

Item 8: Development

8.1 DA0125/2021 - 18 Marshfield Lane, Mudgee - Torrens Title Subdivision of Land (1 into 24 Lots)

REPORT BY THE PLANNING COORDINATOR
TO 15 SEPTEMBER 2021 ORDINARY MEETING
GOV400088, DA0125/2021

RECOMMENDATION**That Council:**

- A. receive the report by the Planning Coordinator on DA0125/2021 - 18 Marshfield Lane, Mudgee - Torrens Title Subdivision of Land (1 into 24 Lots); and
- B. approve DA0125/2021 - 18 Marshfield Lane, Mudgee - Torrens Title Subdivision of Land (1 into 24 Lots), subject to the following conditions and statement of reasons:

APPROVED PLANS

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein. Any modification otherwise required to the approved plans will require the submission of a modification application under Section 4.55 of the *Environmental Planning and Assessment Act*.

Title/Name	Drawing No/ Document Ref	Revision/Issue	Dated	Prepared by
Proposed Subdivision	20/422	-	28.05.2021	O'Ryan Geospatial
Concept Landscape Plan	20/422	-	28.05.2021	O'Ryan Geospatial
Subdivision Concept Servicing Plan	TX150100.00 - C6.00	E	01.06.2021	Triaxial Consulting
Stormwater Catchment Plan	TX150100.00 - C6.01	D	01.06.2021	Triaxial Consulting
Concept Cut and Fill Plan	TX150100.00 - C6.02	B	01.06.2021	Triaxial Consulting

GENERAL

2. This consent does not permit commencement of any site works. Works are not to commence until such time as a Subdivision Works Certificate has been obtained.

3. No structures or earthworks are permitted to encroach within any easements for the purposes of utility infrastructure as specified in Council's Development Control Plan.
4. The strength of the concrete used for any concrete components in the development must be a minimum 25 Mpa.
5. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
6. Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties other than at approved locations and methods of disposal. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property.
7. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
8. The only waste derived material that may be received at the development site must be:
 - a) Virgin excavated natural material, within the meaning of *Protection of the Environment Operations Act 1997*; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

ROADS AND FOOTPATHS

9. The Developer is required to provide for the construction of road upgrades that includes, but may not be limited to:
 - a) Construction of kerb and channel for the full road abutments of all lots created by this Subdivision,
 - b) The half width pavement construction and bitumen sealing of those parts of Bellevue road and Marshfield Lane that abut the development, and
 - c) The construction of concrete footpaths 1.35 metres wide for the full abutment of Bellevue Road and Marshfield Lane.
10. The new internal road must provide for a trafficable court bowl no less than 10 metres radius. Road pavements must be designed and constructed in accordance with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document and relevant parts of *AUS-SPEC* specifications.
Note: Construction of Marshfield Lane will require alteration to the existing culvert under Marshfield Lane at the intersection of Bellevue Road to ensure sufficient depth of pavement and provide protective cover for the pipe/s.

STORMWATER

11. The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development. The extent of stormwater drainage works will include, but is not limited to:
 - construction of a table drain along the southern side of Marshfield Lane to intercept and control surface runoff from upstream catchments and extend from the proposed inlet structure shown on the plans to a point no less than 100 metres beyond the proposed development,
 - alteration and upgrade of the existing culvert under Marshfield Lane at the Bellevue Road intersection such that the required cover for pavement construction is achieved, and
 - extension of the inter-allotment drainage for proposed lots 7 to 12 (inclusive) to provide an inlet for surface runoff from the adjoining property.
12. Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with relevant parts of AUS-SPEC specifications. Easements not less than 3 metres wide shall be created over inter-allotment drainage in favour of upstream allotments.

WATER SUPPLY

13. The developer must provide separate water reticulation services to each allotment within the subdivision.
14. The developer is to meet the full cost of water reticulation to service the development. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council and the *National Specification – Water Supply Code of Australia*.
15. The extent of water main extension to provide adequate and satisfactory supply will require a new main constructed from the 100mm diameter main in Bellevue Road, along Marshfield Lane and extending to connect with other 100mm diameter main in the vicinity of the Marshfield and Albens Lane intersection. A mains extension to service lots accessed from the proposed new cu-de-sac will also be required.
16. The developer is to provide a water service and meter for each lot in the subdivision. Where the provision of a service connection for a proposed new lot is undertaken during the installation of new water mains by the Developer, and prior to any 'live' connection, the developer can achieve this by making a payment to Council of \$655.00 per lot as specified in Council's Schedule of Fees and Charges, noting that this amount is indexed to increase each financial year.
Note: Council does not permit other bodies to insert new connections into 'live' water mains. The cost referenced above is for the supply of meter only and is subject to CPI increases.
17. In the case of any lots that will not be serviced by a water main constructed by the developer, a full water service will be required. The developer will be required to pay for full Water Service Connection for a 20 mm water supply, for an amount of \$2,150.00 per lot as specified in Council's Schedule of Fees and Charges, noting that this amount is indexed to increase each financial year.
18. Where necessary the adjustment of existing services, infrastructure or installation of new services and meters, as required, in compliance with *Australian Standard 3500*:

National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.

SEWERAGE SUPPLY

19. The developer is to extend and meet the full cost of sewer reticulation to service the development plus the cost of connecting to existing services.
20. All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the *National Specification – Sewerage Code of Australia*.
21. In the case of any lots that will be serviced by a sewer main constructed by the developer the sewer junctions required to service the proposed lots must be installed by the developer.

PRIOR TO ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

22. A Subdivision Works Certificate is required for but not limited to the following civil works;
 - a) Water and sewer main extensions,
 - b) Roads, including concrete kerb, pavement and bitumen seal,
 - c) Stormwater drainage such as inter-allotment drainage, detention basins, culverts, pits and table drains,
 - d) Footpath (concrete paths, 1.35 metres wide and with crossfall and kerb ramps where necessary in accordance with AS1428 and DDA requirements),
 - e) Landscaping of public reserves and nature strips / verges.

No works can commence prior to the issue of the Subdivision Works Certificate.

NOTE: Additional permits and approvals may also be required under other legislation, e.g. Plumbing and Drainage Act 2011, and Plumbing and Drainage Regulation 2017 for water and sewer infrastructure works.

23. Prior to the issue of a Subdivision Works Certificate a detailed engineering design, specifications, supporting documentation / reports and calculations, and schedules are to be submitted to and approved by Council. The engineering design is to comply with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document.

Detailed documentation including, but not limited to the following matters, must be submitted with the detailed design. These documents include:

- Runoff calculations.

24. The detailed design plans submitted for the issue of a Subdivision Works Certificate must show all finished surface levels.
25. Prior to the issue of a Subdivision Works Certificate a Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.

26. The detailed design plans submitted for the issue of a Subdivision Works Certificate must show all finished surface levels. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
27. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authorities standards. Each allotment is to be provided with a service point / connection to an underground electricity supply. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with the certified copies of the Electrical and Telecommunications distribution network design for the Subdivision.
28. Prior to the issue of a Subdivision Works Certificate the Applicant must provide a fully detailed Stormwater Drainage Report and Design for approval by Council that provides for control and treatment of stormwater runoff generated by future residential development of the land. The report must demonstrate that proposed detention arrangements do not increase the rate of discharge of stormwater runoff from the site beyond the existing undeveloped state for a storm event up to and including a 1:100 year ARI event. Methods of stormwater detention must be included in the design to ensure that the rate of stormwater runoff flows from the development do not exceed the volume and rates generated by a 1:5 year ARI storm event from the undeveloped site.
29. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:
 - a) Saving available topsoil for reuse in the revegetation phase of the development;
 - b) Using erosion control measures to prevent on-site damage;
 - c) Rehabilitating disturbed areas quickly; and
 - d) Maintenance of erosion and sediment control structures.

PRIOR TO THE COMMENCEMENT OF WORKS

30. Prior to the commencement of construction of infrastructure, the developer must obtain a Subdivision Works Certificate.
31. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
32. Prior to the commencement of works, the submission of three possible street/road names in order of preference, for the proposed new road within the subdivision, are to be submitted to Council for approval.
33. Prior to the commencement of subdivision works, the following actions are to be carried out:
 - a) A site supervisor is to be nominated by the applicant;
 - b) Council is to be provided with two (2) days' notice of works commencing; and

- c) Council is to be notified in writing of any existing damage to Council's infrastructure.

NOTE: Failure to comply with these conditions may result in damage to Council's infrastructure. Any damage will be rectified at the applicant's cost.

- 34. Runoff and erosion controls shall be installed prior to clearing and incorporate:
 - a) Diversion of uncontaminated on-site runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - b) Sediment control fences on the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water.
 - c) Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.
- 35. Prior to the commencement of any works a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.

DURING CONSTRUCTION

- 36. The subdivision works are to be inspected by Council (or an Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
 - a) Installation of sediment and erosion control measures.
 - b) Water and sewer line installation prior to backfilling.
 - c) Vacuum / pressure testing of all water and sewer mains.
 - d) Stormwater drainage pipe installation prior to backfilling.
 - e) CCTV inspection of all sewer mains and stormwater drainage.
 - f) Proof roll inspection of sub-grade prior to placement and compaction of sub-base.
 - g) Proof roll inspection of sub-base prior to installation of concrete kerb.
 - h) Proof roll inspection of compacted sub-base prior to placement of base course.
 - i) Proof roll inspection of compacted base prior to sealing.
 - j) CCTV inspection of all sewer mains and stormwater drainage once final earthworks have been completed to finished surface levels.
 - k) Practical Completion.
 - l) At completion of the Defects Liability Period a further CCTV inspection of all sewer mains and stormwater drainage is to be undertaken prior to the issue of a certificate of Final Completion and the release of Defects Liability bond monies.

Note: In addition to proof roll inspection compaction testing may also be required.

- 37. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
- 38. All road crossings for services and utilities are to cross perpendicular to the road alignment and must be installed prior to the commencement of construction of base course and kerb and channel.

39. The finished surface of all nature strips and verges must be graded to fall toward the kerb and channel and formed with a minimum 100 mm thick layer of clean topsoil free of stones and other impurities. Nature strips and verges are to be seeded or hydro-mulched with an approved grass prior to the issue of a Certificate of Practical Completion.
40. All works are to be constructed at the full cost of the developer, in a manner consistent with relevant parts of AUS-SPEC specifications and Council's standard drawings.
41. No trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction of the subdivision works including the erection of any fences or hoardings.
42. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's / Demolisher's expense.
43. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council's standards. Street signs are to be installed at the developer's expense.
44. The development site is to be managed for the entirety of work in the following manner:
 - a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - b) Appropriate dust control measures;
 - c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
45. The developer shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the NSW Land Registry Services and Council.
46. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.
47. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
48. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
49. Construction work noise that is audible at other premises is to be restricted to the following times:
 - a) Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.

- 50. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.**
- 51. Fill placed in any residential lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.**
- 52. Street trees of a species approved by Council are to be provided at a minimum rate of two trees per allotment, other than proposed Lots 11 and 14 (battle-axe lots).**

PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE

- 53. An application for a Subdivision Certificate, application fee and the linen plan(s) are to be submitted to Council for approval and endorsement by the General Manager (or their delegate). The application is to be made via the NSW Planning Portal.**
- 54. Following completion of the subdivision works, work-as-executed plans (WAE) are to be provided to Council, prior to issue of the Subdivision Certificate, in the following formats:
 - a) PDF; and**
 - b) Dwg format or “Autocad compatible”**
 - c) Mapinfo****

All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.

To accompany the WAE Drawings, Council also requires the completion of Asset Data Excel Spreadsheets (to be provided by Council upon request) prior to the issue of the Subdivision Certificate.

- 55. The developer shall provide separate water and sewer services for each allotment within the subdivision, prior to issue of the Subdivision Certificate.**
- 56. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.**
- 57. To ensure that increased runoff from the future development of dwellings does not adversely affect the flood risk to downstream properties, suitably worded Section 88B documentation placing a restrictive covenant on each allotment requiring detention devices to be included for all building works is to be provided to Council, prior to issue of the Subdivision Certificate. Detention devices must provide a minimum 2000 litres detention storage to be discharged to empty after each rain event through an orifice no greater than 19mm diameter. Detention devices are to be maintained by the owner to the satisfaction of Council at all times.**
- 58. Prior to the release of the Subdivision Certificate, a Defects Liability bond in a form acceptable to Council to the value of 5% of the value of all works must be lodged**

with Council to be held for a period of twenty-four (24) months to ensure any defects that become apparent during that time are remedied by the developer.

For the purposes of defining the defects liability period, the works are considered to be completed when the Subdivision Certificate is registered with NSW Land Registry Services.

The bond may be provided by way of a monetary deposit with the Council or a bank guarantee to the satisfaction of Council.

59. The developer is to ensure that any defects in the works that become apparent before and within the succeeding six (6) months after the registration of the subdivision plan, are remedied to Council's satisfaction. If these defects are not satisfactorily remedied, Council may use bond money to carry out rectification works.

Any unspent bond money will be returned to the developer at the end of the six (6) month period, less the cost of any rectification works carried out by Council.

60. The developer shall obtain a *Certificate of Compliance* under the *Water Management Act 2000*, from Council, prior to issue of a Subdivision Certificate.

