

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Singleton
<b>RPA</b>	Singleton Council
<b>NAME</b>	Bulga Deferred Matter
<b>NUMBER</b>	PP_2017_SINGL_001_00
<b>LEP TO BE AMENDED</b>	Singleton Local Environmental Plan 2013
<b>ADDRESS</b>	All properties within the Bulga 'deferred area'
<b>DESCRIPTION</b>	Various
<b>RECEIVED</b>	28 November 2017
<b>FILE NO.</b>	OBJ16/03630
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of Planning Proposal

The proposal seeks to complete the repeal of the Singleton Local Environmental Plan (LEP) 1996 by incorporating the remaining land to which it applies (the Bulga Deferred Matter) into the Singleton LEP 2013.

By incorporating the deferred matter land into the Singleton LEP 2013, the land will be zoned a mix of R5 Large Lot Residential, E4 Environmental Living, RU4 Primary Production Small Lots and RE1 Public Recreation, with each zone having associated lot size controls.

The proposal also seeks to map the War Memorial Gates at Bulga Recreation Ground as an item of local heritage significance. The War Memorial Gates are currently listed under Schedule 5 of the Singleton LEP 2013.

### Site Description

The subject site is approximately 500ha and includes land west of Putty and Wambo Roads, including Bulga village centre. The subject site comprises agricultural, vegetated and cleared land. It includes dwellings, sheds and commercial buildings. It contains the existing Bulga village area and associated residential and agricultural activities, including viticulture, orchards and grazing.

