

**Singleton Council - Planning proposal for Lot 2 DP 632054,
490 Gresford Road, Sedgefield – September 2010 (File:
LA1/2010)**

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Introduction

This planning proposal has been prepared following the submission of a rezoning request on behalf of the property owner from Tony Mexon of Tony Mexon & Associates last March. Delays in processing the request have occurred as a result of the request from the NSW Department of Planning's (DoP) LEP Review Panel for the rest of the Sedgefield Candidate Area to be implemented through one planning proposal.

Notification was sent in late March to all land owners within the Sedgefield Rural Residential Candidate Area (CA) of the DoP LEP Review Panel advice to Council. As a result, two additional rezoning requests (with file references LA2 & LA3/2010) were received by Council.

In recent discussions with the Regional Office of the NSW Department of Planning, Council was advised that the LEP Review Panel may now have relaxed its attitude to "bundling" planning proposals and it would be up to Council to decide whether or not to bundle proposals.

Since this is a simple proposal which would only realise one additional lot it is considered that it should be kept separate and implemented by means of an enabling clause as was done recently in the McGrath proposal on Roughit Lane. The McGrath proposal was very similar to the subject proposal and sets a procedural precedent. The LA2 and LA3/2010 rezoning requests involve much larger areas of land and larger lot yields and will require detailed studies and government authority consultation and so should be processed separately.

The proponent, Tony Mexon, has submitted a brief baseline Environmental Study in support of the request. Council staff have drawn on this material in the preparation of this planning proposal.

Part 1 – Objectives or Intended Outcomes

To amend Singleton Local Environmental Plan (LEP) 1996 to permit (with consent) the subdivision of Lot 2 DP 632054 in accordance with the provisions for the Sedgefield rural residential Candidate Area (CA) outlined in Singleton Land Use Strategy (SLUS) 2008 and detailed in Sedgefield Structure Plan (SSP) 2009. The location of the subject land is shown in **Figure 1**. Aerial photography is shown in **Figure 2**, and the existing zoning is shown in **Figure 3**.

The proposed subdivision would excise an allotment of approximately 4.5 hectares on the eastern side of the property as shown in **Figure 6**.

Part 2 – Explanation of Provisions

Since Singleton is not a prioritised council (and progression of the Standard Instrument (SI) LEP is dependent upon obtaining additional funding), the rezoning proposal needs to be progressed as an amendment to Singleton LEP 1996. It is considered that the provisions for subdivision of the subject land should be drafted as an enabling clause, which will permit subdivision of the land in accordance with the

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criteria outlined in the SLUS and detailed in the SSP. This involves a minimum average of 5 hectares with an absolute minimum of 2 hectares to allow for conservation of native vegetation, and provision of building envelopes in existing cleared areas.

The McGrath Roughit Lane proposal has set a precedent for the proposed amendment to the Singleton LEP 1996, along the following lines:

1. Name of plan

This plan is *Singleton Local Environmental Plan 1996 (Amendment No 77)*.

2. Commencement

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

3. Aim of the plan

The aim of the plan is to permit subdivision of Lot 2, DP 632054 into two lots, having a minimum average area of 5 hectares and an absolute minimum area of 2 hectares.

4. Land to which this plan applies

This plan applies to Lot 2 DP 632054, Parish of Sedgfield, being 490 Gresford Road, Sedgfield.

5. Amendment of Singleton Local Environmental Plan 1996

Insert at the end of Schedule 4:

Land being Lot 2, DP 632054, Parish of Sedgfield, being 490
Gresford Road, Sedgfield—subdivision into two lots with a
minimum lot size of 2 hectares.

Part 3 - Justification

Section A – Need for the planning proposal

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

Yes, the land was first identified in general terms in Council's draft Rural Residential Development Strategy 1993, and specifically, as part of the Sedgfield CA in Council's adopted and endorsed Rural Residential Development Strategy 2005. The Sedgfield CA, including the subject land is now included in Council's current adopted and endorsed SLUS 2008 and SSP 2009.

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The subject land, with an area of 11.72 hectares, has the potential to realise one additional lot if permitted to be developed under the provisions of the SLUS and SSP.

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

The planning proposal is in accordance with the adopted and endorsed strategic planning documents (SLUS 2008 and SSP 2009) for the area. Consideration has been given to a number of options in preparing the provisions to implement the planning proposal. These include:

- Use of an Environmental Living Zone, such as the E4 Standard Instrument (SI) Zone;
- Use of State Environmental Planning Policy (SEPP) No. 1;
- Use of a general rural residential zone; and
- Use of an enabling clause.