Note – Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

61. In accordance with the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Council Contributions Plan 2019*, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of a Subdivision Certificate. Contributions are subject to the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions		
24 lots (minus 1 credit for existing lot)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>23 Lots</i>
Transport Facilities	\$ 4,379.00	\$ 100,717.00
Recreation and Open Space	\$ 2,199.00	\$ 50,577.00
Community Facilities	\$ 640.00	\$ 14,720.00
Stormwater Management	\$ 462.00	\$ 10,626.00
Plan Administration	\$ 1,003.00	\$ 23,069.00
TOTALS	\$ 8,683.00	\$ 199,709.00

Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued or where lots are released in different financial years.

Note – Council's Mid-Western Regional Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

62. Any unpaid contributions or charges nominated in the development consent will be indexed to CPI at the beginning of each new financial year.
63. The developer must provide Council and land purchasers with a site classification for each vacant lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause 2.2.3 of *Australian Standard AS 2870 – 2011: Residential Slabs and Footings*. Results are to be submitted to Council prior to issue of the Subdivision Certificate.
64. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements, prior to issue of the Subdivision Certificate.
65. Easements for electricity purposes, as required by the electricity supply authority, shall be created. The Section 88B instrument and linen plans submitted with the application are to include details of any electricity easements or restrictions on title required to be imposed by the electricity authorities/suppliers.
66. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - a) A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and
 - b) Satisfactory evidence that arrangements have been made for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and
 - c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots.
67. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision in accordance with the relevant authority's standards, prior to issue of the Subdivision Certificate.
68. The proposed Road No.1 within the subdivision shall be dedicated as a public road at no cost to Council. The public road shall be delineated on the final plan of subdivision submitted with the application for a Subdivision Certificate.

ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of a Subdivision Certificate. A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the *Water Management Act 2000*. Please be advised that as a precondition to the granting of a Compliance Certificate, the following is to occur:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable):

Section 64 Contributions		
24 Lots (minus credit for 1 Large Residential Lot at 1.5ET Water and 1.05ET Sewer)		
	<i>Charge</i>	<i>23 Lots</i>
Water Headworks	\$8,756.00	\$ 197,010.00
Sewer Headworks	\$3,997.00	\$ 89,932.50
TOTAL HEADWORKS		\$ 286,942.50

Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year.

2. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
3. Council has no regulatory authority in regards to dividing fencings under the *Dividing Fences Act 1991* and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
4. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
5. Division 8.2 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
6. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
7. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.

2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. No submissions were received during the public notification period.

Executive Summary

OWNER/S	Mr and Mrs Fraser
APPLICANT:	Mrs R Aarts
PROPERTY DESCRIPTION	Lot 1 DP 849004 18 Marshfield Lane, Mudgee
PROPOSED DEVELOPMENT	Subdivision of Land (1 into 24 Lots)
ESTIMATED COST OF DEVELOPMENT:	Not applicable
REASON FOR REPORTING TO COUNCIL:	Exceeds 20 Lots
PUBLIC SUBMISSIONS:	Nil

Council is in receipt of Development Application DA0125/2021 that seeks approval for the Subdivision of Land - Torrens Title (1 into 24 Lots), proposed at 18 Marshfield Lane MUDGEES NSW 2850, legally described as Lot 1 DP 849004.

The subject site is a corner allotment, zoned R1 General Residential and contains an area of 2.02 Hectares, with frontage to Marshfield Lane and Bellevue Road. The site contains an existing dwelling with sheds on the south-eastern corner of the lot, and limited scattered vegetation throughout.

The proposed subdivision of the land will result in lots sizes ranging from 601m² (proposed lot 24) to a maximum of 1,491m² (proposed 19, which will retain the existing dwelling on the site). Stormwater and road upgrades are proposed along with water and sewer extensions to support the development. Electricity is already located within the subject site however, augmentation will be required to service the development.

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days. During the notification period, no submissions were received.

The proposed development has been assessed in accordance with the Mid-Western Regional Development Control Plan 2013 (DCP 2013) Council's DCP and the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). The proposed development is considered generally consistent with Council's planning controls however, a variation is sought by the applicant in relation to all lots being located within 400 metres of a *local park, playground or passive open space* - 12 of the 24 Lots are proposed between 440 and 475 metres of an existing open space area or playground.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that the application is for a subdivision creating more than 20 allotments.

The application is recommended for Approval.

Disclosure of Interest

Nil.

Detailed Report

Development Application DA0125/2021 seeks approval for the Subdivision of Land - Torrens Title (1 into 24 Lots), of 18 Marshfield Lane MUDGEE NSW 2850 (Lot 1 DP 849004), received by Council on 29 October 2020.

Upon receiving the application, a number of concerns were raised with a further information letter issued on 23 November 2020. Initial concerns raised included:

- Site works and stormwater drainage to support the development
- Water servicing of the development
- Sewer servicing of the development
- Compliance with the DCP 2013 including:
 - Cycleway or footpath connections
 - Access to a recreational area or passive open space within 400m of all lots
 - Landscaping of the subdivision

Amended information, included an amended subdivision layout, was provided to Council on 2 June 2021 in order to address the concerns raised.

The proposed subdivision of the land will result in lots sizes ranging from 601m² (proposed lot 24) to a maximum of 1,491m² (proposed 19, which will retain the existing dwelling on the site).

Of the 24 lots proposed, 12 will be accessed via a new cul-de-sac road from Marshfield Lane. Marshfield Lane will also require upgrades to support the proposed development including new sealing and stormwater drainage infrastructure.

Water and sewer extensions will be required to support the development, with electricity already located within the subject site.

The subject site is a corner allotment comprising of 2.02 Hectares with frontage to Marshfield Lane and Bellevue Road. The site is located on the southern fringe of the existing Bellevue residential area. The site contains an existing dwelling with sheds on the south eastern corner of the existing lot. Limited scattered vegetation is also located within the development area which has predominately been planted by landowners.

Figures 1 and 2 below provide the location of the site and the proposed subdivision layout. A copy of the development plans are also located in Attachment 1.

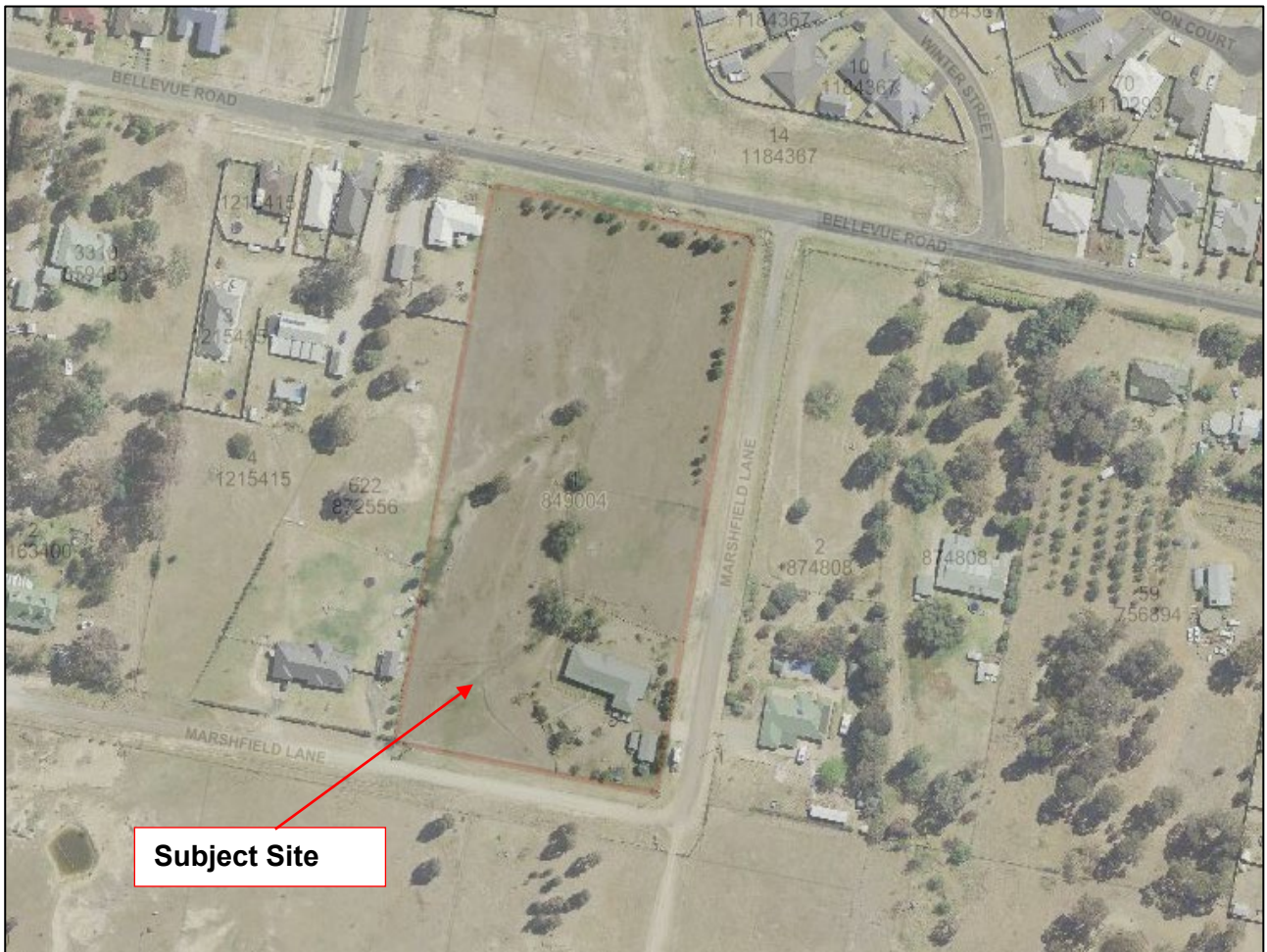


Figure 1: Site Plan

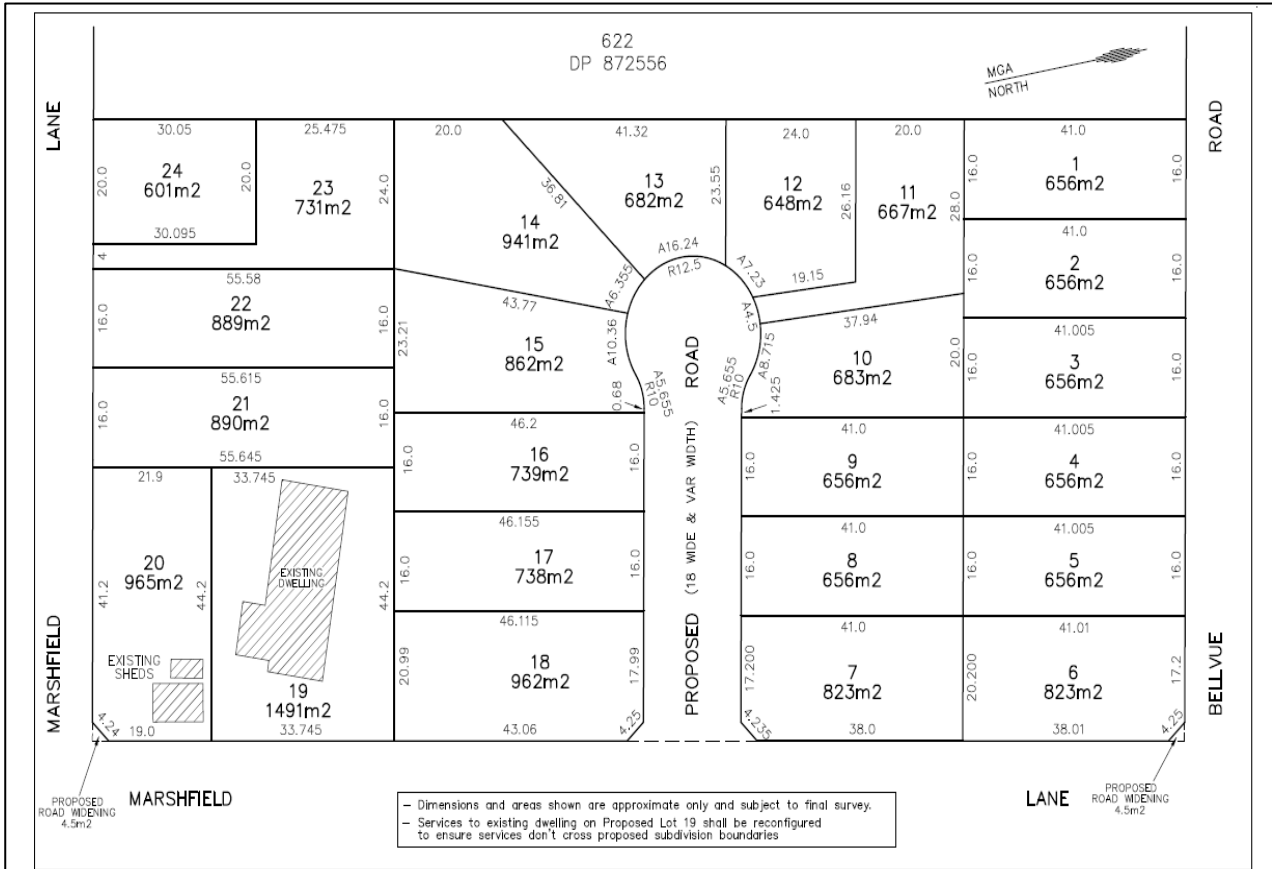


Figure 2: Proposed Subdivision Layout

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 27 November 2020. During the notification period, no submission/s were received.

