

Statement of Environmental Effects

Subdivision – Lower Piambong Road Mudgee (DA2)

Client: Shearman
Date: 21 July 2022

Contact:

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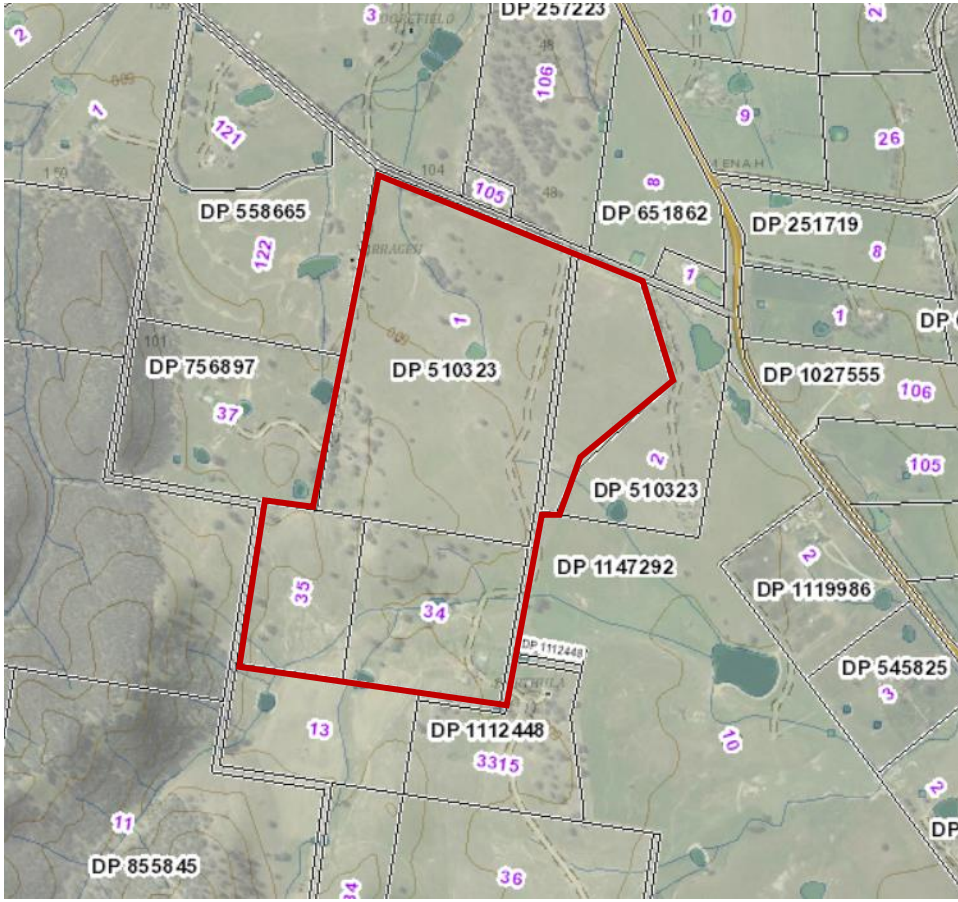
Uploaded to the Planning Portal under separate cover

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 2021* (EP&A Reg) as well as the requirements of Council.

Development application details

Proposed development	Torrens Tile Subdivision of 4 existing lots into 6 lots. Lot size – Lot 1 12.3ha, Lots 2-5 12ha, Lot 6 18.3ha
Type of approval	Development Consent pursuant to section 4.16(1)(a) EP&A Act 1979
Real Property description	Lots 1 DP 510223, Lots 34 & 35, DP 756897.
Site Plan	
Owners	Peter, Fiona, Walter and Robert Shearman
Applicant	Eight Mile Planning

The SEE is based on and to be read in conjunction with the accompanying documentation listed in the appendices.

Appendices uploaded to NSW Planning Portal under separate cover.

