

Planning Proposal

Subject: Singleton Local Environmental Plan 1996 – Housekeeping amendment in support of the preparation of the Standard Instrument LEP (SI LEP).

Part 1 - Objectives or Intended Outcomes

The objective or intended outcome of this planning proposal is to extract a number of minor LEP amendments from the SI LEP that require more immediate attention and progress them as amendments to the Singleton LEP 1996, given that Singleton Council is not on the priority list for the preparation of the SI LEP.

Part 2 - Explanation of the Provisions

It is proposed to amend the Singleton LEP 1996 in the following manner:

1. Rezone two sites from 2 (Residential) to 3 (Business) under the Singleton LEP 1996:
 - a) No. 2A Maitland Street, Singleton described as Lot 1 Sec 4 DP 3347 to regularise the use of the site as a McDonald's restaurant; and
 - b) No. 2 Howe Street, Singleton described as Lot 14 DP 5699 to allow for the expansion of the adjoining McDonald's restaurant development.
2. Rezone two sites from 5 (Special Uses) to 3 (Business):
 - a) No. 1A York Street, Singleton described as Lot 1 DP 434603 to allow for the disposal of the former Telstra depot site; and
 - b) the rear of Nos. 65-67 John Street, Singleton described as Lot 1 DP 69628 to reflect its current commercial use as part of a carparking area for the "Southern Arcade".
3. Rezone part of No. 9 Raworth Street, Redbournberry described as Pt Lot 16 Sec 14 DP 3631 from 1(a) Rural to 2 (Residential) to remove a split zone anomaly.
4. Include the definition of *cellar door premises* from the Standard Instrument and amend the land use tables for relevant land use zones to permit cellar door premises within lands currently zoned 1(a) Rural only.
5. Repeal clause 11(2) as it prohibits subdivision of land where it would create a split land use zone, and
6. Amend clause 12(2) to further restrict the development types that can be subdivided under this clause.
7. Repeal clause 16(3) as it places an unnecessary burden on Council in determining development applications and make the determination of some development applications invalid, leaving them open to challenge. Replace clause 16(3) with clause 2.3(2) from the SI LEP.

Explanation – Amendment 1.

Description

Rezone the site containing the existing McDonald's restaurant that fronts the New England Highway and an adjoining residential lot that fronts Howe Street from 2 (Residential) to 3 (Business) to regularise the existing development and to allow expansion of the existing carparking area.

Explanation

The existing McDonald's restaurant is located on the New England Highway, on the corner of Howe Street, Singleton. The development relies on existing use rights, preventing its ability to expand onto adjoining residential lots. Vehicular access is obtained from Howe Street only. No on-street parking is available along the highway in this location. Overspill parking occurs regularly within Howe Street, impacting on residential amenity within this adjoining area.

Moreso, a planned realignment of Howe Street and the introduction of a signalised intersection will further reduce opportunities for off-street parking in this location into the future, forcing overspill parking further into residential areas.

McDonald's Australia submitted a zoning submission in response to the exhibition of the Singleton Land Use Strategy. The submission identifies the existing carparking area as being both insufficient in size and poorly configuration to cater for the number of vehicle movements and the type of vehicles (including small trucks, cars with caravans and trailers) that wish to access this site.

The Singleton Land Use Strategy has since been adopted by Council and endorsed by the Department of Planning. The strategy and its companion documents (such as the Commercial Strategy) inform the preparation of Council's SI LEP.

The Commercial Strategy recommends that all residential land south of the existing business zone that fronts the highway be rezoned to allow for business uses that support the travelling public. However, the strategy also cautions against rezoning the entire strip without extensive consultation with both state agencies and the community to arrive at design outcomes that address issues associated with the interface with both the highway and the adjoining residential areas. This work has not been completed to date and will be addressed with the SI LEP. The B6 Enterprise Corridor zone has been identified as being the most appropriate land use zone for these commercial sites fronting the highway. This zone will allow for limited retailing uses and food and drink premises, but will prohibit 'shops' as defined in the Standard Instrument.

Rezoning of the McDonald's site was intended to be included in the SI LEP, but has been extracted for progression before the overall plan, due to increasing development pressures. In order to avoid introducing a new commercial zone into the existing environmental planning instrument at this stage, it is proposed to rezone both sites to 3 (Business) under the Singleton LEP 1996, as the development exists and the flexibility within this land use zone will not, therefore, encourage inappropriate development.

It is proposed to then rezone the overall site to B6 Enterprise Corridor under the SI LEP.

