

SYNERGY ENVIRONMENTAL PLANNING Pty Ltd

A.C.N. 102 541 837 A.B.N. 321 025 41837

PLANNING PROPOSAL



LOT 9 DP1009184

SERENITY WAY

VACY

October, 2016.

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ATTACHMENTS

1. Remediation works- Former sanitary waste facility
Serenity Way, Vacy
Prepared for Dungog Shire Council
Prepared by RCA Australia, RCA ref 11214a-301/0 June 2016
2. Valuation Report - Vacant Large Lot Residential land
Lot 9 DP 1009184 Serenity Way Vacy
Prepared by Brorson Hill Valuations September 2016

PLANNING PROPOSAL

LOT 9 1009184 SERENITY WAY, VACY.

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OVERVIEW

This preliminary report identifies the potential issues associated with the rezoning of the subject land, Lot 9 DP 1009184 Serenity Way, Vacy from Zone SP2 Infrastructure (Waste or Resource Management Facility) to Zone R5 Large Lot Residential and by including the subject land in Category "X" Minimum Lots size 8000m² on the Lot Size Map of the Dungog Local Environmental Plan 2014.

It is paramount at the beginning of this proposal that it be recognised that the Dungog Shire is the owner of the subject land which it has used for many years in the past as a Waste Management Facility (Sanitary Waste Depot). Council's use of the site for such activity has ceased and the site has been determined by the Council to be excess to its needs and as such seeks to dispose of the land.

So as to ensure impartiality, fairness and protect the public interest the Council has sought the services of Synergy Environmental Planning Pty Ltd to independently prepare the Planning Proposal in this matter. Synergy Environmental Planning Pty Ltd has had no dealings with the Council in relation to this land nor has it provided consulting services to the Council in the past.

The land is classified under the Local Government Act 1993 as "Operational Land" and as such may be disposed of by a resolution of the Council.

Council at its meeting of the 19th July 2016 .determined that the land is excess to is operational needs and that it be sold on the open market.

A Valuation was undertaken which investigated the value of the land with the current Zone SP2 Infrastructure in place and alternatively with Zone R5 Large Lot Residential in place and it showed that a far greater return would be available to the Council on sale of the land if it were within the same zone as those lands which adjoined it.

The information contained within the proposal explains the intended effect of the proposal to amend the Dungog Local Environmental Plan 2014 as it currently applies to the land and the justification for making such proposal.

The land the subject of this application is located on the eastern side of Serenity Drive Vacy midway between Lennoxton Road and Bower Bird Close. The land encloses an area of 1.29 hectares and occupies an area of mildly undulating land fronting Serenity Drive from the east.

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The land is mostly cleared with a significant cover of introduced grass species which appears to be regularly maintained. A walk over identified that the site consists mainly of open grasslands with the occasional native and non-native trees scattered along the eastern boundary in clusters.

There appear to be no issues relevant to Flora and Fauna to hamper the future use of the lands for residential purposes.

The area of native vegetation would not equal or exceed 15% of the tree canopy and as such should not trigger the provisos of SEPP 44 Kola Habitat Protection.

The identification and proper mapping of vegetation classifications at this location can be an exercise to be undertaken post Gateway determination.

The land is mapped as being mostly Bush Fire Prone land (to the north) being located within the 100 metre buffer area of adjoining Class 1 Fire Prone land (To the north and east).

Future development of the site may occur in the areas not affected by the Bushfire hazard mapping or may need to be assessed under the guidelines established by the document Planning for Bushfire Protection 2006.

Initial inspection of the biophysical features of the land the subject of this submission confirm that the site has the capacity to accommodate rural residential scale development however the past use of the site as a night soil depot had resulted in some contamination of the site by residual tar deposits and some microbiological contamination.

A Remediation Works investigation of the Former Sanitary Waste Facility was prepared for the Council by RCA Australia in June 2016. The report outlined remediation works and investigation works undertaken at the former sanitary waste facility as a result of an earlier Environmental Site Assessment (ESA) undertaken in September 2015.

The objective of that assessment was to determine the suitability of the site for rezoning for residential use. The ESA identified:

- Residual tar material and impacted soils in excess of the National Environmental Protection (Assessment of Site Contamination) Measure 2013 (NEPM) guidelines for residential land use. These materials were also classified in accordance with the NSW EPA Waste Classification Guidelines as Hazardous Solid Waste.

