



# Statement of Environmental Effects

S4.55 (1A) Modification Application to DA 82/2023

March 2025

3 Dog Trap Creek Road, East Gresford NSW 2311

approved



**S4.55(1A) Statement of Environmental Effects**

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# 1.0 Introduction

Approved Pty Ltd hereby certifies that this Statement of Environmental Effects (SEE) has been prepared in accordance with the requirement of the Environmental Planning and Assessment Act 1979 and its associated Regulations. It is certified that to the best of our knowledge, the information contained within this report is neither false nor misleading.

## Document Details

Revision	A – March 2025
Prepared By	Carolina Martinez Town Planner
Reviewed By	Carolina Martinez Town Planner

This SEE accompanies the S4.55 (1A) Modification Application to Dungog Shire Council for minimal environmental impact change to the development consent under Development Application number DA 82/2023 approved 22 January 2024.

## Development Application Details

Property Address	Lot 4/-/DP729729 3 Dog Trap Creek Road, East Gresford NSW 2311
Local Government Area	Dungog Shire Council
Zone	RU1 Primary Production
Approved Development	DA 82/2023 – Dwelling to create Dual Occupancy (Detached) – Approved 22 January 2024.

The statement is intended to provide further details, where necessary, on aspects covered in the drawings as well as provide additional information where required. The information following is provided to detail the merit of the proposed development in relation to the provisions set out in both the Dungog Local Environmental Plan 2014 and Dungog Development Control Plan No.1. The DA and SEE have been prepared on behalf of the applicant and addresses the matters referred to in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the matters required to be considered by the consent authority. The purpose of this Statement is to:

- Describe the existing environment to which the DA relates and the character of the surrounding area,
- Describe the proposed development,
- Outline the statutory planning framework within which the DA is assessed and determined; and
- Assess the proposed development in considering the relevant heads of consideration.



## 2.0 Site Location and Description

### Site details

The subject site (the site) is located within a rural setting, on the northeast side of Dog Trap Creek Road. Surrounding development comprises low-density residential accommodation on large rural lots, which results in a strong rural living character, blending in with the natural environment. The immediate locality displays single cottage style homes, with a mix of what appears to be secondary dwellings or detached dual occupancies.

The site is irregular in shape, accessed via existing gravel driveway connected to Dog Trap Creek Road, orientated on an approximate north-south axis. The allotment displays sloped topography, particularly near the northern boundary. The location of the existing dwelling is naturally levelled. The total site area is 7.8ha.