Table 1 Accompanying documentation

Document	Prepared by	Date	Appendix
Subdivision Plan	O’Ryan Spatial Services	June 2022	Appendix A
Ecological Assessment	Ecological Australia	15 June 2020	Appendix C
Preliminary Site Investigation	Barnson	8 June 2021	Appendix D
AHIMS Database Search	Office and Environment and Heritage	6 July 2020	Appendix E

1.1 Site

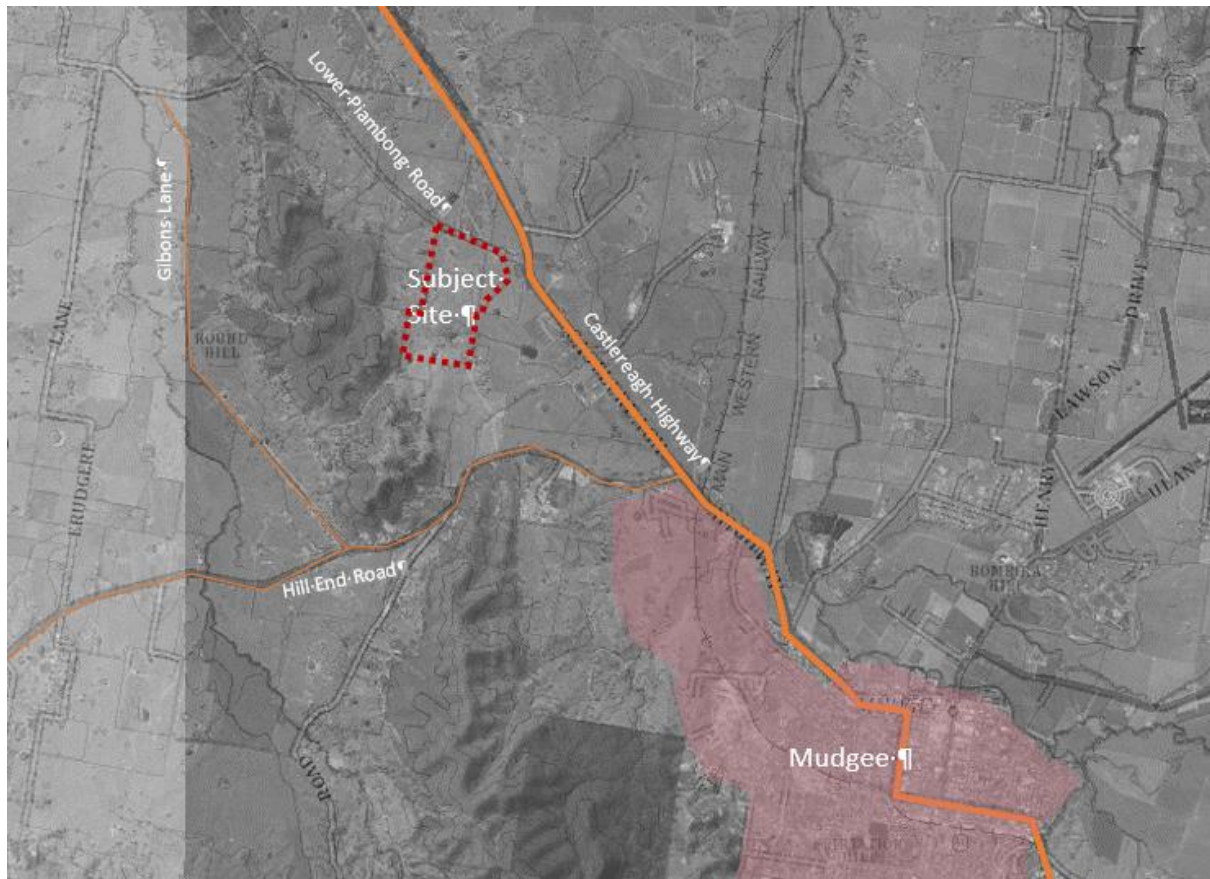
The site is located 7km north of Mudgee on Lower Piambong Road. The site is part of a grazing property and has been extensively cleared but for the top of the hills running north south and dividing the property. The area proposed to be developed for smaller lots has an elevation of approximately 440m.

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. Two of these run through part of the area to be subdivided.

The site is sparsely vegetated with exotic grasses and paddock trees through the lower slopes there is only a small area of the site mapped as high value biodiversity that has largely been avoided.

