



PLANNING PROPOSAL

DUNGOG LOCAL ENVIRONMENTAL PLAN 2006 (AMENDMENT NO. 14)

Proposed Amendment to Schedule 1 – Vacant Holdings to permit the erection of a single dwelling-house on the following allotments:

Lot 1 DP 343072, No. 8 Parkes Creek Road, Bingleburra

Lot 72 DP 736606, 1287 Bingleburra Road, Bingleburra

Version 1.0
Prepared by Dungog Shire Council
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Introduction

This planning proposal concerns two (2) separate parcels of land within the Dungog Local Government Area, in particular:

- (a) Pt Lot 1 DP 343072, No. 8 Parkes Creek Road, Bingleburra; and
- (b) Lot 72 DP 736606, No. 1287 Bingleburra Road, Bingleburra.

A plan showing the location of the subject land is attached as Appendix A. Aerial photos are attached as Appendix B.

Pt Lot 1 DP 343072, No. 8 Parkes Creek Road, Bingleburra

Pt Lot 1 DP 343072 is approximately 25 hectares in area and is located on the corner of Parkes Creek Road and Bingleburra Road, approximately 15 kilometres east of the intersection of Bingleburra Road and Allyn River Road.

The land is gently undulating and is predominantly cleared with patches of remnant and regrowth woodland scattered throughout the site.

Access to the property is via Parkes Creek Road, which is a Council maintained gravel road. Utility services available to the site include electricity, telephone, garbage and recycling collection and mail delivery services.

There are three (3) former Crown reserve roads running through the property, two of which run in a north-south direction joining Bingleburra Road to the Crown road adjacent to the northern boundary of the subject land and another that joins Parkes Creek Road to the same Crown Road. The owners of the subject land made application to the Department of Lands for the closure of these roads. This process was recently completed and the owners have now purchased the three (3) Crown reserve roads.

The land is currently vacant and is used for grazing of cattle and horses. Surrounding properties are also rural in nature supporting low intensity agricultural activities and grazing.

Lot 72 DP 736606, No. 1287 Bingleburra Road, Bingleburra

The subject land is located on Bingleburra Road, approximately 10 kilometres west of the intersection of Bingleburra Road and Allyn River Road.

The subject property comprises a total area of 6.93 hectares and is divided into two parts by Bingleburra Road. The portion to the north comprises 3.045ha, whilst the portion to the south comprises 3.885ha. Several natural watercourses traverse the site.

The land is gently undulating and is predominantly cleared with patches of remnant and regrowth vegetation occurring along natural watercourses.

Access to the property is via Bingleburra Road, which is a sealed, all weather access road. Utility services available to the site include electricity, telephone, garbage and recycling collection and mail delivery services.

The land is currently vacant and is used for livestock grazing. Surrounding properties are also rural in nature supporting low impact agricultural activities and grazing.

Both properties are zoned Rural 1(a) under the *Dungog Local Environmental Plan 2006* (Dungog LEP 2006). Neither property currently has a dwelling entitlement. An amendment to the LEP is therefore required to enable Council to consider a development application for the erection of a dwelling-house on the subject land.

Part 1 - Objectives and Intended Outcomes

The planning proposal seeks to amend *Dungog Local Environmental Plan 2006* (LEP 2006) by including the subject land in Schedule 1 – Vacant Holdings, to enable the construction of a single dwelling-house on each of the lots with development consent. It should be noted that the zoning of the subject land is not proposed to change.

Part 2 - Explanation of Provisions

The planning proposal seeks to amend Schedule 1 of Dungog LEP 2006 by inserting in alphabetical order of locality in Columns 1 and 2 respectively:

Bingleburra

8 Parkes Creek Road

Pt Lot 1 DP 343072

1287 Bingleburra Road

Lot 72 DP 736606

Part 3 - Justification

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. It has resulted from a specific request from the owner of each property to have their land identified in Schedule 1 of LEP 2006 as a Vacant Holding. The proposal is, however, consistent with the Dungog LEP 2006 and the Dungog Rural Strategy 2003. Both Council and the Department of Planning (DoP) have agreed that a strategic approach to Vacant Holdings is required and Council is currently in the process of commissioning a Shire-wide study to establish a more efficient and strategic way to deal with Vacant Holdings.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending Schedule 1 of Dungog LEP 2006 to identify the subject parcels as Vacant Holdings is considered to be the most effective means of achieving the intended outcome. One alternative would be to rezone the properties from Rural 1(a) to some other zone, in which the construction of a dwelling-house on the lot would be permissible e.g. Rural Lifestyle 1(l). However, this alternative is not considered appropriate given that the subject parcels are located in a remote rural area and are surrounded by agricultural land uses.

