

5. Strategy Amendment and Planning Proposal for Standen Drive, Lower Belford**FILE: LA65/2008****Author:** Ken Horner; Gary Pearson

<u>Proponent:</u>	Urbis on behalf of Belford Land Corporation
<u>Owners:</u>	Belford Land Corporation and L & H Rix
<u>Land & Location:</u>	Lot 11 DP 844443, part of Lot 12 and part of Lot 13 DP 1100005, Lot 91 and Lot 92 DP 1138554, Standen Drive, Lower Belford
<u>Current Zoning:</u>	Zone 1(a) (Rural Zone)
<u>Proposal:</u>	To rezone the land to permit rural residential subdivision to a density appropriate for a servicing level of reticulated water supply with on-site disposal and to amend the Singleton Land Use Strategy to clarify support for this on the subject land

Executive Summary

The Belford Land Corporation has lodged requests to amend the Singleton Land Use Strategy (SLUS) 2008 to clarify the development potential of the Lower Belford Candidate Area and to rezone the subject land accordingly. The requests are generally foreshadowed in the existing SLUS and are recommended to be supported in general terms. The details of the requests, however, such as minimum lot size provisions and location of the western boundary of the candidate area, will need to be determined through the “gateway” process and the assessment of the planning proposal which has been prepared in relation to this.

The preliminary environmental assessment which has been lodged in support of the requests indicates that impacts can be satisfactorily addressed.

Background:

The Singleton Land Use Strategy (SLUS) 2008 was adopted by Council in April 2008 and endorsed by the Department of Planning (DoP) in June 2008. Belford Land Corporation (BLC) owns approximately 140 hectares of the Lower Belford Candidate Area (CA), running from the highway along the western side of Standen Drive, which the SLUS identifies for rural residential development, with a minimum average lot size of 5 hectares.

In section 7.1, Table 12, of the SLUS, it is recommended that consideration should be given to a lower minimum lot size with the extension of the Hunter Water Corporation Service Area and subsequent potential for reticulated water servicing.

BLC has lodged a request, with supporting documentation, to amend the SLUS to clarify support for higher density development within the CA and to rezone the land to permit such development.

Legislation:

Council planning staff have prepared a planning proposal, drawing on the supporting documentation, in accordance with the new “gateway” legislation in the Environmental Planning and Assessment (EP&A) Act 1979. A copy of the planning proposal is appended as **Attachment 1**.

Council Policy:

The amendment to the SLUS was foreshadowed, subject to assessment, in section 7.1, Table 12, as mentioned above. The major issues of land supply, fauna and flora, effluent disposal and traffic generation have been addressed in the supporting documentation prepared by Urbis. These are discussed briefly in the Sustainability section below and in more detail in the planning proposal attached.

Two other issues arise as part of the Strategy amendment and rezoning requests. These are:

- Minimum lot size provisions; and
- Realignment of the western boundary of the CA.

Lot size provisions

When Council was preparing its Rural Residential Development Strategy (RRDS) 2005, government authorities, which are now incorporated into the Department of Environment, Climate Change and Water (DECCW), advised Council that if town water were provided to rural residential subdivision, then reticulated water should be provided. The outcome of negotiations with the authorities was that if a minimum average area of at least 1 hectare were required (with a 0.8 hectare absolute minimum), then potential cumulative impacts may be able to be avoided. This concept was incorporated in the Strategy and carried over into the SLUS 2008.

The BLC supporting documentation suggests potential yields which would not be achievable with a 1 hectare minimum average. It includes a professional geo-technical study to support this position. This is a matter which should be investigated and resolved during the government authority consultation phase of the planning proposal assessment.

Boundary realignment

Also in the preparation of the RRDS 2005, the original CA boundaries were realigned at the request of the now DECCW to minimise the inclusion of native vegetation. The western boundary of the subject Lower Belford CA was moved significantly to the east for this reason. The current location was chosen because it largely aligned with existing cadastral boundaries.

The BLC supporting documentation shows a section of this boundary located approximately 100 metres further to the west. This is over a distance of approximately 800 metres, which increases the area of the CA by about 8 hectares. This is supported by aerial photography demonstrating there is minimal native vegetation within this strip. The heavy vegetation clearly commences further to the west of this line. Since BLC owns the land on both sides of the cadastral boundary, it will not be necessary to use it to define the edge of the CA.

Again, this is a matter which should be investigated and resolved during the government authority consultation phase of the planning proposal assessment.