The proposed development has been assessed in accordance with the Mid-Western Regional Development Control Plan 2013 (DCP 2013) Council’s DCP and the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). The proposed development is considered generally consistent with Council’s planning controls.

The application has been referred to Council for consideration as it exceeds staff’s *Delegation of Authority*, in that the application is for a subdivision creating more than 20 allotments.

The application is recommended for Approval.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regs).

Integrated Development

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

ASSESSMENT

The application has been assessed in accordance with **Section 4.15** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.15(1)(a) Requirements of Regulations and Policies

(i) *Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?*

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

A site inspection and a search of Council's records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Pursuant to section 45 of the SEPP (Infrastructure), the development proposes work within 5 metres of an overhead power line (located on Marshfield Lane road reserve). As a result, referral to Essential Energy commenced with a response provided on the 9 December 2020 with a number of general comments made.

STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

This Policy was gazetted on 25 August 2017 and has been considered in the assessment of the subject application.

Authority to clear vegetation under this Policy is not required. The vegetation to be removed is not declared by a Development Control Plan to be vegetation that Part 3 applies, and the vegetation to be removed does not exceed the biodiversity offsets scheme thresholds.

MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)

The following clauses of the MWRLEP 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 and the *Environmental Planning and Assessment Act* as the:

Subdivision of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected —

(a) by conveyance, transfer or partition, or

(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned R1 General Residential and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned R1 General Residential pursuant to MWRLEP 2012. The proposal, being the subdivision of land is permissible with consent in the zone and complies with the relevant objectives.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

R1 General Residential

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

Comment The proposal will contribute to the housing needs of the community.

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

Comment The proposal will contribute to the variety of housing types and densities within the R1 zone.

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

Comment The proposal is not expected to hinder other possible permissible land uses within the immediate area.

Clause 2.6 Subdivision – consent requirements

As the proposal involves subdivision this will also require development consent as discussed throughout the report.

Clause 2.7 Demolition requires development consent

The application does not propose the demolition of any structures under this application. It is proposed to retain the existing dwelling and sheds which will be located on future Lot 19 and 20.

Clause 4.1 Minimum subdivision lot size

The proposed subdivision generally meets the objectives of the clause as the proposal will promote further suitable land uses that can be accommodated on the site whilst complying with all the relevant planning controls.

The proposed lots have a minimum area of 600m². The minimum lot size pursuant to the mapping is 600m².

Accordingly, the proposal complies with the development standard.

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Whilst this clause does not apply to the assessment of the proposed development application, it is important to note that there are future development opportunities that apply based on the proposed lot sizes nominated for the development. As the site is currently zoned R1 and has a current area of 2.02Ha, further development of the proposed lots are possible (subject to a separate development consent) for dual occupancies and multi dwelling housing as both options are permissible.

Clause 4.3 Height of buildings

The subject site is mapped for a maximum height limit of 8.5 metres above existing ground level. No new structures are proposed under this application, however, all future buildings will be subject to the 8.5 metre maximum height in accordance with this section.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.

Clause 5.10 Heritage Conservation

No items of aboriginal significance or a heritage item are recorded on the site or in the vicinity. Notwithstanding this, a condition will be placed upon the consent ensuring that work is ceased should an item be discovered during construction.

Clause 5.21 Flood planning

On the 14 July 2021, Clause 6.2 Flood planning of the MWRLEP 2012 was repealed and replaced by Clause 5.21 Flood planning. The new provisions have been introduced in connection with the NSW Government's new 'flood-prone land package' which aims to improve the management of flood risk in light of recent flooding events that have caused significant risk to life and damage to property, including up to and beyond the 1% annual exceedance probability (AEP) flood level.

To achieve this, consent authorities will be able to consider the full range of flood behaviour, including up to the probable maximum flood (PMF) level. The new provision also introduces a requirement for Councils to be satisfied prior to granting consent to development on land within a flood planning area, that the development will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.

In this case, the proposed development was lodged prior to gazettal of the new clause and importantly, the subject development was not previously affected by the 'Flood Planning Area' under previous flood mapping contained under the provisions of Clause 6.2 of the MWRLEP 2012.

As a result, Clause 5.21 of the MWRLEP 2012 is not applicable to the planning assessment of the current development application by virtue of Clause 8 of the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument Order):

8 Application of amending orders

(1) The amendments made by an amending order do not apply to or in respect of any development application that was made, but not determined, before the commencement of the amending order.

Notwithstanding the above, it is important to note that Council adopted a new flood study for Mudgee in March 2021 (prior to the adoption of the new 5.21 MWRLEP 2012 clause).

In considering any newly identified flood risks associated with the development, the subject site is identified to have small areas affected by 'Overland Flows' (dark blue area), with additional portions also affected by a Probable Maximum Flood (light blue area) i.e., greater than a 1:100 year ARI (Average Recurrence Interval) storm event in accordance with the Mudgee Flood Study 2021. Refer to the Figure 3 map below. This is based on the current arrangements and natural ground levels found across the site.

A concept cut and fill plan, provided as part of a further information request response, indicates that proposed site works to support the development includes some lot filling up to 650mm, with new stormwater drainage infrastructure proposed to direct stormwater from the site, to the existing large drainage reserve located to the north, off Bellevue Road which has capacity to cater for the proposed development.

The development has also been assessed by Council's Development Engineers which has confirmed that the proposed lot filling and drainage works will provide additional protection to the proposed lots and will formalise and control of surface water runoff in the locality. Conditions of

consent have however been recommended to ensure that the appropriate design, as part of any future Subdivision Works Certificate application, is provided to mitigate stormwater impacts on the development site and surrounding land.

It is therefore considered that there are no significantly adverse impacts as a consequence of stormwater runoff or flooding in this location, subject to compliance with the recommended conditions of consent, at the full cost of the developer.

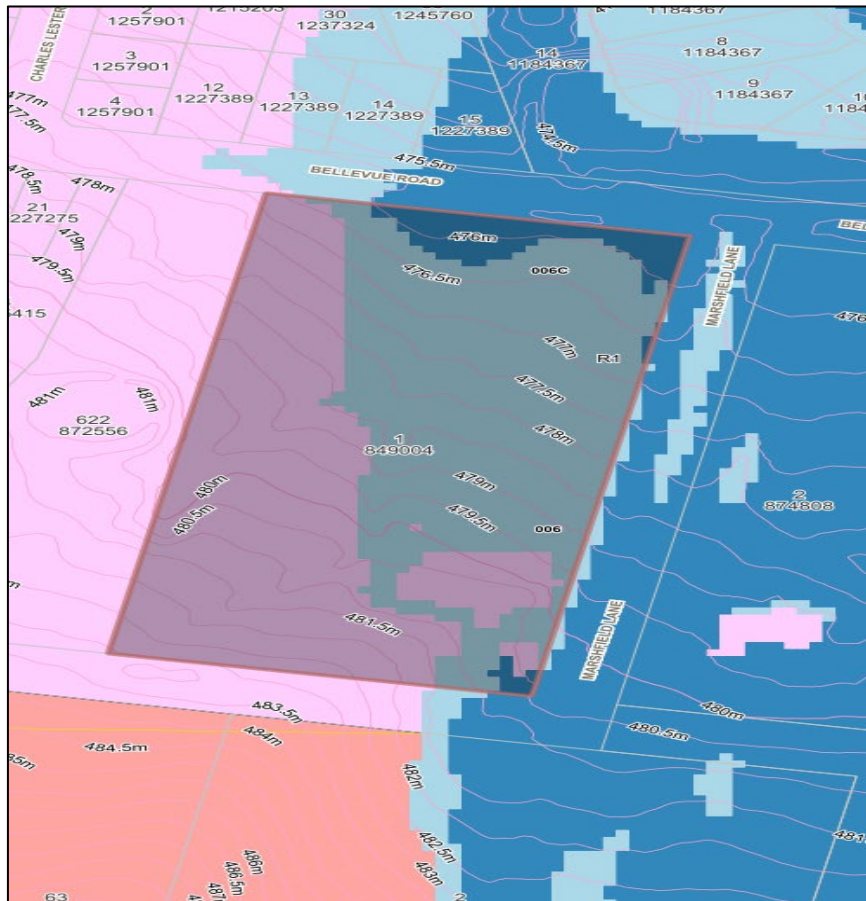


Figure 3: Mudgee Flood Study 2021 Mapping

Clause 6.3 Earthworks

The proposal involves earthworks to prepare the site for the development with cut and fill to a maximum of 650mm. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within Clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.7 Active street frontages

Not applicable. The site is not located within the area mapped as 'Active street frontage'.

Clause 6.8 Airspace operations – Mudgee Airport

The proposed subdivision of land will not penetrate the relevant height limits for safe operation of the Mudgee Airport. However, it is important to note that the subject site is located at 530.0 metres on the Obstacle Limitation Surface Map. The natural ground level of the site is currently between 476m AHD and 483m AHD. This allows a clearance of up to 47 metres from the OLS mapping and therefore any future buildings that are limited to the 8.5m building height under Clause 4.3 of the MWRLEP 2012 will have no impact on the height limits for safe operation of the Mudgee Airport.

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development. This will include the need to extend sewer, water and electricity connections to service the development. A concept plan has been provided by the applicant which has been supported by the sewer and water department, along with essential energy.

Clause 6.10 Visually sensitive land near Mudgee

The land is not located within the area identified within the visually sensitive land map.

4.15(1)(a) Requirements of Regulations and Policies

(ii) Draft environmental planning instruments (EPI)

No draft environmental planning instruments apply to the land to which the Development Application relates.

(iii) Any development control plans

MID-WESTERN REGIONAL DCP 2013

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 5.2 Flooding

As noted within Clause 5.21 Flood planning of the MWRLEP 2012 above, the proposed development is not subject to flood related development controls. The development will however be required to manage stormwater runoff associated with the development which has been considered in the assessment of the application.

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning management and disposal of stormwater.

Part 5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

Part 7.1 Urban Subdivision

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
---------------------------------	-----------

Applies to	
------------	--

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Land zoned residential; village zones; rural residential lots up to 2 hectares	Land is zoned Residential.
Lot size	
Minimum lot size as determined by MWRC LEP 2012	Yes.
All lots have street frontage	All lots have frontage to either Marshfield Lane, Bellevue Road or the proposed "new road".
<p>Lots increase in size relative to slope as follows:</p> <ul style="list-style-type: none"> - 0-10 degrees: 600m² - 10-15 degrees: 700m² - 15-20 degrees: 800m² - >20: subdivision prohibited 	The site is generally flat with minor cut of 500mm and fill up to 650mm is required to support the development.
All lots have 16m width at building line in residential and village zones	All lots have a minimum of 16m width at the building line with a minimum access handle of 4m provided to the two (2) battle-axe handles. Lots are also of ample size and dimension to enable a variety of residential accommodation opportunities.
Battle-axe handles in R1, R3 and RU5 Village have width of 4m	Complies. Minimum handle width of 4m is provided for the 2 proposed battle-axe allotments.
Battle-axe handles in R2 and R5 residential zones have width of 6m	Not applicable.
Lot Design	
For infill subdivision lot orientation maximises solar access and takes account of existing pattern of development	Yes. Achieves adequate solar access.
For new release subdivision lot orientation maximises solar access by maximising north-south lots	The lots have a mixture of orientation with the majority achieving good solar access. The lots are of a size conducive to erecting a dwelling with good orientation.
For new release subdivision east-west orientated lots have increased width and midpoint	As discussed above.
Lots generally rectangular in shape	The development includes a majority of rectangular lots. The lots are all of sufficient size to accommodate a substantial building envelope.
Lots on southern side of road provide greater frontage width for better solar orientation of future dwelling	Generally achieved.
Corner lots have sufficient area to allow dual occupancy and independent utility connection points	Yes.

