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STATEMENT OF ENVIRONMENTAL EFFECTS

Development application for

One into two lot subdivision

Lot 372 DP703735 No. 280 Scrumlo Road Hebden

Lot 38 DP6842 No. 182 Scrumlo Road Hebden (ROW only)

Prepared on behalf of Graeme Clydsdale and Ross Clydsdale

June 2023

This submission has been prepared by

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Director



Author	Version	Date
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1. Introduction

This Statement of Environmental Effects has been prepared by Orbit Planning to support a development application for a two lot subdivision of Lot 372 DP 703735, 280 Scrumlo Road Hebden. A right of carriageway is proposed for access over Lot 38 DP6842.

The proposal is illustrated in the documents that accompanies the application prepared comprising:

- Lot Layout prepared by Scott Crisp & Hamblin dated 7 June 2023
- Bushfire Assessment Report prepared by Peak Land Management dated June 2023
- Biodiversity Assessment Report prepared by Peak Land Management dated June 2023

1.1 The Proposed Development

Proposal:	Two lot subdivision
Site:	Lot 372 DP 703735, 280 Scrumlo Road Hebden Lot 38 DP6842 , 182 Scrumlo Road Hebden
Environmental Assessment:	General Development, Part 4 of the Environmental Planning and Assessment (EP&A) Act 1979.
Consent Authority:	Muswellbrook Council.
Main Planning Instruments:	Muswellbrook Local Environmental Plan 2009.

2. Site Analysis

2.1 Site Location and Description

The legal description of the subject site is Lot 372 DP 703735, 280 Scrumlo Road Hebden. The site is regular in shape and has an area of 262 hectares. A right of carriageway for access to one of the new lots is proposed over Lot 38 DP6842 which neighbours the site to the south.

The site propped to be subdivided consists of one allotment, with access from Scrumlo Road via a sealed through road. There are no physical works to be undertaken as a result of this proposed subdivision and all existing infrastructure will remain on the lots. Proposed lot 382 will retain the existing dwelling and proposed lot 381 will remain vacant, with a building envelope identified on the lot layout plan and access via the proposed right of carriageway over the neighbouring land to the south.

The site is predominately grasslands with some scattered trees in the southern portion. Overall the site is predominately disturbed land used for grazing. The site is surrounded by agricultural land, with the site of the Bowmans Creek Wind Farm further north.

The location of the subject site is shown in **Figure 1**.