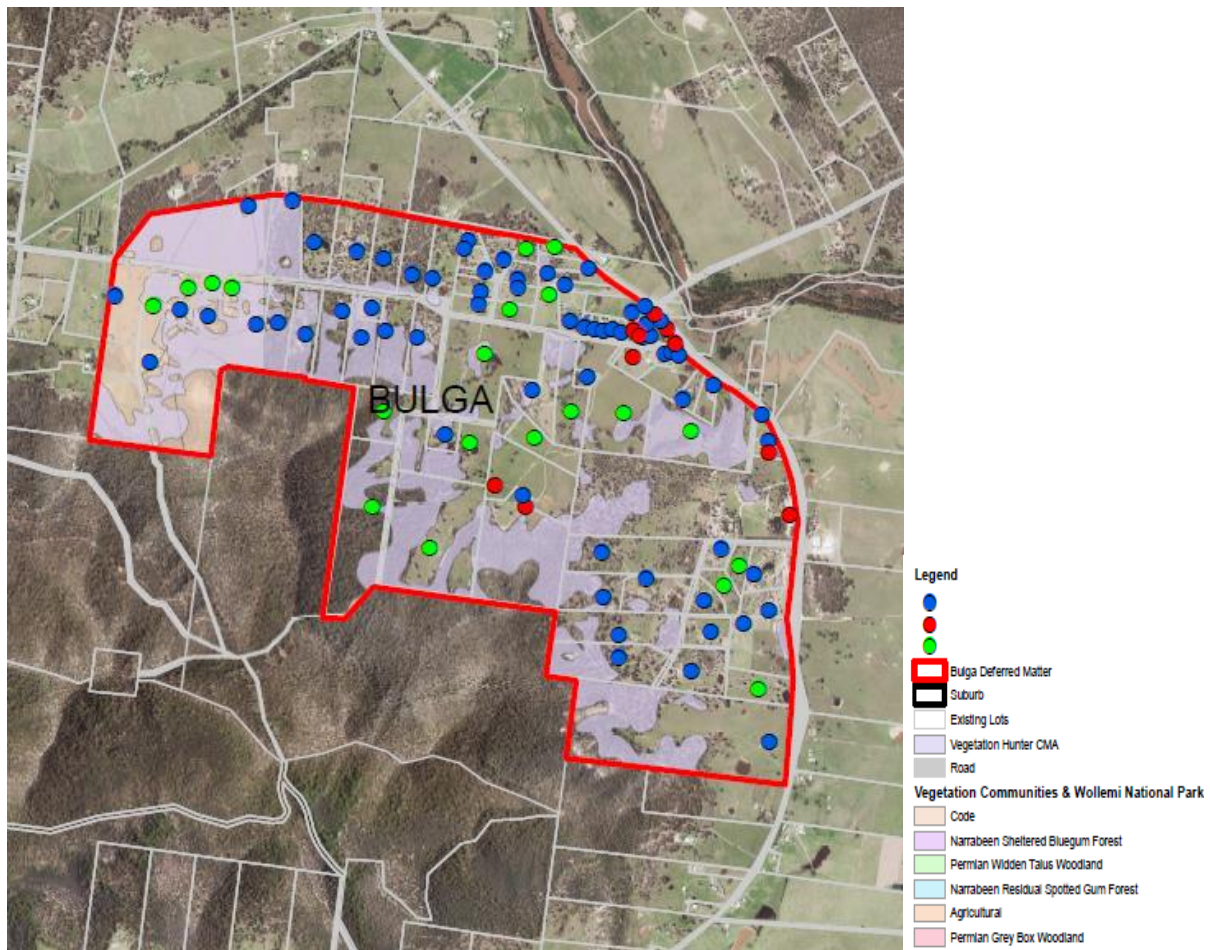


Figure 1 – Subject site depicting vegetation types and settlement pattern – dwellings (blue), sheds (green), commercial (red)

## Surrounding Area

Bulga is a small rural village approximately 25km south west of Singleton. It contains less than 200 homes and mixed-use development including residential, commercial and agricultural activities.

The village of Bulga adjoins Wollemi National Park to the south and south-west. Wollemi National Park forms part of the Greater Blue Mountains World Heritage Area.

Various mining operations are located north and east of Bulga, including the Mount Thorley and Warkworth Mines.

## Summary of Recommendation

The planning proposal should proceed with conditions because it will result in the repeal of the Singleton LEP 1996, aligns with the strategic direction for Bulga and adequately balances agricultural, residential and environmental values. It will align the site with the rest of the Singleton LGA, resulting in greater land use certainty for residents and reinforcing a sense of community.

## PROPOSAL

## Objectives or Intended Outcomes

The proposal intends to:

- complete the repeal of the Singleton LEP 1996 by incorporating the Bulga deferred matter into the Singleton LEP 2013;
- apply appropriate land use zones to the land, which are compatible with identified environmental constraints and provide for the orderly and economic use and development of the land;
- provide for large residential lots and allow for limited future growth of Bulga village by zoning certain land R5 Large Lot Residential;
- provide for low impact residential development on the land proposed to be zoned E4 Environmental Living;
- provide for sustainable primary industry on land proposed to be zoned RU4 Primary Production Small Lots
- provide for continued recreational use of the Bulga Recreation Ground by zoning the land RE1 Public Recreation; and
- map the War Memorial Gates at Bulga Recreation Ground as being an item of local heritage significance.

## Explanation of Provisions

The proposal will:

- Amend Part 1 Clause 1.3 of the Singleton LEP 2013 to remove subclause (1A) 'Despite subclause (1), this Plan does not apply to land identified as 'Deferred matter' on the Land Application Map';
- amend Land Application Map Sheet LEP\_001 to remove the 'Deferred Matter' border and label from the subject site and include the site into the Singleton LEP 2013;
- amend Land Zoning Map Sheets LZN\_009 and LZN\_009A to remove the 'Deferred Matter' border and label from the subject site and identify the site as being zoned R5 Large Lot Residential Zone, E4 Environmental Living Zone, RU4 Primary Production Zone and RE1 Public Recreation Zone;
- amend Lot Size Map Sheet LSZ\_009 to apply a 1ha minimum lot size for lots created by subdivision to that part of the site being zoned R5 Large Lot Residential Zone, and 4ha to that part of the site to be zoned E4 Environmental Living Zone, and 40ha to that part of the site to be zoned RU4 Primary Production Small Lots; and
- amend the Heritage Map Sheet HER\_009A to identify Lot 1, DP 949442 as being a heritage item (Item – General).

The proposed amendments are generally clear, however it is recommended that prior to undertaking community consultation the proposal's 'Objectives' are clarified to include that the repeal of the Singleton LEP 1996 will occur by way of Clause 1.8 of the Singleton LEP 2013, which states:

*(1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.*

Further clarification of what savings provisions will exist for DAs made before the amendment is also required.



