane and Lower Piambong Road.

**Figure 3 Proposed Subdivision**



Source: Plan of Subdivision, Appendix A.

Note that Lot 72, DP 756897 (proposed Lot 2) will remain largely unchanged in the configuration and has only been included because a portion on the eastern side of the existing lot is required for access to proposed Lot 1.

## 4. Assessment

The following section provides an assessment of the proposed development against the relevant matters for consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979* (EPA Act).

**Table 2 Matters for Consideration 4.15**

EP&A Act section and legislative requirement	Comment
(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application: The provision of:	
(i) any environmental planning instrument	The Mid-Western Local Environment Plan (MWLEP) and relevant SEPPs have been considered in section 4.1. below.
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent	A Draft Local Environmental Plan applies to the development site. The subdivision application has been prepared under an assumed approval of the re-zoning of the land from RU1 to R5 and change in minimum lot size. The consideration of a development application pending a rezoning is enabled in the EPA Act Part 3 s3.39. The DA has been lodged so that the determination will coincide with the publication of the amended WMLEP.
(iii) any development control plan	The Mid-Western Development Control Plan 2013 has been addresses to the extent that it applies to rural subdivision (refer section 4.2 below).
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	Not Applicable
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)	This DA is considered to satisfactorily meet the relevant requirements of the EP&A Regulations relating to development applications
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	Consideration has been given to the likely impacts of the development (refer Section 4.3 below).
(c) the suitability of the site for the development	The suitability of the site for subdivision to cerate rural lifestyle lots was the key strategic merit consideration un the Planning Proposal which was supported by Council in December 2020. Environmental and access considerations have been assessed. A Bushfire Assessment was not undertaken for the Planning Proposal and this has been considered in the report by Barnson ( <b>Appendix B</b> ). The report concludes that dwellings can be accommodated within nominated building envelopes subject to the mitigation measures outlined in the recommendations of the report in section 5. .
(d) any submissions made in accordance with this Act or the regulations	This is a matter for the Council as consent authority.

EP&A Act section and legislative requirement	Comment
(e) the public interest	The proposal will deliver additional housing opportunities close to Mudgee and consistent with Councils strategic planning framework.

## 4.1 Environmental planning instruments

### State Environmental Planning Policies

The proposed development is not inconsistent with any SEPPs that otherwise apply to all land across the state.

**Table 3 Consistency with Relevant SEPPS**

SEPP	Assessment
SEPP No 55 - Remediation of Land and draft amendment	This SEPP aims to reduce the risk to human health by managing the remediation of contaminated land. A Phase 1 Contamination Assessment was undertaken as part of the site assessment for the Planning Proposal. The purpose of this was to satisfy the Council that the land being subdivided was suitable for future urban uses. Further assessment is not required.
SEPP (Koala Habitat Protection) 2021	This SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The proposal is not inconsistent with the SEPP. The extent of Koala Habitat has been identified in the ELA report (Appendix A). Areas of potential habitat have been avoided.

### Mid-Western Local Environmental Plan

The *Mid-Western Local Environmental Plan (MWLEP)* is the principle environmental planning instrument applicable to the development.

The proposal has been assessed against the general and relevant requirements of the MWLEP and the proposal will not contravene the controls contained within the plan. Consideration of the relevant clauses set out in the MWLEP are provided below.

#### Land Use Zone and Lot Size

The site is currently zoned RU1 Primary Production. Development for the purposes of subdivision is permissible in the zone with consent.

Current Zone	Comment
RU1 Primary Production	Subdivision permissible. Subdivision for the erection of a dwelling requires the lot to satisfy a MLS of 100ha in the RU1 zone.
Proposed Zone	Comment
Part RU1 Primary Production Part R5 Large Lot Residential	The subdivision includes proposed Lot 1 which is split zoned, but predominately within the 100ha MLS. This lot satisfied the 100ha MLS with an area of 109.5 ha.

