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27 May 2010

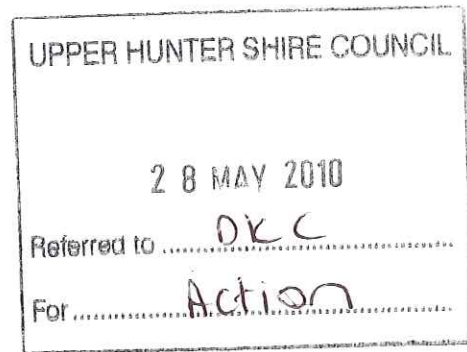
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Director Environmental Services
Upper Hunter Shire Council
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Attention: David Casson

Dear David



Re: Proposed Rezoning Lot 202 DP 845720, 411 Middlebrook Road Scone

As discussed at our meeting on 30 March 2010, we now submit to Council a report that supports our request to have the above area of land rezoned.

We understand that this rezoning would be required to proceed through the state government's gateway determination process, and we seek council's support for this determination.

Thank you for your help and advice in this matter and we are available at your convenience to discuss any issues in relation to this proposal.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Trevor Wells', written over a horizontal line.

Trevor Wells



Barker Ryan Stewart

Planning • Sustainability • Infrastructure • Development • Certification

PLANNING PROPOSAL

FOR

PROPOSED REZONING

LOT 202 MIDDLEBROOK ROAD

SCONE

May 2010
Our Ref: 20090163



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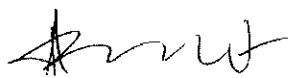
Attachment A – Rezoning Plan

Attachment B – Future Subdivision plan

- Figure 1:** Plan Showing Area of Upper Hunter Flood Study Map
Figure 2: Agricultural Suitability Map
Figure 3: Air Photo of Site and Surrounding Land
Figure 4: Subdivision Plan Showing Settlement Pattern in Locality
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- Table 1:** Average Rainfall and Temperature Records for Scone
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Table 5: SEPP Rural Lands Compliance Table
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Project No.	20090163
Author	IS
Signature	

Rev No.	Status	Date	Comments
1	Draft for comment	19/05/10	
2	Final	26/05/10	

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1.0 INTRODUCTION

1.1 Overview

This report has been prepared on behalf of Ken & Sharon Wells; and Trevor & Tracey Wells.

It is proposed to rezone approximately 13.31ha of land Lot 202 Middlebrook Road Scone from 1(i) Intensive Agricultural Zone to 1(c) Rural Small Holdings Zone under the Scone Local Environmental Plan 1986 (LEP).

The area to be rezoned is a relatively un-constrained cleared and gently undulating parcel of land held in single ownership. It is well located approximately 2km from Scone township on a sealed country road; and is adjacent to the Scone Racecourse and rural lifestyle blocks.

The rezoning will provide sufficient land area for approximately 7 rural-residential lots on Class 3C agricultural land.

A 21.69ha residue lot located below the 1%AEP flood level will be retained within the 1(c) zone. The residue lot is classified as Class 1 agricultural land and will be retained as a single allotment.

This report finds that the proposed rezoning is consistent with:

- Upper Hunter Land Use Strategy;
- SEPP Rural Lands (2008)
- Relevant s.117 Directions; and
- LEP Pro-forma Evaluation Criteria – Category 1 Spot Rezoning.

The Upper Hunter Land Use Strategy advises that demand for large lot residential and rural small holdings will exceed supply in the short term and has identified the subject area as a potential area for this form of development.

1.2 Background

DA 26/2010 was lodge with Upper Hunter Shire Council in February 2010 for subdivision of the site into 7 rural lifestyle lots of approximately 2.0ha each and a residue lot of 21.69ha.

The DA was withdrawn in May 2010 due to advice from Council that the site has been identified as a candidate area in the Upper Hunter Land Use Strategy for rural small holdings and a rezoning may be a better approach than lodging a DA to vary the minimum lot size.

Accordingly, this planning proposal seeks to rezone the land to an appropriate zoning so that a future DA for subdivision will comply with minimum lot size requirements.

2.0 SITE ANALYSIS

2.1 Site Description

The real property description is Lot 202 DP 845720 Middlebrook Road, Scone.

The site is irregular in shape and has a total area of approximately 35ha.

Located on the site is an existing brick residence, farm sheds, stables, stock yard and associated outbuildings. The remainder of the property is used for pastoral grazing.

Vehicle access is currently available near the northern boundary of the site.

2.2 Topography

The site has an irregular "C" shape.

Middlebrook Creek meanders through the middle of the site and along the eastern boundary.

Generally, the northern and eastern ends of the site are above the 1 in 100 year flood level with contour levels in this area ranging between 225m AHD to 246m AHD. Gradients in this area range from between 5 to 8%.

The southern half of the site is low lying and areas below 225m AHD are flood affected. Contour levels in the southern half of the site range from 225m AHD down to less than 220m AHD. Gradients in this area range from between 1 to 5%.

2.3 Vegetation

The majority of the site has been cleared in the past for agricultural pursuits.

Existing vegetation is limited to grass pastures and assorted tree species located along the banks of Middlebrook Creek and adjacent to the northern and eastern boundaries.

2.4 Water Courses and Flooding

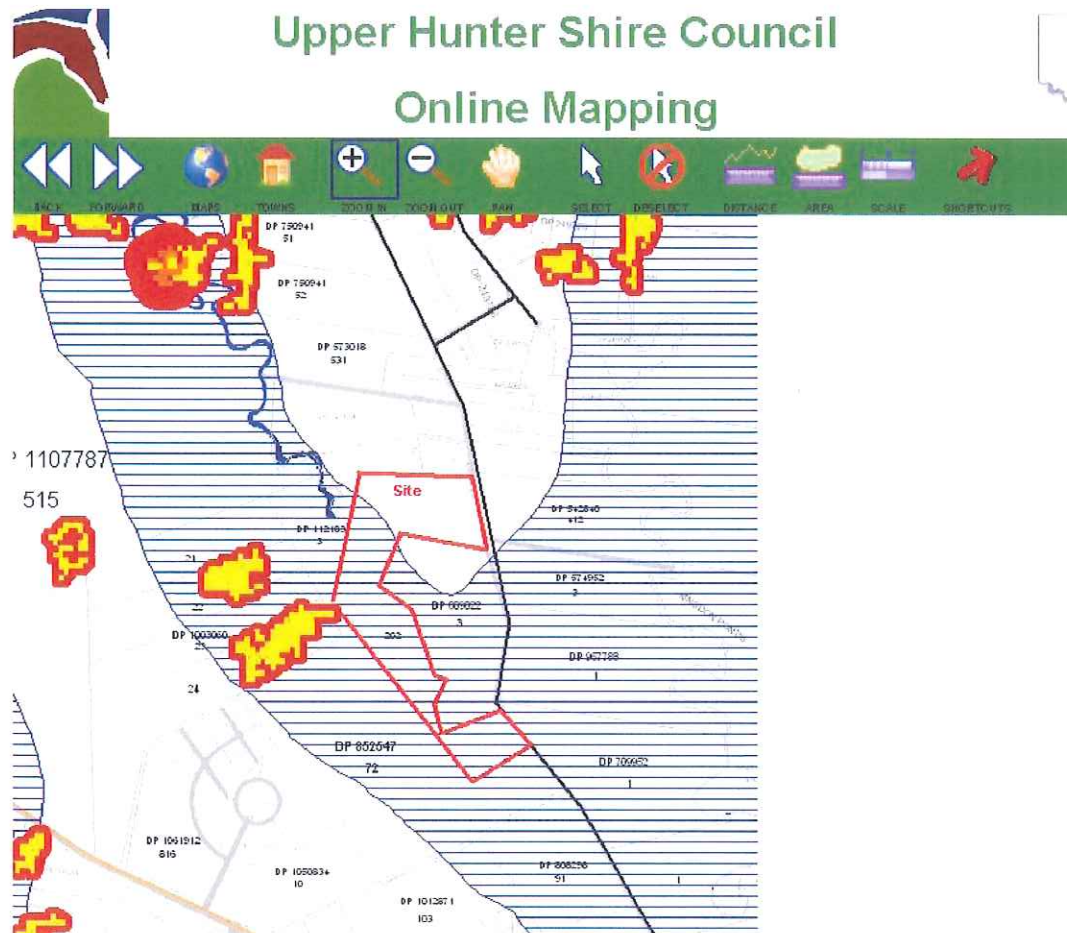
As outlined above, Middlebrook Creek meanders through the middle of the site and the south-eastern border.