Sustainability:Supply and demand

The SLUS 2008 identified land for rural residential development which it estimated would meet demand for approximately the next 9 years. This was based on an estimated demand of 75 rural residential lots per year (varying from fully serviced to un-serviced lot). The intensification of this part of the Lower Belford CA will provide potential for approximately an additional 100 lots. This will increase the potential land supply to approximately 10 years, which is what the DoP suggested Council should limit it to. The intensification will also provide additional lots with water supply, which appear to be in high demand.

Fauna and flora

The supporting Preliminary Ecological Assessment found that the eastern part of the BLC land holdings, which basically forms the subject part of the Lower Belford CA and is largely cleared, could be developed for lots with a minimum area of 0.8 hectares, with minimum loss of vegetation. If the majority of the forest is retained and enhanced, improved outcomes may be achieved.

Further detailed studies will be required to clarify these outcomes.

Effluent disposal

The supporting Effluent Disposal, Erosion and Salinity Assessment found that effluent could be suitably disposed of on-site, on 0.8 hectare lots. It would be unlikely to generate gross adverse cumulative impacts on the site or surrounding areas.

There were no obvious signs of soil salinity. Soil tests indicated that the soils are non-dispersive. It was concluded that residential type development could be satisfactorily carried out using normal construction practices and protection measures.

Traffic generation

The supporting Traffic Impact Assessment finds that the Standen Drive / Highway intersection will be adequate to cater for the potential increase in traffic generation. Local upgrading of Standen Drive access points to the development will be required.

Further detailed traffic studies, including consultation with Council and the Roads and Traffic Authority will be required to determine what the actual upgrading requirements will be as a result of the proposed development.

Consultation:

The “gateway” determination from DoP will determine the appropriate level of consultation, both with relative government authorities and the public. A formal public exhibition under the EP&A Act will form part of the planning proposal assessment.

Conclusions:

The BLC requests to amend the SLUS 2008 to clarify development potential of the Lower Belford CA and to rezone the subject land accordingly are generally foreshadowed in the existing SLUS and they are recommended to be supported in general terms. The details of the requests, however, such as minimum lot size provisions and location of the western boundary of the candidate area, will need to be determined through the “gateway” process and the assessment of the planning proposal which has been prepared in relation to this.

The preliminary environmental assessment which has been lodged in support of the requests indicates that impacts can be satisfactorily addressed.

RECOMMENDED that Council:

1. Adopt the attached planning proposal for the subject land and forward it to the Department of Planning for gateway determination; and
2. Amend its Singleton Land Use Strategy 2008 to clarify the development potential of the Lower Belford Candidate Area, the details of this amendment to be determined through the assessment of the attached planning proposal and to be exhibited concurrently with the planning proposal.

Attachments

[AT-1](#) Planning Proposal 20 Pages

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PLANNING PROPOSAL

Land Subject of Planning Proposal:	• Lot 11, DP844443, 7 Standen Drive, Lower Belford;
	• Part of Lot 12, DP1100005, 5 Standen Drive, Lower Belford;
	• Part of Lot 13, DP1100005, 133 Standen Drive, Lower Belford;
	• Part of Lot 6, DP237936, Standen Drive, Lower Belford;
	• Lot 91, DP:1138554, 147B Standen Drive, Lower Belford;
	• Lot 92, DP:1138554, 147B Standen Drive, Lower Belford.

Date:	13 Nov 2009
Version:	1

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Executive Summary:

Singleton Council has received a request to rezone the subject land and reduce the minimum lot size for subdivision. The request varies from the recommendations of the Singleton Land Use Strategy (2008). The proponent has lodged a proposal to amend the Singleton Land Use Strategy, which is being considered concurrently with this planning proposal. This planning proposal concludes that Council's Local Environmental Plan should be amended to provide for the proposal.

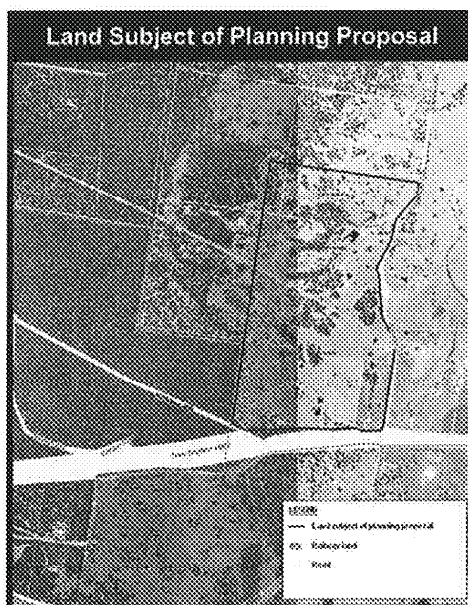
PART 1 – INTRODUCTION AND OVERVIEW

Introduction

This planning proposal has been prepared for the purposes of an amendment to Singleton Council's Local Environmental Plan (LEP). This document is an evolving document and is intended to be refined as the proposal proceeds through the LEP amendment process.