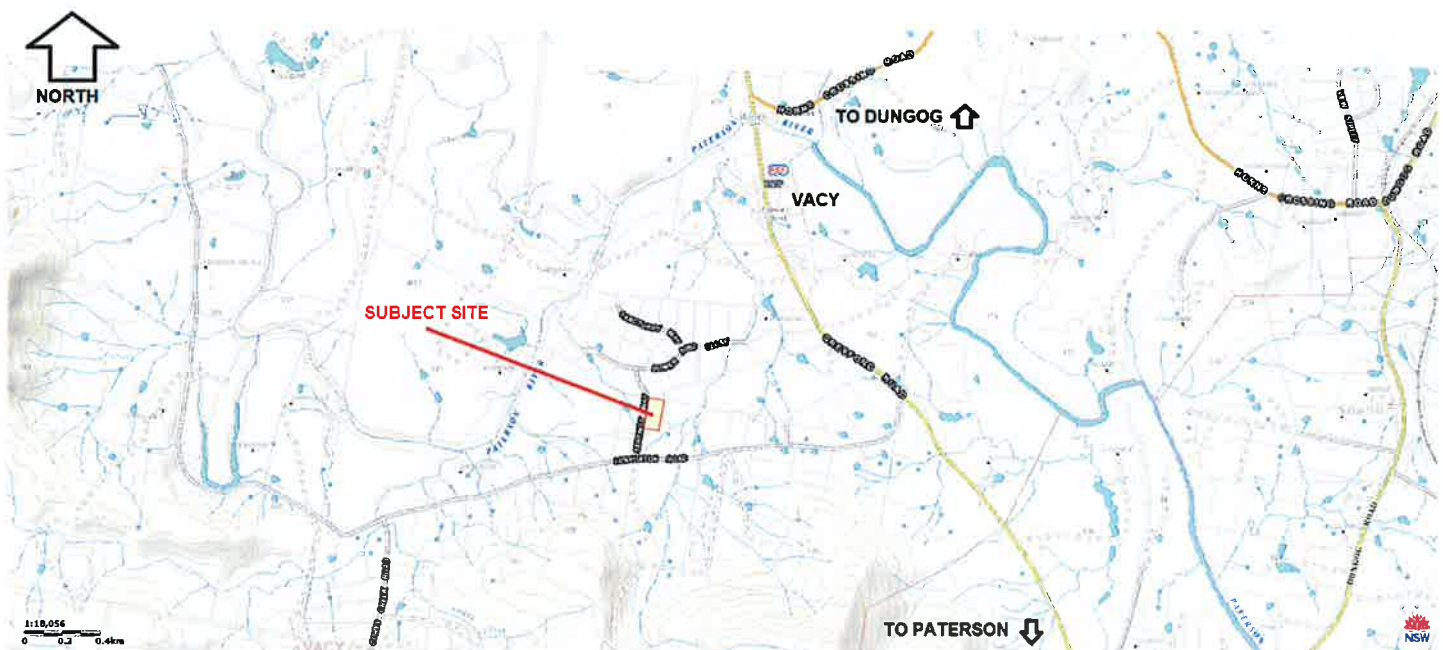
- Microbiological and olfactory results in excess of the NSW Use and Disposal of Biosolids products guidelines.

RCA recommended remediation works be undertaken to remediate those areas impacted by tar and/or microbiological contaminants. The objective of remediation works was to bring environmental conditions at the site to a level suitable for residential land use.

The final RCA report confirmed that the remediation works were largely successful with the bulk of the PAH (tar) contaminated materials identified and removed from site and no microbiological contamination was identified following remediation of such areas with lime.

One (1) sampling location remains at site which exhibits concentrations of PAH in excess of the relevant residential guidelines and a management protocol has been prepared to guide the management of risks during development and use of the site for a residential purpose.

RCA considers that the site is suitable for residential use following the removal of stockpiled gravel material and with implementation of the management protocol. If the items in the protocol cannot be implemented, additional remediation may be required that is the area affected by the tar deposits be sealed by way of a driveway or the foundations of a house (or outbuilding).