Current Zone	Comment
	Proposed Lot 9 is a residual lot. It is within the RU1 zone, however, will not attract a dwelling entitlement. A restriction will be placed on this lot.
	Proposed Lots 2 -8 range in area from 12.5 – 16 ha. All meet the 12ha MLS for the erection of a dwelling in the R5 zone.

## Other MWLEP Provisions

The proposal has been prepared having regard to the relevant provisions of the MWLEP as outlined in the following table.

**Table 4 Other relevant MWLEP Provisions**

Clause	Control	Comment
2.6 Subdivision	Requires consent	Complies
4.1 Minimum Lot Size	Refer above	Complies with draft LEP
4.2 Rural Subdivision	Provides flexibility in the RU1 zone for the creation of a lot that is less than the MLS. A dwelling cannot be erected on such a lot	Complies. The proposal includes a residual lot 38.4 ha. This lot will continue to be used for the purpose of agricultural and managed with the balance of the existing property.
6.2 Public utility infrastructure	Arrangements have been made	Complies.
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	Applies to the RU1 and R5 zones. Council to consider: (4) The following matters are to be taken into account— (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).	Complies. Development within the vicinity of the subdivision (not associated with the property) is limited to lifestyle development existing rural land uses. The subdivision will be followed by dwellings on each of the proposed lots. Building envelopes have been situated to minimise the impact on adjoining land. Setbacks are generous. In addition to dwellings, lifestyle lots are typically used for extensive agriculture/grazing. The proposal is unlikely to result in land use conflict as a result of the incompatibility of land uses.

Clause	Control	Comment
6.1 Salinity	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>Noted. There is not indication of salinity across the site. The subdivision would not lead to an adverse impact.</p>
6.3 Earthworks	<p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p>	<p>Earthworks will be limited to the work associated with the construction of the access to the lots.</p> <p>It is anticipated that suitable erosion and sediment control will be included in the Construction Management Plan as part of the Subdivision Works Certificate process.</p>

Clause	Control	Comment
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	
6.4 Groundwater vulnerability	The site, like a significant area of Mudgee, is identified on the Groundwater vulnerability map. Council must consider the impact of the development on groundwater, including the likelihood of groundwater contamination.	The subdivision will not impact groundwater. Future dwellings will need to have on-site waste water management systems. The individual system will be considered in detail at the dwelling stage. It is unlikely that the use of the future lots for dwellings will result in an adverse impact on groundwater.
6.5 Terrestrial biodiversity	This clause applies to land that is mapped as medium or high biodiversity sensitivity. (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider— (a) whether the development is likely to have— (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and (iv) any adverse impact on the habitat elements providing connectivity on the land, and (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (4) Development consent must not be granted to development on land to which this clause applies unless the	Areas of "Moderate Biodiversity Sensitivity" and "High Biodiversity Sensitivity" have been avoided in terms of the building envelopes. Proposed Lots 1-3 are most impacted by biodiversity. A Biodiversity Assessment ( <b>Appendix C</b> ) was undertaken for the Planning Proposal. Those areas of high value were generally avoided or retained in the RU1 zone. All of the proposed lots an accommodate building envelopes that are outside the areas mapped has medium or high value.

Clause	Control	Comment
	<p>consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	
6.9 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable road access.</p>	<p>Water will be provided in rainwater tanks, including capacity for fire fighting</p> <p>Reticulated electricity will be supplied to Lots 2-8. Electricity can be made available to Lot 1, however, connection in not proposed under this DA.</p> <p>Sewerage disposal will be via on-site systems</p> <p>Stormwater will be managed for the dwellings through the dwelling design. It is anticipated that rainwater will be harvested from rooftops rescuing the run-off. Lots are sufficiently sized to manage stormwater on site.</p> <p>All lots have direct access to a local road. Gibsons Lane will be upgraded. The increase in the dwellings using the road will enable it to be considered as a maintained local road.</p>

## 4.2 Development Control Plan

The MWDCP applies to the proposal to the extent that it relates to the subdivision of land.