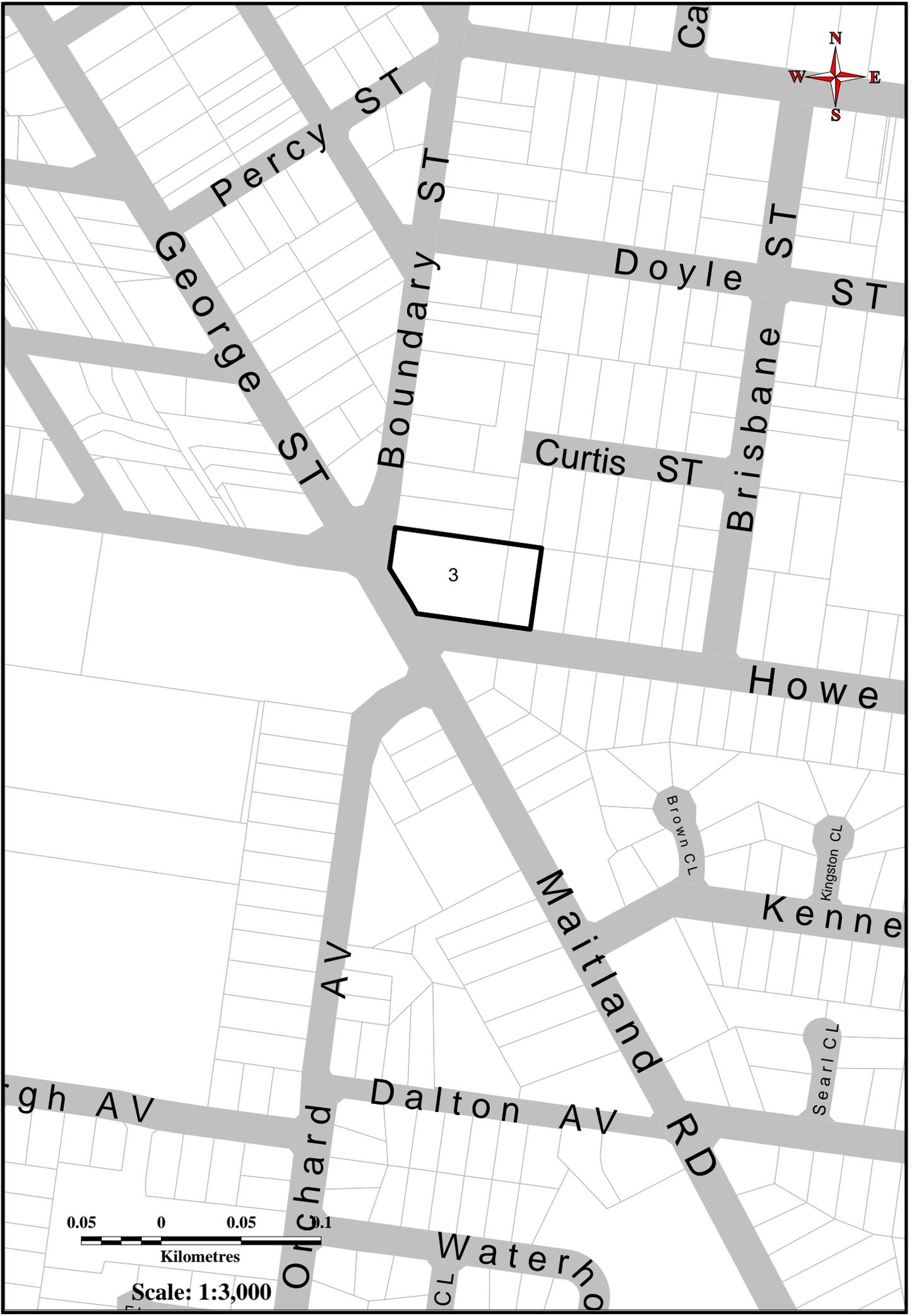
Proposed Amendment

Amend the definition of 'the map' at clause 9 in the Singleton LEP 1996 by rezoning No. 2A Maitland Street, Singleton described as Lot 1 Section 4 DP 3347 and No. 2 Howe Street, Singleton described as Lot 14 DP 5699 from 2 (Residential) to 3 (Business).

Attachment 1:

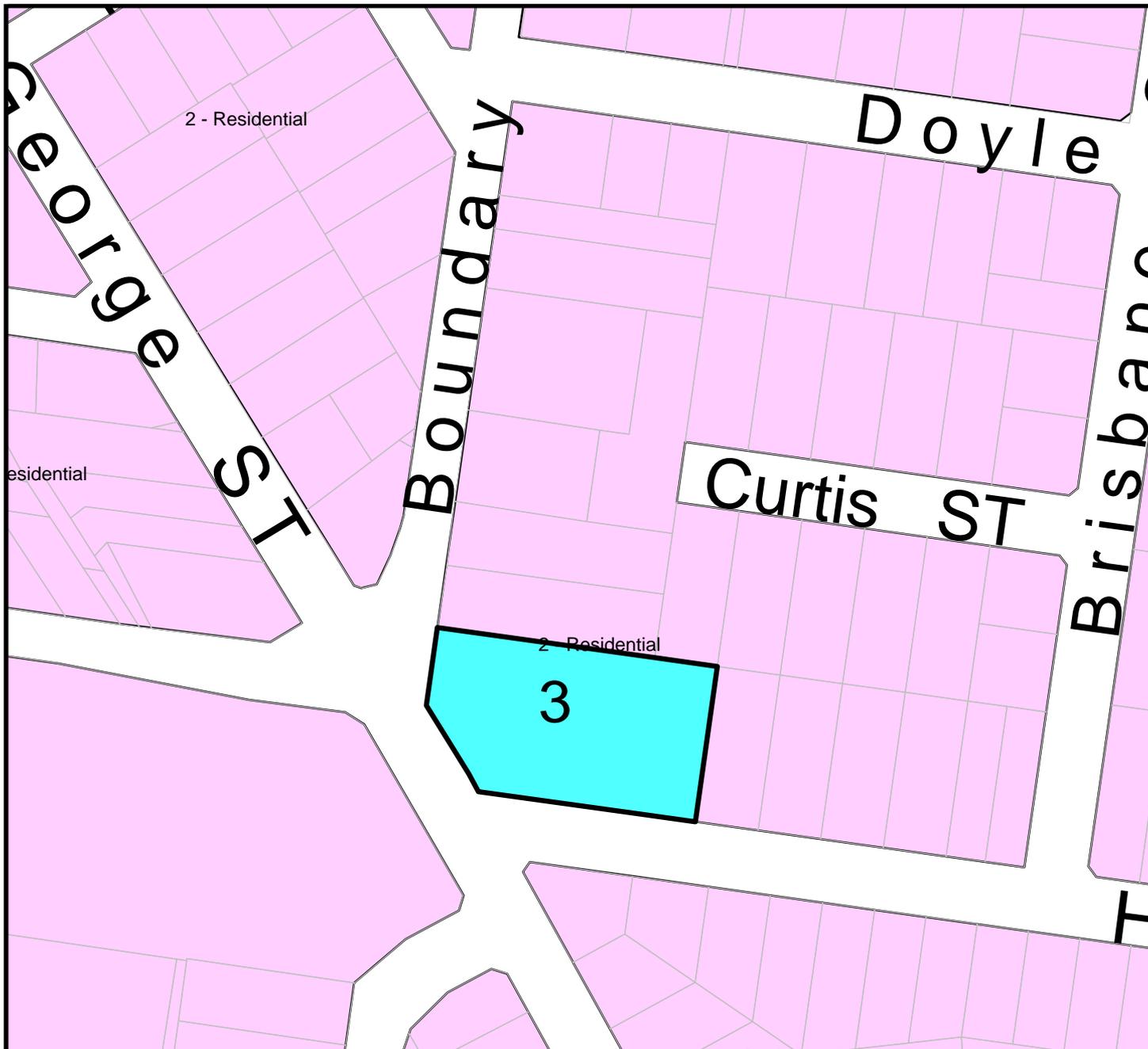
- 1. Location plan.**
- 2. Aerial photograph.**
- 3. Proposed zoning amendment map.**

