

STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION TO DA0071/2016

SUBDIVISION

277 Black Springs Road, Eurunderee



Navigate Planning

23 April 2025

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1 INTRODUCTION

This Statement of Environmental Effects (SEE) supports an application to modify DA0071/2016 (as amended by MA0018/2016) for a four lot subdivision of Lot 110 in DP 1029542 at 277 Black Springs Road, Eurunderee. The subdivision has commenced with two of the four approved lots created. The remnant lot is now known as Lot 3 in DP1223039.

The modification is submitted under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979.

The subject land is part zoned R5 Large Lot Residential and part zoned C3 Environmental Management, with a minimum lot size of 12ha and 400ha respectively. In November 2024, an amendment to the minimum lot size for the site was made, increasing the area of land with a 12ha minimum lot size.

The proposed modification seeks to add one additional lot, resulting in an overall five lot subdivision. Proposed Lots 3 and 4 are 12ha in size. Proposed Lot 5 will be 34.06ha and contains an area of at least 12ha with a minimum lot size of 12ha.

The proposed new lot contains a suitable area for a dwelling that does not require the clearing of native vegetation for building works or asset protection. This modification application is supported by an environmental assessment, a bushfire assessment and an on-site effluent management assessment that all demonstrate the proposal will have no significant impacts on the environment. The building envelope also has adequate setbacks to ensure minimal impacts on the amenity of adjoining properties and on agricultural activities.

The subject land is bushfire prone. The proposed subdivision is for residential purposes and is therefore Integrated Development as a bush fire safety authority is required under Section 100B of the Rural Fires Act 1997.

The development is not “state significant development”, “regionally significant development” or “designated development”.

The proposed modification does not change the nature of the development and will have no significant environmental impact.

2 PROPOSED MODIFICATION

The proposed modification is to change the number of lots in the approved subdivision from four (4) to five (5).

The proposed modification ensures that each of the three lots yet to be created are at least 12ha in size. Proposed Lot 5 contains an area of at least 12ha with a minimum lot size of 12ha.

Proposed Lot 3 has direct frontage and an existing access to Black Springs Road. Proposed Lot 4 has frontage and potential access to both Black Springs Road and Saddleback Lane. Proposed Lot 5 has frontage and potential access to Saddleback Lane.

The subject land is bushfire prone. In accordance with the Bushfire Assessment Report prepared for the development, a minimum 20m asset protection zone around the building envelope for a dwelling on proposed Lot 5 would be required to comply with Planning for Bushfire Protection 2019. As part of future residential development, a 20,000L static water supply would be required for fire fighting purposes.

3 COMPLIANCE WITH RELEVANT LEGISLATION

3.1 Environmental Planning and Assessment Act 1979 (NSW)

3.1.1 Section 4.55 (2) – Other Modifications

Section 4.55 (2) states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.”

Comment - The proposed modification results in a development that is substantially the same as that approved under DA0071/2016 (as amended by MA0018/2016). The change in the number of lots from 4 to 5 is not considered significant enough to change the nature of the approved development. It is anticipated that Council will consult with the NSW Rural Fire Service with regards to the proposed modification and the General Terms of Approval issued for the original subdivision approval. It is also anticipated that Council will notify the modification application.

Subsection (3) states that “*in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*”

Comment – Relevant matters are addressed below.

3.1.2 Section 4.5 – Designation of consent authority

Pursuant to clause 4.5 (d) of the *Environmental Planning and Assessment Act 1979* (EPA Act), the Mid-Western Regional Council is the consent authority.

3.1.3 Section 4.13 – Consultation and concurrence

Section 4.13 provides for an environmental planning instrument to identify where consultation or concurrence is required before determining a development application. There are no

consultation or concurrence requirements for the modification under any relevant environmental planning instrument.

3.1.4 Section 4.15 – Evaluation

The following matters are relevant to the proposal under section 4.15 of the EPA Act. Detailed assessment against each of these matters is provided in Section 5 of this SEE.