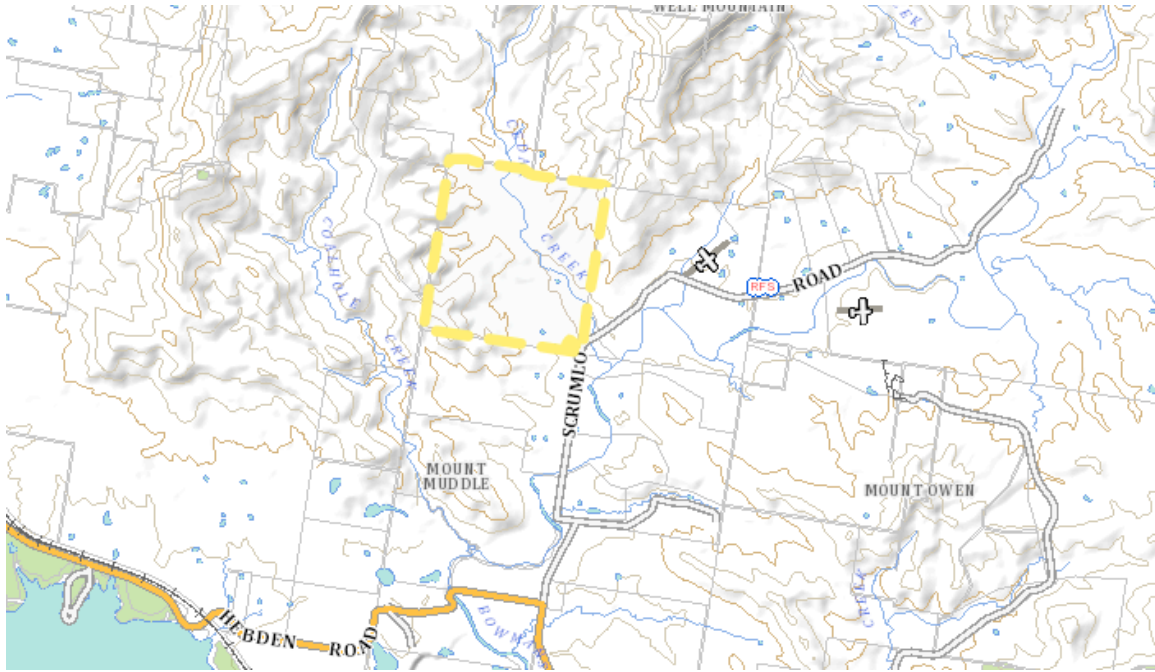


Figure 1 Locality Plan

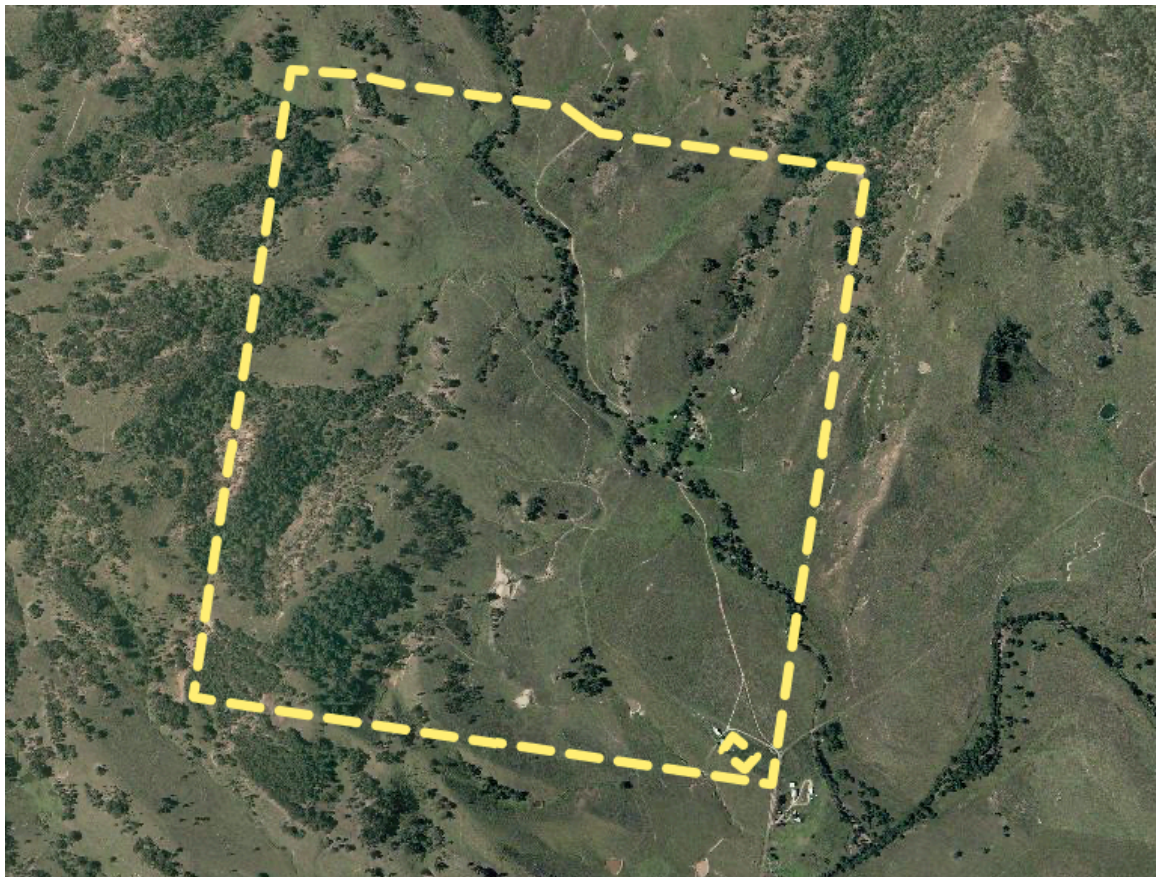


Figure 2 – Aerial View of Site and surrounds

2.2 Utilities and Services

Existing services supplied to the lots include on site sewerage, tank water, electricity and telecommunication. All existing services will remain as is for proposed lot 382 and will not be impacted by the proposed subdivision.

Proposed lot 381 will have electricity services extended to service this lot, as required by the service provider. Water and on site sewer management will be provided in association with a future dwelling (subject to separate approval).

2.3 Access and Parking

The site is currently access by vehicle via Scrumlo Road. Scrumlo Road is a sealed through road. There are no changes to this vehicle access for the existing dwelling located on proposed lot 382. Proposed lot 381 will be vacant land with a right of carriage way proposed from Scrumlo Road over the lot adjoining to the south being Lot 38 DP6842 (noting both lots will be in the ownership of Graeme Clydsdale once Lot 381 is registered).