As stated previously, Council is currently in the process of commissioning a Shire-wide study to establish a more efficient and strategic way to deal with Vacant Holdings and whilst an alternative would be to wait until this study is complete, it is considered more expedient to progress the subject application now. In the interim, where possible, Council tries to group Vacant Holding applications together in order to minimize the number of planning proposals referred to the Department of Planning.

3. Is there a net community benefit?

The planning proposal will restore a dwelling entitlement that existed on each of the subject properties prior to the gazettal of Dungog LEP 2006. Whilst both parcels are less than 60 hectares in area, the applicants have demonstrated that the requirements of clause 26(1) of Dungog LEP 2006 can be met and in each case, that the land is suitable for a dwelling-house. The construction of single dwelling-houses on these two properties may help to alleviate pressure for development in other locations, on land which may be more constrained. The proposal will therefore provide a net community benefit through potential positive environmental outcomes and should not create an undesirable precedent in terms of other rezoning requests.

Section B - Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metro Strategy or exhibited draft strategies)?

The Dungog local government area is not included within the Sydney Metro Strategy or the Lower Hunter Regional Strategy and therefore the objectives and actions do not apply.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plans?

Dungog Rural Strategy 2003

According to the *Dungog Rural Strategy 2003*, a vacant rural land holding with an area of less than 60 hectares may be considered for a dwelling entitlement provided the allotment was in one ownership as at 1 July 2003 and it can be demonstrated that the allotment satisfies the development criteria expressed in the Strategy. An assessment of the capability and suitability of the lot for a dwelling-house will be required, followed by a formal amendment to LEP 2006.

Dungog LEP 2006

Dungog LEP 2006 is the principal environmental planning instrument governing land use within the LGA. The proposal's consistency with the provisions of LEP 2006 is discussed below.

Clause 27(5) of LEP 2006 states:

"Consent must not be granted to the erection of a dwelling-house or a dual occupancy on land in Zone 1(a), 7 (a) or 9 (a), unless it is erected on:

- a) a lot created in accordance with clause 28 (4) (b), or*
- b) a vacant holding identified in Schedule 1, or*
- c) land comprising an established holding on which there is no dwelling-house, or*
- d) land comprising part of an established holding, providing it will not result in there being more than one dwelling or dual occupancy for each 60 hectares of the holding."*

The subject lots were not created by a Council approved subdivision after the appointed day, nor do they comprise established holdings or part of an established holding. Therefore, in accordance with the provisions of LEP 2006, Council can only consent to the erection of a dwelling-house on the subject parcels if the lots are identified in Schedule 1 of the LEP as Vacant Holdings.

Both properties comply with the LEP definition of a Vacant Holding as follows:

"vacant holding" means land in Zone 1(a) or 9(a) that:

- (a) comprises one lot (which may be a consolidated lot) with an area of less than 60 hectares on which no dwelling is currently located, and*

(b) was the total area of all adjoining or adjacent land held in one ownership on 1 July 2003.

Applications for properties to be identified in Schedule 1 of LEP 2006 as Vacant Holdings must also demonstrate that the requirements of clause 26(1) can be met. In both cases, the applicants have submitted information in support of their application demonstrating that the requirements of Clause 26(1) of LEP 2006 can be met i.e. that a dwelling-house can be constructed on the subject land without any adverse impacts on the environment.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal's consistency with relevant State Environmental Planning Policies (SEPPs) is summarised in the following table.