State Environmental Planning Policies

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

Local Environmental Plans

- *Mid-Western Regional Local Environmental Plan 2012*

Draft Environmental Planning Instruments

Nil

Development Control Plans

- *Mid-Western Regional Development Control Plan 2012*

Planning Agreements

Nil

Environmental Planning and Assessment Regulation 2021

Nil.

Impacts on the built environment

The proposed development will have a neutral impact on the built environment. The proposed additional lot will facilitate a dwelling with adequate setbacks to adjoining properties to minimize visual impacts.

Impacts on the natural environment

The proposed development will have minimal impacts on the natural environment. An Ecological Assessment Report was prepared for the proposed modification. The report states that the identified building envelope for proposed Lot 5 contains grassland of low conservation value with no identifiable associated plant community type and that no clearing or modification to any vegetation identified on the Biodiversity Values Map will occur. The proposed modification does not trigger the Biodiversity Offset Scheme and no direct or indirect impacts to koala habitat will occur in the building envelope.

Social and economic impacts

The proposed development will have positive social and economic impacts on the locality through the provision of an additional housing opportunities and employment opportunities in construction.

Suitability of the site

The site is capable of subdivision for residential purposes in compliance with the relevant provisions of the MWRLEP 2012 and the Development Control Plan for subdivision. The subdivision can be undertaken in a manner that complies with the provisions of Planning for Bushfire Protection 2019. Future dwellings can be designed and constructed with minimal impacts on adjoining properties and with good amenity for future occupants. The site is therefore considered suitable for the development.

The Public Interest

The proposed development is in the public interest as it facilitates the provision of future housing opportunities in a manner that will have minimal impacts on adjoining properties and the environment and minimal impacts on the rural landscape.

3.1.5 Section 4.46 – Integrated Development

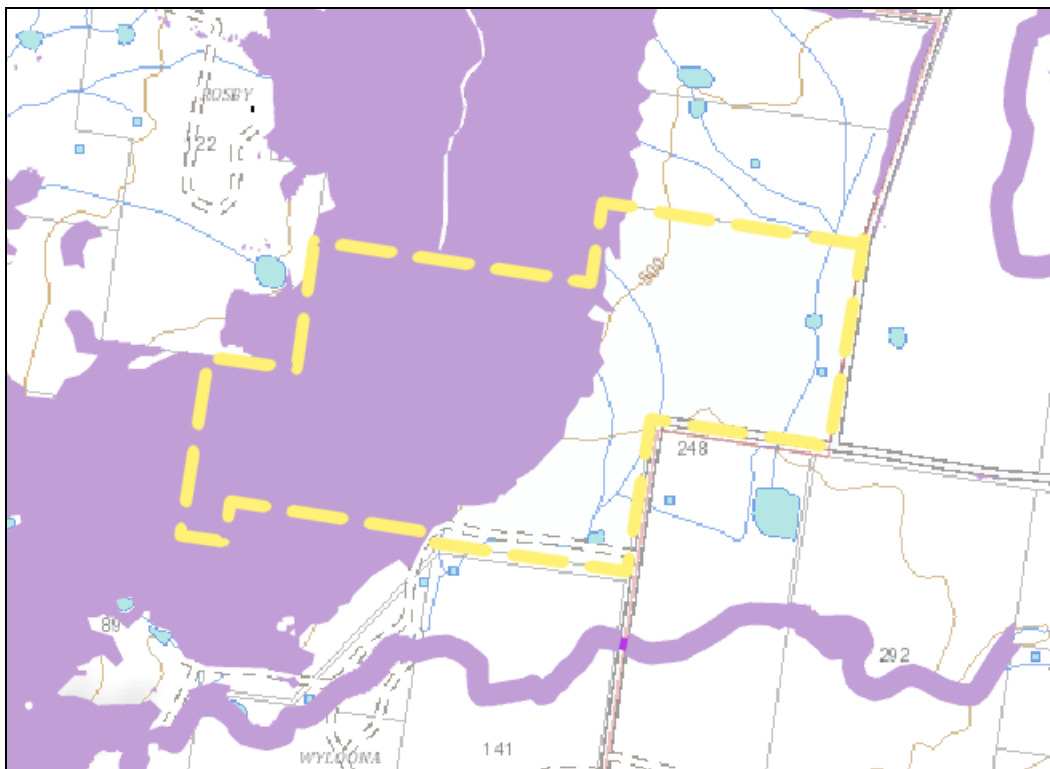
Section 4.46 of the EPA Act identifies development that requires other approvals and is therefore integrated development. The development is integrated development as the land is bush fire prone and the subdivision is for residential purposes. A bush fire assessment has been undertaken for the proposed development.