Site Description

The site subject of this planning proposal is identified in the plan which follows.



The site is within the Singleton Local Government Area (LGA) and is situated northwest of the intersection of the New England Highway and Standen Drive, in Lower Belford

The site has a hilly topography and is identified on Council's bushfire prone land mapping as being bushfire prone land. Some areas of the site are relatively cleared of significant vegetation, comprising mainly unimproved grasses. Other areas of the site have established vegetation. Of this vegetation, three forest types are known to occur, which are:

- Lower Hunter Spotted Gum Ironbark Forest;
- Hunter Lowlands Red Gum Forest; and
- Central Hunter Ironbark – Spotted Gum – Grey Box Forest.

The site is dissected by (predominantly dry) intermittent natural watercourses and comprises a number of dams. Lot 11, DP:844443, the part of Lot 12, DP: 1100005, the part of Lot 13, DP: 1100005 and Lot 91, DP1138554 comprise dwelling houses and associated farm sheds/outbuildings.

PART 2 – OBJECTIVES/INTENDED OUTCOMES OF PROPOSED LEP

Objectives

The objectives of the proposed LEP are:

- (a) To change the land use zoning of Lot 11, DP844443; Part of Lot 12, DP1100005; Part of Lot 13, DP1100005; Part of Lot 6, DP237936; Lot 91, DP:1138554; and Lot 92, DP:1138554; Standen Drive, Lower Belford; to land use zone(s) which appropriately correspond to the minimum lot sizes and constraints of the site.
- (b) To apply minimum lot size provisions for subdivision of the land.
- (c) To prevail over *State Environmental Planning Policy (Rural Lands) 2008* to the extent to which the policy prohibits a dwelling to be erected on the land (Lot 92, DP: 1138554).

Intended Outcomes

The LEP is intended to rezone the land from a rural land use zoning to a landuse zoning which appropriately corresponds to the minimum lot sizes and constraints of the site.

If the amendment is to the *Singleton Local Environmental Plan 1996*, which is Council's current LEP, the appropriate land use zones would be likely to be the 1(d) (Rural Small Holdings Zone) and/or the 7(b) Environmental Living Zone.

If the amendment occurs to Council's proposed principle LEP, prepared in accordance with the *Standard Instrument (Local Environmental Plans) Order 2006*, the appropriate land use zone would be likely to be the R5 Large Lot Residential zone and/or the E4 Environmental Living Zone.

It is intended to control the size of lots created by subdivision of the land through the use of a minimum lot size map. The site is able to be serviced by water but is not serviced by sewer and as such, lot sizes should not be less than 8,000m². It is envisaged that larger lot sizes would be required to be implemented where significant vegetation or other constraints exist.

The *Singleton Land Use Strategy* (2008) indicates that where reticulated water is provided and sewer is not provided, the minimum average lot size for rural-residential/large lot residential lots created by subdivision should be 1ha and that the absolute minimum lot size should be 8,000m². The proponent has requested an absolute minimum lot size of 8,000m² with no averaging provision. This is an issue which will need to be resolved through public authority consultation.

After the initial gateway response from the LEP panel, it is intended that the proponent be required to prepare an appropriate Development Control Plan (DCP) for the site. The DCP plans and provisions could be used as the basis for preparation of the minimum lot size mapping. The DCP should:

- Contain a subdivision layout and staging plan, which provides for the progression of subdivision of the site in a logical and coordinated manner, providing for necessary infrastructure sequencing. The plan is to provide for connectivity of infrastructure throughout the site; and
- Provide an overall movement hierarchy for the site, showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles and public transport; and
- Contain stormwater and water quality management controls; and
- Provide for the amelioration of natural and environmental hazards, including bushfire, flooding, landslip and erosion, and potential site contamination; and
- Contain measures to conserve any heritage items or places of significance; and

- Contain an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, which includes concept plans for street tree planting; and
- Comprise any buffers necessary to ameliorate visual and amenity impacts; and
- Contain detailed urban design controls for significant development sites; and
- Provide for suitably located public facilities, services and recreational areas.