SEPP	Relevance	Consistency & Implications
SEPP (Rural Lands) 2008	The SEPP identifies Rural Planning Principles and Rural Subdivision Principles to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State. Clause 10 of the SEPP lists a number of matters which must be considered in determining development applications for rural subdivisions or rural dwellings.	The planning proposal is generally consistent with the Rural Planning Principles and Rural Subdivision Principles. These matters generally relate to the potential for land use conflict. In each case, the proposed building envelope is located well clear of all property boundaries and is protected by stands of established native vegetation, affording adequate buffering from any existing or foreseeable agricultural activities on adjacent rural land.
SEPP (Infrastructure) 2007	This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW and provides for consultation with relevant public authorities about certain development during the assessment process. Pursuant to clause 101 of the SEPP, Council cannot grant consent to development on land that has a frontage to a classified road unless, where practicable, vehicular access to the land is provided by a road other than the classified road and the safety, efficiency and ongoing operation of the classified road will	Bingleburra Road is a classified road. Lot 1 DP 343072 is located on the corner of Bingleburra Road and Parkes Creek Road and has an existing access off Parkes Creek Road, which is a Council maintained gravel road. There are also a number of other locations along Parkes Creek Road that may provide suitable alternative access locations if needed. Access to Lot 72 DP 736606 is from Bingleburra Road. In this location, the road has a sign-posted speed limit of 90km/hr, is in good condition and features a relatively straight

	not be adversely affected by the development.	alignment. The minimum required safe intersection sight distance (SISD) of 190m is available in both directions from the existing access/egress point.
SEPP (Building Sustainability Index: Basix) 2004	The aim of this policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.	The planning proposal will enable the construction of a dwelling-house on each of the subject lots. The dwelling-houses will need to demonstrate compliance with BASIX requirements.
SEPP No. 44 – Koala Habitat Protection	This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.	Neither of the subject lots have been identified as having core koala habitat or potential koala habitat.
SEPP No. 55 – Remediation of Land	This SEPP provides a Statewide planning approach to the remediation of contaminated land.	There is no evidence of any contamination on either of the lots.
Williams River Catchment REP 1997	The REP aims to protect and improve the environmental quality of the Williams River catchment through the management and use of the catchment's resources in an ecologically sustainable manner.	The planning proposal will not result in any impacts on the Williams River or the quality of the catchment's water resources.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal's consistency with applicable section 117 directions is summarized in the following table.

Ministerial Direction	Relevance	Consistency & Implications
1.2 Rural Zones	The direction applies when a relevant planning authority prepares a planning proposal that will affect land within a rural zone.	It is not proposed to rezone the subject land to a residential, business, industrial, village or tourist zone, nor increase the permissible density of land within a rural zone. The proposal is therefore consistent with the terms of Direction 1.2.
1.5 Rural Lands	According to the direction, a planning proposal that affects land within a rural zone, or changes the existing minimum lot size on land within a rural zone must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008.	The planning proposal is generally consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008 and is therefore consistent with the terms of Direction 1.5.
4.4 Planning for Bushfire Protection	The direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In preparing the planning proposal, Council is required to consult with the NSW Rural Fire Service, following receipt of a gateway determination and prior to undertaking community consultation, and take into account any comments so made.	Both properties are mapped as bushfire prone land. Bushfire Risk Assessments have been prepared in respect of both properties, demonstrating compliance with the provisions of <i>Planning for Bushfire Protection 2006</i> . These will be referred to the RFS for comment during the consultation phase.
6.3 Site Specific Provisions	The direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	The proposal does not impose any development standards or requirements in addition to those already contained in the Dungog LEP 2006. It is also consistent with clause 5 of the direction, as the proposal does not contain or refer to any drawings that show detail of the development proposal.

Section C - Environmental, Social and Economic Impact

8. 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?

Both properties are predominantly cleared, with patches of remnant and regrowth woodland scattered throughout the site. It should not be necessary to remove any native vegetation to facilitate construction of the proposed dwelling-houses. The proposal is therefore unlikely to adversely impact on any threatened species, populations or ecological communities, or their habitats.

Should it be necessary to remove any vegetation to facilitate the construction of an access road, installation of an on-site sewerage management system or provision of required asset protection zones around the proposed dwelling-houses, a flora and fauna assessment will be required to be submitted with the development application.

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

A site inspection and preliminary assessment against the requirements of clause 26(1) has been undertaken and it is considered that there will be no significant environmental effects as a result of the proposal. Any development arising from this planning proposal will need to be assessed under section 79C of the *Environmental Planning and Assessment Act 1979*. Issues such as bushfire hazard, water management and effluent disposal are not considered to be significant constraints to development in this instance and can be dealt with, in detail, at the development application stage.