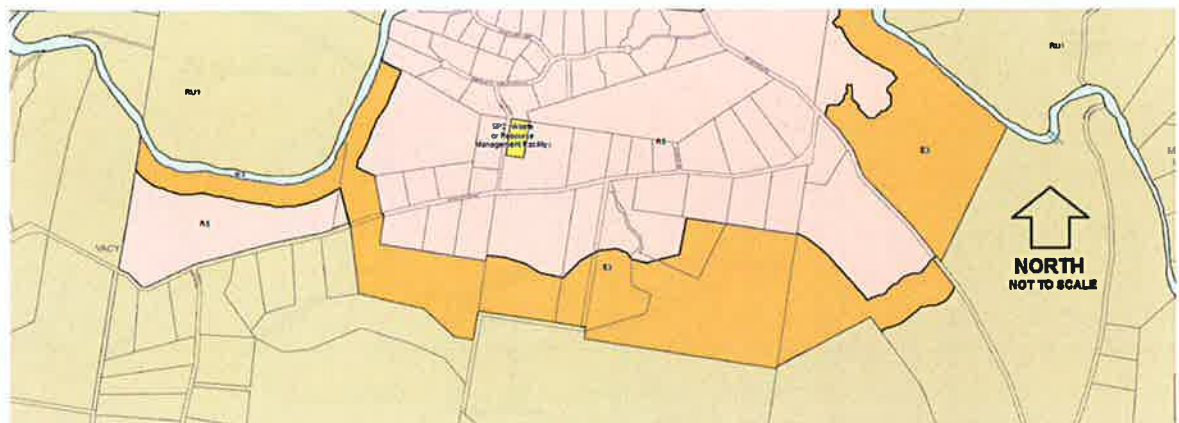
The location of the subject site **Figure 1**

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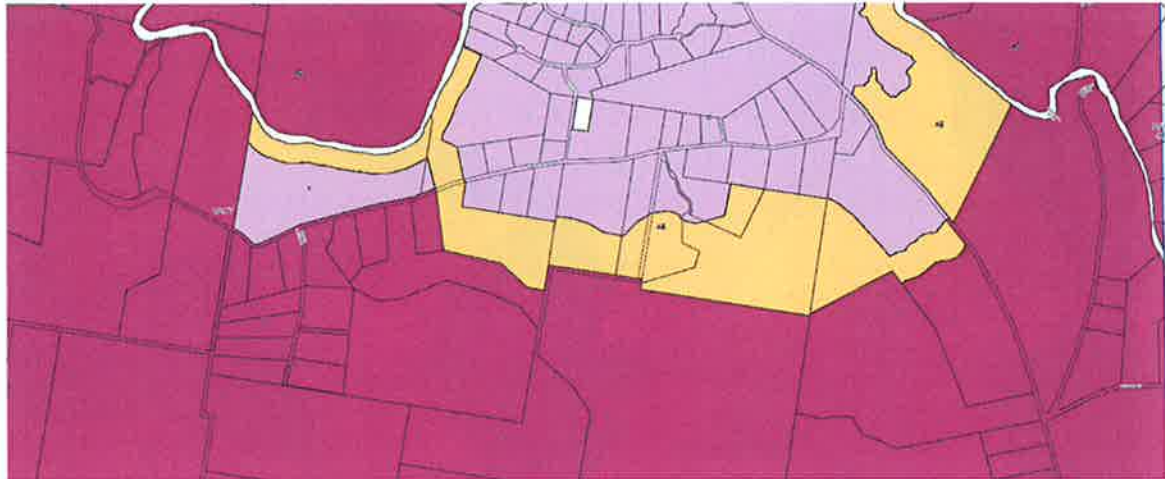
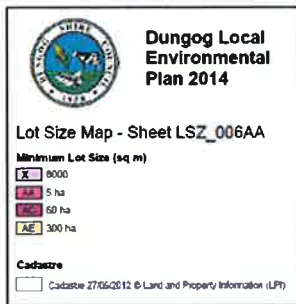
An aerial view of the site Figure 2.



Existing Zonings Figure 3.