Lot 92, DP: 1138554 was created pursuant to Clause 9(2) of *State Environmental Planning Policy (Rural Lands) 2008*. Pursuant to Clause 9(4) of the policy, a dwelling cannot be erected on the lot. *State Environmental Planning Policy (Rural Lands) 2008*, prevails over Council's Local Environmental Plan whether made before or after the commencement of the policy to the extent of any inconsistency (Clause 5 of SEPP Rural Lands).

Legal advice indicates that the restriction could continue to apply irrespective of the proposed rezoning, because *State Environmental Planning Policy (Rural Lands) 2008* prevails over Council's Local Environmental Plan irrespective of the fact that the plan would be made after the commencement of the policy.

Changes to the relevant legislation would be required to be made to ensure that the planning proposal is legally sound and clear that the restriction no longer applies to the site irrespective of *State Environmental Planning Policy (Rural Lands) 2008*.

PART 3 – EXPLANATION OF THE PROVISIONS TO BE INCLUDED IN THE LEP

Explanation of Provisions

The method of achieving the aforementioned outcomes for the planning proposal will vary depending upon which version of Council's LEP is being amended.

If the current *Singleton Local Environmental Plan 1996* (SLEP 1996) is being amended, a zoning map will be prepared to rezone respective areas of the

site. At this initial stage, it is considered likely that the 1(d) (Rural Small Holdings Zone) and 7(b) (Environmental Living Zone) would be used.

If the new comprehensive Local Environmental Plan is being amended, a zoning map will also be required, but the R5 Large Lot Residential Zone and E4 Environmental Living Zone would be the likely appropriate zones for the site. Actual zones used may vary as a result of public authority consultation.

The minimum lot size for lots created by subdivision of the land would be managed using minimum lot size mapping. Preparation of such mapping could be based on plans prepared for the site and lodged for the preparation of the draft DCP. Such plans would be required after initial support is gained from the LEP panel.

The DCP plans and minimum lot size mapping should be such that the need for vegetation removal is minimised. The draft DCP (amendment to the Singleton DCP) could be processed concurrently with the planning proposal.

It is important that the draft DCP be adopted prior to consent being able to be issued for development on the land so that the relevant provisions of such a plan are able to be enforced as part of the consideration of applications to develop the land (i.e. development applications).

PART 4 – JUSTIFICATION FOR OBJECTIVES, OUTCOMES, PROVISIONS AND IMPLEMENTATION PROCESS

Need for the Planning Proposal

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

Lot 11, DP844443; Part of Lot 12, DP1100005; Part of Lot 13, DP1100005; Lot 91, DP:1138554; and Lot 92, DP:1138554; Standen Drive, Lower Belford; are identified in the *Singleton Land Use Strategy* (2008) as a candidate area for potential rezoning to an environmental living zone and proposes a minimum lot size of 4 hectares and a minimum average lot size of 5 hectares for lots created by subdivision.

Lot 6, DP237936 is not within the candidate area. Approximately 8ha of Lot 6, DP237936 is proposed by the proponent to be included for rezoning. The re-aligned boundary aligns with areas of vegetation clearing. The SLUS candidate area boundary aligned with the cadastral allotment boundaries.

The final boundary of the candidate area as identified by the SLUS (2008) was identified in consultation with the (then) Department of Environment and Conservation with the intent of minimising inclusion of areas of native

vegetation. The inclusion of the strip of land within Lot 6, DP237936 is not viewed to be in conflict with this objective. This proposal, however, is an issue which will need to be resolved through public authority consultation.

Table 12 of the *Singleton Land Use Strategy* (SLUS) permits Council to consider a lower minimum lot size with potential reticulated water servicing. The proponent has lodged a proposal to amend the SLUS, which provides justification for the amendment described in this planning proposal. The proposal to amend the SLUS is being considered concurrently with this planning proposal.

The proposal to amend the SLUS considers demand and supply, utility servicing, geotechnical considerations (i.e. effluent disposal and potential for erosion impacts), traffic impacts and flora and fauna impacts and suggests that the proposal is appropriate.

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

Placing landuse and minimum lot size provisions for subdivision in Council's LEP, in conjunction with appropriate design controls in Council's DCP is considered to be the most appropriate method for managing subdivision and landuse in the locality. This method is supported by the adopted SLUS (2008).

Is there a net community benefit?

The Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- Proposals to develop within an existing centre where the current zoning does not permit the use;
- Proposals to develop outside an existing centre where the current zoning does not permit the use; and
- Proposals to create a new centre.

The subject planning proposal is to amend Council's LEP to rezone the site for rural-residential/large lot residential development. The proposal will be between Singleton and Branxton.

