
Statement of Environmental Effects
To Accompany Development Application:
Subdivision of Land (Boundary Adjustment)
Lot 22 DP 751130 and Lot 33 DP 751104, 1246
Mosquito Creek Road, WARIALDA

Prepared For:



David Treasure



April 2024

Preparation, Review and Authorisation

| Revision No. | Date | Prepared By: | Reviewed By: | Approved for issue by: |
|--------------|----------|--------------|--------------|------------------------|
| 1 | 30/08/23 | MB | MB | MB |
| 2 | 23/04/24 | MB | MB | MB |

Document Certification

This report has been developed based on agreed requirements as understood by Michael Brown Planning Strategies Pty Ltd at the time of investigation. It applies only to a specific task on the lands nominated. Other interpretations should not be made, including changes in scale or application to other projects.

Any recommendations contained in this report are based on an honest appraisal of the opportunities and constraints that existed at the site at the time of investigation, subject to the limited scope and resources available. Within the confines of the above statements and to the best of my knowledge, this report does not contain any incomplete or misleading information.

SIGNED:



Position: Town Planner

Date: 23/04/24

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- A: Subdivision Plans – Treasco Surveyors
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Executive Summary

This document forms a component of a development application that proposes the subdivision of the subject land ('the land') at 1246 Mosquito Creek Road, WARIALDA into two (2) rural allotments (refer to Section 3.1 for details). The subject properties have a combined area of 980.8ha. The subject land is zoned RU1 Primary Production under the provisions of Gwydir Shire Local Environmental Plan (GSLEP) 2013. The minimum lot size for subdivision under Clause 4.1 is 200ha. It would be noted that currently Lot 22 has an area of 654.2ha and Lot 33 an area of 326.6ha and both properties are vacant.

It is proposed that Lot 500 will have an area of 738.8ha and Lot 501 an area of 242ha and therefore compliant with the minimum lot size under Clause 4.1(3) applies. Access to proposed Lot 501 will be via an easement over the neighbouring property to the east, being Lot 52 in DP 45286 Government Road.

Clause 4.2 – Rural Subdivision states that:

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones –
 - (a) Zone RU1 Primary Production
- (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.

Whilst both properties will be greater than 200ha and therefore a dwelling can be erected on each lot, it would be noted that a dwelling could not be erected on proposed Lot 500 due to the extent of vegetation and the terrain and the fact that this part of the land is bushfire prone. The subdivision/boundary adjustment would allow a dwelling to be constructed on the cleared area of proposed Lot 501.

Under Clause 4.2B (3) & (4) – Erection of dwelling houses in certain rural areas, the following applies:

- (3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land –
 - (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
 - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) is an existing holding, or
 - (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by –
 - (i) a minor realignment of its boundaries that did not create an additional lot, or

- (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
- (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Note –

A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

- (4) Development consent must not be granted under subclause (3) unless –
 - (a) no dwelling house has been erected on the land, and
 - (b) if a development application has been made for development for the purpose of a dwelling house on the land – the application has been refused or it was withdrawn before it was determined, and
 - (c) if development consent has been granted in relation to such an application – the consent has been surrendered or it has lapsed.
- (5) Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.

The provisions of subclause (3)(e)(i) permit a boundary adjustment as there is no increase in lots and no increase in the number of dwellings that can be erected on the lots. The subject property is bushfire prone. However, as the proposal does not create a dwelling on each lot, it is considered that a bushfire hazard assessment is not justified in these particular circumstances.

Under 100B of the Rural Fires Act 1997, subclause (3) states that:

- (3) A person must obtain such a bush fire safety authority before developing bush fire prone land for a purpose referred to in subsection (1)

This application does not involve the development of each lot with a dwelling house. As such, it is respectfully requested that a bushfire hazard assessment report required (refer to **Appendix B** prepare by Bushfire Consultant Pty Ltd). As stated, Lot 500 does not contain any clear land and the land is not suitable for a dwelling due to the existing vegetation and terrain and the extent of bushfire hazard on this lot.

This Statement of Environmental Effects (SoEE) has been prepared on behalf of David Treasure. Michael Brown Planning Strategies Pty Ltd has prepared this report and should be read in conjunction with development plans prepared by the consultant team at **Table 1**.

The SoEE evaluates the proposed development for its compliance with the statutory controls embodied in various statutory planning instruments. This Statement demonstrates that the development is consistent with the aims and objectives of these instruments. In preparation of this document, consideration has been given to the following:

- The Environmental Planning and Assessment Act, 1979, as amended.
- The Environmental Planning and Assessment Regulation 2021.
- Gwydir Shire Local Environmental Plan 2013.
- Various State Environmental Planning Policies.

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed subdivision (boundary adjustment) is complimentary and compatible with the rural area of this part of Warialda.

This SoEE provides a description of the subject site and surrounds, an identification of the development proposed by this application and an assessment of the perceived impacts of this proposal for the matters contained within Section 4.15 of the Environmental Planning & Assessment Act, 1979, as amended.

In light of the above planning merits of the proposed development, the proposal succeeds when assessed against the Heads of Consideration pursuant under Section 4.15, and we recommend that Council grant consent to the development, subject to appropriate conditions.

1 Introduction

1.1 GENERAL

This 'Statement of Environmental Effects' (SoEE) has been prepared by Michael Brown Planning Strategies Pty Ltd on behalf of David Treasure to accompany a development application on land described as Lot 22 DP 751130 and Lot 33 DP 751104, 1246 Mosquito Creek Road, WARIALDA.