The landowners report that the Creek normally only runs during periods of sustained rainfall.

All land below approximately 225m AHD is inundated by the 1:100 year flood.

The flooding of the lower sections increases nutrients and sediment deposition on the farm and recharges groundwater.

Figure 1: Plan Showing Area of Upper Hunter Flood Study
(Approximation of site boundaries marked in red)



2.5 Rainfall and Temperature

The average rainfall and temperature statistics for Scone measured by the NSW Bureau of Meteorology over the past 60 years are shown below.

Maximum rainfall and temperatures are recorded in the summer months December to February.

Table 1: Average Rainfall and Temperature Records for Scone

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Av. mm	82.9	78.4	50.9	40.0	46.9	44.6	35.8	39.0	39.1	59.7	60.0	68.2	645.4
Av. Temp 3pm	29.3	28.5	26.4	23.0	19.0	15.6	14.9	17.1	20.1	23.3	25.8	28.5	22.6

Source: NSW Bureau of Meteorology

Site name: SCONE SCS

Site number: 061089

Latitude: 32.06 °S **Longitude:** 150.93 °E

2.6 Soil Classification

The SoilCon Natural resource mapping sheet for this area identifies two different soil types on the site.

The upper flood free northern part of the site is classified as "Growee" soils comprising:

"Shale, sandstone and conglomerate. Undulating rises and low hills with broad shallow valleys, relief 30m-60m slope to 10%. Red yellow and brown Solodic soils occur sequentially down slope with non-Calcic brown soils on some lower slopes. Yellow Solodic soils on mid to lower slopes."

The lower flood affected part of the site is classified as "Hunter" soils comprising:

"Alluvial plains and terraces of the Hunter River and its tributaries, relief to 10m, slopes to 3%. Brown clays and black earths on prior stream channels and on tributary flats. Chernozems on prior stream channels adjacent to Dartbrook and Brays Hill soil landscapes. Alluvial soils (loans and sands) on levees and flats adjacent to the present river bed. Red Podzolic soils and Lateritic Podzolic soils on old terraces. Non-calcic Brown soils on terraces with yellow Solodic soils in drainage lines."

The lower section of the site has greater agricultural capability than the upper slopes.

2.7 Agricultural Capability

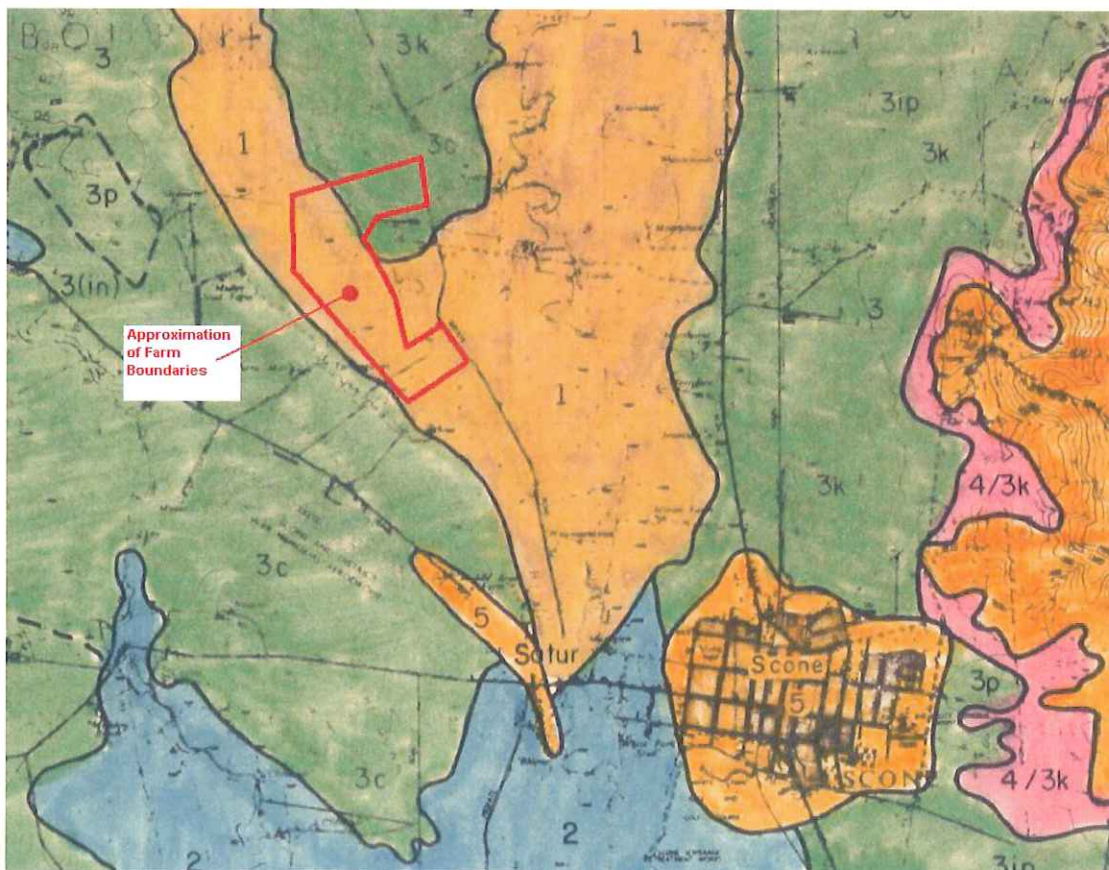
Considered to be the 'Horse Capital of the Australia', Scone has over 65 horse studs in the region and is largely responsible for providing quality horses for both the racing and stock industries nationwide.

The site is located on the western boundary of the Scone Racecourse. Besides its racing centre, the Racecourse also contains a TAFE College with a horse facility, an equine research centre and stabling. A horse museum is also under planning.

Accordingly, the sites close proximity to the Racecourse may be popular with people involved in the horse industry.

Hunter Region agricultural suitability mapping supplied by the NSW Department of Industry & Investment identify the site as part Class 1 land on the southern part of the site and Class 3C on the northern part.

Figure 2: Agricultural Suitability Map Extract



Class 1 Land is described as: *"Arable land, very good capability for agriculture. Uses such as intensive horticulture and cropping where there are only minor or no constraints to sustain high levels of production."*

Class 3C Land is described as: *"Land not suited for regular cultivation. Includes some arable and some pasture lands with moderate levels of agricultural production. Well suited for pasture improvement and can be cultivated for an occasional crop"*.

It is evident from the agricultural suitability mapping that the provision of smaller lots on the 3C land will not substantially reduce the agricultural output of the region.

2.8 Land Use Context

The site is located approximately 2km north of the urban fringe of Scone.

The surrounding settlement pattern consists of:

- Small agricultural parcels (10ha to 20ha);
- Small lot rural living lots (2ha to 4ha);
- Scone Racecourse and Stables.

The proximity of the site to Scone is encouraging development of smaller rural lifestyle lots rather than large scale broad acre farming. Agricultural pursuits in the locality include:

- Equine related agriculture including horse training and stabling.
- Stock grazing.
- Crops for cattle feeding.
- Dairy farming.

It is understood that the neighbouring lots immediately to the north of the site were approved by Council for equine related agriculture uses and one of the lots is operated by a well known local horse trainer.

The future subdivision is considered to be entirely consistent with surrounding land uses and will not diminish the agricultural viability of nearby land.

