

## 9.4 Road Closure and Easement Creation - Faucett Drive

REPORT BY THE PROPERTY COORDINATOR  
TO 20 APRIL 2022 ORDINARY MEETING  
GOV400098, P1318811

### RECOMMENDATION

#### That Council:

1. **receive the report by the Property Coordinator on the Road Closure and Easement Creation - Faucett Drive ;**
2. **note Council's previous report and resolution at its Ordinary Meeting on 16 August 2017 authorising the road closure and easement creation to proceed, as per Attachment 1 ;**
3. **note that the owner of Lot 10 DP1256248 no longer requires the benefit of the Rights of Carriageway as previously mentioned in that report ; and**
4. **upon closure of the unformed portion of Faucett Drive as shown on the plan in Attachment 2 to this Report, create the required easement for services and Rights of Carriageway to benefit Lot 1 DP1046119 only.**

### Executive summary

This report seeks to amend a previous resolution supporting that two property owners benefit from a Rights of Carriageway (ROC) to be created by Council after formal closure of part Faucett Drive, Mudgee is complete.

The amendment is to confirm that only one owner requires the benefit of the ROC and to proceed with the road closure and easement creation on this basis.

### Disclosure of Interest

Nil

### Detailed report

After completion of the proposed road closure for part Faucett Drive Mudgee, the owners of Lot 10 DP1256248 and Lot 1 DP1046119 required for a ROC to be created benefitting their land over part of the former road reserve in order to maintain access to satisfy development requirements.

Since the original meeting supporting this proposal, the owner of Lot 10 DP1256248 has sold, with the property now developed and without requiring access via the proposed ROC. Instead, any ROC created now to benefit Lot 10 DP1256248 would be a burden to the land owner and require their financial contribution towards construction and ongoing maintenance costs for a ROC they do not require or utilise.

Council staff have made attempts to contact the owner of Lot 10 DP45895248, both through legal channels and directly in order to confirm the above assertion, however the property owner having

already developed the land, without requiring the ROC for access, is considered to be not interested in finalisation of the matter as they have ignored all requests to endorse the required documents.

The owner of Lot 1 DP1046119 has since made direct requests to Council to expedite this matter and remove Lot 10 DP1256248 as a benefitted owner in order to proceed with their own development.

The owner is in support of sole responsibility for construction and maintenance costs towards the ROC.

The ROC cannot be registered unless all affected land owners endorse the required documents. By removing the owner of Lot 10 DP1256248, Council can finalise this matter.

## Community Plan implications

<b>Theme</b>	<b>Looking After Our Community</b>
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

## Strategic implications

### Council Strategies

Not applicable

### Council Policies

Not applicable

### Legislation

Not applicable

## Financial implications

Costs to finalise this matter will be sourced from an existing budget – Unsealed Road – Local.

KELLY BARNES  
PROPERTY COORDINATOR

NEIL BUNGATE  
ACTING CHIEF FINANCIAL OFFICER

25 March 2022

*Attachments:* 1. Original Council Report - 16 August 2017.  
2. Survey to show Road Closure & Right of Carriageway.

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER

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## 9.6 Road Closure and Easement Creation - Faucett Drive

REPORT BY THE REVENUE AND PROPERTY MANAGER  
TO 16 AUGUST 2017 ORDINARY MEETING  
GOV400064, P1318811, ROA100007

### RECOMMENDATION

#### That Council:

1. receive the report by the Revenue and Property Manager on the Road Closure and Easement Creation - Faucett Drive;
2. apply to Department of Industry – Crown Lands for the closure of the unformed portion of Faucett Drive as shown on the plan in Attachment 1 to this Report;
3. upon closure of the unformed portion of Faucett Drive as shown on the plan in Attachment 1 to this Report, create the required easement for services and Rights of Carriageway benefitting the Lots having frontage to the former road reserve;
4. authorise the General Manager to determine any other terms and conditions in relation to the details of the granting of the Rights of Carriageway benefitting the Lots having frontage to the former road reserve;
5. authorise the General Manager to sign all documentation necessary in relation to the proposed road closure as shown on the plan in Attachment 1 to this report, creation of easements for services and creation of Rights of Carriageway; and
6. authorise the Common Seal of Council to be affixed to all documentation necessary in relation to the proposed road closure as shown on the plan in Attachment 1 to this report, creation of easements for services and creation of Rights of Carriageway.