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

The proposal is not expected to generate any significant adverse social or economic effects.

Section D- State and Commonwealth Interests

11. Is there adequate public infrastructure for the planning proposal?

Development arising from this planning proposal will not significantly increase the demand for public infrastructure.

Both properties have access to existing public infrastructure including:

- A Council maintained public road;
- Reticulated electricity;
- Telecommunication services;
- Garbage service; and
- Emergency services.

Both developments will rely on on-site effluent disposal. Effluent capability assessments have been submitted for both properties indicating that each lot has sufficient area and soil type and is capable of supporting the disposal of on-site wastewater from any future on-site waste water treatment system.

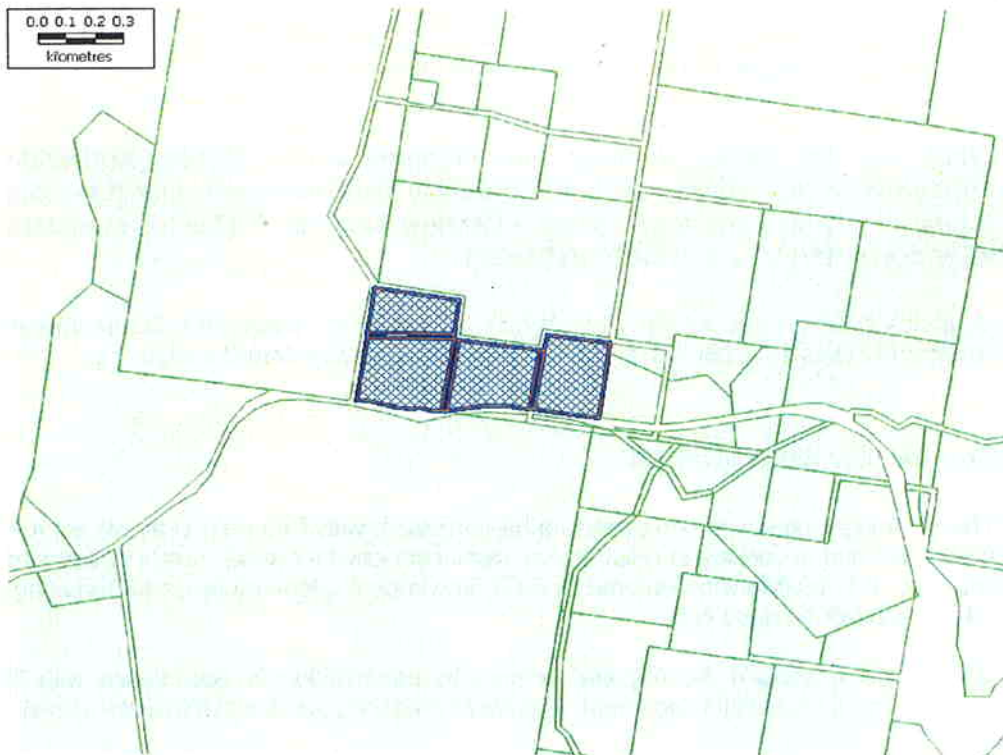
12. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (To be completed after consultation but prior to gateway)

Council will undertake formal consultation with relevant State and Commonwealth public authorities, in accordance with the Minister's gateway determination.

