

## 9.5 Proposed Road Closure at Dixons Long Point

REPORT BY THE PROPERTY OFFICER  
TO 20 APRIL 2022 ORDINARY MEETING  
GOV400098, P2063011

### RECOMMENDATION

#### That Council:

1. **receive the report by the Property Officer on the Proposed Road Closure at Dixons Long Point ;**
2. **consent to a proposed road closure of a Council Public Road. The subject road to be closed is indicated on Attachment 1 appended to this report ;**
3. **give notice pursuant to s38B *Roads Act 1993*, of the proposal to close the Council Public Road as indicated in Attachment 1 appended to this report ;**
4. **receive a further report after the notice period has ceased to:**
  - 4.1 **consider any submissions received ; and**
  - 4.2 **pursuant to s38D *Roads Act 1993* determine whether the Council Public Road as outlined in Attachment 1 appended to this Report, is to be closed ;**
5. **authorise the General Manager to sign all documentation, where necessary, in relation to the proposed closure and subsequent transfer of the Council Public Road ;**
6. **authorise the Mayor to sign any documentation, where additionally required to do so, in relation to the proposed closure and subsequent transfer of the Council Public Roads ; and**
7. **authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to the proposed closure and subsequent transfer of the Council Public Road.**

### Executive summary

This Report seeks to secure a resolution for the proposed closure of part of a Council public road pursuant to the Roads Act 1993.

Council is seeking approval to close a Council road traversing Lot 43 DP47253 at Dixons Long Point as part of the Dixons Long Point Crossing upgrade. The road is under Council authority and has been previously maintained for the purposes of Section 38E (2) (a) of the Roads Act 1993. Upon closure, this road will be transferred to the adjoining landowner as compensation for the opening of a Council Public Road traversing the same land parcel.

The proposed Road closure is to be progressed in accordance with Part 4 Division 3 of the Roads Act 1993 (the Act), NSW Department of Industry Council road closures Fact Sheet July 2018 (the Fact Sheet) and Council's Land Acquisition and Disposal Policy (the Policy).

## Disclosure of Interest

Nil

## Detailed report

The Dixons Long Point crossing is being upgraded under the Roads of Strategic Importance program, funded by the Australian Government. The upgrade is expected to promote regional connections and provide a safe road network for road users within Central West NSW.

As noted in item 10.1 presented to Council in the March 2022 Ordinary Meeting and Attachment 2 appended to this report, Council proposes to close part of a Road which will be surrendered as compensation for the forming of a new road.

The Road for closure covers approximately 6602m<sup>2</sup>, traversing a property known as 'Dalmeny', located on Ullamalla road. The road status investigation, appended to this report as Attachment 3, indicates that the road in question is a Council Public Road pursuant to s7(4) of the Act. It is evident that the road is subject to a formed track in use, and will consequently vest in Council pursuant to s38E (2) (a) of the Act. Following the vesting, Council will surrender the road to the adjoining landowner in compensation for the opening of a Council Public Road for the construction of the new road.

This road closure will not alter access to any property, as all affected properties maintain legal, formed access.

It is recommended that Council progress the closure of the Road which includes public notification of the proposal and referral to various government departments and other relevant authorities.

Should Council wish to proceed with the closure, a further report will be presented to Council after the notice period has expired to consider any submissions received and to determine that Council intends (subject to the decisions made regarding any submissions) to close the subject road.

## Community Plan implications

<b>Theme</b>	<b>Connecting Our Region</b>
Goal	Efficient connection of the region to major towns and cities
Strategy	Develop a regional network in partnership with government agencies, that grows with the needs of residents businesses

## Strategic implications

### Council Strategies

Not applicable

### Council Policies

Land Acquisition and Disposal Policy

### Legislation

Roads Act 1993

## Financial implications

The road closure process will be supported by the Australian Government, Roads of Strategic Importance funding program. There is an existing budget in place.

## Associated Risks

If the Council Public road is not closed, Council will be unable to use this road in compensation for the acquisition of land for the opening of a new Council Road. Council may then face risks of being unable to proceed with the project within the specified timeframe or facing excessive expenditure for this section of the upgrade.

BRITTNEY WAKLEY  
PROPERTY OFFICER

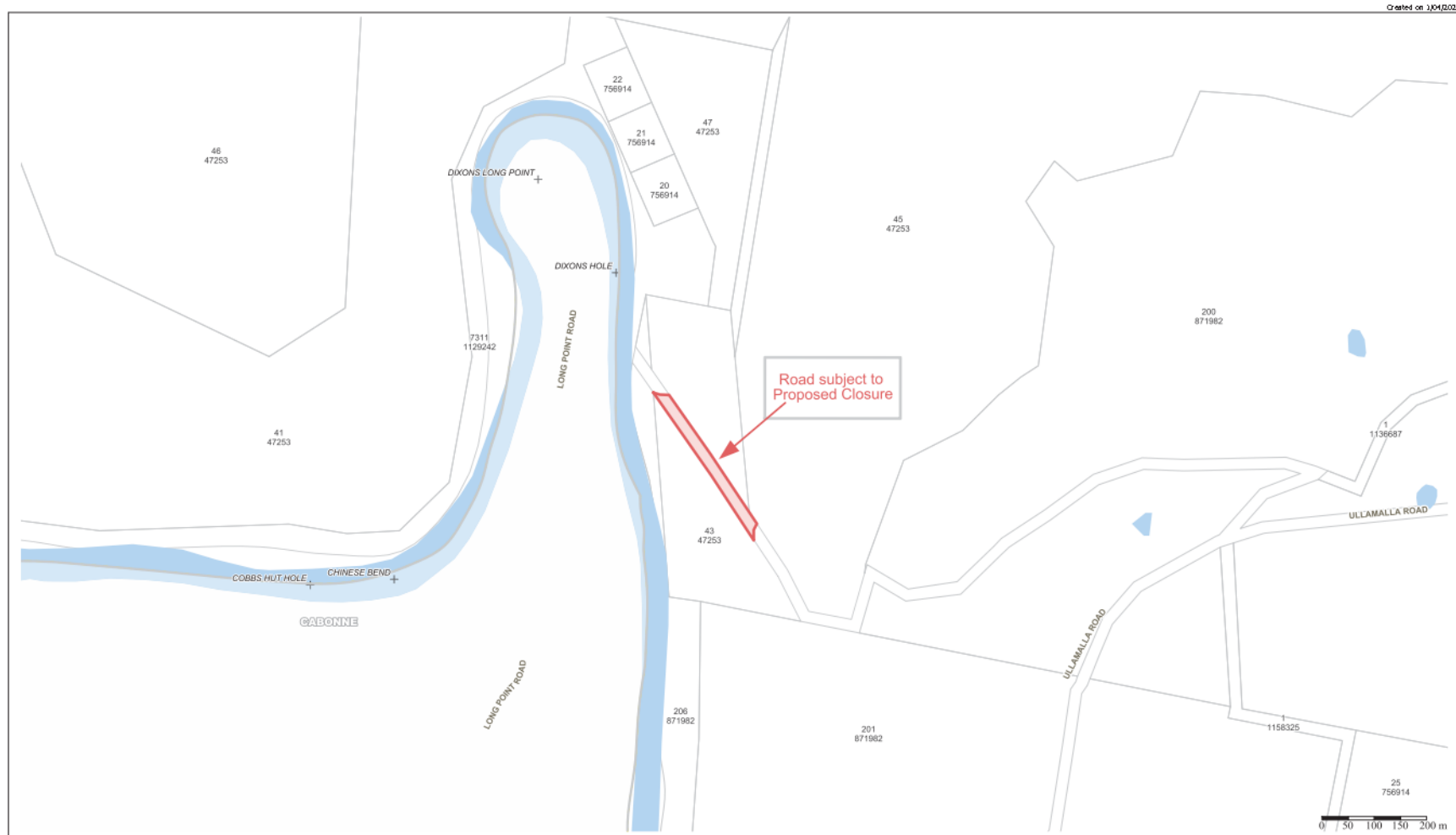
NEIL BUNGATE  
ACTING CHIEF FINANCIAL OFFICER


1 April 2022

- Attachments:*
1. Plan of Proposed Road Closure - Dixons Long Point Crossing.
  2. Report Council Meeting 16 February 2022 - Item 10.1 - Land Purchase for Road Reserve Ullamulla.
  3. Status Report - Dixons Closure.