Surrounding land uses include:

- To the north – recently subdivided rural residential lots of approximately 4ha.
- To the south – rural lots generally in the order of 10-20ha. Scone township is located approximately 5 minutes further south.
- To the west – Scone Racecourse and agricultural lots generally in the order of 20ha.
- To the east – agricultural land on the opposite side of Middlebrook Road with lots ranging between 20-40ha.
- To the north-east - off Tullong Road are rural lifestyle blocks with lots ranging between 2 and 4ha.

Predominant agricultural uses include horse training, stock grazing, cropping for beef cattle and dairy farming.

2.9 Infrastructure

The site is serviced by telecommunication and power services.

The client has advised that the site currently enjoys a domestic and stock licence for the site of 5ML per annum. The DWE have advised the client that any lots that have creek frontage will have a right to gain their own domestic and stock allocation.

The client is currently negotiating with DWE for the supply of 1ML per annum water supply to be pumped to the non-creek frontage lots 1, 2, 3 and 7.

On-site effluent disposal is proposed for each habitable lot in accordance with the previous on-site septic disposal report prepared by Anderson Ecological and included with the previous DA submission.



1:

South-western
view across the
site towards
Scone
Racecourse.



2:

Existing house to
be retained on
Lot 2.



3:

Western view of
proposed Lot 7
taken from
Middlebrook
Road.



4:

Typical equine land use on nearby land on Middlebrook Road.



5:

Scone Racetrack located adjacent to proposed Lot 8.



6:

Horse training area on neighbouring land to the north.



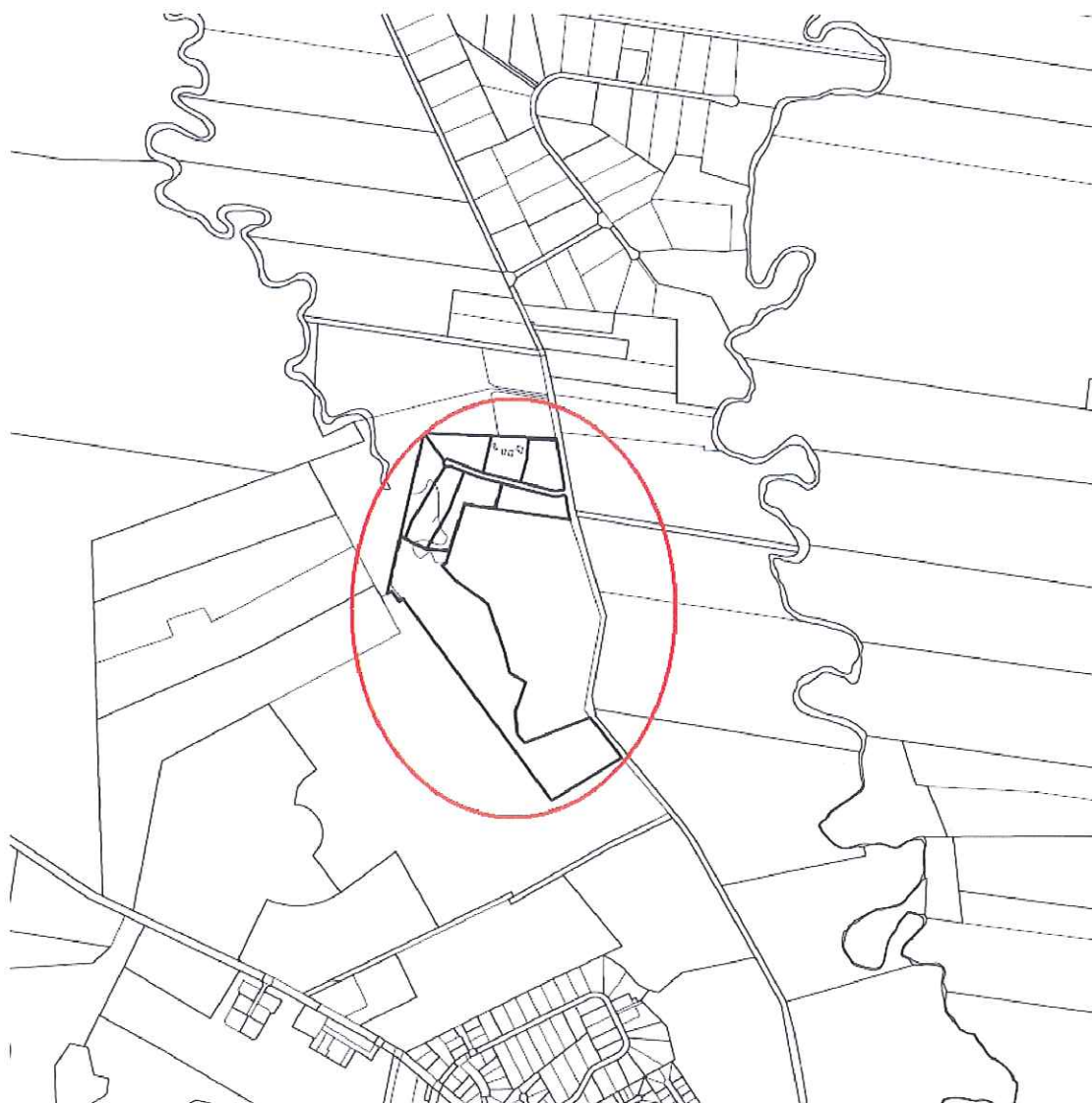
7:

Existing well
located within
proposed Lot 8.

Figure 3: Air Photo of Subject Site and Surrounding Land



Figure 4 – Subdivision Plan showing settlement pattern in the locality.



It is clearly evident from Figure 4 that the proposed subdivision layout is generally comparable with lot sizes to the north of the site and that the site is located in close proximity to residential land to the south.

3.0 PROPOSED REZONING & FUTURE DEVELOPMENT

3.1 Proposed Rezoning

It is proposed to rezone approximately 13.31ha of land Lot 202 Middlebrook Road Scone from 1(i) Intensive Agricultural Zone to 1(c) Rural Small Holdings Zone under the Scone Local Environmental Plan 1986 (LEP).

The area to be rezoned is a relatively un-constrained cleared and gently undulating parcel of land held in single ownership. It is well located approximately 2km from Scone township on a sealed country road; and is adjacent to the Scone Racecourse and rural lifestyle blocks.

The rezoning will provide sufficient land area for approximately 7 rural-residential lots on Class 3C agricultural land.

A 21.69ha residue lot located below the 1%AEP flood level will be retained within the 1(c) zone. The residue lot is classified as Class 1 agricultural land and will be retained as a single allotment.

A plan of the proposed areas to be rezoned is provided as Attachment A.

3.2 Future DA for Subdivision

The purpose of the rezoning is to lodge a future development application for subdivision of existing Lot 202 into 8 lots comprising:

- Lot 1 – 2.109ha
- Lot 2 – 2.112ha
- Lot 3 – 2.047ha
- Lot 4 – 2.077ha
- Lot 5 – 2.639ha
- Lot 6 – 2.59ha
- Lot 7 – 2.033ha
- Lot 8 – 19.63ha (residue 1(i) zoned lot).

A plan of the concept subdivision proposal is included as Attachment B.

A 20m wide road reserve will extend in an east-west direction from Middlebrook Road to service proposed lots 1-7.

An easement for access and services (6m wide) will also extend in a north-south direction to provide access to a well located near the centre of the site and adjacent to the sites western boundary.

The existing residence and outbuildings will be retained within proposed Lot 2.

No tree removal is proposed.

Earthworks will be limited to construction of the access driveway.

4.0 STATUTORY MATTERS & STRATEGIC POLICIES

This report finds that the proposed rezoning is consistent with:

- Upper Hunter Land Use Strategy;
- SEPP Rural Lands (2008)
- Relevant s.117 Directions; and
- LEP Pro-forma Evaluation Criteria – Category 1 Spot Rezoning.