3.1.6 Sections 7.11 and 7.12 – Development contributions

Should development consent be granted, it is anticipated that a condition requiring development contributions for one new lot will be included on the consent.

3.2 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) outlines the processes for biodiversity assessments, approvals and offsets where required. The BC Act also defines biodiversity values, and these are shown as the purple areas on the Biodiversity Values Map. The subject land is partly included on the Biodiversity Values Map, as shown below.



Source: NSW Planning Portal Spatial Viewer, Biodiversity Values Map

The proposed subdivision facilitates development on that part of the land not included on the Biodiversity Values Map. No clearing is proposed within the mapped area.

An Ecological Assessment Report was prepared for the proposed modification. The report states that the identified building envelope for proposed Lot 5 contains grassland of low conservation value with no identifiable associated plant community type and that no clearing or modification to any vegetation identified on the Biodiversity Values Map will occur. The proposed modification does not trigger the Biodiversity Offset Scheme.

Notwithstanding the above, consideration must be given to potential direct and indirect impacts on threatened ecological communities as a result of the development.

The Ecological Assessment Report has undertaken tests of significance for relevant threatened species. No threatened plants were observed during the site visit and the previous agricultural use of the land makes the persistence of any threatened plant very unlikely.

In relation to threatened fauna, the assessment found no significant impact on habitat or food resources for threatened birds, amphibians, reptiles, mammals or bats.

There are no endangered or critically endangered ecological communities located on the site.

It is considered that the proposal will have no direct impacts on threatened ecological communities and the proposal will have no impact on biodiversity.

4 COMPLIANCE WITH PLANNING CONTROLS

4.1 State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4 of this SEPP relates to the remediation of contaminated land. The subject land has a long history of rural use. There is no record of any previous use of the site that may have caused any contamination. A statutory declaration has been provided by the landowner to demonstrate that there has been no activities on the land since at least 1970 that may have caused contamination of the land.

Based on the above, the site is considered suitable for the proposed subdivision for residential use of the land.

4.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

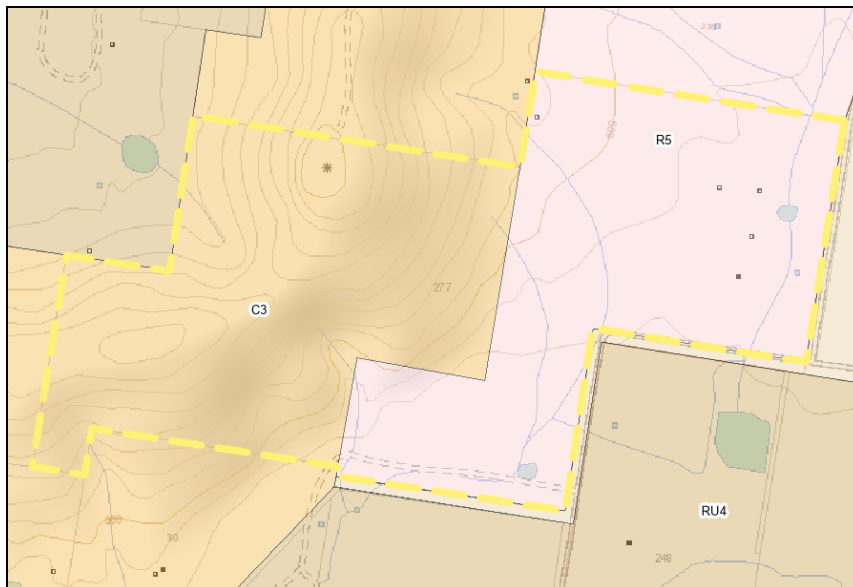
Chapter 3 of the SEPP relates to koala habitat protection and requires consideration as to whether land is potential or core koala habitat. An Ecological Assessment Report has been prepared for the modification application. The report identifies the vegetated portion of the subject land as being core koala habitat due to the presence of koala feed tree species and records of koala sightings within 5 km of the site in the last 18 years. However, as no vegetation is to be cleared within the development footprint and no direct or indirect impacts to koala habitat will occur in the building envelope.

