

Planning and Assessment

Gateway determination report

LGA	Singleton
PPA	Singleton Shire Council
NAME	Environmental living rezoning of four rural lots in Roughit (4 homes, 0 jobs)
NUMBER	PP_2020_SINGL_001_00
LEP TO BE AMENDED	<i>Singleton Local Environmental Plan 2013</i>
ADDRESS	208B, C, D & E Roughit Lane, Roughit
DESCRIPTION	Lots 1, 2, 3 & 4 of DP 1058431
RECEIVED	19 November 2020
FILE NO.	IRF20/5422
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

Singleton Shire Council has submitted two separate planning proposals relating to four adjacent lots at Roughit Lane, in the rural-environmental living area of Sedgefield. One relates to three lots, while the other relates to a single lot.

This report is an assessment of both planning proposals as they are similar objectives sought and planning considerations. It is recommended to combine the planning proposals and proceed as a single local environmental plan amendment.

1.1 Site description

The planning proposal applies to four lots at Roughit Lane in Sedgefield. Each lot contains one residential dwelling. All lots have access connecting to Roughit Lane.



Figure 1: Aerial imagery showing different property characteristics of subject lots.

1.2 Existing planning controls

The four lots are currently zoned RU1 Primary Production and have a minimum lot size of 40 hectares. There is no building height control.

Each lot is affected by bushfire prone land in varying degrees and an identified watercourse on the local environmental plan maps.



Figure 2: Land use zone map showing subject lots and wider Sedgefield area.

1.3 Surrounding area

The Sedgefield and Roughit suburbs are on the rural outskirts, approximately 5km to the north east, of Singleton. There is a mix of agricultural and rural/environmental living residential uses. Light grazing occurs closer to the site and more intensive cropping is located adjacent to the Hunter River.

There are significant patches of vegetation in the immediate surrounds, while cleared pastures and paddocks are further from the site. Large lot dwellings are dispersed amongst the vegetation patches as well as the rural areas. A watercourse runs through the subject site that connects with First Creek, which drains to Glen Brook and then the Hunter River further downstream.

The Singleton Waste Management Facility is approximately 2.5km away from the site to the west.