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

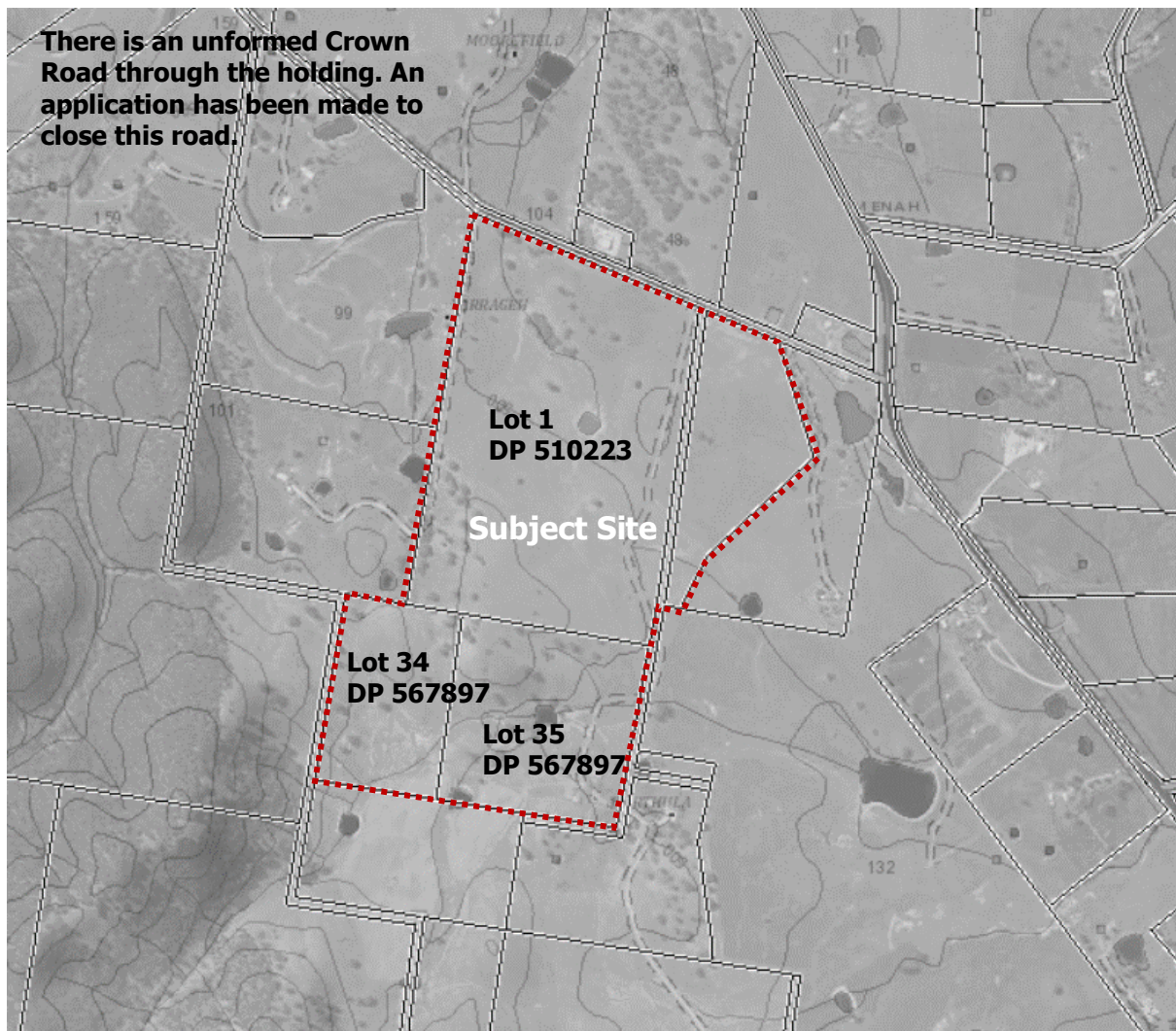
Figure 1 Subject site



Source: SixMaps, 2022, Edited.

The DA relates to the following land; Lots 1 & 2, DP 510223, Lots 34 & 35, DP 756897.