The Net Community Benefit Test evaluates the external costs and benefits of a proposal (i.e. the externalities).

Q. Will the LEP be compatible with agreed State and Regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?

The SLUS provides the strategic direction for development in the area subject of this planning proposal. The site is not within any State or Regional Strategy areas.

The adopted SLUS identifies the site as being potentially suitable for rezoning to an environmental living zoning and recommends a 4 hectare minimum lot size for subdivision and an average lot size of 5 hectares. It does provide for consideration of smaller lot sizes.

Although the development is not strictly consistent with the recommendations of the SLUS it is not contradictory to the SLUS. The proponent has lodged a proposal to amend the SLUS to provide for the proposal.

The proponent has supported the SLUS amendment proposal with a demand and supply analysis. The demand for lots of the size proposed and the proximity of access of the site to the New England Highway (major transport node) and surrounding towns makes the proposal viable.

Q. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?

The site is not located in a global or regional city or strategic centre or corridor nominated within the Metropolitan Strategy. The proposed extension of the F3 highway to connect to the New England Highway on the western side of Branton is identified within the Lower Hunter Regional Strategy. This link will create a major transport node. The location of the site in relation to the transport node is suitable and will provide for future residents of the site to access Newcastle, Sydney and other urban centres easily.

Q. Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?

The proponent has requested that Council rezone the site and the landowner has consented to this request. This planning proposal is consistent with the proponent's expectations.

No adverse precedents have been identified as likely to be set by the subject planning proposal. The proposal to reduce minimum lot size and increase lot yield is provided for in the adopted SLUS. Therefore it can be considered at the current time and does not have to wait for the formal review of the SLUS.

The amendment proposal utilizes a similar methodology to considering the proposal as was utilities by the SLUS for identification of candidate areas. No precedent is likely to be set by considering this planning proposal even though it varies somewhat from the SLUS recommendations.

Q. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

The relationship of the subject proposal to nearby rezonings has been considered. Rezoning to an environmental living zone is proposed for land north of the site, with an associated minimum lot size of 4ha and a minimum average lot size of 5ha for lots created by subdivision of the land.

The environmental living land use rezoning will provide a transition from the predominantly smaller blocks likely for the site. No adverse cumulative effects have been identified for the proposal.

Q. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?

The LEP would not result in a loss of employment lands. Population growth in proximity to Branxton is likely to facilitate business growth in the area, which is conducive to employment growth.

Q. Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?

The proposal will lead to an increase in the supply of rural residential/large lot residential allotments in the area. Increases in the supply of housing blocks to meet expected demand should combat against housing costs rises typical of when there is insufficient supply to meet demand. The proposal should be conducive to housing affordability.

Q. Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?

There is the potential for requirements to upgrade Standen Drive between the northern section of the site and the New England Highway. There is also the potential need to upgrade the intersection of Standen Drive and the New England Highway to provide for the increased traffic generated by development of the land once rezoned.

The site is within the Hunter Water Corporations area of operations. The Hunter Water Corporation has indicated that they will be able to service the site, although not immediately. Infrastructure works required to be able to service the site are not expected until 2013/2014. Given the time associated with the rezoning, development control plan and development application processes it is feasible that construction of the subdivision will coincide with provision of sewer and water services from the Hunter Water Corporation.

The site is able to be provided with suitable electricity provision and telephone connection. Given the fact that the site is relatively separated from Branxton (which is the closest township to the site); provisions for cycling probably won't be appropriate in the circumstances of the case. The site would be unlikely to have access to public transport.

Q. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?

The site is between Branxton and the Township of Singleton. It is also within relative proximity to the proposed F3 link to the freeway. Cessnock and Maitland are also within reasonable traveling distance.

Many persons in the region travel up and down the Hunter Valley from their homes to access their place of employment. The centralized location of the site provides for access to multiple areas of potential employment. Given the short connection to access the New England Highway and access such area, the proposal would be conducive to minimising travel distance and therefore reducing greenhouse gas emissions.

The implementation of varying minimum lot sizes, using minimum lot size mapping,

Use of minimum lot size mapping which requires larger lots in areas containing vegetation and smaller lots in cleared areas allows for the construction of dwellings in cleared areas of allotments, while maintaining adequate area for vegetation to remain elsewhere on the blocks. Use of appropriate zoning also helps manage development in an environmentally sustainable manner.

Retention of vegetation is conducive to reducing the impacts of greenhouse emissions. Impacts in terms of operating costs and road safety are not expected to be significant.

Q. Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?