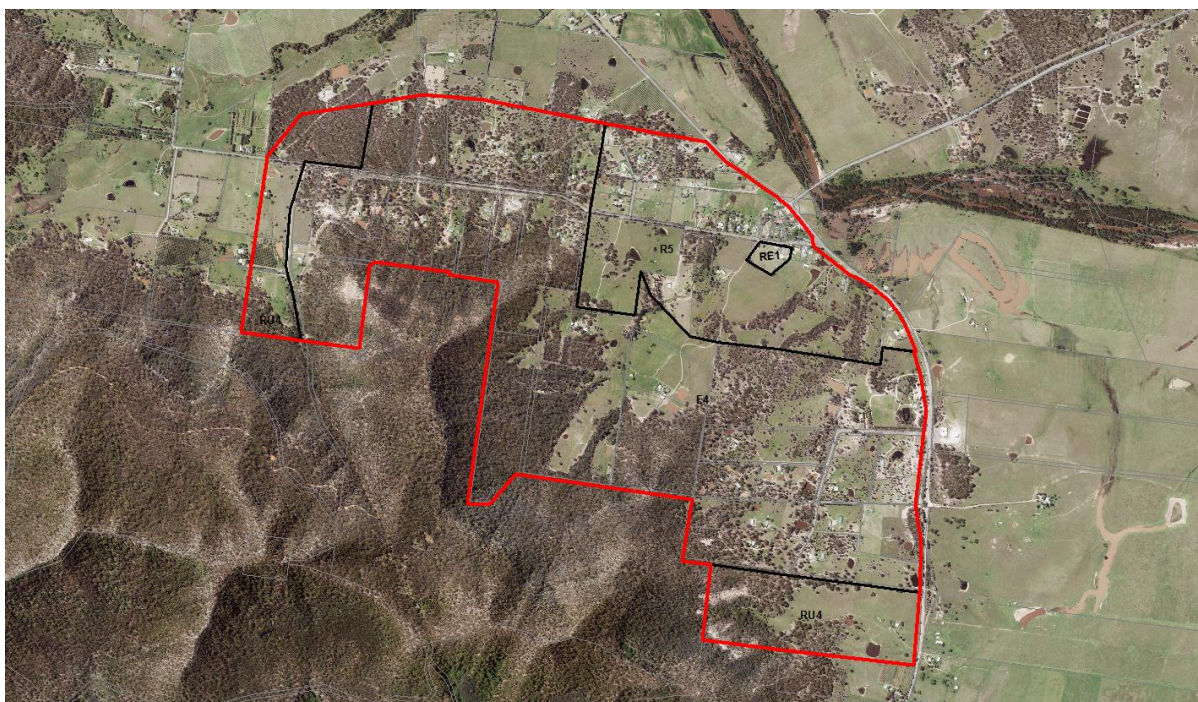


Figure 2 – Proposed zoning

## Mapping

The proposal includes amendments to a total of five LEP map sheets. Explanatory maps are included in the planning proposal. Technical maps are not provided with the proposal. Council has advised this is due to technical issues and that technical maps will be provided as part of the formal planning proposal process. This will enable the Department to request further changes if necessary.

