

**Singleton Council – Transitional Planning Proposal for
Lot 252 DP 804008 and Lot 12 DP 1062336, Mirannie
Road, Sedgefield (via Ironbark Lane) - October 2010 (File:
LA43/2005)**

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1. Introduction

The purpose of this planning proposal is to convert a rezoning request under the old Part 3 provision of the Environmental Planning & Assessment Act to the current Part 3 provisions of the Act, to meet the Department of Planning's expiry date of 1 January 2011. It has been prepared in response to the Department's letter regarding Savings and Transitional Provisions – LEPs dated 29 September 2010. The Department's response to Council's Section 54 notification is dated 22 July 2009.

The Department of Planning issued a Section 65 Certificate for the proposal on 26 August 2010. However, the Certificate is dependant upon the preparation and concurrent exhibition of a draft Development Control Plan for the site.

The proponent is currently preparing a draft Development Control Plan (DCP) for the land so that it can be exhibited concurrently with the draft Local Environmental Plan (LEP). The draft DCP will address issues required by the draft LEP, including those raised by government authorities.

The planning proposal identifies the potential issues associated with rezoning the subject land from Rural 1(a) to an Environmental Living zone to facilitate future subdivision of the land for environmental living style rural residential purposes. The information contained within the proposal explains the intended effect of the proposed amending LEP and the justification for making it.

In preparing this planning proposal Council staff have extensively used material submitted by RPS Harper Somers O'Sullivan in support of the rezoning request.

2. Site Description

The legal description of the subject site is Lot 252 DP 804008 and Lot 12 DP 1062336, Mirannie Road, Sedgefield (via Ironbark Lane). The site is roughly rectangular in shape and has a total area of approximately 168 hectares. The site is approximately 800 metres wide (north to south) and 1600 metres deep (east to west), with access from Ironbark Lane at the north-east corner.

Lot 252 (40 ha in area) contains a rural dwelling and associated sheds. Lot 12 (128 ha in area) is vacant.

The location of the subject site is shown in **Figure 1**.

An aerial view of the property is provided in **Figure 2**.

3. The Amending LEP

The following matters address the requirements of a planning proposal as detailed in the Department of Planning "A guide to preparing planning proposals".

3.1 Objective

To amend Singleton Local Environmental Plan (LEP) 1996 to permit (with consent) the subdivision of Lot 252 DP 804008 and Lot 12 DP 1062336 in accordance with the provisions of the Sedgefield rural residential Candidate Area (SCA) outlined in Singleton Land Use Strategy (SLUS) 2008 and detailed in the Sedgefield Structure Plan (SSP) 2009.

3.2 Provisions

As Singleton has not been included as a prioritised Council (and progression of the Standard Instrument (SI) LEP is dependent upon obtaining additional funding), the rezoning proposal needs to be progressed as an amendment to Singleton LEP 1996.

The Department of Planning's (DoP) LEP Review Panel advised Council in January this year that further rezoning of land within the SCA should be carried out using a single amendment to SLEP 1996. DoP's Regional Office, however, has indicated recently that it is up to Council in the first instance to decide if proposals should be combined. Experience has shown that if proposals are to be combined it is best to do so in the final stages otherwise some proposals may be extensively delayed awaiting other proponents to resolve outstanding issues.

On this basis it is anticipated that Lot 252 DP 804008 and Lot 12 DP 1062336 may be rezoned with a number of other properties in the SCA for 7(b) Environmental Living purposes if the rezoning process is completed within a similar timeframe.

Council has recently introduced a new 7(b) Environmental Living zone which will be suitable for the subject site. It is anticipated that the draft LEP will be along the following lines:

1 Name of plan

This plan is *Singleton Local Environmental Plan 1996 (Amendment No 43)*.

2 Aims of plan

This plan aims:

- (a) to rezone land referred to in clause 3 from Zone 1 (a) (Rural Zone) to Zone 7 (b) (Environmental Living Zone) under *Singleton Local Environmental Plan 1996*,
- (b) to provide a minimum lot size and a minimum average lot size for lots resulting from the subdivision of land for environmental living purposes,
- (c) to require a development control plan to be prepared to the satisfaction of Council before consent may be granted to development on the land to which this plan applies.

