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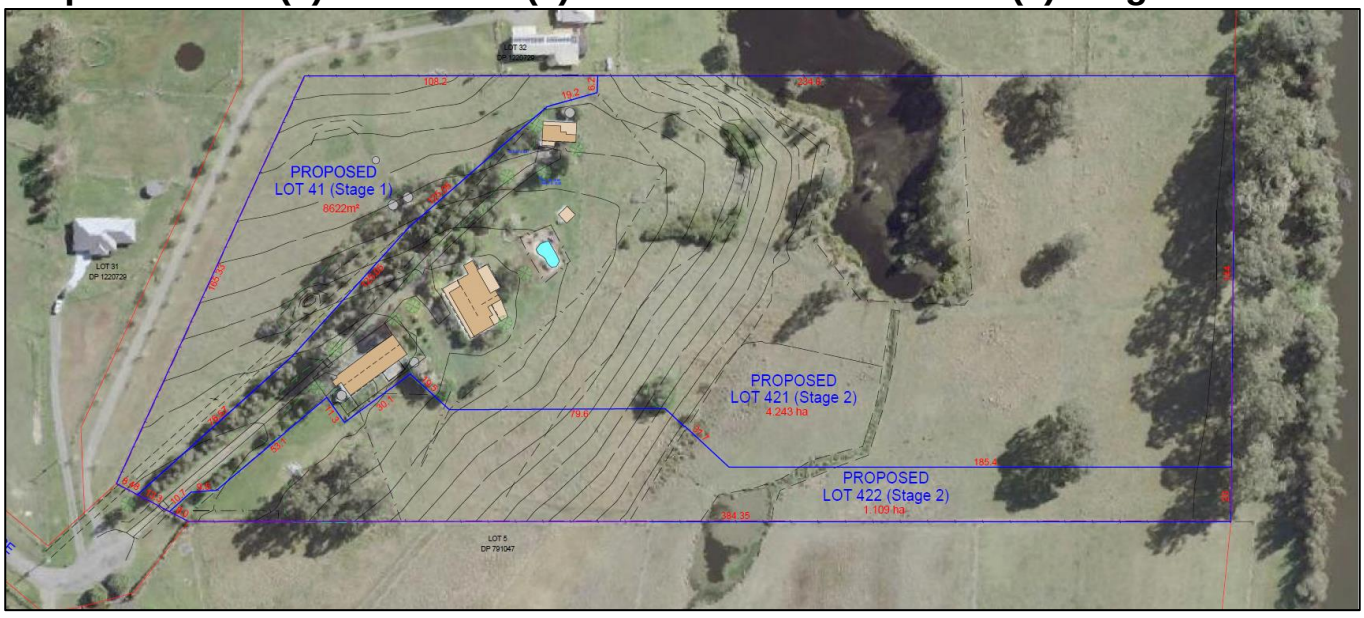
Development Application

Pursuant To Section 4.12 of the Environmental Planning and Assessment Act 1979

Statement of Environmental Effects

Proposed One (1) into Three (3) Lot Subdivision in Two (2) Stages



LOT 4 DP 791047
64 Williams River Close
CLARENCE TOWN

Applicant and Landowner: Mr Glen O'Connor

February 2024
JWP Ref # 11796

JW Planning Pty Ltd

Town Planning

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PRECIS

This application seeks Development Consent for the subdivision of one (1) lot into three (3) lots to facilitate infill residential subdivision.

The site is located at 64 Williams River Close, Clarence Town and the land is zoned R5 Large Lot Residential.

The proposal is to subdivide the land in two (2) stages; initially creating two (2) lots comprising the residential dwelling and a vacant new lot (Stage 1) and subsequently, subdividing the lot with the existing dwelling in to two (2) lots (Stage 2). The proposed subdivision is permissible with Council consent.

The boundaries of the proposed subdivision respond to the development controls applicable under the Dungog Local Environmental Plan 2014 and the application responds to Dungog Development Control Plan No.1.

Accordingly, Council is encouraged to grant consent to the application.

1.0 Introduction

This Statement of Environmental Effects has been prepared in accordance with Part 1 of the Application requirements dated March 2022, approved by the Planning Secretary's delegate on 28 February 2022 pursuant to section 24 of the Environmental Planning and Assessment Regulation 2021. The Statement is provided to facilitate assessment of the proposal in accordance with the heads of consideration provided under section 4.15 of the Environmental Planning and Assessment Act 1979.

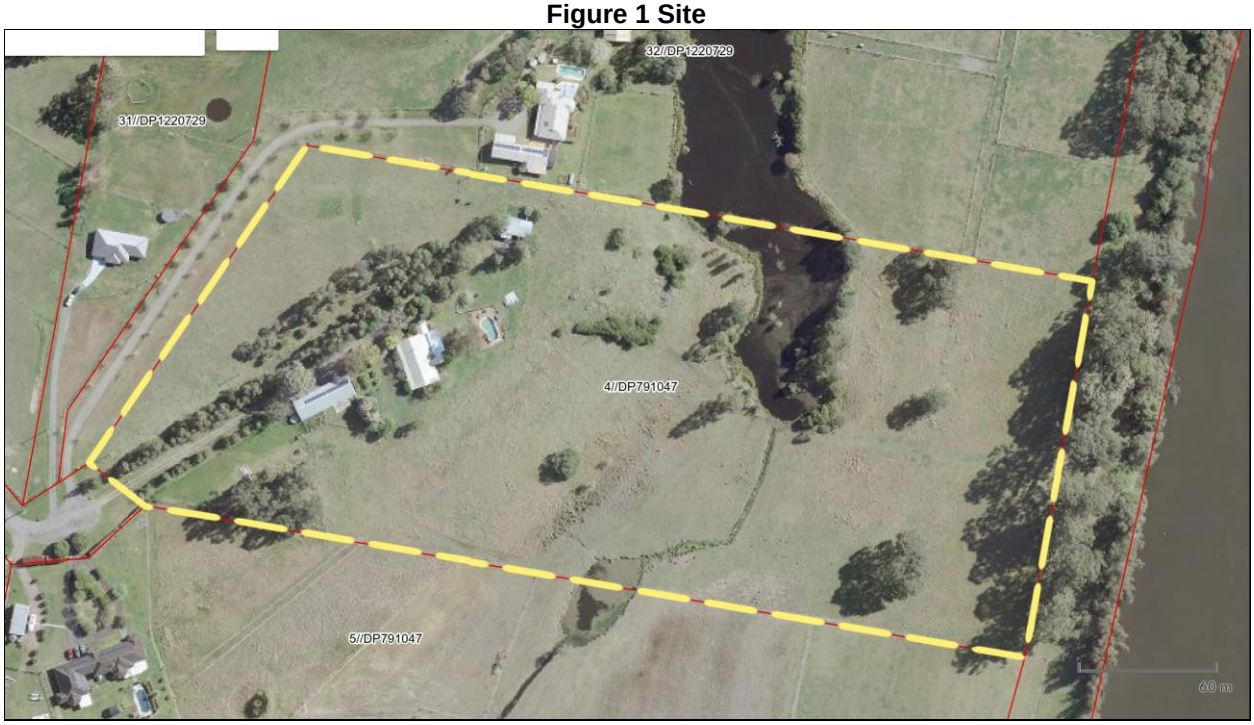
1.1 The Applicant

The landowner and applicant for this Development Application is Mr Glen O'Connor. JW Planning Pty Ltd act for the applicant in providing planning advice and in preparing this application.

1.2 Site Location and Context

The application is in relation to a single parcel of land that is legally described as Lot 4 DP 791047, 64 Williams River Close, Clarence Town (**'the site'** - refer **Figure 1**).

Figure 1 Site



Source: DPIE ePlanning SpatialViewer

The site forms part of the large lot residential area located about 4-minutes drive (3km) the south of Clarence Town (refer **Figure 2**). The location features a minimum lot size of 8,000sqm to encourage lot residential subdivision relatively close to and in support of the township of Clarence Town.

Figure 2 Site Location

Source: DPIE ePlanning SpatialViewer

The site is approximately 62,142sqm (6.214 ha) in area, with a frontage of 29.78m to Williams River Close. The land is generally rectangular in shape and is separated from the Williams River by a strip of foreshore reserve land that is zoned C3 Environmental Management.

The land is about 385 metres in length east to west, and about 164 metres in width north to south at the interface with the foreshore reserve. The land is zoned R5 to encourage large lot residential development (refer **Figure 3**).

Figure 3 Land Use Zone

Source: DPIE ePlanning SpatialViewer

1.4 Site Analysis

The subject site contains a residential dwelling, two (2) farm sheds, a pool and various improvements (fencing, water tanks, cattle yards etc.