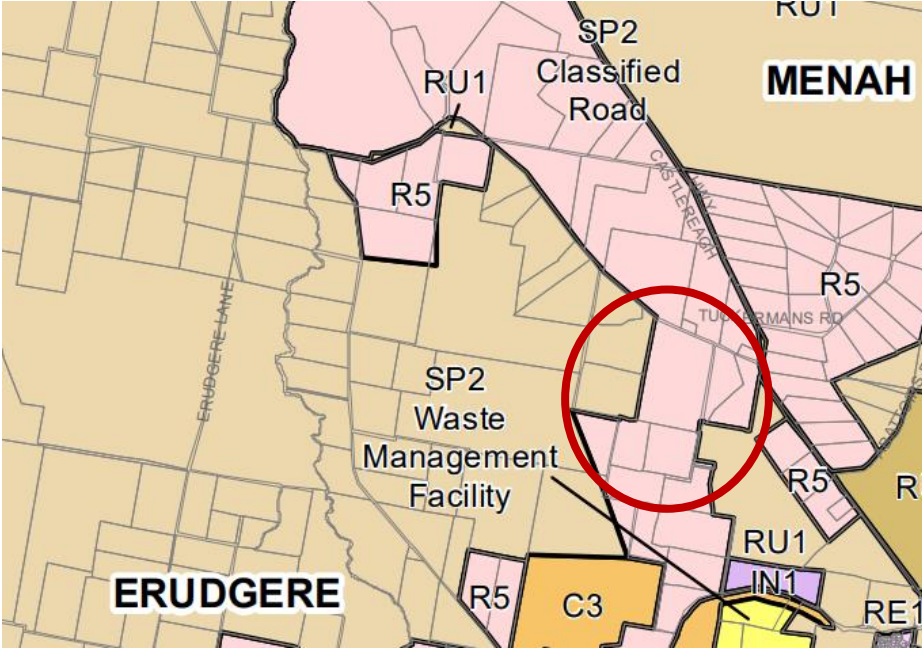
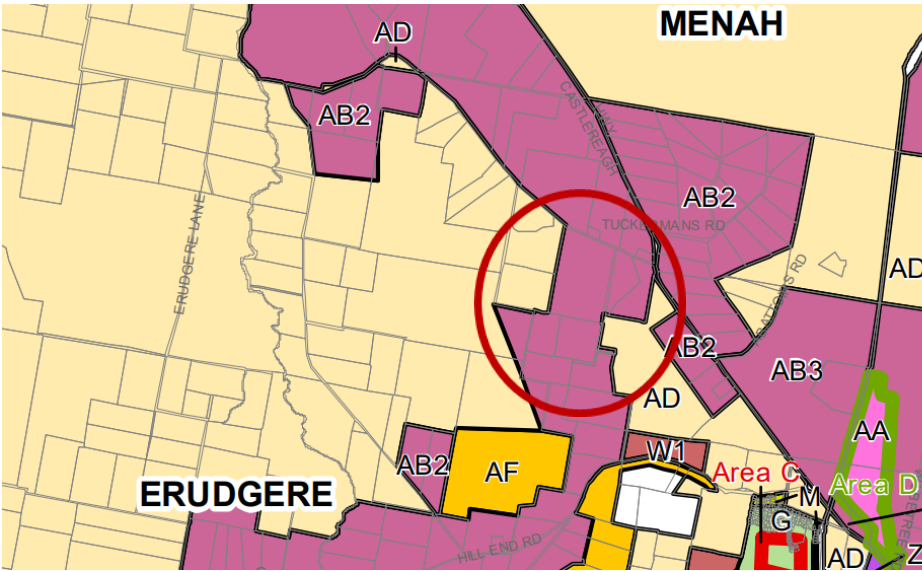
Figure 2 Subject Lots