**Table 5 MWDCP**

Control	Comment
Site Plan	Complies. A site plan has been prepared indicating the key features of the site including, existing roads and proposed access points, lot configuration, easements and watercourses.
Lot Size	<p>Complies. The development lots meeting the proposed MLS. The residual agricultural lot will continue to be managed with the balance of the rural holding. This lot has not been increased to 100ha due, in part, because it would have a flow on impact on the other existing titles resulting in land that would attract a dwelling entitlement that was greater than 1 km from a local road.</p> <p>If Council object to the creation of a rural lot, consolidation into a 100ha parcel is possible and council be conditioned.</p>
Services	Not applicable
Roads	<p>The additional traffic from the proposal has been estimated to be approximately 54 vehicle movements per day based on a rural dwelling traffic generation of 6 vehicle movements.</p> <p>The additional volume of traffic does not generate a need for a sealed road standard as confirmed in the pre-DA meeting on 4 November.</p> <p>Lower Piambong Road is an existing local road.</p> <p>Gibsons Lane is unformed and is proposed to be upgraded to a standard approved by Council. The Detailed Design will form part of the post approval work prior to the issue of a Subdivision Works Certificate and require the approval of Council.</p> <p>The DCP requires the road to be upgraded to a 4-6m gravel carriageway.</p> <p>A separate Traffic Report is not warranted given the number of lots proposed.</p>
Lot Design	Complies. New lots have been proposed to minimise land disturbance. Building envelopes and access points can be accommodated without the need for the removal of trees and avoiding drainage lines where possible.
Bushfire prone areas	<p>The large rural lot (Lot 1) is identified as bushfire prone, however, the lifestyle lots are outside of the mapped areas.</p> <p>A Bushfire Assessment has been undertaken by Barnson and is attached to the DA. The building envelopes have been assessed to comply with the Planning for Bush Fire Protection 2019 Guideline (refer <b>Appendix B</b>)</p>
Heritage	An AHIMS search has been undertaken and there are on sites or places of cultural heritage significance. (refer <b>Appendix E</b> )
Vegetation/flora	An Ecological Assessment was undertaken by Ecological Australia as part of the identification of suitable land for rural lifestyle development in the Planning Proposal. The Ecological Assessment confirms that the area proposed to be developed are devoid of any native vegetation and building envelopes have been provided on land identified as being non-native vegetation.

Control	Comment
	As there is no clearing of vegetation proposed, the BDAR requirement in the <i>Biodiversity Conservation Act 2016</i> has not been triggered.
Fauna	As noted above, an Ecological Assessment was undertaken. There are no significant fauna species on the site.
Crown Roads	There are a number of Crown Roads within the property, however, none will be relied on for access. An application has been made to close the roads.
Watercourses	Noted. The drainage lines traversing the site are not classified as rivers for the purpose of the Water Management Act.
Right of carriageway	Not Applicable
Battle axe handle access	The large, 100ha rural lot will be accessed via a battle axe handle running along the easter boundary of proposed Lot 2. This is considered reasonable given that it applies to only a single lot. The lifestyle lots are all accessed by direct road frontage.
Water cycle management report	The purpose of a Watercycle Management Report is to demonstrate that the lot has sufficient area to dispose sewer on-site without impacting adjoining land. This is particularly relevant in rural residential lots where the MLS is < 2ha. In this instance, the MLS is 12 ha and each lot has sufficient area to accommodate septic, bio-cycle, spray or subsurface irrigation. The design of the systems proposed will be provided at dwelling application stage and be sized to accommodate the individual dwellings.  A watercycle management report has not been provided and not considered necessary in this instance.
Telecommunications infrastructure	Noted.
Electricity	The proposed lots 2-8 will be connected to the grid. Lot 1 will rely on alternative energy supply. A covenant can be provided on title if required.
Land use history	The site has been an operating farm, predominately grazing. A Preliminary Site Contamination Report was prepared by Barnson for the Planning Proposal and found the land to be suitable for the proposed residential use.
Community title	Not Applicable.