The proposed development briefly consists of the subdivision (boundary adjustment) of the land to create two (2) rural allotments (refer to Section 3.1 for details), as detailed in this SoEE. Access to proposed Lot 501 will be via an easement over the neighbouring property to the east, being Lot 52 in DP 45286 Government Road.

This will be fully detailed in Section 3 of this Statement. The subject property is bushfire prone (refer to **Appendix B**)

1.2 SCOPE OF REPORT

This document has been prepared pursuant to the *Environmental Planning and Assessment Act, 1979 (EP and A Act 1979)*, and the *Environmental Planning and Assessment Regulation 2021*, and reviews the applicable environmental planning instruments and development control plans that apply to the subject property as well as the natural and built environmental impacts of the proposal with particular reference to the relevant heads of consideration listed under s4.15 of the *Environmental Planning and Assessment Act, 1979 (EP and A Act 1979)*.

The SoEE describes the nature of the site and its immediate context. It proceeds to document the proposal and concludes with an assessment against the prevailing planning regulations and a request for approval. The report should be read in conjunction with plans prepared by Treasco Surveyors, which are attached as **Appendix A**.

1.3 PROJECT TEAM

Michael Brown Planning Strategies Pty Ltd, in preparing this SoEE has relied on relevant inputs from the following as detailed in **Table 1** below:

TABLE 1 - PROJECT TEAM

| The Project Team | |
|--|---|
| Subdivision Plans | Treasco Surveyors - (Appendix A) |
| Bushfire Hazard Assessment Report | Bushfire Consultant - (Appendix B) |

1.4 REPORT STRUCTURE

This SoEE is structured in the following manner:

Section 2 - Describes the Site and provides a detailed description of the site and the nature of surrounding development.

Section 3 - Details the Proposed Development and other relevant information.

Section 4 – Details the Statutory Controls that apply to the Development Site.

Section 5 – Details the Environmental Assessment of the proposed Development.

Section 6 – Provides a Conclusion.

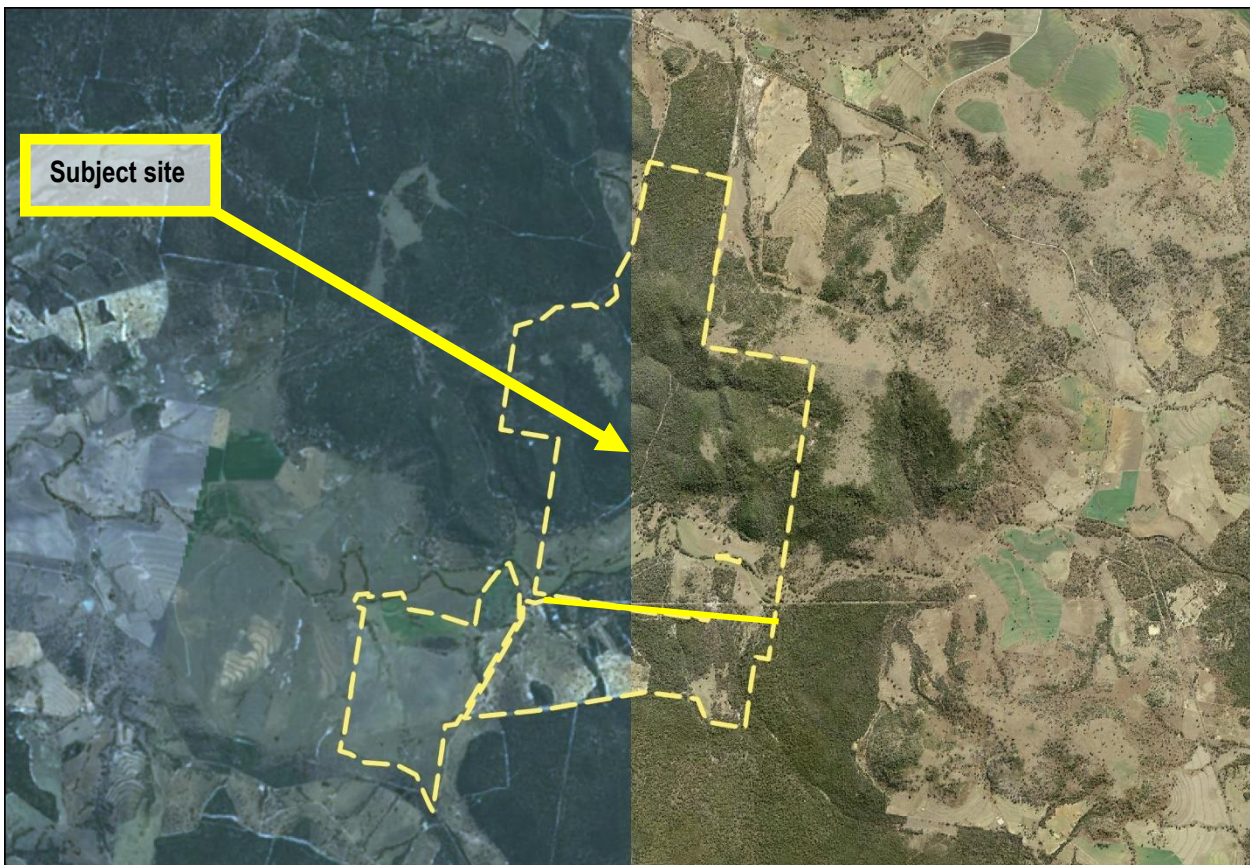
The following commentary and assessment is provided in respect of the above.