It is therefore considered that the cleared area of the site where the building envelope is located for proposed Lot 5 is not potential or core koala habitat. Council is therefore able to grant consent to the proposed modification without the need for a koala plan of management being prepared.

4.3 Mid-Western Local Environmental Plan 2012

4.3.1 Zoning and zone objectives

The development is proposed on land included within the R5 Large Lot Residential and C3 Environmental Management zones under the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012), as shown on the map below.



Source: NSW Planning Portal Spatial Viewer, Land Zoning Map

The objectives of the R5 Large Lot Residential zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposal is considered to be consistent with the objectives of the zone as it provides additional housing opportunities in a rural setting with minimal environmental or visual impacts. The subject land is not identified for future urban development. The addition of one lot to the approved subdivision will not unreasonably increase demand for public services or facilities. The building envelope on proposed Lot 5 is located to ensure minimal conflicts will arise with agricultural activities on surrounding lands.

The objectives of the C3 Environmental Management zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To manage development within the water supply catchment lands of Windamere and Burrendong Dams, to conserve and enhance the district's water resources.*

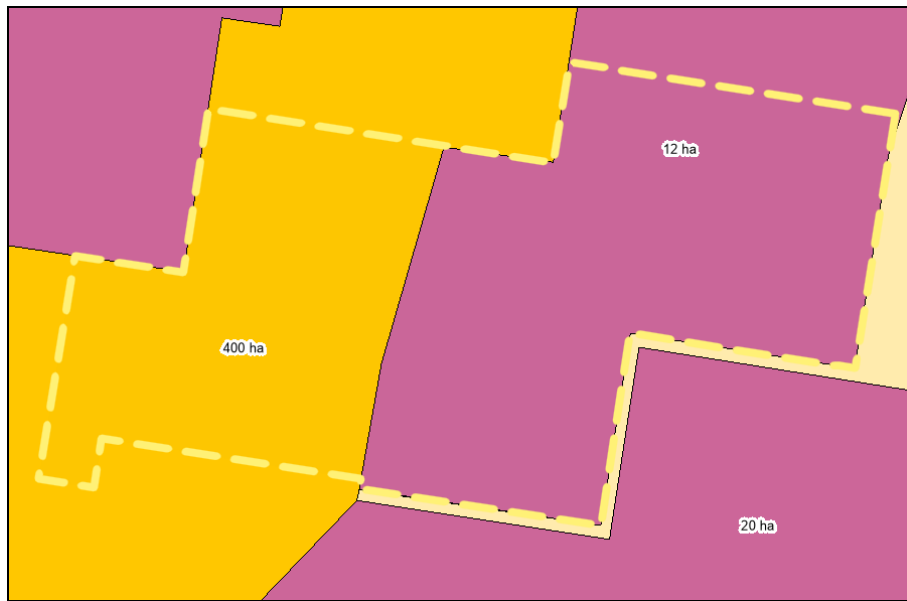
The proposal is considered to be consistent with the objectives of the zone as no development or clearing within the C3 zoned lands is proposed or required to facilitate the proposed modification. The land is not located within a water supply catchment.

4.3.2 Land Use Permissibility

Clause 2.6 of the MWRLEP 2012 provides for subdivision, to be permitted with consent.