Following discussions with the consultant planner preparing Council's comprehensive SI LEP and the Regional Office of DoP on the McGrath Roughit Lane proposal, it was determined that the use of an enabling clause would be the best way of achieving the intended outcome. Since similar circumstances are applicable to the subject proposal, this precedence is considered to be the best way to proceed.

Use of the E4 (or similar) Zone is not considered necessary at this stage because there is only a small area of special ecological significance on the southern edge of the land, which will not be affected by the proposal. Use of the enabling clause will avoid unnecessary delays in processing the proposal.

Use of SEPP 1 was considered inappropriate because it would involve a major reduction in the minimum lot size in the current 1(a) (Rural Zone).

Use of current general rural residential zone, 1(d) – (Rural Small Holdings Zone), or introduction of a new general rural residential zone was considered inappropriate because these zones are designed for estate style rural residential development, where some level of servicing, such as town water supply, is available.

It is therefore considered that the use of an enabling clause is the best way to achieve the intended outcome of the proposal, especially when taking into account that this is a transition period from the current Singleton LEP to the SI LEP. The enabling clause will allow this proposal to be progressed without impacting of either Council's SI LEP nor the use of rural residential zones in the current LEP to progress the larger rezoning proposals for Sedgefield which are already in the system. The appropriate zone can then be used when Council's SI LEP is drafted.

3. Is there a net community benefit?

The subject site is one of several throughout the Sedgefield CA with potential to realise only one additional lot. Development of these lots in accordance with the SLUS and SSP will provide additional opportunity for environmental living. If this potential is not realised, the ability of the Sedgefield CA to supply market demand for

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hopefully the next 10 years will be significantly diminished. It is considered that the proposed rezoning will therefore result in a net community benefit.

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?

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

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

The planning proposal is consistent with the current, relevant strategic plans, which have been adopted by Council and endorsed by DoP. These are:

- Singleton Land Use Strategy 2008; and
- Sedgfield Structure Plan 2009.

Singleton Land Use Strategy (SLUS) 2008

The subject land lies within the Sedgfield Candidate Area (SCA). The SCA has been identified as being suitable for environmental living style rural residential development. The SLUS identifies a minimum average lot size of 5 ha, with an absolute minimum of 4 ha. However, in adopting the SSP, Council effectively reduced the absolute minimum for the SCA to 2 ha, whilst maintaining the minimum average of 5 ha. This was to allow more flexibility in vegetated areas, so that development could be clustered, and vegetation retained on larger lots.

The subject land has an area of 11.72 hectares, so the planning proposal will allow it to be subdivided to realize one additional lot.

Sedgfield Structure Plan (SSP) 2009

The SSP provides guidelines for rural residential development in the SCA to ensure that it is socially, economically and environmentally sustainable. The proposal is consistent with the SSP. In detail, the key areas for consideration are:

1. Biodiversity;
2. Erosion and salinity;
3. Bushfire;
4. Aboriginal Archaeology;
5. Traffic and transport;
6. Services and infrastructure;
7. Community facilities; and
8. Natural resources

Biodiversity:

The SSP 2009 details vegetation mapping which shows only one Endangered Ecological Community (EEC) within the SCA, being the Hunter Lowland Redgum

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Forest. However, additional forest communities in the area were formally designated as EEC in February this year. This includes the Central Hunter Ironbark-Spotted Gum-Grey Box Forest which has been identified along the southern boundary and south-eastern corner of the subject land (see **Figure 4**). The site is characterised by large expanses of cleared land with adequate opportunity to site a building envelope with minimal impact on native vegetation.

Erosion and salinity:

The SSP 2009 identifies that erosion generally occurs in the SCA where there is little vegetation, or where there is timbered over-storey with little near surface under-storey. It is also widespread along gully lines.

The SCA generally has been identified as having potential for widespread salinity issues. Management strategies outlined in the SSP 2009 and the provisions for retaining and enhancing native vegetation included in the Singleton Development Control Plan (DCP) will need to be enforced during the assessment and development of the site.

Inspection of the subject land indicates that the property is in good condition and has not been significantly affected by erosion or salinity.

Bushfire:

The subject site is affected by Bushfire Buffer along the southern boundary and south-eastern corner (see **Figure 5**). The majority of the site is free of bushfire hazard and can easily accommodate a dwelling envelope with complying Asset Protection Zones and on-site designated fire fighting tanks. It is envisaged that future development of the site will be able to comply with Planning for Bushfire Protection 2006.