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Street Layout and Design	
Traffic Impact Statement submitted for 5+ lots	Assessment provided by applicant. Discussed elsewhere in report.
Traffic Impact Statement submitted for all subdivisions where new road required	Assessment provided by applicant. Discussed elsewhere in report.
Subdivision integrates with existing residential area	Yes.
New roads must provide “through road” connections to surrounding roads and road heads where they exist in the locality	Yes, provided.
Where cul-de-sac treatment unavoidable, pedestrian linkages between streets provided	Good pedestrian linkages provided.
Multiple cul-de-sacs and “no through roads” discouraged	Not applicable.
Maximum number of lots in cul-de-sac is 12 lots	A maximum of 12 lots are proposed to be accessed via the cul-de-sac.
Subdivision >80 lots should not require backtracking	Not applicable.
Road Standards for New Development	
Urban Road Standards required	Yes.
1 x 1.2m footpath, barrier kerbing	Yes, where appropriate.
Commercial and Industrial Subdivision roads: 22m road reserve, 13m carriageway, 2 x 4.5m nature strip, 1 x 1.2m footpath, barrier / rollover kerbing	Not applicable.
Cycle ways and footpaths	
Cycle ways and pedestrian networks included in new subdivisions	Concrete footpaths will be provided in layout where appropriate.
If subdivision site identified in Council cycle way plan or pedestrian strategy, subdivision needs to respond to strategy	<p>Yes, PAMP has been accounted for noting that Bellevue Road is identified in the PAMP to be a ‘Secondary Route’.</p> <p>Currently, there are adhoc footpath connections along Bellevue Road as a result of new subdivisions to the northern side of the site. In accordance with the DCP and the PAMP (D2 – PAMP project list page 145), there is 788m of 1.2m wide footpath to be installed along Bellevue Road South to Inglis Street noting ‘pathway to be installed as land developed, Council to install remainder’.</p> <p>The development is proposing a new footpath at the full frontage of the development site (i.e. along Marshfield Lane, Bellevue Road and within the cul-de-sac proposed).</p>

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
New subdivisions provide direct, convenient and safe access to major facilities	Yes, subdivision layout will enable future connections to Mudgee to be provided in accordance with the PAMP.
Cul-de-sacs may be required to include 10m wide shared overland flow/pathway	Not applicable.
Developer to provide contribution to Council for installation of cycle ways and footpaths prior to release of subdivision certificate	Developer to construct.
Open Space	
Greenfield sites >20 lots ensure that lots are <400m from local park, playground or passive open space	The proposed development is located on the edge of the existing Bellevue Road South area and the applicant seeks a variation to the open space within 400m of the 24 lots proposed. This is further discussed below including a secondary option to achieve compliance with this requirement.
Where on-site detention basins double as open space, must include raised level area which incorporates playground or fitness equipment etc. and shading landscaping	Not applicable.
Landscaping	
Landscape plan provided, detailing treatment of public domain	Landscape plan required as part of CC application, concept available for DA purposes.
Land dedicated as public reserve top soiled, levelled, turfed prior to release of subdivision certificate and maintained by developer for period of two years	Not applicable.
Street Trees	
Two (2) street trees provided per lot	2 allotments of the 24 cannot comply with the 2 trees per lot provision due to the cul-de-sac head arrangement of the new road. As a result, this is considered acceptable with suitable spacing of additional trees throughout the estate proposed. Condition to be imposed accordingly.
Developer provides levy to Council to provide these trees after 80% of works carried out	To be conditioned.
Utility Services	
Servicing plan submitted showing provision of underground electricity, sewer, water, drainage and telecommunications to the development	Lots to be connected to reticulated water, sewer, electricity and telecommunications.
Evidence of consultation with relevant authorities submitted with application	Not applicable (small subdivision).

DEVELOPMENT CONTROL REQUIREMENT

COMPLIES?

Drainage

As per Section 5.3 Stormwater and Drainage

Detailed stormwater plan to be lodged at CC stage. Concept plan adequate and considered by the Engineering Department.

Variation Sought to the DCP 2013

The applicant seeks a variation to the DCP 2013 requirements relating to Open Space within 400 metres (Part 7.1 Open Space (a)) which states:

- (a) Subdivision of Greenfield sites where more than 20 lots are proposed shall ensure that all lots are within 400m of a local park, playground or passive open space.

The applicant has provided justification to support the proposed variation to the 400m provision which is provided below:

An assessment of the open space in proximity to the site was undertaken. The DCP does not specify how the proximity to passive open space should be determined. Report 8.3 submitted by the Director of development at the April 2021 Ordinary Meeting has been referenced. The report indicates that Council staff, under the existing provisions, determine whether a development is within 400m of a suitable open space by applying a radius and not the walking distance of the development to a recognised open space. The report recognises open space as including public reserves, detention basins, community gardens, informal lawns, and green walking corridors. Figure 1 shows the proximity of the site to land zoned for recreation, using the prescribed radius approach.

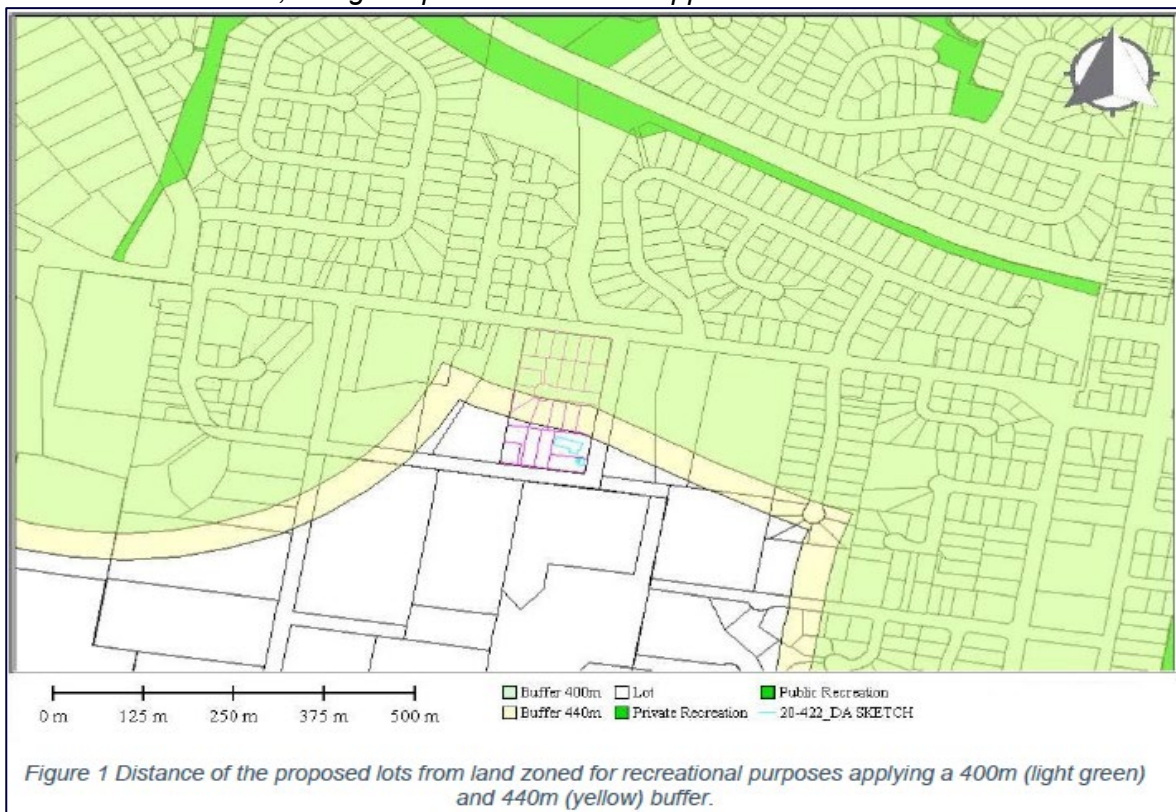


Figure 1 Distance of the proposed lots from land zoned for recreational purposes applying a 400m (light green) and 440m (yellow) buffer.

Figure 1 identifies 12 lots within 400m of a passive open space and 6 lots within 440m (applying a 10% deviation to the standard). The remaining 6 lots are outside the radius applied. The lot most distant from the RE1 zoned land is 475m (lot 24), which represents a

19% deviation from the DCP standard. It is recognised that reasonable consideration of connectivity should be applied. In this instance, the cul-de-sac head of Winter Street provides suitable pedestrian connectivity.

The incorporation of a passive open space into the proposed design has been considered. The NSW Department of Planning publication Recreation and Open Space Planning Guidelines for Local Government Table 4 indicates the size of a local park should be within 0.5ha – 2ha. In the context of the development this ranges from a quarter to the entirety of the site. Incorporating a financially viable public space into the design would require a significantly smaller design (approximately 1000m²) that incorporated play equipment or fitness equipment to enable the space to be activated.

The subject site is in a semi-developed area of south Mudgee, within land zoned R1 General Resident but adjoining land zoned R2 Low-Density Development. The R2 land is identified as "Area A" in the LEP and has a minimum lot size of 2000m² if adequate servicing can be demonstrated. The Comprehensive Land Use Strategy 2008 identifies the land to the southwest of Mudgee zoned Low Density Residential as constrained by the availability of infrastructure and should only be developed as reticulated water, sewer, and sealed road access made available.

It is the opinion of O’Ryan and our client that the development contributions levied would be better spent funding a suitably sized public facility within south Mudgee in a more appropriate location. As the proposed development is located at the edge of a low-density residential area, establishing a public facility would service relatively few residents. Instead, O’Ryan believes that the development contributions would be more appropriate for improving connectivity to existing public facilities or improving existing Council land to serve an open space use. For example, Figure 2 shows the drainage reserve located north of the subject land, which could be upgraded and rezoned for use as open space.



Figure 2 Example of land with the potential for redevelopment and use as an open space

To conclude, there are 12 lots outside of 400m of a public park, with the most distant proposed lot being 475m. It is the opinion of O’Ryan and our client that the incorporation of a public open space within the subdivision is not the optimal outcome for our client, Mid-Western Regional Council, or the general public. It is recommended that the subdivision be

supported on the grounds that the deviation to the DCP standard is not significant, the majority of proposed lots are within the 400m prescribed by the DCP or 10% deviation typically permitted and that the subject land is not well-positioned to incorporate a public open space.

Staff Comment:

In reviewing the details submitted, the applicant has sought to vary the requirement for all lots to be within 400m of a *local park, playground or passive open space* in accordance with the DCP provisions (total of 12 lots of the 24 are proposed to be located outside of the 400m requirement).

6 of the proposed lots are located at approximately 440m of a local park, playground or passive open space and the remaining 6 lots are found at no more than 475m (a total variation of 18.75%). As a result, the applicant seeks a merits assessment of this requirement and essentially seeks to utilise the existing open space areas to the north of the site, providing footpath connections at the full frontage of the development to enable access to these existing open space areas.

As a result of concerns raised regarding the proposed variation sought, the applicant has also put forward a secondary option to include 400m² of dedicated Reserve fronting Marshfield Lane to the south (altering the layout of the subdivision between proposed Lots 23 and 24). Whilst this has been considered in the context of the variation sought, the secondary option is not considered to be appropriate in terms of providing a positive community benefit along with an additional small 'pocket park' required to be maintained by Council. This has been further discussed below.

Merits Assessment:

To clarify the current DCP requirements, on the 21 April 2021, the Director of Development provided Report 8.3 to Council relating to the 'Review of DCP Open Space Requirements'. Minute Number 93/21 was recorded as follows:

That Council:

- 1. receive the report by the Director Development on the Review of DCP Open Space Requirements; and*
- 2. maintain the existing Open Space provisions for Urban Subdivision as set out in Section 7.1 of the Mid-Western Development Control Plan 2013 Amendment No 5.*

Within this report, it was noted that the 400 metres is currently calculated from the radius of the lots, and not via walking distance. Further, when assessing applications, passive open space is accepted to include public reserves, detention basins, community gardens, informal lawns and green walking corridors which aligns with the NSW Department of Planning's publication *Recreation and Open Space Planning Guidelines for Local Government*. Within the guidelines, it is also important to note that Councils are encouraged to adopt a 'needs-based approach to open space planning'.

Current open space areas:

The closest existing open space area is found 20 metres across Bellevue Road to the north of the site (230m from proposed lot 24). This area is predominantly used as a stormwater basin over Lot 1 DP 1182624 and Lot 14 DP 1184367. An area of land has also been partly levelled at the end of Charles Lester Place covering Lot 2 DP 1182624 and part of Lot 14 DP 1184367 in addition to the existing stormwater detention purpose.

The closest playground is found 415m to the north of the site boundary (identified as White Circle Public Reserve on Lot 199 DP 1089672) which can be accessed from the northern side of Bellevue Road and via footpaths located in Winter Street or Charles Lester Place. There is also an existing footpath connecting the existing residential areas to the north of the subject site along the

Wallerawang Gwabegar Railway Line from Fairydale Lane to Horatio Street – see Figure 4 below demonstrating the existing pedestrian links and areas of open space or identified playgrounds.



Figure 4: Open space areas and existing footpath connections north of the site

Pedestrian Connections (PAMP compliance):

In accordance with the existing Pedestrian Access and Mobility Plan (PAMP), Bellevue Road is identified to be a 'Secondary Route' and under the project list contained on page 145 of the PAMP, 788m of 1.2m wide footpath is to be installed along Bellevue Road South, extending to Inglis Street in the east. It is also important to note the comment in the PAMP regarding who is responsible for this work that the '*pathway to be installed as land developed, Council to install remainder*'. This development is proposing a new footpath at the full frontage of the development site (i.e. along Marshfield Lane, Bellevue Road and within the cul-de-sac road proposed) which supports and achieves the DCP and PAMP requirements.

Recreational Strategy 2013:

The Mid-Western Regional Recreational Strategy developed in 2013 raised issues in terms of maintenance of recreational areas concerning the efficiency of managing multiple areas of open space. The Strategy also confirmed that the total area of both developed and undeveloped recreation areas exceeds the demand generated by the population and the excessive number of

'pocket parks' was provided as an example. These areas were considered to be underutilised and it was stated that it is simply not possible for Council to provide and maintain facilities within all of these parks. The Strategy also classifies the recreational facilities in the region as follows:

- *Regional Parks – A reserve that residential and visitors are willing to travel to and from the community that they live in.*
- *Neighbourhood Parks – A developed urban reserve designed for ease of pedestrian access.*
- *Local/Pocket Parks – A local reserve within the urban community that may be partly developed for amenity purposes.*
- *Reserves – Includes Crown land for which Council is the Trust Manager and other undeveloped reserves.*
- *Regional Sports Grounds - A sports ground that is designed and used for active sport on a regular basis.*
- *Local Sports Grounds - A reserve that has been primary developed for activities within the town.*

To clarify the difference between a Neighbourhood Park and a Local / Pocket Park within the Strategy, see below:

Neighbourhood Park:

The reserve will be easily accessible, probably from more than one road frontage. The reserve will be well maintained, free draining, have flat or gently undulating grassed areas, be safe and provide an attractive welcoming ambiance to the immediate local community within a fifteen minute walking distance. Neighbourhood reserves will host children's play equipment, seating, may include amenity lighting, paths and attractive planting.