2 The Site

The site consists of an allotment on land legally described as Lot 22 DP 751130 and Lot 33 DP 751104, 1246 Mosquito Creek Road, WARIALDA and has an area of 980.8ha. **Figure 1** below presents an aerial photograph of the site and immediate context. The allotment is generally irregular in shape, as shown on the survey plans at **Appendix A**.

The subject property is generally heavily vegetated, with some clear area on proposed Lot 501 on which a future dwelling could be constructed (refer to the bushfire hazard assessment report at **Appendix B**) and addressed in Section 5.3.1, which provides recommendations for the proposed subdivision.

FIGURE 1 – LOCATION OF SUBJECT SITE



3 The Proposed Development

3.1 DESCRIPTION OF DEVELOPMENT

The proposed development is detailed in the accompanying DA plans and generally involves the subdivision of the land to create two (2) rural allotments, as shown on the plans at **Appendix A**. The proposed subdivision will create lots under Torrens Title.

It is proposed that Lot 500 will have an area of 738.8ha and Lot 501 an area of 242ha. Access to proposed Lot 501 will be via an easement over the neighbouring property to the east, being Lot 52 in DP 45286 Government Road.

3.2 SUBMITTED PLANS

The following plans accompany the application, as shown in **Table 2** below.

TABLE 2 – SUBMITTED PLANS

| Plan No | Sheet | Revision | Prepared by | Plan title | Date |
|---------|-------|----------|---------------------|-----------------------------------|------------|
| 23015 | 1 | | Treasco Surveyors | Plan of Subdivision | 27/05/2023 |
| 23015 | 1 | | Treasco Surveyors | Existing Site Conditions | 22/08/2023 |
| 1146 | | 1.0 | Bushfire Consultant | Bushfire Threat Assessment Report | 3/3/2024 |

4 Assessment of Relevant Controls and Policies

4.1 RELEVANT PLANNING INSTRUMENTS, CONTROLS AND POLICIES

The following documents are relevant to the proposed development:

- State Environmental Planning Policy (Precincts – Regional) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Primary Production) 2021.
- State Environmental Planning Policy (Transport and Infrastructure) 2021.
- Gwydir Shire Local Environmental Plan No. 2013.
- Rural Fires Act 1997.

4.2 STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policies (SEPP's) which apply to the site include:

4.3 STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS – REGIONAL) 2021

The SEPP applies to lands that are State Significant Precincts or Activation Precincts in certain local government areas. Gwydir Shire is not affected by the SEPP.

4.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The state Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to all land within the state. The aims of the Biodiversity and Conservation SEPP are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Comment

The proposal does not involve the clearing of vegetation and therefore the SEPP has no effect.

4.5 STATE ENVIRONMENTAL PLANNING POLICY (PRIMARY PRODUCTION) 2021

The state Environmental Planning Policy (Primary production) 2021 applies to all land within the state. The aims of the Primary Production SEPP are:

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

Part 2 Subdivision of, or dwellings on, land in certain zones

3 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

- (1) The objective of this section is to minimise potential land use conflict between existing and proposed development on land in the zones under a relevant EPI that are equivalent to the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).
- (2) This section applies to each environmental planning instrument specified in Part A of the Table (referred to in this section as a relevant EPI).

- (3) This section applies to land in the zones under a relevant EPI that are equivalent to the following zones –
- (a) **Zone RU1 Primary Production,**
- (4) A consent authority must take into account the matters specified in subsection (5) in determining whether to grant development consent to development on land to which this section applies for either of the following purposes –
- (a) subdivision of land proposed to be used for the purposes of a dwelling,
- (b) erection of a dwelling.
- (5) The following matters are to be taken into account –
- (a) the existing uses and approved uses of land in the vicinity of the development,
- (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).

Comment

The subject land is zoned RU1 Primary Production and both properties are vacant and not used for primary production due to the terrain and vegetation on the properties. In this regard, Clause 4.2(3) applies and is addressed in Section 4.7.1.3.

4.6 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

The proposed development is subject to the provisions of *State Environmental Planning Policy – Remediation of Land*. This SEPP aims to provide a State-wide planning approach to the remediation of contaminated land, and in particular, promotes the remediation of contaminated land for the purpose of reducing risk of harm to human health or the environment.

Depending on the level of contamination, remediation may be required with the consent (Category 1) or without the consent (Category 2) of the consent authority.

The State Government publication *Managing Land Contamination: Planning Guidelines* sets out the process for consideration of land contamination. Based on an initial consideration of known historical land uses, the guidelines may require, in certain circumstances, one or more of the following steps:

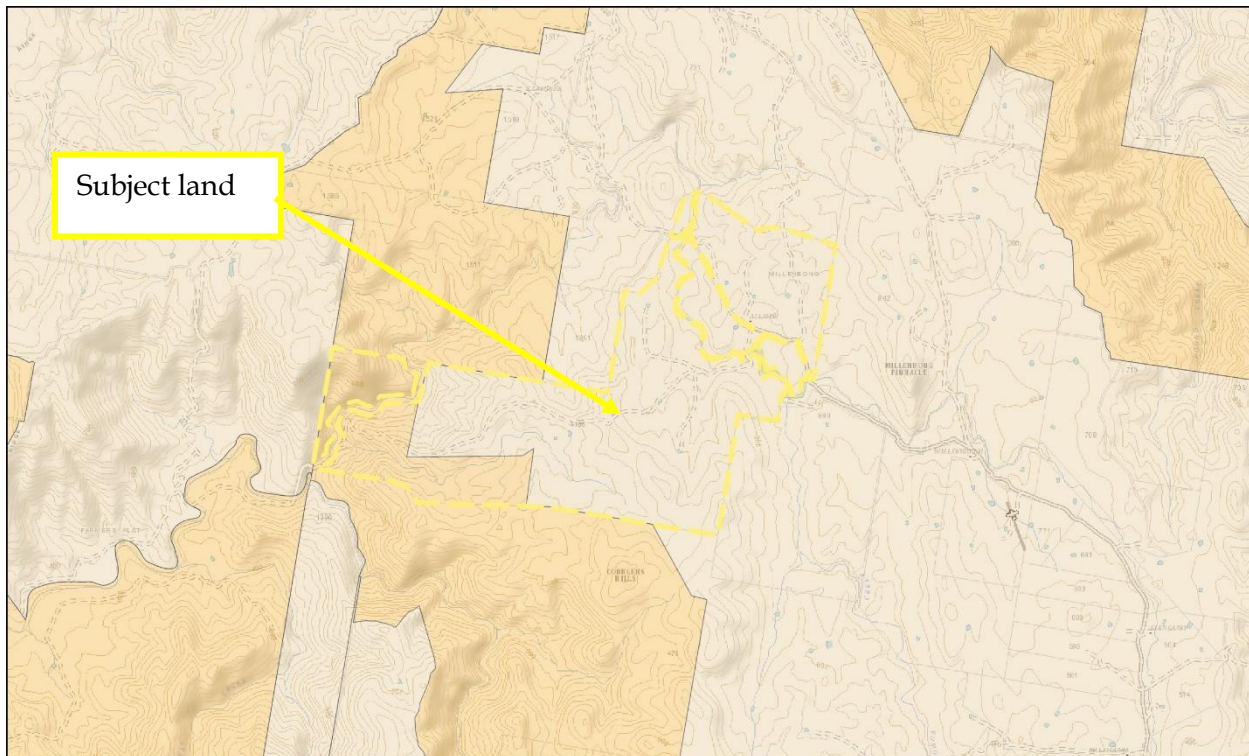
- A Preliminary Investigation – where contamination is likely to be an issue;
- A Detailed investigation – where a Preliminary Investigation highlights the need for further detailed investigations or where it is known that the land is likely to be contaminated and/or that the proposed use would increase the risk of contamination;
- A Remedial Action Plan (RAP) – to set the objectives and process for remediation;
- Validation and Monitoring – to demonstrate that the objectives of the RAP and any conditions of development consent have been met.

The land is vacant and is unlikely to be contaminated.

4.7 GWYDIR SHIRE LOCAL ENVIRONMENTAL PLAN NO 2013

Local Environmental Plan (LEP) 2013. Under the subject land is zoned RU1 – Primary Production (refer to **Figure 2**).

FIGURE 2 – LANDUSE ZONING UNDER LEP 2013



Under Clause 2.3 of the LEP the following objectives apply to the RU1 zone:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

It is considered that the proposed subdivision (boundary adjustment) is not consistent with the objectives. It is considered that the size of the two properties does not fragment or alienate the land, as each lot is greater than the minimum lot size of 200ha.

The following uses are permissible in the zone.

Aquaculture; Cellar door premises; Dual occupancies (attached); Dwelling houses; Extractive industries; Funeral homes; Group homes; Home industries; Intensive livestock agriculture; Offensive industries; Open cut mining; Roadside stalls; Rural workers' dwellings; Any other development not specified in item 2 or 3

It is noted that subdivision is permissible with consent under Clauses 2.6 and 4.1 of the GSLEP, which is addressed below in Sections 4.7.1.2 and 4.7.1.3.

Having regard to the zonal objectives and that the development is not prohibited, the subject proposal is therefore permissible with development consent.

4.7.1 SPECIFIC CLAUSES

The following addresses the various clauses of the GSLEP that are applicable to the development.

4.7.1.1 CLAUSE 2.6 – SUBDIVISION

Clause 2.6 of the GSLEP requires consent for subdivision. This application seeks development consent for the subdivision (boundary adjustment) of the land to create two (2) Torrens Title lots.