4.3.3 Lot Size

The land has a minimum lot size of 12ha and 400ha, as shown on the map below.



Source: NSW Planning Portal Spatial Viewer, Minimum Lot Size Map

Clause 4.1 (3) of the MWRLEP 2012 states that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

The minimum lot size for the land is part 12ha and part 400ha. Proposed Lots 3 and 4 are 12ha in size. Proposed Lot 5 is 32.04ha in size and contains an area of at least 12ha. The proposal complies with clause 4.1.

4.3.4 Minimum lot sizes for certain split zones

Clause 4.1D of the MWRLEP 2012 relates to subdivision of certain land with a split zone. The subject land has a split zone with part of the land zoned R5 and part zoned C3. Clause 4.1D does not apply to land zoned R5, therefore this clause does not apply.

4.3.5 Heritage

The site does not contain a heritage item and is not located within a heritage conservation area. There are no heritage items in the vicinity of the land that are likely to be impacted by the proposed development.

4.3.6 Flood planning

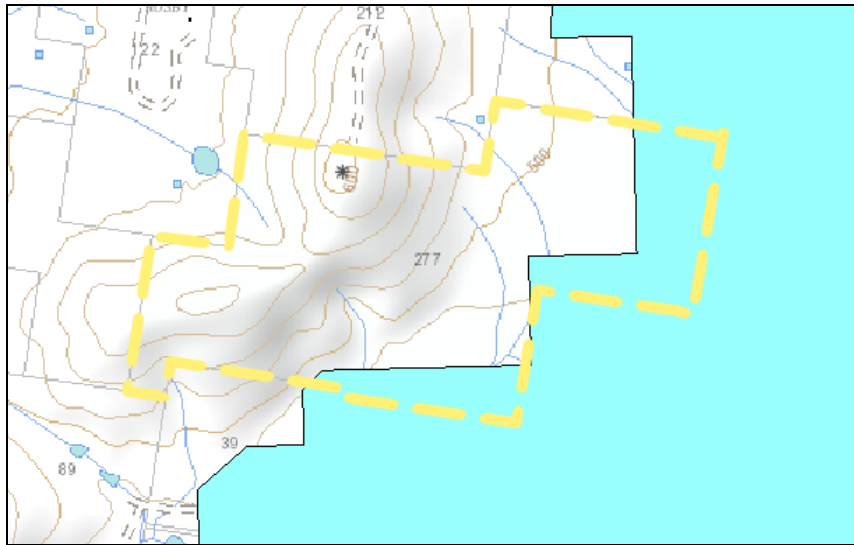
Clause 5.21 of MWRLEP 2012 requires consideration of the impacts on a development by flooding and of the impacts of development on flood behaviour. The subject land is not known to be or mapped as flood prone.

4.3.7 Earthworks

Clause 6.3 of MWRLEP 2012 requires separate development consent for earthworks unless the earthworks are ancillary to other development for which development consent has been given. There are no earthworks proposed as part of this modification application.

4.3.8 Groundwater Vulnerability

Clause 6.4 of MWRLEP 2012 requires consideration of the impact of development on groundwater. The subject land is partly identified as groundwater vulnerable on the Groundwater Vulnerability Map in MWRLEP 2012, as shown below.