3. Description of the proposed development

The development application seeks consent for a one into two lot subdivision comprising:

- Proposed lot 381 – 143 hectares
- Proposed lot 382 – 119 hectares

The reason for the subdivision is to finalise a family property settlement associated with a bequeath to Graeme Clydsdale and Ross Clydsdale whereby both were left separate parts (paddocks) of Lot 372 DP703735 by their late father. The proposed subdivision boundary is along the existing fence line of the 'paddocks' therefore resulting in no physical change to the site. It is noted that detailed pre-lodgment discussions have been held with Council's Town Planner Alissa Evans.

4. Environmental Planning and Assessment Act, 1979

As consent is required for the proposed development, the proposal is to be assessed under the provisions of Part 4 of the Environmental Planning and Assessment (EP&A) Act, 1979.

4.1 Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Section 1.7 of the EP&A Act, 1979 states:

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

Note: Those Acts contain additional requirements with respect to assessments, consents and approvals under this Act.

The Biodiversity Conservation Act 2016 (BC Act 2016) repeals the Threatened Species Conservation Act 1995 (NSW), the Native Vegetation Conservation Act, Nature Conservation Trust Act 2001 (NSW) and parts of the National Parks and Wildlife Act 1974 (NSW). The BC Act 2016 has established a new regulatory framework for assessing and offsetting biodiversity impacts on proposed developments.

Section 7.2 of the BC Act 2016 states:

Development or activity "likely to significantly affect threatened species"

(1) For the purposes of this Part, development or an activity is likely to significantly affect threatened species if:

- (a) *it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or*
 - (b) *the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or*
 - (c) *it is carried out in a declared area of outstanding biodiversity value.*
- (2) *To avoid doubt, subsection (1) (b) does not apply to development that is an activity subject to environmental impact assessment under Part 5 of the Environmental Planning and Assessment Act 1979.*

Section 7.3 of the BC Act 20176 states:

- 7.3 Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats*
- (1) *The following is to be taken into account for the purposes of determining whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats:*
- (a) *in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,*
 - (b) *in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:*
 - (i) *is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
 - (ii) *is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,*
 - (c) *in relation to the habitat of a threatened species or ecological community:*
 - (i) *the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and*
 - (ii) *whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and*
 - (iii) *the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,*
 - (d) *whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),*
 - (e) *whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.*
- (2) *The Minister may, by order published in the Gazette with the concurrence of the Minister for Planning, issue guidelines relating to the determination of whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats. Any such guidelines may include consideration of the implementation of strategies under the Biodiversity Conservation Program.*

A Biodiversity Assessment Report (BAR) which includes a 5 Part Test required under Section 7.3 of the BC Act 2016 has been prepared for the site by Peak Land Management and is submitted under separate cover.

The report provides the following:

The development site has a variety of disturbance processes occurring including:

- *Past clearing historically (considered lawful as pre 1990) of the proposed subdivision fence line, building envelope site and Asset Protection Zones & access road;*
- *Weed/introduced pasture grass cover over parts of the development areas,*
- *Cattle grazing;*
- *Past logging /clearing/underscrubbing operations over nearly the entire existing lot (being a historic cattle grazing property);*
- *Feral animals—almost certainly domestic & wild dogs, foxes, rats/mice, & cats present.*

- Access roads are located over cleared disturbed non native vegetation. They do cross some minor creek lines, which are denuded of all native vegetation including their riparian zones.

Land surrounding the study area is predominantly cleared & grazed agricultural land.

The results of the Flora survey are as follows:

In summary:-

- 24 flora species were recorded over and immediately around the development site (Appendix 1), comprising 9 native flora species, no threatened species, no ROTAP species, and 15 weed species including 3 declared priority weeds.
- Study area has low flora biodiversity, with two native vegetation community present over the development area being Central Hunter Ironbark Spotted Gum Grey Box Forest – Fig. 6 which is equivalent to a NSW listed Endangered Ecological Community.
- Central Hunter Ironbark Spotted Gum Grey Box Forest is also equivalent to a nationally protected EPBC Act listed Critically Endangered Ecological Community being Central Hunter Valley eucalypt forest and woodland. Vegetation >50m to the south of the building envelope is considered to form part of this community. It is not impacted by the proposal (assuming all safeguards enacted) and is not further assessed.
- River Oak is also present over the riparian zone of Cedar Creek. This is equivalent to a NSW listed Endangered Ecological Community being River Flat Eucalypt Forest Endangered Ecological Community. It is not an EPBC Federal listed Endangered Ecological Community in this area. It is not impacted, and not further assessed.
- The State Vegetation Type Map, 2022 is shown in Fig 6a & 6b. The State Vegetation Type Map, 2022 is considered inaccurate in this case, with no Swamp Oak or Yellow Box present.
- The Upper Hunter Vegetation Type Map, 2022 is shown in Fig 6c & 6d. It is considered accurate in this case.
- Derived grassland dominated by natives such as Three Awn Grass and Native Lovegrass is present over the building envelope and surrounding paddocks, considered native and >50 % cover, and classed as Category 1 land. It was most likely Central Hunter Ironbark Spotted Gum Grey Box Forest pre historical clearing.
- High weed presence, with exotic grasses and weeds over the majority of cleared areas.
- Note all trees can be retained over the site including all Asset Protection Zones/development areas.