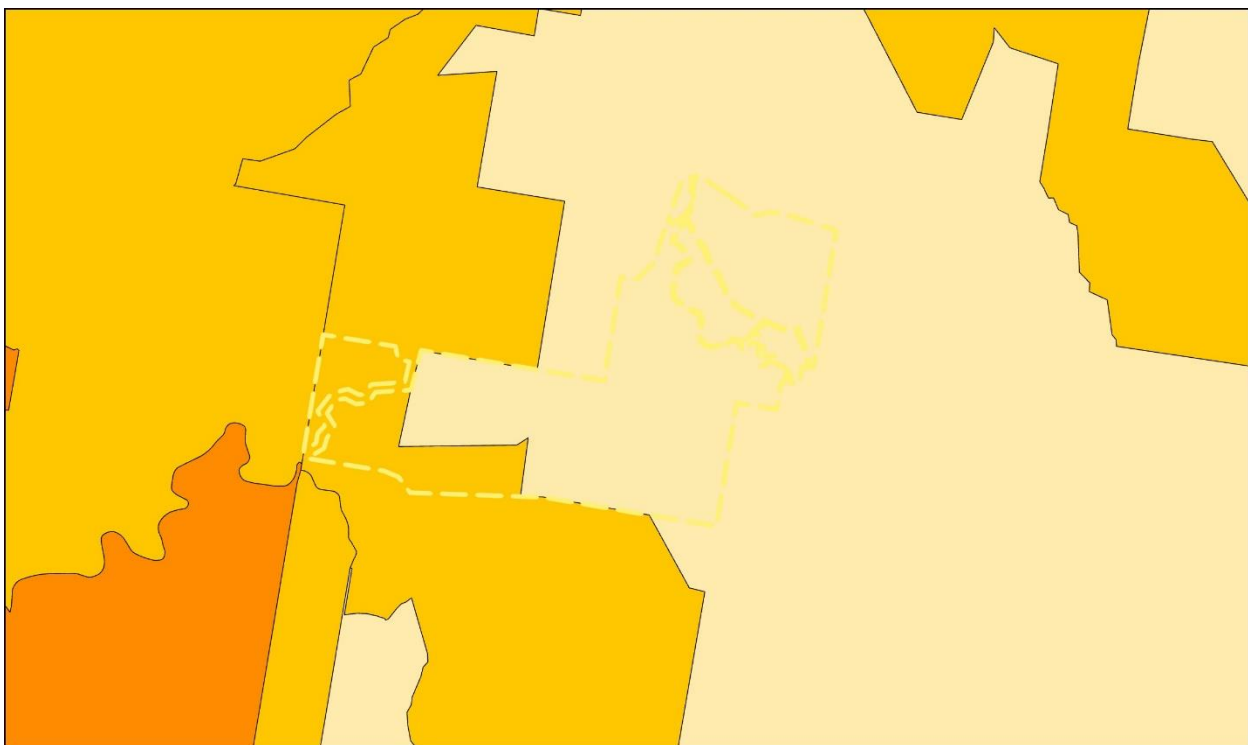
4.7.1.2 CLAUSE 4.1 – MINIMUM LOT SIZE

Clause 4.1 of the GSLEP provides as follows:

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

The minimum lot size for subdivision is 200ha (refer to **Figure 3**). As stated in Section 3.1, each lot is greater than 200ha and therefore compliant.

FIGURE 3 – MINIMUM LOT SIZE MAP



4.7.1.3 CLAUSE 4.2 – RURAL SUBDIVISION

This clause of the LEP provides:

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

- (2) This clause applies to the following rural zones –
 - (a) Zone RU1 Primary Production,
- (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.

Comment

Subclause (1) provides the objective of being flexible in the consideration of such applications.

The creation of the lots is not contrary to this objective.

In respect of the above, there are no existing dwellings on each property and no new dwellings are proposed by this application, noting proposed Lot 500 is constrained by terrain and vegetation and the extent of bushfire hazard. The subject lots are, however, compliant with the minimum lot size under this clause. It is not proposed that a dwelling be constructed on proposed Lot 501 by this application.

4.7.1.4 CLAUSE 4.2B

Clause 4.2B provides:

- (3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land –
 - (a) is a lot that is at least the minimum lot size shown on the [Lot Size Map](#) in relation to that land, or
 - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) is an existing holding, or
 - (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by –
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
 - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Note –

A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

- (4) Development consent must not be granted under subclause (3) unless –
 - (a) no dwelling house has been erected on the land, and

- (b) if a development application has been made for development for the purpose of a dwelling house on the land – the application has been refused or it was withdrawn before it was determined, and
 - (c) if development consent has been granted in relation to such an application – the consent has been surrendered or it has lapsed.
- (5) Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.

Comment

This application does not include the construction of a dwelling house on either new lot.

4.7.1.5 CLAUSE 6.3 – SENSITIVE LANDS

Clause 6.3(3) & (4) provide:

- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider –
 - (a) whether the development is likely to have –
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
 - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that –
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
 - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives – the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised – the development will be managed to mitigate that impact.

As stated above, there is extensive vegetation on the properties and **Figure 4** shows the areas where the clause applies. The proposal does not involve the clearing of vegetation and therefore the clause has no effect.

FIGURE 4 - SENSITIVE LANDS MAP



4.7.1.6 WATERCOURSES

Mosquito Creek traverses the properties and the land is shown on the riparian map at **Figure 5**. It is considered that the proposed boundary adjustment will have no impact on the creek system.

4.7.1.7 CROWN LAND LEASE

Figure 6 shows that the properties are part of a Crown Land lease. Lot 22 DP 751130 and Lot 33 DP 751104 are currently Crown Land. Tresco Surveyors have made application to Crown Lands to remove current restrictions on Lot 22 in DP 751130 and Lot 33 DP 751104. It is noted that under **Figure 6** that Lot 22 is currently Crown Land, however, this will change to freehold land upon application to Crown Land.