Aboriginal archaeology:

The subject site has been used for farming practices for many decades and given the high level of disturbance and the minimal drainage lines, it is considered unlikely that there would be significant archaeological deposits on the land. Further investigation will be carried out if required, including consultation with local Aboriginal stakeholders. If artefacts are located, they would be preserved on-site, pending further investigation or approval for removal obtained from the Department of Environment, Climate Change and Water.

Traffic and transport:

The subject land is currently accessed directly from Gresford Road. However, it also has frontage to Imagine Avenue, which is an unmaintained Council road. Council's development engineer has advised that if the were to be subdivided, the access should be from Imagine Avenue to avoid multiple access points along Gresford Road. Imagine Avenue would need to be upgraded accordingly.

The local road system in the area is adequate for any small increase in traffic generation which may result from the proposal.

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Services and infrastructure:

The subject site is not serviced by town water. The future allotment would rely on rainwater collected from roof areas and stored in tanks, similar to other rural residential environmental living development in the area. Likewise, the land is not serviced by reticulated sewer. An on-site effluent disposal system would be used, similar to other dwellings in the area.

The provisions of the SLUS 2008 and SSP 2009 do not require provision of town water or reticulated sewer to this type of development.

The subject site is currently serviced by electricity, telecommunications, and garbage services. It is anticipated that these can be extended to cater for the additional allotment.

Community facilities:

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

Natural resources:

The Department of Primary Industries (Minerals and Petroleum Division) has required a buffer zone to a potential open cut coal reserve in the area. This buffer essentially sterilised land in the SCA within 800 metres of Roughit Lane. The subject site is outside this buffer area and is not restricted in regard to Department of Mineral Resources' issues.

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

The planning proposal is not inconsistent with any applicable state environmental planning policy (SEPP). Future rural residential development of the site has the potential to be affected by the following SEPPs:

- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Exempt and Complying Development Codes) 2008;
- SEPP (Rural Lands) 2008.

Full consideration of the impacts of SEPPs will be considered at the development application stage. Discussion on the planning proposal's consistency with the rural principles under SEPP (Rural Lands) 2008 is provided below.

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

Section 117 Directions that affect the proposal are outlined below:

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Direction 1.2 – Rural Zones

The objective of Direction 1.2 is to protect the agricultural production value of rural land. This direction applies when a council prepares a planning proposal that affects land within an existing or proposed rural zone. In the case of Singleton Council, the planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. A planning proposal may be inconsistent with the terms of this direction only if Council can satisfy the Director-General of DoP that the provisions of the planning proposal that are inconsistent are:

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

As discussed earlier, the planning proposal is within the designated SCA for rezoning and is consistent with the DoP endorsed SLUS 2008 and SSP 2009. Enabling the subject land to be subdivided into two lots is also supported by this planning proposal, which identifies that there are minimal constraints to development and that the proposal is of minor significance.

It is considered that any inconsistency of the planning proposal with Direction 1.2 is justified.

Direction 1.5 – Rural Lands

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

The Direction states that planning proposals must be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008, which are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) recognition of the significance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

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- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,
- (h) ensuring consistency with any applicable regional strategy of the DoP or any applicable local strategy endorsed by the Director-General.

A planning proposal may be inconsistent with the terms of this direction only if Council can satisfy the Director-General that the provision of the planning proposal that are inconsistent are:

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

As discussed above, the subject site is within the designated SCA for rezoning and the proposal is consistent with the DoP endorsed SLUS 2008 and SSP 2009. It is also of minor significance.

It is considered that the planning proposal is consistent with Direction 1.5.

Direction 2.3 – Heritage Conservation

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

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

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

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

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

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

The planning proposal will not impact on any known items of environmental heritage. Further investigations would be required to establish whether there are any Aboriginal items or objects on site which require protection. It is envisaged that further investigation on this aspect of the planning proposal may be required. However, it is noted that there is sufficient land available to ensure any Aboriginal items or objects found would not be disturbed through creation of building envelopes or access roads. Should items or objects be discovered, provisions can be required to be included in the DCP for this part of the SCA.

It is considered that the planning proposal will be consistent with Direction 2.3.

Direction 4.4 – Planning for Bushfire Hazard

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

The directive applies when a Council prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone.