3 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

4 Land to which plan applies

This plan applies to Lot 252, DP 804008 and Lot 12 DP 1062336, via Mirannie Road, Sedgefield, as shown edged heavy black on the map marked "Singleton Local Environmental Plan 1996 (Amendment No 43)" deposited in the office of Singleton Council.

Schedule 1 Amendment of Singleton Local Environmental Plan 1996

[1] Clause 9(1)How are terms defined in this plan?

Insert in the definition of "Lot Size Map" in appropriate order:

Singleton Local Environmental Plan (Amendment No 43) Sheet 2
Lot Size Map

Insert in the definition of "the map" in appropriate order:

Singleton Local Environmental Plan (Amendment No 43) Sheet 1

[2] Clause 14E

Insert after clause 14D:

14E What provisions apply generally to the Sedgefield Rural Residential development area?

(1) This clause applies to the following land:

Lot 252 DP 804008 and Lot 12 DP 1062336, as shown edged heavy black on the map marked "Singleton Local Environmental Plan 1996 (Amendment No 43)", deposited in the office of Singleton Council.

(2) Development consent must not be granted for any development on land to which this clause applies unless a development control plan has been prepared for the land in accordance with subclause (3).

(3) The development control plan must, to the satisfaction of Council:

- (a) contain a subdivision layout plan that provides for the conservation, enhancement and regeneration of areas of native vegetation with significant biodiversity value (including riparian corridors), and
- (b) contain provisions to conserve, enhance and encourage the regeneration of areas of native vegetation with significant biodiversity value (including riparian corridors), and
- (c) contain a staging plan which makes provision for necessary infrastructure and sequencing to ensure that the development occurs in a timely and efficient manner, and

- (d) provide for an overall movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles and public transport, and
- (e) contain stormwater and water quality management controls, and
- (f) provide for amelioration of natural and environmental hazards, including bushfire, flooding, landslip, erosion, salinity, and potential contamination, and
- (g) contain measures to conserve any identified heritage.

Figure 3 illustrates the existing zoning of the SCA, including the subject site.

3.3 Justification for Amending LEP

3.3.1 Section A - Need for the planning proposal

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

The subject site is located within the SCA which was created under the Council approved Singleton Rural Residential Development Strategy 2005. This Strategy was endorsed by the DoP in July 2006, however the endorsement excluded the SCA until the submission and approval by DoP of a satisfactory Structure Plan for this Candidate Area. The requirement for the Structure Plan was confirmed in Council's comprehensive Singleton Land Use Strategy (SLUS) 2008.

The Sedgfield Structure Plan (SSP) 2009 was adopted by Council in February and endorsed by DoP in March 2009. The SSP 2009 identifies a minimum average lot size of 5 ha, with an absolute minimum of 2 ha. The SSP 2009 applies to the whole of the SCA and identifies the subject site and confirms that the holding can yield a total of approximately thirty-three lots, or thirty-two additional allotments.

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

The planning proposal is seen to be the most appropriate way to fulfil the objectives of the endorsed SLUS 2008 which identified the demand for additional environmental living style rural residential allotments within close proximity to the Singleton township.

Zone 7(b) (Environmental Living Zone) was introduced into the Singleton LEP 1996 in June this year with the publication of LEP Amendment No 55. It is deemed to be the appropriate zone for the SCA in allowing environmental living in combination with the conservation of native vegetation which has recently been classified as endangered ecological community (EEC). The varied minimum lot size adopted in the SSP can be accommodated by means of a site specific lot size map.

The consideration of this proposal concurrently with other rezoning requests is consistent with DoP guidelines that seek to reduce the overall number of LEP

amendments by requiring minor amendments to be grouped together. However, grouping should be left to the final stages to avoid unnecessary delays and complications.

Is there a net community benefit?

The proposed rezoning will facilitate the future yield of approximately thirty-two additional allotments within the SCA. The rezoning is consistent with the endorsed strategic planning documents including the SLUS 2008 and SSP 2009 and the environmental living style rural residential allotments will be compatible with adjoining land uses. Further information regarding community services is included in the SSP 2009, which applies to the subject site. The site has consistently been included in the SCA and the expectations of the community are that the land will be used for environmental living style rural residential housing. It is considered that support for the proposed rezoning would result in a net community benefit.