Local/Pocket Parks

Likely to provide a green buffer and possible amenity mitigation against development, be planted with trees (where possible) and have a lower level of maintenance to a neighbourhood park. Probably suitable for dog walking with reasonable pedestrian access and possibly providing a "green" link to other reserves or open space. A local park may be a drainage reserve and is likely to have only basic assets such as seats and bins. Play equipment will generally not be required but may be provided in some cases. Not all parks need to be 'developed' to provide benefits to the community and the simple provision of open space and a green buffer may justify the existence of the park.

The Strategy noted that Mudgee in particular has a number of 'pocket parks' many of which are too small to be particularly useful or attractive to the surrounding community. As a result, many of these are underutilised. 28 parks are less than 1ha and the average size of these is 0.3ha. As with playgrounds, a maintenance strategy is required including where necessary prioritising parks for decommissioning and rationalisation while concentrating on the provision of useable spaces within 400m of residential dwellings.

Conclusion:

To provide a new 'neighbourhood park' or 'pocket park' to service this subdivision, particularly for only those 12 new lots that do not achieve full compliance in this instance with the 400m requirement is not considered to be a sustainable outcome for Council nor achieve a positive benefit for the community. As a result, the proposed variation of 18.75% is supported by Staff.

In seeking further advice from Council's Manager of Recreation Services on this matter '*in this instance our preference would be take a contribution from the developer and look to cater for additional parks space in any future developments to the south*'. In addition, the ideal size of a 'playground or park' would be no less than 1,000m².

Given the subject site is located on the final edge of the current R1 General Residential zoned area of Bellevue (with a minimum lot size of 600m², subject to servicing of water and sewer into the southern areas of Marshfield Lane), the zoning changes to R2 Low Density Residential with a minimum lot size of 2,000m² immediately south of the site. It is considered that there would be greater opportunity in the future R2 zoned areas to the south of the site to support an improved local park, playground or passive open space area.

Based on a merits based assessment of this proposal, the applicants justification, and the inclusion of the need to capture developer contributions for 'recreation and open space' under the Mid-Western Regional Developer Contributions Plan 2019 at a current rate of \$2,199 per new lot, it is considered that the need to include a separate *local park, playground or passive open space* within the subject subdivision development to service those 12 lots found between 440m and 475m from the existing northern recreational areas is not considered to be an acceptable outcome to benefit the community, and the variation in this instance is recommended to be supported.

Alternative option:

Notwithstanding the above and following concerns raised by management, an alternative option for the subdivision was provided by the applicant in August 2021. This included a 400m² Reserve to be dedicated to Council on the southern end of the development, amending the boundary between proposed Lots 23 and 24. No details were provided in relation to the specific inclusions proposed within the Reserve, however, this could form a condition of consent should Council be of a mind to support the alternative option proposed. This would therefore achieve full compliance with the DCP requirements, however, this option would remove one (1) residential lot from the subdivision and also reduce all developer contributions collected by Council.

Section 7.11 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

Pursuant to Council's Contributions Plan 2019, the development is proposing the subdivision of the land creating 23 additional lots which requires the payment of a contribution in accordance with the plan.

The contribution payable has been calculated below:

	Per Contribution	Lot	Total Debits	Total Credits	
Transport Facilities	\$ 4,379.00		\$105,096.00	\$ 4,379.00	
Recreation and Open Space	\$ 2,199.00		\$52,776.00	\$ 2,199.00	
Community Facilities	\$ 640.00		\$15,360.00	\$ 640.00	
Stormwater Management	\$ 462.00		\$11,088.00	\$ 462.00	
Plan Administration	\$ 1,003.00		\$24,072.00	\$ 1,003.00	
Totals	\$ 8,683.00		\$208,392.00	\$ 8,683.00	
TOTAL REQUIRED	PAYMENT				\$ 199,709.00

An appropriate condition has been imposed requiring payment of the contribution.

Section 64 - Water/Sewer Developer Services Charges

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the proposed development will require the payment of DC headworks charges calculated by the Water and Sewer Department as follows:

Section 64 Contributions		
24 Lots (minus credit for 1 Large Residential Lot at 1.5ET Water and 1.05ET Sewer)		
	Charge	23 Lots
Water Headworks	\$8,756.00	\$ 197,010.00
Sewer Headworks	\$3,997.00	\$ 89,932.50
TOTAL HEADWORKS		\$ 286,942.50

A total contribution of \$286,942.50 is payable under the DSP and a condition has been imposed accordingly prior to issue of the Subdivision Works Certificate for the development.

4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iiia)

No Planning Agreements are applicable at this stage. The applicant has the option to enter into a Voluntary Planning Agreement at any stage however to cover contribution payments in accordance with the provisions of the Contributions Plan.

Regulations –4.15(1)(a)(iv)

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

No matters prescribed by the Regulations impact determination of the Development Application.

Likely impacts of the development – 4.15(1)(b)¹

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

(A) CONTEXT AND SETTING

The proposal is considered appropriate with regards to the surrounding context and setting. The development is situated on the edge of the R1 General Residential area and is therefore located in an established residential neighbourhood. The development results in the logical extension of the Bellevue residential area, providing additional housing opportunities with services to be provided accordingly.

(B) ACCESS, TRANSPORT AND TRAFFIC

The implications of additional traffic and suitable access are discussed throughout this report. The development will result in upgrades to both Marshfield Lane and Bellevue Road. In this regard, the proposal is considered appropriate, subject to compliance with the recommended conditions of consent.

(C) PUBLIC DOMAIN

The development will not impact the existing public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces. Access to existing recreational opportunities has been discussed within the assessment report and there is considered to be adequate existing public open space areas to service the proposed 24 lots.

(D) UTILITIES

All relevant utilities are available or can be made readily available to the site. There will need to be extensions to both water and sewer services to support the development however, this will be at the full cost of the developer.

(E) HERITAGE

Not applicable.

(F) OTHER LAND RESOURCES

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

(G) WATER

The development will require extensions to water services along with upgrades to support stormwater drainage to and from the site.

(H) SOILS

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

(I) AIR AND MICROCLIMATE

The development is not expected to impact air quality or microclimatic conditions. Conditions have been recommended to manage civil construction elements associated with the proposal.

(J) FLORA AND FAUNA

The minor extent of vegetation proposed to be removed has been discussed throughout this report.

(K) WASTE

Waste will be required to be contained on the site during construction activities and new kerbside waste services will be required to support future residential development on the site.

(L) ENERGY

Not applicable to the subject application.

(M) NOISE AND VIBRATION

Noise and vibration will be required to be managed during the construction period with hours of operation limitations imposed via recommended conditions of consent.

(N) NATURAL HAZARDS

The development site is not identified as bushfire prone and there are no known subsidence, slip or mass movement issues. The management of stormwater and overland flooding has been discussed throughout the assessment report and conditions have been recommended accordingly.

(O) TECHNOLOGICAL HAZARDS

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

(P) SAFETY, SECURITY AND CRIME PREVENTION

Increased passive surveillance is identified as a result of the proposed development and future dwellings are required to be designed and considered by separate applications accordingly.

(Q) SOCIAL IMPACT IN THE LOCALITY

Generally positive with the provision of additional housing opportunities, connecting to an established residential neighbourhood.

(R) ECONOMIC IMPACT IN THE LOCALITY

Generally positive with the provision of construction jobs during civil works and the additional release of housing opportunities for the region.

(S) SITE DESIGN AND INTERNAL DESIGN

Adequate, as discussed throughout this report.

(T) CONSTRUCTION

To comply with the BCA where relevant.

(U) CUMULATIVE IMPACTS

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

Suitability of Site for Development – 4.15(1)(c)

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

Submissions made in accordance with Act or Regulations – 4.15(1)(d)

(A) PUBLIC SUBMISSIONS

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 27 November 2020. During the notification period, no submissions were received.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

The application was referred to Essential Energy pursuant to section 45 of the SEPP (Infrastructure) 2007. A response has been provided and conditions included accordingly.

The Public Interest – 4.15(1)(e)

(A) FEDERAL, STATE AND LOCAL GOVERNMENT INTERESTS AND COMMUNITY INTERESTS

No significant issues in the interests of the public are expected as a result of the proposed development.

CONSULTATIONS

(A) HEALTH AND BUILDING

No consultation necessary.

(B) TECHNICAL SERVICES

Council's Development Engineer has not raised any concerns with the proposal, with a copy of the Referral comments found in Attachment 4. The pertinent matters raised, have been discussed below:

Flood Risk

It is also to be noted that the recently adopted Mudgee Flood Study 2021 has identified parts of the land as having several small areas affected by Overland Flows but with additional areas also potentially affected by a Probable Maximum Flood (PMF), i.e., greater than a 1:100 year ARI (Average Recurrence Interval) storm event.

A Concept Cut and Fill Plan, provided as part of a Further Information Request response, indicates that proposed site works including some lot filling will be required / provided and can safely divert surface stormwater flows and provide stormwater drainage infrastructure.

The above mentioned Lot filling and drainage works will to a considerable extent provide additional flood protection to the proposed development and formalise the control of surface runoff in the locality.

Additionally it would also be preferable to include some sort of 88B documentation on the new Lots to ensure future dwelling developments provide some form of detention in their stormwater drainage systems, similar to what has been prescribed for Bombira Estate.

Subdivision Servicing - Comments and Requirements:

Water Supply

There are two water mains shown in the locality. Connection of water main to supply this development will need to be made to the 100 mm diameter service on the north side of Bellevue Road.

To ensure quality and quantity of water supply a ring main from Bellevue Road will need to be installed connecting to other water mains on Albens Lane.

This water main extension has been conditioned.

Sewer

Lots fronting the north - south segment of Marshfield Lane will be able to connect directly to existing sewer main in Marshfield Lane (Connection to live mains must be undertaken by Council).

Servicing of all other Lots will require construction of new and extensions to mains by the developer as part of a Subdivision Works Certificate (SWC) approval.

This works has been conditioned.

Road

Road upgrades will be required to provide for the construction of concrete kerb and gutter for the full extent of all existing road abutments and the new internal road.

The developer will be required to construct half width pavement construction of both Bellevue Road and Marshfield Lane.

Alteration to the existing culvert under Marshfield Lane at the intersection of Bellevue Road will need to be undertaken to ensure sufficient depth of pavement and provide protective cover for the pipe/s.

The new internal road must provide for a trafficable court bowl no less than 10 metres radius.

Electricity / Telecommunications

These utilities are already located in the immediate vicinity of the proposed development. Connection could readily be made by extension of those services in accordance with the requirements of relevant authorities.

Developer Contributions:

The Developer will be required to make payment of the applicable Developer Contributions in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Development Contributions Plan.

Summary / Conclusion:

From an engineering perspective it is considered that the proposed development can be adequately serviced.

(C) HERITAGE ADVISOR

No consultation necessary.

(D) ACCESS COMMITTEE

No consultation necessary.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Community Participation Plan 2019
Mid-Western Regional Developer Servicing Plan 2008

Legislation

Environmental Planning & Assessment Act 1979

Environmental Planning & Assessment Regulation 2000
Mid-Western Regional Local Environmental Plan 2012

Financial implications

The Applicant will be required to pay developer contributions in accordance with the Mid-Western Regional Contributions Plan 2019 and Developer Servicing Plans 2008.