The subject site is affected by Bushfire Buffer along the southern boundary and the north eastern portion of the site. The majority of the site is free from bushfire hazard and can easily accommodate a dwelling envelope with complying Asset Protection Zones and on-site designated fire fighting tanks. It is envisaged that future development of the site will be able to comply with Planning for Bushfire Protection 2006 and any subsequent proposal for subdivision will be supported by a Bushfire Protection Assessment. It is intended to consult with the NSW Rural Fire Service following the Gateway determination in accordance with this direction.

It is considered that the planning proposal will be consistent with Direction 4.4.

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?

The SSP 2009 details vegetation mapping which shows only one Endangered Ecological Community (EEC) within the SCA, being the Hunter Lowland Redgum Forest. The subject land does not appear to contain any of this EEC. The amount of native tree vegetation on the site is minimal and restricted to the south eastern portion. The site is characterised by large expanses of cleared land with adequate opportunity to site a building envelope with minimal impact on native vegetation.

It is considered that the flora and fauna on-site will be able to be protected and the planning proposal will not adversely affect the ecological qualities of the site.

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

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

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

The planning proposal is consistent with the relevant Council strategies (SLUS 2008 and SSP 2009), which give consideration to social and economic issues in the identification of the Sedgefield Candidate Area and the provision of guidelines for its development. There are no other likely social and economic effects associated with this planning proposal.

Section D – State and Commonwealth interests

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

Services and infrastructure are discussed in Part 3 – Section B of this planning proposal. In conclusion, the proposal will only realise one additional allotment which will not place any significant demand on services and infrastructure.

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

A response to this section will be provided following the gateway determination.

Part 4 – Community Consultation

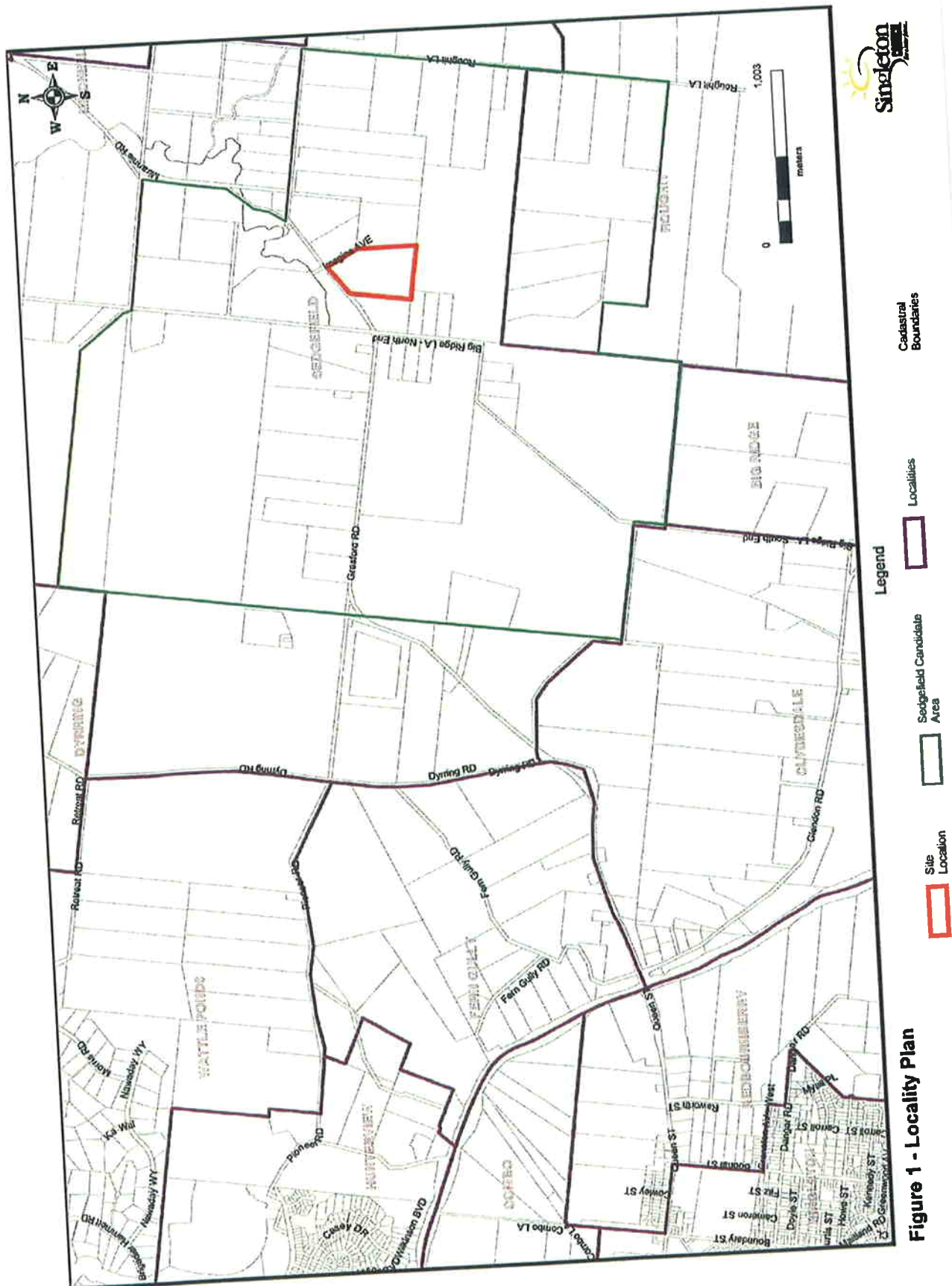
The gateway determination will specify the community consultation requirements for this planning proposal. Given that the planning proposal is consistent with the relevant adopted and endorsed strategic planning framework and would only realise on additional allotment, it is considered likely that it would be classified as a “low impact planning proposal” and the minimum exhibition period of 14 days would apply.