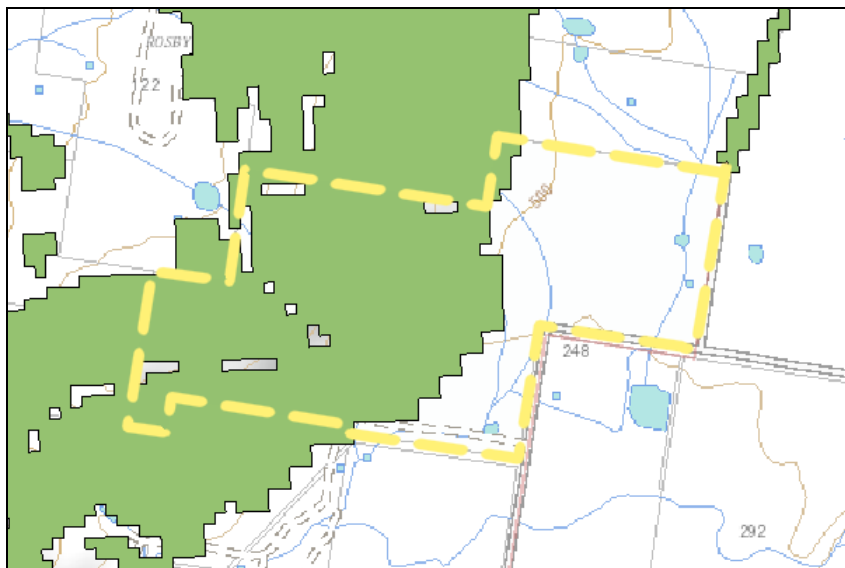
Source: NSW Planning Portal Spatial Viewer, Groundwater Vulnerability Map

The proposed modification results in the potential for one additional dwelling on the land with on-site effluent management. An assessment for on-site effluent management has been undertaken for proposed Lot 5. The report states that the disposal of domestic effluent on-site is feasible for the subject site within a recommended disposal envelope using an absorption bed system with standard septic tank for primary treatment.

Based on the effluent disposal assessment, it is considered that the proposal will have no significant impact on groundwater.

4.3.9 Biodiversity

Clause 6.5 of MWRLEP 2012 requires consideration of the impacts of development on biodiversity. The subject land is partly identified as containing high biodiversity sensitivity on the Sensitive Biodiversity Map in MWRLEP 2012, as shown below.



Source: NSW Planning Portal Spatial Viewer, Sensitive Biodiversity Map

The building envelope for proposed Lot 5 is not located within the mapped area. An Ecological Assessment Report was prepared for the proposed modification. The report states that the identified building envelope for proposed Lot 5 contains grassland of low conservation value. The proposal will not require clearing for development, asset protection or effluent management within the mapped area and therefore there will be no direct impact on the mapped area. The development area is located at a lower elevation than the mapped area and therefore it is also considered there will be no indirect impacts on the mapped area.

4.3.10 Visually sensitive land near Mudgee

Clause 6.10 of MWRLEP 2012 relates to visually sensitive land near Mudgee. The subject land is not mapped as visually sensitive land.

4.4 Mid-Western Regional Development Control Plan 2012

The following provisions of the *Mid-Western Development Control Plan 2012* (MWDCP) are relevant to the proposed development:

4.4.1 Section 7.2 – Rural Subdivision

| Issue | Requirement | Comment |
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| Site Plan | Applicants are required to submit a site plan which identifies existing vegetation, farm improvements including dwellings, sheds, dams, fences and access roads. | The proposed subdivision plan is considered suitable for the purposes of this control. |
| Lot Size | (a) Lots must be of sufficient area to enable the construction of a dwelling house, associated outbuildings, services, vehicle parking and access, private open space without excessive terracing and allow for maximum retention of existing vegetation. | Proposed Lots 3 and 4 are 12ha in size and contain no native vegetation. Proposed Lot 5 contains a sufficient area of cleared land zoned R5 large Lot Residential to facilitate a dwelling, access and outbuildings with no impact on the existing vegetated areas of the lot. |
| | (b) The minimum area for subdivision will apply to that area that is considered productive for the agricultural pursuit for which the lot is being created. | Not applicable. The lots are being created for rural residential purposes. |
| Primary Production Small Lots | | Not applicable to the proposed modification. |
| Services | | Not applicable to the proposed modification. |
| Roads | All roads with traffic volumes greater than 150 vehicles/day will be required to be brought up to a sealed road standard. | Black Springs Road is sealed. Saddleback Trail does not have traffic volumes more than 150 vehicles per day. |