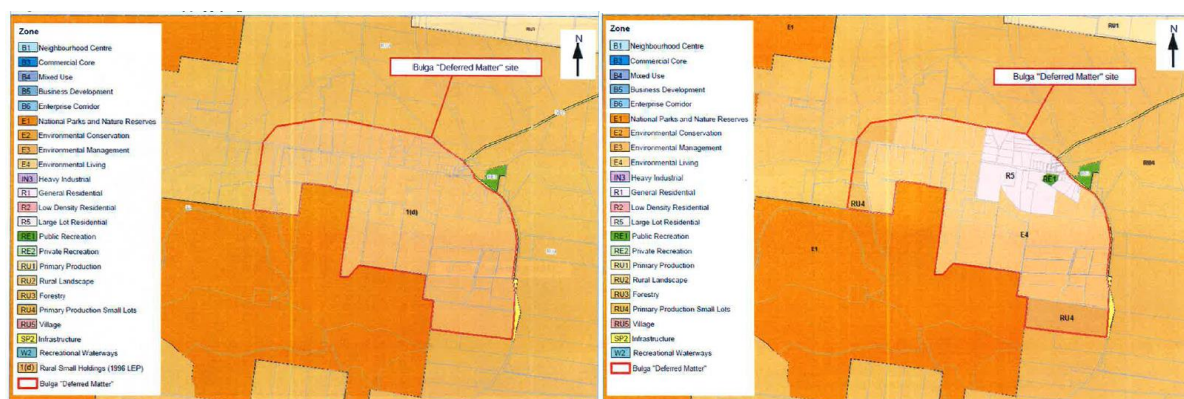


Figure 3 – Current and proposed land zoning

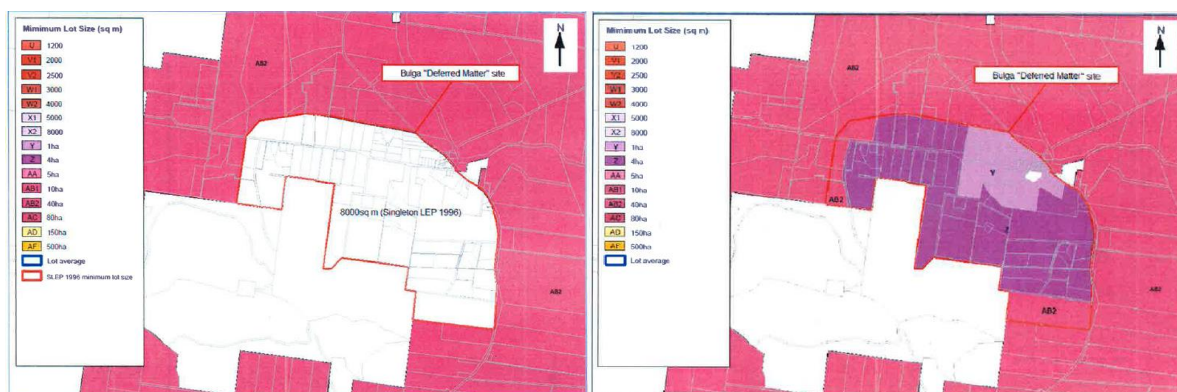


Figure 4 – Current and proposed minimum lot sizes

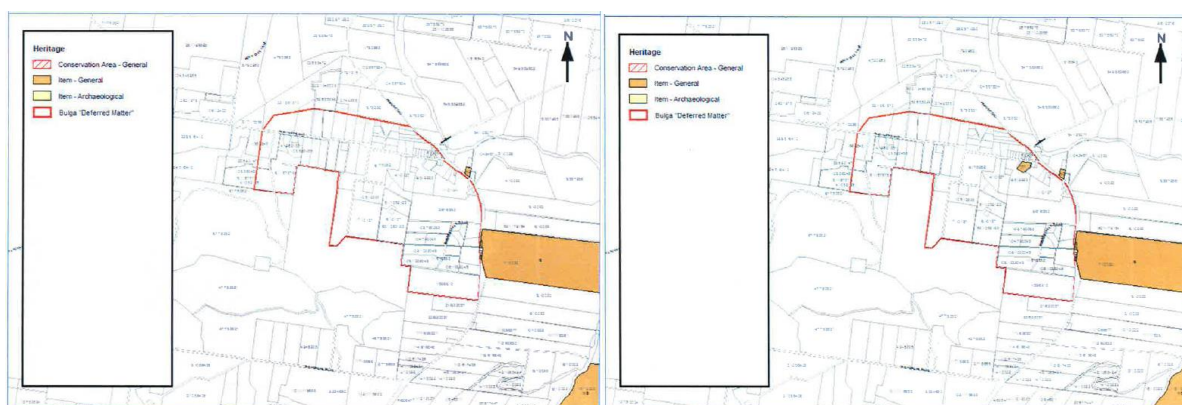


Figure 5 – Current and proposed heritage identification

## NEED FOR THE PLANNING PROPOSAL

The planning proposal has been prepared to remove the site from the Singleton LEP 1996 and include it in the Singleton LEP 2013. Currently, the site is the only land in the Singleton LGA that is subject to the provisions of the Singleton LEP 1996. The site was deferred from the LEP due to community concern over the release of the Draft Singleton LEP 2012, which proposed to zone the entire site E4 Environmental Living. The community expressed concern that a blanket E4 zoning would result in no further rural-residential development potential. OEH objected to the mix of uses within the E4 zone proposed at the time. Further consultation and investigation has occurred to progress the matter to its current stage. This planning proposal is the result of those discussions and provides a more balanced approach. It is required to guide future land use in Bulga, provide future direction for residents and reinforce a sense of community by enabling limited growth.