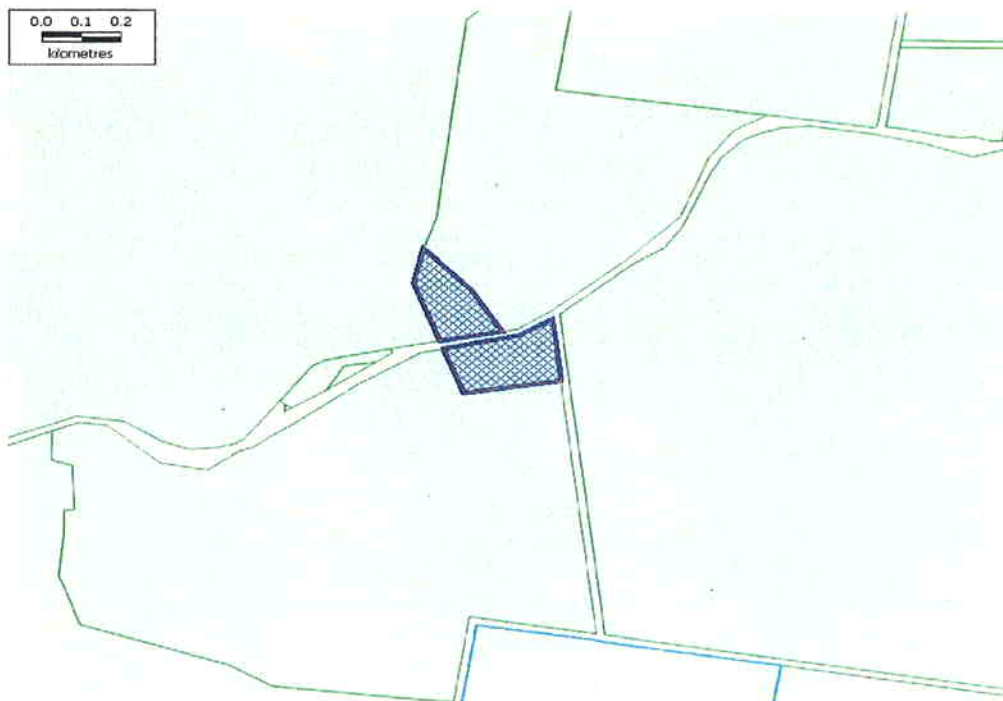
Part 4 - Community Consultation

The planning proposal is considered to be consistent with Council's strategic planning framework and is unlikely to result in any significant environmental, social or economic impacts. It is therefore considered to be a "low impact" planning proposal requiring a 14 day exhibition period only

Council will undertake the required community consultation in accordance with the Department of Planning's document '*A guide to preparing local environmental plans*'.