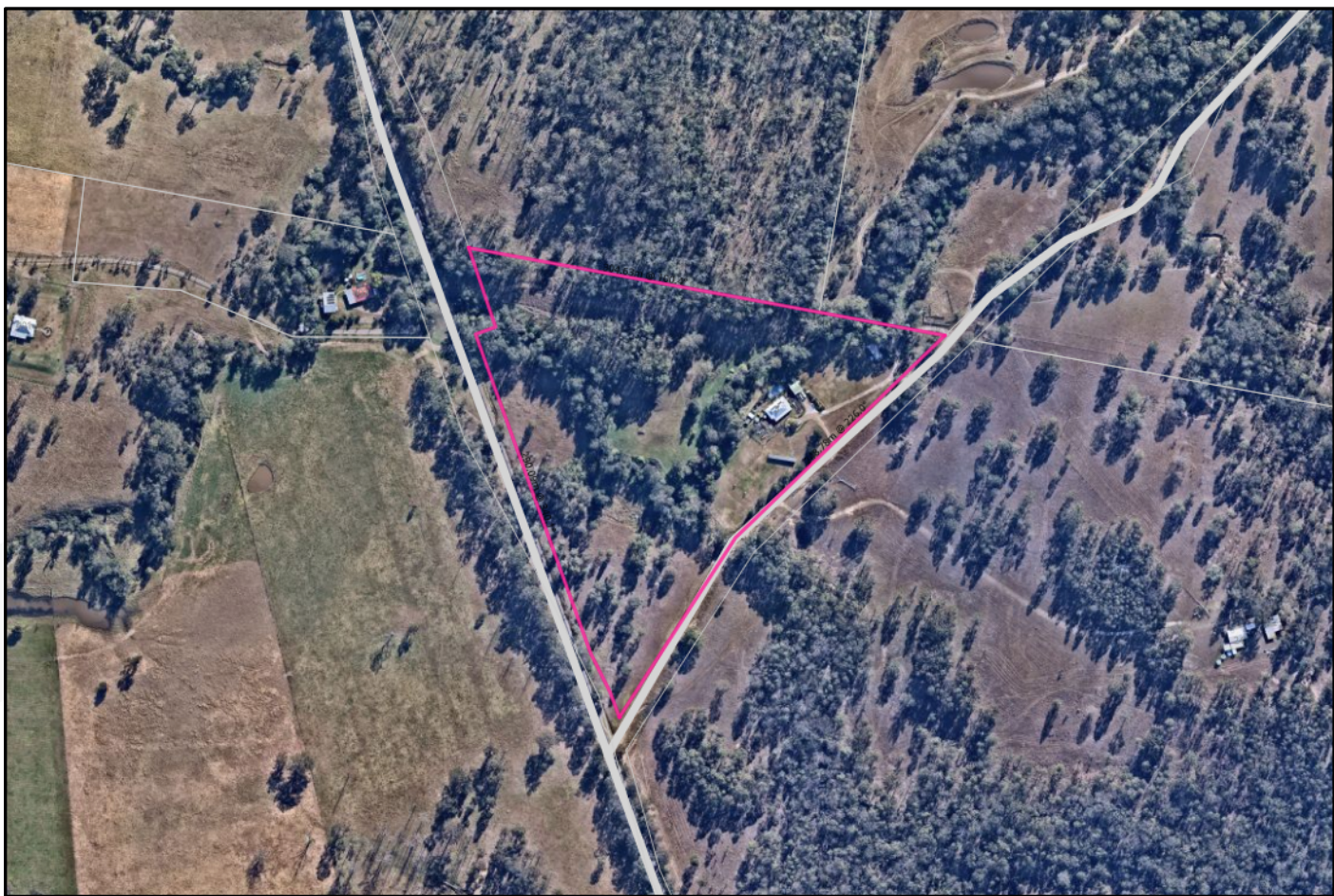


Figure 1: Aerial view, showing subject Lot outlined in red (Source: Near Maps Viewer. Date: 24 June 2023)

### Approvals History

The following recent and relevant development approvals history is known for the site:

Application reference	Description	Decision and Date
DA 82/2023	Dwelling to create Dual Occupancy (Detached)	Approved 22/01/2024

The subject of this modification application is to the most recently approved DA 82/2023 referenced above.



### 3.0 Proposed Modification

On 22 January 2024, Dungog Shire Council approved DA 82/2023 for 'Dwelling to create Dual Occupancy (Detached)', located at 3 Dog Trap Creek Road, East Gresford.

The application seeks approval under Section 4.55 (1A) for the modification of Condition 12 of DA 82/2023 to amend the front building line setback.

Condition 12 relates to Design Amendments and is under Part B – Before the Issue of the Construction Certificate. The Condition states that:

*Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council:*

- Amended Site Plan for the dwelling to be consistent with the APZ Plan showing a 17 m front building line setback.
- Amend plan identifying a photovoltaic system with a capacity to generate at least 42 peak kilowatts of electricity as part of the development.

During Construction Certificate (CC) stage, an error occurred regarding the front setback of the approved development. The DA stamped plans show 17m setback, which is consistent with the Bushfire Report provided in support of the original DA assessment; however, the CC plans show a 13.5m front setback.

Although inconsistent with the bushfire assessment front setback, the modification will result in a development that is located further away from Vegetation Category 1, as observed on Figure 2 below:

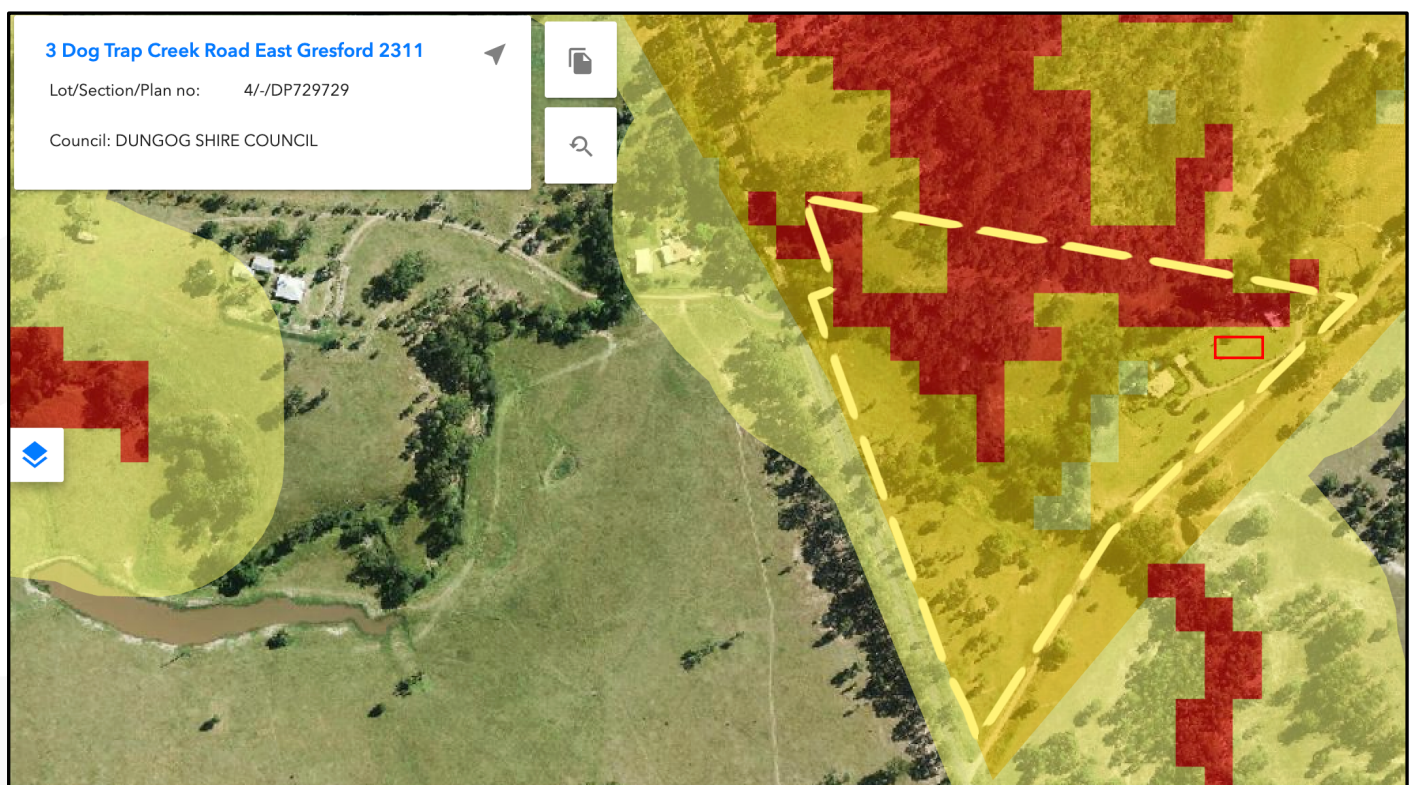


Figure 2: Aerial view, showing bushfire prone land layer over the subject lot (Source: NSW Planning Portal Spatial Viewer)

As a result of the front building line amendment, the proposal will be located approximately 3.5m away from Vegetation Category 1, which is considered a positive outcome.

## 4.0 Statutory Requirements

### 4.1 Environmental Planning and Assessment Act 1979

#### Section 4.55 Modifications of consents – generally

##### Section 4.55 (1A) Modifications involving minimal environmental impact

Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 (the Act) addresses modifications involving minimal environmental impact and this application is lodged pursuant to this section. The consent authority may grant modified consent in accordance with the provision of this Section which is discussed below.

<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<p>The modification is for the amendment of Condition 12 due to the relocation of the approved development away from dense vegetation.</p> <p>It is expected the modification will result in minimal environmental impact.</p>
<p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The approved development will remain substantially the same, given the modification is limited to the relocation of the approved development front setback.</p>
<p>(c) it has notified the application in accordance with:</p> <ul style="list-style-type: none"> <li>(i) the regulations, if the regulations so require, or</li> <li>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</li> </ul>	<p>Dungog Shire Council will determine the necessity, or not, to notify this modification application in accordance with the relevant notification policy.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>In the event that the application is notified, should any submissions be received we request the ability to respond to submissions as appropriate.</p>

Given the above assessment, the modification does not alter the approved development land use or general form and function of the site and approved development.

Overall, it is considered that the proposed modification will result in substantially the same development as the approved development under Development Application 82/2023. As such this request to relocate the dwelling is supportable via this Section of the Act.

##### Section 4.55 (3) Assessment

Section 4.55 (3) requires:

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

The following provides discussion relating to the relevant matters for consideration under Section 4.15 (1) of the Act.

## Section 4.15 Evaluation

### The Provisions of any Environmental Planning Instrument – 4.15 (1) (a) (i)

*Dungog Local Environmental Plan 2014*

Aspect	Relevant provision	Comment
Zone	RU1 Primary Production	The development is permissible with consent.
5.21 Flood planning	Risk of flooding events affecting the development	As a result of the dwelling relocation and considering the flood information provided for the DA assessment, it is unlikely the modified front setback will increase the risk to the property in the event of flooding. In fact, the modified setback will increase the distance between the dwelling and the creek, which is considered a positive outcome.

The proposed modification is consistent and compliant with all the relevant development standards and provisions of the LEP.

No other EPIs require detailed consideration in relation to this modification application.

### The Provisions of any Draft Environmental Planning Instrument – 4.15 (1) (a) (ii)

We are not aware of any Draft Instruments relating to the site or the modification.