LOCALITY PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 1)



AERIAL PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 1)





ZONING PLAN - ATTACHMENT 1

LOCALITY SINGLETON PARISH SINGLETON COUNTY NORTHUMBERLAND

ENVIRONMENT PLANNING & ASSESSMENT ACT, 1979

DRAFT

SINGLETON LOCAL ENVIRONMENTAL PLAN 1996
(AMENDMENT NO. ?)

| | | | |
|------------------------------------|---|--|--------------------------------|
| DRAWN BY S. TURNER | DATE 24/3/2010 | SCALE 1:2000 | SHEET 1 of 3 |
| SUPERVISING DRAFTSPERSON S. TURNER | PLANNING OFFICER K HORNER | STATEMENT OF RELATIONSHIP WITH OTHER PLANS | |
| COUNCIL FILE NUMBER LA 75/2009 | DEPT. FILE NUMBER | | |
| CERTIFICATE PLAN NUMBER | CERTIFICATE ISSUED UNDER SEC. 65 E.P.A. ACT | THIS PLAN AMENDS SINGLETON LOCAL ENVIRONMENTAL PLAN 1996 IN THE MANNER SET OUT IN SCHEDULE 1 | |
| GOVT. GAZETTE OF NO. | | | |
| | | CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS | GENERAL MANAGER /DELEGATE DATE |

Explanation – Amendment 2.

Description

Rezone the site containing the former Telstra depot and part of an adjoining carparking area that forms part of the “Southern Arcade” fronting John Street from 5 (Special Uses) to 3 (Business).

Explanation

A rezoning request has been received by Council from Telstra Corporation to rezone the former Telstra depot site to a commercial zone.

A review of all lands currently zoned 5 (Special Uses) forms part of the preparation phase for the SI LEP. However, Telstra has identified this site for disposal and progression of this amendment will allow this process to occur without awaiting the SI LEP.

A small section of the adjoining site is also currently zoned 5 (Special Uses). Although development of this site has occurred, rezoning this part of the overall “Southern Arcade” site is a logical outcome in this instance as it will encompass the extent of the existing 5(a) Special Uses zone in this locality.

In order to avoid introducing a new commercial zone into the existing environmental planning instrument at this stage, it is proposed to rezone both sites to 3 (Business) under the Singleton LEP 1996, which is consistent with the adjoining land use zone for the Singleton CBD.

It is proposed to then rezone the two sites to either B3 Commercial Core or B4 Mixed Use under the SI LEP.