APPENDIX A – LOCALITY PLANS

Lot 1 DP 343072, 8 Parkes Creek Road, Dungog

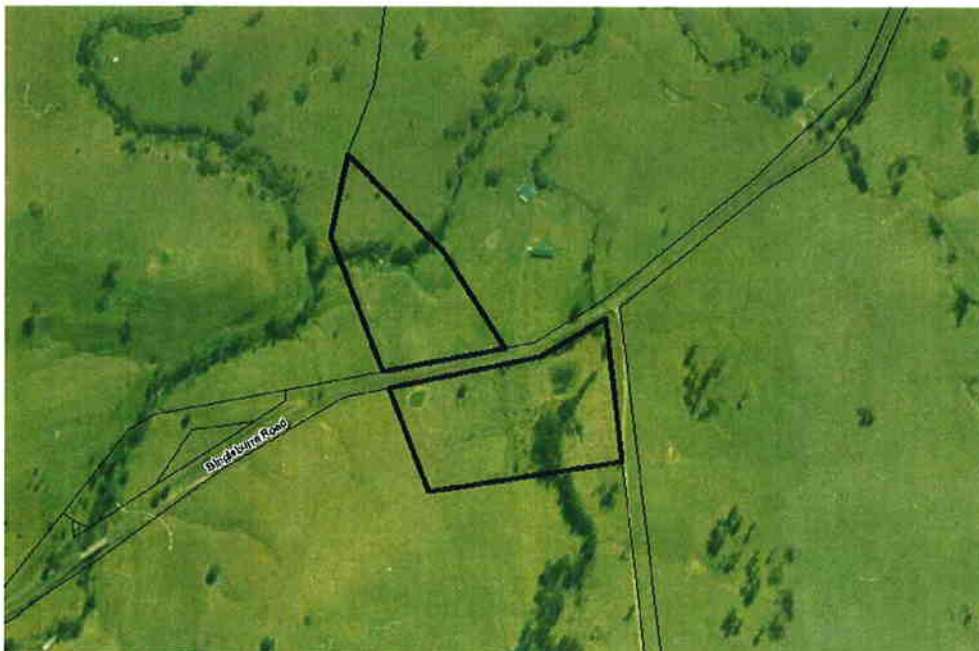


Lot 72 DP 736606, 1287 Bingleburra Road, Bingleburra

APPENDIX B – AERIAL PHOTOS

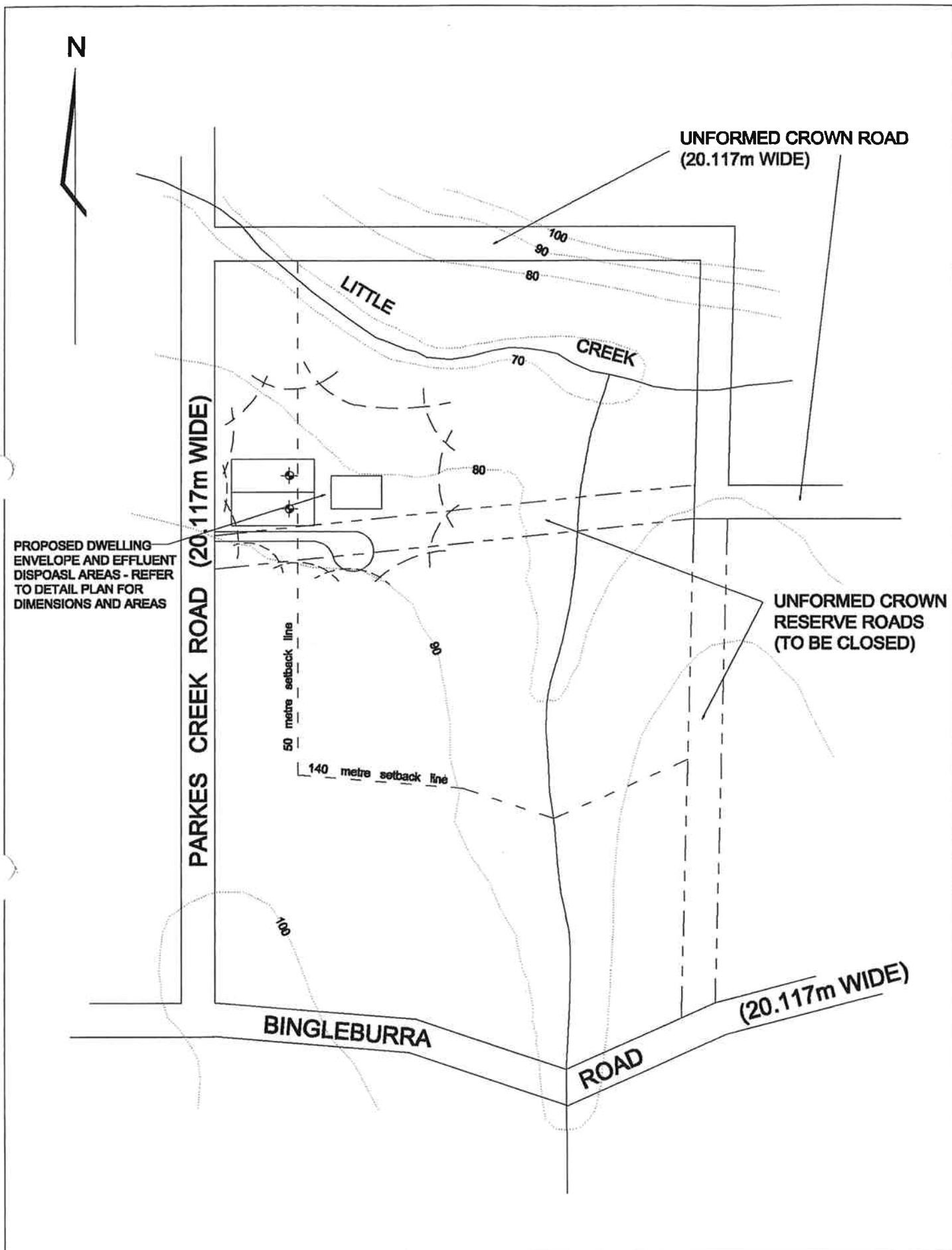


Lot 1 DP 343072, No. 8 Parkes Creek Road, Dungog



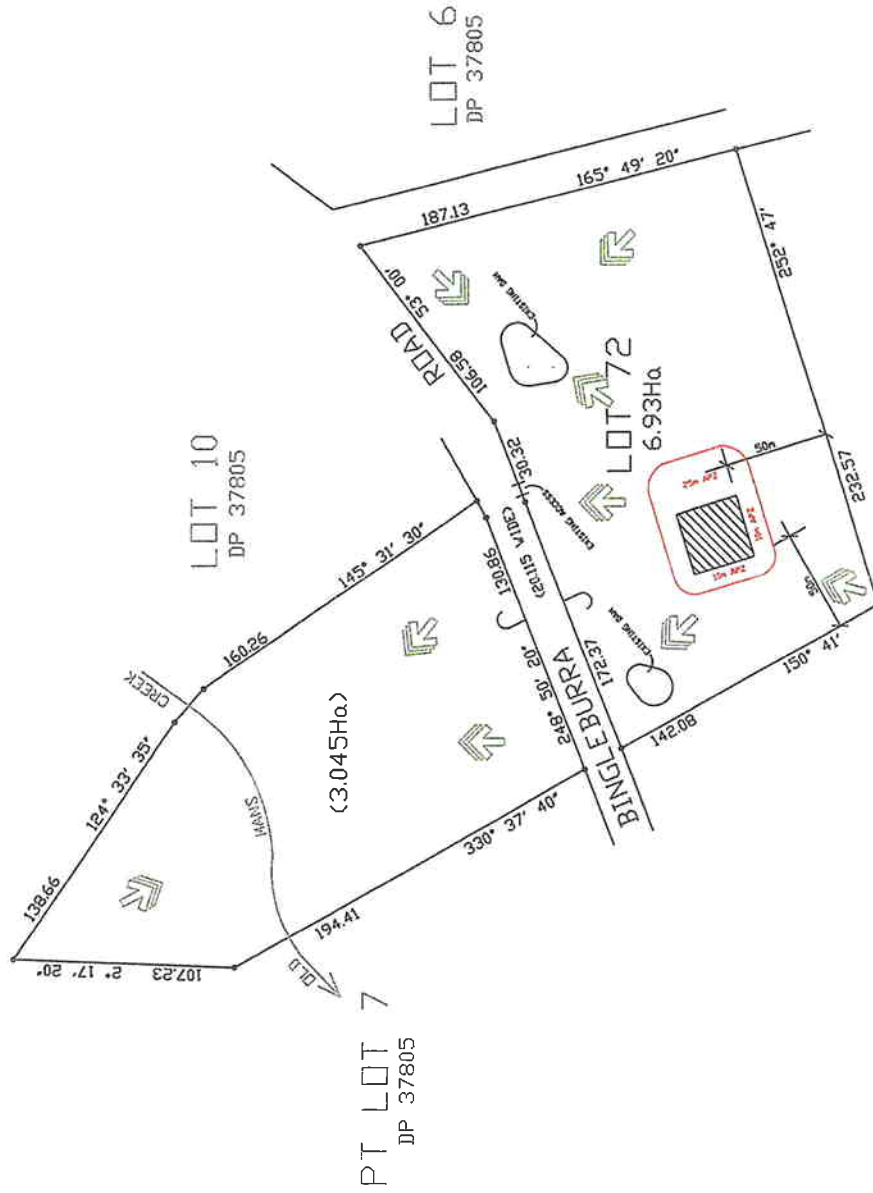
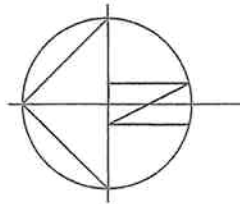
Lot 72 DP 736606, 1287 Bingleburra Road, Bingleburra

APPENDIX C – SITE PLANS SHOWING LOCATION OF PROPOSED DWELLINGS



VACANT HOLDING REZONING APPLICATION	SITE PLAN		
	SCALE: 1:300 @ A4	DATE: 08/10/2008	DWG: SITE FINAL.DWG
	LOT 1 DP 343072 8 PARKES CREEK ROAD, BINGLEBURRA		

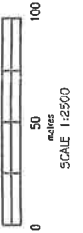
DIMENSIONS AND AREAS ARE APPROXIMATE & SUBJECT TO FINAL SURVEY



PROPOSED 30m X 30m
BUILDING ENVELOPE

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planning+engineering

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PROJECT VACANT HOLDING APPLICATION
LOCATION LOT 72 (DP 37805) BINGLE BURRA RD, BINGLE BURRA
CLIENT MALVA WARR P WARR

DRAWING TITLE DATE 20 DECEMBER 2010 DRAWN 02185_102588

REVISION 1
DRAWN 02185_102588