3.3.2 Section B - Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub regional strategy?

There is no regional or sub regional strategy that applies to the subject land.

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

The planning proposal is consistent with the following strategic policies and documents adopted by Council and endorsed by DoP:

- Singleton Rural Residential Development Strategy 2005
- Singleton Land Use Strategy 2008
- Sedgefield Structure Plan 2009

The key strategic document applying to this site is the SSP 2009. The SSP 2009 provides guidelines for rural residential development in the SCA to ensure that it is socially, economically and environmentally sustainable. The proposal is consistent with the SSP 2009.

In detail, the key areas for consideration are as follows:

Biodiversity:

The SSP 2009 details vegetation mapping of the SCA and there are three vegetation communities present, these being:

- Central Hunter Ironbark Spotted Gum/Grey Gum Forest;
- Central Hunter Riparian Forest; and
- Hunter Low Land Redgum Forest.

The SSP confirmed, following consideration of the delineated vegetation communities, that the Hunter Lowland Redgum Forest was the only vegetation community that constituted an endangered ecological community (EEC). The subject site does not contain any of the Hunter Lowland Redgum Forest EEC.

However, Central Hunter Ironbark Spotted Gum/Grey Gum Forest and the Riparian Forest (Swamp Oak) were formally listed earlier this year as EEC.

The subject site does contain the Central Hunter Ironbark Spotted Gum/Grey Gum Forest and Riparian Forest vegetation communities, however the SSP confirms that vegetation assemblages present within the study area have been highly modified and are poorly represented with only small pockets of fragmented and degraded communities remaining. The SSP concludes that it would therefore be very difficult to rehabilitate the study area to pre-European standards.

The site is characterised by scattered woodland with stands of trees along the creek and drainage lines. The understorey is sparse and comprised mainly of low tufted grasses and a few shrubs. There are large areas of cleared land and grassy slopes with some revegetation and small stands of saplings in some of the upper slopes and mid-slope areas. The cleared land will provide opportunity for siting building envelopes in existing cleared areas.

Development impacts arising from future subdivision works will focus on matters such as the maintenance of wildlife connectivity, vegetation cover and remnant size, riparian vegetation and local biodiversity values. On-site impacts will be considered in the framework of relevant State and Commonwealth legislation, regulation and policy, as will the formulation of mitigation works that may arise as a consequence of site development.

Erosion and salinity:

Erosion is present in the SCA and generally occurs on upper slopes where there is little vegetation, and on mid-slopes where there is timbered over-storey, but little near surface understorey vegetation. Previous investigations in the area note that the gully lines exhibit the most widespread erosion damage.

Assessments on land within the SCA confirm the presence of low to moderately saline soils. Management Strategies outlined in the SSP 2009 will need to be included in the Development Control Plan (DCP) that is prepared for the SCA and enforced during the assessment of development applications for the site.

Bushfire:

The subject site is affected by bushfire prone land. The mapping indicates the site is affected by Vegetation Category 1, 2 and buffer lands. Future rural residential development is capable of co-existing with existing on-site vegetation subject to applicable construction standards. An additional access road to the site is being negotiated with the NSW Rural Fire Services to provide alternative access/egress

in the event of a bushfire. It is envisaged that future development of the site will be able to comply with Planning for Bushfire Protection 2006.

The bushfire hazard mapping for the area is shown in **Figure 5**.

Aboriginal Archaeology:

An Aboriginal Heritage Impact Assessment for the site, dated December 2009, was carried out by RPS Harper Somers O'Sullivan in accordance with current guidelines. The survey identified four isolated finds and two artefact scatters. Site cards for all sites are in preparation for registration with DECCW. It is recommended that works may proceed in all other areas taking into account the five Recommendations of the report.

Traffic and transport:

The subject site is currently accessed from Mirannie Road (via Ironbark Lane) approximately 800 metres north of the intersection with Gresford Road. The addition of thirty-two allotments is unlikely to have any significant impact on traffic or transport needs in the local area. However, Ironbark Lane will need to be upgraded to an appropriate standard and intersections in the vicinity will need to be assessed for capacity to handle the increased traffic generation from the development. An additional access to Mirannie Road (to the south of Ironbark Lane) is also proposed to address concerns raised by the NSW Rural Fire Service.