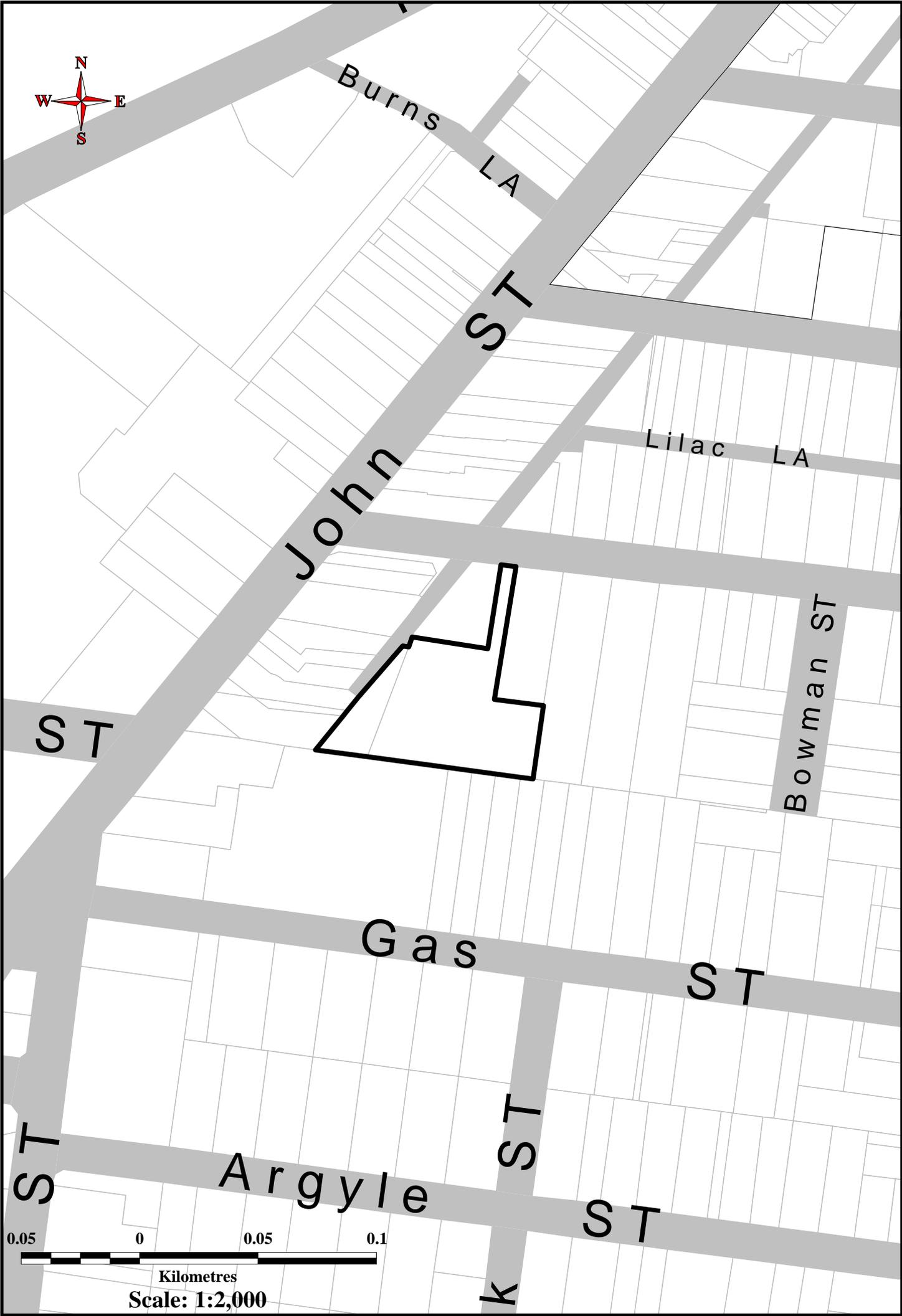
Proposed Amendment

Amend the definition of ‘the map’ at clause 9 in the Singleton LEP 1996 by rezoning No. 1A York Street, Singleton described as Lot 1 DP 434603 and part of Nos. 65-67 John Street, Singleton described as Part Lot 1 DP 69628 from 5 (Special Uses) to 3 (Business).

Attachment 2:

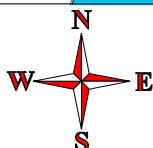
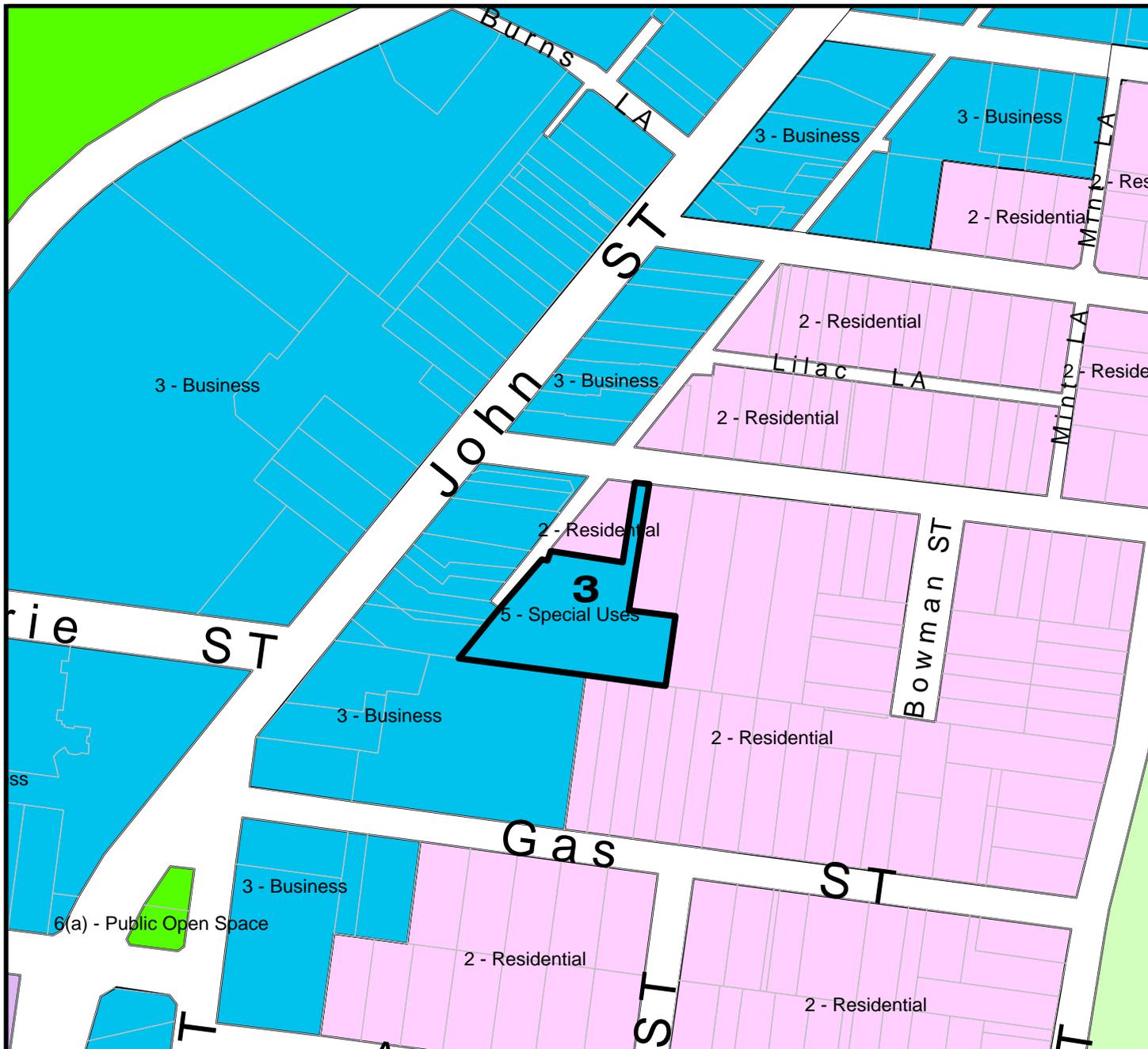
- 1. Location plan.**
- 2. Aerial photograph.**
- 3. Proposed zoning amendment map.**

LOCALITY PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 2)



AERIAL PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 2)





ZONING PLAN - ATTACHMENT 2

LOCALITY SINGLETON PARISH SINGLETON COUNTY NORTHUMBERLAND

ENVIRONMENT PLANNING & ASSESSMENT ACT, 1979

DRAFT

SINGLETON LOCAL ENVIRONMENTAL PLAN 1996
(AMENDMENT NO. ?)

| | | | |
|------------------------------------|---|--|--------------------------------|
| DRAWN BY S. TURNER | DATE 24/3/2010 | SCALE 1:2500 | SHEET 2 of 3 |
| SUPERVISING DRAFTSPERSON S. TURNER | PLANNING OFFICER K HORNER | STATEMENT OF RELATIONSHIP WITH OTHER PLANS | |
| COUNCIL FILE NUMBER LA 75/2009 | DEPT. FILE NUMBER | | |
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| | | CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS | GENERAL MANAGER /DELEGATE DATE |

Explanation – Amendment 3.