FIGURE 5 – RIPARIAN MAP

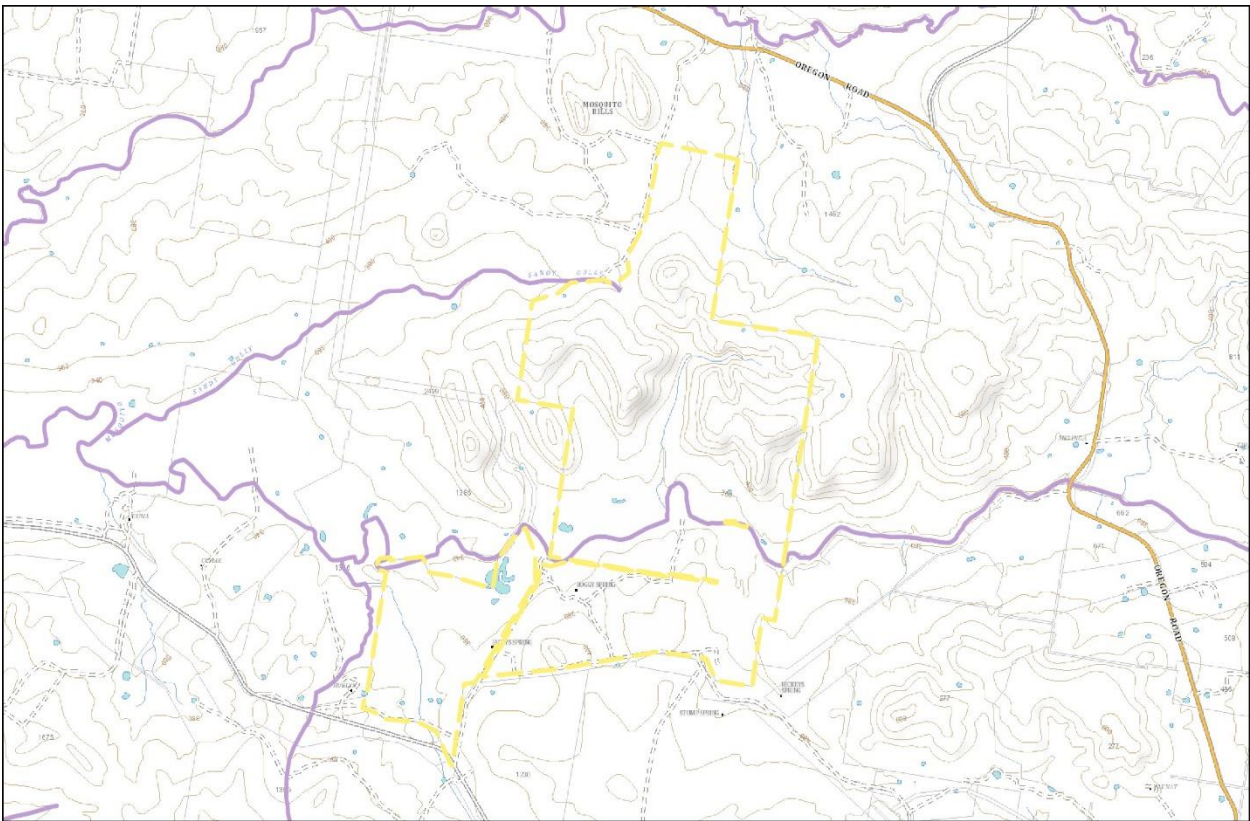
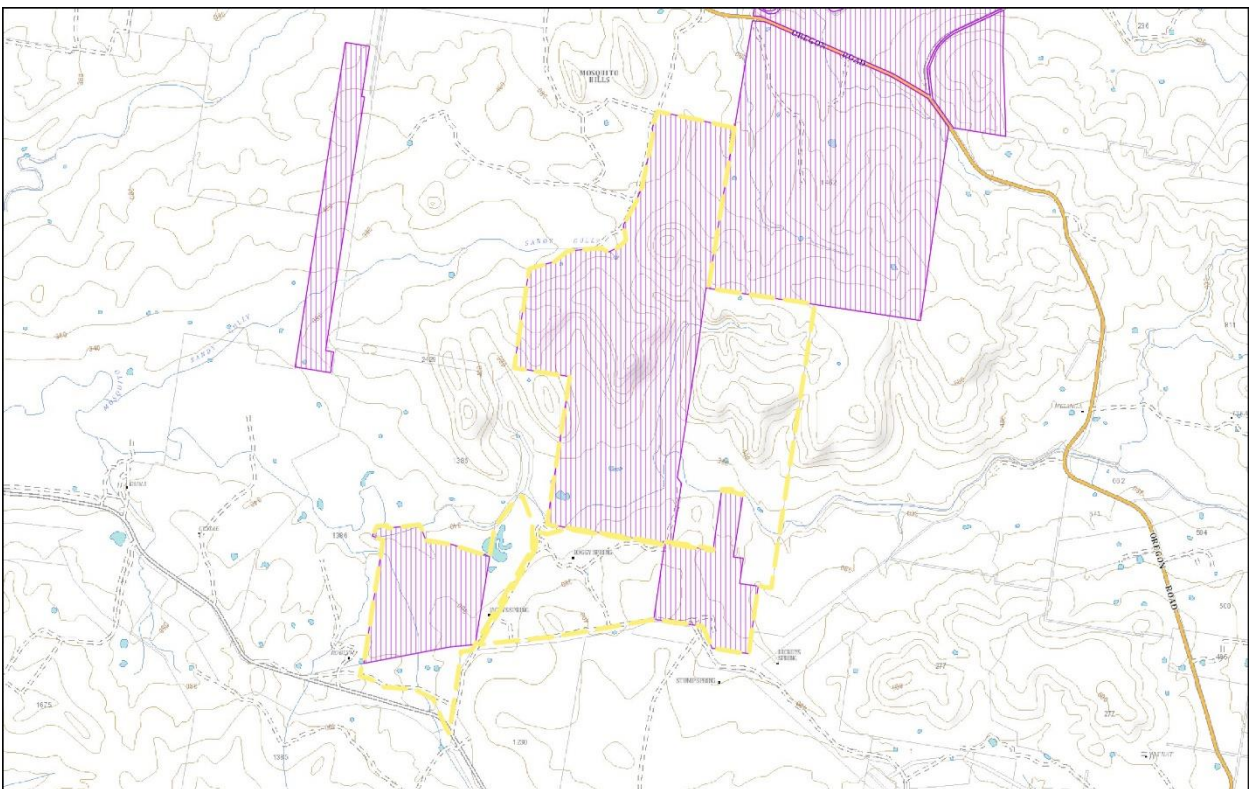


FIGURE 6 – CROWN LAND MAP



There are no other relevant clauses of GSLEP 2013 to be addressed for the proposed subdivision.