### Executive summary

Subsequent to a Pre-Lodgement meeting regarding a proposed subdivision of Land with proposed access off the unformed section of Faucett Drive, Mudgee an inspection was undertaken at the site and has determined that the Rifle Range Road Detention Basin has been constructed within a significant portion of the Road Reserve. To resolve the issue, it is proposed to close the section of Faucett Drive and create easements over the existing services as well as a Right of Carriageway to facilitate access to those who would have benefited from the road.

### Disclosure of Interest

Nil

## Detailed report

An inspection was undertaken at the proposed sub-division site and it has been determined that the Rifle Range Road Detention Basin has been constructed within a significant portion of the Road Reserve. The status of this section of Faucett Drive is that of an unformed Council Road.

The Road Reserve is 20.115 metres wide and extends from the constructed portion of Faucett Drive west a distance of 100 metres before terminating at the adjoining property boundary. At approximately 70 metres along the road reserve the channel/stream which enters the basin dissects the road. The Detention Basin has been constructed a distance of approximately 14 metres into the Crown Road Reserve and runs the length of the road reserve.

As part of the proposed subdivision, access was to be provided via the unformed portion of Faucett Drive. Given the available width remaining within the road reserve it would not be possible to construct a road to the standards set out in Council's Development Control Plan.

A number of options have been explored to resolve the matter with the preferred option being the closure of the unformed section of Faucett Drive and creation of easement for services and a Right of Carriageway to provide legal access to the land subject to subdivision application.

## Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

## Strategic implications

### Council Strategies

Development Control Plan - given the available width remaining within the road reserve it would not be possible to construct a road to the standards set out in Council's Development Control Plan. Roads Asset Management Plan – any extension to Council's road network, will provide an additional burden to maintain.

### Council Policies

The proposed road closure and the granting of the Rights of Carriageway, will be progressed in accordance with the provisions of the *Land Acquisition and Disposal Policy*.

### Legislation

Divisions 2 & 4 of the *Roads Act 1993* prescribe the legislation and processes which must be followed in order to close a road. Section 38 of the *Roads Act* stipulates that unformed council road reserves will vest in the Crown and not council upon closure.

The *Registrar General's Guidelines* will be referenced regarding comprehensive information about legislative and other requirements relating to the preparation of plans and documents intended for lodgment and registration with the Land and Property Information.

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Financial implications

Costs associated with the road closure including application fees, survey and legal cost are estimated at \$10,000. On closure of the unformed road, the land will vest with the Crown, not Council. This will result in a requirement for Council to pay compensation to the Crown. At the time of closure the value for the land will be determined by at least one independent valuation. The surrounding land has very different Valuer General values, and as such, it is difficult to provide an early estimate. Council officers consider the value of the land could be between \$5,000 - \$120,000. It is recommended a budget for the land compensation be added in the September QBR.

The creation of easement for services and the Right of Carriageway has an estimated cost of \$7,000. It is recommended that the proponent of the proposed subdivision pay for the creation of the easement, as it is for their benefit, and given that the road is an unformed road, they would have been required to pay for formation of the road to access their subdivided lot.

Providing a Right of Carriageway will replace the outcome of a formed road, which will result in a reduced long term impact on Council as there will be no requirement to maintain the proposed road extension.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2017/18	✘	-	✔
Future Years	✔	-	✔

Associated Risks

There are a few unknowns in regards to this process, at this stage. Firstly, we are unsure of what the value of the land will return as, given the variances in surrounding land values. Current estimates are between \$5,000 - \$120,000.

We will also be required to go out to consultation, as a part of the road closure process. There is a chance that surrounding property owners may object to the proposal to close the unformed road.