Description

Rezone part of No. 9 Raworth Street, Redbournberry from 1(a) Rural to 2 (Residential) to remove a split zone anomaly and allow for logical development of the overall site for residential purposes.

Explanation

The majority of the Singleton Urban Area is flood prone, and identified in the Singleton Floodplain Management Plan DCP as “High Hazard – Flood Fringe” (at Figure 6.1).

The current 2 (Residential) zone over the subject lot is located within the “High Hazard – Flood Fringe” area. The split zone boundary within the subject lot reflects the edge of this flood category, with the remaining part of the subject lot zoned 1(a) Rural located within the “High Hazard – Floodway”.

Sufficient land exists within the ‘flood fringe’ area within the subject lot to achieve a development outcome that will not rely upon the use of the ‘floodway’ lands for any built development. Restricting development within this sliver of land through the application of a rural land use zone is not practical or necessary, when any development consent can restrict the use of this floodway land through specific conditions.

It is proposed to rezone the land to 2 (Residential) under the Singleton LEP 1996, which is consistent with the remainder of the site and adjoining lands. It is proposed to then rezone this residential area to R1 General Residential under the SI LEP.

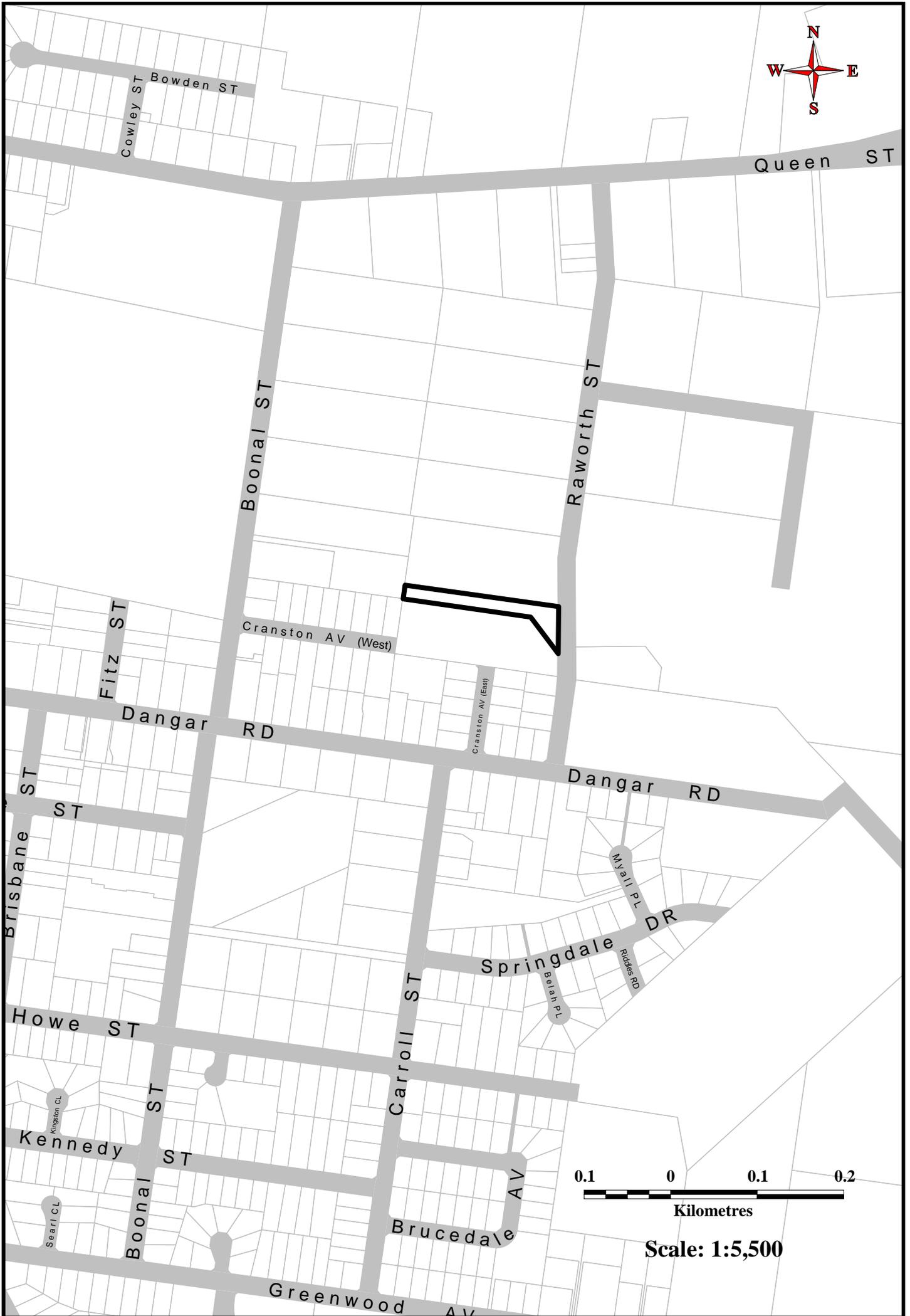
Proposed Amendment

Amend the definition of ‘the map’ at clause 9 in the Singleton LEP 1996 by rezoning part of No. 9 Raworth Street, Redbournberry described as Pt Lot 16 Section 14 DP 3631 from 1 (a) Rural to 2 (Residential).