5 Assessment of Environmental Impacts

5.1 GENERAL

An overview assessment of the environmental effects of conducting the subject activity in the manner previously described in this report is provided below. This assessment has had regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act (as amended).

5.2 SECTION 4.15 (1) (a) – (i) PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS, (ii) EXHIBITED DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS, (iii) DCP, (iv) THE REGULATIONS.

The relevant matters for consideration include the provisions of the various State Policies, Gwydir Shire LEP 2013, all of which have been considered in Section 4 of this Report.

The objects of the Environmental Planning and Assessment Act 1979, as stated under Section 5(a), form the fundamental consideration for development proposals.

Specifically, Section 5(a) encourages:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,
- (iii) the protection, provision and co-ordination of communication and utility services,
- (iv) the provision of land for public purposes,
- (v) the provision and co-ordination of community services and facilities, and
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
- (vii) ecologically sustainable development, and
- (viii) the provision and maintenance of affordable housing.

The subject properties are in a rural locality and do not generate adverse impacts such as traffic within the surrounding area that cannot be managed within the existing road system. It therefore encourages *'the proper management, development and conservation of natural and artificial resources'*.

There are no significant adverse impacts on water quality, hence supporting the *'protection of the environment'* and principles of ecological sustainable development.

The proposal therefore satisfies the objects of the Act and is sound and desirable development proposal of this land zoned for rural purposes.

5.3 SECTION 4.15 (1) (b) – THE LIKELY IMPACTS OF THE DEVELOPMENT

The rural land is zoned RU1 Primary Production and the proposed subdivision maintains the land in lots greater than 200ha. Whilst zoned for primary production, the land is unlikely to be used for such purposes due to the topography and extent of vegetation.

5.3.1 NATURAL AND BUILT ENVIRONMENT

5.3.1.1 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The most common and broadest definition of Ecologically Sustainable Development (ESD) is “using, conserving and enhancing the community’s resources so that ecological processes, on which life depends, are maintained and the total quality of life, now and in the future, can be increased”.

The four principles of ESD are outlined in section 6(2) of the Protection of the Environment Administration Act, 1991. These principles include:

- The precautionary principle;
- Intergenerational and intragenerational equity;
- The conservation of biological diversity and ecological integrity; and
- Improved valuation and pricing of environmental resources.

In respect of the above principles, the following justifications are provided:

- The proposal will not result in serious or irreversible environmental damage. There is scientific certainty that enables safeguards to be designed that prevent environmental degradation resulting from the proposal, as the land is zoned for primary production.
- The proposal will not affect the health, diversity or productivity of the environment.
- There will be no adverse affects to future generations.

5.3.1.2 BUSHFIRE CONSIDERATIONS

Council’s Bushfire Prone Map indicates that the subject land is affected by bushfire (refer to **Figure 7**). The subject properties are vacant and there is no proposal to construct a dwelling on each lot. Indeed, as discussed in this SoEE, Lot 500 is heavily constrained and there are no cleared areas on which to construct a dwelling house. Proposed Lot 501 has cleared areas, but this proposal does not propose a dwelling on this lot.

The bushfire map affects both existing and proposed lots and given that the subdivision is only a paper subdivision and no dwellings are proposed, it is considered unnecessary to provide a bushfire hazard assessment under the provisions of *Planning for Bushfire Protection 2019*.

Under 100B of the Rural Fires Act 1997, subclause (3) states that:

(3) A person must obtain such a bush fire safety authority before developing bush fire prone land for a purpose referred to in subsection (1)