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| Lot design | <p>New lots to be created to minimise environmental impacts including:</p> <ul style="list-style-type: none"> • soil disturbance/erosion, • creek/waterway crossings, • tree removal, and • adequate separation distances for new and existing development and environmental features. | <p>Proposed Lots 3 and 4 are 12ha in size and contain no native vegetation. These lots are generally consistent with the original subdivision approval. Proposed Lot 5 contains a sufficient area of cleared land zoned R5 large Lot Residential to facilitate a dwelling, access and outbuildings with no impact on the existing vegetated areas of the lot. Proposed dwellings on Lots 4 and 5 can be undertaken without tree clearing and access can be provided without the need for creek crossings. Adequate separation can be achieved to adjoining lots containing agricultural activities.</p> |
| Bushfire Prone Areas | <p>Safe siting of lots within Bushfire Prone Areas is essential. Such sites should avoid the need for extensive clearing of native vegetation and must provide for safe access for Bushfire and Emergency Service vehicles where the land is Bush Fire Prone Land. A bushfire risk assessment must be submitted in accordance with Planning for Bushfire Protection 2019, a NSW Rural Fire Service Publication.</p> | <p>The subject land is bushfire prone. In accordance with the Bushfire Assessment Report prepared for the development, a minimum 20m asset protection zone around the building envelope for a dwelling on proposed Lot 5 would be required to comply with Planning for Bushfire Protection 2019. No clearing of vegetation is required within the identified APZ. As part of future residential development, a 20,000L static water supply would be required for fire fighting purposes. In relation to access, the Bushfire Assessment Report states that, consistent with the GTAs for the original subdivision approval, a perimeter road is not deemed practical or necessary for the proposed subdivision.</p> |
| Heritage | <p>A cultural heritage assessment will be required to be submitted along with an application for subdivision where the subdivision will result the creation of a dwelling entitlement and there are overland drainage lines and/or elevated parts of the property</p> | <p>An Aboriginal Cultural Heritage Assessment of the site was undertaken for the original development application for subdivision of the land. The whole of the land was considered in this assessment which included inspections of</p> |

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| | (ridgelines and plateaus). | <p>the site by representatives of the Mudgee Local Aboriginal Land Council. The assessment resulted in a letter from the Mudgee LALC raising no objections to the development, and recommending a monitor be present during the initial removal of topsoils to identify any potential Aboriginal Cultural Heritage Materials that may be unearthed.</p> <p>It is considered that this previous work suffices for this modification application which does not seek to include additional land for development.</p> <p>It is considered that the proposed modification will have no detrimental impact on Aboriginal cultural heritage.</p> |
| Vegetation/flora | A biodiversity assessment report is required to be submitted with the application. | An Ecological Assessment Report has been submitted with the development application. |
| Fauna | If there is a possibility of any threatened fauna species or their habitat on your land, this shall be detailed in the biodiversity assessment report submitted with the application. | The Ecological Assessment Report appropriately addresses the potential for impacts on threatened fauna species. |
| Crown Roads | | Not applicable to the proposed modification. |
| Watercourses | Works on or near waterways under the Water Management Act and any crossing of protected waters will require an activity approval from the Natural Resources Regulator and / or NSW Water prior to the construction of the crossing. | <p>The site contains mapped watercourses and other drainage lines.</p> <p>The proposed modification ensures that the watercourses crossing the site are retained with adequate setbacks. There are no works associated with the proposed modification that would be located within 40m of a watercourse and therefore the proposal does not require a Controlled Activity Approval under the Water Management Act 2000.</p> |
| Rights of carriageway | | Not applicable to the proposed modification. |
| Battle axe handle | | Not applicable to the proposed |

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| access | | modification. |
| Water cycle management report | Council will require a Water Cycle Management Report for each lot in the subdivision which identifies that there is a suitable area capable of the disposal of on-site wastewater. | An assessment for on-site effluent management has been undertaken for proposed Lot 5. The report states that the disposal of domestic effluent on-site is feasible for the subject site within a recommended disposal envelope using an absorption bed system with standard septic tank for primary treatment. |
| Telecommunications and infrastructure advice | | Noted. |
| Electricity | | The proposed modification will ensure that all proposed lots are connected to electricity. |
| Land use history | Any application on rural land would need to demonstrate the previous use of the land and potential for contaminating land uses. | The subject land has a long history of rural use. There is no record of any previous use of the site that may have caused any contamination. A statutory declaration has been provided by the landowner to demonstrate that there has been no activities on the land since at least 1970 that may have caused contamination of the land. Based on the above, the site is considered suitable for the proposed subdivision for residential use of the land. |
| Community title subdivision | | Not applicable to the proposed subdivision. |