4.1 Upper Hunter Land Use Strategy

The Upper Hunter Land Use Strategy outlines key land use policies and principles for the Upper Hunter local government area (LGA), and provides the planning context for the preparation of local environmental plan (LEP) provisions. The Strategy has a time frame of approximately 25 years, to 2032.

The intent of the Strategy is to:

- *Recommend actions for achieving the Upper Hunter community's land use objectives, consistent with the Council's vision for the future of the LGA.*
- *Recommend changes to the 3 current LEPs applying within the LGA to reflect the Council's and community's vision and land use objectives, in a manner consistent with the NSW Government's planning requirements, including the Standard LEP provisions.*

It is estimated in the Strategy that villages, large lot residential and rural small holdings currently comprise between 5 and 10% of the total population of the LGA, however it is projected that this figure will increase to 30% of new dwellings by 2032. Accordingly, the current indications are that demand for large lot residential and rural small holdings will exceed supply in the short term.

It is advised in the Strategy that demand exists for 3 broad types of large lot residential and rural small holding development:

- *Urban fringe, generally in estates adjacent to an urban area with services such as sealed roads, water and reticulated sewer, and lot sizes of 4,000m² to 2 hectares*
- *Rural lots of 2 hectares to 10 hectares, comprising residential use within a rural environment, generally close to a town and with some services. This also includes isolated 'concessional' lots of less than 40 hectares*
- *Rural lots of 10 hectares to 40 hectares which are primarily residential in use, but where small scale agricultural activities are also carried out.*

The site is identified in Map 7.1 of the Strategy as an Investigation Area / Candidate Area for Rural Small Holdings and is described:

Scone North West

Area approx - 120 ha

Area adjacent to existing large lot residential and rural small holding zoned land with potential for similar development. Potential for larger rural holdings, such as minimum 2 ha and average 4 ha. Has access to sealed road and requires further investigation into provision of internal road access and future servicing. Potential yield of around 30 lots.

Figure 5: Map 7.1 of the Upper Hunter Land Use Strategy
(The site is located in the Scone North-West Area)

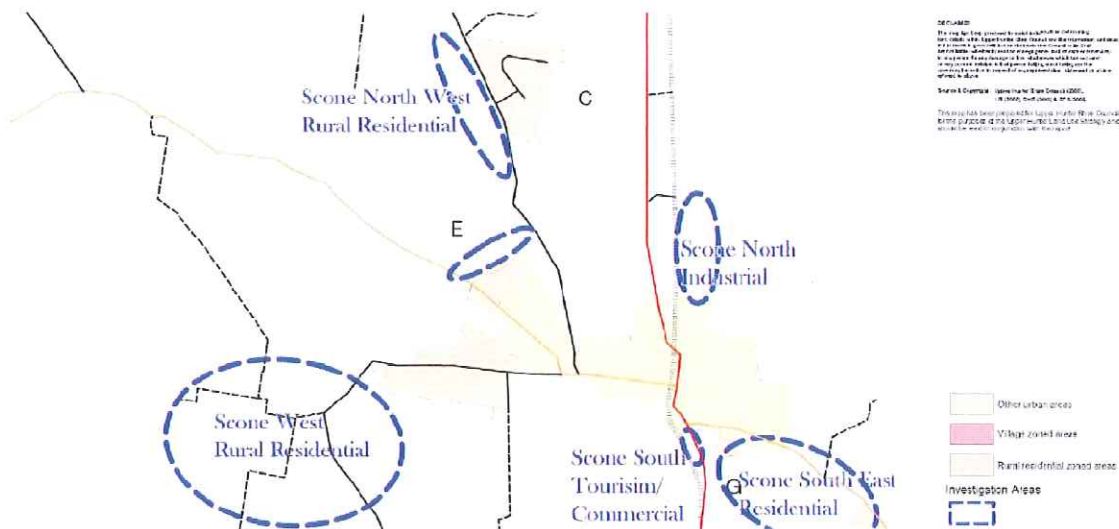


Table 2: Rural Small Holdings Planning Principles

STRATEGY PRINCIPLES FOR RURAL SMALL HOLDINGS	COMMENTS
<i>Objectives – Provision of adequate land for large lot residential and rural small holdings development in suitable locations</i>	
<i>Provide opportunities for additional large lot residential and rural small holdings subdivision and development in suitable locations, and enable a range of different lot sizes.</i>	The site is located in the Scone North-West Investigation Area for Rural Small Holdings.
<i>Ensure that adequate services are available for large lot residential and rural small holdings.</i>	Power, telecommunications and sealed road available. Water supply is available to each lot from Middlebrook Creek and on-site effluent disposal is proposed for wastewater.
<i>Ensure that the supply of large lot residential and rural small holdings is adequate.</i>	The Scone North-West Investigation Area is identified for having potential for approximately 30 rural small holding lots, of which this proposal will provide 7 lots.
<i>Balance the provision of new large lot residential and rural small holdings against the need to preserve areas of high agricultural, scenic or environmental value.</i>	The site does not have high agricultural, scenic or environmental value.
<i>Identify appropriate development controls for future large lot residential and rural small holdings through DCP provisions.</i>	Noted
<i>Policies – Provision of adequate land for large lot residential and rural small holdings development in suitable locations</i>	
<i>Provide for a supply in the range 15 to 25 large lot residential and rural small holdings per year in identified candidate areas. These areas are to be subject to further investigation.</i>	The rezoning will provide 7 rural small holding lots.
<i>Zone adequate land for 5 years supply (i.e.</i>	The rezoning will provide an additional 7

<i>up to 85 lots around Scone, 25 lots around Aberdeen, and 12 lots around Merriwa), with review of land supply being undertaken every 3 years.</i>	rural small holding lots.
<i>New large lot residential and rural small holding areas must relate to the long term preferred settlement structure (i.e. not located on land with potential for urban development in the long term (+50 year time frame), and provide adequate accessibility to towns and employment areas.</i>	The site is not identified for future urban development.
<i>Consolidate further rural small holding development in only 2 locations for each town within the LGA, so that further services are economically provided in the long term if sufficient demand exists (i.e. do not disperse areas).</i>	Complies with this requirement – site is located in the Scone North-West Investigation Area
<i>Propose further LEP objectives for large lot residential and rural small holding development, in addition to the proposed zoning under the Standard LEP provisions.</i>	Noted
<i>Strategic Actions – Provision of adequate land for large lot residential and rural small holdings in suitable locations</i>	
<i>Development around Scone and Aberdeen must ensure that future urban growth options are not constrained by large lot residential and rural small holding development, and that the road hierarchy allows flexibility for future growth of the town (e.g. maintains options for highway bypass and link roads).</i>	The site is not located in an urban investigation area and subdivision will not impact of road corridors.
<i>Adopt criteria for considering further applications for large lot residential and rural small holdings that are not in the currently identified candidate areas (as outlined in Table 12).</i>	Noted
<i>Prepare Section 94 Contributions Plans prior to gazettal of LEP, providing for additional large lot residential and rural small holdings.</i>	Noted
<i>Ensure land take up is scrutinised and incorporated into an established land monitor to review rural land supply and demand, dwelling and subdivision approvals, in order to establish the need for future rezonings. Consider sunset clause provisions for land zoned for large lot residential and rural small holdings (e.g. 5 year limit). Will prevent long term vacant developable land around villages and urban areas which may hinder future land use options, and also promotes supply of developed land.</i>	Noted
<i>Consider the provision of both minimum and average lot size (and possibly maximum) as a provision in the LEP. Allows for more flexible design to reflect environmental and planning constraints. Guidelines for the design of rural residential areas should be provided in a DCP.</i>	Noted
<i>Carefully assess the means of wastewater treatment where reticulated town water is available.</i>	On-site effluent disposal is proposed.