Figure 4 Existing Dwelling

Figure 5 Water Tanks West of Existing Dwelling

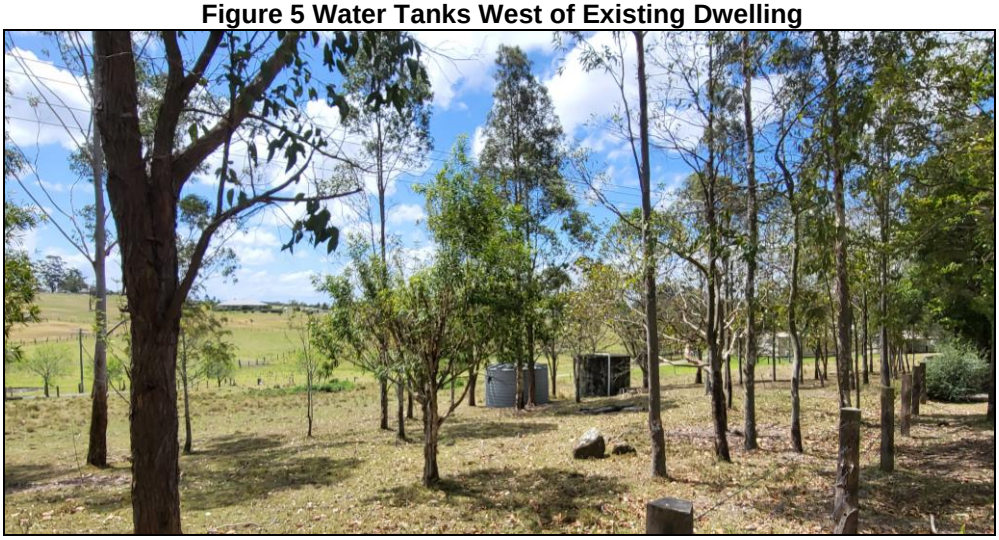
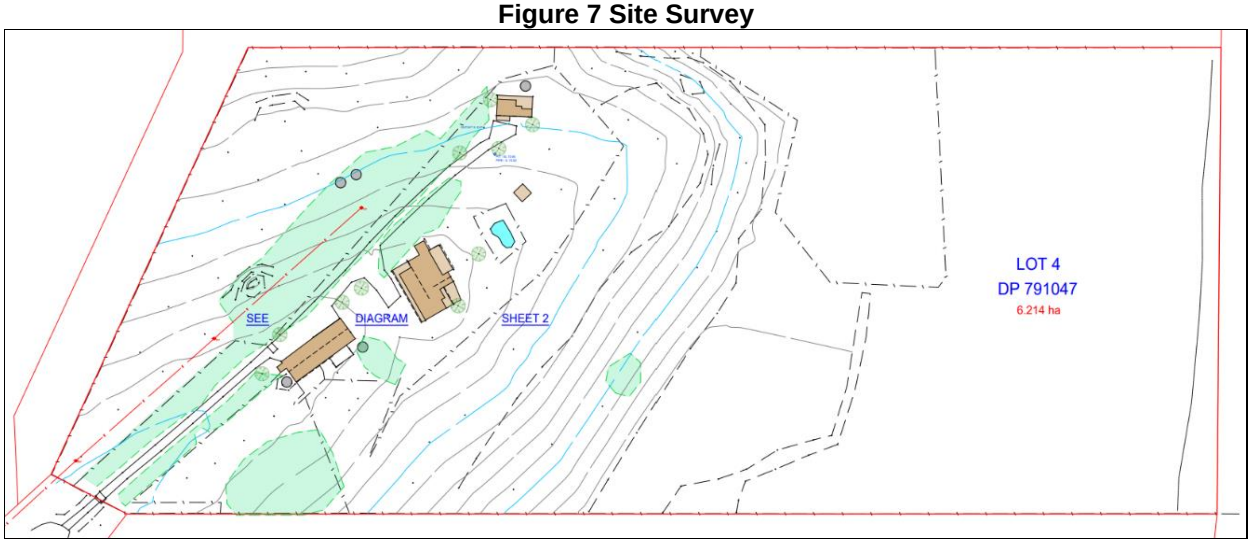


Figure 6 Existing Farm Shed and Driveway to Street

Attachment A contains a site survey of those parts of the land that are above the flood plain (refer to extract in **Figure 7**).

Figure 7 Site Survey



Source: Centurian Surveyors

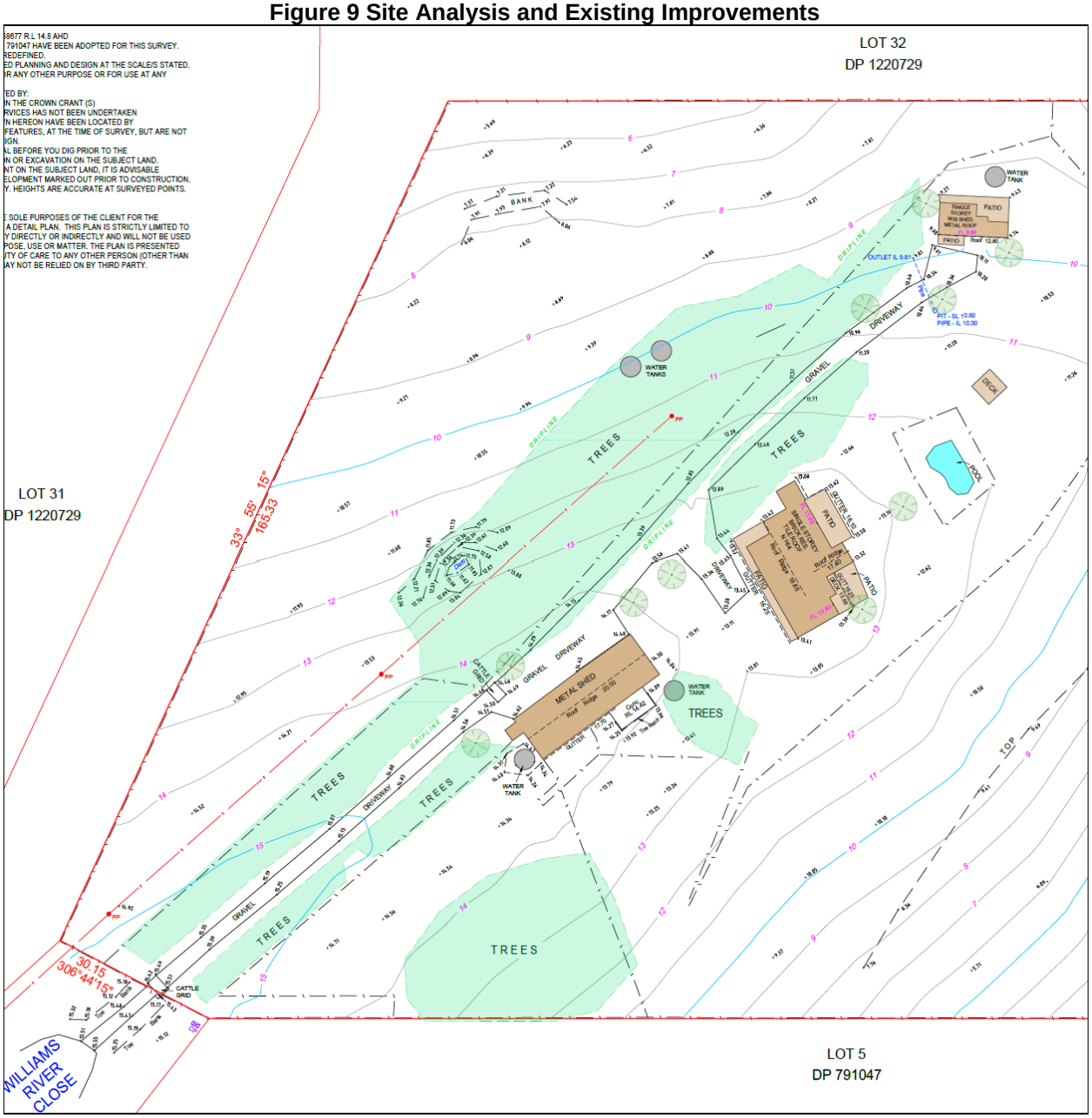
Access is via a gravel driveway off the cul-de-sac at the end of Williams River Close (refer **Figure 8**).

Figure 8 William River Close site Frontage and Access

Source: JW Planning Pty Ltd

A site analysis is provided in an extract of the site survey illustrating the existing improvements on the land (refer **Figure 9**).

Figure 9 Site Analysis and Existing Improvements



Source: Centurian Surveyors

2.0 The Proposal

2.1 Proposed Subdivision

The proposal involves subdivision of R5 Large Lot Residential zoned land in to three (3) lots, carried out in two (2) sequential stages.