The site is within relative proximity to the proposed link of the New England Highway and the F3 freeway. The Hunter Water Corporation is proposing to construct significant infrastructure along the New England Highway for water, which will run past the Standen Drive intersection. The major infrastructure would be conducive to the planning proposal.

Q. Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other

environmental impacts? Is the land constrained by environmental factors such as flooding?

There is no knowledge of the Government identifying the land as needing to be protected. The proposal is not expected to generate any significant adverse environmental impacts. The proponent would have to demonstrate that the proposal would maintain or improve the situation in regard to biodiversity.

The site is not within a designated floodplain. Intermittent natural watercourses dissect the site. During major storm events, some localized flooding of the natural watercourses may occur. Localized flooding impacts could be addressed through appropriate subdivision design and layout. Bushfire impacts could also be addressed through appropriate subdivision design.

Q. Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?

The SLUS amendment proposal which has been lodged by the proponent reviews the compatibility of the proposed rural-residential/large lot residential development with surrounding landuses and concludes that there would be no significant adverse impacts.

The proposal will change the landscape and increase traffic using Standen Drive. The visual impacts, while changing from a rural outlook to a rural-residential outlook, would not generate significant adverse impacts or have a detrimental affect on the wellbeing and amenity of surrounding residents. The SLUS amendment proposal lodged by the proponent demonstrates that traffic impacts would not be unacceptable.

The rezoning will result in the creation of additional housing blocks of a size and nature to satisfy identified demand, which would be conducive to the public domain.

Q. Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

The proposal is for the rezoning of the site and application of minimum lot size provisions for subdivision of the land. The proposal is not expected to increase the number of retail and commercial premises operating in the area.

Q. If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

The proposal is unlikely to develop into a centre in the foreseeable future.

Q. What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?

The rezoning will result in the creation of additional housing blocks of a size and nature to satisfy identified demand. The site is suitably located and appropriate for rural-residential/large lot residential development.

Rural-residential/large lot residential housing blocks of the nature and size proposed would not be created on the land if the proposal were not to proceed at this point in time. The demand for such blocks in the area would not be satisfied and persons would seek alternative options. This could potentially mean living outside of the Singleton LGA which would be undesirable in regard to Singleton LGA population growth, economic growth and prosperity.

Q. Will the proposal result in a net community benefit?

It is considered that the proposal will result in a net community benefit. The proposal is compatible with State and Regional strategic direction for development in the area. The proposal is not expected to create an unfavorable precedent or adversely impact upon the expectations of the landowner or other landowners.

No adverse cumulative effects have been identified as likely to occur as a result of the proposal. The proposal is not expected to result in the loss of employment lands and would likely be conducive to housing supply and affordability. Suitable public infrastructure for the proposal is able to be provided to the site.

The proposal should not have a significant adverse impact on road safety and would be likely to have a positive effect in terms of minimising greenhouse gas emissions. The proximity of the site to the proposed F3 freeway extension, and upcoming availability of connection to reticulated water services would be conducive to the proposal.

The proposal is not expected to impact upon any land identified by the Government as requiring protection and should not adversely impact upon surrounding landuses. It would provide land for rural-residential/large lot residential subdivision and development for which there is identified demand.

Relationship to Strategic Planning Framework

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)?

The site is not within an area covered by a regional or sub-regional strategy.

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

The proposal varies from the recommendations of the SLUS, however it is not inconsistent with the SLUS. The SLUS provides for consideration of a proposal to reduce subdivision lot size and increase lot yield in consideration of servicing.

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

The proposal is not identified as being inconsistent with any applicable State Environmental Planning Policies.

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

1. Employment and Resources

1.2 Rural Zones

The subject planning proposal affects land zoned 1(a) (Rural Zone). The proposal to increase the lot yield is provided for by the Singleton Land Use Strategy (SLUS).

The proponent has lodged a proposal to amend the SLUS, which is being considered concurrently with the planning proposal. The SLUS amendment proposal considers protection of the agricultural production value of rural land. The site comprises Agricultural suitability class 3 and 4 land. Class 3 land is not suited to regular cultivation and has moderate production value. Class 4 land is not suited to cultivation and has low production value. The agricultural quality of the land should not present an impediment to rural residential/large lot residential development.

1.3 Mining, Petroleum Production and Extractive Industries

The proposed land use would not be compatible with the mining of coal, minerals, petroleum or other extractive materials. The Department of Primary Industries (DPI) has been consulted in regard to the proposal.

The site is located within Petroleum Exploration Lease 267 (Sydney Gas) and may be subject to exploration activities for coal seam methane resources. Such exploration activities may conflict with the expectations of future rural residential/large lot residential landowners.