<i>Ensure appropriate minimum areas for onsite disposal depending on soil type, slope, proximity to watercourse, and amount of effluent likely to be generated.</i>	An effluent disposal report prepared by Anderson Ecological was included with the previous DA submission and determined that the site can be adequately treated by Aerated Septic systems with effluent irrigation areas of 1,000msq per allotment.
<i>Undertake an additional study of villages in former Merriwa and Murrurundi LGAs as per previous study.</i>	Noted
<i>Avoid reliance on groundwater sources as the primary water supply for rural industry or potable uses for dwellings.</i>	Water supply will be provided from Middlebrook Creek and rainwater tanks. The Council has been investigating the extension of a water main from Scone to the subject land and nearby rural small holding lots. The subdivision can be connected to the town water supply when available in the future.
<i>Ensure adequate water supply for fire fighting by way of dams and 20,000 litres minimum dedicated supply for this purpose.</i>	As above, water supply from Middlebrook Creek will be adequate for fire fighting purposes.

4.2 Section 117 Directions

This section of the report outlines the compliance of the proposal with the relevant section 117 ministerial directions issued under the Environmental Planning and Assessment Act 1979.

Table 3: Relevant s117 Directions

SUMMARY OF RELEVANT S117 DIRECTIONS	COMMENT
1.5 Rural Lands The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	Noted. The area of the site to be rezoned has limited agricultural viability and is located adjacent to rural-residential land. The section of the site classified as Class 1 agricultural land will be retained in a single land holding and will not be rezoned.
2.1 Environment Protection Zones Objective The objective of this direction is to protect and conserve environmentally sensitive areas.	The area to be rezoned is not identified as being "environmentally sensitive".
2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	The site is not located within the Coastal zone.
2.3 Heritage Conservation Objective The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The site is not identified as being part of, or containing any environmental heritage or indigenous items.
3.4 Integrating Land Use and Transport	The site is located approximately 2km north–

Objective The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: improving access to housing, jobs and services by walking, cycling and public transport, and increasing the choice of available transport and reducing dependence on cars, and reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and supporting the efficient and viable operation of public transport services, and providing for the efficient movement of freight.	west of Scone on a sealed road. The site is ideally located for relatively convenient access for future residents to areas of employment, community services and recreational pursuits.
4.1 Acid Sulfate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The site does not contain Acid Sulfate soils.
4.2 Mine Subsidence & Unstable Land The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	We have been advised by the client that the site is not within a Mine Subsidence District.
4.3 Flood Prone Land The objectives include ensuring that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy	The area to be rezoned is generally above the flood level.
4.4 Bushfire Prone Land The objectives include protection of life, property and the environment from bush fire hazards.	The site is not mapped by Council as being bushfire prone apart from a minor encroachment on the western boundary.
5.1 Implementation of Regional Strategies The objective of this direction is to give legal effect to the vision, land use strategy, policies outcomes and actions contained in regional strategies.	There are no regional strategies of relevance to this proposal.
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Noted.

4.3 LEP Pro-forma Evaluation Criteria – Category 1 Spot Rezoning

Table 4: Category 1 Spot Rezoning Criteria

	Criteria	Yes/No
1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)? <i>Explain: The proposal is consistent with the Upper Hunter Land Use Strategy.</i>	Yes

2.	Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions? <i>Explain: The proposal is consistent with relevant s.117 directions. Refer section 4.2.</i>	Yes
3.	Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy? <i>Explain: The site is located within the Upper Hunter Region.</i>	No
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands? <i>Explain: The LEP will not impact on long term employment. The future rural small holdings development will provide additional alternate housing stock to support the local community.</i>	No
5.	Will the LEP be compatible / complementary with surrounding land uses? <i>Explain: As outlined throughout the report the LEP will be compatible with surrounding land uses and in particular the nearby rural / residential lots and the Scone Racecourse that adjoins the site.</i>	Yes
6.	Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders? <i>Explain: No. The area to be rezoned is identified in the Upper Hunter Land Use Strategy for potential rural small holdings.</i>	No
7.	Will the LEP deal with a deferred matter in an existing LEP? <i>Explain: No.</i>	No
8.	Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations? <i>Explain: We are not aware of any similar spot rezonings in the locality that would cause cumulative effects.</i>	Yes

4.4 State Environmental Planning Policies

SEPP No. 55 – Remediation of Land

Clause 6 of State Environmental Planning Policy No.55 – Remediation of Land requires the consent authority to consider whether land is contaminated prior to rezoning land.

The site is currently being used for rural uses. We have not been advised of any major contamination issues affecting the site.

SEPP Rural Lands (2008)

SEPP Rural Lands 2008 applies to the future DA for subdivision.

The aims and requirements of the SEPP do not apply to rezoning proposals however, the requirements are discussed below to confirm that a subsequent DA for subdivision will be compliant with the SEPP.

Table 5: SEPP Rural Lands Compliance Table

SEPP Requirement	Comment
Clause 2 Aims	
<i>(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i>	Noted. The proposed lot layout and future uses are consistent with the locality and Councils strategic aims for the area.
<i>(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as 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,</i>	The Class 1 Agricultural land will be retained in 1 allotment and will not be rezoned.
<i>(c) to implement measures designed to reduce land use conflicts,</i>	The future land uses are consistent with surrounding land uses. In particular the smaller lots are compatible with existing rural lifestyle lots to the north and north-east of the site.
<i>(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i>	The farm is not identified as State significant land. As above the most agriculturally viable sections of the site will be retained as one parcel.
<i>(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i>	Noted.
Clause 8 rural subdivision principles	
<i>(a) the minimisation of rural land fragmentation,</i>	The proposed lot sizes are consistent with the surrounding settlement pattern and will cater for population expansion in Scone.

(b) <i>the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i>	Noted. Refer above.
(c) <i>the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i>	The Class 1 agricultural land will be retained as a single parcel and will not be rezoned.
(d) <i>the consideration of the natural and physical constraints and opportunities of land,</i>	Flood liable land will be mostly contained primarily within the proposed residue parcel to be known as Lot 8.
(e) <i>ensuring that planning for dwelling opportunities takes account of those constraints</i>	Noted.
Clause 9 Rural Subdivision for Agricultural Purposes	
(1) <i>The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.</i>	Noted.
(2) <i>Land in a rural zone may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.</i>	Noted
(3) <i>However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.</i>	Noted
(4) <i>A dwelling cannot be erected on such a lot.</i>	Noted
(5) <i><u>State Environmental Planning Policy No 1—Development Standards</u> does not apply to a development standard under this clause.</i>	Noted
Clause 10 DA's for rural subdivisions or rural dwellings	
1) <i>This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.</i>	Noted.
(2) <i>A consent authority must take into account the matters specified in</i>	Noted.

<i>subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:</i> (a) <i>subdivision of land proposed to be used for the purposes of a dwelling,</i> (b) <i>erection of a dwelling.</i>	
(3) <i>The following matters are to be taken into account:</i>	
(a) <i>the existing uses and approved uses of land in the vicinity of the development,</i>	As above. The future land uses are consistent with surrounding land uses. In particular the smaller lots are compatible with existing rural lifestyle lots to the north and north-east of the site.
(b) <i>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,</i>	The agricultural viability of the Class 1 Agricultural land will be retained in a single allotment.
(c) <i>whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</i>	No
(d) <i>if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,</i>	N/A
(e) <i>any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</i>	N/A

4.5 Local Environmental Plans

Scone Local Environmental Plan 1986

The site is currently zoned 1(i) Intensive Agricultural Zone under the Scone Local Environmental Plan 1986 (LEP) and the following land use table applies:

1 Objectives of the zone

- (a) *To conserve prime crop and pasture land which is suitable for intensive agricultural pursuits,*
- (b) *To encourage the development of intensive commercial agricultural enterprises which meet sustainable natural resource management principles*

- and will not have any adverse impact on the environmental qualities of the locality, particularly any adverse cumulative impact,*
- (c) To protect intensive agricultural enterprises from operational constraints caused by land use conflicts, especially those arising from a pressure to maintain a level of amenity more appropriate to a residential or hobby farming area,*
- (d) To prevent the inappropriate use of land with a high potential for agricultural productivity (including to prevent its use for rural residential and hobby farm purposes),*
- (e) To ensure that holdings used for the purpose of intensive agriculture are of a suitable size for that use,*
- (f) To protect land within the zone from inefficiencies posed by excessive and non productive improvements, fragmentation of holdings and conflict between land uses,*
- (g) To permit supporting, small scale and compatible value adding industries to intensive agriculture where they are ancillary to agriculture, and*
- (h) To prevent adverse impact on the environmental qualities of the locality, particularly any adverse cumulative impact*

2 Without development consent

Agriculture; bushfire hazard reduction; environmental conservation; forestry—including plantation forestry; home activities; intensive agriculture.