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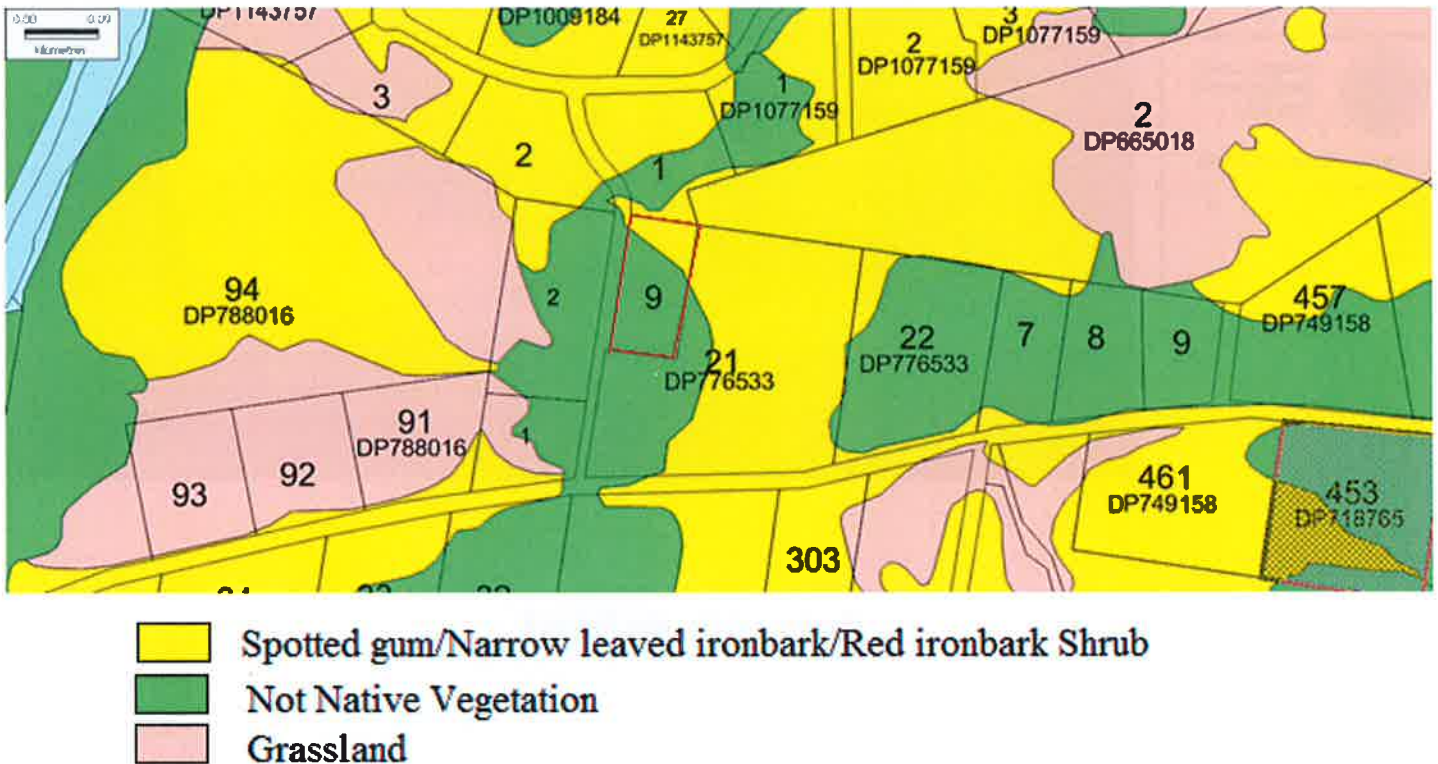
Existing Lot Size Map Figure 4



Fire Prone Lands Mapping Figure 5

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Dungog Shire Council Vegetation Mapping Figure 6

1. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

“Section 55(2)(a) a statement of the objectives or intended outcomes of the proposed instrument”.

The Planning Proposal seeks to affect a change in zone of the subject lands from **Zone SP2** to **Zone R5 Large Lot Residential** and the classification of the subject lands to **Category “X” Minimum Lot Size 8000m²** under the provisions of the Dungog Local Environmental Plan 2014.