Stage 1 is the subdivision of the existing lot (Lot 4) into two (2) lots (proposed Lot 41 and proposed Lot 42). The proposed lot boundaries and each resulting lot size is shown in the **Figure 10** (refer **Attachment B**).

Figure 10 Proposed Stage 1 Subdivision

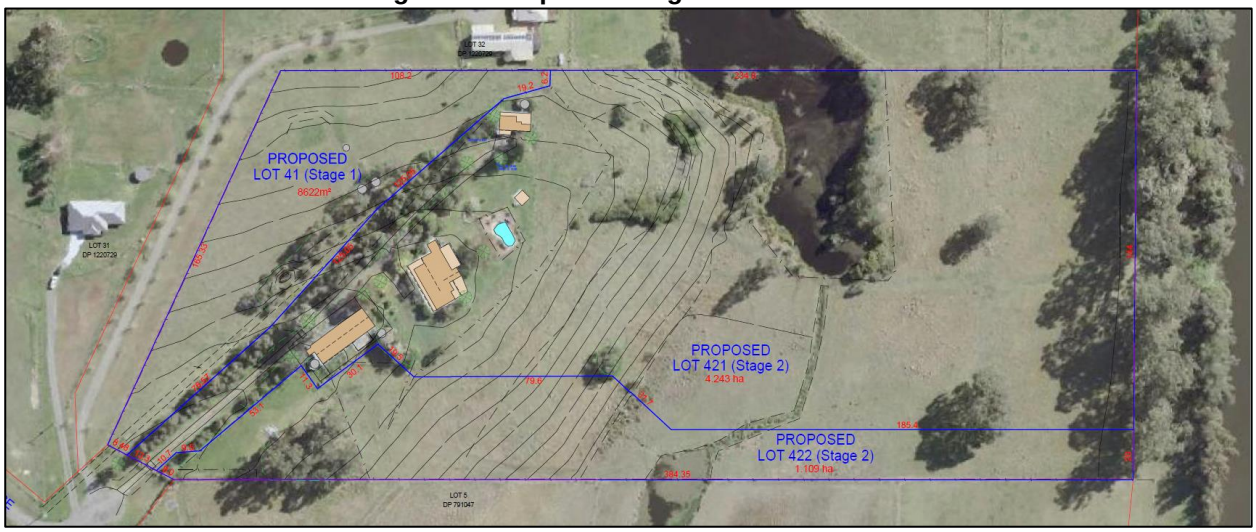
Source: Centurion Surveyors

Proposed Lot 41 is proposed to be 8,622sqm in area and will comprise predominately vacant land (with the exception of water tanks and existing electricity connection.

Proposed Lot 42 is proposed to be 5.352ha in area and will comprise most of the existing site improvements including the existing dwelling, farm sheds, and the pool.

Stage 2 is the subdivision of proposed Lot 42 into two (2) lots (proposed Lot 421 and proposed Lot 422).

Figure 11 Proposed Stage 2 Subdivision



Source: Centurion Surveyors

Proposed Lot 421 is proposed to be 4.243ha in area and will comprise of the existing site improvements including the existing dwelling, farm sheds, and the pool.

Proposed Lot 422 is proposed to be 1.109ha in area and will comprise vacant land (refer **Figure 8**).

2.2 Proposed Subdivision Works

The proposed subdivision boundaries involve minimal subdivision works. Fencing will need to be installed or re-aligned, and two (2) new gravel driveway crossovers will need be required.

Existing water tanks and existing electricity connection to the street will be retained, with new connections provided to serve the proposed lots as necessary.

Effluent disposal systems will be required on each proposed lot. A Geotechnical assessment has determined the suitability and capability of the land (see **Section 3.8.3** and **Attachment C**)

No other subdivision works are required or proposed.

2.3 Pre-DA Consultation

The prospect of subdividing the site into 2 or possibly 3 lots was discussed with Council's Senior Planning Officer, Ms Jenny Webb in May 2023.

The key issues to be addressed were advised to be as follows:

- Maintaining building envelopes at a level above the extent of flood prone land; and
- Council's technical requirement for a geotechnical On-Site Effluent Disposal report, which is to ensure there is at least 4,000sqm of usable land within each proposed lot for on-site effluent disposal purposes.

These issues are addressed in the **Section 3.0** and **Section 4.0** of this report.

3.0 Statement of Environmental Effects

This section responds to following items under Section 1.2 of the Application requirements approved by the Planning Secretary's delegate; relevantly:

a) the environmental impacts of the development

b) how the environmental impacts of the development have been identified

c) the steps to be taken to protect the environment or to lessen the expected harm to the environment

3.1 Current and Previous Land Uses

The subject site is currently used for large lot residential purposes. Historical air photos obtained from NSW Spatial Service for the year 1958 and 1993 indicate a history of rural residential use (see **Figure 12** and **Figure 13**).

Figure 12 Historical Image 1958

Source: NSW Spatial Services

Figure 13 Historical Image 1993

Source: NSW Spatial Services

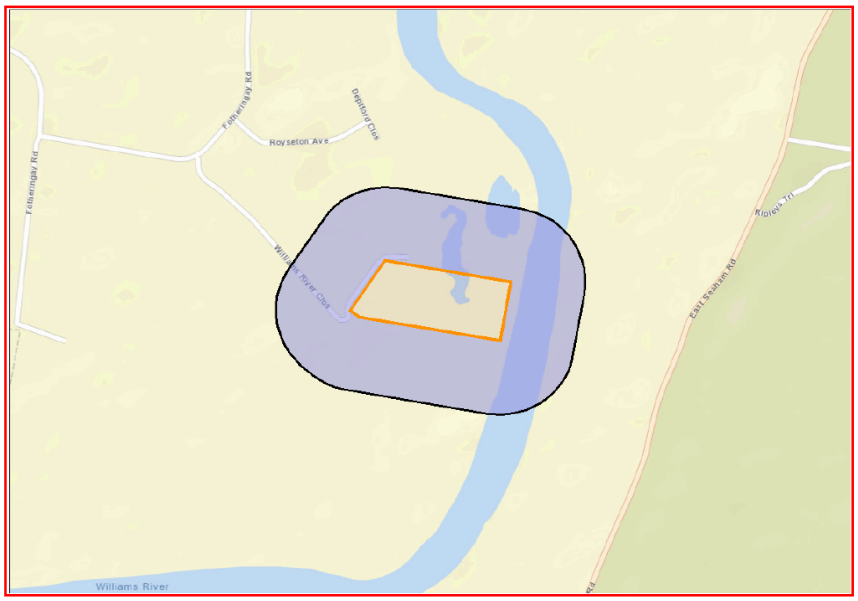
3.2 Contamination

The current and previous rural residential land uses are not identified as potentially contaminating activities under the *Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land (DUAP 1988)*. The proposed subdivision does not propose a more sensitive land use and is not expected to contribute to soil or ground water contamination.

3.3 Aboriginal Cultural Heritage

It is understood that the sites location was formerly inhabited by the Gringgai clan of the Wanaruah people. Nonetheless, the land is not mapped within a Sensitive Aboriginal Landscape, and a basic AHIMS web search indicates that there are no known Aboriginal sites or places within 200m of the subject site (see **Figure 14** and **Attachment D**).

Figure 14 AHIMS Search



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

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

Source: NSW AHIMS Search

The proposed subdivision involves disturbed land (refer to historical images in **Figure 12** and **Figure 13**) and is therefore unlikely to impact on artefacts or cultural heritage.

3.4 European Heritage

The site is not mapped as a local or state heritage item.

However the adjoining Crown Reserve, legally described as Lot 7303, DP 1132982, is listed as an archaeological site (Item I150) under Part 3 of Schedule 5 of Dungog LEP 2014. The site is river foreshore land associated with the former Marshall & Lowe “Deptford” shipyard site, Fotheringaye (refer to **Figure 15**).