3 Only with development consent

Any purpose other than a purpose in item 2 or 4.

4 Prohibited

Advertising structures (other than permitted by clause 33 of the Environmental Planning and Assessment Model Provisions 1980); automotive uses; boarding houses; brothels; bulk stores; clubs; commercial premises; funeral parlours; gas holders; generating works; hotels; industries (other than extractive industries; rural industries and home industries); institutions; junk yards; motor showrooms; nuclear facilities; professional consulting rooms; residential buildings; shops; waste disposal facilities; warehouses

The proposed retention of the Class 1 Agricultural land in zone 1(i) is consistent with the zone objectives.

The rezoning of the less viable agricultural land to 1(c) will enable future development outlined in the 1(c) land use table:

1 Objectives of the zone

- (a) To make provision for small holdings in appropriate locations in response to genuine demand and having regard to accessibility, proximity to existing settlements and availability of services, the future expansion of existing settlements and the impact on agricultural activities,*
- (b) To ensure that any land proposed to be utilised for small holding has been the subject of an independent environmental assessment and satisfies all relevant criteria (including water supply, effluent disposal, solid waste disposal and soil type) as determined by the Council for the location of such holding, and*
- (c) To encourage only development which is sustainable and carried out in a manner that will not have any adverse impact on the environmental qualities of the locality, particularly, any adverse cumulative impacts.*

2 Without development consent

Agriculture; bushfire hazard reduction; environmental conservation; home activities.

3 Only with development consent

Any purpose other than a purpose included in item 2 or 4.

4 Prohibited

Advertising structures (other than permitted by clause 33 of the Environmental Planning and Assessment Model Provisions 1980); automotive uses; boarding houses; brothels; bulk stores; clubs; commercial premises; funeral parlours; gas holders; generating works; hotels; industries (other than rural industries and home industries); institutions; intensive livestock keeping establishments; junk yards; liquid fuel depots; motels; motor showrooms; nuclear facilities; professional consulting rooms; residential buildings; sawmills; service stations; shops (other than general stores); transport terminals; warehouses, waste disposal facilities.

Clause 11 - Subdivision of land within Zone No 1 (c) states:

- (1) This clause applies to land within Zone No 1 (c).*
- (2) The Council shall not grant consent to an application to subdivide land to which this clause applies unless the area of each allotment created by the subdivision will be:*
 - (a) not less than 4000 square metres, for allotments with on-site disposal of liquid wastes, or*
 - (b) not less than 2000 square metres, for allotments to be served with a common sewage disposal system*

The proposed lots identified in the subdivision plan all exceed 4,000m² and a future DA for subdivision will comply with the requirements of clause 11.

Standard Instrument – Principal Local Environmental Plan

On 31 March 2006, the NSW Government gazetted a standard instrument for preparing new LEPs, also known as the LEP template. LGA's across NSW are required to prepare comprehensive LEP's using consistent land use zoning descriptions, definitions and terminologies as well as localised planning objectives and provisions.

The Department of Planning (DoP) nominated a list of "priority Councils" requiring gazettal of new comprehensive LEP's for their LGA's by March 2011. Upper Hunter Shire Council was not included in the "priority Councils" list and as such spot rezoning can be dealt with in the interim period under the "gateway process".

5.0 JUSTIFICATION FOR PROPOSED REZONING

Section 5.0 has been set out in accordance with "A Guide to Preparing Planning Proposal" (Department of Planning 2009).

5.1 Part 1 - Objectives or Intended Outcomes

To rezone approximately 13.31ha of land at Lot 202 Middlebrook Road Scone to permit rural small holdings development.

5.2 Part 2 - Explanation of Provisions

It is proposed to rezone the subject land from 1(i) Intensive Agricultural Zone to 1(c) Rural Small Holdings Zone under the Scone Local Environmental Plan 1986 (LEP).

5.3 Part 3 – Justification

Section A - Need for the planning proposal.

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

Yes. The land has been identified in the Upper Hunter Land Use Strategy as an 'Investigation Area' for large lot residential / small rural holdings development.

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

DA 26/2010 was lodged with Upper Hunter Shire Council in February 2010 for subdivision of existing Lot 202 into 8 lots in accordance with clause 10 of the Scone LEP which permits reduced lot sizes subject to Council approval of a Property Management Plan.

Council staff advised that because the site is identified in the Upper Hunter Land Use Strategy as an 'Investigation Area' for large lot residential / small rural holdings development, that it may be more appropriate to withdraw the DA for subdivision and seek a rezoning of the land to enable reduced lot sizes.

3. Is there a net community benefit?

Table 6 over the page considers the Net Community Benefit Test.

Table 6: Net Community Benefit Test

Net Community Benefit Test	Comment
• Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	The rezoning is compatible with the Upper Hunter Land Use Strategy.
• Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	No
• Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	No. The proposal is consistent with the Upper Hunter Land Use Strategy and will not encourage speculative spot rezoning.
• Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	There are no other comparative spot rezonings that would cause a cumulative effect on the locality.
• Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	No.
• Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The release of additional rural small holding lots will increase housing supply and potentially improve housing affordability in the locality.
• Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access?	The site is serviced by a sealed country road.
Is public transport currently available or is there infrastructure capacity to support future public transport?	There is no public bus service to the area at this stage. If densities are increased in the future the existing road network could cater for a public bus service.
• Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	No
• Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	No
• Will the LEP be compatible / complementary with surrounding land uses? What is the impact on amenity in the location and wider community?	Yes. The report has identified that the proposed rezoning will complement surrounding land uses and cause minimal environmental impacts.
Will the public domain improve?	Developer contributions; or Voluntary Planning Agreements resulting from the future residential development can be

• What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	used to improve the public domain. The public interest reasons for preparing the draft plan are discussed throughout the report. In summary, the public interest reasons include: • No adverse environmental impacts caused by the development; • Utilisation of unconstrained land identified in the Strategy for rural small holding development. • Increased supply of rural small holding lots to alleviate the upward pressure on housing prices; • Increased rates and developer contributions for upgrading of community facilities; • Retention of Class 1 Agricultural land in the 1(i) zone.
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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 Metropolitan Strategy and exhibited draft strategies)?**

Yes, refer section 4.0 of this report.

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

Yes, refer section 4.0 of this report.

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

Yes, refer section 4.0 of this report.

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

Yes, refer section 4.0 of this report.

- 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?**

No. The site does not contain any significant stands of vegetation. The site has been cleared in the past and is almost entirely grassed.

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

Traffic

Adequate road access, car parking and vehicle manoeuvring areas will be incorporated into the design at the relevant DA design stage.

Good sight distance is available for entry and exit along Middlebrook Road.

Future development for 7 rural smallholding lots will not conflict with the efficiency of the surrounding road network.

Soils

Full details on erosion and sediment control measures will be provided at the relevant development application stages for development of the site.

Generally, however, the erosion and sediment control measures will include minimise ground disturbance, reinstating ground covers as soon as possible after disturbance, erecting Geotextile fabrics around natural low points of construction areas to trap sediment, install shakers to remove particles from machinery tyres when exiting the site, ensure that silt traps prevent sediment reaching waterways and stormwater drains.

Flora and Fauna

The site does not contain any significant stands of vegetation. The site has been cleared in the past and is almost entirely grassed having been used for hobby farming.

The future subdivision will not adversely impact on any ecological communities.