DIANE SAWYERS  
REVENUE AND PROPERTY MANAGER

LEONIE JOHNSON  
CHIEF FINANCIAL OFFICER

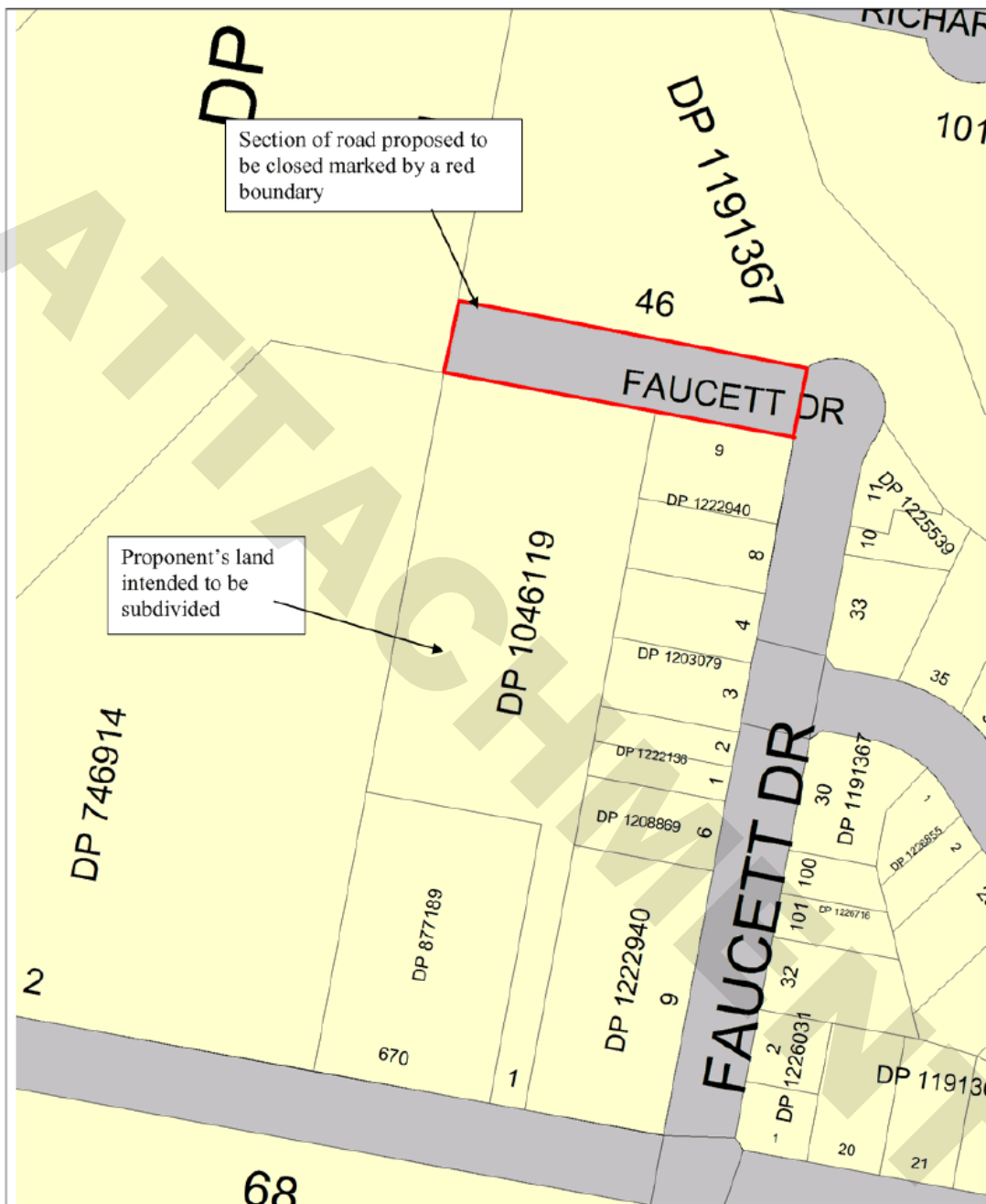
31 July 2017

*Attachments:* 1. Plan of section of Faucett Drive proposed to be closed.