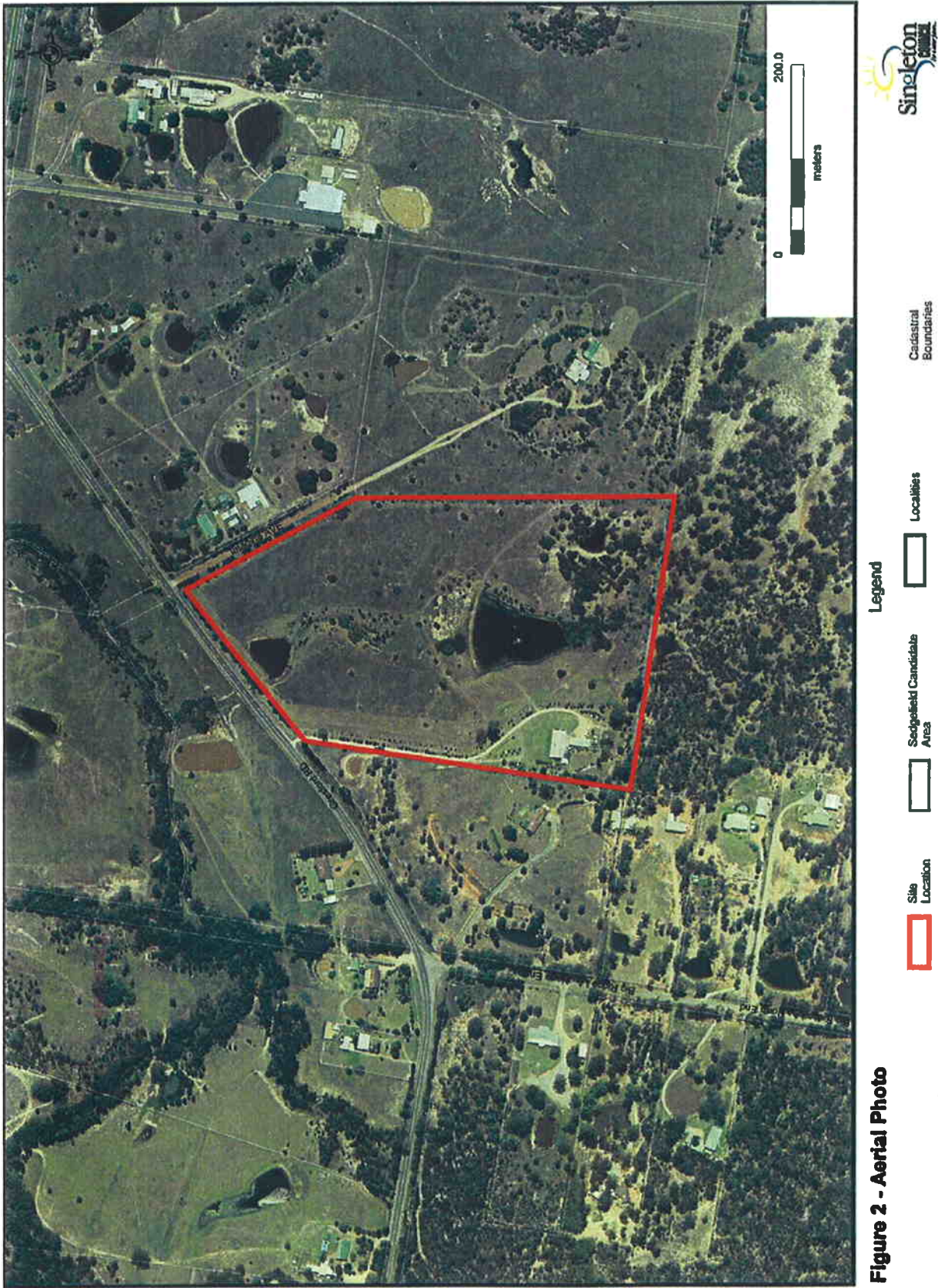
Conclusion

The planning proposal site is within the identified Sedgefield Candidate Area and is consistent with the Council adopted and DoP endorsed Singleton Land Use Strategy 2008 and Sedgefield Structure Plan 2009. The preliminary investigations undertaken for this planning proposal indicate that the