Attachment 3:

- 1. Location plan.**
- 2. Aerial photograph.**
- 3. Figure 6.1 – Singleton Floodplain Management Plan DCP.**
- 4. Proposed zoning amendment map.**

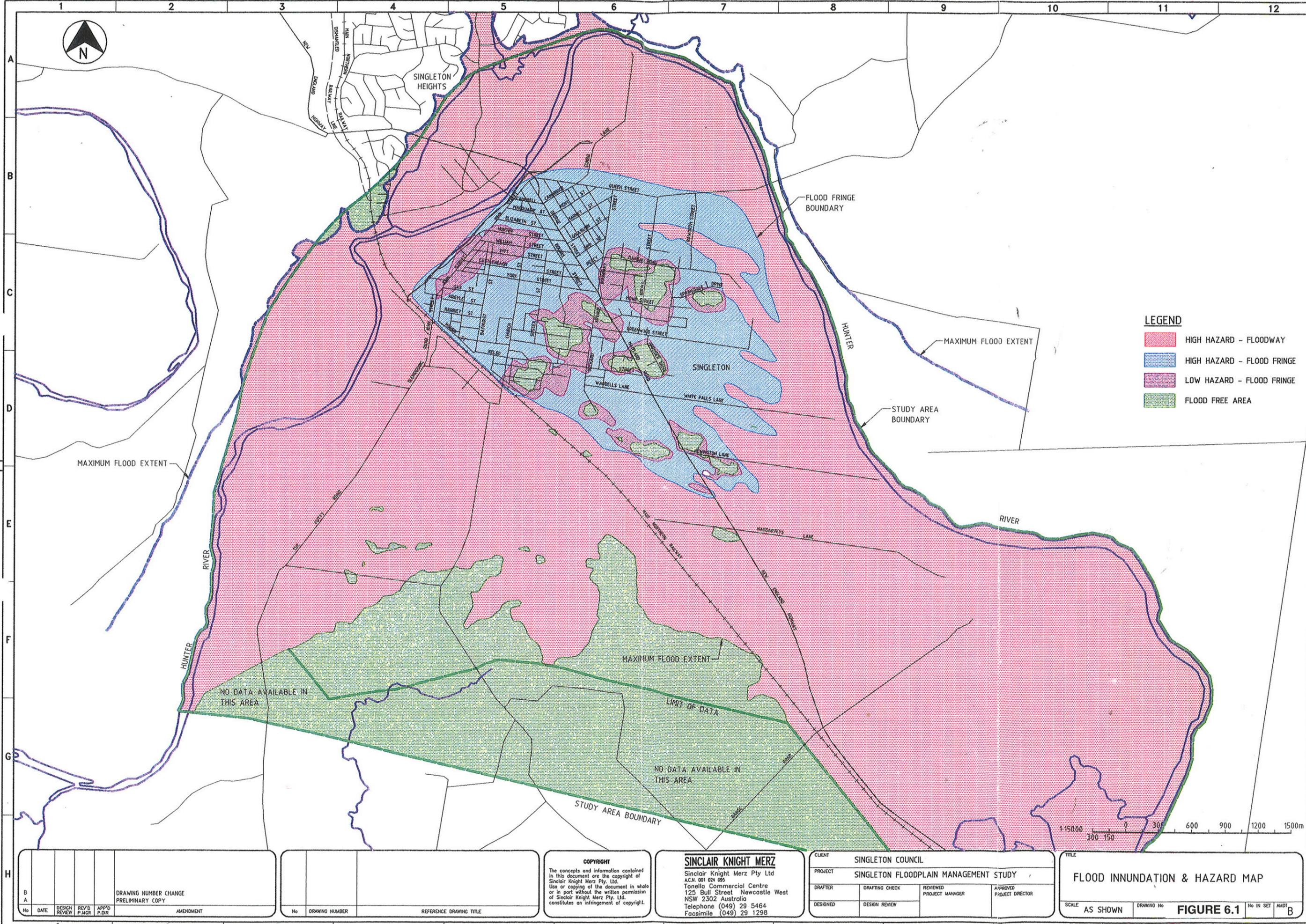
LOCALITY PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 3)



Scale: 1:5,500

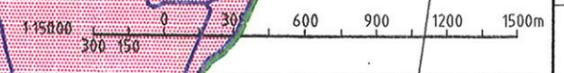
AERIAL PLAN - SINGLETON LEP 1996 AMENDMENT NO ? (ATTACHMENT 3)