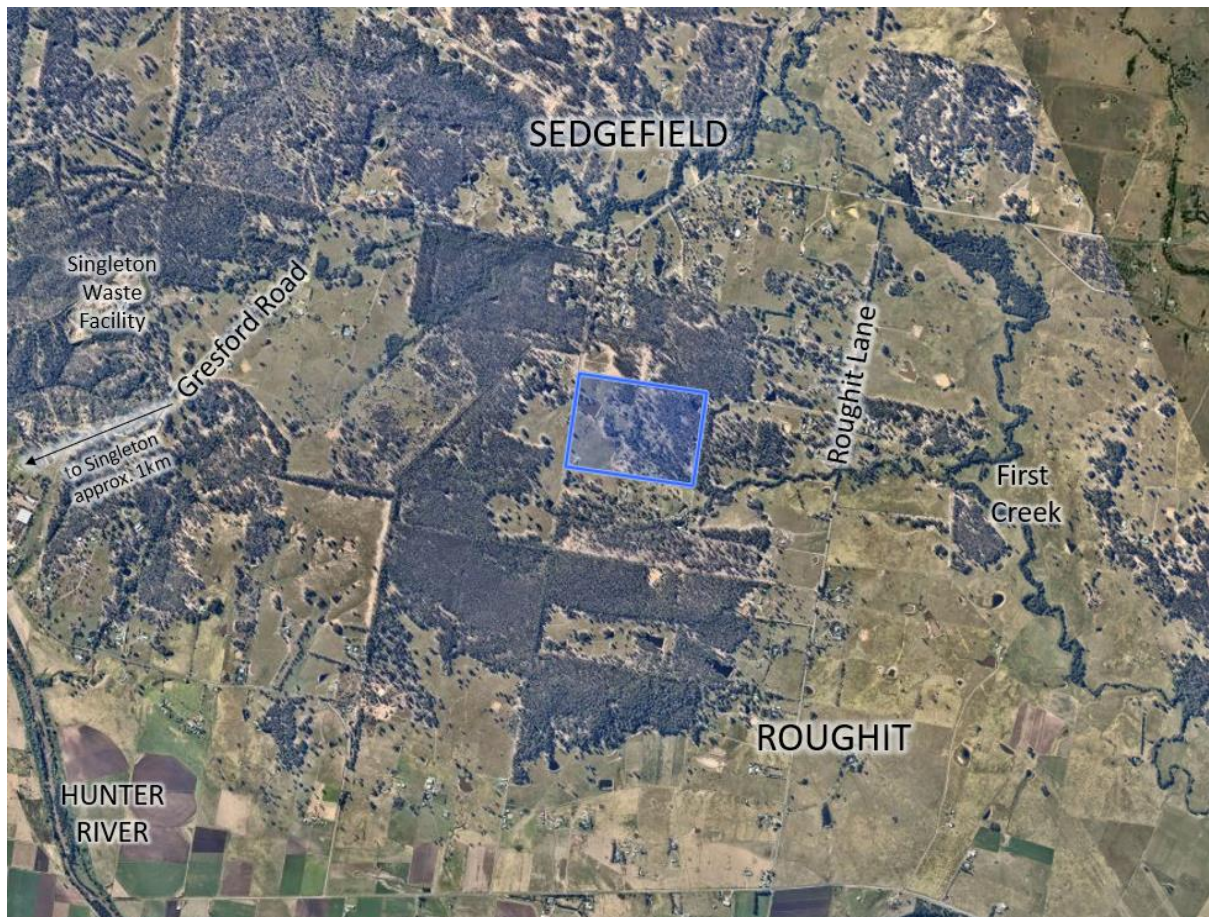


Figure 3: Subject site in blue, in context of surrounding rural-environmental area.

2. PROPOSAL

2.1 Description of planning proposal

The planning proposal is to change the land use zone from rural to environmental living and reduce the minimum lot size required for subdivision of four additional lots in the rural-environmental living area of Sedgefield.

The planning proposal will implement the Sedgefield candidate area in the *Singleton Land Use Strategy 2008* and subsequent *Sedgefield Structure Plan 2009*.

2.2 Objectives or intended outcomes

The objective of the planning proposals is to permit subdivision of each subject lot to facilitate an extra dwelling. The objectives are clear and do not require updating.

2.3 Explanation of provisions

The planning proposal involves amendments to the land use zone and minimum lot size maps of *Singleton Local Environmental Plan 2013* for the site by:

- changing the land use zone from RU1 Primary Production to E4 Environmental Living; and
- changing the minimum lot size required for subdivision from 40 hectares to 5 hectares.

These provisions are consistent with adjacent E4 Environmental Living land in the north and west.

2.4 Mapping

The planning proposal includes maps of current and proposed controls. Aerial imagery of the site is also provided, and the provisions to apply are clearly explained.

3. NEED FOR THE PLANNING PROPOSAL

Council considers the planning proposal is appropriate to enable future subdivision of the site and create four additional lots for environmental living residential uses.

The planning proposal is consistent with the recommendations of the *Sedgefield Structure Plan 2009* that each subject lot can yield an additional lot. The structure plan considered environmental and servicing constraints of the area, including ecology, bushfire, flooding, heritage, salinity, roads, water and sewer.

The structure plan did not provide zoning recommendations. It did recommend the use of 2- and 4-hectare lot sizes to create more compact clusters of dwellings and avoid clearing impacts, with an objective of a 5-hectare lot average overall. The use of average lot sizes was not supported by the Department in its endorsement of the Sedgefield candidate area, and a 5-hectare minimum lot size has been adopted.

Other components of the structure plan have been rezoned using the E4 Environmental Living zone and 5-hectare minimum lot size. The planning proposal will maintain consistency across the structure plan area and work towards completing implementation of the plan.

The Department, in issuing Gateway determinations for other structure plan sites, recommended Council should adopt a more coordinated approach to amending planning controls. In the absence of resources to progress a more coordinated approach, Council is supporting these planning proposals initiated by owners.