The results of the Fauna survey are as follows:

In summary:-

- A very limited range of native birds and common mammals including Kangaroo were recorded over the site. No threatened fauna recorded, but habitat presence for some selected species such as Grey crowned Babbler off the development site & unaffected by the proposal is present.
- No breeding nests for White Breasted Sea Eagle, or Wedge Tailed eagle were recorded within 200m of any proposed BE.
- The site proposed clearing / habitat loss is limited to 0Ha over Category 2 land, and around 2Ha over Category 1 derived native Grassland over the development site including access roads, building envelopes which incorporates Asset Protection Zone and dwelling, and excluding boundary fence as already cleared/no impact. This clearing is limited to understorey only, with no trees affected. The proposed building envelope is already completely cleared of trees, shrubs, vines, etc, with grazed>50% native groundcover. All remnant scattered trees to be retained.
- The proposal is not anticipated to affect wildlife corridor connectivity over the site with retention of all vegetation outside of development area.
- Hollow bearing trees are present over proposed Lot 381 within 100m of the BE (Fig 8), with a variety of hollow sizes including larger hollows, with little understorey remaining around the trees. No HBT's are impacted by the proposal.
- SEPP koala feed trees not present, with no feed trees affected by the proposal.
- The development site offers no suitable foraging or shelter habitat, and no hollows for hollow dependant fauna, with no habitat presence for any threatened fauna species.
- It is considered a 5 Part Test is not required for any species, or Endangered Ecological Community in this case as no impact.

- The development site has no hollow fallen logs, no rocks & caves present, and does have a large dams & creeks present. Most creeks are denuded of riparian vegetation, except Cedar Creek. All access roads are located over already cleared creek lines/land, with no habitat presence for amphibians.