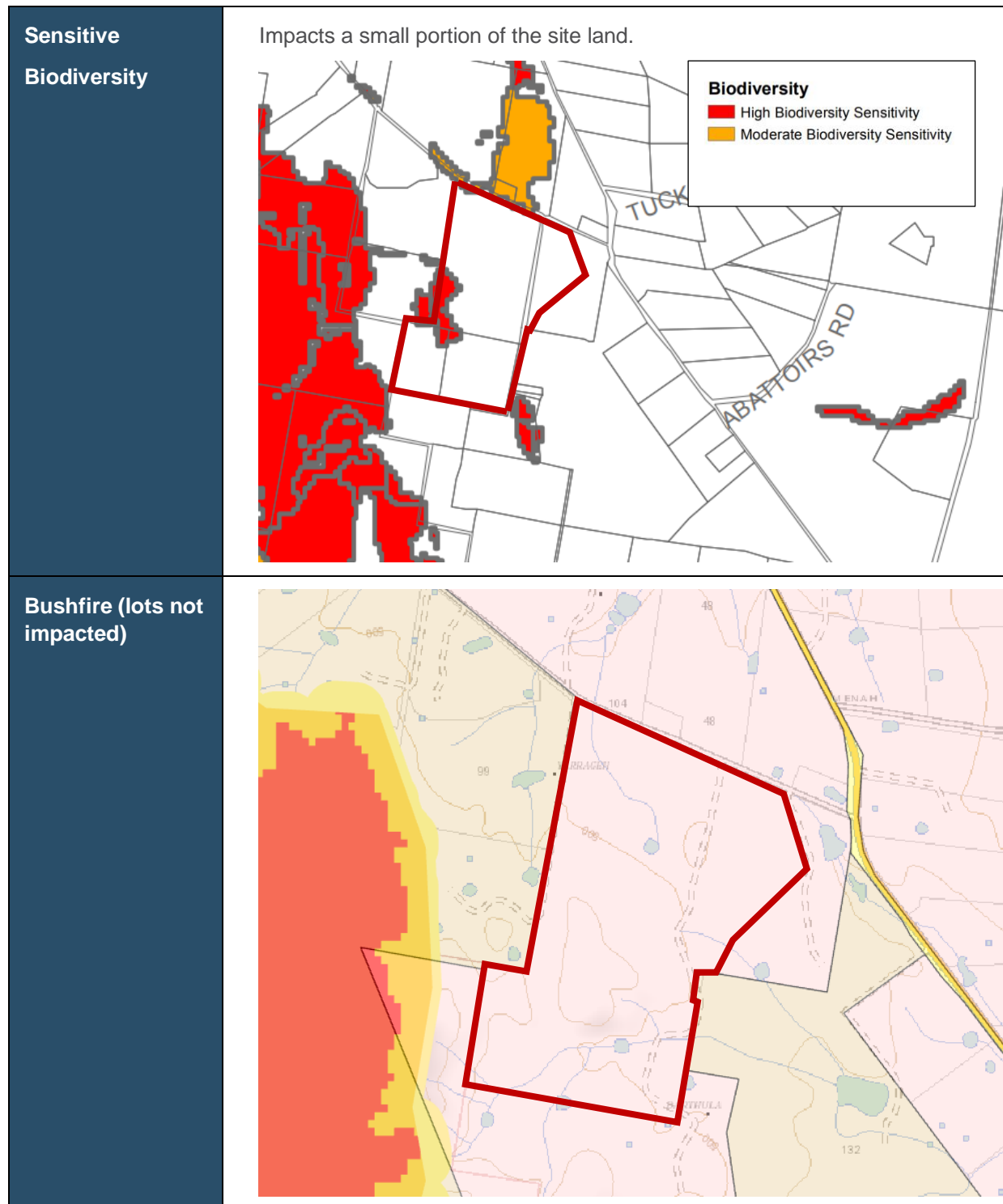


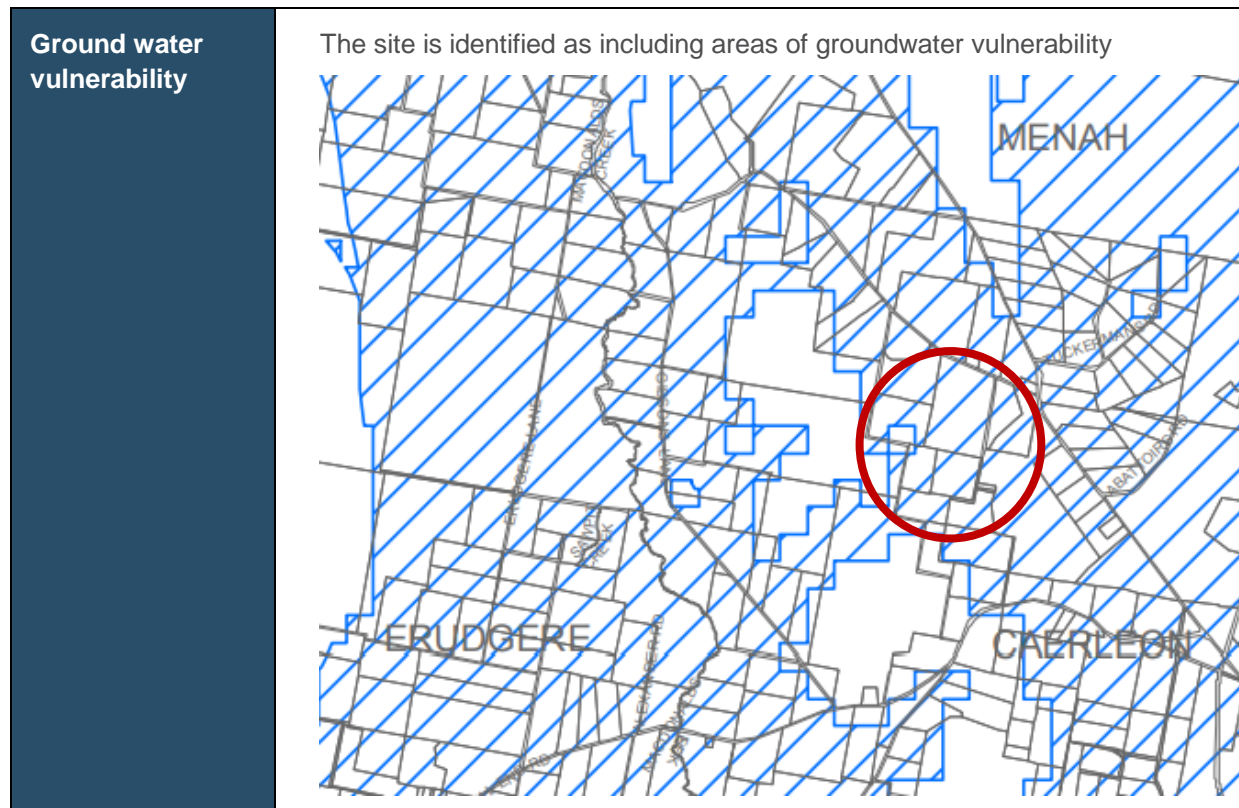
Source: SixMaps base map (edited) 2021

1.2 Key Planning Controls

The Mid-Western Local Environmental Plan (MWLEP) is the principle environmental planning instrument. The following key development controls apply:

<p>Proposed Zone</p>	<p>R5 Large Lot Residential</p> 
<p>Minimum Lot size</p>	<p>AB2 - 12ha</p> 





The relevant provisions in the MWLEP are considered in the assessment in Section 3.