The DPI has confirmed that there is no coal title over the land and that the scope for significant minerals development is minimal. The DPI has detailed that they have no specific objections to the proposed rezoning.

1.5 Rural Lands

State Environmental Planning Policy (Rural Lands) 2008 applies to the land. The planning proposal affects land zoned 1(a) (Rural Zone) and proposes rezoning of the site for rural residential/environmental living purposes. Associated subdivision controls are also proposed.

Lot 91 and Lot 92, DP: 1138554 were created by subdivision pursuant to Clause 9(2) of SEPP (Rural Lands). Pursuant to Clause 9(4) of the policy, a dwelling cannot be erected on Lot 92, DP: 1138554 as it was created for a primary production purpose.

The information lodged for the development application which approved the subdivision (DA537/2008) advised that the subdivision was being done for the purpose of primary production and detailed that the proposal conformed to *State Environmental Planning Policy (Rural Lands) 2008*. The primary production purpose indicated in the development application information was livestock grazing. The proposal indicated that the subdivision would result in the protection and conservation of agricultural land.

Because of the structure of *State Environmental Planning Policy (Rural Lands) 2008* and the fact that it does not define primary production, or quantify the extent of production required to create such an allotment, there was no basis for querying compliance with *State Environmental Planning Policy (Rural Lands) 2008* in regard to DA537/2008 (SA71/2008).

The Singleton Land Use Strategy (SLUS), which is endorsed by the Director-General of the NSW Department of Planning; identifies the site as a candidate area potentially suitable for rezoning and recommends that the site be rezoned from 1(a) (Rural Zone) to an environmental living zone. It also recommends a minimum lot size for lots created by subdivision of 4ha with a minimum average of 5ha.

The key landuse issues for the SLUS included promoting agricultural development, protection of employment opportunities and protection of the natural resource base.

The strategy aimed to avoid subdivision of areas of high agricultural value for the purpose of rural-residential development. The selection of the subject candidate area was in an attempt to avoid impacting areas of high agricultural value.

As detailed elsewhere in this document, the site comprises Agricultural suitability class 3 and 4 land. Class 3 land is not suited to regular cultivation and has moderate production value. Class 4 land is not suited to cultivation and has low production value.

2. Environment and Heritage

2.3 Heritage Conservation

Direction: 2.3. *Heritage Conservation* applies to the draft LEP. Provisions to facilitate heritage conservation are not intended by the subject planning proposal. This is because such provisions already exist in the "Singleton Local Environmental Plan 1996" (SLEP 1996) and are proposed to exist in the principle Local Environmental Plan which is intended to replace the SLEP 1996. The *Singleton Development Control Plan 2009* also comprises provisions relating to heritage protection and conservation.

The site is not identified as comprising any items or places of heritage significance listed in the *Singleton Local Environmental Plan 1996*. Council does not have a comprehensive up-to-date survey of items and places of Aboriginal Cultural Heritage significance in the Singleton LGA. The subject proposal relies on the provisions of the *National Parks and Wildlife Act 1974* in regard to Aboriginal cultural heritage. Where destruction and/or collection and salvage of Aboriginal objects are proposed, Section 90 consent would be required to be obtained.

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

This planning proposal does not affect land within an existing residential zone or a zone which permits significant residential development. The rezoning would permit low density rural-residential style housing development.

The rezoning will result in the creation of housing blocks of a size and nature required to satisfy identified demand. Such housing blocks, in conjunction with various other styles of housing blocks as identified in the SLUS, will provide choice of building location.

The requirement to prepare and adopt a development control plan incorporating appropriate plans and provisions for the site prior to consent being able to be issued for any development of the subject land, will ensure relevant arrangements have been made for servicing of the site. The planning proposal would increase the density of development on the land.

3.3 Home Occupations

Home occupations are not intended to be prohibited.

3.4 Integrating Land Use and Transport

The low density associated with the planning proposal would not be conducive to walking and cycling to facilities because of distance separation.

The proximity of the land to the Branxton Township and the New England Highway (arterial road) does minimise the distance required to be travelled for car trips to facilities.

4. **Hazard and Risk**

4.4 Planning for Bushfire Protection

The site is identified as being prone to the impacts of bushfire on Council bushfire prone land mapping, which has been prepared by the NSW Rural Fire Service.

Compliance with *Planning for Bushfire Protection* (PBP) should be considered as part of the development control plan preparation. It is at this stage that the broad subdivision layout will be determined. Such a layout will need to comply with PBP.