Figure 14: Impact area over Category 1 and 2 mapped land

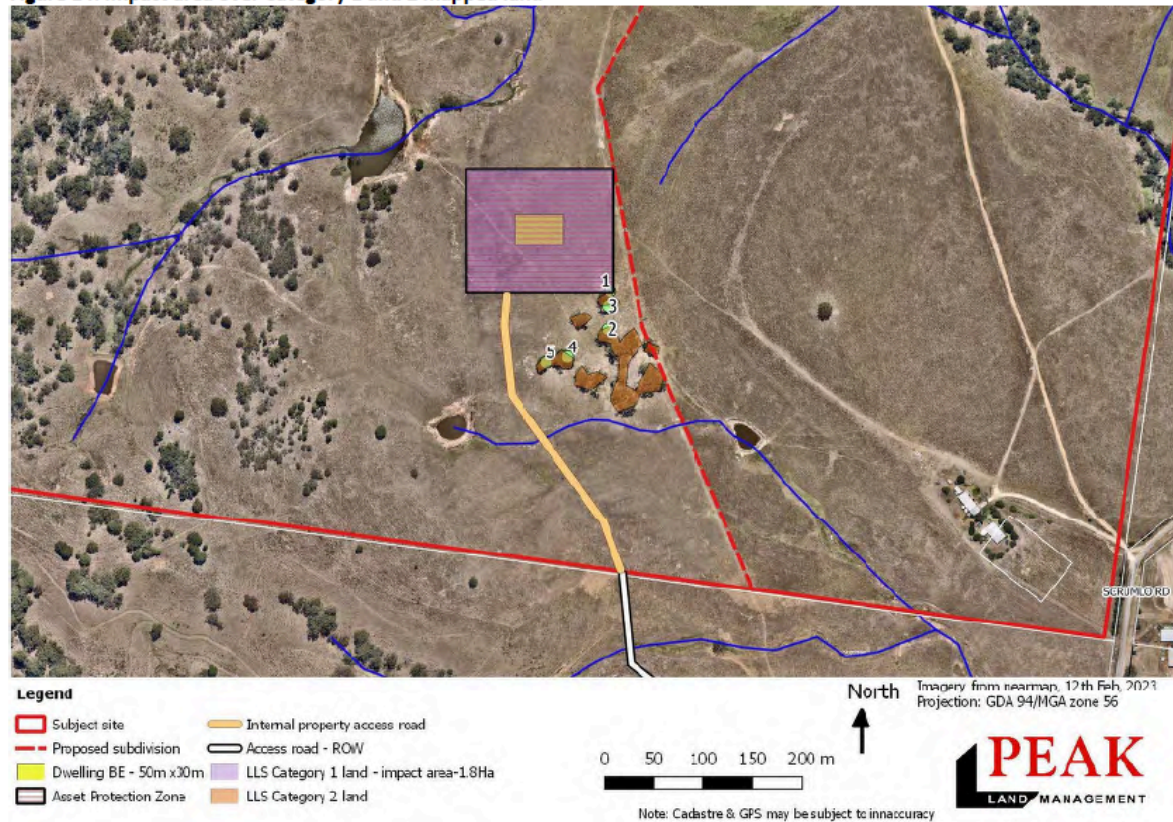


Figure 3 Extract from BAR showing Impact area of LLS Category 1 and 2 land.

Under the BC Act 2016, a determination of whether an impact is serious and irreversible (SAII) must be made in accordance with the principles prescribed in section 6.7 of the BC Regulation. The principles for determining serious and irreversible impacts in the Biodiversity Conservation Regulation, 2017 are:

- will cause a further decline of a species or ecological community that is currently observed, estimated, inferred or reasonably suspected to be in a rapid rate of decline, or
- will further reduce the population of a species or ecological community that is currently observed, estimated, inferred, or reasonably suspected to have a very small population size, or
- are impacts on the habitat of a species or area of ecological community that is currently observed, estimated, inferred or reasonably suspected to have a very limited geographic distribution, or
- are impacts on a species or ecological community is unlikely to respond to measures to improve habitat and vegetation integrity and is therefore irreplaceable.

In this case all potential SAII entities are derived from Appendix 2 of the Guide, and are within the Bionet search area as shown in Appendix 3 of the BAR. An Impact evaluation is shown in Table 11 of the BAR which found there is no SAII. Entities assessed include:

- Regent Honeyeater
- Swift Parrot
- Little Bentwing Bat (breeding)
- Eastern Bentwing Bat (breeding).
- Large eared Pied Bat (breeding)
- Eastern Cave Bat (breeding)

The area of impact proposed for native vegetation removal is 0Ha for BC Act area clearing determination (taking into account LLS Act Category of land). The total impact area is therefore under the 1Ha threshold for the minimum lot size. The subject site is part mapped on the Biodiversity Values (BV) Map (Fig. 10). The proposed development area (building envelope, Asset Protection Zone, roads) have been designed to avoid any impact over the BV Map. The proposal has no significant impact on threatened species or Endangered Ecological Communities. The development does not trigger the Biodiversity Offset Scheme, and does not require a BDAR.

The proposed development site (access roads, building envelope) has been sited to reduce clearing by being located over already cleared land, being paddocks with native plant cover. The development has reduced & avoided impact where feasible in conformation with the BC Act. The BAR concluded that the ecological investigations and assessment of impact have found that there is no significant impact on any threatened species, Endangered Ecological Community, critical habitat, or endangered populations by the proposed works on any NSW or nationally listed species under the EP&BC Act 1999, or BC Act 2016 if the proposal adopts the recommendations provided within the BAR.

4.2 Section 4.14 Consultation and development consent—certain bush fire prone land

Section 4.14 of the EP&A Act, 1979 states:

- (1) *Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3 (2)) unless the consent authority:*
- (a) *is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or*
 - (b) *has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.*

This development falls under Section 100B of the Rural Fires Act 1997 (and its regulations) which requires integrated development approval/ Bush Fire Safety Authority from the Rural Fire Service. A Bushfire Threat Assessment report prepared by Peak Land Management which confirms the proposal is consistent with Planning for Bushfire Protection 2019 requirements as follows:

The development complies with the performance criteria set out in PBP, 2019 with an alternate solution regarding no secondary alternate access road presented. All dwelling construction to comply with AS 3959/NASH Standard:

- *Serviced by unreticulated tank water supplies & dam, tank or dam proposed as dedicated water source- complies with PBP, 2019/Rural Fire Service policy.*
- *Serviced by solar/overhead electricity power- complies with PBP, 2019.*
- *Serviced by a property access road, but not a secondary access road – non compliant with Table 5.3b, PBP, 2019. Alternate solution presented requiring NSW Rural Fire Service approval.*
- *Asset Protection Zone – will comply with PBP 2019.*
- *Dwelling to be located in conformance with PBP, 2019, and all construction in accordance with AS 3959/NASH Standard.*
- *Landscaping to comply with PBP 2019 & recommendations below.*

The following recommendations are made:

Design and Construction: - *The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions are recommended:*

- The proposed dwelling over Lot 381 shall comply with Sections 3 and 7 (BAL 29) as per Australian Standard AS3959-2018 'Construction of buildings in Bush Fire-prone areas', or the NASH Standard NASH Standard for Steel Framed Construction in Bushfire Areas 2014 (NS300), in accordance with the National Construction Code (NCC), except as modified by Section 7.5 of PBP, 2019.
- The existing dwelling shall be upgraded to provide corrosion resistant steel ember screening max 2mm aperture size over all opening windows, and any gaps >2mm in size screened/blocked over the external walls/roof/subfloor/eaves, etc to prevent possible ember intrusion into the dwelling.