APPROVED FOR SUBMISSION:


BRAD CAM  
GENERAL MANAGER





Mid-Western Regional Council  
 PO Box 156  
 86 Macarthur Street  
 MIDGEE NSW 2830  
 Telephone: 02 6378 2830  
 Fax: 02 6378 2815  
 Email: council@midwestern.nsw.gov.au

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Date: 1/04/2022  
 Map Scale: 1:6138 at A3

## Item 10: Operations

- 10.1 Land Purchase for Road Reserve - Part Lots 200 DP871982, 1 DP1136687, 201 DP871982 & 43 DP47253 and Proposed Acquisition of Crown Land Part Lots 42/45 DP47253, 7311 DP1129242 and Macquarie River Reserve 56146 Ullamalla

REPORT BY THE MANAGER - INFRASTRUCTURE PLANNING AND MANAGER PROPERTY AND REVENUE

TO 16 MARCH 2022 ORDINARY MEETING  
GOV400098, ROA100462

### RECOMMENDATION

#### That Council:

1. receive the report by the Manager - Infrastructure Planning and Manager Property and Revenue on the land purchase for road widening of existing registered road reserve servicing the location of the planned new bridge at Dixons Long Point, Ullamalla NSW;
2. resolve to purchase a total of approximately 3.8 ha of land from Lot 200 DP871982, Lot 1 DP1136687, Lot 201 DP871982 and Lot 43 DP47253 for the purpose of dedication as public road reserve by agreement with the Landowner at a sale price to be determined by appropriate independent valuation;
3. agree, at its own cost, to procure the appropriate independent valuation, preparation, lodgement and registration of appropriate subdivision plans giving effect to the transfer to road reserve and; as relevant, demolish the Landowners existing boundary fencing and gates and relocate to new property boundaries;
4. authorise the General Manager to finalise negotiations with the Landowner to effect the land purchase and subsequently enter into a Heads of Agreement with the Landowner to record the parties' agreement in respect to the terms on all relevant matters concerning the land purchase and the compensation to be paid;
5. authorise the General Manager to complete and execute all documentation, where necessary, in relation to effect the subdivision and land purchase for the purpose of the public road;
6. authorise the Mayor to execute all documentation, where additionally required to do so, in relation to effect the subdivision and land purchase for the purpose of the public road;
7. authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to effect the subdivision and land purchase for the purpose of the public road; and

8. **receive further reports relating to the proposed road closures and the acquisition of Crown land as outlined in this Report in due course.**
9. **resolve to submit notification of proposed acquisition and then acquire by compulsory acquisition under s77 and S178 of the Roads Act 1993 (Roads Act) and Land Acquisition (Just Terms Compensation) Act 1991 NSW (Just Terms Act) a total of approximately 2.0 ha of Crown land from Lot 7311 DP1129242, Lot 42 DP47253, Lot 45 DP47253 and the Macquarie River – Reserve 56146 – Beds of all Rivers for the purpose of construction the new bridge and dedication as public road reserve by a compulsory acquisition.**
10. **resolve to apply for Crown lands license for site investigation and road and bridge construction whilst the above notification process is underway.**

### Executive summary

The Dixons Long Point project requires the acquisition of a total of approximately 3.8ha of land (the Dedication Land) from a privately owned property (the Landowner) for the purposes of widening of a public road reserve. It is proposed:

- a) the transfer of the Dedication Land to Mid-Western Regional Council (Council) is to be carried out by way of Subdivision Plan, the registration of which will cause the Dedication Land to be dedicated as a public road, for the purposes of the Roads Act 1993, and become part of a public road.
- b) in consideration of the purchase of the Dedication Land, Council agrees to pay, and the Landowner agrees to accept, a monetary sum yet to be determined by an independent land valuer (the Valuer).

It is recommended that Council proceed with the subdivision and land purchase and authorise the General Manager to perform all duties necessary to effect the land transfer.

### Disclosure of Interest

Nil

### Detailed report

The upgrade of the link between Orange and Mudgee NSW (Dixon's Long Point) has been a discussion for more than 70 years. The Australian Government, under the Roads of Strategic Importance (ROSI) initiative has provided a sum of \$2 million towards field studies and design development for the purpose of selecting a preferred bridge option and preliminary site for construction works. Council expects to receive from the Australian Government a further \$27.8m in funding towards the completion of environmental studies, design development, management and construction of a bridge with 20 year ARI flood immunity and a total of approximately 3km of sealed road on the eastern and western road approaches to the bridge.

On the eastern side of the bridge there exists, on title of a number of allotments, a road registered reserve within which a road has not yet been constructed. It is planned as part of this project that this road reserve will form the eastern approach to the new bridge and, in order to achieve the necessary design and geometry parameters for the road, land will need to be acquired from the Landowner for widening the public road reserve, specifically:

- Part Lot 200 DP 871982 1.999ha
- Part Lot 1 DP 1136687 1,569m<sup>2</sup>
- Part Lot 201 DP 871982 9,206m<sup>2</sup>
- Part Lot 43 DP47253 6,972m<sup>2</sup>

Please note that the above areas are draft and will not be finalised until survey of property boundaries at completion of the construction works.

This Dedication Land is currently held by the Landowner. Market value of the Dedication Land will be assessed by the Valuer, however sales evidence suggests values ranging \$4,000-\$8000 per ha. Staff have made contact with the Landowner to discuss terms that would satisfy both parties for acquisition by agreement, that is:

- a) the transfer of the Dedication Land to Council is to be carried out by way of Subdivision Plan, the registration of which will cause the Dedication Land to be dedicated as a public road, for the purposes of the Roads Act 1993, and become part of a public road;
- b) in consideration of the purchase of the Dedication Land, Council agrees to pay, and the landowner agrees to accept, a monetary sum to be determined by the Valuer;
- c) Council, at its own cost, will arrange for the demolition of any existing boundary fencing, including gates, and relocate to the new property boundary;
- d) after road construction is complete and the fencing relocated, Council will at its own cost, arrange for a registered surveyor to survey the location of the new property boundary and finalise the preparation, lodgement and registration of appropriate Subdivision Plans giving effect of the transfer to road reserve;
- e) if there is a material change in area acquired, the settlement sum will be adjusted by the land value rate set by the Valuer.

It is proposed to enter into a Heads of Agreement with the Landowner to record the parties' agreement in respect to the terms on all relevant matters concerning the acquisition and the compensation to be paid.