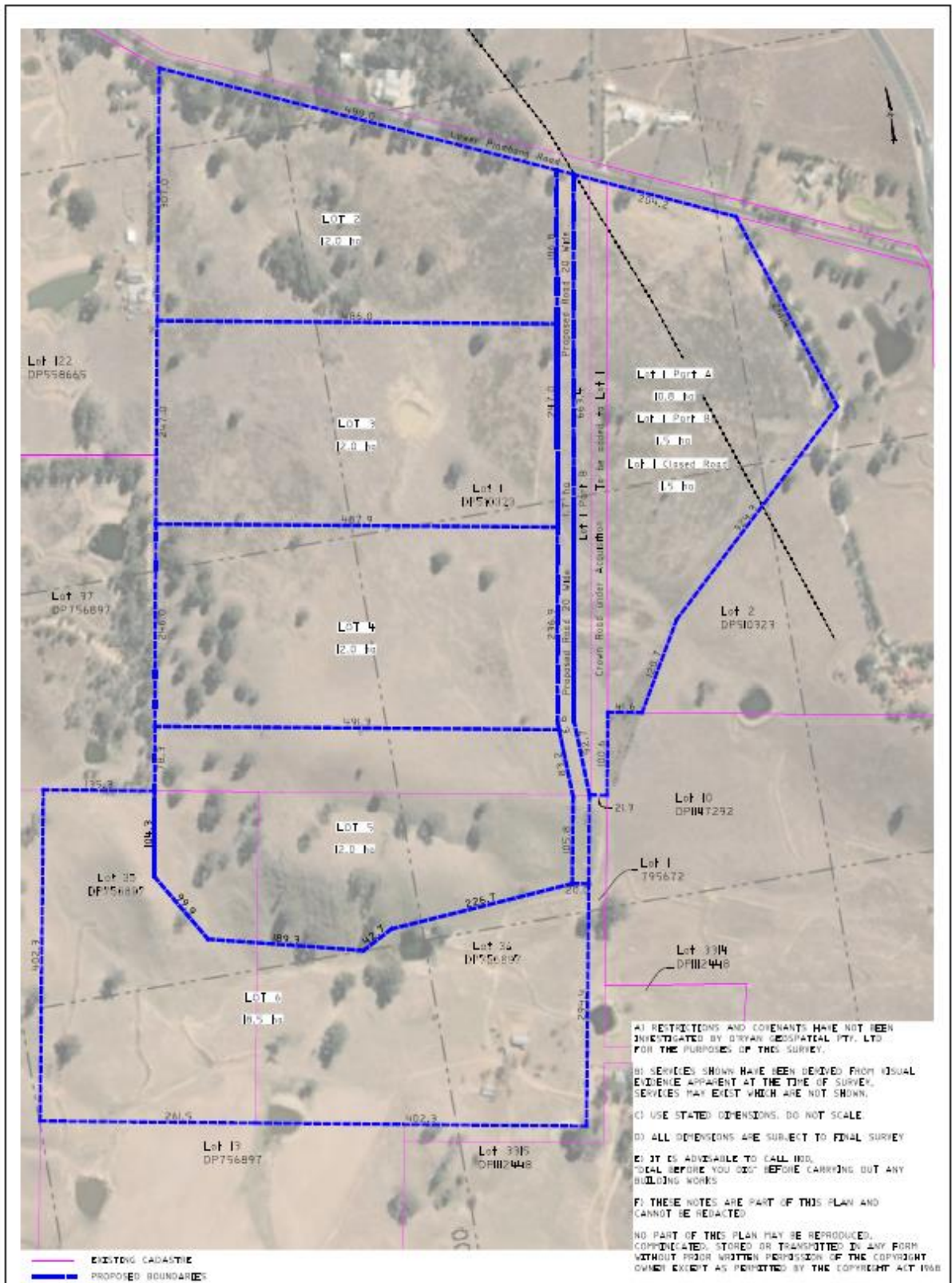
2. The proposal

The development application is seeking approval for the subdivision of land into 6 lifestyle lots as follows Lot 1 12.3ha, Lots 2-5 12ha, Lot 6 18.3ha.

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 construction of an access road. The proposed road has been aligned to the west of an existing Crown road. The land owner has made an application to close the Crown road.. The local road to be delivered as part of the development will be a no through road for the purpose of this DA. However, the intention is that this road will be constructed through the existing property south to Hill End Road. This will occur under future DAs.

Access to the proposed lots not inhibited and will be via recessed gates directly from the new road. There will be no access from Lower Piambong Road. The location of the access point will be determined following detailed design of the road and included as part of the Subdivision Works Certificate.

Figure 3 Proposed Subdivision



Source: Plan of Subdivision, Appendix A.

3. 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 3.1. 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	Not Applicable
(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 3.2 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 3.3 below).
(c) the suitability of the site for the development	<p>The suitability of the site for subdivision to cerate rural lifestyle lots was the key strategic merit consideration in the Planning Proposal that resulted in the rezoning of the land in 2022.</p> <p>Environmental and access considerations have been assessed.</p> <p>The site is not bushfire prone land, nor is it significantly impacted by terrestrial biodiversity. A small area is identified that coincides with existing vegetation and can readily be avoided.</p> <p>Given the lack of constraints, the identification of building envelopes was not considered necessary and any building site can be considered as part of a future development application process. .</p>
(d) any submissions made in accordance with this Act or the regulations	This is a matter for the Council as consent authority.
(e) the public interest	The proposal will deliver additional housing opportunities close to Mudgee and consistent with Councils strategic planning framework.