Access: - The intent of measures for access roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- Internal property access road shall comply with Table 5.3b & Appendix 3 Property Access Roads of 'Planning for Bush Fire Protection 2019'.
- An adequate turning area/turning head at the dwelling be provided for fire tankers.

Asset Protection Zone: - At the commencement of building works and in perpetuity the nominated Asset Protection Zone being as shown in Table 1 and graphically in Figures 6 should be managed to an Inner & Outer Protection Area Asset Protection Zone as outlined within Appendix 4 of Planning for Bushfire 2019.

In summary PBP states "Asset Protection Zone should consist of mown grass, concrete, pavers, pebbles, small clumps of vegetation, isolated trees, etc. Lawns and garden should be maintained so that they do not become overgrown, vegetation does not grow over or touch the dwelling, and canopy of trees do not touch or become continuous with the surrounding bushland (at least 2-5 metres between tree canopies).

Water and Utilities: - The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions should apply:

- Water, electricity and gas shall comply with Table 5.3c, 5.3d & 7.4a (where relevant) of 'Planning for Bush Fire Protection 2019'.
- The existing dams are considered an adequate dedicated water source (if permanent water). If a dedicated water tank is provided, it shall comply with:
 - Minimum of minimum 20 000 litre capacity of permanent water storage.
 - A 65mm Storz outlet with a Gate or Ball valve to be provided to tank.
 - Above ground tanks are manufactured of concrete or metal and raised tanks have their stands protected. Plastic tanks are not used. Tanks on the hazard side of a building are provided with adequate shielding for the protection of fire fighters.
 - All above ground water pipes external to the building are metal including and up to any taps. Pumps are shielded.
 - Gate or ball valve and pipes are adequate for water flow and are metal rather than plastic.
 - All tanks to be sign posted/marked "SWS"- static water Storage.

Landscaping: - Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2019'. This includes all new fencing if within 6m of the dwelling shall be non-combustible, and landscaping is managed to minimise flame contact with dwelling, reduce radiant heat levels, minimise embers and reduce the effect of smoke on residents and firefighters.

4.3 Section 4.15 Evaluation

Section 4.15 of the EP&A Act, 1979 sets out the matters a consent authority must take into account when determining a development application. These include: -

- (1) *Matters for consideration general. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—*
- (a) *the provisions of—*
- (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
 - (v) *(Repealed)*
- that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

The proposed development is assessed against the Section 4.15 evaluation criteria below.

4.4 State Environmental Planning Policies

4.4.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 Koala Habitat Protection 2020

The aims of this chapter are:

to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) *by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- (b) *by encouraging the identification of areas of core koala habitat, and*
- (c) *by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

A detailed assessment of the proposed subdivision and the requirements of the Biodiversity and Conservation SEPP is provided in the Biodiversity Assessment Report prepared by Peak Land Management and is reproduced below for ease of reference:

This SEPP applies across NSW to land which is greater than 1 hectare in extent, including adjoining land in the same ownership whether or not the proposal applies to the whole or only part of the land, and is not a National Park or Forestry Reserve. Therefore this SEPP applies, and will be addressed here.

No scats, tree use marks or visual sightings of koalas were seen on or around the site, including over the development area including Asset Protection Zones and access roads. No feed trees as listed under this SEPP occur over the subject site and the site is therefore not considered potential Koala habitat.

There is no Koala Plan of Management (KPoM) known to exist over this site. No clearing of any Koala feed tree, or any tree, is proposed.

It is considered that the proposed works conform to this SEPP, and that no further koala SEPP studies are considered warranted or required under this SEPP.

4.5 Muswellbrook Local Environmental Plan 2009

The site is zoned RU1 Primary Production pursuant to the provisions of Muswellbrook Local Environmental Plan 2009 (MLEP 2009).