According to an article published in the Sydney Morning Herald on February 8, 2004:

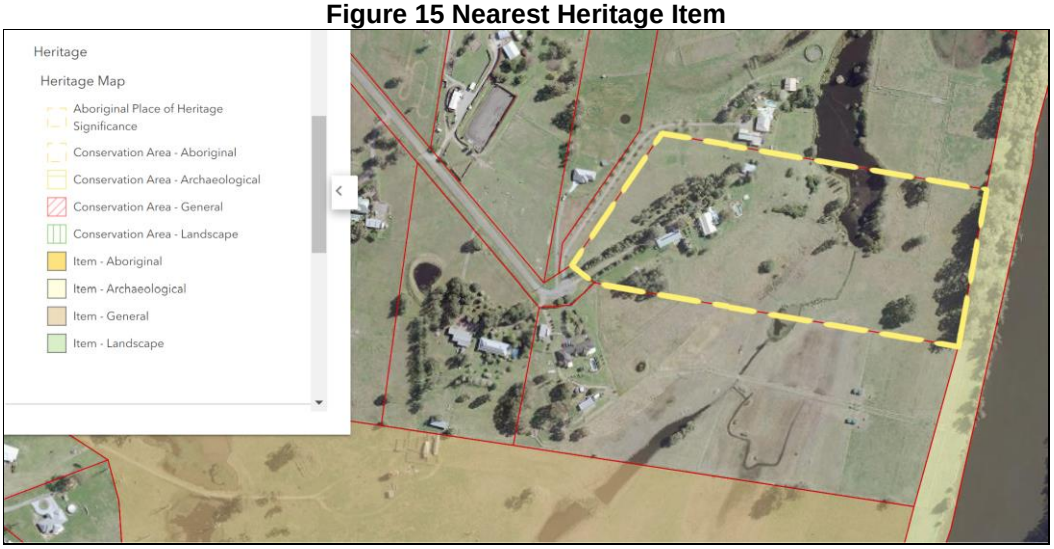
> *Clarence Town was initially known as Erringhi. Presumably the Aboriginal name for the site, it is thought to mean 'place of wild ducks'. The settlement was situated at what is now the southern end of town by the Williams River where there was a wharf and where*

William Lowe and James Marshall established the Deptford Shipyards in 1830. Clarence Town's main claim to fame was that this was the spot where, in 1831, Australia's first ocean-going paddle steamer (called the William IV) was built and launched.

Marshall and Lowe produced many vessels over the years, mostly under 50 tons, reaching a commercial peak in the 1870s and closing in the 1890s. Some of the steamers used on the Sydney to Morpeth run were also built here.

The village was renamed in 1832 after the Duke of Clarence (who became King William IV in 1830). A prosperous town by mid-century it was much bigger than Dungog. Timber was loaded here for international destinations. By the 1880s dairying, grazing and fodder production had become the town's economic mainstays and they remain so to this day.

Figure 15 Nearest Heritage Item



Source: DPIE ePlanning SpatialViewer - LMLEP 2014

The proposal to subdivide the land will not result in any works or comprise building envelopes near to the adjoining Crown Reserve. It is therefore considered that the archaeological significance of the adjoining land will not be impacted be the proposal.

3.5 Biodiversity

Key Threatening Process (KTPs) listed under the Biodiversity Conservation Act 2016 that may occur as consequences of the proposed subdivision are typically as follows:

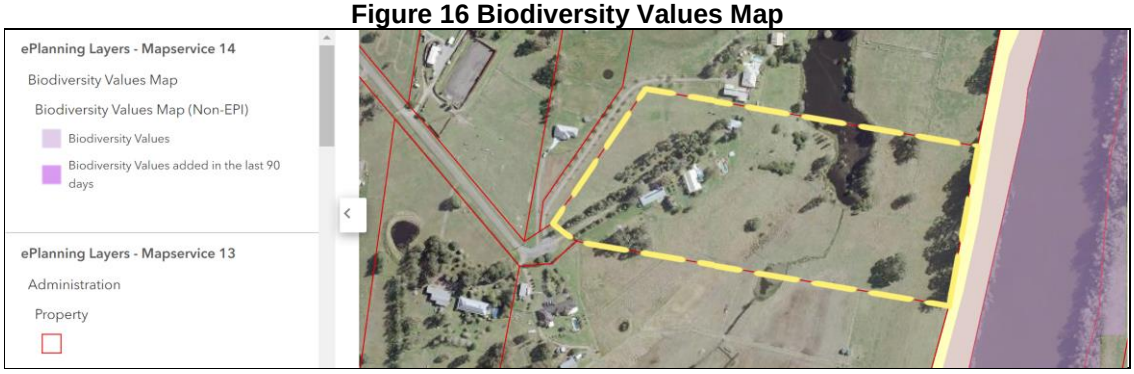
- Clearing of native vegetation
- Invasion of native plant communities by exotic perennial grasses
- Removal of dead wood and dead trees
- Loss of hollow-bearing trees

The proposal to subdivide the land, and the likely location of building envelopes within each proposed lot does not involve the clearing of vegetation. Nor will the proposal involve the removal of dead wood, tree of hollow bearing trees.

The proposal can be expected to intensify anthropogenic activity which has the potential to increase exotic flora and weed species over time. The management of exotic and weed species is a responsibility of all landowners under the Federal Biosecurity Act 2015. Provided appropriate land management practices are adhered to, the proposed subdivision is unlikely to increase or exacerbate the spread of weed and exotic species.

While the Williams River and associated riparian zone is mapped as comprising biodiversity values by the Biodiversity Values Map (BVM), the site is not mapped with such values (refer **Figure 16**).

Figure 16 Biodiversity Values Map



Source: NSW Biodiversity Values Map 7 January 2024

Specifically, the proposal will not:

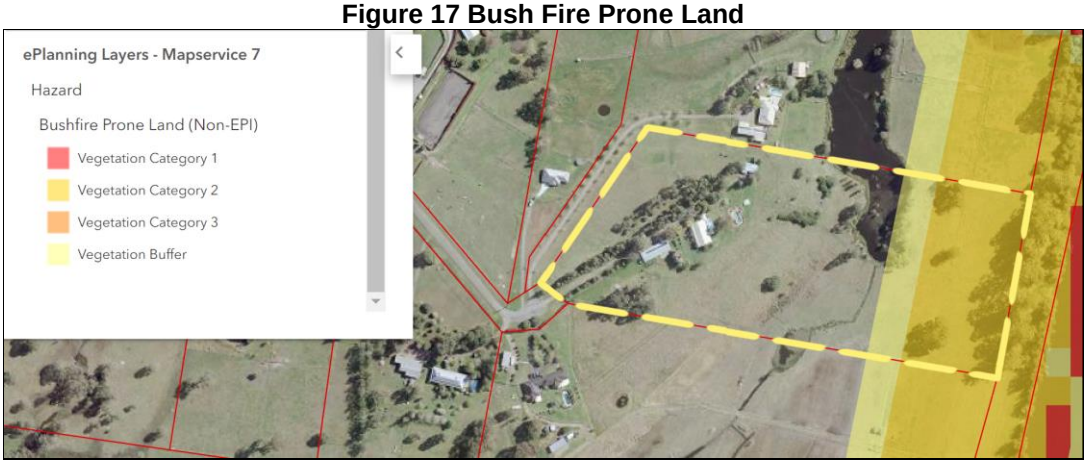
- Clear native vegetation in an area included in the BVM as shown in **Figure 16**; or
- Exceed the 2,500 sqm limit of clearing permitted under the Area Criteria Threshold of of the BC Act; or
- Have a significant impact on a threatened species, ecological community or its habitat listed under the BC Act.

Based on the above, there is no requirement for the development application to be accompanied by a Biodiversity Development Application Report (BDAR) under the Biodiversity Conservation Act 2016 (BC Act).

3.6 Bushfire

The land is partly mapped as bushfire prone land (refer to **Figure 17**) in a part of the site that is subject to flooding (refer to **Figure 18**). The extent of land mapped as bushfire prone is separated from prospective building envelopes on each proposed lot by largely cleared flood prone land that provides a considerable buffer between the elevated building areas within each lot and the mapped bushfire threat.

Figure 17 Bush Fire Prone Land



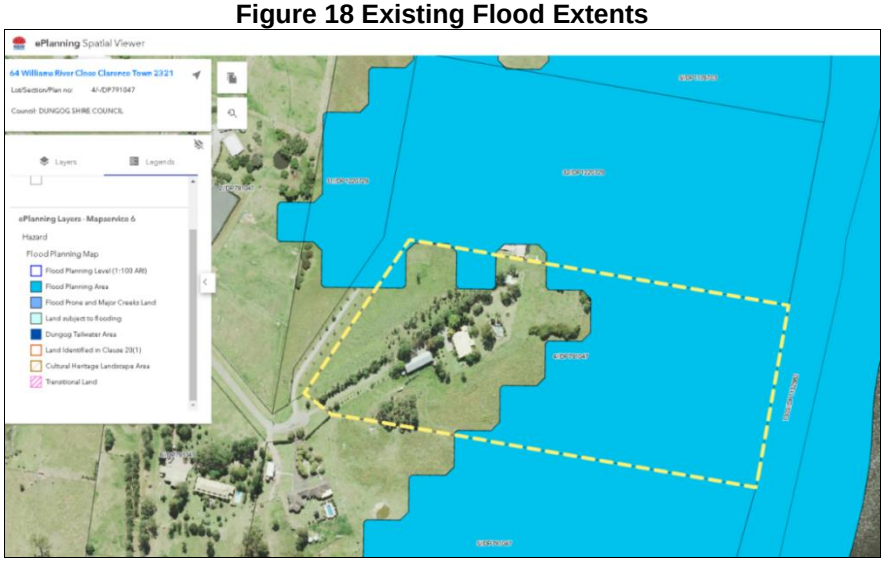
Source: DPIE ePlanning SpatialViewer - LMBFPL Map

Extensive areas of land are therefore available to accommodate any Asset Protection Zones (APZs) determined in association with future applications for a dwelling on each proposed lot.