LEGEND

- HIGH HAZARD - FLOODWAY
- HIGH HAZARD - FLOOD FRINGE
- LOW HAZARD - FLOOD FRINGE
- FLOOD FREE AREA



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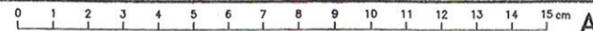
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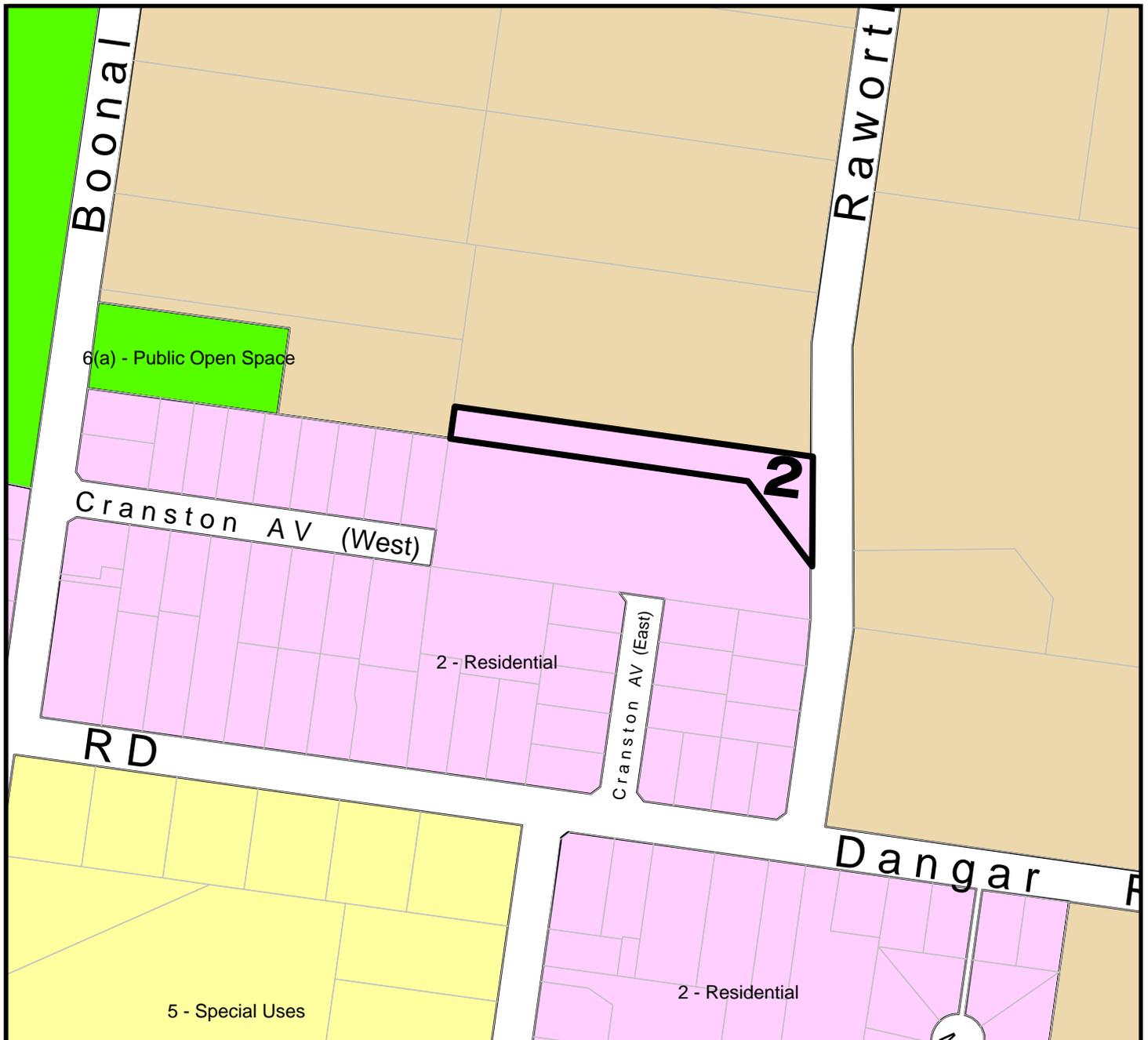
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| CLIENT SINGLETON COUNCIL | | | |
| PROJECT SINGLETON FLOODPLAIN MANAGEMENT STUDY | | | |
| DRAFTER | DRAFTING CHECK | REVIEWED PROJECT MANAGER | APPROVED PROJECT DIRECTOR |
| DESIGNED | DESIGN REVIEW | | |

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| TITLE FLOOD INUNDATION & HAZARD MAP | | | |
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* DENOTES PREVIOUSLY VERIFIED





ZONING PLAN - ATTACHMENT 3

LOCALITY SINGLETON PARISH SINGLETON COUNTY NORTHUMBERLAND

ENVIRONMENT PLANNING & ASSESSMENT ACT, 1979

DRAFT

SINGLETON LOCAL ENVIRONMENTAL PLAN 1996
(AMENDMENT NO. ?)

| | | | | | | | |
|---|------------|--|-----------|-----------------------------------|--------|-------|--------|
| DRAWN BY | S. TURNER | DATE | 24/3/2010 | SCALE | 1:3000 | SHEET | 3 of 3 |
| SUPERVISING DRAFTSPERSON | S. TURNER | STATEMENT OF RELATIONSHIP WITH OTHER PLANS THIS PLAN AMENDS SINGLETON LOCAL ENVIRONMENTAL PLAN 1996 IN THE MANNER SET OUT IN SCHEDULE 1 | | | | | |
| PLANNING OFFICER | K HORNER | | | | | | |
| COUNCIL FILE NUMBER | LA 75/2009 | | | | | | |
| DEPT. FILE NUMBER | | | | | | | |
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| CERTIFICATE ISSUED UNDER SEC. 65 E.P.A. ACT | | | | | | | |
| GOVT. GAZETTE OF | NO. | | | | | | |

Explanation – Amendment 4.

Description

Introduce the definition of *cellar door premises* from the Standard Instrument into clause 9 of the Singleton LEP 1996 and permit this development type within lands currently zoned 1(a) Rural only by amending the relevant Land Use Tables.

Explanation

The Singleton LEP 1996 does not currently define *cellar door premises*. The use is loosely defined as *tourist facilities*. Interpretation of this development type as a tourist facility does not leave Council with a clear understanding of where a cellar door premise can be located (e.g. should it be located on the same lot as the working vineyard) and, as a result, creates a situation whereby subdivision applications are received by Council under clause 12(2) of the Singleton LEP 1996 to excise off the cellar door premises from the larger property it is sited upon.

The definition of *cellar door premises* from the Standard Instrument makes it clear that a cellar door premise must be located on the same lot as the working vineyard.

With the definition of *cellar door premises* in place, Council has a clear interpretation of this situation. In this instance, excising the cellar door premises from the working vineyard would change the development type to a *retail premises* in the 1(a) zone, which is a prohibited development. The definition will assist Council to maintain a more consistent approach to limiting the further fragmentation of rural lands.

Inserting the definition of ***cellar door premises*** from the Standard Instrument simply pre-empts one of the outcomes of adopting the Standard Dictionary as part of the Standard Instrument.

Proposed Amendment

1. Insert the definition of ***cellar door premises*** in clause 9 of the Singleton LEP 1996 as follows:

cellar door premises means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.
2. Permit ***cellar door premises*** with consent on land zoned 1(a) Rural only by amendment to the land use tables to prohibit this development type on other lands.

Explanation – Amendment 5.

Description

Repeal clause 11(2) from the Singleton LEP 1996 as it prohibits subdivision of land that creates a split zoned lot.

Explanation

Clause 11(2) prohibits the subdivision of land where it would create a lot with more than one land use zone – i.e. a split zone lot. This clause has created a number of administrative issues over time, as the clause is a direct prohibition rather than a development standard that can be varied.