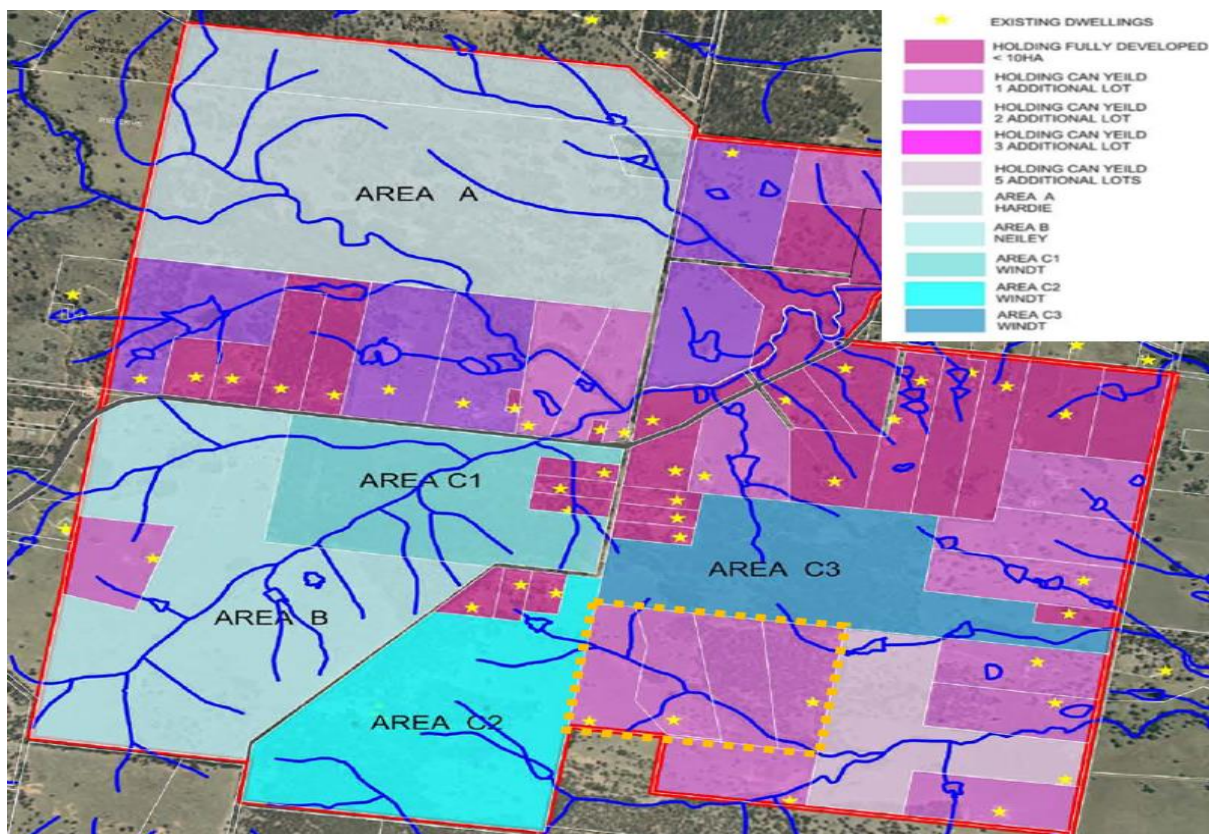


Figure 4: Subject site in orange, showing context within the SSP boundary.

4. STRATEGIC ASSESSMENT

4.1 Regional

The proposal is consistent with the *Hunter Regional Plan 2036* Action 14.4 to protect biodiversity. The proposed E4 Environmental Living zone incorporates a higher level of environmental protection than the RU1 Primary Production zone in order to protect the endangered ecological community vegetation on site. It is also consistent with Direction 22 to promote housing diversity as it permits additional environmental living/large lots in an appropriate area.