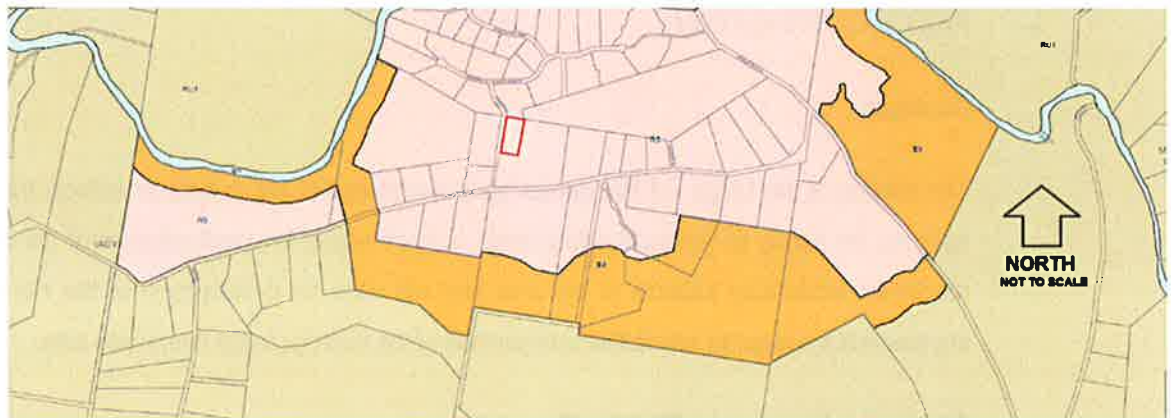
2 PART 2 – EXPLANATION OF PROVISIONS

“Section 55(2)(b) an explanation of the provisions that are to be included in the proposed instrument”.

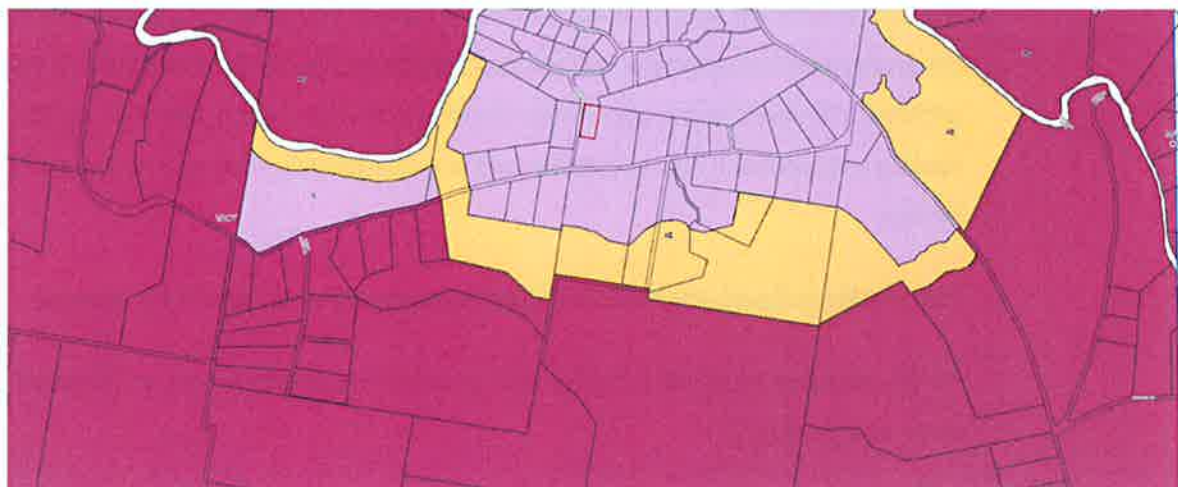
The Planning Proposal seeks the making of an amending LEP such that the Zone and Lot Size Maps to Dungog Local Environmental Plan 2014 is each amended such that the subject lands are mapped as being within **“Zone R5 Large Lot Residential”** and category **“X” Minimum Lot size 8000 m²** of that Local Environmental Plan. See under/over.

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Proposed Land Use Zones Figure 7



Proposed Minimum Lot Size Figure 8

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3 PART 3 – JUSTIFICATION

Comment

The refining of the Large Lot Residential zone boundaries of the subject lot reflects the provisions that apply to the totality of the surrounding lands; acknowledges the predominance of the existing large lot residential subdivision patterns in the area and will allow for development of the site such that it will complement the large lot residential configuration of the holdings in the immediate area.

Section A – Need for the Planning Proposal

“The justification for those objectives, outcomes and provisions and the process for the implementation (including whether the proposed Instrument will comply with the relevant directions under Section 117)”

“Is the Planning Proposal a result of any strategic study or report?”