## 4.3 Likely impacts of the development

### General

The impacts associated with the development of farmland for rural lifestyle uses has been considered in the Planning Proposal.

The subdivision will have minimal impact. The steeper slopes and areas of potentially high value vegetation have been avoided. Building envelopes have been provided within that part of the lots that is already cleared and has been extensively grazed.

Access will be direct to either Lower Piambong Road or Gibsons Lane and dual access points are proposed where possible to minimise the number of access points.

Gibsons Lane will be upgraded to a minor local (rural) road standard following the formation of the existing track to avoid the need for the removal of any trees in the road reserve.

The impact on surrounding neighbours will be minimal. Building envelopes have been located to minimise the visual impact from both within and outside the site. The change of use from managed agricultural land to lifestyle lots is considered only a minor intensification of the use. Any ancillary development likely to generate a nuisance will require a development application.

## Drainage

The *Water Management Act 2000* (WM Act) and the *Water Management (General) Regulation 2018* (the 'Regulation') provide the relevant definitions and mechanisms for implementation of the Act.

The WM Act provides definitions for the terms "river" and "waterfront land"; as discussed below.

The Regulation identifies the Hydroline<sup>1</sup> mapping and the Strahler system of stream classification; although it is noted that the Hydroline mapping is not mandated by any Section of the Act or by any Clause of the Regulation. Nor is it identified in the NRAR<sup>2</sup> *Guidelines for Controlled Activities on Waterfront Land 2018*.

The defining element of the WM Act and the Regulation is "waterfront land". This is because the requirement for a Controlled Activity Approval (CAA) pursuant to the WM Act is determined by the undertaking of a relevant "activity" (as defined in the Dictionary in the Act) "in, on or under waterfront land" – Section 91(2).

In other words, a CAA is only required when a proposal proposes to undertake "a specified controlled activity at a specified location in, on or under waterfront land" – Section 91(2). The correct identification of "waterfront land" is therefore critical to the decision-making process.

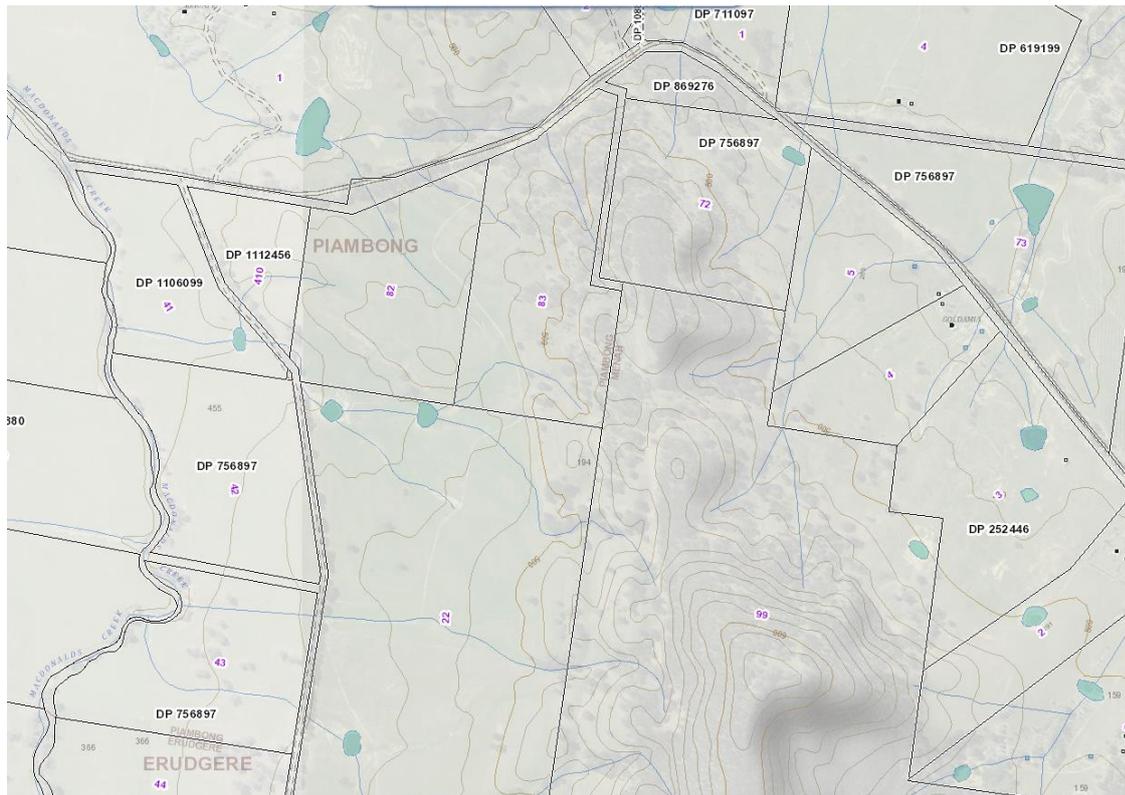
Relevantly for the purposes of the subject land, the WM Act defines "waterfront land" with respect to "rivers" as follows