6. **Local Plan Making**

6.1 Approval and Referral Requirements

It is not intended to include provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority.

6.2 Reserving Land for Public Purposes

The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.

6.3 Site Specific Provisions

To address matters of concern in regard to a dwelling restriction created by *State Environmental Planning Policy (Rural Lands) 2008* on Lot 92, DP: 1138554, amendment of that instrument may be required. Dwelling-houses would be a permissible land use under the proposed zoning.

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 proponent has lodged a preliminary ecological assessment for the proposal. The assessment report indicates that the site comprises areas of Lower Hunter Spotted Gum - Ironbark forest and areas of Hunter Lowlands Redgum forest which are endangered ecological communities under the *Threatened Species Conservation Act 1999*.

The site also comprises areas of Central Hunter Ironbark – Spotted Gum – Grey Box forest which the NSW Scientific Committee has made a preliminary determination to support the proposal to list as an endangered ecological community under the *Threatened Species Conservation Act 1999*.

The proponent's submission indicates that no fauna surveys have been conducted on the subject land. There is the potential for the site to comprise trees with hollows and for the forest vegetation to support threatened fauna such as the Squirrel Glider and various microchiropteran bats. There is also good potential for forest and woodland birds such as the Grey Crowned Babbler, Speckled Warbler and Diamond Firetail.

There is the potential for threatened owl species to occur on the site, particularly the Masked Owl, due to the potential foraging habitat on the site. The existence of the Belford National Park which adjoins the western boundary of the site increases the likelihood of threatened faunal movement across and within the site.

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

The site is identified as being bushfire prone on Council's bushfire prone land mapping. The site is not identified as being flood prone land but is dissected by intermittent natural watercourses which may generate localized flood impacts during significant storm events.

The site is not within a proclaimed mine subsidence district pursuant to Section 15 of the *Mine Subsidence Compensation Act 1961* and is not identified as being subject to landslip or comprising acid sulphate soils. The site comprises endangered ecological communities and is likely to comprise threatened fauna.

Bushfire impacts and flora and fauna impacts will be able to be managed as part of the development control plan process and development application process. Detailed studies that would be required from the proponent would need to consider requirements and mechanisms for bushfire amelioration and vegetation protection. The current Singleton Development Control Plan comprises provisions relating to localized flood impacts from natural watercourses.

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

No adverse social or economic impacts are expected to be generated by the proposal. Consideration has been given to impacts on surrounding landuses. The proposal will provide land for rural-residential/environmental living purposes to satisfy demand identified in the market. Planning of development of the site through DCP provisions would be such as to minimise the potential for adverse impacts on the surrounding area.

State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

As already detailed in this planning proposal, the Hunter Water Corporation has indicated that they will be able to service the site, although not immediately. Infrastructure works required to be able to service the site are not expected until 2013/2014.

Given the time associated with the rezoning, development control plan and development application processes it is feasible that construction of the subdivision will coincide with provision of sewer and water services from the Hunter Water Corporation.

The site is able to be provided with suitable electricity provision and telephone connection. Given the fact that the site is relatively separated from Branxton (which is the closest township to the site); provisions for cycling probably won't be appropriate in the circumstances of the case. The site would be unlikely to have access to public transport. Public infrastructure provision would be adequate.

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

Consultation with relevant public authorities is proposed to occur as part of the gateway process. Such views will be reflected in the revised planning proposal prior to submission to the NSW Department of Planning with the request that the plan be made.

PART 5 – PROPOSED COMMUNITY CONSULTATION

Approval from the Director-General

No approval has been obtained thus far from the Director-General of the NSW Department of Planning to carry out community consultation. Approval to carry out community consultation is being sought as part of this initial planning proposal.

Community Consultation

The process for community consultation will be dependant upon the opinion of the person(s) making the gateway determination in regard to whether the proposal is considered to be a low impact planning proposal or not. Community consultation is proposed to be carried-out in accordance with the requirements of the NSW Department of Planning and relevant legislation.

PART 6 – CONCLUSION AND RECOMMENDATION

The planning proposal is generally consistent with Council's adopted land use strategy, which has been endorsed by the NSW Department of Planning. The LEP amendment will rezone the land and enable the land to be subdivided for rural-residential/environmental living purposes.

The DCP preparation process should run concurrently with the planning proposal to facilitate preparation of the LEP minimum lot size mapping, manage potential impacts associated with the proposal and ensure effective and efficient infrastructure provision.

It is recommended that the planning proposal be supported and that the process for making the draft LEP progress accordingly.