Details of road requirements will be addressed at the development stage.

Services and infrastructure:

The subject site is not serviced by town water. The future allotments would rely on rainwater collected from roof areas and stored in rainwater tanks.

The subject site is not serviced by reticulated sewer. The future allotments would rely on on-site wastewater disposal. It is envisaged that the site is suitable for domestic on-site effluent disposal.

The provisions of the SLUS and SSP do not require provision of town water or reticulated sewer to this type of development.

It is anticipated that electricity, telecommunications, and garbage services currently provided to adjoining land can be extended to cater for the additional allotments.

Community facilities:

Future residents will have access to the complete range of community facilities located in the Singleton township. They will all be within about 15 minutes drive on sealed roads. Development contributions will be applicable under Council's Development Contributions Plan.

Natural resources:

The Department of Primary Industries has proposed a buffer zone to a prospective open cut reserve at Sedgefield. This buffer essentially sterilizes all lots that have a frontage to Roughit Lane back to the intersection Gresford Road and Mirannie Road. The subject site is outside the Department of Primary Industry buffer.

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

The Amending LEP is not inconsistent with any applicable state environmental planning policy. Future residential development of the site has the potential to be affected by the following state environmental planning policies:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Rural Lands) 2008.

Full consideration of the impacts of state environmental planning policies will be considered at the development application stage. Discussion on the amending LEP's consistent with the rural principles under SEPP (Rural Lands) 2008 is provided under this Section below.

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

The Minister for Planning issued new directions to Council's under section 117(2) of the Environmental Planning and Assessment Act 1979, commencing 1 July 2009. The new directions that affect the proposal are outlined below:

Direction 1.2 – Rural Land

The objective of Direction 1.2 is to protect the agricultural production value of rural land. This direction applies when a council prepares a planning proposal that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

The Direction states that a planning proposal must:

- not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- not contain provisions which will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The Direction states that a planning proposal may be inconsistent with the terms of this direction only if Council can satisfy the Director-General of the Department of Planning that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy that considers the objective of this directive, identifies the land and is approved by the Director-General, or
- justified by a study prepared in support of the planning proposal, or
- is in accordance with the relevant Regional Strategy prepared by the Department, or
- is of minor significance.

As discussed in Section 3.3.1 the planning proposal is within a designated candidate area for rezoning and is consistent with DoP endorsed LUS 2008 and SSP 2009. The rezoning of the site to 7(b) Environmental Living will not adversely impact on the use of the property for lifestyle agricultural pursuits. The proposed rezoning is supported by this planning proposal which identifies there are minimal constraints to development. Enabling the subject site to be subdivided into approximately 33 allotments is also supported by this planning proposal, which identifies that there are minimal constraints to development and that the proposal is of minor significance.

It is considered that the inconsistencies with Direction No. 1.2 are fully justified.

Direction 1.5 – Rural Lands

The objectives of Direction 1.5 are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes. This Direction applies when a council prepares a planning proposal that affects land within an existing or proposed rural or environmental protection zones and when a planning proposal changes the existing minimum lot size on land within a rural or environmental protection zone.

The Direction states that this planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Rural Planning Principles are as follows:

- the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The Direction states that a planning proposal may be inconsistent with the terms of this direction only if Council can satisfy the Director-General of the Department of Planning that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy that considers the objective of this directive, identifies the land and is approved by the Director-General, or
- is of a minor significance.

As discussed in Section 3.3.1 the planning proposal is within a designated candidate area for rezoning and is consistent with DoP endorsed LUS 2008 and SSP 2009. It is envisaged that there will be minimal disturbances on site, with vegetation being retained where possible along the creek lines. Consideration will be given in the lot layout to maintaining the ecological biodiversity on site. The planning proposal will provide an opportunity for rural lifestyle housing which is compatible with the desired future use of the land as endorsed by DoP in SLUS 2008 and SSP 2009

It is considered that the planning proposal is consistent with Direction No. 1.5

Direction 2.3 – Heritage Conservation

The objective of Direction 2.3 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This direction applies when a council prepares a planning proposal.