The proposal is not the result of a site strategic study or report. At the time of the preparation of the proposal, Council had prepared the Draft Singleton Village Master Plans 2016 to identify future options for the public domains of Broke/Fordwich and Bulga/Milbrodale, however the proposal is not the direct result of this document. The Draft Village Master Plans is a concept urban design based document which is currently under review. Although references to proposed zone scenarios and development controls are identified in the Draft, it is not intended to be a zoning strategy. Council has advised these references are intended to be removed, to avoid confusion around its application as public domain improvement document.



The land zones proposed are intended to provide for residential development in a rural setting without impacting on environmentally sensitive areas or visual amenity. The R5 Large Lot Residential zone will accommodate existing residential housing and associated development and provide opportunity for some additional growth of approximately 50 dwellings. The E4 Environmental Living zone will apply to certain land that contains EECs, riparian areas, intermittent watercourses and adjoins Wollemi National Park and is intended to help preserve and maintain significant conservation valued. The RU4 Primary Production Small Lots zone will provide for the continuation of agricultural production activities and the transition between residential, environmental and rural lands to help reduce land use conflict. Finally, application of the RE1 Public Recreation zone to the Bulga Recreation Ground will facilitate its continued use for recreational purposes.

The War Memorial Gates at Lot 1 DP 949442 are currently listed as being an item of local heritage significance in Schedule 5 of the Singleton LEP 2013. As part of the 'Deferred Matter' area, the item has not been mapped on the Singleton LEP 2013 Heritage Map. As a matter of administration, removal of the 'Deferred Matter' from the Singleton LEP 2013 will require the Heritage Map to be updated to include the heritage item that lies within the 'Deferred Matter' boundary.

The proposal is the best means for achieving the intended outcomes. If the matter is further deferred, there will be a lack of future direction and land use certainty for the community and Council. Alternative zoning approaches have also been explored for the site, including zoning it entirely RU2 Rural Landscape (proposed by the draft Singleton Village Master Plans 2016) or zoning it entirely E4 Environmental Living (as considered in 2012). Neither approach will achieve suitably balanced outcomes for the range of activities and land values contained by the site. Application of the RU2 zone of the entire site is not considered adequate to maintain and protect its EECs, whilst application of the E4 zone across the entire site would fail to acknowledge the existing development potential on several sites and its existing broad range of uses, including agriculture, viticulture and tourist and visitor accommodation.

It is considered that an amendment to the Singleton LEP 2013 is the most effective and timely method to achieve the objectives of the Proposal. Appropriate zoning and associated minimum lot size controls will best provide for the orderly and economic use and development of the land in a nature that is compatible with identified environmental constraints.

## **STRATEGIC ASSESSMENT**

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### **State**

#### *Hunter Regional Plan 2036*

The planning proposal does not consider assessment against the Hunter Regional Plan 2036 ('the Plan') under 'Section B: Relationship to Strategic Planning Framework', however under its assessment of Section 117 Ministerial Directions, it provides information on its consistency with the Plan. It is recommended that Section B of the planning proposal be updated to include discussion of its relationship to the Plan, its objectives and actions.

Generally, the proposal is consistent with the Plan, which provides for the protection and enhancement of agricultural productivity (Direction 10), the protection and connection of natural areas (Direction 14), the identification and protection of the region's heritage (Direction 19), the revitalisation of existing communities (Direction 20), the creation of compact settlements (Direction 21) and the promotion of housing diversity (Direction 22).