4.2 Local

The planning proposal is consistent with the *Singleton Local Strategic Planning Statement 2041* Priority 2.3 for housing diversity, as it will permit additional large lots in an appropriate area; and Priority 3.1 to protect biodiversity, as the proposed E4 Environmental Living zone incorporates a higher level of environmental protection than the RU1 Primary Production zone.

4.3 State environmental planning policies (SEPPs)

SEPP (Koala Habitat Protection) 2020

The planning proposal includes an ecological assessment against the Koala Habitat Protection SEPP 44, and an addendum assessment of the SEPP (Koala Habitat Protection) 2019. The SEPP (Koala Habitat Protection) 2019 has since been replaced and repealed by the SEPP (Koala Habitat Protection) 2020.

The SEPP (Koala Habitat Protection) 2020 applies as Singleton is listed as a local government area under Schedule 1 of the SEPP.

The ecological assessment concludes that parts of the site meet the SEPP (Koala Habitat Protection) 2019 definition for 'highly suitable koala habitat', but there is no evidence of koalas presently or recently habitation on site.

The SEPP (Koala Habitat Protection) 2020 defines 'potential koala habitat' as being trees listed in Schedule 2 that comprise at least 15% of the upper or lower strata of vegetation on site. The site contains several of tree types and the ecological assessment states that areas 'over or near' the development site are below the 15% threshold and no feed trees are affected by the planning proposal. It is not stated if the entire site meets the composition threshold of 15%.

The proposed rezoning from RU1 Primary Production to E4 Environmental Living provides a higher level of protection for biodiversity values and is therefore generally consistent with the aims of SEPP (Koala Habitat Protection) 2020.

Notwithstanding, further assessment of biodiversity impact will occur as part of any future development application. In particular, further provisions of the SEPP (Koala Habitat Protection) 2020 may need to be considered at the development application stage if the vegetation is determined to be core or potential koala habitat, including the requirement to develop a koala plan of management for the site.

4.4 Section 9.1 Ministerial Directions

1.2 Rural Zones

The direction applies as the proposal involves rezoning land from RU1 Primary Production to E4 Environmental Living. The planning proposal is inconsistent with

the direction as it will effectively increase the permissible density of land within a rural area. The land is not identified as biophysical strategic agricultural land or part of a Critical Industry Cluster.

The planning proposal is consistent with the *Sedgefield Structure Plan 2009*, which is an endorsed candidate area for rural-residential use in the *Singleton Land Use Strategy 2008*.

Inconsistency with the direction is considered justified by the endorsed strategy.

1.3 Mining, Petroleum Production and Extractive Industries

The direction applies as the proposal involves rezoning land from RU1 Primary Production to E4 Environmental Living that would prohibit mining, petroleum production and extractive industries on the land.

The planning proposal is consistent with the *Sedgefield Structure Plan 2009*, which is an endorsed candidate area for rural-residential use in the *Singleton Land Use Strategy 2008*.

It is understood that the Department of Primary Industries imposed a buffer in the *Sedgefield Structure Plan 2009* to protect a prospective open cut coal mining operation. The site was not within the buffer and Council advised the relevant public authority has provided an update that the buffer is no longer required.

1.5 Rural Lands

The direction applies as the planning proposal involves a change of land use zone from rural to environmental, as well as a reduction in the minimum lot size.

The planning proposal is consistent with the *Sedgefield Structure Plan 2009*, which is an endorsed candidate area for rural-residential use in the *Singleton Land Use Strategy 2008*.

The planning proposal will increase environmental protection for three of the four subject lots that contain an endangered ecological community vegetation. Council considers the site to be of low agricultural significance due to its size and coverage by vegetation. The land is not identified as biophysical strategic agricultural land or part of a Critical Industry Cluster.

The planning proposal is consistent with the provisions of the direction.

2.1 Environment Protection Zones

The planning proposal is generally consistent with the direction as it improves the environmental protection for lots that contain endangered ecological community vegetation, Central Hunter Ironbark Spotted Gum Grey Box Forest, which is equivalent to the nationally listed Critically Endangered Ecological Community of Central Hunter Valley Eucalyptus Forest and Woodland.