In acquiring the Dedication Land and constructing the new road, two paper road reserves will become redundant. It is proposed to undertake necessary road status investigations of these road segments, and if determined eligible, prepare a further report to Council addressing the road closure process with a view of transferring the road closure lands to the Landowner.

In addition, land is also required to be acquired from the Crown to effect the construction of a new road approach to the new Dixons Long Point Bridge. The areas required are as follows:

- Part Lot 45 DP 47253 16,090m<sup>2</sup>
- Part Lot 42 DP 47253 1,242m<sup>2</sup>
- Part Lot 7311 DP 1129242 2,258m<sup>2</sup>
- Macquarie River – Reserve 56146 – Beds of all Rivers 400m<sup>2</sup> (nominal)

Council must acquire these areas in accordance with s177 and s178 Roads Act 1993 (the Roads Act) and the Land Acquisition (Just Terms Compensation) Act.

Preliminary advice has been given to Crown of the proposed acquisition and Crown has subsequently responded confirming the process to be followed. Approval is now sort to submit to Crown lands notification of proposed acquisition and application for license for site investigation and road and bridge construction whilst the notification process is underway.

Attachment 1 appended to this Report shows draft plans proposed for the Road Dedication Land, road closures and land to be acquired from Crown.

## Community Plan implications

Theme	Connecting Our Region
Goal	Efficient connection of the region to major towns and cities

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Strategy     Develop a regional network in partnership with government agencies, that grows with the needs of residents businesses

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### Strategic implications

#### **Council Strategies**

Not Applicable

#### **Council Policies**

Land Acquisition and Disposal Policy

#### **Legislation**

Local Government Act 1993

Roads Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

### Financial implications

The Dixons Long Point crossing project has a budget of \$29.8m and is 100% Australian Government Roads of Strategic Importance program funded. This will fund all costs associated with the acquisition and all associated subdivision and administration expenses.

<b>Budget Year</b>	<b>Operating Performance Ratio</b>	<b>Own Source Revenue</b>	<b>Building &amp; Infrastructure Renewal</b>
<b>2022/23</b>	-	-	-
<b>Future Years</b>	-	-	-

### Associated Risks

This matter is considered low risk however Council staff will manage the mitigation of any risks which may arise.