The Direction states that a planning proposal must contain provisions that facilitate the conservation of:

- items, places, buildings, works, relics, moveable objects or precincts of environmental heritage;
- Aboriginal objects or Aboriginal places that are protected under the national Parks and Wildlife Act 1979; and
- Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and peoples.

The Direction states that a planning proposal may be inconsistent with the terms of this direction only if Council can satisfy the Director-General of the Department of Planning that:

- The environmental or indigenous heritage significance of the item, areas, object or place is conserved by existing or draft environmental planning instruments, legislation or regulations that apply to the land, or

- The provisions of the planning proposal that are inconsistent are of minor significance.

The planning proposal will not impact on any known item of environmental heritage. Further investigation would be required to establish whether there are any Aboriginal items or objects on site which require protection. It is possible that further investigation on this aspect of the planning proposal may be required. However, it is noted that there is sufficient land available to ensure any Aboriginal items or objects found would not be disturbed through creation of building envelopes or access roads. The proposed provisions of the draft LEP amendment require the preparation of a DCP which includes heritage conservation measures.

It is considered that the planning proposal will be consistent with Direction No. 2.3

Direction No. 4.4 - Planning for Bush Fire Protection

The objectives of Direction 4.4 are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.

The Direction applies when a Council prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone. The subject site is affected by Category 1, 2 vegetation and Buffer lands. It is envisaged that future development of the site will be able to comply with Planning for Bushfire Protection 2006 and any subsequent proposal for subdivision will be supported by a Bushfire Protection Assessment.

It is considered that the proposed rezoning is consistent with Direction No. 4.4.

3.3.3 Section C - Environmental, social and economic impact

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?

The planning proposal will have no significant impact on existing biodiversity on site. **Figure 4** identifies that the site contains Central Hunter Ironbark – Spotted Gum –Grey Box Forest, and Swamp Oak Floodplain Forest, which were formally listed as EECs earlier this year. The former occurs throughout the site and the latter along First Creek, which is a significant drainage line through the south-western part of the site.

However, the subject site contains several existing cleared areas and there are numerous options for building envelopes that would not require significant disturbance of any existing vegetation on site. It is considered that the flora and fauna on site will be able to be protected and the planning proposal will not adversely affect the ecological qualities of the site.

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

There are no other likely environmental effects associated with this planning proposal.

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

The planning proposal is consistent with the Council and DoP endorsed Rural Residential Development Strategy 2005, LUS 2008 and SSP 2009 and it is considered that the social and economic effects associated with the rezoning of the SCA have been addressed adequately in these strategies and documents. There are no other likely effects associated with this planning proposal.

3.3.4 Section D - State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The extent to which infrastructure is required for this planning proposal is discussed in Section 3.3.2. It is not considered that the planning proposal will place unreasonable additional demands on available public infrastructure.

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

A response to this Section can be provided following the gateway determination.

3.4 Community Consultation

The gateway determination will specify the community consultation requirements for this planning proposal.

4. Conclusion

The planning proposal is consistent with the Council adopted and Department of Planning endorsed Rural Residential Development Strategy 2005, the Singleton Land Use Strategy 2008 and the Sedgefield Structure Plan 2009 with the site being included in the Sedgefield Candidate Area. The preliminary investigations undertaken for this planning proposal indicate that the subject site is suitable for rezoning to 7(b) Environmental Living, with minimum constraints to development.

It is recommended that Council support this planning proposal for the rezoning of Lot 252 DP 804008 and Lot 12 DP 1062336, via Mirannie Road, Sedgefield, from Rural 1(a) to 7(b) Environmental Living under Singleton LEP 1996, to facilitate its future development for environmental living housing purposes.