3.7 Flooding

Parts of the site are subject to flood inundation, and the extent of the Flood Planning Area mapped by Council on the basis of the Williams River Flood Study (2017) is depicted in **Figure 18**.

Figure 18 Existing Flood Extents



Source: DPIE ePlanning SpatialViewer – FPL Map

An application for a Flood Certificate was lodged with a fee to Council, but the information is yet to be provided. Nonetheless, each of the proposed lots provides a considerable area of elevated land that is clear of the flood level, providing ample opportunity for a building envelope, setbacks, access and on-site effluent disposal.

3.8 Geotechnical Conditions

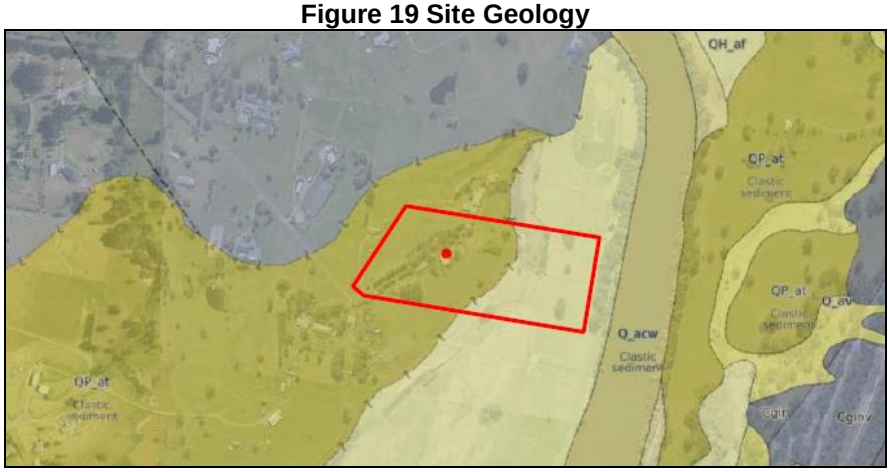
Douglas Partners prepared an assessment of the site and soil conditions to inform the suitability and capability of the site for subdivision and on-site effluent disposal (see **Attachment C**).

3.8.1 General Observations

Reference to the NSW Seamless geological mapping indicates that the site is underlain by two (2) geological units (refer **Figure X**), as follows:

- Western Area - Quaternary Allluvium (terrace deposits), characterised by silt, clay, sand and gravel;
- Eastern Area - Quaternary Allluvium (floodplain deposits), characterised by silt, sand and clay.

Figure 19 Site Geology



Source: Douglas Partners & NSW Seamless Geology map

No registered groundwater bores were identified within 1 km of the site.

Douglas Partners carried out site assessment in September 2023, carrying out seven (7) test bores up to a depth of 2.5m below surface. The observations tabulated by Douglas Partners are presented **below**:

Depth (m below ground level)		Description
From	To	
0.0	0.1 / 1.0	ALLUVIAL CLAY – sandy clay, generally stiff (all bores except Bore 4). It is noted that deeper alluvial soils were encountered in Bore 2 to 1 m depth.
0.0 / 1.0	0.39 / 1.1	RESIDUAL CLAY – generally sandy clay, but with some silty clay, initially firm to stiff or stronger, becoming very stiff to hard with depth
0.40 / 1.1	Limit of investigation (1.6 m)	SANDSTONE – generally inferred from equipment refusal and hence strength not assessed. Refusal on inferred sandstone bedrock occurred in all bores except Bore 2.

Groundwater seepages were not observed during the drilling of the bores although groundwater levels can be affected by factors such as soil permeability and recent weather conditions, and will therefore vary with time.

3.8.2 Preliminary Site Classification

The site classification is based on procedures presented in AS 2870:2011 Residential Slabs and Footings, the typical soil profiles revealed at the test locations, and the results of laboratory testing.

Due to the presence of trees and existing structures in parts of the site, a classification of **Class P** would apply. The consequence of the Class P classification is the requirement for footing systems to be engineer-designed.

Based on the soil profiles encountered in the bores and the results of laboratory testing, characteristic surface movements in the range of about 50 mm to 70 mm are estimated for the site (i.e. characteristic surface movements commensurate with a Class H2 site) under normal seasonal moisture fluctuations.

The site classification should be revised if cutting or filling is undertaken in proposed building areas, as required by AS 2870, 2011. Future applications for a dwelling will determine the engineering design required.

3.8.3 On-Site Effluent Disposal

An effluent disposal assessment was carried out in accordance with DLG (1998) guidelines, DPE (2023) and AS 1547 (2012). The assessment included a desktop review of available information followed by a site walkover, subsurface investigation, laboratory testing of retrieved samples and engineering analysis.

The purpose of the assessment is to determine the suitability of the site and the soil within each of the proposed lots for on-site effluent disposal. The Site Assessment Summary prepared by Douglas Partners is presented below in **Table 1**, while the Soil Assessment Summary is presented below in **Table 2**.

Based on assessment of the site, surface irrigation or sub-surface disposal is considered suitable for the site.

Table 1 Site Assessment Summary

Site Feature	Site Limitation		Restrictive Feature	Recommended Site Improvements
Flood potential	Minor	Rare, above 1 in 20-year flood contour	Transport of wastewater off-site	Flood levels may affect the eastern part of the site. Application areas should be above flood impacted area
	Minor	Vents, openings, and electrical components above 1 in 100-year flood contour	Transport of wastewater off-site. System failure and electrocution hazard	
Exposure	Minor	High sun and wind exposure	Poor evapotranspiration	None required
Slope%	Moderate	Surface irrigation (6 – 12%)	Run-off, erosion	None required
	Minor	Sub-surface irrigation (0– 10%)		
	Minor	Absorption system (0 – 10%)		
Landform	Minor	Hill crests, convex side slopes and plains	Groundwater pollution hazard. Resurfacing hazard	None required
Run-on and upslope seepage	Minor	None – Low	Transport of wastewater off-site	None required
Erosion potential	Minor	No signs of erosion potential present	Soil degradation and transport, system failure	None required
Site drainage	Minor	No signs of surface dampness	Groundwater pollution hazard. Resurfacing hazard	None required
Fill	Minor	No fill	Subsidence. Variable permeability	None required
Buffer distance	Minor	All buffer distances achievable	Health and pollution risks	None required
Land area	Minor	Area is available	Health and pollution risks	None required
Rocks and rock outcrops (% of land surface containing boulders)	Minor	<10% (in areas of likely effluent disposal)	Limits system performance	Should be positioned in areas with slope of less than 10%
Geology/ Regolith	Minor	-	Groundwater pollution hazard	None required

Source: Douglas Partners Table 4

The suitability of each proposed lot for on-site effluent disposal is determined by Douglas Partners based on a hydraulic loading of 900 L/day based on a residential development on each lot with the following particulars:

- A proposed 4 bedroom residence with a reticulated water supply;
- An occupancy rate of 1.5 persons per bedroom; and
- Combined waste stream volume of 150 L/person/day.

Table 2 Soil Assessment Summary

Soil Feature	Site Limitation		Restrictive Feature	Recommended Site Improvements
Depth to bedrock/hardpan (m)	Minor to	Irrigation >1.0	Restricts plant growth (trees), excessive runoff and waterlogging	Absorption systems not recommended. Application areas should be located in positions with at least 0.6 m depth of soil over bedrock or loamy soils imported to application areas to ensure at least 0.6 m of soil
	Moderate	Irrigation 0.5 – 1.0		
	Minor to	Absorption >1.5	Groundwater pollution hazard. Resurfacing hazard	
	Major	Absorption 0.5 - 1.0		
Depth to high episodic or seasonal water table (m)	Minor	Irrigation >1.0	Groundwater pollution hazard. Resurfacing hazard	None required
	Minor	Absorption >1.5	Groundwater pollution hazard	
Soil Permeability category	Minor	Irrigation 2b, 3 and 4	Excessive run-off, waterlogging and percolation	Trench absorption systems may not be appropriate
	Minor	Absorption 3 and 4		
Coarse fragments (%)	Moderate	10 – 20	May restrict plant growth, affect trench installation	Some exposed rock observed. Disposal areas should be positioned away from such areas.
Bulk density (g/cm^3) Clay	Minor	Unknown	Restricts plant growth, indicator of permeability	None required
pH CaCl (%)	Moderate	4.5 – 6.0	Reduces optimum plant growth	Adjust pH with the addition of agricultural lime
Electrical Conductivity - ECe (dS/m)	Minor	<4	Excessive salt may restrict plant growth	None required
Sodicity (exchangeable sodium %)	Minor to	0 – 5	Potential for structural degradation	Should be improved with addition of gypsum Careful selection of plantings
	Moderate	5 - 10		
Cation exchange capacity (cmol+/kg)	Moderate	5 – 15	Unable to hold plant nutrients	Tyne gypsum and lime into the soil within the application area
Phosphorus sorption (kg P/ha)	Minor	>6000	Unable to immobilise any excess Phosphorus	None required
Modified Emerson Aggregate Test (dispersiveness)	Minor	Class 3 or above	Potential for structural degradation	None required

Source: Douglas Partners Table 5

Based on the presence of clay soils, Douglas Partners recommend that the effluent from any future development on each lot should be treated using an aerated wastewater treatment system (AWTS) or similar which produces secondary quality effluent with phosphate reduction to 10 mg/L and nitrogen reduction to 25 mg/L prior to application to the land.