RAY KEARNS  
MANAGER - INFRASTRUCTURE PLANNING

JULIAN GEDDES  
DIRECTOR OPERATIONS

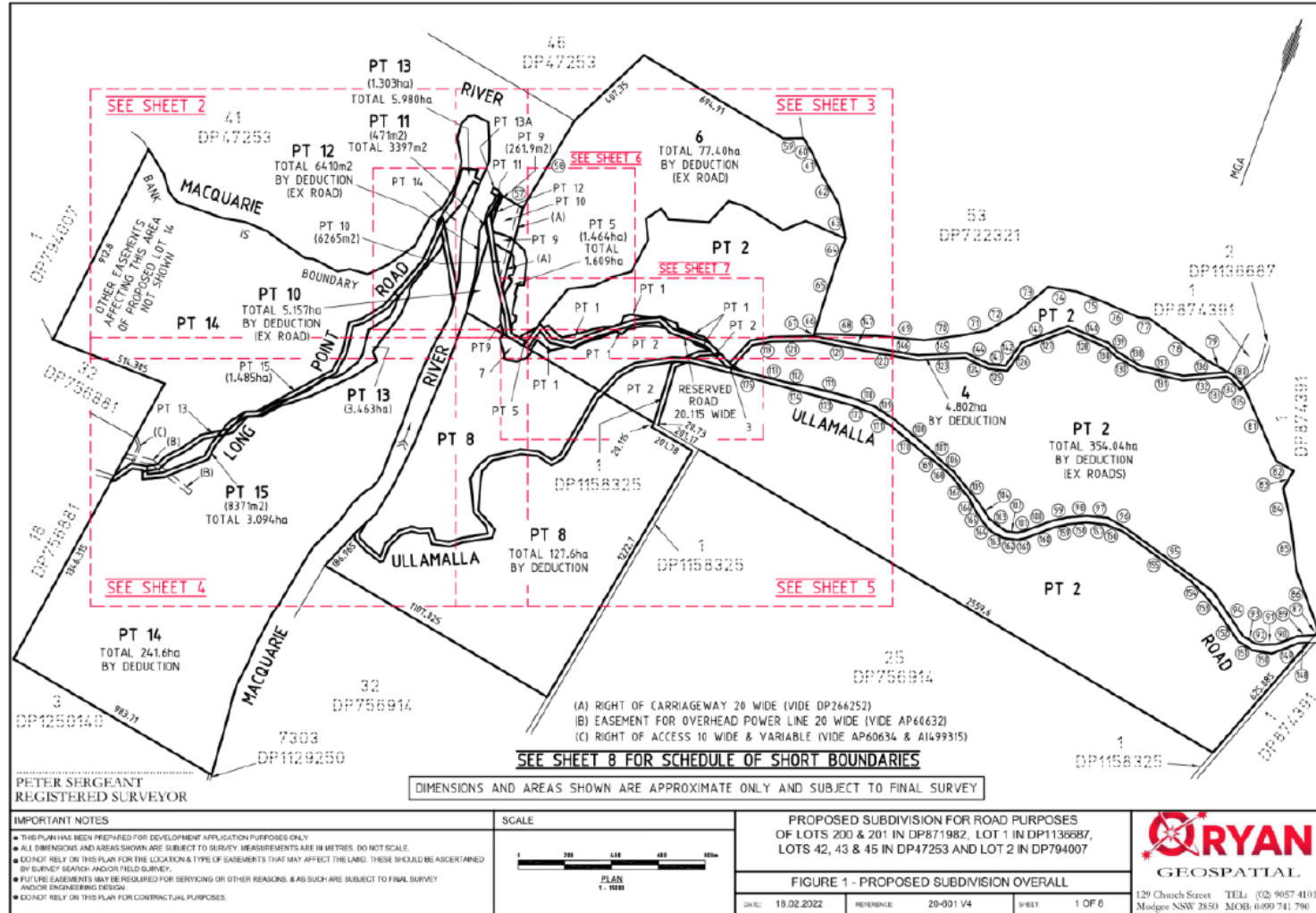
24 February 2022

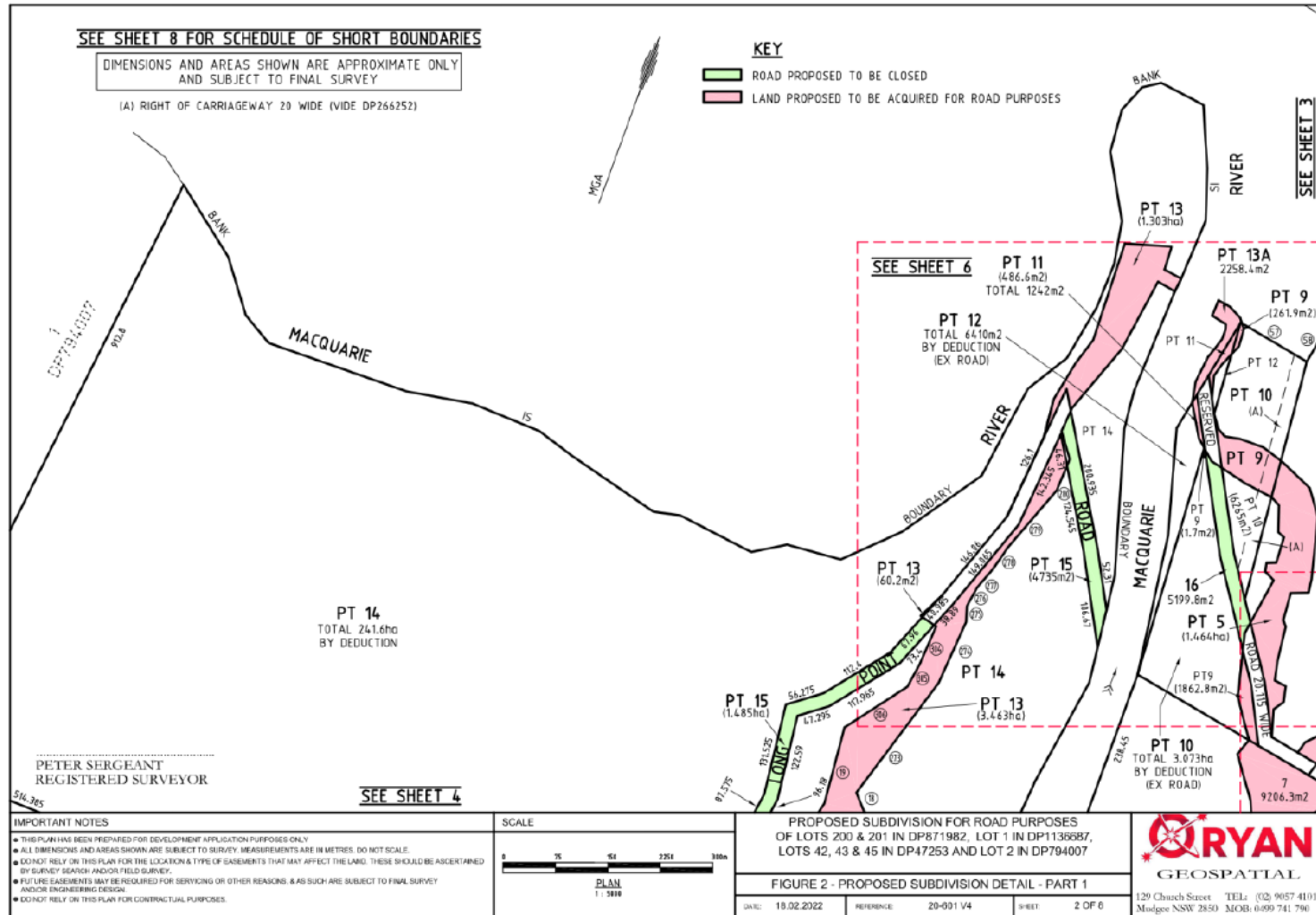