4.5.1 Clause 2.3 Zone objectives and land use table

This clause requires that the consent authority must have regard to the objectives for development in a zone when determining a development application. The objectives of the RU1 Primary Production zone are:

- *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.*
- *To protect the agricultural potential of rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.*
- *To maintain the rural landscape character of the land in the long term.*
- *To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not—*
 - (a) destroy or impair the agricultural production potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or*
 - (b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or*
 - (c) visually intrude into its surroundings, except by way of suitable screening.*
- *To protect or conserve (or both)—*
 - (a) soil stability by controlling development in accordance with land capability, and*
 - (b) trees and other vegetation, and*
 - (c) water resources, water quality and wetland areas, and their catchments and buffer areas, and*
 - (d) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.*

The proposed development has regard to the objectives as follows:

The proposed subdivision proposes to subdivide one lot into two. The subdivision will ensure the boundary of proposed lots is in alignment with the existing fence so that the existing infrastructure is maintained, and the existing agricultural uses of the site can continue to be undertaken. The subdivision does not include any physical works being undertaken on the site, so there will be no impact to the character of the area or the visual nature of the locality. The proposed subdivision proposes to create two allotments that meet the minimum lot size in the zone.

4.5.2 Clause 2.6 Subdivision consent requirements

The clause provides that land to which this Plan applies may be subdivided, but only with development consent.

4.5.3 Clause 4.1 Minimum subdivision lot size

The objectives of this clause are:

- (a) to protect the productive capacity of agricultural land by minimising potential land use conflicts,*
- (b) to maintain viable farm sizes to promote agricultural production,*
- (c) to ensure that subdivision does not unreasonably impact on the natural and environmental values of the area and will not lead to the fragmentation of natural areas,*
- (d) to encourage social and economic diversity by providing a range of lot sizes in residential areas.*

The proposed development provides the following lot size in accordance with the [Lot Size Map](#) specified in Clause 4.1(3).

Lot size requirement	Proposed lot size	Compliance
80 hectares	Proposed lot 381 – 143 hectares	Yes
	Proposed lot 382 – 119 hectares	

4.5.4 Clause 7.10 Essential Services

The requirements of Clause 7.10 are:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

The proposed development has regard to the requirements of this clause as follows:

Existing services supplied to the lot include on site sewerage, tank water, stormwater, electricity and telecommunication. All existing services will remain as is for proposed lot 382 and will not be impacted by the proposed subdivision.

Proposed lot 381 will have electricity services provided to service this lot, as required by the service provider. Water and on site sewer management will be provided in association with a future dwelling (subject to separate approval).

The site is currently access by vehicle via Scrumlo Road. Scrumlo Road is a sealed through road. There are no changes to this vehicle access for the existing dwelling located on proposed lot 382. Proposed lot 381 will be vacant land with a right of carriage way proposed from Scrumlo Road over the lot adjoining to the south.

4.6 Muswellbrook Development Control Plan

The following elements under Muswellbrook DCP are relevant to this application.

Section 5 - Subdivision

4.6.1 Clause 5.4.1 Lot Size and Shape

The objective of this clause is:

- (a) To ensure that proposed lots appropriately respond to existing site conditions, and are practical.*

The proposed development has regard to the objectives of this clause as follows:

The proposal includes the subdivision of one lot into two, using the existing fence line as the dividing boundary line. The subdivision will create two allotments suitable for their intended agricultural use, whilst also ensuring both allotments have suitable area to maintain a dwelling entitlement.

4.6.2 Clause 5.4.4 Soil and Water Management

The objectives of this clause are:

- a) The quality of runoff water from the subject land is the same or better than the quality of water prior to the subdivision taking place.*
- b) Drainage from proposed lots is consistent with the pre-development stormwater patterns and flow regime.*

The proposed development has regard to the objectives of this clause as follows:

The proposed subdivision does not include any physical works on the site. The subdivision is intended to subdivide the existing allotment into two with the boundaries in alignment with the existing fence line.

4.6.3 Clause 5.4.6 Flora and Fauna

The objectives of this clause are:

- a) To ensure that existing vegetation is retained unless it is demonstrated that this is impractical in the circumstances*
- b) To ensure that impacts of subdivisions on existing flora and fauna is minimised.*

The proposed development has regard to the objectives of this clause as follows:

The proposed subdivision does not include any physical works on the site so there will be no vegetation removal. A Biodiversity Assessment Report has been prepared by Peak Land Management as detailed in section 4.1 of this report.

4.6.4 Clause 5.4.7 Visual Amenity

The objectives of this clause are:

- a) Subdivision proposals are designed so that subsequent development will have minimal impact on significant views and vistas.*
- b) Subdivisions are designed to compliment the landscape rather than altering the landscape to suit a subdivision layout.*
- c) Subdivision proposal is compatible with the cultural and landscape characteristics of the locality or region.*

The proposed development has regard to the objectives of this clause as follows:

The proposed subdivision does not include any physical works on the site so there will be no impact to visual amenity, views or vistas. The proposed subdivision will result in two allotments that meet the minimum lot size of the RU1 Primary Production Zone.