Effluent that has been treated in an AWTS has a lower biochemical oxygen demand (BOD), lower suspended solid level and much lower faecal coliform level than effluent that has been treated in a septic tank only.

Recommended Discharge Areas

The area required for effluent disposal is determined by considering the hydraulic conductivity of the soil receiving the effluent and the ability of the soil to accept the nutrient loading associated with the effluent.

These calculations are referred to as the hydraulic balance and nutrient balance, respectively.

The areas required have been calculated based on the following design parameters:

- Rainfall data from Clarence Town and Evaporation data from Williamtown RAAF weather and climate stations;
- Procedures outlined in NSW Environment and Health Protection Guidelines (1998) and AS 1547 (2012);
- A design irrigation rate (DIR) of 2 mm/day for an irrigation area;
- Run-off coefficient of 20%;
- Denitrification factor of 20%; and
- Variable crop factors throughout the year ranging from 0.7 to 0.8 as outlined in NSW Environment and Health Protection Guidelines (1998).

Using the parameters and assumptions outlined above, Douglas Partners recommend the following minimum application areas:

Effluent Treatment	Effluent Application	Waste stream (L/day)	DLR / DIR (mm/day)	Nutrient Balance		Hydraulic Balance Area (m^2)
				Nitrogen Balance Area (m^2)	Phosphorous Balance Area (m^2)	
Secondary Treatment	Surface or Sub-surface Irrigation	900	2	500	477	**490**

Source: Douglas Partners Table 6

Irrigation systems are typically designed based on the largest of the areas required to satisfy the nitrogen, phosphorus, or hydraulic balance areas. Therefore, based on the above calculations, the sub-surface irrigation or surface irrigation area should be designed to satisfy the nitrogen balance area of 500 m2.

Douglas Partners make reference to the Dungog Shire Council technical manual, which indicates that the site is likely to be “low to medium” risk. Reference to the Development Assessment Framework (DAF) indicates that owing to the size of the site, a cumulative impact assessment will not be required.

Based on assessment of the site and the hydraulic balance areas, Douglas Partners indicate that a sub-surface irrigation or surface irrigation area of 30m by 19m may be applicable. Typically, a reserve effluent disposal area equal to 100% of the design area is nominated during the assessment to allow for resting of the effluent disposal area and/or future expansion. Based on the site assessment, it is considered that a 100% reserve application area would be available within the site.

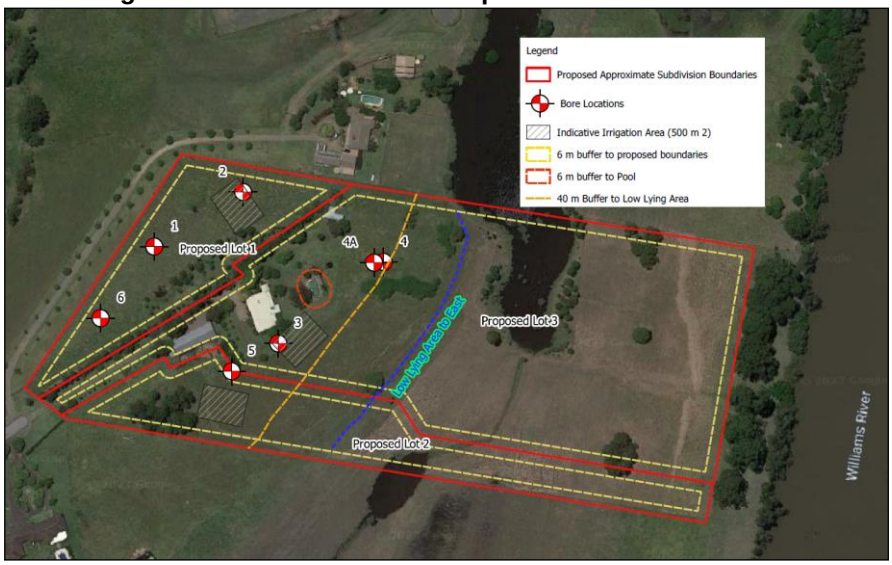
Discharge Area Recommendations

The following recommendations are made by Douglas Partners to ensure the suitability of the site for on-site effluent disposal:

- Confirmation that at least 0.6 m of soil is present within the proposed disposal areas. If shallow rock is present, the areas should be raised with loamy soil to ensure a minimum of 0.6 m of cover is present over the bedrock;
- Deep ripping, shallow cultivation, application of gypsum to topsoil and maintaining surface vegetation;
- Blending lime into the topsoil placed over the application area to improve the pH of the application area;
- Construction of a bund upslope of the application area to divert surface water around the disposal areas.
- For subsurface irrigation
    - 20 mm to 50 mm diameter drip lines should be installed parallel to site contours at approximately 600 mm to 1000 mm spacings;
    - Install lines at 100 mm to 150 mm depth in topsoil; and
    - Lines can be installed by trenching, ripping and ploughing of the surface or placed on the surface prior to backfilling (where topsoil will be added).
- For surface irrigation
    - 20 mm to 50 mm diameter drip lines should be installed parallel to site contours at approximately 600 mm to 1000 mm spacings;
    - A minimum 150 mm cover of mulch or other approved material should be placed above the drip lines; and
    - The drip lines should be held in place with resistant mesh netting and pinned securely.

Effluent disposal areas within the site should comply with appropriate buffer distances based on a site-specific evaluation of the site and soil constraints. Douglas Partners outline a range of setback distances recommend by AS 1547 (2012) as well as the recommended setback distances for the site following an evaluation of the site and soil constraints, as outlined in Table R2 of AS 1547 (2012). The setbacks recommended are mapped relative to each proposed lot (see **Figure 20**).

Figure 20 Suitable Effluent Disposal Areas with Buffers



Source: Douglas Partners

Douglas Partners conclude that in accordance with NSW Environment and Health Protection Guidelines (1998) and AS 1547 (2012), the site soils are considered suitable for the disposal of secondary treated domestic effluent to an irrigation area, provided that the limitations raised in the report are addressed and the recommendations are adopted.

3.9 Traffic

The subdivision is residential infill development that will generate a negligible level of traffic which is not considered to be beyond the capacity of the local road network.

4.0 Relevant Planning Provisions

The following provides an assessment of the Development Application in accordance with the heads of consideration provided under 4.15 Evaluation of the Environmental Planning and Assessment Act 1979. The heads of consideration are:

- The provisions of any Environmental Planning Instruments (EPI),
- Any draft EPI placed on public exhibition,
- Any Development Control Plan,
- Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F and
- Any matter prescribed by the regulations;
- The likely impacts of the development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
- The suitability of the site for the development;
- Any submissions made in accordance with the Act or the regulations; and
- The public interest.

4.1 Compliance with Relevant EPI's and DCP's

4.1.1 State Environmental Planning Policies

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

As evidenced in historical air photos (refer to **Figure 8** and **Figure 9**), the historical use of the land has been for rural residential purposes, and the land does not exhibit signs of ground disturbance. Council can be satisfied that the land is suitable in its current state for the proposed development and remediation is not required.

SEPP (Biodiversity and Conservation) 2021

Chapter 4 Koala habitat protection 2021

4.4 Land to which Chapter applies

(1) This Chapter applies to each local government area listed in Schedule 2.

(2) The whole of each local government area is—

(a) in the koala management area specified in Schedule 2 opposite the local government area, or

(b) if more than 1 koala management area is specified, in each of those koala management areas.

Schedule 2 Local government areas – Chapter 4

Local government area	***Koala management area(s)***
Dungog	*Central Coast*

Part 4.2 Development control of koala habitats

4.9 Development assessment process—no approved koala plan of management for land

(1) This section applies to land to which this Chapter applies if the land—

(a) has an area of at least 1 hectare (including adjoining land within the same ownership), and

(b) does not have an approved koala plan of management applying to the land.