*Attachments:* 1. Plan - Land to be acquired and roads to be closed.

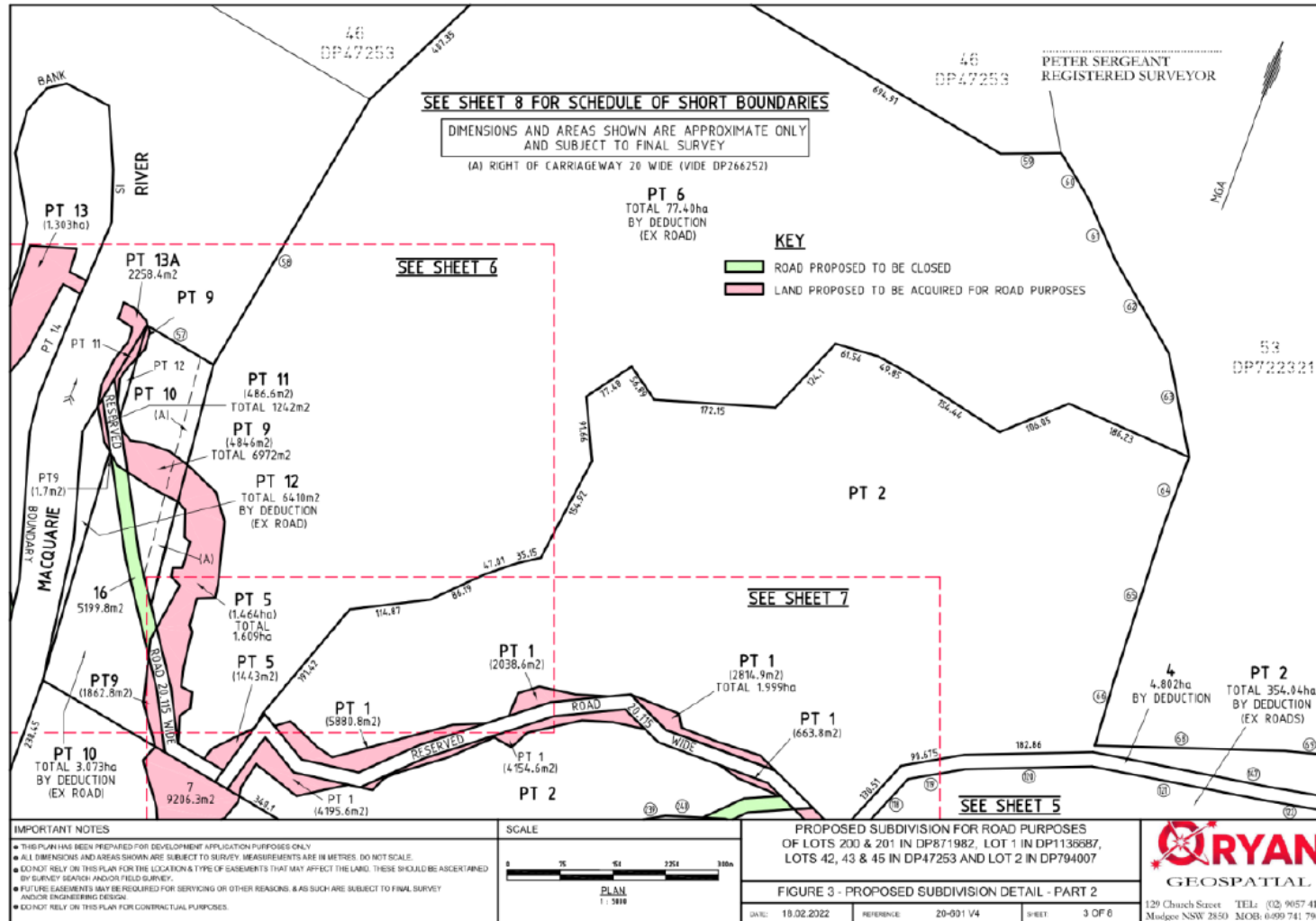
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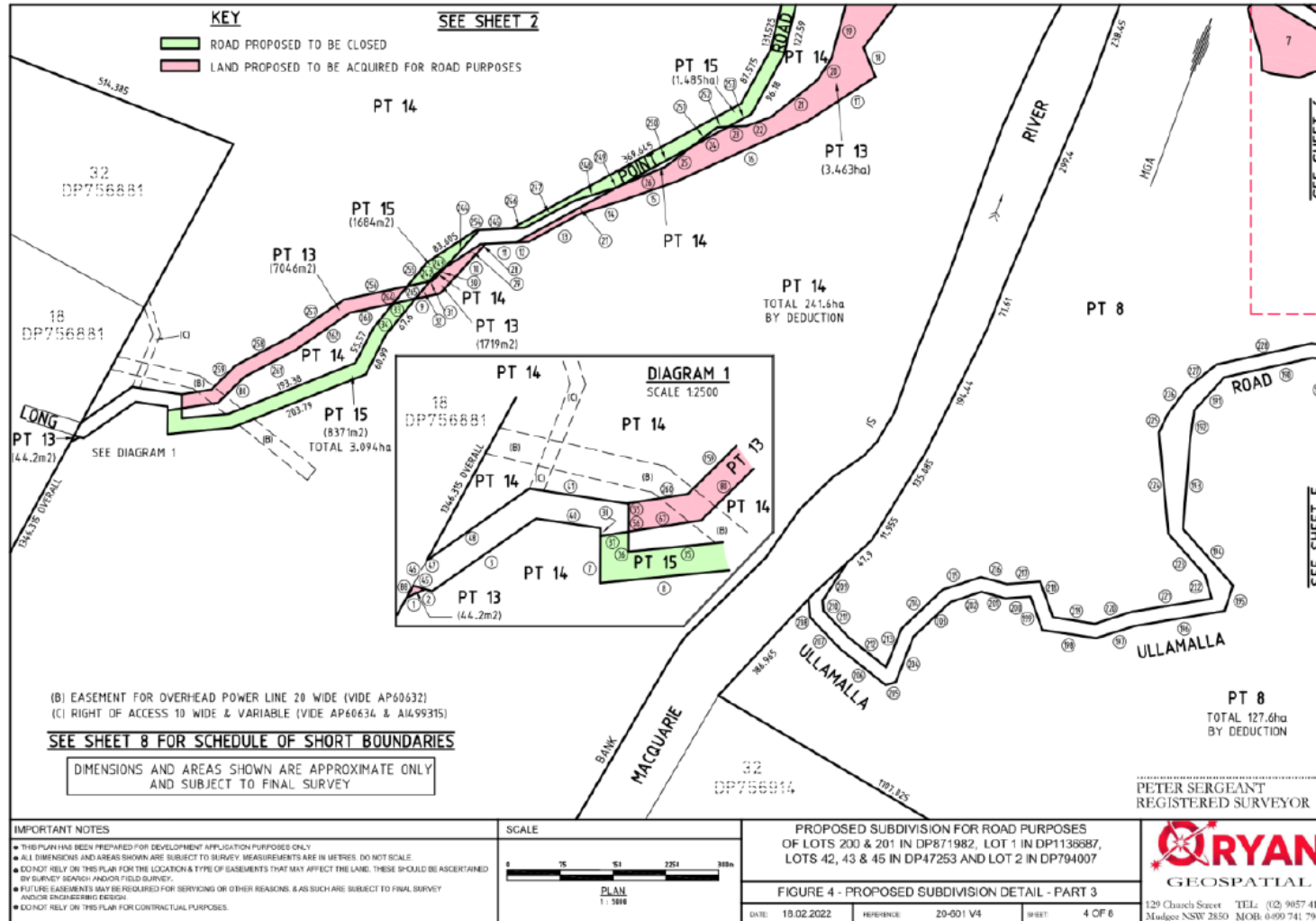
BRAD CAM  
GENERAL MANAGER