The ecological assessment concludes the building and ancillary development envelopes of less than 0.05 hectares for each proposed lot is below the *Biodiversity Conservation Act 2017* threshold for clearing and will not have any significant ecological impacts.

The proposal includes applying the E4 Environmental Living zone on Lot 1 that is cleared of vegetation and presents no significant ecological value. However, the lot does contribute to the semi-rural character in the area. Other land in the *Sedgefield*

Structure Plan 2009 that is similarly cleared of vegetation and presents rural character has been rezoned to E4 Environmental Living.

The planning proposal will ensure consistency in the application of the E4 Environmental Living zone in Sedgefield and protects aesthetic values associated with the semi-rural character of the area which is one of the objectives of the zone.

2.3 Heritage Conservation

The planning proposal includes an Aboriginal cultural heritage assessment that was conducted in conjunction with the Wanaruah Local Aboriginal Land Council (LALC).

An Aboriginal heritage object was identified on Lot 4 and registered on the AHIMS database (37-6-3964). Wanaruah LALC requested an Aboriginal Heritage Impact Permit be applied to salvage the object. The assessment concluded there is unlikely any other archaeological deposits on site and no constraints to prevent the rezoning. Wanaruah LALC agreed no further heritage assessment is required on the subject site.

The planning proposal is consistent with the direction. Wanaruah LALC has been consulted and further consultation on the planning proposal is a matter for Council.

2.6 Remediation of Contaminated Land

The planning proposal acknowledges historic and current use of the site to include agriculture, which is a listed item in Table 1 of the contaminated land planning guidelines as a potentially contaminating activity.

The planning proposal is inconsistent with the direction as no justification is provided regarding potential contamination on site. The planning proposal will need to be updated with a response to the direction with reference to the contaminated land planning guidelines before determining consistency with this direction and whether contamination is an issue on site.

4.3 Flood Prone Land

The land is not identified as being in a flood prone area. However, several dams and an identified watercourse are on the site. This means there is a possibility of on-site flooding impacts.

It is expected any flood planning requirements can be considered at the development application stage to ensure appropriate siting of future dwellings.

4.4 Planning for Bushfire Protection

The direction applies as the subject land is affected by various degrees of bushfire prone land. A bushfire assessment has been completed, which concludes that the proposed lot sizes and conceptual dwelling envelopes for the potential subsequent lots can accommodate bushfire planning provisions and building standards, while minimising clearing for Asset Protection Zones to be below the *Biodiversity Conservation Act 2017* threshold.

The bushfire assessment refers to the Planning for Bushfire Protection 2006, which has since been superseded by an updated 2019 policy.

Consultation with the NSW Rural Fire Service is required to satisfy the provisions of the direction and determine if any inconsistency is justified.

