



Trade &
Investment
Crown Lands

File Reference GF06H454
Account No: W393745
Your Reference GR3/12/3

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The Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

Dear Sir/Madam,

RE: Closure & Sale of Council Public road at Rowlands Creek

I refer to Council's correspondence dated 29 October 2013 regarding closure of an unformed Council Public road within Lot 40 DP 755730 at Rowlands Creek and owned by KG Rippin and M Barbieri. Please refer to attached copies of the approved road closing draft deposited plans.

When Council was first referenced on this matter this office believed that all the roads involved in the application were Crown public roads and it was not until after the closure approval and the formal offer was made to the client and accepted that the error in road status was discovered that the red shaded roads on Diagram "A" was actually an unformed Council road. The Department sincerely regrets this status error and apologises for any difficulties or issues that it may have caused.

Council was informed of the Department's error on the 2 September 2013 via email addressed to Vanessa Barr which also requested Council's support in the closure and sale of the subject road. Council did not support this request in its response dated 29 October 2013 on the basis that the closure of this section of road did not comply with Councils Policy on "Road Closure and Private Purchase" and consequently would not withdraw its objection as noted in Councils report dated 20 April 2010.

Council's report as quoted above dealt with all the roads subject of the application however all of the Crown roads subject of the closure have now been closed and purchased by the applicant landowner.

As a consequence of the approval and purchase agreement the subject section of Council public road involved in the application no longer provides legal access to any property or is capable of providing physical access to other roads, public and private properties, public and Crown reserves or public utility installations and therefore could be classed as an isolated parcel of land.

Councils Policy on road closure and private purchase states a road is not eligible for closure if the road provides, or is capable of providing physical access to rivers & creeks etc. As indicated above the subject road being isolated by Rowland Creek no longer provides viable public access to Rowlands Creek.

However it should be noted that the strip of Crown land (comprising an area of about 1 hectare) fronting Rowlands Creek and shown in green shade on diagram "A" retains public access to the creek. The Crown land forms part of Crown Reserve for the public purpose of Future Public Requirements and has about a 350m frontage to Rowlands Creek. It is considered this area along with that section of Council public road adjoining Lot 4 DP789853 and Lot 1 DP777612 on the western bank of Rowlands Creek provides ample access for the public to Rowlands Creek in this area.

From the aerial image attached hereunder as Diagram "B" it is considered that subject road does not appear to contain any wildlife corridor, flora, marketable timber or scenic landscape element of significance to warrant retention. Likewise the road shows little if any potential in being developed for vehicle, cycle, pedestrian or equestrian use, nor for the movement of Stock.

This aerial image indicates that the road reserve area has long been managed as part of the adjoining freehold land and as a result this area in isolation from public access has little potential for future public use. It is also considered that the only access to the subject road via the bridge that has been constructed across the Creek and maintained by the freehold landowners as part of their driveway is not a viable public access alternative.

It is however worth noting that Ken Rippin and Maria Barbieri as owners of the adjoining land comprised in Lot 2 DP539592 have entered into a Conservation Agreement with the Nature Conservation Trust of NSW and is recorded on the title of that lot (refer to Dealing AE853263) to assist in the long-term conservation of biodiversity in the region. This agreement runs with the land and recognises the values of the area as a wildlife corridor and regenerating subtropical rainforest. An unregistered Plan of Management affects the land under the conservation agreement. The closed road within Lot 2 DP539592 is also covered by that conservation agreement.

Council's submission to the proposed road closing indicated that subject road reserve according to Council's records contains no infrastructure belonging to a public authority. Given that no construction had ever taken place within the Council public road reserve the road upon closure was therefore held to vest in the Crown.

In the past the roads team in Grafton have maintained an excellent relationship with Council and its staff on all roads matters in the Shire and this office is hoping in this case does not adversely affect that relationship.

It is respectfully requested that Council take into account the above matters raised and will again review the case and reconsider its decision.

If you require any further information on this matter please contact Michele Hurcum on 02 6640 3901 or e-mail michele.hurcum@crowland.nsw.gov.au

Yours faithfully



Michele Hurcum
Senior Business Centre Officer
Roads Business Unit, Grafton
13 April 2015

Attachments: Draft Deposited Plan (2 sheets)

DIAGRAM "A"

Red Shading:- Council Public Road approved for closure

Yellow Shading:- Crown Road Approved for closure and contracted for purchase

Green Shading:- Crown Reserve Part 755730 for the public purpose of Future public Requirements