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER

Plan of unformed section of Faucett Drive proposed to be closed





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MID-WESTERN REGIONAL COUNCIL | ORDINARY MEETING – 16 AUGUST 2017  
REPORT 9.6 – ATTACHMENT 1

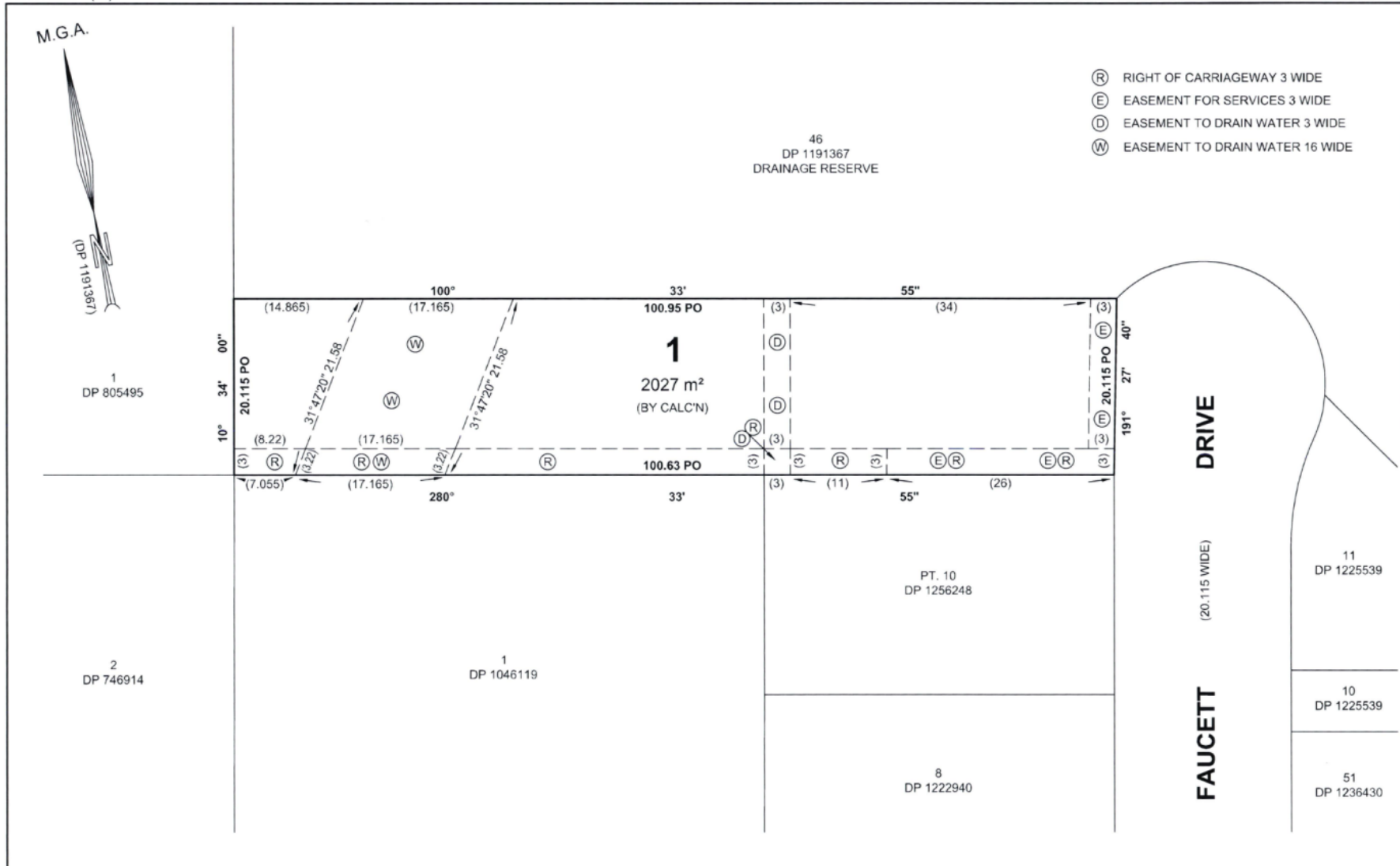
Aerial view of unformed section of Faucett Drive proposed to be closed



PLAN FORM 1 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SHEET 1 OF 1 SHEETS