Associated Risks

Should Council refuse the Development Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

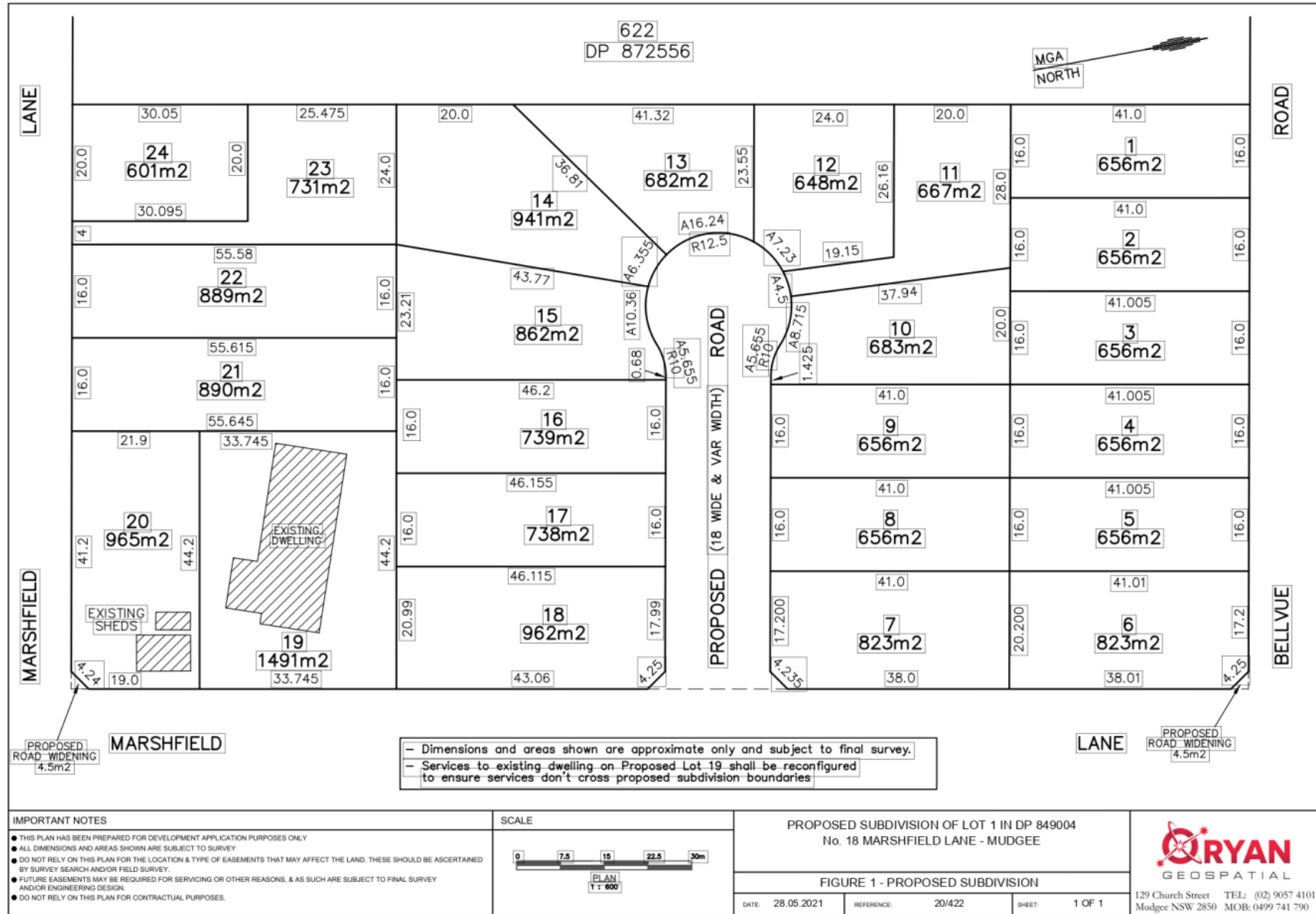
19 August 2021

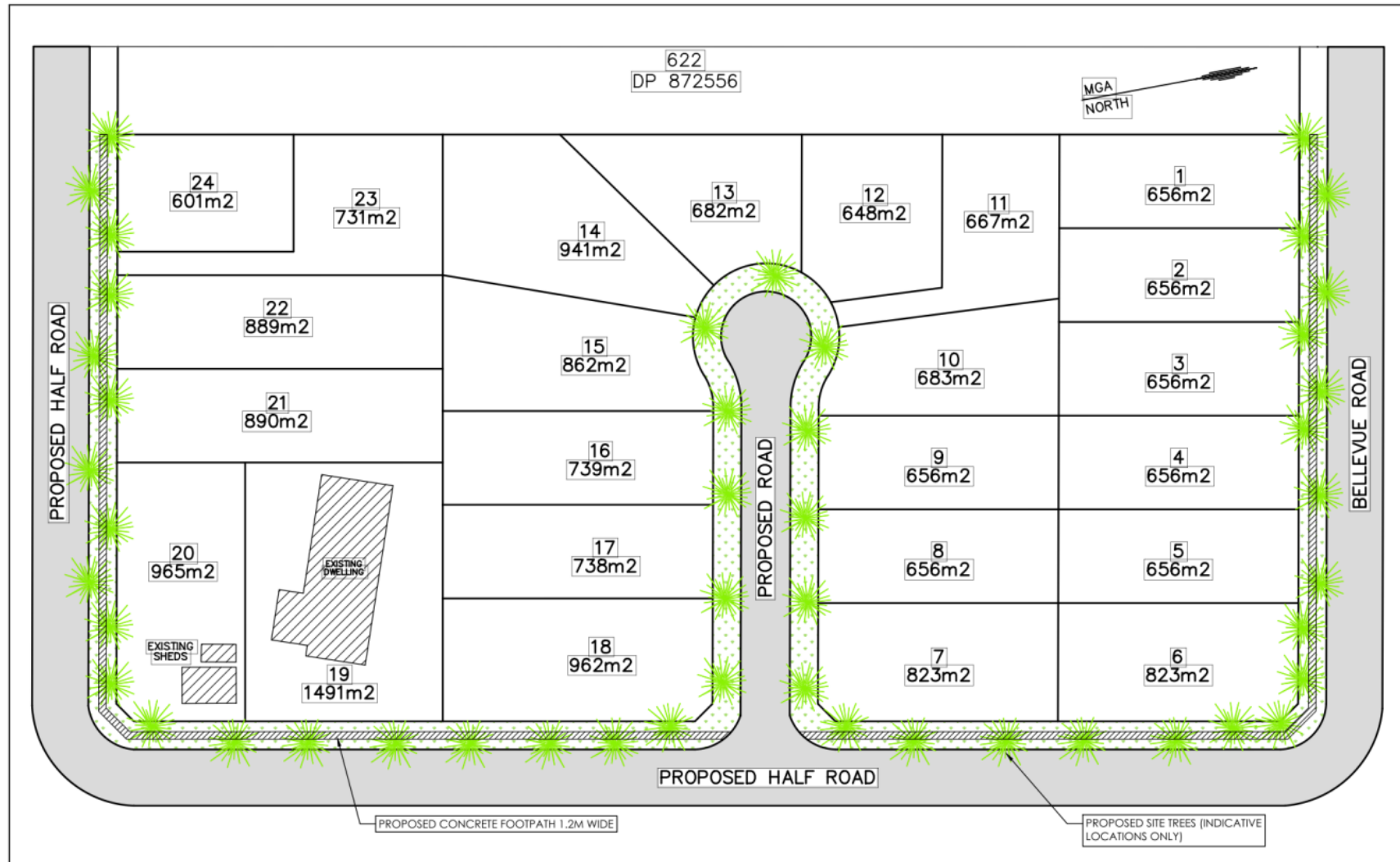
Attachments:

1. Subdivision Plan.
2. Subdivision Landscape Plan.
3. Subdivision Civil Plans.
4. Engineering Referral Response.

APPROVED FOR SUBMISSION:

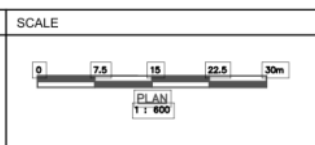
BRAD CAM
GENERAL MANAGER





IMPORTANT NOTES

- THIS IS A PLANNING DRAWING ONLY, FOR THE PURPOSE OF CONCEPTUAL DESIGN AND/OR PLANNING.
- TREE PLANTING SCHEDULE TO INCLUDE SUITABLE FROST RESISTANT AND DROUGHT TOLERANT SPECIES.
- DETAILED LANDSCAPING PLANS TO BE ISSUED PRIOR TO CONSTRUCTION
- PLANTING TO BE COMPLETED IN ACCORDANCE WITH MID-WESTERN REGIONAL TREE PLANTING POLICY
- ALL DIMENSIONS AND AREAS SHOWN ARE SUBJECT TO SURVEY.
- DO NOT RELY ON THIS PLAN FOR CONTRACTUAL PURPOSES.



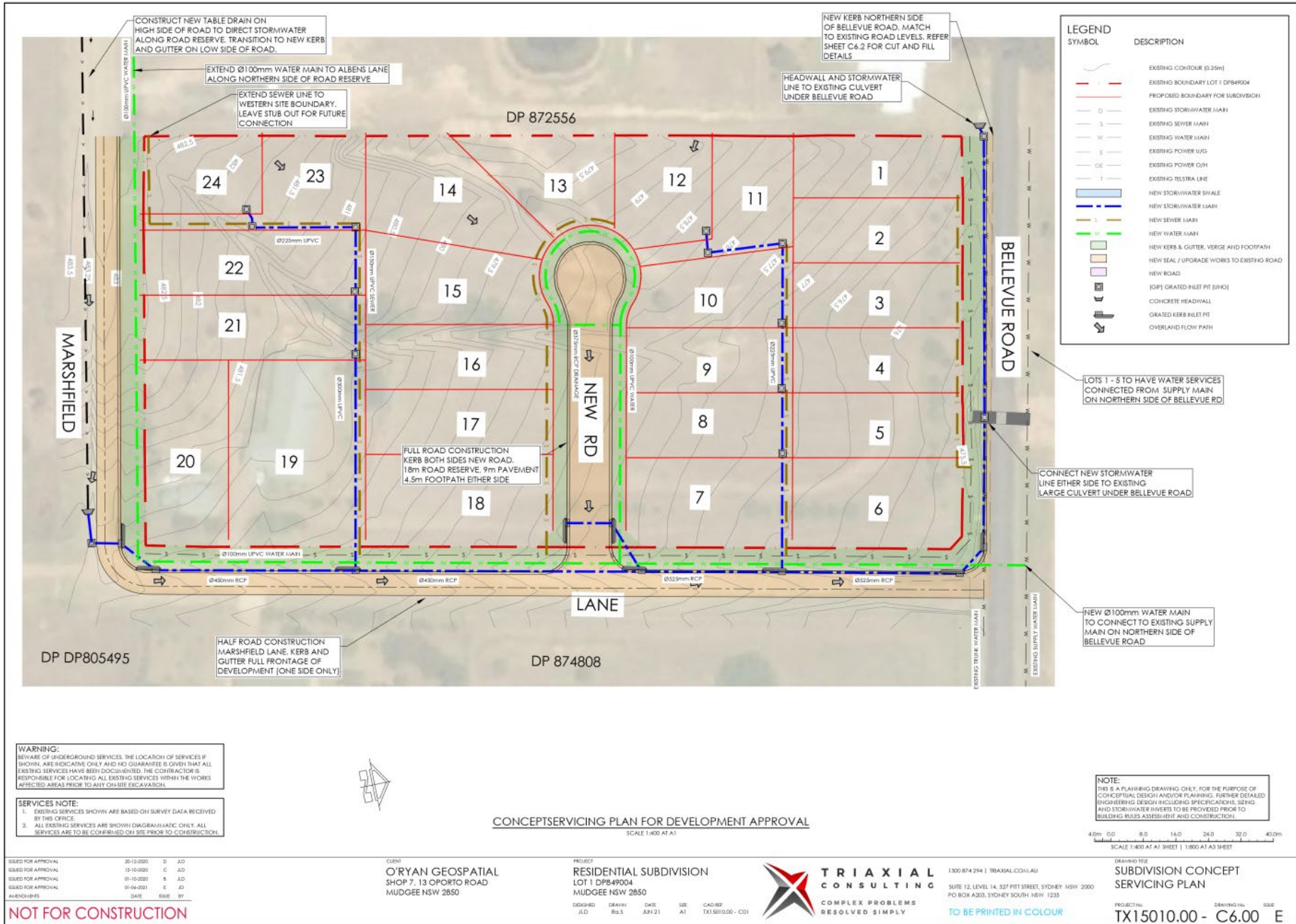
CONCEPT LANDSCAPE PLAN LOT 1 IN DP 849004
No. 18 MARSHFIELD LANE - MUDGEE