(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

The land has an area of 6.214ha and there is no Koala Plan of Management applicable to the land.

Nonetheless, the proposal involves land predominately clear of vegetation, with existing vegetation able to be retained as part of the proposed subdivision. Under clause 4.9(3), Council can be satisfied that the development is likely to have low or no impact on koalas or koala habitat, and Council may grant consent to the application without requiring koala assessment report for the development.

4.1.2 Dungog Local Environmental Plan 2014

Clause 2.1 Land Use Zone

Under the LEP the subject site is zoned *R5 Large Lot Residential* (**Figure 3**)

The objectives of the 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.*
- *To isolate housing from existing intensive agriculture or future intensive agricultural areas.*

The size of each proposed lot is able to accommodate a residential dwelling without impacting on sensitive environments or the scenic attributes and character of the location. The proposed subdivision is therefore consistent with the objectives of the R5 zone.

Clause 2.6 Subdivision - Consent Requirements

Subsection (1) of this Clause states that:

Land to which this Plan applies may be subdivided, but only with development consent.

The proposal is seeking development consent for the subdivision of the land in accordance with this Clause.

Clause 4.1 Minimum Subdivision Lot Size

The minimum lot size for the land is 8,000sqm (refer **Figure 21**).

Figure 21 Minimum Lot Size Map

Source: DPIE ePlanning SpatialViewer

Each of the proposed lots resulting from the proposal exceed with the 8,000sqm minimum lot size, with each lot proposed to have the following areas:

- Proposed Lot 41 (Stage 1) - 8,622sqm
- Proposed Lot 42 (Stage 1) - 53,520sqm
- Proposed Lot 421 (Stage 2) - 42,430sqm
- Proposed Lot 422 (Stage 2) – 11,090sq

Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones concerned (particularly between residential land uses and other rural land uses).

Clause 5.16(4) notes:

> *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).*

Existing and approved land uses in the vicinity of the site consist of similar, large lot residential developments. The proposal will be consistent with, and is not likely to have a significant impact on, the predominant land uses in the vicinity of the site. There are no elements of the proposal that are likely to be incompatible with the known land uses in the vicinity, and measures to avoid or minimise incompatibility are not required.

Clause 5.21 Flood Planning

The provisions of this clause note:

> *(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
>
> > *(a) is compatible with the flood function and behaviour on the land, and*
> >
> > *(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
> >
> > *(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
> >
> > *(d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
> >
> > *(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The proposal involves the subdivision of land in a manner that provides flood free developable land with access and egress at an elevation that is not within the Flood Planning Area.

Clause 5.21 also notes:

> *(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*
>
> > *(a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
> >
> > *(b) the intended design and scale of buildings resulting from the development,*

(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,

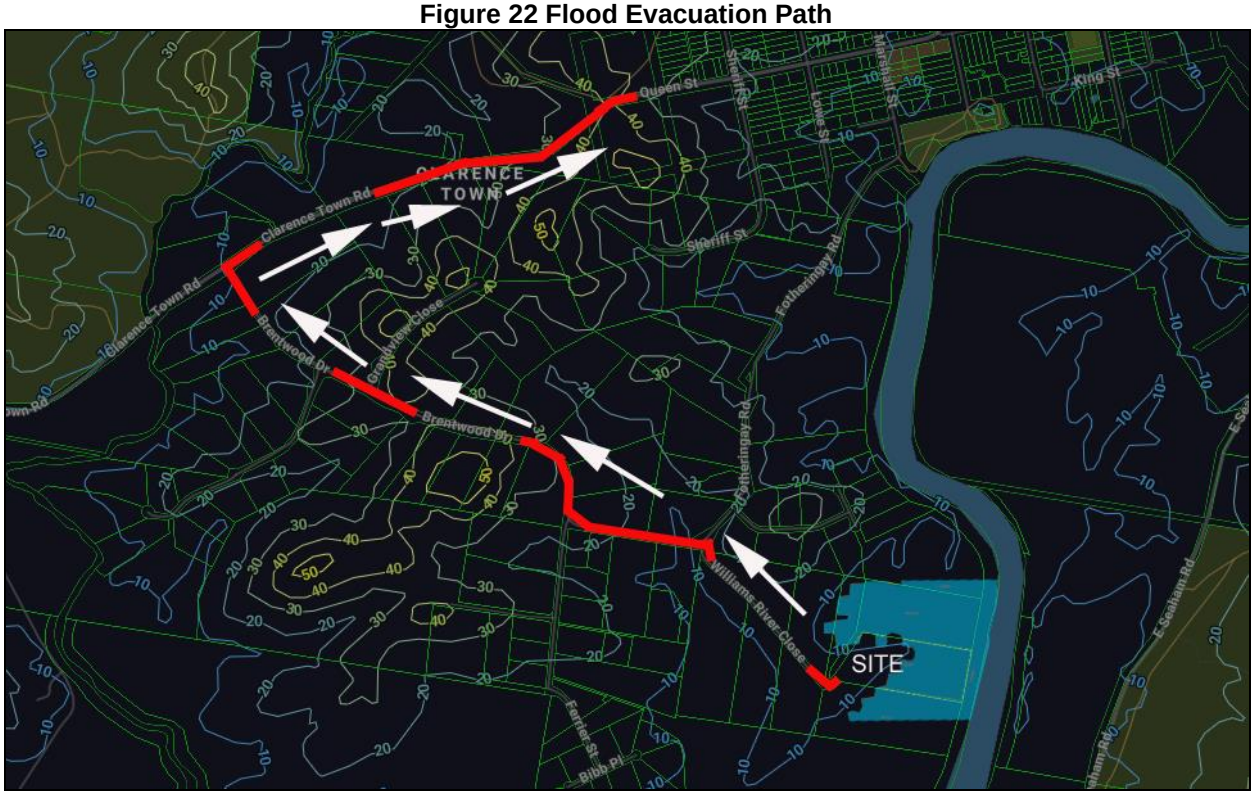
(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

The proposed subdivision will result in lots with considerable areas of land for building and effluent disposal above the Flood Planning Area, avoiding the likelihood of impacts on flood behaviour.

Similarly, should occupants of the proposed lots choose not to refuge in place, the local road network is above the FPA, affording an evacuation route (or access to those choosing to refuge in place) via Williams River Close, Brentwood Drive and Clarence Town Road to elevated areas of Clarence Town.

Figure 22 illustrates the site relative to the FPA (in blue), and the evacuation/access pathway to higher ground with services and facilities (in red).

Figure 22 Flood Evacuation Path

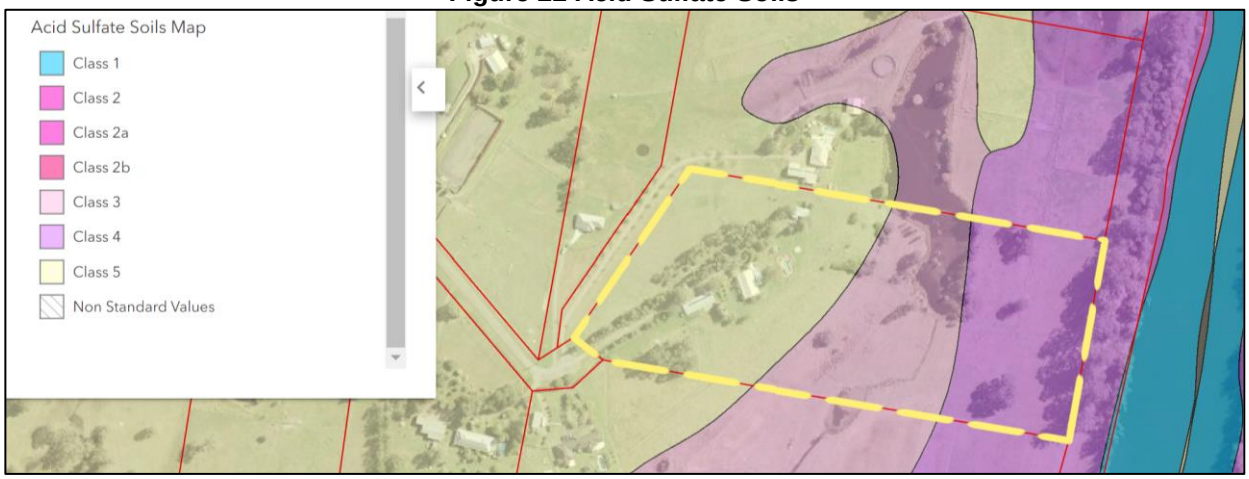


Source: Mecone Mosaic annotated by JWP with FPA from DPIE ePlanning SpatialViewer

Clause 6.1 Acid sulfate soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The likely extent of potential Acid Sulfate Soils at the site is mapped in **Figure 22**.