SURVEYOR Name: COLIN WILLIAM (BILL) CURRIE Date: 20/09/2019 Reference: 31696 2019M7100 (737)Comp.	<b>PLAN OF EASEMENTS,                  FIRST TITLE CREATION,                  AND ROAD CLOSING UNDER THE                  ROADS ACT 1993</b>	LGA: MID-WESTERN REGIONAL Locality: MUDGEE Reduction Ratio 1:400 Lengths are in metres.	REGISTERED	DP
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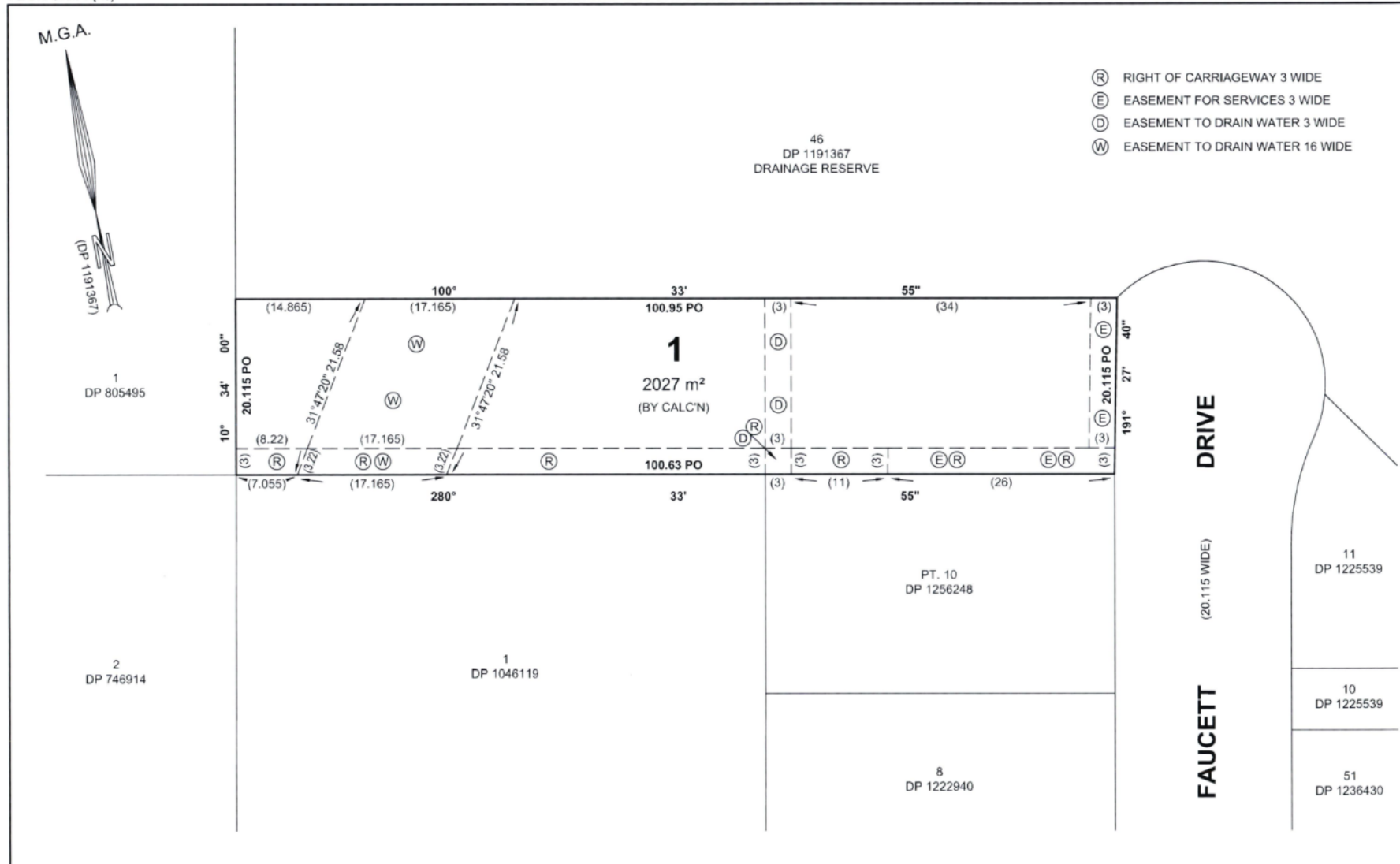
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PLAN FORM 1 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SHEET 1 OF 1 SHEETS



SURVEYOR  
 Name: COLIN WILLIAM (BILL) CURRIE  
 Date: 20/09/2019  
 Reference: 31696  
 2019M7100 (737)Comp.