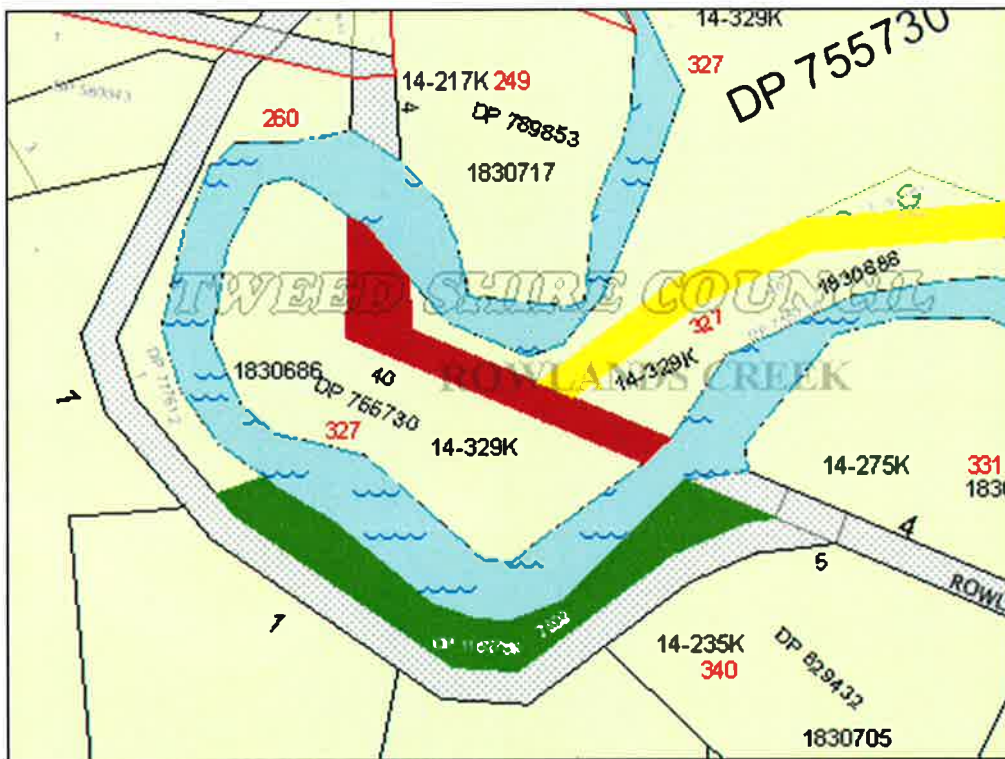
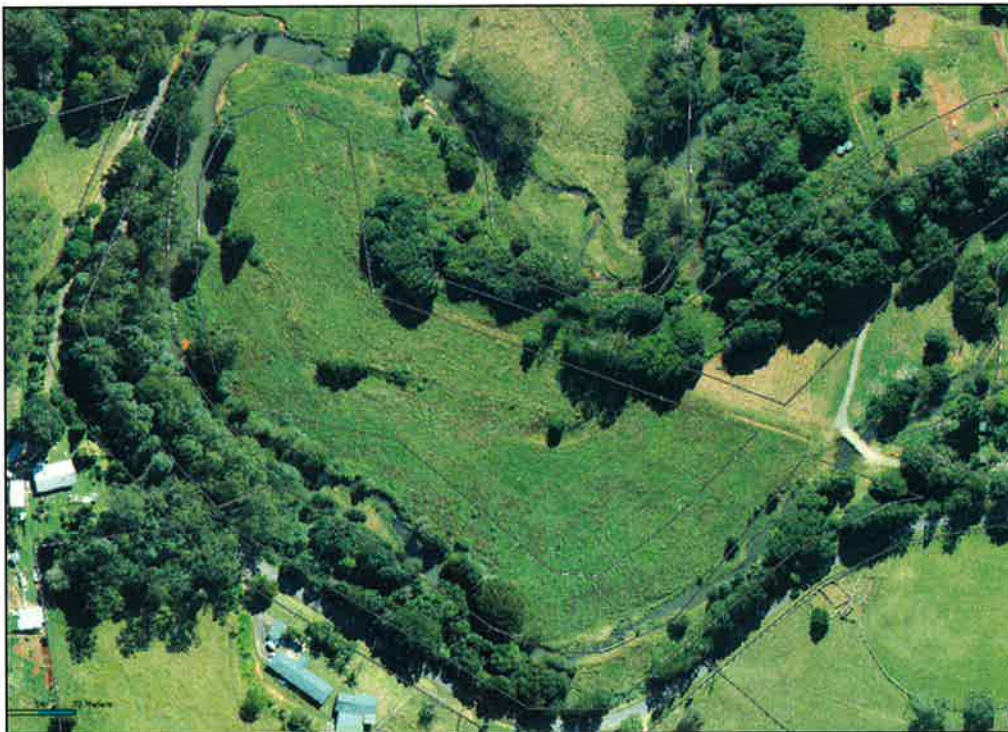