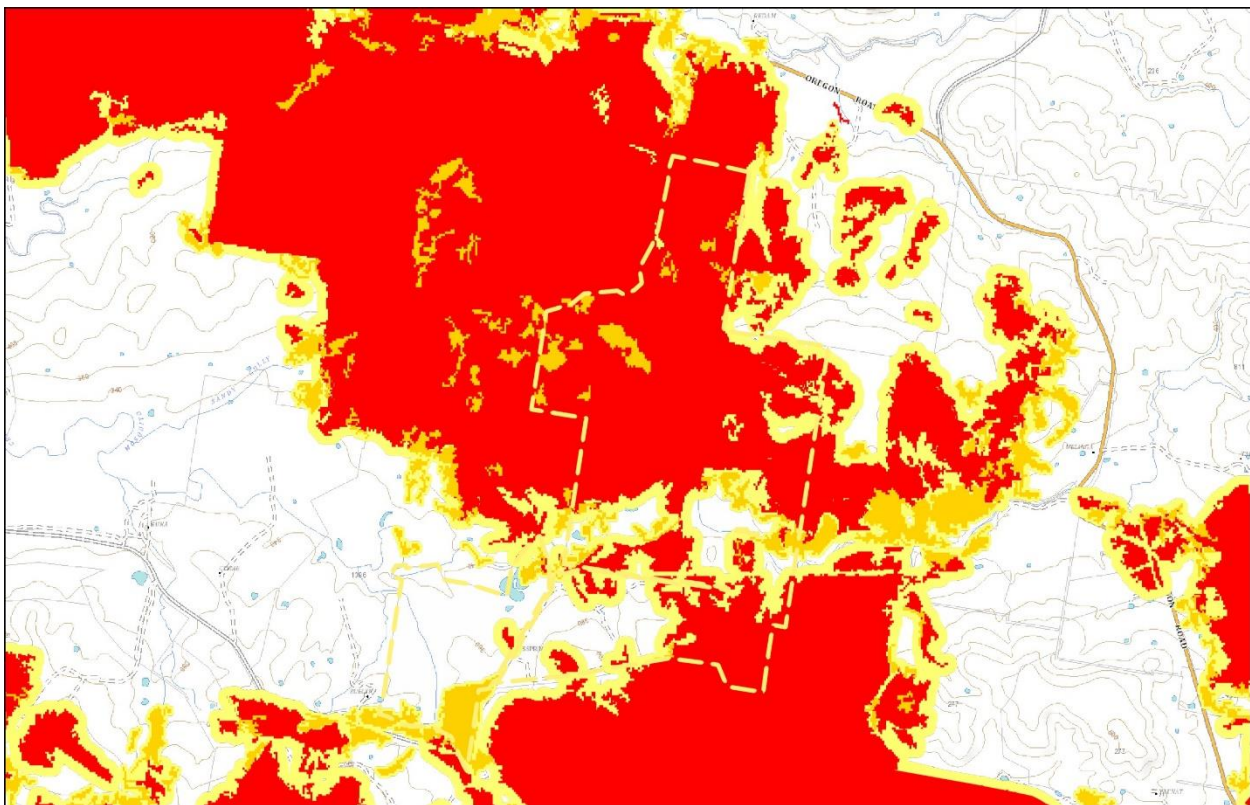
In this respect, Bushfire Consultant Pty Ltd has undertaken a bushfire threat assessment report at **Appendix B**. The report recommends the following in respect of the bushfire risk assessment:

This report has considered the potential bushfire hazard posed by the adjoining bushfire prone vegetation. The report has demonstrated that the proposal can meet the performance requirements for the subdivision of land (PBP Chapter 5). The subsequent 2 new lots will each be of a size which will require a site for a dwelling entitlement to be identified and assessed for suitability in the context of bushfire safety for each lot.

It should also be noted that it is a reasonable assumption that neither of these proposed lots will ever utilise the dwelling entitlement. This report has set out how each site can meet the performance requirements for the bushfire protection measures detailed in Section 5 of PBP 2019. In particular a right of passage via an 88b easement across the current Lot 4 DP:1140027 will be established to the benefit of the proposed new Lot 500.

It is the aim of this report to provide for the protection of human life (including firefighters) and to minimise impacts on the proposal from the threat of bushfire, while having due regard to development potential, on-site amenity and protection of the environment. (PBP 2019 P.1)

FIGURE 7 - BUSHFIRE PRONE MAP



5.3.2 SOCIAL AND ECONOMIC IMPACT

No adverse social or economic impacts will be occasioned by the proposal. The proposed subdivision provides for the land to remain for primary production. Accordingly, the development is considered to achieve positive social and economic outcomes for maintaining the land within the Shire.

5.4 SECTION 4.15 (1) (c) - THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed development is highly appropriate within the context of the development site and the surrounding locality. The relationship of the proposed subdivision within the context of the existing rural development has been discussed throughout this report and no adverse impacts will occur.

5.5 SECTION 4.15 (1) (d) – SUBMISSIONS

This cannot be dealt with as part of this Statement. The Council will notify the application in accordance with the notification policy. Any submissions received will need to be considered in respect of Section 4.15 of the Act.

5.6 SECTION 4.15 (1) (e) – THE PUBLIC INTEREST

The public interest is an overarching concept. The proposal will support the Zone RU1 Primary Production zone in the Gwydir Shire LGA. The development of the site for the proposed rural subdivision in the proposed manner is seen as one which:

- Satisfies the objectives for the RU1 zone and the aims/outcomes sought by the relevant Special Provisions of LEP 2013. The assessment provides that the application is compliant with the relevant clauses of the SEPPs & GSLEP 2013.
- Is able to satisfy the provisions of Council's GSLEP 2013, and there are no areas of non-compliance having regard to the proposal for the rural subdivision.
- The requirements of compliance with *Planning for Bushfire Protection 2019* has been addressed by Bushfire Consultant at **Appendix B**.
- Responds well to the heads of consideration under Section 4.15 of the EP&A Act 1979.

Having regard to the contents of this report, it is considered there are no matters that warrant refusal of the proposal on grounds of it being contrary to the public interest. It is therefore considered to be in the public interest in accordance with Council's statutory documents, which have been addressed in this report.

6 Conclusion

The proposed development comprises a two-lot subdivision, as detailed in this report.

6.1 SUMMARY OF FINDINGS

- The proposed development application is in accordance with the aims, objectives and provisions of all the relevant statutory and non-statutory planning instruments. It is considered to be suitable development for the site on which it is proposed and meets the relevant heads of consideration under Section 4.15 of the Act.
- The proposed development is in accordance with the aims and objectives of Council's policies for the area. It satisfies Council's provisions for the rural zone and other relevant provisions within GSLEP 2013.
- There are no matters that warrant refusal of the proposal on grounds of it being contrary to the public interest.

In view of the lack of adverse environmental impact, it is recommended to the Council that the application be approved, subject to appropriate conditions.

Appendix "A"
Subdivision Plans

Appendix "B"
Bushfire Hazard Assessment Report