Comment

The subject lands are not specifically identified in Dungog Council's *Dungog Shire Rural Strategy 2003* as the development is a very minor infill proposal nonetheless the SS does note that there are likely to be additional infill development opportunities identified in the future which will further contribute to the LGA's dwelling and population targets. Note Dungog is a predominantly rural shire so has no Residential Strategy.

The compliance issues with the S117(2) Directions are addressed later in this proposal.

“is the planning proposal a best means of achieving the objectives of intended outcomes, or is there a better way?”;

Comment

The proposal, as advanced, is positive in terms of the potential alternative uses as opposed to those uses for which the land is currently zoned such that those new uses would be in keeping with the existing land use in the area.

Under the current Zone SP2 the use of the site is extremely limited and would not encourage the sale of the land to a private purchaser.

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The only uses permissible under the current zone are roads, Waste or Resource Management Facility including any development that is ordinarily incidental or ancillary to development for that purpose. All other purposes are prohibited.

The need to affect a zone change can only be achieved by way of a planning proposal.

Section B – Relationship to the strategic planning framework

“Is the planning proposal consistent with the objectives and actions of the applicable regional, sub regional or district plan or strategy (including the Sydney Metropolitan Strategy and any exhibited draft plans or strategies)?”

The Sydney Metropolitan Strategy does not apply to the subject lands.

The Hunter Regional Plan 2036 has only just been made by the Minister and applies to the land.

The *Hunter Regional Plan 2036* the Plan is a guide for land use planning priorities and decisions over the next 20 years however it is not intended to be a step-by step approach to all land use planning.

It is intended to provide an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions. While a series of priority actions are included, medium and longer term actions will be identified to coincide with population growth and economic change.

Under the terms of the Regional Plan 2036 the site is located in the Mid Coast Region

A Government direction will be issued to councils so that when they prepare new planning proposals or update local planning controls, they are consistent with the vision and guiding principles of the Regional Plan. Local Government Narratives will provide detailed guidance for each council. This yet to occur.

The narrative for the Dungog Shire is for a moderate growth Population of +200 from 8,750 in 2016 to 8,950 by 2036 with an expected growth in additional houses being +400 (?)

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The narrative for Centres and employment identify that *Regionally significant centres and employment land clusters include* Centres of local significance being Dungog, Clarence Town, East Gresford, Gresford, Paterson and Vacy.

The narrative for Housing is *Future housing and urban renewal opportunities need to cater to the housing needs of 'tree changers' and the ageing population as well as balance the demand for rural residential lifestyle housing with agricultural and environmental attributes.*

The lot to be rezoned is contained within an extensive area of Zone R5 Large Lot Residential which is located immediately to the south west of the Township of Vacy which caters to the needs of 'tree changers' and provides for the demand for rural residential lifestyle housing with agricultural and environmental attributes.

"Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?";

Dungog Council's Community and Strategic Plan's stated vision for Dungog Shire is "A vibrant, united community, with a sustainable economy. An area where rural character, community safety, and lifestyle are preserved." Its Mission Statement is "To manage, enhance, and protect, the resources of the Shire, in consultation with the community."

Council's Community and Strategic Plans identifies Vacy having rural lifestyle development with some remaining un-subdivided land in the area and acknowledges that the majority of residents' travel by vehicle to work outside of the area.

Strategic Aim for Housing is that there be a range of housing options available to meet the needs of all groups in the community.

The Objectives include:

- To encourage developers to facilitate modified housing for people with disabilities and aged.
- To continue to lobby government agencies for crisis accommodation
- To work in partnership with Department of Housing, real estate agents and other community organisations in addressing the issues of housing affordability and lack of available rentals.

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- The lack of local crisis accommodation for families, young people and women at risk was highlighted by service providers in the Shire.
- The ageing population could be greatly assisted by encouraging new developers to build village type housing near services to encourage independence.

This proposal is of such a minor nature that it will unlikely to be held to assist in achieving the objectives of the Council's Community and Strategic Plan however it is not antipathetic to the achievement of those objectives and will provide the opportunity for additional housing to support the township of Vacy.

In broad terms the rezoning will allow development that will maintain the rural character of the area, and assist in preserving the lifestyle of the area around Vacy and meet the Strategic Aim for Housing in that it will provide the opportunity for residential a development available to meet the needs of the tree change demands for residential housing in a rural setting.

"Is the planning proposal consistent with state environmental planning policies?"