DIAGRAM "B" – Aerial Image subject Council Public Road

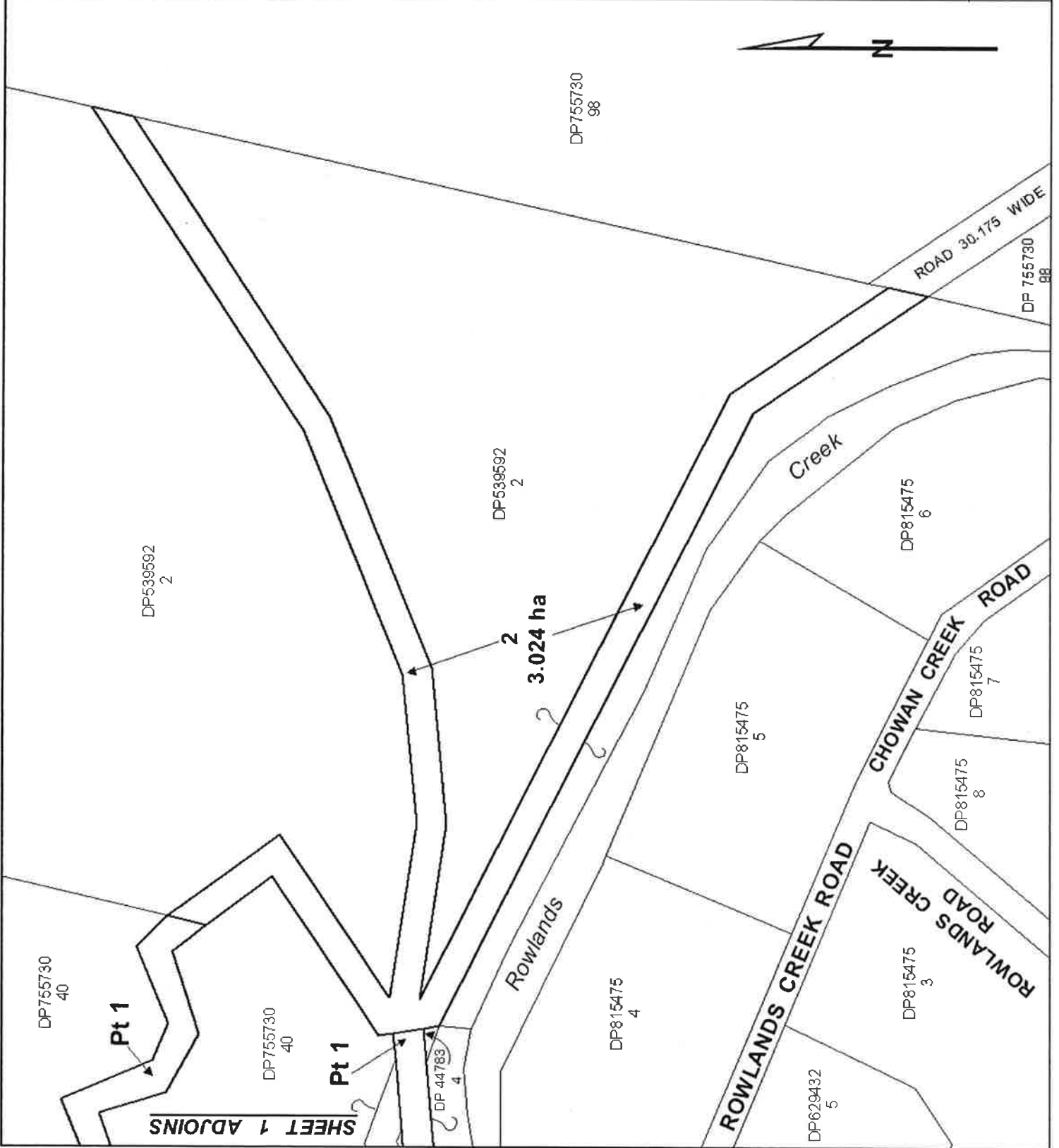


Registered :

Sheet 2 of 2 sheets

Lengths are in metres. Reduction Ratio - NTS

Full dimensions and/or areas may not be available for all lots. Any division of the lands herein may necessitate the lodgment of a plan of survey.



Registered :	CROWN LAND
Title System :	CROWN LAND
Purpose :	ROAD CLOSURE AND FIRST TITLE CREATION
PLAN OF FIRST TITLE CREATION FOR ROAD CLOSING UNDER THE ROADS ACT, 1993	
Lengths are in metres. Reduction Ratio - NTS	
Sheet	1 of 2 sheets
L.G.A.:	TWEED
LOCALITY :	ROWLANDS CREEK
PARISH :	NULLUM
COUNTY :	ROUS
CROWN LANDS NSW APPROVAL	
File : W 393745	
This plan is exempt from Subdivision Certificate under Section 23G (b) of the Conveyancing ACT, 1919	
IT IS INTENDED TO CLOSE THE ROAD SHOWN AS LOTS 1 & 2	
Full dimensions and/or area(s) may not be available for all lots. Any division of the lands herein may necessitate the lodgment of a plan of survey.	