*"the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river".*

Therefore, for waterfront land to be present there must be a river, including a defined channel and high bank, both of which are absent in this instance.

The site includes a number of first and one second order streams (**Figure 4**) draining to McDonalds Creek, itself a third order stream. However, inspection of these confirms the absence of the characteristics of a "river" for the purpose of the Act.

Care has been taken in the selection of building envelopes to avoid proximity to these drainage lines. The treatment of drainage across Gibsons Road will be included in the detailed design for the road.

**Figure 4 Site Drainage**

Source: SixMaps, 2021.

## Bushfire Assessment

Approval is required under section 100B of the *Rural Fires Act, 1997* as part of the site is mapped on the NSW Rural Fire Services Bushfire Prone Land Map.

A Bushfire Assessments was undertaken for the development (refer **Appendix B**).

The report addresses the NSW Rural Fire Service (RFS) *Planning for Bush Fire Protection 2019* (PBP) guideline. The assessment is based on the nominated building envelopes for future residential dwellings. Building envelopes have been selected based on their suitability in terms of both vegetation, access and orientation. All of the nominated building envelopes are outside an area of wooded vegetation or areas of mapped high value biodiversity.

Asset Protection zones (APZ) of between 11-13m can be achieved across all of he sites. The Bushfire Attack Level (BAL) has been calculated for each building envelope at 12.5.

The report makes recommendations that the proposal proceed subject to the relevant bushfire protection measure being adopted.

## 4.4 Suitability of the site for development

The site is suitable for the proposed development based on its identification for such purpose in the Planning Proposal.

## 4.5 Public interest

The subdivision will enable the delivery of additional housing and support diversity in housing choice within close proximity to Mudgee. The proposal is consistent with the relevant planning controls and is in the public interest.

## 5. Conclusion

This SEE has been prepared by Eight Mile Planning on behalf of the landowners to accompany a development application (DA) for the subdivision of land known as Lots 22, 72, 82, 83 and 99 DP 756897, and Lot 410 DP 1112456.

The proposal has been assessment in accordance with section 4.15 of the EPA Act. The proposal is consistent with the draft MWLEP and MWDCP. It is anticipated that the subdivision application will be considered concurrently with the final stages of the Planning Proposal and can be recommended for approval.

# Appendices

- A. Survey & Subdivision Plan
- B. Bushfire Assessment
- C. Ecological Assessment
- D. Preliminary Site Investigation
- E. AHIMS Database Search

**Note: Appendices below have been uploaded to the NSW ePlanning Portal as individual files.**

## **A. Survey & Subdivision Plan**

## **B. Bushfire Assessment**

## **C. Ecological Assessment**

## **D. Preliminary Site Investigation**

## **E. AHIMS Database Search**