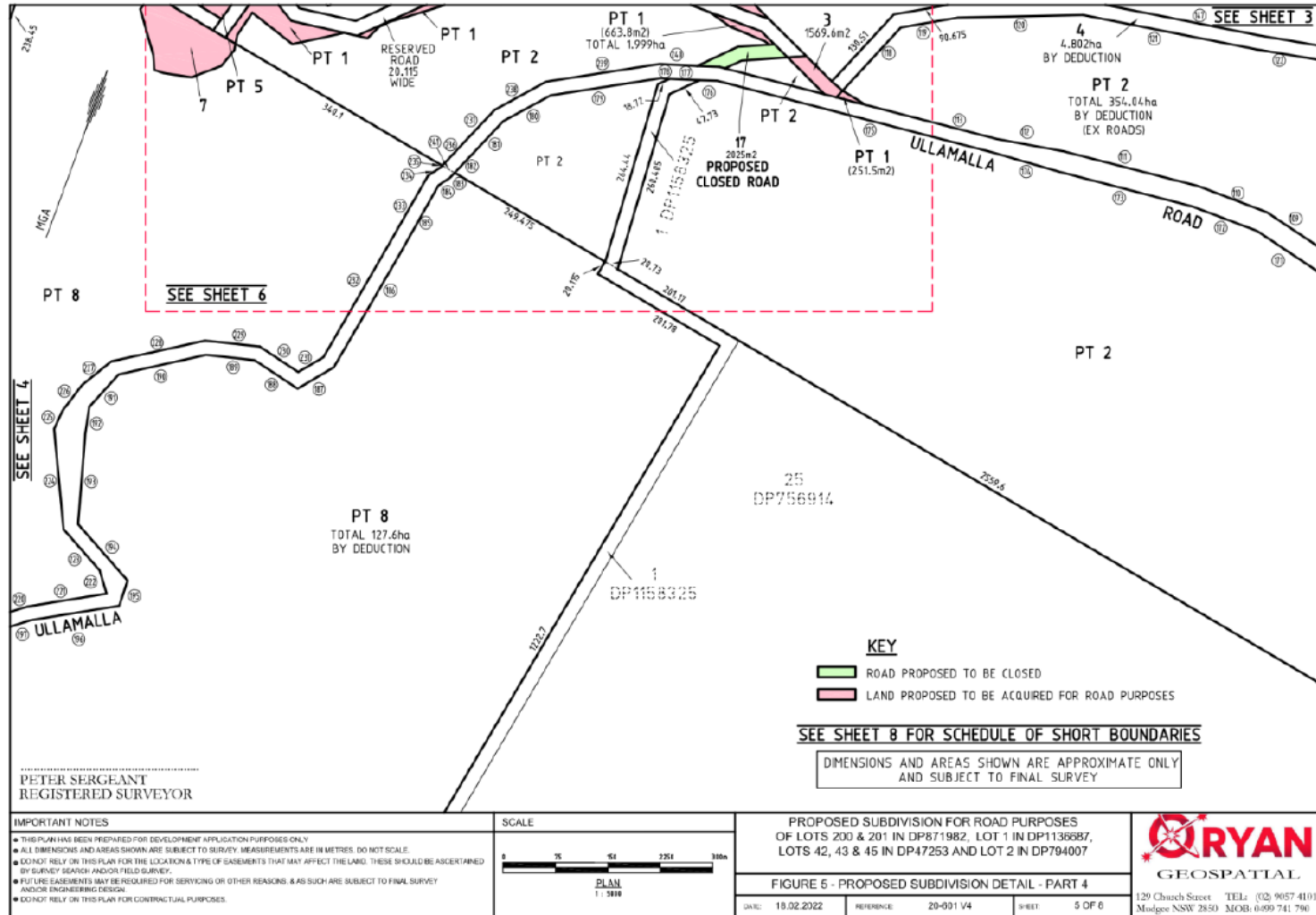


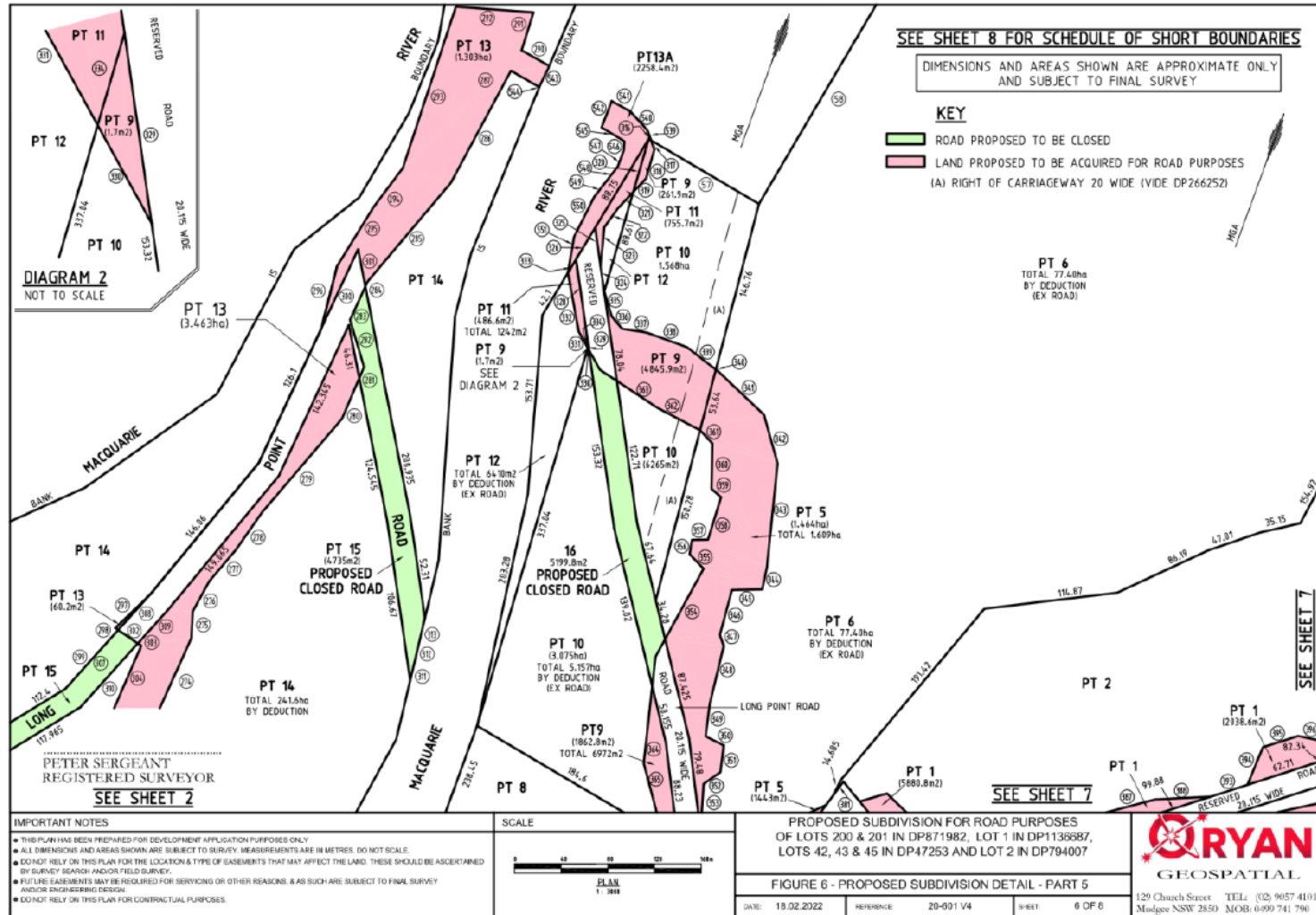


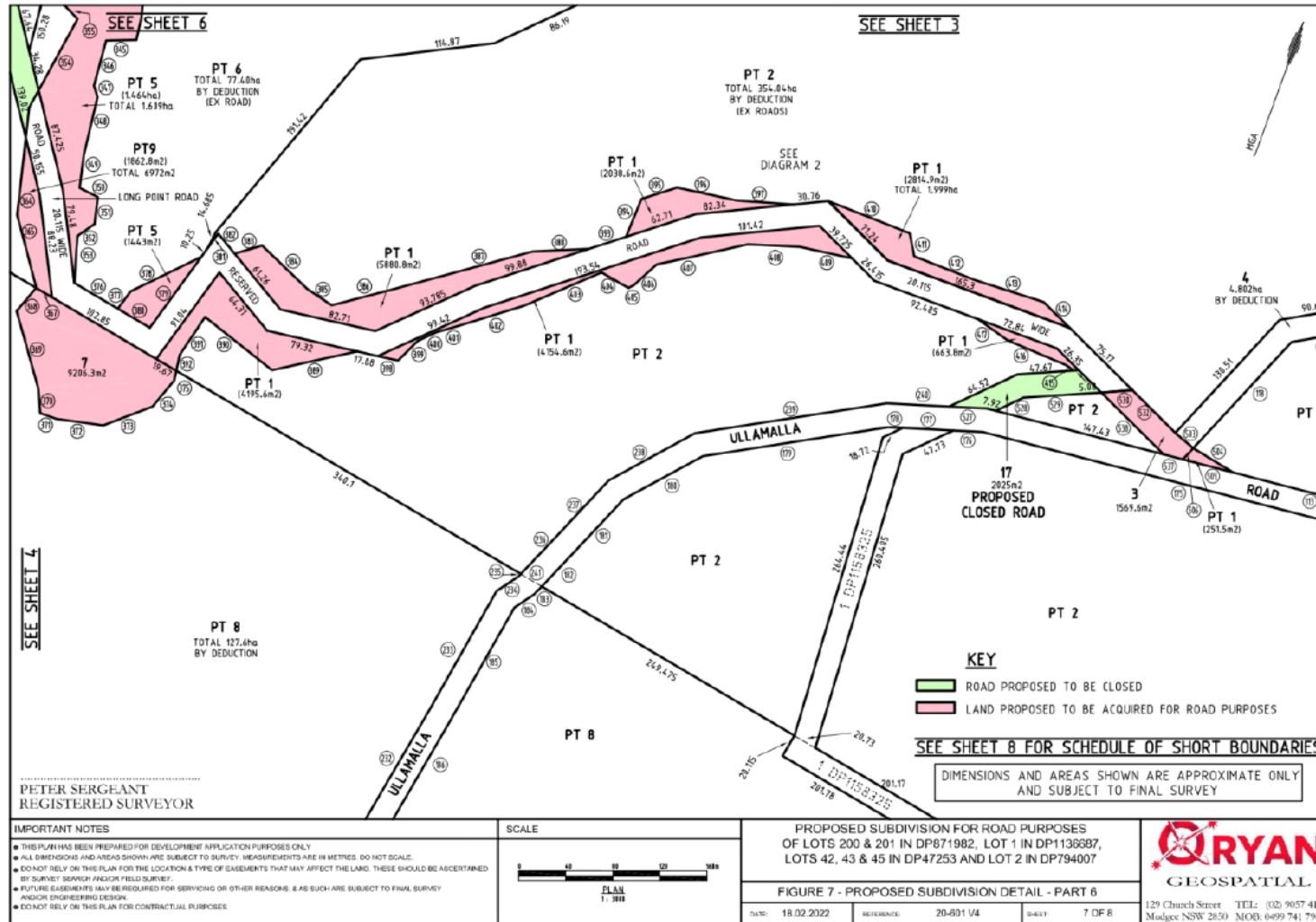








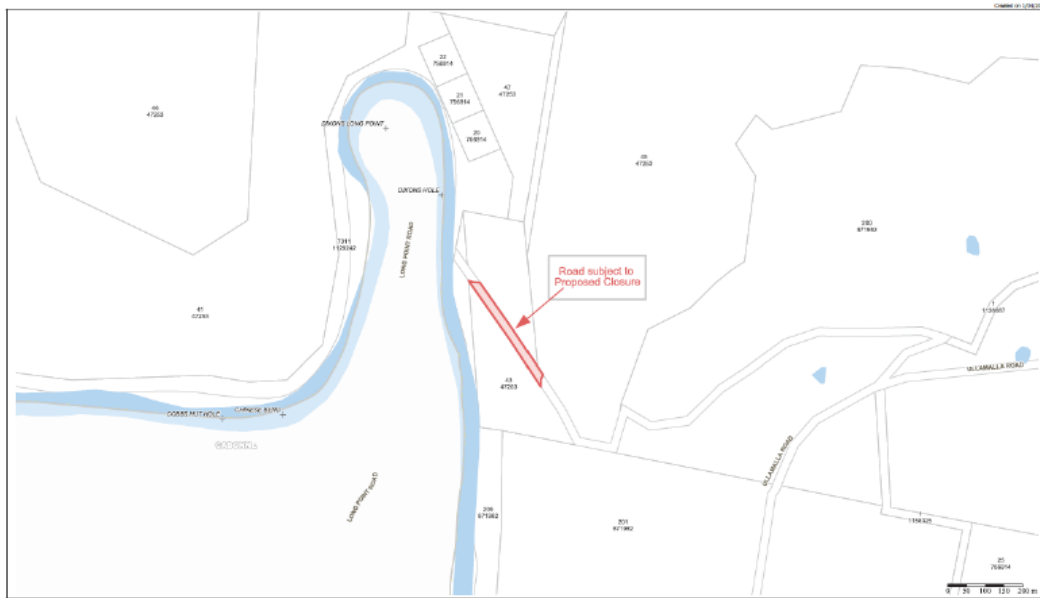








Status Search for Proposed Road Closure



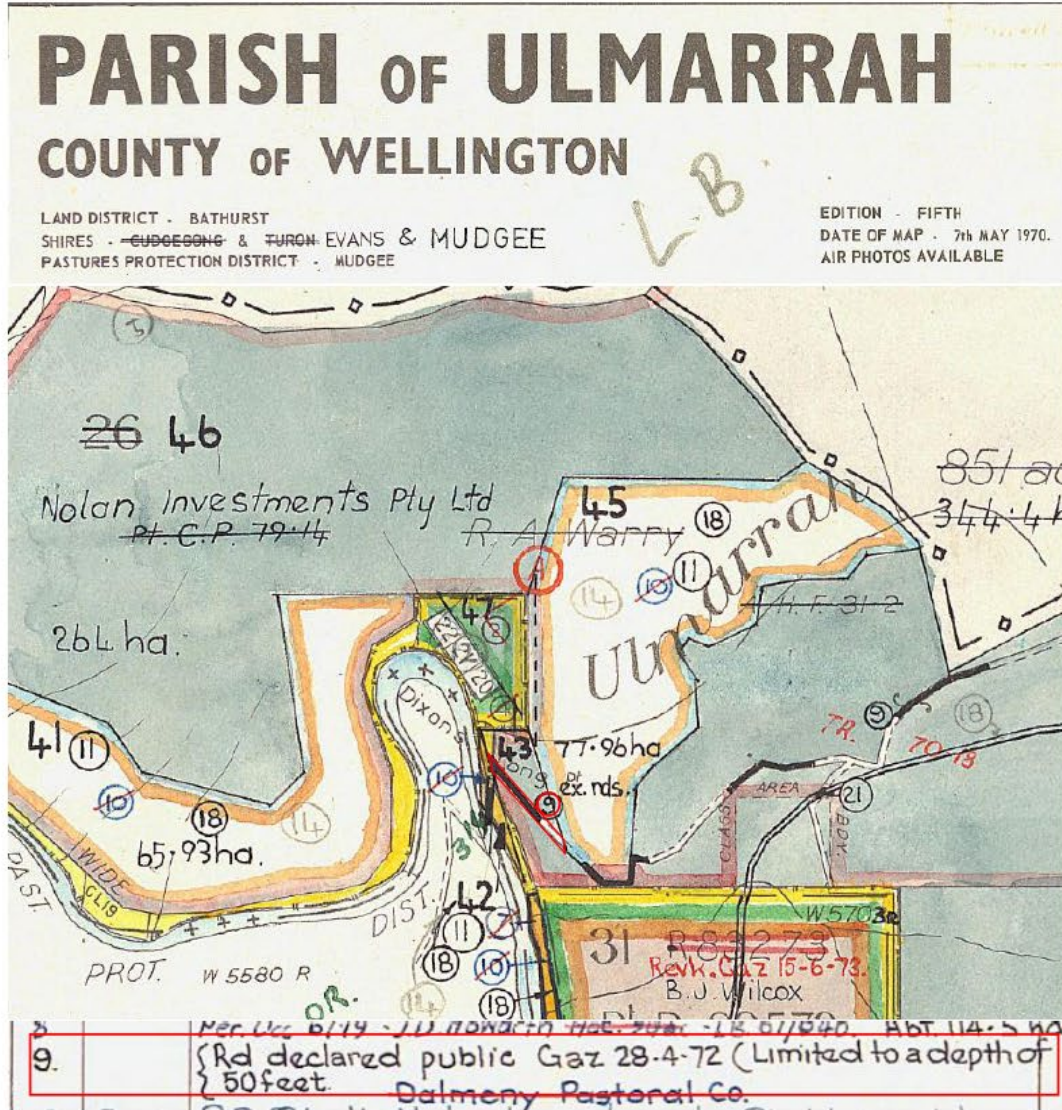
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Mid-Western Regional Council  
 200 Sun 25th  
 88 Market Street  
 Wollumban NSW 2440  
 Telephone: 62 62 79 2282  
 Fax: 62 62 79 2254  
 Email: [enquiries@midwestern.nsw.gov.au](mailto:enquiries@midwestern.nsw.gov.au)

Date: 1/04/2022  
 Map Scale: 1:51,200 @ A3

Roads subject to status search	Findings
Unformed road traversing Lot 43 DP 47253	Subject area was declared a Public Road shown by reference notes and gazette, notified 28 April 1972. Gazette notice refers to the road as 'the Westernmost road reserve within portion 26' as Lot 43 was formerly known as portion 26. This road appears to be an unformed Council road.

Unformed road traversing Lot 43 DP 47253 (formerly identified as part of portion 26), declared Public road notified 28 April 1972 as per reference note 9.



The below gazette notice from 28 April 1972 identifies the road as 'the westernmost reserved road within portion 26'.

Government Gazette of the State of New South Wales (Sydney, NSW : 1901 - 2001), Friday 28 April 1972 (No.44), page 1498

(5691)

Sydney, 28th April, 1972.

**DECLARATION OF ROADS TO BE PUBLIC ROAD  
UNDER PROVISIONS OF THE PUBLIC ROADS ACT,  
1902**

IT is hereby notified in pursuance of the provisions of section 18, Public Roads Act, 1902, as amended, that the roads hereunder described are hereby declared to be public road and dedicated to the public accordingly.