Figure 22 Acid Sulfate Soils



Source: DPIE ePlanning SpatialViewer

Development consent must not be granted under this clause for the carrying out of works described in the table below on land being of a class specified unless an Acid Sulfate Soils Management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual.

Soil Class	***Works***
2	*Works below the natural ground surface.* *Works by which the watertable is likely to be lowered.*
3	*Works more than 1 metre below the natural ground surface.* *Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.*
5	*Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.*

The proposed subdivision does not involve works that involve excavation below natural ground surface, in areas mapped as Class 2 and Class 3 soils. No works are proposed below 5m AHD in areas of class 5 soils. Consequently an Acid Sulfate Soils Management Plan is not required to accompany the application.

Clause 6.2 Earthworks

This clause provides the following:

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

(b) the effect of the development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the development on the existing and likely amenity of adjoining properties,

(e) the source of any fill material and the destination of any excavated material,

(f) the likelihood of disturbing relics,

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The proposed subdivision may involve minor earthworks in the formation of driveway crossovers on the ground surface, but otherwise the proposal does not involve earthworks of a kind that are likely to disrupt drainage patterns and soil stability. The site has been determined to be suitable for surface irrigation of on-site effluent disposal, which avoids the need for earthworks associated with effluent disposal areas under future applications for a dwelling on each new lot.

Clause 6.4 Stormwater Management

This clause requires that Development consent must not be granted unless the consent authority is satisfied that the development-

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

The proposed subdivision does not involve works that will create areas of impermeable surface. Harvesting stormwater and the management of stormwater runoff will be addressed in association with future applications for dwellings on each proposed lot.

Clause 6.5 Drinking Water Catchments

The proposal involves land mapped within the Drinking water catchment for Williams River. The clause provides:

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—

(a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following—

(i) the distance between the development and any waterway that feeds into the drinking water storage,

(ii) the on-site use, storage and disposal of any chemicals on the land,

(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,

(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 impact on water quality and flows, or

(b) if that impact cannot be reasonably avoided—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.

The proposed subdivision does not involve works that will adversely impact on the quality and quantity of water entering the drinking water storage.

Section 3.8.3 demonstrates that the site is suitable for on-site effluent disposal by surface drip irrigation, and that there are suitable areas within each proposed lot for on-site effluent disposal. However, the location and system proposed will be determined as part of any future application for a dwelling on the proposed lots.

Clause 6.6 Riparian land and watercourses

This clause applies to the proposal because the land is within 40 metres of the top of the bank of a mapped "Watercourse". The clause notes:

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider—

(a) whether or not the development is likely to have any adverse impact on the following—

(i) the water quality and flows within the watercourse,

(ii) aquatic and riparian species, habitats and ecosystems of the watercourse,

(iii) the stability of the bed and banks of the watercourse,

(iv) the free passage of fish and other aquatic organisms within or along the watercourse,

(v) any future rehabilitation of the watercourse and riparian areas, and

(b) whether or not the development is likely to increase water extraction from the watercourse, and

(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The site comprises land that is about 30m from the top of the bank of the Williams River, and the proposal involves a proposed subdivision boundary between proposed Lot 421 and proposed Lot 422 which extends into the area of the land that is within 40m of the top of bank.

The works associated with the proposed boundary are negligible, amounting to no more than a few posts driven into the ground for fencing the boundary.

The proposal is therefore unlikely to have any adverse impact on the water quality and flows within the Williams River watercourse, aquatic and riparian species, or the stability of the banks of the watercourse. In addition, the proposal to subdivide the land will not increase water extraction from the watercourse.

Clause 6.8 Essential services

This clause requires that 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.

Reticulated water is not available to the site. Water is harvested into tanks and future applications for dwellings on each lot will require water tanks to meet water supply requirements.

The site is serviced with electricity which can be extended to each proposed lot, and adequate arrangements can be made for stormwater management and on-site conservation as part of any application for future dwellings on each proposed lot. Suitable vehicular access already exists for the site.

Clause 6.10 Williams River Catchment

The objective of this clause is to protect and improve the environmental quality of the Williams River Catchment.

Clause 6.10(3) states:

> *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development—*
>
> > *(a) promotes the sustainable use of land, water, vegetation and other natural resources within the Williams River Catchment, and*
> >
> > *(b) promotes the protection and improvement of the environmental quality of the Williams River Catchment, and*
> >
> > *(c) will have any significant adverse impacts on water quality within the Williams River Catchment, and*
> >
> > *(d) is consistent with the Williams River Catchment Regional Planning Strategy published in September 1997 by the Department of Planning and Environment.*

The R5 Large Lot Residential zone objectives encourage subdivision of the land for residential purposes, and the proposed subdivision consists of lots that are each well in excess of the minimum lot size for subdivision.

The proposed subdivision promotes the sustainable use of unconstrained, cleared land that is close to the services and facilities within Clarence Town. The proposal will facilitate future development that will sustainably rely on rainwater harvesting and on-site effluent disposal consistent with the carrying capacity of the land.

Section 3.0 demonstrates that the land is both suitable and capable of development in the form proposed without having any significant impact on the water quality within the Williams River Catchment.

4.1.3 Draft Environmental Planning Instruments

There are no known draft Environmental Planning Instruments that affect the site.

4.1.4 Dungog Development Control Plan No.1

The proposal responds to the relevant provisions of the Dungog DCP NO.1 as demonstrated in **Table 3**.

Table 3 Compliance with Dungog DCP No.1

DCP Provision	Criteria	Compliance	Design Response or Comment
Clarence Town LAP - Precinct E – Brentwood Estate & Surrounds – Planning Area E3			
Williams River - protection of the foreshore	• Crown land foreshore reserve to remain zoned for agriculture. • No lots to be created with river frontage or riparian rights.	✓	The proposal does not alter the Crown land foreshore reserve. No lots proposed with river frontage or riparian rights.
Williams River - Public Access via a foreshore reserve.	Identify a location within the Brentwood Precinct for the development of a foreshore reserve to provide public access to the Williams River.	✓	The site does not provide a logical location for public access to the Williams River
Development Potential	Width to Depth ration of 1:3 not supported	✓	The proposed lot boundaries respond to existing development on the land and/or natural features. Each proposed lot varies in width and depth but resulting lots are not long and narrow.
Part C.23 – On-Site Sewage Management			
23.3 Requirements	Developments without access to the reticulated sewer of the local water and sewer authority must demonstrate that the proposal for the disposal and management of sewage is adequate and sustainable and how it satisfactorily addresses the Dungog Shire On-site Sewage Management Policy, including the Development Assessment Framework (DAF) and Technical Manuel for On-site Sewage Management Systems.	✓	Refer to **Section 3.8.3** and Douglas Partners OSED Assessment – **Attachment C**.

The proposal is evidently consistent with the relevant considerations of Development Control Plan No.1. Other DCP No.1 matters relevant to consider are addressed in **Section 3.0**, **Section 4.1.1**, and **Section 4.1.2**.

4.2 Suitability of the Site

The proposal complies with all relevant environmental planning instruments and the relevant provisions of Dungog DCP No.1.

This report confirms the site is suitable and capable of sustaining the proposed subdivision and subsequent development without adverse environmental impact, and that the site is suitable for the development proposed.

4.3 Likely Impacts of the Development

The potential for adverse impacts on adjoining development have been considered and responded to in the development of the design. Refer to Statement of Environmental Effects in **Section 3.0**.

4.4 Submissions Made in Accordance with the Act or regulations

It is at Councils discretion of the application is to be advertised, the proposed sign it is not expected to raise significant objection.

4.5 Public Interest

When considered against the relevant planning assessment criteria, the proposal is not considered to result in any adverse environmental impacts.

The site is zoned to encourage large lot residential development and each proposed lot exceeds the minimum lot size of 8,000sqm.

The proposed subdivision proposes lot sizes that cater to the flood and bushfire constraints of the area while at the same time, deliver residential infill development in a manner consistent with agenda set by the Hunter Regional Plan 2041.

The proposal is in the public interest.

5.0 Conclusion

An assessment of the proposal confirms that the proposed 1 into 3 lot subdivision in two (2) stages will not result in any adverse environmental impacts.

It is recommended that the proposed development be supported on the following grounds:

- The proposed development is permissible within the R5 Large Lot Residential zone under the Dungog LEP 2014;
- The development is considered acceptable and reasonable in as considered in accordance with the Evaluation under Section 4.15 of the Environmental Planning and Assessment Act 1979;
- The proposed development supports the residential infill objectives of the Hunter Region Plan 2041, in an appropriate location consistent with the aims and objectives of relevant EPI's.