subject site is suitable for subdivision into two lots with minimal constraints to development.

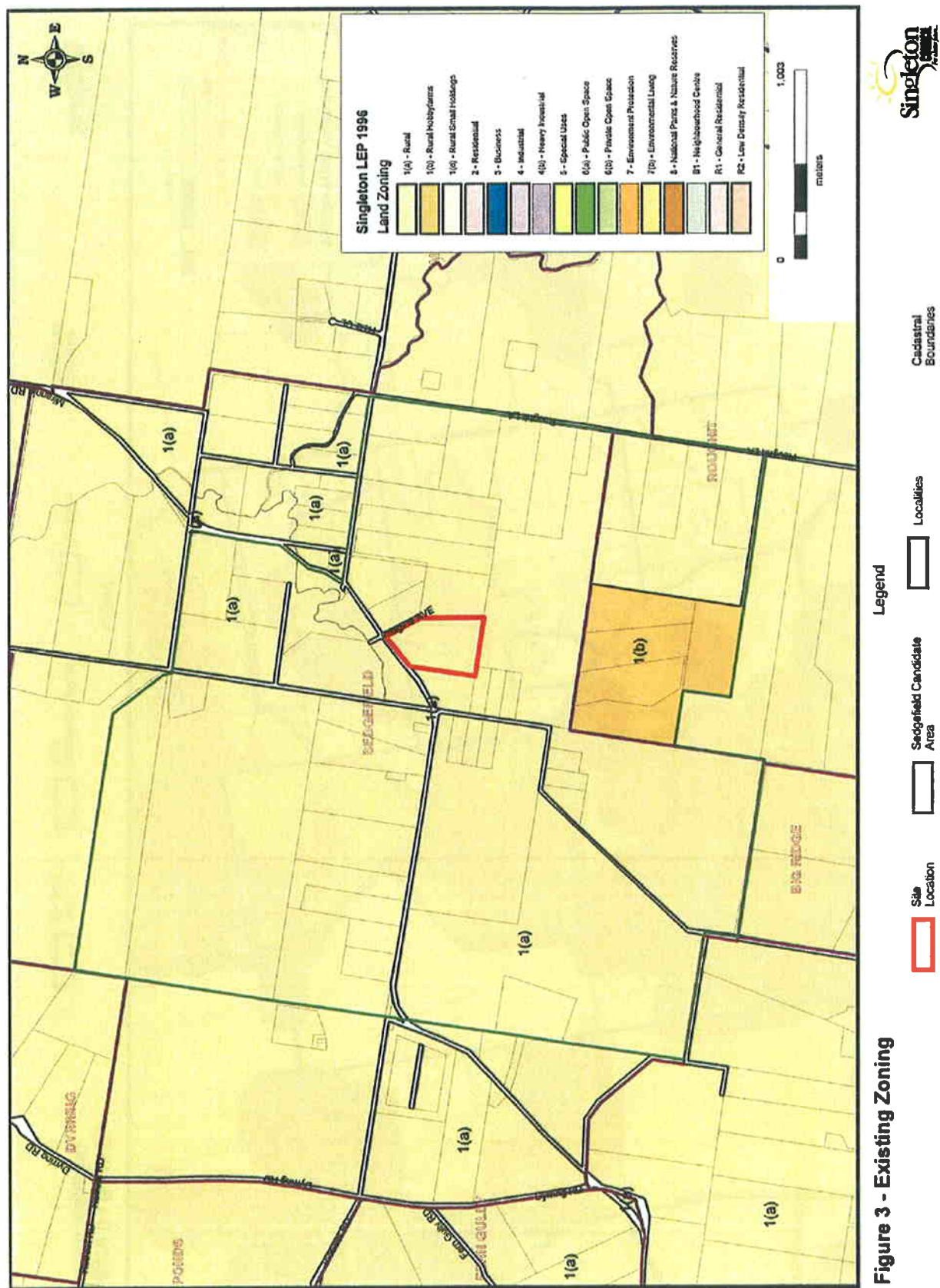
The use of an enabling clause will allow the objective of the planning proposal to be achieved, with a suitable environmental living zone being used when additional funding is available to finalise Council’s SI LEP.