T. L. LEWIS, Minister for Lands.

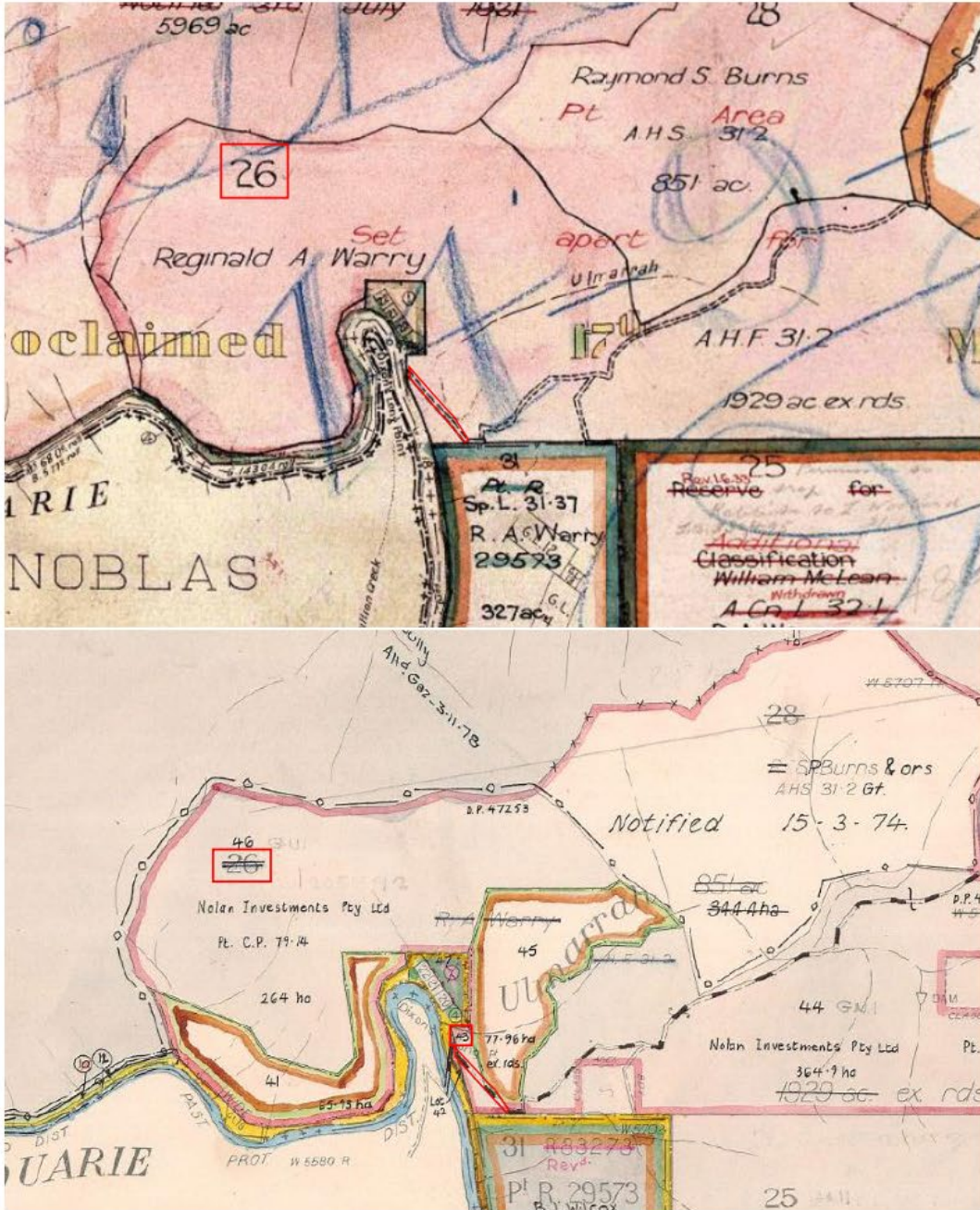
*Land District—Bathurst; Shire—Cudgegong*

**Parish Ulmarrah, County Wellington,** the westernmost reserved road within portion 7 extending generally northeasterly and then northwesterly from the northern boundary of portion 1; the part of the road separating end of road, portions 7 and 16 from portions 29 and 30, extending generally southwesterly from the road abovedescribed; the westernmost reserved road, extending generally southwesterly, within portion 17; the road separating end of road portions 17 and 28 from portion 26; the northernmost reserved road, extending generally southwesterly,

within portion 26; the westernmost boundary road separating portion 31 from portion 26; the westernmost reserved road within portion 26; the road 100 links wide extending generally southerly from the northwestern prolongation of the north-eastern side of the more western reserved road within portion 26 to the Macquarie River through R. 29573 from Conditional Sale, notified 15th July, 1899. (Council's reference GHS: LVH.) Rds 72-389.

NOTE: Dedication is limited to the surface and to a depth of 50 feet below the surface.

Portion 26 was separated into six lots, identified as Lots 41-46. Council road subject to status search traverses Lot 43 (formerly known as portion 26).



## PARISH NUMBERS USED

Small Number 2091 unless otherwise shown

Por.	Plan	Loc.	Vol. <small>OR DATE</small>	Fol.	Por.	Plan	Loc.	Vol.	Fol.
1	W 179 1527	N.E.							
2		X							
3		X							
4		X							
5		X							
6	W 161 1527	N.W.	2-10-1861						
<del>7</del>	<del>5677 R</del>	<del>N.E.</del>	<del>13908</del>	<del>154</del>					
8		X							
9	W 180 1527	N.E.	31	237					
10		X							
<del>S 11</del>	<del>W 5678</del>	<del>N.W.</del>	<del>14497</del>	<del>108</del>					
12	6033 R	S.W.	13188	132					
13	4140	N.W.	4686	142					
14	4141	N.W.	8389	188					
15	4894	N.W.	5041	45					
16	5679	N.E.	4919	177					
17	5715 R	N.E.							
18	5714	N.W.	7631	34					
19	5711	N.W.	7745	206					
20	633 1527	S.W.	87	145					
21	633 1527	S.W.	87	144					
22	633 1527	S.W.	87	143					
<del>S 23</del>	<del>W 5710 R</del>	<del>N.E.</del>	<del>13975</del>	<del>80</del>					
24	5713 R	S.E.	15431	161					
25	5709 R	S.W.	15261	44					
<del>C 26</del>	<del>5706 R</del>	<del>S.W.</del>							
27	5708 R	S.W.	15406	28					
<del>S 28</del>	<del>5707 R</del>	<del>S.W.</del>	<del>14478</del>	<del>165</del>					
29	5716 R	N.W.	14607	94					
<del>S 30</del>	<del>5687</del>	<del>N.E.</del>	<del>14497</del>	<del>108</del>					
31	5702	S.W.	13682	163					
32	5703 R	S.W.	13682	163					
33	162 1527	N.E.							
34	5940 R	S.E.	14670	77					
35	D.P. 704719	N.E.	14675	80					
36	D.P. 704719	N.E.							
37	D.P. 41856	S.W.	14683	46					
38	D.P. 41856	S.W.	14683	26					
39									
40									
41	D.P. 47253	S.W.							
42	D.P. 47253	S.W.							
<del>43</del>	<del>D.P. 47253</del>	<del>S.W.</del>	<del>15261</del>	<del>44</del>					
44	D.P. 47253	S.W.	15261	44					
45	D.P. 47253	S.W.							
46	D.P. 47253	S.W.	15261	44					
47	D.P. 47253	S.W.	15249	236					
49	DP 704720	NE							
50	DP 704720	NE							
51	DP 704720	NE							
52	DP 704720	NE							
53	D.P. 722321	NW							
54	D.P. 722321	NW							
55	D.P. 726991	SW							

X - Indicates Cancelled Freehold.

S - Superseded Portion