State Environmental Planning Policies applicable to the site appear to be the following:

SEPP (Exempt and Complying Development Codes) 2008

Streamlines assessment processes for development that complies with specified development standards. The policy provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent;

In the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Environmental Planning and Assessment Act 1979.

State Environmental Planning Policy (Infrastructure) 2007

Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency

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State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

This Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establishes appropriate planning controls to encourage ecologically sustainable development.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX. The draft SEPP was exhibited together with draft Regulation amendment in 2004.

State Environmental Planning Policy No. 1 - Development Standards

Makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to 107 local government areas. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat

State Environmental Planning Policy No 55 – Contaminated Land

The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.

In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

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- (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
- (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) *by requiring that a remediation work meet certain standards and notification requirements.*

COMMENT

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The site is not known locally as an area that contains a resident population of breeding koalas and as such is not defined as **core koala habitat** and there have been no records of recent sightings of and historical records of a population.

The site does not contain more than 15% tree canopy of native vegetation so is unlikely to trigger the provisions of the SEPP.

The site may contain areas of native vegetation of the types listed in Schedule 2 to the policy however such tree cover at this time does not constitute at 15% of the total number of trees in the upper or lower strata of the tree component on site.

Assessment of the potential use of the site by Koalas is matter that can be verified post gateway if so required.

State Environmental Planning Policy No 55 – Contaminated Land

The subject site is known to have been used for a contaminating use having been used as a Former Sanitary Waste Facility.

As previously stated in this proposal investigations (2015), remediation (2015) and verification (2016) of the site have been undertaken by a reputable firm, RCA Australia -Geotechnical Environmental and their findings are that the land is suitable for residential purposes subject to compliance with a "Site Management Protocol" (copy attached) which provides that the area of tar contamination be sealed under a driveway of a building footprint (foundation) if not further remediation may be needed.

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As the land is proposed to be used for residential purposes we believe that there is no need for any additional investigations at this time post Gateway determination.

"Is the planning proposal consistent with applicable Ministerial Directions (Section 117 Directions)?"

The proposal has been considered against the relevant Ministerial Section 117 Directions and is considered to be consistent with the relevant Directions as summarised below.

Number	Direction	Applicable	Consistent
Employment & Resources			
1.1	Business & Industrial Zones	N/A	N/A
1.2	Rural Zones	N/A	N/A
1.3	Mining, Petroleum Production and Extractive Industries	N/A	N/A
1.4	Oyster Aquaculture	N/A	N/A
1.5	Rural Lands	N/A	N/A
Environment & Heritage			
2.1	Environmental Protection Zones	N/A	N/A
2.2	Coastal Protection	N/A	N/A
2.3	Heritage Conservation	N/A	N/A
2.4	Recreation Vehicle Areas	N/A	N/A
Housing, Infrastructure & Urban Development			
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks and Manufactured Home Estates	Yes	Yes
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use & Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	N/A	N/A
3.6	Shooting Ranges	N/A	N/A
Hazard & Risk			
4.1	Acid Sulfate Soils	N/A	N/A
4.2	Mine Subsidence and Unstable Land	N/A	N/A
4.3	Flood Prone Land	N/A	N/A
4.4	Planning for Bushfire Protection	Yes	Yes
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes

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5.2	Sydney Drinking Water Catchments	N/A	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A	N/A

5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A	N/A

Local Plan Making

6.1	Approval and Referral Requirements	No	N/A
6.2	Reserving Land for Public Purposes	N/A	N/A
6.3	Site Specific Provisions	No	N/A

Metropolitan Planning

7.1	Implementation of the Metropolitan Strategy	N/A	N/A
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Section C – Environmental, Social and Economic Impact

“Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?”;

Comment

The land is mainly cleared with a significant cover of introduced grass species which appears to be regularly maintained. A walk over has identified that there appeared to be no issues relevant to Flora and Fauna to hamper the future use of the lands for urban purposes.

The site may contain **potential koala habitat** in that it may contain areas of native vegetation of the types listed in Schedule 2 to the policy but the tree cover does not appear to constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

Assessment of the potential use of the site by Koalas is matter that can be verified post Gateway if required.

“Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?”;

The land is not identified as being affected by any of the identified hazard characteristics other than Bushfire hazard and contamination.

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In relation to each of these issues any future development of the site will be required to comply with the guidelines established by the document "Planning for Bushfire Protection 2006" and the RCA Australia - Geotechnical Environmental "Site Management Protocol" for the site respectively.