Flooding

Flood liable land will be mostly contained primarily within the proposed residue parcel to be known as Lot 8. All housing and access to the new lots will be above the flood level.

Water Quality

Appropriate water sensitive urban design measures will be implemented at the DA stage to ensure that stormwater run-off is adequately controlled.

Bushfire

The site is not mapped by Council as being bushfire prone apart from a minor encroachment along the western boundary.

Aboriginal Archaeology

The site has been previously disturbed for agricultural pursuits. It is considered unlikely that any items of Aboriginal significance would be located on the site and further investigations are not required at this stage.

European Heritage

The site does not contain any items of European heritage and is not located in close proximity of any such items.

Scenic Quality

The future development of 7 rural small holding lots will be entirely compatible with the existing settlement pattern and will not detract from the scenic quality of the locality.

Acoustic

There are no disturbing noise sources within the locality that that would adversely impact on the future development.

Amenity & Relationship to Surrounding Land

The site is located in vicinity of acreage lots and Scone Racecourse.

The future rural small holding lots would be generally compatible with neighbouring land and would not cause unacceptable environmental impacts.

The proposal is considered to be compatible with the amenity of the locality.

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

Social and economic effects arising from the rezoning will be beneficial. The rezoning will result in the release of additional housing stock and generate short term construction employment.

Section D - State and Commonwealth interests.

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

Yes. There is adequate infrastructure capacity (telecommunications, power, roads) for the future residential development.

Water supply to the lots will be provided from Middlebrook Creek and rainwater tanks. The site and surrounding areas has been under investigation for inclusion with the town water supply. The subdivision can be connected to the town water supply when available in the future.

On-site septic disposal will be provided for waste water treatment.

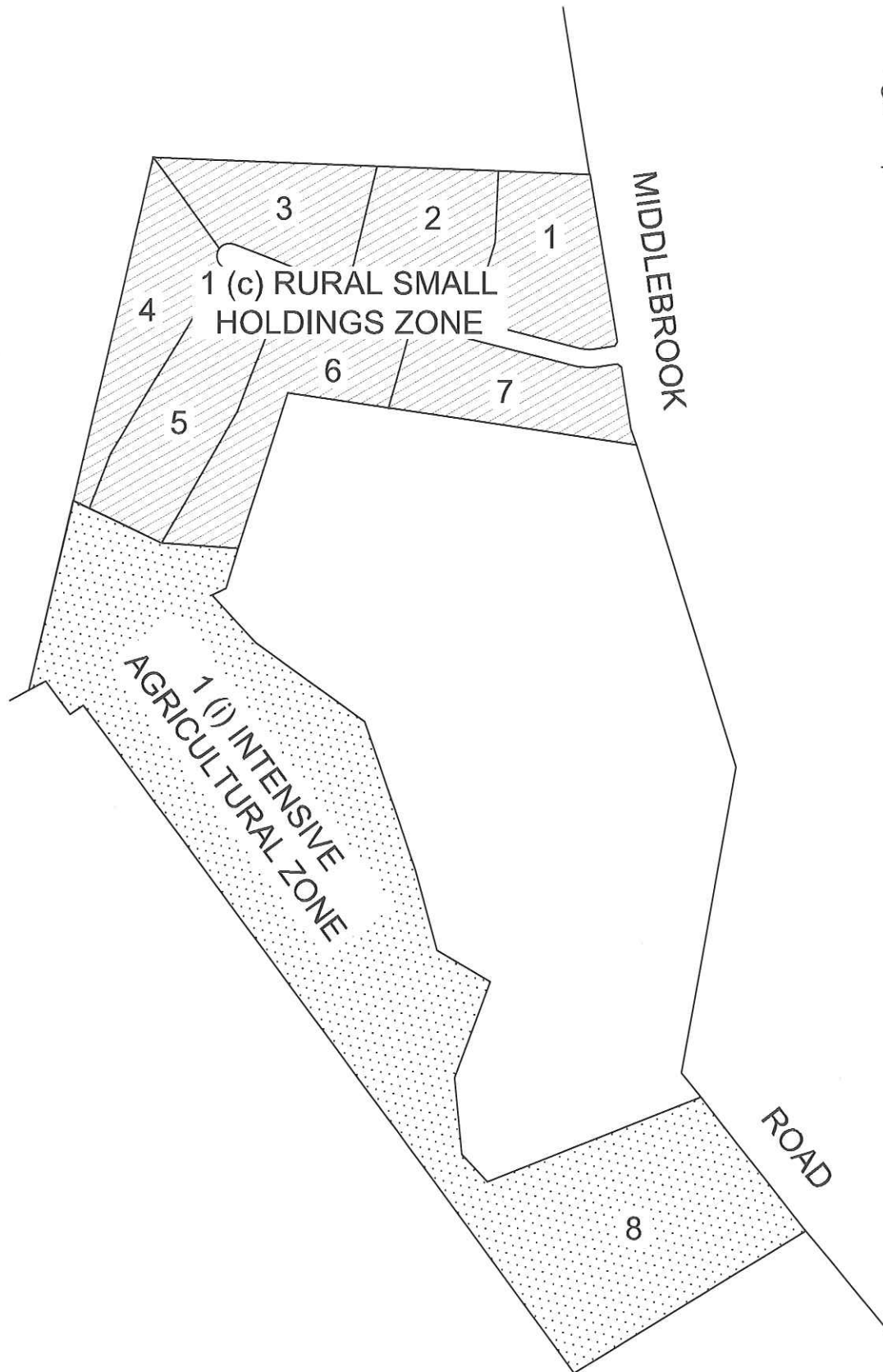
No infrastructure upgrades are required to facilitate the future subdivision.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Part 4 – Community Consultation

Subject to the gateway determination, Upper Hunter Council will undertake community consultation.

ATTACHMENT A
REZONING PLAN



Plan No. 09163

Scale: 1:7500

LOT 202 MIDDLEBROOK ROAD
SCONE

PROPOSED ZONING

Barker Ryan Stewart
Planning • Survey • Valuation • Infrastructure • Development • Consulting