3.1 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 zoned R5 Large Lot Residential. Development for the purposes of subdivision is permissible in the zone with consent.

Current Zone	Comment
R5 Large Lot Residential	All proposed lots 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
6.2 Public utility infrastructure	Arrangements have been made	Complies.

Clause	Control	Comment
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	<p>Applies to the R5 zones.</p> <p>Council to consider:</p> <p>(4) The following matters are to be taken into account—</p> <p>(a) the existing uses and approved uses of land in the vicinity of the development,</p> <p>(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,</p> <p>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</p> <p>(d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).</p>	<p>Complies.</p> <p>Development within the vicinity of the subdivision (not associated with the property) is limited to lifestyle development existing rural land uses.</p> <p>The subdivision will be followed by dwellings on each of the proposed lots. Lots are sufficient in area to accommodate dwellings, including reasonable setbacks. In addition to dwellings, lifestyle lots are typically used for extensive agriculture/grazing.</p> <p>The proposal is unlikely to result in land use conflict as a result of the incompatibility of land uses.</p>
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>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
	<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>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	
6.4 Groundwater vulnerability	<p>The site, like a significant area of Mudgee, is identified on the Groundwater vulnerability map.</p> <p>Council must consider the impact of the development on groundwater, including the likelihood of groundwater contamination.</p>	<p>The subdivision will not impact groundwater.</p> <p>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.</p>
6.5 Terrestrial biodiversity	<p>This clause applies to land that is mapped as medium or high biodiversity sensitivity.</p> <p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—</p> <p>(a) whether the development is likely to have—</p> <p>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</p> <p>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</p> <p>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</p> <p>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p>	<p>Areas of “High Biodiversity Sensitivity” can be avoided occurring only at the rear of proposed Lots 3 and 4.</p> <p>A Biodiversity Assessment (Appendix C) was undertaken for the Planning Proposal and has been included as supporting information for the DA.</p>

Clause	Control	Comment
	<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 all lots.</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 reducing the run-off. Lots are sufficiently sized to manage stormwater on site.</p> <p>All lots have direct access to a local public road to be dedicated as part of the subdivision process.</p>

3.2 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	Complies. The development lots meeting the proposed MLS.
Services	Not applicable
Roads	<p>The additional traffic from the proposal has been estimated to be approximately 30 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.</p> <p>Lower Piambong Road is an existing local road.</p> <p>The DCP requires the proposed local road to be constructed to a 4-6m gravel carriageway.</p>

Control	Comment
	A separate Traffic Report is not warranted given the number of lots proposed.
Lot Design	Complies. New lots have been proposed to minimise land disturbance. Future 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	The land is not bush fire prone.
Heritage	An AHIMS search has been undertaken and there are on sites or places of cultural heritage significance. (refer Appendix D)
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. 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 is a Crown Road within the property (that will be accommodated in Lot 1), however, will be relied on for access. An application has been made to close the road.
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	Not Applicable
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 1-5 will be connected to the grid.
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.

3.3 Likely impacts of the development

General

The subdivision will have minimal impact. The steeper slopes and areas of potentially high value vegetation have been avoided. There is sufficient area free of constraints to adequately accommodate dwellings on that part of lots that is already cleared and has been extensively grazed without the need for prescriptive building envelopes.

The new road will be constructed to a minor local (rural) road standard.

The impact on surrounding neighbours will be minimal. 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 Hydroline¹ 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 NRAR² *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 first and second order stream (**Figure 4**). However, inspection of these confirms the absence of the characteristics of a "river" for the purpose of the Act.

Future building envelopes can avoid these drainage lines. The treatment of drainage across the proposed road will be included in the detailed design for the road.

Figure 4 Site Drainage

Source: SixMaps, 2022

3.4 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.

3.5 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.

4. 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 34 and 35 DP 756897, and Lots 1 and 2 DP 510323.

The proposal has been assessed in accordance with section 4.15 of the EPA Act. The proposal is consistent with the draft MWLEP and MWDCP and can be recommended for approval.

Appendices

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

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

A. Subdivision Plan

B. Ecological Assessment

C. Preliminary Site Investigation

D. AHIMS Database Search