Map Width: 10000 m

Coordinate System: GDA94, MGA Zone 56

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Figure 1 Locality Plan

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Map Width: 2500 m

Coordinate System: GDA94, MGA Zone 56

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Figure 2 Aerial View

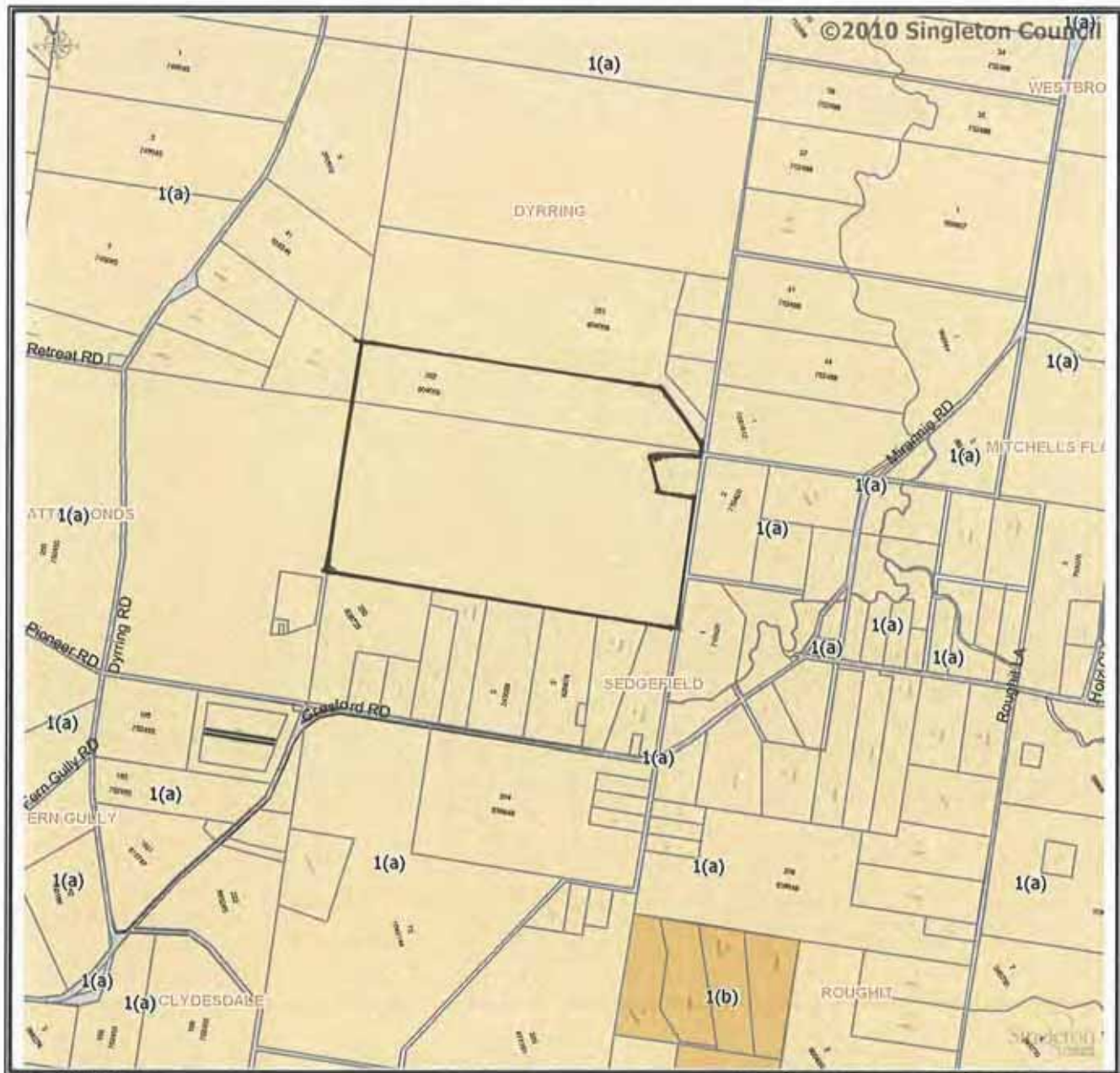
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Map Width: 5000 m

Coordinate System: GDA94, MGA Zone 56

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Figure 3 Existing Zoning Map

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Map Width: 4995 m

Coordinate System: GDA94, MGA Zone 56

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Figure 4 Endangered Ecological Communities

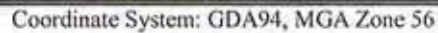
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