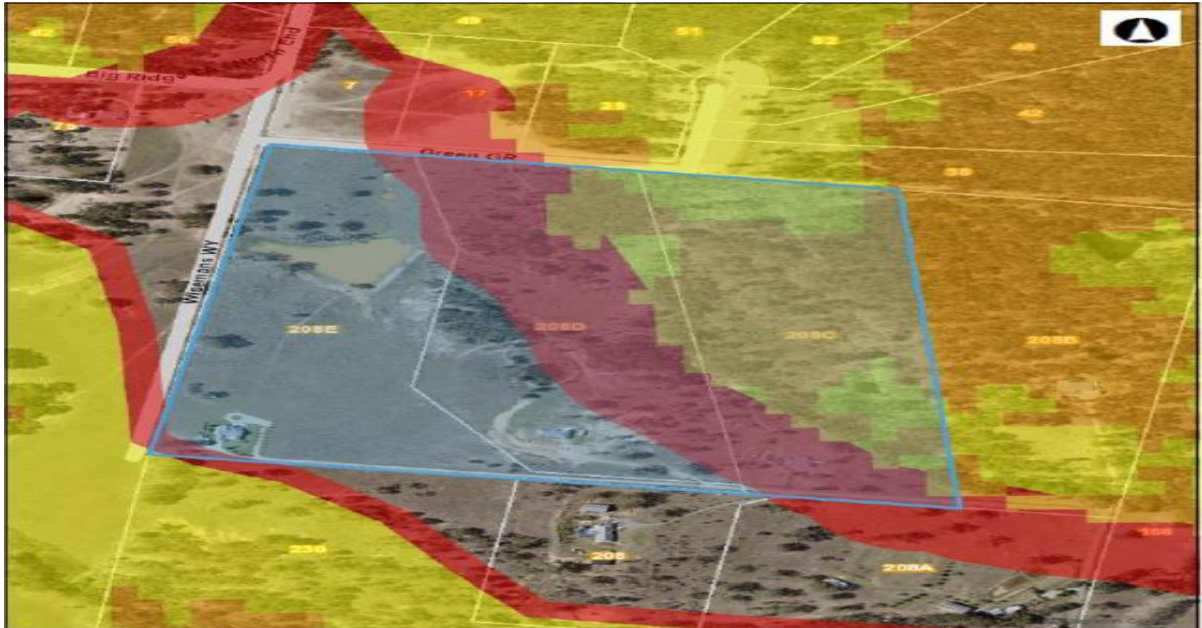


Figure 5: Bushfire map.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will enable additional environmental living lots, which provides greater housing choice for the community in an area that is consistent with the intent of the relevant strategic planning framework.

Future residents will have access to shopping, health, education, community services and recreation facilities in Singleton approximately an 8km drive away.

5.2 Environmental

The *Sedgefield Structure Plan 2009* noted the presence of low to moderate salinity across the area. The extent of development proposed is unlikely to be greatly affected by or exacerbate salinity on site.

The planning proposal will increase the proliferation of septic systems in the area next to an identified watercourse. However, clause 7.6 of *Singleton Local Environmental Plan 2013* will apply to each new proposed lot, which requires consideration of water quality impacts before granting development consent.

The Singleton Waste Facility is approximately 2.5km away. The site is not within the exclusion buffer area referred to in clause 7.4 of the *Singleton Local Environmental Plan 2013*.

5.3 Economic

The site has adequate services, including electricity and telecommunications. There is no reticulated water, sewerage or gas supply. The sites will have road access via Big Ridge Lane and Green Grove.

6. CONSULTATION

6.1 Community

Council proposes a 28-day exhibition period for community consultation. The planning proposal is considered relatively minor and requires a minimum 14-day exhibition.

6.2 Agencies

Council proposes consultation with NSW Rural Fire Service, Heritage NSW, and the Biodiversity and Conservation Division.

Consultation with NSW Rural Fire Service is supported. Additional consultation with Heritage NSW and the Biodiversity and Conservation Division is considered a matter for Council to consider.

7. TIME FRAME

Council does not request a specific time frame, but provides a project timeline suggesting a 6-month period to complete the local environmental plan amendment.

It is recommended a 12-month timeframe be issued to factor in updates required by the Gateway conditions and to enable enough time to incorporate any responses to agency and community consultation.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not indicated it seeks delegation to be the plan-making authority for the proposal. Council has also not provided details regarding the date or nature of the resolution regarding the planning proposal.

It is considered that the planning proposal is minor in nature and it is appropriate for Council to be the plan-making authority.

9. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree any inconsistencies with section 9.1 Ministerial directions: 1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries; 1.5 Rural Lands; 2.1 Environment Protection Zones and 2.3 Heritage Conservation are minor or justified;
2. note the consistency with section 9.1 Ministerial directions 2.6 Remediation of Contaminated Land; and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition and agency consultation, Council is to:
 - (a) Combine the two planning proposals [Council file reference numbers 55.2020.1 and 55.2019.1] into one document and proceed with the proposal for Lots 1, 2, 3, and 4 of DP 1058431 as a single local environmental plan amendment; and

(b) Update the response to section 9.1 Ministerial direction 2.6
Remediation of Contaminated Land with reference to Chapter 3 of the
Contaminated Land Planning Guidelines.

2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with NSW Rural Fire Service.
4. The time frame for completing the local environmental plan is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



21/12/2020
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