### The Provisions of any Development Control Plan – 4.15 (1) (a) (iii)

Consideration has been given to the provisions of the Dungog Development Control Plan No.1. The proposed modification ensures compliance is maintained with all relevant controls of the DCP, in particular:

- Front setback – Considering the front setback control was varied for DA 82/2023, and the modified setback is only a minor alteration to the approved setback, the modified 13.5m setback is unlikely to result in adverse effects. As a result of the proposed modification, the dwelling will continue to meet the objectives of Chapter C3 – Building Line Setbacks.

### The Provisions of any Planning Agreement – 4.15 (1) (a) (iii a)

There are no Planning Agreements applicable to this application.

### The Provisions of the Regulations – 4.15 (1) (a) (iv)

There are no Regulations that require detailed discussion for this modification application.

### Likely Impacts of the Development – 4.15 (1) (b)

Likely Impacts	
Context and Setting	The modification remains appropriate for its location and with respect to adjoining land uses. It is of a reduced bulk and scale to that previously approved.
Access, Transport and Traffic	The modification retains the approved traffic, access, and transport arrangements. No traffic generation over that previously approved is created.
Public Domain	The modification would not result in any adverse impacts to the public domain.
Utilities	The modification will not affect utilities connection. The revised dwelling will be serviced by the approved onsite sewerage management system.

<b>Heritage</b>	The site is not in the vicinity of any heritage items or conservation areas.
<b>Other Land Resources</b>	The development and modification request would have negligible impact on other land resources.
<b>Water Quality</b>	The modification will not affect stormwater management.
<b>Soils</b>	Soil profile considered.
<b>Air and Microclimate</b>	The modification is expected to have a negligible impact on the existing air quality and microclimate.
<b>Ecological</b>	There are negligible ecological impacts anticipated, and any impacts are further mitigated by the revised design.
<b>Waste</b>	The modification retains the approved waste management arrangements.
<b>Energy</b>	The proposed modification will not affect previously approved energy efficient design features.
<b>Noise and Vibration</b>	The modification will not affect noise generated by residents. Noise and vibration during construction to be subject to Council conditions.
<b>Natural Hazards</b>	<p>The modification is unlikely to affect the water flows and is unlikely to increase risk of life and damaging of goods in a flood event.</p> <p>The modification will increase the distance between the area mapped as Vegetation Category 1, which is considered a positive outcome.</p>
<b>Technological Hazards</b>	None exist in respect to this type of development.
<b>Safety, Security and Crime Prevention</b>	The dwelling will continue to ensure safety and security in the neighbourhood, in spite of the modification.
<b>Social Impact in Locality</b>	The modification will not result in a type of development or scale of development that would result in adverse social impact.
<b>Economic Impact in Locality</b>	No adverse economic impact expected, and the modification would not impact future economic viability of the locality.
<b>Site Design and Internal Design</b>	Commensurate to existing built form and context of surrounding locality.
<b>Construction</b>	To Council and BCA requirements.
<b>Cumulative Impacts</b>	None are likely to result from this scale of development.

## Ecologically Sustainable Development

Clause 193 of the Environmental Planning and Assessment Regulation 2021 note that Ecologically Sustainable Development (ESD) requires the effective integration of economic and environmental considerations in decision-making processes. The proposed development is considered to be able to comply with the ESD objectives for the site.

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

The modification is considered substantially the same development, with minimal impact to the built or natural environment as there is no change to the location and function of the presently approved development. Only minor change to the form of the approved building is proposed. The suitability of the site, as such, remains substantially the same development as the approved.



## Submissions–4.15 (1)(d)

The modification will be notified, or not, in accordance with the requirements of Council's notification policy. Any reasonable concern/s raised in any submissions will be considered if deemed substantiated by Council.

## Public Interest–4.15(e)

It is considered that the modification application will have no detrimental effect on the public interest and can be supported.

## 5.0 Conclusion

This modification application seeks assessment and consent under the provisions of Sections 4.15 and 4.55(1A) of the Environmental Planning and Assessment Act 1979.

The request is to relocate the dwelling to create detached dual occupancy, approved under DA 82/2023. The proposed modification will result in minimal environmental impact, and the development remains substantially the same as that for which the consent was originally granted.

In consideration of the evaluation under S4.15, the development is a permissible and approved use of the land under the Dungog Local Environmental Plan 2014 and maintains compliance with the objectives and controls of the Dungog Development Control Plan No.1.

The development is largely the same from that which was determined under the original DA and as Development Consent was issued to the original DA, it must be assumed the DA was satisfactory with respect to the relevant matters for consideration and as considered in this report (or updated supporting documents/reports where relevant).

The modification will achieve Council's objectives for the site and the locality. It can therefore be concluded that the development, as modified, remains satisfactory with respect to the relevant matters for consideration and consent can be granted as per Section 4.55 (1A) of the Act.