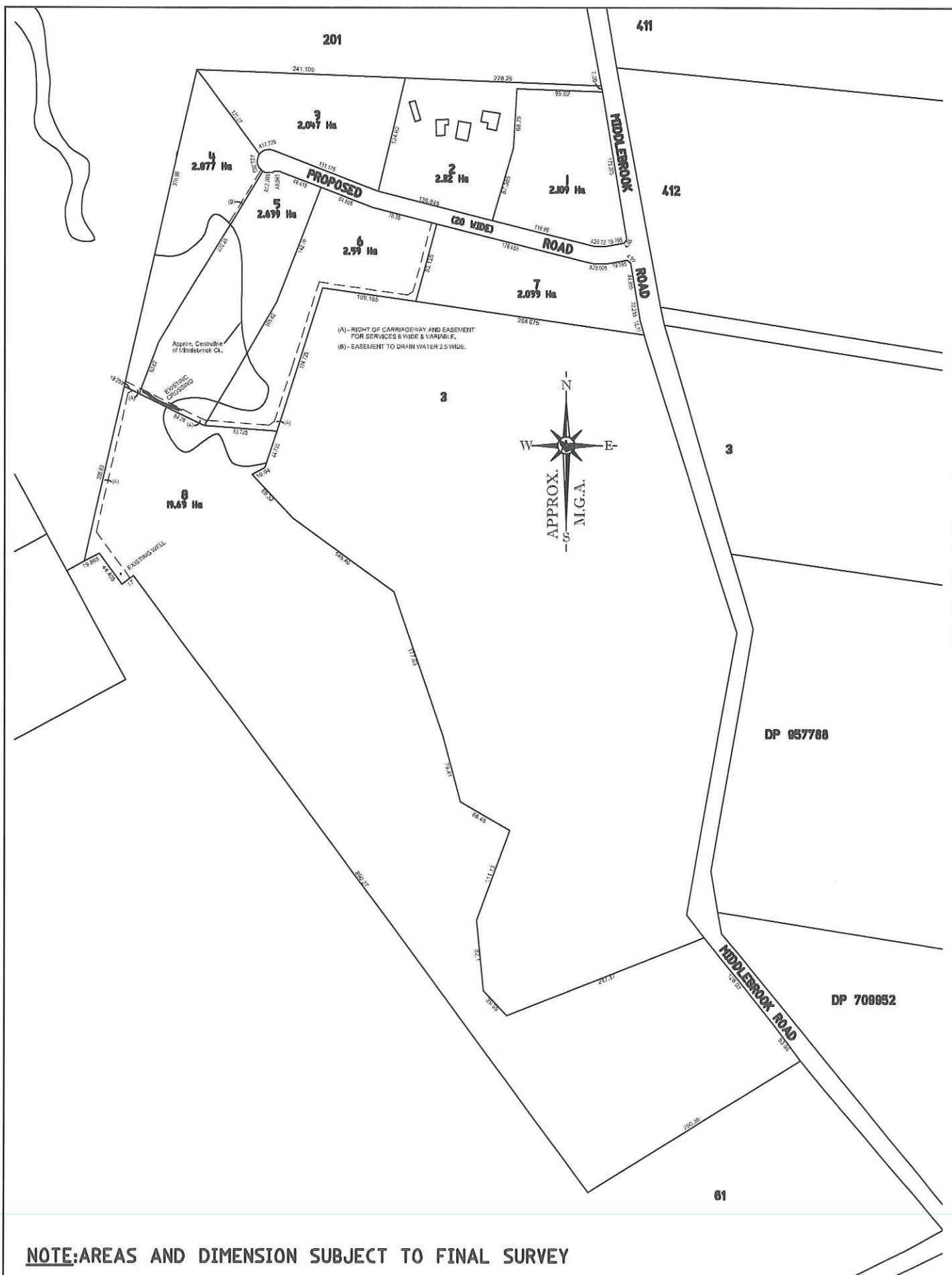
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ATTACHMENT B
FUTURE SUBDIVISION PLAN



NOTE: AREAS AND DIMENSION SUBJECT TO FINAL SURVEY

REVISIONS								Trevor Wells				Job
B	23.11.09	I/B		AMENDED LOT LAYOUT				Proposed Subdivision of Lot 202 DP 845720				DP No.
A	10.05.09	JS		ORIGINAL ISSUE				Middlebrook Road, Scone,				Rev.
REV.	DATE	BY		DESCRIPTION				Date	Scale	Drawn	Checked	Approved
				CHK.				23.11.09	1:4000	JS	AM	CD

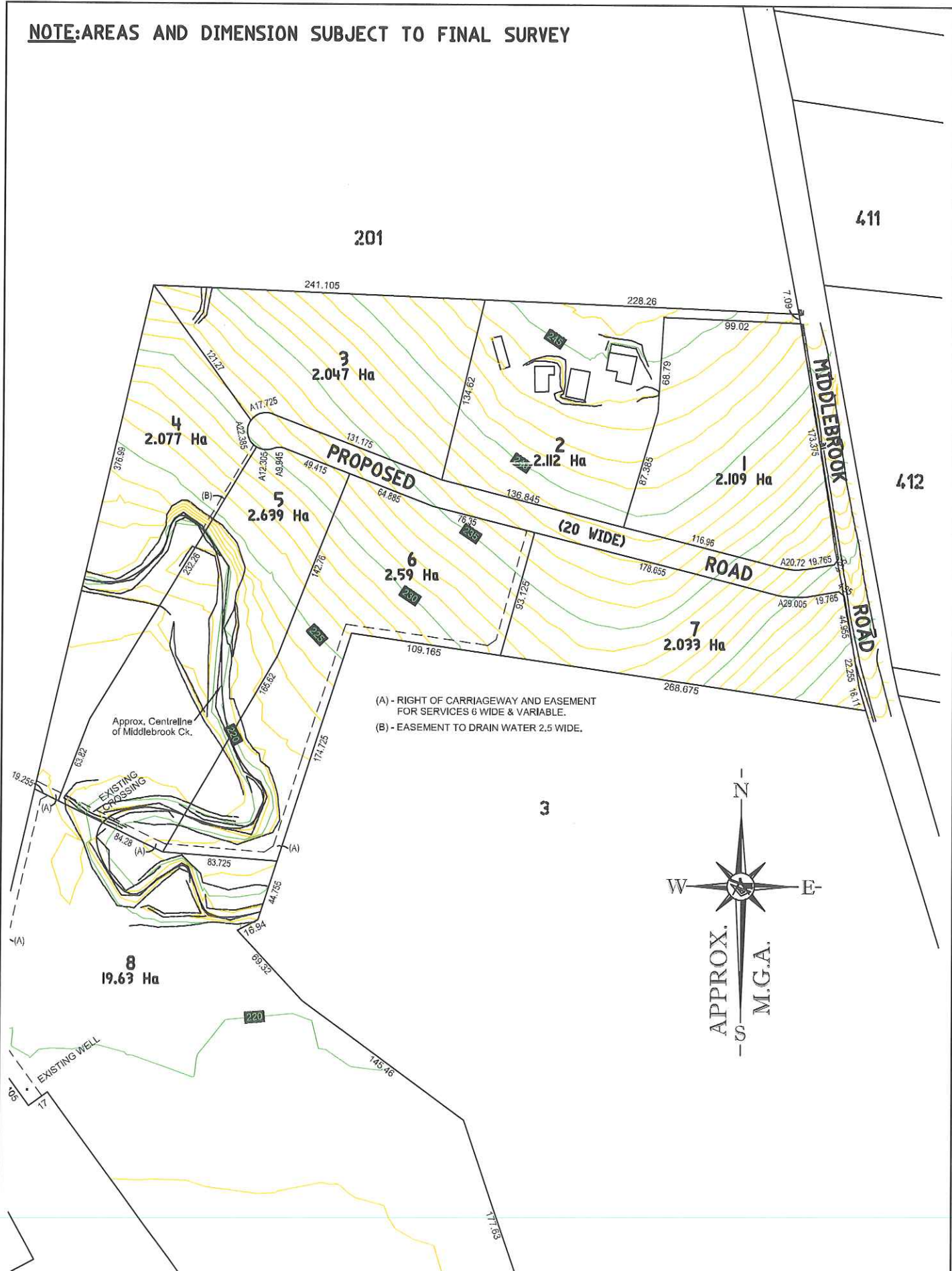
Pegasus Technical
 St Patricks Commercial Centre
 16 Cambridge Street
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 Telephone: 02 65 718888
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Job
 1512/15570
 DP No.
 845720
 Rev.
 B
 Sheet
 A3



REVISIONS					 St Patricks Commercial Centre 16 Cambridge Street (P.O. Box 478) Singleton, NSW, 2330 Telephone: 02 65 718888 Facsimile: 02 65 718844 Website: www.pegasus.net.au	Trevor Wells					Job TEN/105/10	
						SubDivision Plan					Draw No. 5126	
											Rev. B	
											Sheet A3	
B	23.11.09	MB	AMENDED LOT LAYOUT			Date 23.11.09	Scale 1:15000	Drawn JS	Checked AM	Approved CD		
A	10.06.09	JS	ORIGINAL ISSUE	AM								
REV.	DATE	BY	DESCRIPTION	CHK.								

NOTE: AREAS AND DIMENSION SUBJECT TO FINAL SURVEY



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Trevor Wells

Proposed Subdivision of Lot 202 DP 845720
Middlebrook Road, Scone.

Job
TEH/10570

Drawn
No. 5.45

Rev.
5
Sheet
23

REV.	DATE	BY	DESCRIPTION	CHK.
B	23.11.09	MB	AMENDED LOT LAYOUT	
A	10.06.09	JS	ORIGINAL ISSUE	AM

Date 23.11.09	Scale 1:2500	Drawn JC	Checked AW	Approved CW
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