The increased application of land use zones to reflect the constraints on land will trigger escalated instances where this clause limits development outcomes. Conversely, it will also restrict opportunities for council to encourage the subdivision of land with split zones, where it is intended that private landowners will have stewardship over lands that have community values (conservation lands), but are not held in public ownership.

Where the subdivision of split zoned land requires a variation to the development standard for subdivision over either of the zones so affected, council can consider an application to vary the development standard as currently provided under state policy.

Proposed Amendment

Repeal subclause (2) from clause 11 as extracted below.

Clause 11 – existing

11 What general subdivision controls apply?

- (1) A person shall not subdivide land except with the consent of the Council.
- (2) **Land shall not be subdivided if any allotment created would be within more than one of the zones shown on the map.**
- (3) Subclause (4) applies to a subdivision of any land shown on the Lot Size Map (not being land to which clause 12, 14 or 18 applies) that requires consent and that is carried out after the commencement of *Singleton Local Environmental Plan 1996 (Amendment No 40)*.
- (4) The size of any lot resulting from a subdivision of land to which this subclause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Explanation – Amendment 6.

Description

Amend clause 12(2) to further restrict the development types that can be subdivided under this clause.

Explanation

In a similar fashion to the explanation provided to Amendment 4, Council receives applications under clause 12(2) to excise off tourist facilities from associated development. Under the current provisions of clause 17, any new lot created in the 1(a) Rural zone has a dwelling entitlement. In this way, further fragmentation of rural lands continues to occur, and the introduction of additional incompatible land uses in the form of dwelling-houses further restricts the viability of these agricultural areas.

It is proposed to further restrict the development types that can be subdivided under this clause, while retaining the overall clause to allow flexibility for other land uses within this zone.

Note: The issues relating to clause 17 in the Singleton LEP 1996 are addressed in a separate Planning Proposal.

Proposed Amendment

It is proposed to amend clause 12 (2) in the Singleton LEP 1996 in the following manner:

Clause 12(2) – existing

12 What provisions apply generally to subdivision in the Rural and Environment Protection Zones?

- (1) The Council shall not consent to a subdivision of land within a Zone 1 (a) or 7 unless each separate allotment of land created by the subdivision is not less than 40 hectares in area.
- (2) Notwithstanding subclause (1), the Council may grant consent to the subdivision of land so as to create an allotment of less than 40 hectares in area if the Council is satisfied that the allotment is intended to be used for a permissible land use for which consent has been given (**other than residential accommodation or agriculture**).

Clause 12(2) – proposed amendment

- (2) Notwithstanding subclause (1), the Council may grant consent to the subdivision of land so as to create an allotment of less than 40 hectares in area if the Council is satisfied that the allotment is intended to be used for a permissible land use for which consent has been given (**other than agriculture, cellar door premises, residential accommodation or tourist facilities**).

Explanation – Amendment 7.

Description

Repeal clause 16(3) and replace it with clause 2.3(2) from the SI LEP.

Explanation

Clause 16(3) was used in many comprehensive LEPs at the time Singleton LEP 1996 was prepared. However, court cases in recent years have interpreted this type of clause to require a development application to be directly (positively) supported by at least one of the zone objectives. This interpretation means that many developments which are permissible within the zone cannot be legally approved because they may not be directly supported by a zone objective.

The SI LEP clause for this concept only requires the consent authority to “have regard for the objectives” rather than “not grant consent ... unless the development is consistent with one or more of the objectives”.

Use of the SI LEP clause now will also provide a smooth transition when Council's new comprehensive SI LEP is introduced.

Proposed Amendment

It is proposed to repeal 16 (3) in the Singleton LEP 1996 and replace it with the following:

Clause 16(3) – proposed replacement

- 16 (3) The Council must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Part 3 - Justification

Section A – Need for the planning proposal

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

No. The planning proposal pre-empts a number of outcomes that were intended to be included in the SI LEP.

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

The amendments described in this planning proposal were to be included in the SI LEP. However, as Council is not on the priority list, some elements of the principal plan have been extracted for progression ahead of the SI LEP. These matters are considered to be more urgent for resolution. Amendment to the Singleton LEP 1996 is considered to be the best means of achieving the objectives or outcomes of this planning proposal in a timely manner.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

Council is of the opinion that a Net Community Benefit test is not required.

This amendment has limited application with regard to this consideration and is expected to present no significant changes that would impact upon the community as a whole.

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).

Not applicable.

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

The planning proposal pre-empts a number of outcomes that were to be included in the SI LEP. These outcomes are considered to be consistent with the adopted Singleton Land Use Strategy.

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

The planning proposal is not inconsistent with any applicable state environmental planning policies.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

The planning proposal is not inconsistent with any applicable s117 directions, with the exception of Amendment 3 – Raworth Street, Redbournberry.

s117 Direction 4.3 – Flood Prone Land

Amendment 3 – Raworth Street, Redbournberry proposes to rezone land within a flood planning area from Rural to Residential, which is inconsistent with clause (5) in this Direction.

Clause (9) (b) in this Direction allows for inconsistencies to be justified if they are considered to be of minor significance. Council is of the opinion that the proposed rezoning is of minor significance, given the extent of land proposed to be rezoned. Moreso, the majority of the subject lot is already zoned for residential purposes, and the development outcome will be able to be realised on that part of the lot located within the ‘flood fringe’ area. No development outcome is achievable on the ‘floodway’ lands in its own right. The proposed rezoning will rectify a split zone situation which will assist in promoting a cohesive approach to the overall development of this site.

Section C – Environmental, social and economic impact

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.

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

No.

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

The planning proposal is not considered to create any detrimental social or economic effects in relation to its impact on the community as a whole.

Section D – State and Commonwealth interests.

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

Not applicable.

Part 4 - Community Consultation

Council is of the opinion that it should exhibit the planning proposal for 28 days, in accordance with Section 4.5 Community consultation – *A Guide to Preparing Local Environmental Plans*, with one exception. Council does not believe it is practical to write to adjoining landowners, given the nature of the planning proposal (apart from landowners adjoining the sites to be rezoned).

Council is also of the opinion that consultation with state agencies is not necessary for this planning proposal.

* * * * *