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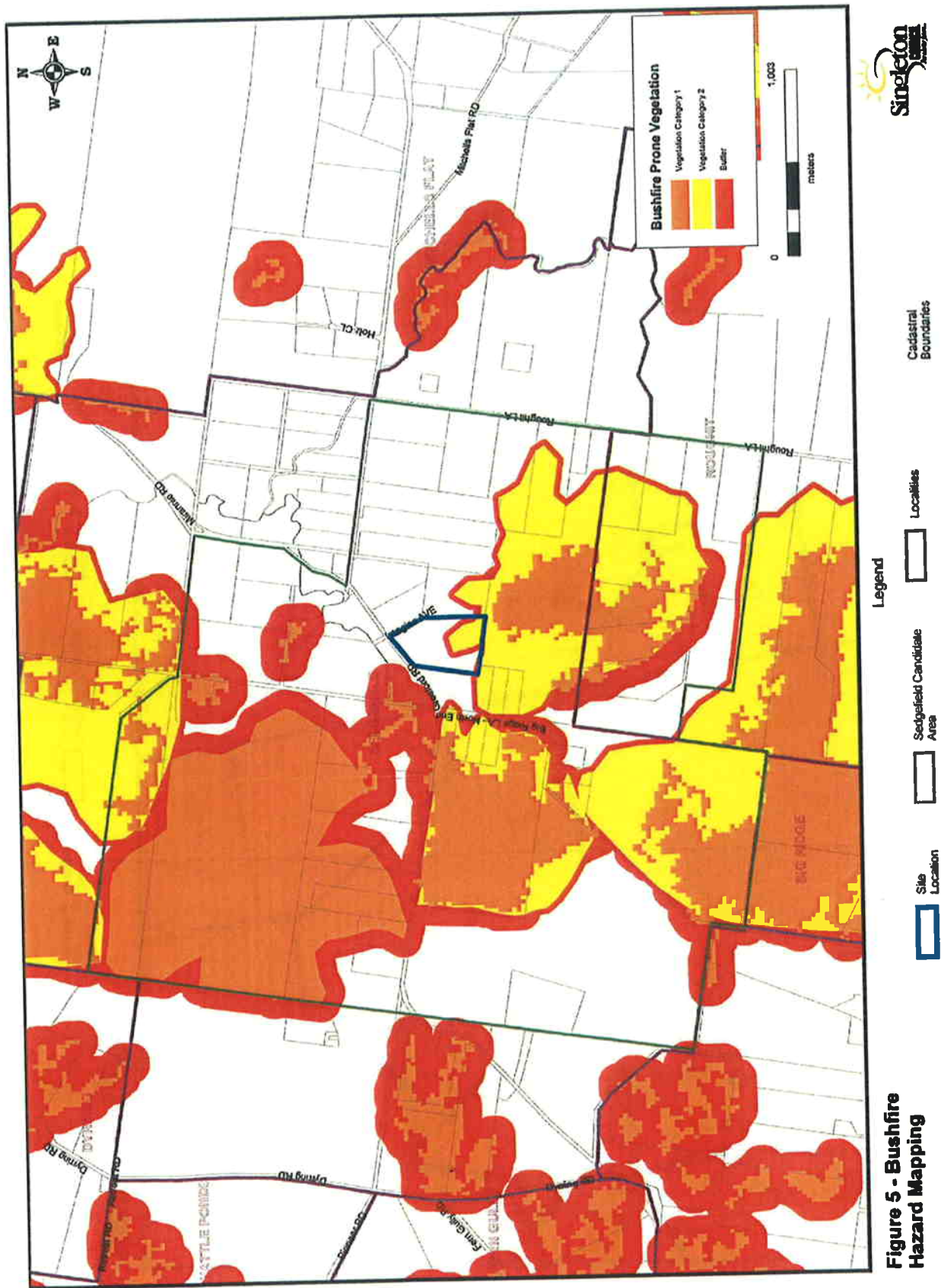
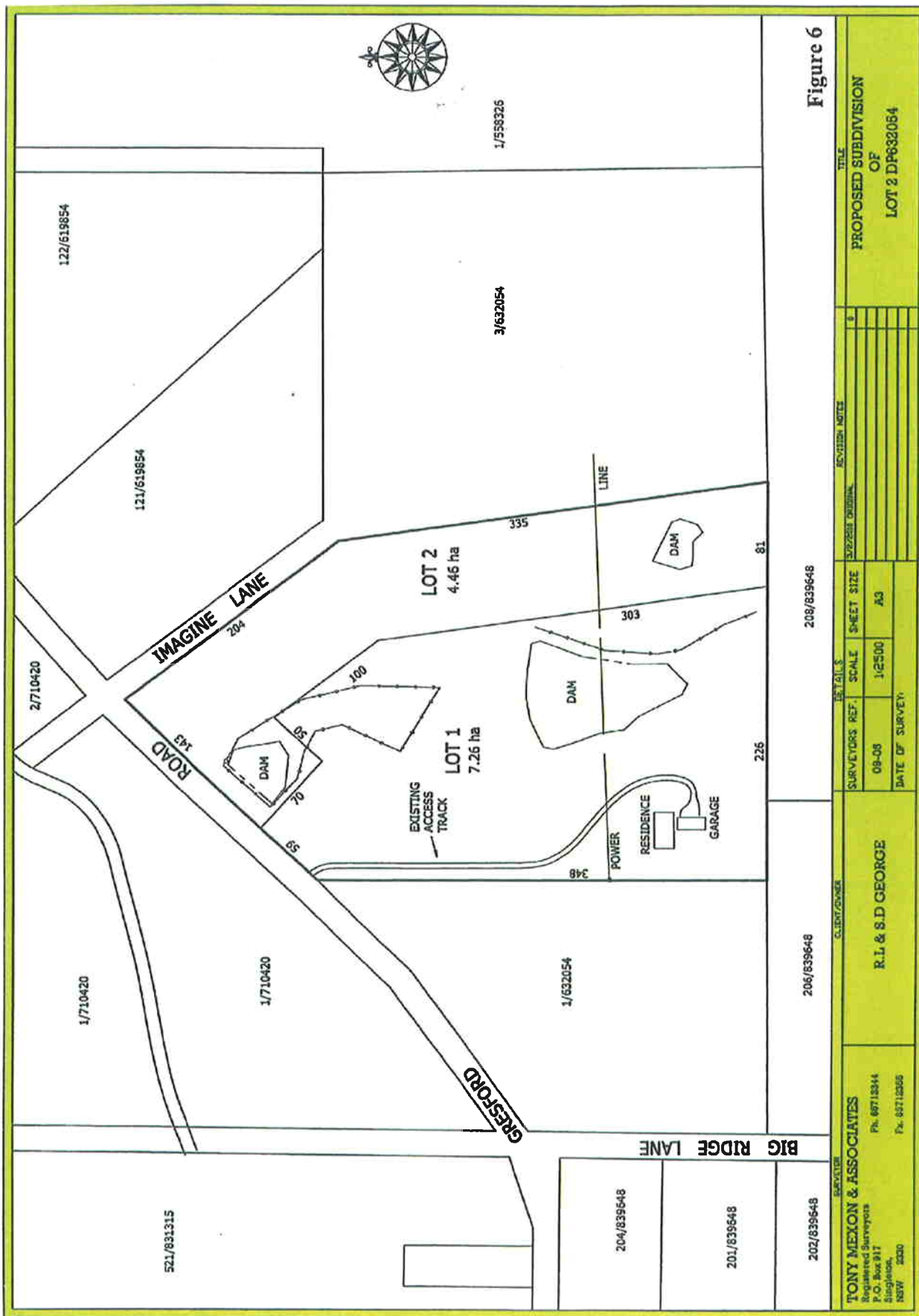


Figure 5 - Bushfire
Hazard Mapping

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**Attachment 2 Planning and Regulations Report (Items Requiring Decision) - DP&R56/10
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**Singleton Council – Planning Proposal for Lot 2 DP
710420, 79 Mirannie Road, Sedgefield – September
2010 (File: LA2/2010)**

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Figure 1: Locality Plan

Figure 2: Aerial Photo

Figure 3: Existing Zoning Map

Figure 4: Endangered Ecological Communities

Figure 5: Bushfire Hazard Mapping