**PLAN OF EASEMENTS,  
 FIRST TITLE CREATION,  
 AND ROAD CLOSING UNDER THE  
 ROADS ACT 1993**

LGA: MID-WESTERN REGIONAL  
 Locality: MUDGEE  
 Reduction Ratio 1:400  
 Lengths are in metres.

REGISTERED

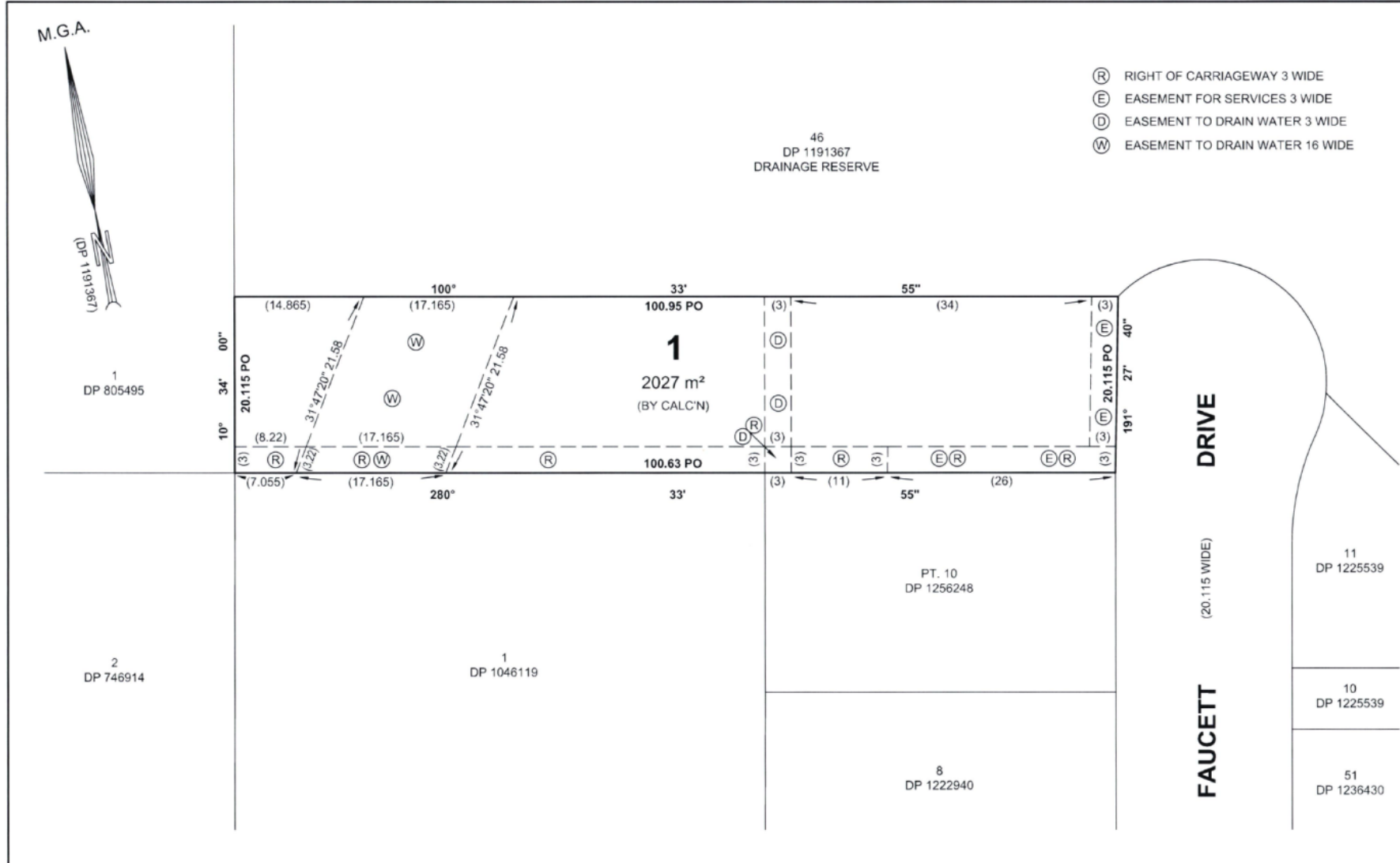
DP

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