4.4.2 Section 5.4 Environmental Controls

| Issue | Requirement | Comment |
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| Protection of Aboriginal Archaeological items | Development should not disturb or destruct relics without a permit. | An Aboriginal Cultural Heritage Assessment of the site was undertaken for the original development application for subdivision of the land. The whole of the land was considered in this assessment which included inspections of the site by representatives of the Mudgee Local Aboriginal Land Council. The |

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| | | <p>assessment resulted in a letter from the Mudgee LALC raising no objections to the development, and recommending a monitor be present during the initial removal of topsoils to identify any potential Aboriginal Cultural Heritage Materials that may be unearthed.</p> <p>It is considered that this previous work suffices for this modification application which does not seek to include additional land for development.</p> <p>It is considered that the proposed modification will have no detrimental impact on Aboriginal cultural heritage.</p> |
| Bushfire Management | Buildings should be designed to withstand bushfire. | <p>The subject land is bushfire prone. In accordance with the Bushfire Assessment Report prepared for the development, a minimum 20m asset protection zone around the building envelope for a dwelling on proposed Lot 5 would be required to comply with Planning for Bushfire Protection 2019. No clearing of vegetation is required within the identified APZ.</p> <p>As part of future residential development, a 20,000L static water supply would be required for fire fighting purposes. In relation to access, the Bushfire Assessment Report states that, consistent with the GTAs for the original subdivision approval, a perimeter road is not deemed practical or necessary for the proposed subdivision.</p> |
| Riparian and drainage line environments | Development should be set back from waterways. | <p>The site contains mapped watercourses and other drainage lines.</p> <p>The proposed modification ensures that the watercourses crossing the site are retained with adequate setbacks. There are no works associated with the proposed modification that would be located within 40m of a watercourse and therefore the proposal does not require a Controlled Activity Approval under the Water Management Act 2000.</p> |

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| Pollution and Waste Management | Development should address all waste streams and avoid pollution. | The proposed modification does not result in any waste or pollution that requires management. |
| Threatened Species and Vegetation Management | The impact of development on native flora and fauna should be assessed. | The Ecological Assessment Report submitted with the development application appropriately addresses the potential for impacts on native flora and fauna. |
| Building in Saline Environments | Development should be constructed to avoid problems associated with saline soils. | The subject land is not known to be highly saline. |

5 CONCLUSION

The proposal is a modification of DA0071/2016 (as amended by MA0018/2016) for a four lot subdivision of Lot 110 in DP 1029542 at 277 Black Springs Road, Eurunderee to create one additional lot.

The subject land is part zoned R5 Large Lot Residential and part zoned C3 Environmental Management, with a minimum lot size of 12ha and 400ha respectively. In November 2024, an amendment to the minimum lot size for the site was made, increasing the area of land with a 12ha minimum lot size.

The proposed new lot contains a suitable area for a dwelling that does not require the clearing of native vegetation for building works or asset protection. This modification application is supported by an environmental assessment, a bushfire assessment and an on-site effluent management assessment that all demonstrate the proposal will have no significant impacts on the environment. The building envelope also has adequate setbacks to ensure minimal impacts on the amenity of adjoining properties and on agricultural activities.

The subject land is bushfire prone. The proposed subdivision is for residential purposes and is therefore Integrated Development as a bush fire safety authority is required under Section 100B of the Rural Fires Act 1997.

The development is not “state significant development”, “regionally significant development” or “designated development”.

The proposed modification does not change the nature of the development and will have no significant environmental impact. There is no impediment to the approval of this modification application.