Given these circumstances and the limited area of the subject site it is considered that use for large lot residential purposes consistent with that already in the locality would be the most appropriate use of the land.

"How has the planning proposal adequately addressed any social and economic effects?"

The proposal will only generate one (1) additional large lot residential parcel as minor infill development in an area already developed totally for large lot residential purposes and will contribute incrementally to achieving the dwelling and population targets set by Council's Settlement Strategy.

The lot yield is so low as to have little or no impact upon social and economic matters in the locality.

The alternative to doing nothing is likely to see the site remain unused or used for purposes that may interfere with the enjoyment of the residential enjoyment of the lands nearby.

In these circumstances and the limited area of the subject site it is considered that use for large lot residential purposes consistent with that already in the locality would be the most appropriate use of the land.

The positive social and economic effects relate to the potential provision of additional large lot residential housing opportunities in this locality of Vacy.

Section D – State and Commonwealth Interests

"Is there adequate public infrastructure for the planning proposal?"

There are no services provided by either the State or the Commonwealth that will require intensification or augmentation as a result of this proposal.

"What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?"

This is a matter for the assessment and consultation process to identify.

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SUMMARY AND CONCLUSION

The proposal will only generate one (1) additional large lot residential parcel as minor infill development and will contribute incrementally to achieving the dwelling and population targets set by Council's Settlement Strategy.

The proposal represents a justifiable opportunity to implement the R5 Large Lot Residential as contained in the Dungog Local Environmental Plan 2014 as it applies to the surrounding lands.

The submission of this proposal by Council seeking endorsement to a "Gateway" rezoning proposal to facilitate subdivision in the manner proposed is justified in the context of broader planning strategies and those that particularly relate to the pursuit of the large lot residential potential of land.

We conclude therefore that the proposal has minimal and manageable environmental impact and as such is worthy of support and accordingly, we submit that a favourable consideration be given to the proposal.

Part 4 – Mapping

Figure 1 Location Map

Figure 2 Aerial Photo of Site- and surrounding land

Figure 3 Existing Zoning

Figure 4 Existing Minimum Lot Size Plan

Figure 5 Fire Prone Lands Mapping

Figure 6 Dungog Shire Council Vegetation Mapping

Figure 7 Proposed Land Use Zones

Figure 8 Proposed Minimum Lot Size

Part 5 – Community Consultation

This is a matter for the exhibition phase of the Planning Proposal and Council's contemplation pending receipt and determination of this application and by its resolution to proceed to exhibition.

It is procedurally required that such a proposal be publicly exhibited for a period of no less than 28 days.

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Notification of the public exhibition is likely to be placed in the local newspapers circulating in the area and the Newcastle Herald and written notification sent to owners adjacent to the site along with Notices placed on Council's website with a link attached to Council's on line exhibition facility.

The Planning Proposal, Gateway Determination, and supporting studies in addition to being available on Council's website, would also be available at Council's Administration Building in Dungog.

A public hearing is considered unlikely in this matter.

Part 6 Project Timeline

Council Endorsement	November 16
Gateway Referral	December 2016
Gateway Determination	February 2017
Forwarding of PP to Govt. Depts. (prior to ex.)	February 2017
Responses from Govt. Agencies reviewed - PP	March 2017
Completion of Exhibition Material	April 2017
Exhibition	May 2017
Council Report Draft	June 2017
Consideration of Submissions	June 2017
Report to Council	July 2017
PC Consultation	July 2017
Notification and Effect	September 2017

Attachments and Supporting Documentation

Document	Attached
1. Remediation works- Former sanitary waste facility Serenity Way, Vacy Prepared for Dungog Shire Council Prepared by RCA Australia, RCA ref 11214a-301/0 June 2016	√
2. Valuation Report - Vacant Large Lot Residential land Lot 9 DP 1009184 Serenity Way Vacy	√

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Prepared by Brorson Hill Valuations September 2016

REFERENCES

Dungog Shire Rural Strategy 2003

Dungog-Shire-Community-Strategic-Plan-2030

The Hunter Regional Plan 2036 – NSW Department of Planning & Environment 2016

Dungog Local Environmental Plan 2014

NSW DoPE Guide-to-preparing-planning-proposals-2016-08