4.7 The Likely Impacts of the Development

4.7.1 Economic and Social Impact

The proposed subdivision will allow for the subdivision of one large agricultural parcel of land into two smaller agricultural allotments. Both proposed lots are over the 80 hectare minimum lot size and have sufficient area and are dimensioned appropriately to allow for the continued agricultural use. The creation of one additional vacant agricultural allotment with a dwelling entitlement will allow for the erection of a dwelling, subject to separate approval, which will generate income and employment in the locality during construction. Overall, it is considered that the development will have a positive social and economic impact on the local community.

4.7.2 Bushfire Assessment

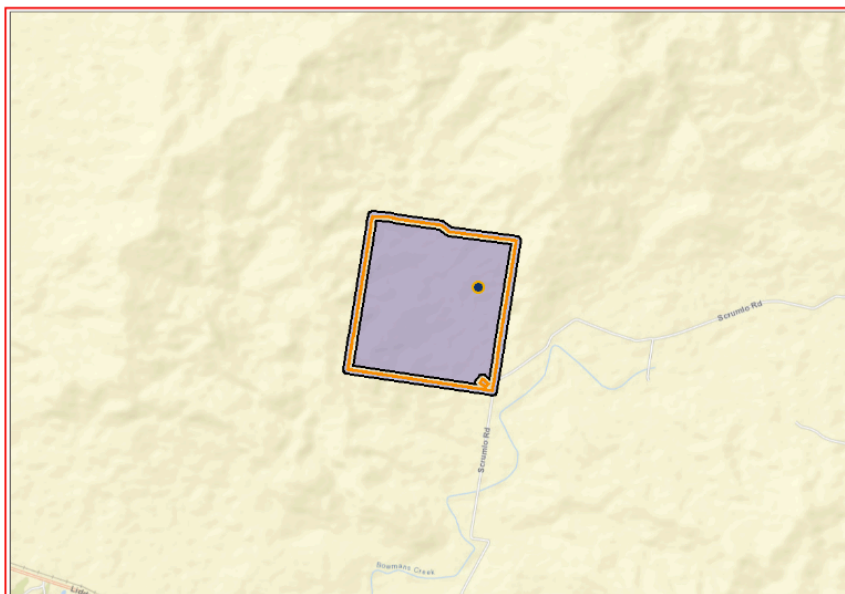
The development site is identified as bushfire prone land and a detailed assessment of this is provided under Section 4.2 of this report. A copy of the Bushfire Assessment prepared by Peak Land Management is submitted under separate cover.

4.7.3 Aboriginal Due Diligence Assessment

A search of the AHIMS database has been undertaken and a copy of the result is provided below.

AHIMS Web Service search for the following area at Lot : 372, DP:DP703735, Section : null with a Buffer of 50 meters, conducted by Sally Flannery on 22 June 2023.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

1	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

There is one artefact registered on the site comprising an open camp site Site ID 37-3-0047 (Site Card included in **Appendix 1**). The artefact is located in the north eastern part of Proposed Lot 382. There are no artefacts registered within Proposed Lot 381. The proposed subdivision does not seek approval for any physical works within Lot 382 as this lot already has an existing house with access and services. The generic due diligence process has been followed in accordance with Section 8 of the Due Diligence Code of Practice and it is submitted that a AHIP is not required. Notwithstanding, if any Aboriginal objects are found work will stop and NSW Department of Planning and Environment (Environment & Heritage) will be notified.

4.8 Suitability of the Site

The proposed subdivision is permissible in the zone and is fully compliant with Muswellbrook LEP 2009 and Development Control Plan. This application demonstrates that the proposed lots are of suitable size to support the existing agricultural uses and a dwelling. The nature of the proposed development means it can be conducted without significant adverse impact on the environment or amenity of any adjoining owner. The development, as proposed, is considered to be suitable for the site.

4.9 Public Submissions

As specified by Council's Community Participation Plan it is understood that Council will require notification to be undertaken for this subdivision. Should issues arise which have not been considered by this report, it is requested that the applicant be afforded an opportunity to address the matters raised.

4.10 The Public Interest

It is considered that the merits of the proposal are such that it would be in the interests of the local and wider public for Muswellbrook Council to grant conditional consent to the proposed development.

5. Conclusion

A thorough assessment of the proposed application has been undertaken and the changes are considered to be acceptable having regard to the matters for consideration under Section 4.15 of the EP&A Act 1979.

The proposed subdivision is permissible pursuant to Muswellbrook LEP 2009 and complies with all applicable requirements. The proposed subdivision has been designed in accordance with Council's requirements.

Support for this application will ensure the orderly and economic use of the land. The proposed development will be able to be conducted without significant adverse effects on the environment, while meeting the objectives of the EP&A Act, 1979.

Orbit Planning respectfully request that Muswellbrook Council grant conditional consent to the development detailed within the development application and supporting documentation.