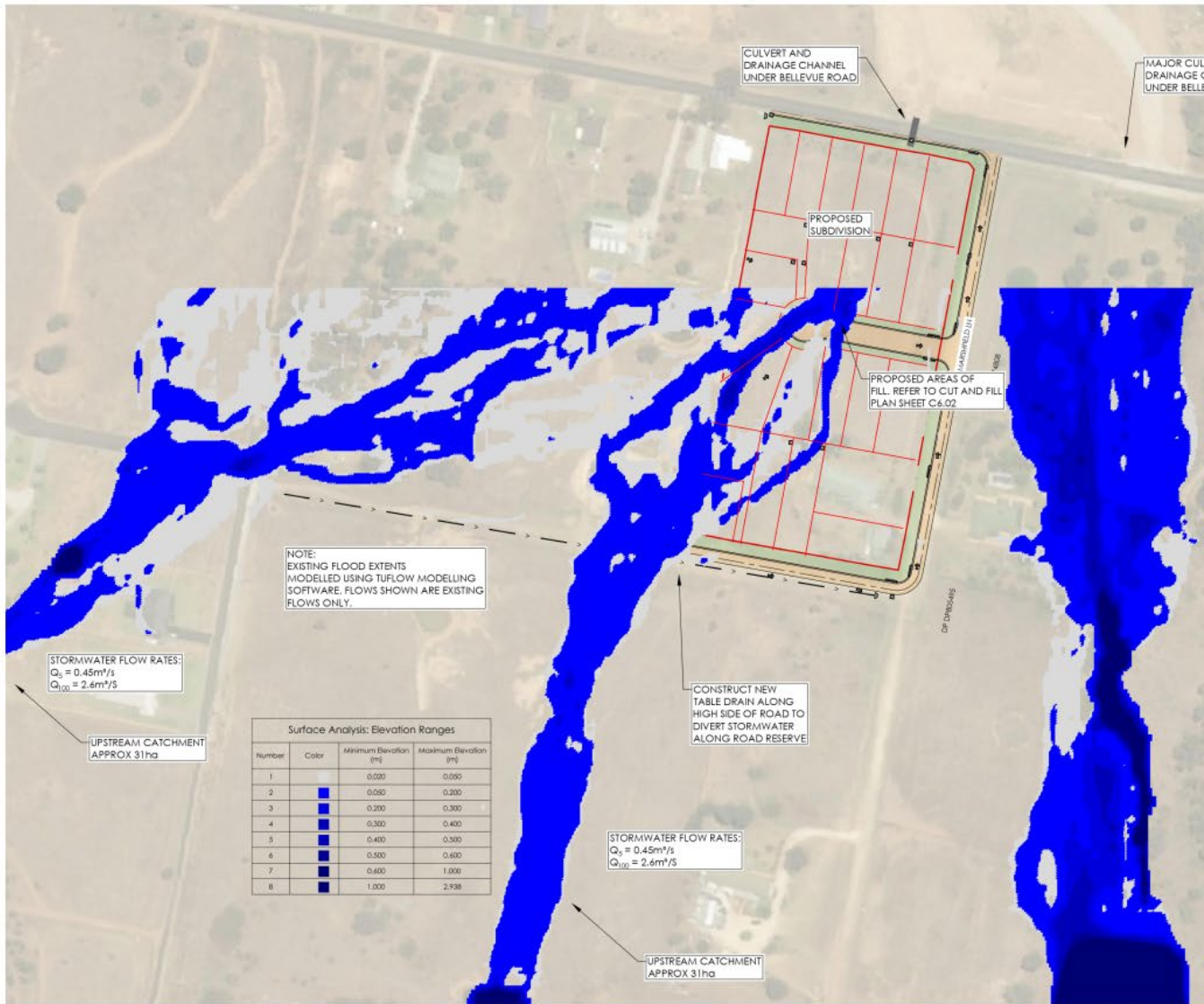
FIGURE 2 - CONCEPT LANDSCAPE PLAN

DATE: 28.05.2021 REFERENCE: 20/422 SHEET: 1 OF 1

RYAN
GEOSPATIAL

129 Church Street TEL: (02) 9057 4101
Mudgee NSW 2850 MOB: 0499 741 790



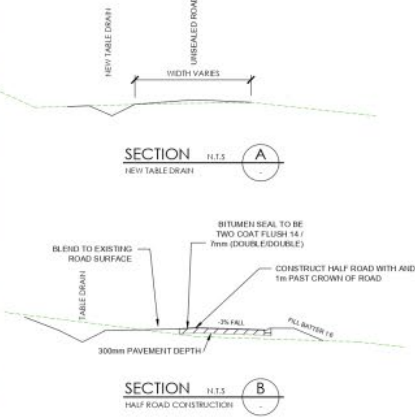


Surface Analysis: Elevation Ranges

Number	Color	Minimum Elevation (m)	Maximum Elevation (m)
1		0.050	0.090
2		0.090	0.200
3		0.200	0.300
4		0.300	0.400
5		0.400	0.500
6		0.500	0.600
7		0.600	1.000
8		1.000	2.938

LEGEND

SYMBOL	DESCRIPTION
	EXISTING CONTOUR (0.25m)
	EXISTING BOUNDARY LOT 1 DP849004
	PROPOSED BOUNDARY FOR SUBDIVISION
	EXISTING STORMWATER MAIN
	EXISTING SEWER MAIN
	EXISTING WATER MAIN
	EXISTING POWER (UG)
	EXISTING POWER (OH)
	EXISTING TELSTRA LINE
	NEW STORMWATER SWALE
	NEW STORMWATER MAIN
	NEW SEWER MAIN
	NEW WATER MAIN
	NEW KERB & GUTTER, VERGE AND FOOTPATH
	NEW SEAL / UPGRADE WORKS TO EXISTING ROAD
	NEW ROAD
	(GFP) GRATED INLET FIT (LHD)
	CONCRETE HEADWALL
	OVERLAND FLOW PATH



WARNING:
BEWARE OF UNDERGROUND SERVICES, THE LOCATION OF SERVICES IF SHOWN, ARE INDICATIVE ONLY AND NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES HAVE BEEN DOCUMENTED. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL EXISTING SERVICES WITHIN THE WORKS AFFECTED AREAS PRIOR TO ANY ON-SITE EXCAVATION.

SERVICES NOTE:
1. EXISTING SERVICES SHOWN ARE BASED ON SURVEY DATA RECEIVED BY THIS OFFICE.
2. ALL EXISTING SERVICES ARE SHOWN DIAGNOSTICALLY ONLY. ALL SERVICES ARE TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION.

NOTE:
THIS IS A PLANNING DRAWING ONLY. FOR THE PURPOSE OF CONCEPTUAL DESIGN AND/OR PLANNING. FURTHER DETAILED ENGINEERING DESIGN (INCLUDING SPECIFICATIONS, SIZING AND STORMWATER INVERTS) TO BE PROVIDED PRIOR TO BUILDING RISER ASSESSMENT AND CONSTRUCTION.



CATCHMENT PLAN
SCALE 1:1000 AT A1

ISSUED FOR APPROVAL	DATE	BY	FOR
ISSUED FOR APPROVAL	01-06-2021	D	JLD
ISSUED FOR APPROVAL	30-12-2020	C	JLD
ISSUED FOR APPROVAL	19-10-2020	S	JLD
ISSUED FOR APPROVAL	01-10-2020	A	JLD
AUTHORISED BY	DATE	NAME	BY

CLIENT
O'RYAN GEOSPATIAL
SHOP 7, 13 OPORTO ROAD
MUDGEES NSW 2850

PROJECT
RESIDENTIAL SUBDIVISION
LOT 1 DP849004
MUDGEES NSW 2850

DESIGNED	DRAWN	DATE	SIZE	CAO REF
JLD	Ria.S	JUN 21	A1	TX15010.00 - C01



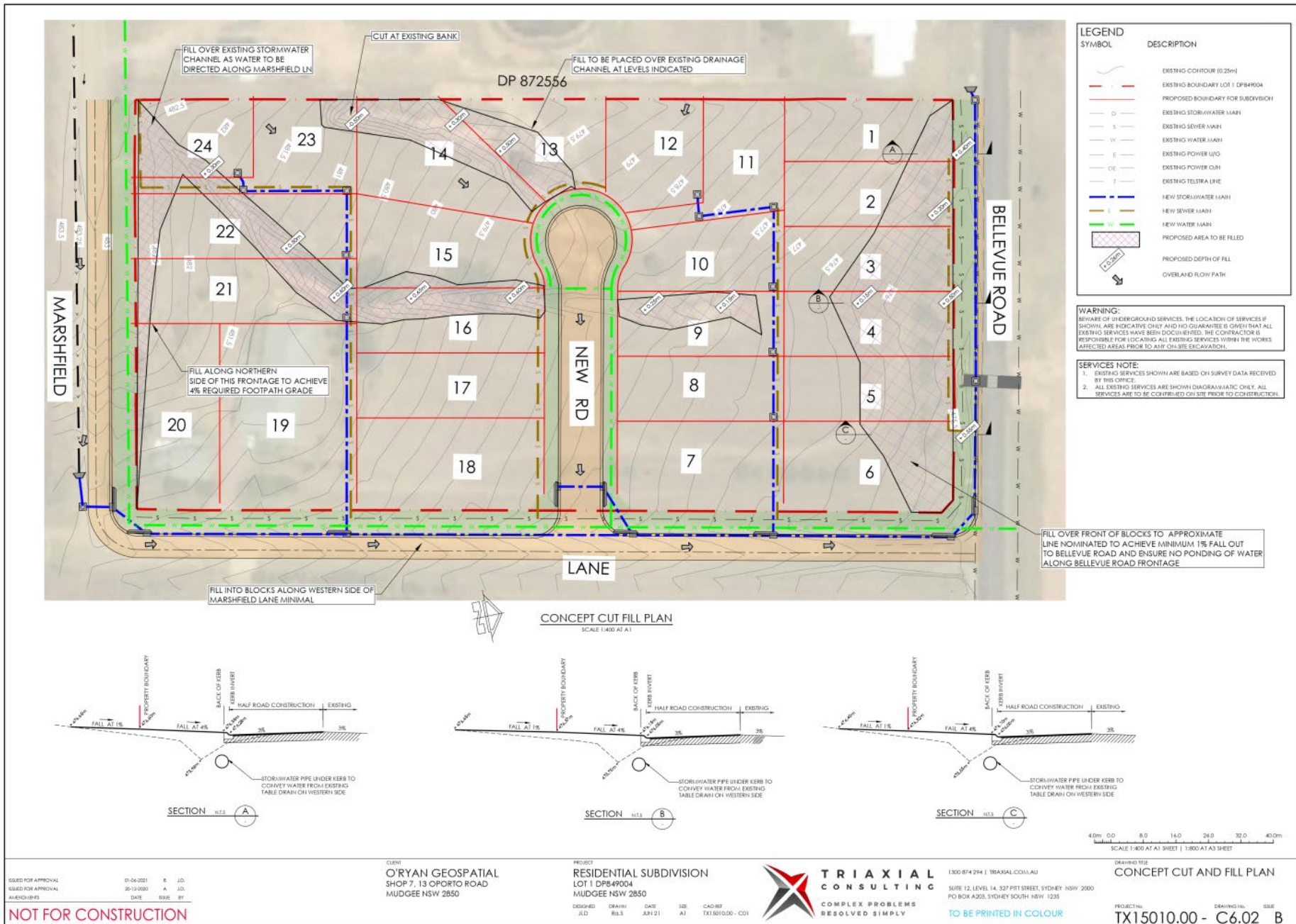
1300 874 294 | TRIAXIAL.COM.AU
SUITE 12, LEVEL 14, 327 FITT STREET, SYDNEY NSW 2000
PO BOX 4203, SYDNEY SOUTH NSW 1235

TO BE PRINTED IN COLOUR

DRAWING TITLE
STORMWATER CATCHMENT PLAN

PROJECT No. DRAWING No. ISSUE
TX15010.00 - C6.01 D

NOT FOR CONSTRUCTION



MWRC – DEVELOPMENT APPLICATION REFERRAL
ENGINEERING COMMENTS AND CONDITIONS

DEVELOPMENT APPLICATION NO: DA0125/2021

FILE NO: DA0125/2021

PROPOSAL: Subdivision - Torrens Title (1 into 24 lots)

PROPERTY DESCRIPTION: Lot 1 DP 849004 - Allawah 18 Marshfield Lane MUDGEES NSW 2850

REFERRED TO DEVELOPMENT DESIGN ENGINEER ON: 02 November 2020

ASSESSING OFFICERS NAME: K Robson

COMMENTS:

Proposal and Site Description

The application is proposing subdivision of a large existing Residential zoned lot into 24 lots and creating a short cul-de-sac new road.

The subject land is rectangular with a generally north-south alignment.

The northern boundary of the land abuts Bellevue Road which is a bitumen sealed road and in this location is not formed with kerb and channel.

The eastern and southern boundaries abut Marshfield Lane which has a gravel formed pavement and open table drains.

The western boundary abuts another large allotment which is predominantly vacant but is occupied by two dwellings, one fronting and with access from Bellevue Road to the north while the other fronts and has access from Marshfield Lane to the south.

With reference to the GIS / IntraMaps extract below:

- the subject land slopes generally down from south-west to north-east,
- the topography indicates minor drainage features that cross the land diagonally and that carry surface runoff from a larger predominantly un-developed catchment to the south-west,
- along the Bellevue Road frontage the surface water is captured in a large table drain that discharges through a large culverts into a swale / drainage reserve on the northern side of Bellevue Road, and
- services including water and sewer are located in the vicinity of the site.

Similarly there are other open swale drains in the locality (along Bellevue Road) that capture surface runoff and discharge through culverts under Bellevue Road and Marshfield Lane.

Flood Risk

It is also to be noted that the recently adopted Mudgee Flood Study 2021 has identified parts of the land as having several small areas affected by Overland Flows but with additional areas also potentially affected by a Probable Maximum Flood (PMF), ie, greater than a 1:100 year ARI (Average Recurrence Interval) storm event.

A Concept Cut and Fill Plan, provided as part of a Further Information Request response, indicates that proposed site works including some lot filling will be required / provided and can safely divert surface stormwater flows and provide stormwater drainage infrastructure.

The above mentioned Lot filling and drainage works will to a considerable extent provide additional flood protection to the proposed development and formalise the control of surface runoff in the locality.

Additionally it would also be preferable to include some sort of Sec 88B documentation on the new Lots to ensure future dwelling developments provide some form of detention in their stormwater drainage systems, similar to what has been prescribed for Bombira Estate.



Recreational Areas

As regards the need for recreational areas it has been discussed with P&G and their preference is to take a contribution that can be used for possible future developments on land to the south.

Subdivision Servicing - Comments and Requirements:

Water Supply

There are two water mains shown in the locality. Connection of water main to supply this development will need to be made to the 100 mm diameter service on the north side of Bellevue Road.

To ensure quality and quantity of water supply a ring main from Bellevue Road will need to be installed connecting to other water mains on Albens Lane.

This water main extension has been conditioned.

Sewer

Lots fronting the north - south segment of Marshfield Lane will be able to connect directly to existing sewer main in Marshfield Lane (Connection to live mains must be undertaken by Council).

Servicing of all other Lots will require construction of new and extensions to mains by the developer as part of a Subdivision Works Certificate (SWC) approval.

This works has been conditioned.

Road

Road upgrades will be required to provide for the construction of concrete kerb and gutter for the full extent of all existing road abutments and the new internal road.

The developer will be required to construct half width pavement construction of both Bellevue Road and Marshfield Lane.

Alteration to the existing culvert under Marshfield Lane at the intersection of Bellevue Road will need to be undertaken to ensure sufficient depth of pavement and provide protective cover for the pipe/s.

The new internal road must provide for a trafficable court bowl no less than 10 metres radius.

Electricity / Telecommunications

These utilities are already located in the immediate vicinity of the proposed development. Connection could readily be made by extension of those services in accordance with the requirements of relevant authorities.

Developer Contributions:

The Developer will be required to make payment of the applicable Developer Contributions in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94 Development Contributions Plan.

An incomplete table has been included in the recommended conditions below.

Summary / Conclusion:

From an engineering perspective it is considered that the proposed development can be adequately serviced.

However, as detailed above there will be significant construction requirements that will need to be addressed.

The application might be considered for approval subject to the following recommended engineering conditions being included in any consent that might issue.

RECOMMENDED CONDITIONS:

GENERAL CONDITIONS

- 1 Subdivision development is to be carried out generally in accordance with the following stamped plans, except where amended as required by following conditions. Approved documentation may include any Planning or Engineering reports submitted with and in support of the Application as detailed below.

Drawing No.	Sheet	Plan Title	Rev.	Date
20/422	1 of 1	Figure 1 – Proposed Subdivision (prepared by O’Ryan Geospatial)		28.05.2021
20/422		Figure 2 – Concept Landscape Plan (prepared by O’Ryan Geospatial)		28.05.2021
TX15010.00-C6.00		Subdivision Concept Servicing Plan (prepared by Triaxial Consulting)	E	01.06.2021
TX15010.00-C6.01		Stormwater Catchment Plan (prepared by Triaxial Consulting)	D	01.06.2021
TX15010.00-C6.02		Concept Cut and Fill Plan (prepared by Triaxial Consulting)	B	01.06.2021

Any minor modification to the approved plans other than as required by following conditions will require the lodgement and consideration by Council of amended plans. Amended plans will need to be accompanied with supporting documentation and calculations where necessary. Major modifications will require the lodgement of a new development application.

- 2 No structures or earthworks are permitted to encroach within any easements for the purposes of utility infrastructure as specified in Council’s Development Control Plan.
- 3 All road crossings for services and utilities are to cross perpendicular to the road alignment and must be installed prior to the commencement of construction of base course and kerb and channel.
- 4 The finished surface of all nature strips and verges must be graded to fall toward the kerb and channel and formed with a minimum 100 mm thick layer of clean topsoil free of stones and other impurities. Nature strips and verges are to be seeded or hydro-mulched with an approved grass prior to the issue of a Certificate of Practical Completion.
- 5 Street trees of an approved species are to be provided at a minimum rate of one tree per allotment.

ROADS AND FOOTPATHS

- 6 The Developer is required to provide for the construction of road upgrades that includes, but may not be limited to:
- Construction of kerb and channel for the full road abutments of all Lots created by this Subdivision,
 - The half width pavement construction and bitumen sealing of those parts of Bellevue road and Marshfield Lane that abut the development, and
 - The construction of concrete footpaths 1.35 metres wide for the full abutment of Bellevue Road and Marshfield Lane.

The new internal road must provide for a trafficable court bowl no less than 10 metres radius. Road pavements must be designed and constructed in accordance with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document and relevant parts of AUS-SPEC specifications.

Note: Construction of Marshfield Lane will require alteration to the existing culvert under Marshfield Lane at the intersection of Bellevue Road to ensure sufficient depth of pavement and provide protective cover for the pipe/s.

STORMWATER

- 7 The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development. The extent of stormwater drainage works will include, but is not limited to:
 - construction of a table drain along the southern side of Marshfield Lane to intercept and control surface runoff from upstream catchments and extend from the proposed inlet structure shown on the plans to a point no less than 100 metres beyond the proposed development,
 - alteration and upgrade of the existing culvert under Marshfield Lane at the Bellevue Road intersection such that the required cover for pavement construction is achieved, and
 - extension of the inter-allotment drainage for proposed lots 7 to 12 inclusive to provide an inlet for surface runoff from the adjoining property
- 8 Prior to the issue of a Subdivision Works Certificate the Applicant must provide a fully detailed Stormwater Drainage Report and Design for approval by Council that provides for control and treatment of stormwater runoff generated by future residential development of the land. The report must demonstrate that proposed detention arrangements do not increase the rate of discharge of stormwater runoff from the site beyond the existing undeveloped state for a storm event up to and including a 1:100 year ARI event. Methods of stormwater detention must be included in the design to ensure that the rate of stormwater runoff flows from the development do not exceed the volume and rates generated by a 1:5 year ARI storm event from the undeveloped site.
- 9 To ensure that increased runoff from the future development of dwellings does not adversely affect the flood risk to downstream properties suitably worded Section 88B documentation placing a restrictive covenant on each allotment requiring detention devices to be included for all building works. Detention devices must provide a minimum 2000 litres detention storage to be discharged to empty after each rain event through an orifice no greater than 19 mm diameter. Detention devices are to be maintained by the owner to the satisfaction of Council at all times.
- 10 Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties other than at approved locations and methods of disposal. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property.
- 11 Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with relevant parts of AUS-SPEC specifications. Easements not less than 3 metres wide shall be created over inter-allotment drainage in favour of upstream allotments.

WATER AND SEWER SERVICES

- 12 The applicant is to provide separate water reticulation services to each allotment within the subdivision.

- 13 The developer is to extend and meet the full cost of water reticulation to service the development plus the cost of connecting to existing services. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act 1993) and in accordance with the National Specification – Water Supply Code of Australia (WSAA).
- 14 The extent of water main extension to provide adequate and satisfactory supply will require a new main constructed from the 100 mm diameter main in Bellevue Road, along Marshfield Lane and extending to connect with other 100 mm diameter main in the vicinity of the Marshfield and Albens lane intersection. A mains extension to service lots accessed from the proposed new cu-de-sac will also be required.
- 15 The developer is to provide a water service and meter for each lot in the subdivision. Where the provision of a service connection for a proposed new lot is undertaken during the installation of new water mains by the Developer, and prior to any 'live' connection, the developer can be achieve this by making a payment to Council of \$655.00 per lot as specified in Council's Schedule of fees and Charges, noting that this amount is indexed to increase each financial year.

Note: Council does not permit other bodies to insert new connections into 'live' water mains. The cost referenced above is for the supply of meter only and is subject to CPI increases.
- 16 In the case of any lots that will not be serviced by a water main constructed by the developer, a full water service will be required. The developer will be required to pay for full Water Service Connection for a 20 mm water supply, for an amount of \$2,150.00 per lot as specified in Council's Schedule of fees and Charges, noting that this amount is indexed to increase each financial year.
- 17 The developer is to extend and meet the full cost of sewer reticulation to service the development plus the cost of connecting to existing services.
- 18 All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Sewerage Code of Australia.
- 19 In the case of any lots that will be serviced by a sewer main constructed by the developer the sewer junctions required to service the proposed lots must be installed by the developer.

TELECOMMUNICATIONS AND ELECTRICITY SUPPLY

- 20 Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authorities standards. Each allotment is to be provided with a service point / connection to an underground electricity supply. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with the certified copies of the Electrical and Telecommunications distribution network design for the subdivision.

CULTURAL HERITAGE

- 21 If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.

(Note: A suitably qualified person is required to be present during earthworks to identify whether any artefacts were uncovered).

PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

- 22 A Subdivision Works Certificate is required for but not limited to the following civil works;
- Water and sewer main extensions,
 - Roads, including concrete kerb, pavement and bitumen seal,
 - Stormwater drainage such as inter-allotment drainage, detention basins, culverts, pits and table drains,
 - Footpath (concrete paths, 1.35 metres wide and with crossfall and kerb ramps where necessary in accordance with AS 1428 and DDA requirements),
 - Landscaping of public reserves and nature strips / verges.
- No works can commence prior to the issue of the Subdivision Works Certificate.
- NOTE: Additional permits and approvals may also be required under other legislation, eg. Plumbing and Drainage Act 2011, and Plumbing and Drainage Regulation 2017 for water and sewer infrastructure works.
- 23 Prior to the issue of a Subdivision Works Certificate a detailed engineering design, specifications, supporting documentation / reports and calculations, and schedules are to be submitted to and approved by Council. The engineering design is to comply with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document.
- Detailed documentation including, but not limited to the following matters, must be submitted with the detailed design. These documents include:
- Runoff calculations.
- 24 Prior to the issue of a Subdivision Works Certificate a Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid Western Regional Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.
- 25 Prior to the commencement of any works a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (Twenty million dollars) is to be provided to Mid Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the Contractor.
- 26 The detailed design plans submitted for the issue of a Subdivision Works Certificate must show all finished surface levels. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
- 27 All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
- 28 An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:
- Saving available topsoil for reuse in the revegetation phase of the development;
 - Using erosion control measures to prevent on-site damage;
 - Rehabilitating disturbed areas quickly;
 - Maintenance of erosion and sediment control structures;

PRIOR TO COMMENCEMENT OF WORKS – CIVIL

- 29 The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 4. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 30 Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- 31 Prior to the commencement of subdivision works, the following actions are to be carried out:
1. A site supervisor is to be nominated by the applicant;
 2. Council is to be provided with two (2) days notice of works commencing, and
 3. Council is to be notified in writing of any existing damage to Council's infrastructure.
- NOTE: Failure to comply with these conditions may result in damage to Council's infrastructure. Any damage will be rectified at the applicant's cost.

ENGINEERING CONSTRUCTION

- 32 The subdivision works are to be inspected by the Council (or an Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
- Installation of sediment and erosion control measures
 - Water and sewer line installation prior to backfilling
 - Vacuum / pressure testing of all water and sewer mains
 - Stormwater drainage pipe installation prior to backfilling
 - CCTV inspection of all sewer mains and stormwater drainage
 - Proof roll inspection of sub-grade prior to placement and compaction of sub-base
 - Proof roll inspection of sub-base prior to installation of concrete kerb
 - Proof roll inspection of compacted sub-base prior to placement of base course
 - Proof roll inspection of compacted base prior to sealing
 - CCTV inspection of all sewer mains and stormwater drainage once final earthworks have been completed to finished surface levels.
 - Practical Completion
 - At completion of the Defects Liability Period a further CCTV inspection of all sewer mains and stormwater drainage is to be undertaken prior to the issue of a certificate of Final Completion and the release of Defects Liability bond monies.
- In addition to proof roll inspection compaction testing may also be required.
- 33 The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
- 34 The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
- 35 All works are to be constructed at the full cost of the developer, in a manner consistent with relevant parts of AUS-SPEC specifications and Council's standard drawings.

- 36 All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's / Demolisher's expense.

DEVELOPMENT CONTRIBUTIONS

- 37 In accordance with the provisions of section 94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94 Development Contributions Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of:

Catchment No.N – No. Additional Lot/s N

Program	Total \$
Transport Management	
Traffic Management	\$
Open Space	
Local Open Space	\$
District Open Space	\$
Community Facilities	
Library Buildings	\$
Library Resources	\$
Administration	
Plan Administration	\$
TOTAL PAYABLE	\$

- 38 The developer shall obtain a Certificate of Compliance under the Water Management Act 2000. This will require:
 (a) Payment of a contribution for water and sewerage headworks at the following rate:

Water Headworks	(22.5 ET)	\$197,010.00
Sewerage Headworks	(22.5 ET)	\$ 89,933.00
Total		\$286,943.00

PRIOR TO THE ISSUE OF SUBDIVISION CERTIFICATE

- 39 Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Titles Office.

(Note: The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges)

#. The Practical Completion inspection report shall be submitted to Council with the Subdivision Certificate application.

- 40 A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager or other authorised person.
- 41 Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.

- 42 To ensure that increased runoff from the future development of dwellings does not adversely affect the flood risk to downstream properties suitably worded Section 88B documentation placing a restrictive covenant on each allotment requiring detention devices to be included for all building works. Detention devices must provide a minimum 2000 litres detention storage to be discharged to empty after each rain event through an orifice no greater than 19 mm diameter. Detention devices are to be maintained by the owner to the satisfaction of Council at all times.
- 43 Following completion of the subdivision works, work-as-executed plans (WAE) and asset data sheets are to be provided to Council in no less than the following formats;
- PDF
 - Dwg format or “Autocad compatible”
 - MapInfo
- All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.
The plans provided must also be accompanied by completed spreadsheets containing all relevant asset data requirements. (Templates will be provided by Council on request).
- 44 Following completion of all engineering works a Defects Liability bond in a form acceptable to Council to the value of 5% of the value of all works must be lodged with Council to be held for a period of twenty-four (24) months to ensure any defects that become apparent during that time are remedied by the developer.
- 45 Any unpaid Contributions or charges nominated in the development consent will be indexed to CPI at the beginning of the new financial year.
- 46 Prior to issue of the Subdivision Certificate, Council is to be supplied with:
- (a) A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.
 - (b) A certificate from Telstra stating that they accept control/acquisition of the telecommunications infrastructure to the development.
 - (c) All contributions must be paid to Council and all works required by the consent be completed in accordance with the consent.
- 47 Where necessary the adjustment of existing services, infrastructure or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.
- 48 The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.



David Webster
Development & Design Engineer
Mid-Western Regional Council