Through the application of the RU4 Primary Production Small Lots zone, the proposal intends to protect and enhance existing agricultural production (viticulture, orchards and olive groves) and grazing in Bulga village, in accordance with Direction 10. The E4 Environmental Living Zone will provide for the conservation of the Central Hunter Grey Box – Ironbark Woodland EEC, riparian areas and intermittent watercourses. It will also provide for a natural transition between existing settlement patterns and the Wollemi National Park to the south and west, thereby maintaining and protecting important habitat connections per Direction 14.

By identifying the War Memorial Gates at Bulga Recreation Ground as an item of local heritage significance requiring listing on the Singleton LEP 2013 Heritage Map, the proposal is consistent with Direction 19. The proposed mix of zones and minimum lot size provisions will provide for a limited amount of infill development and given the existing settlement patterns over the site, it is unlikely that the disturbance of places of Aboriginal Cultural Heritage is expected to increase.

By providing for a limited amount of growth within the existing Bulga village area, the proposal will help reinforce and enhance opportunities for the local community, potentially aiding its long-term viability and social infrastructure and public facilities. In line with Direction 20, the proposal seeks to grow and encourage Bulga's unique history and sense of identity.

The proposal aligns with Directions 21 and 22 because it will provide for a limited amount of infill growth within the existing urban settlement of Bulga village. By providing for limited growth and the continuation of existing activities and settlement patterns, the proposal will encourage greater housing diversity associated with the varied rural lifestyles of Bulga's residents.

### **Regional / District**

#### *Upper Hunter Strategic Regional Land Use Plan (UHSRLUP)*

Chapter 3 of the UHSRLUP recognises the need to provide a balance between agriculture and resource development. The site is within the 'Strategic Agricultural Land' (SAL) clusters for the viticulture industry, equine industry and beef industry, is identified as having an exploration license and prospective coal and gas potential and in proximity to extensive current mining activities.

The planning proposal is not expected to impact on the mineral resource potential or current mine operations of the area. Nor is it expected to impact on the current agricultural activities occurring in Bulga, as application of the RU4 Primary Production Small Lots zone to the northwest and southeast sections of the site will provide for the continuation of current agricultural produce activities.

The proposal is consistent with Chapter 6 of the UHSRLUP, which recognises the need to provide a mix of housing to cater for population growth and ongoing demand. Albeit limited, the proposal provides opportunities for infill growth of the village through application of the R5 Large Lot Residential and E4 Environmental Living zones, which provide for dwellings subject to capability and suitability criteria.

## **Local**

### *Singleton Land Use Strategy (SLUS)*

The SLUS outlines key land use policies and principles for Singleton LGA. Actions in the SLUS proposed that Bulga be zoned entirely E4 Environmental Living, with a 5ha minimum lot size. This was based on: the site's capability and suitability criteria, that parts of the site comprise the Central Hunter Grey Box – Ironbark Woodland EEC, that the site adjoins Wollemi National Park and that there is no reticulated water and sewer supply.

The planning proposal is inconsistent with the SLUS because it does not propose a blanket E4 Environmental Living zone for the site and recognises development potential, however limited, exists for Bulga.

Inconsistency with the SLUS can be justified based on the following:

- it is not appropriate to apply an E4 Environmental Living zone to the entirety of the site because it prohibits a number of activities currently contained by the site, including, but not limited to, agricultural produce industry, forestry, viticulture, retail premises, community facilities and tourist and visitor accommodation. Given the current agricultural activities occurring in Bulga and the potential growth of tourist and visitor accommodation, broad application of the E4 zone is unsuitable;
- the proposed mix of E4 Environmental Living, R5 Large Lot Residential, RU4 Primary Production Small Lots and RE1 Public Recreation zones is a more balanced approach which will best accommodate existing residential, agricultural, environmental and recreational land uses and provide for additional growth opportunities per the UHSRLUP;
- the proposed minimum lots sizes (4ha for E4, 1ha for R5, 40ha for RU4) will provide for the continuation of current land uses and opportunities for limited growth. Varied lot sizes best reflect the current and potential future uses of the site and are more appropriate than the 5ha minimum lot size provided by the SLUS;
- funding has been approved for a proposed water supply network project that involves the construction of a packaged water treatment plan and associated pipelines and water reticulation network; and
- future development of the site and the use of on-site sewerage management systems is possible with appropriate minimum lot sizes, such as the 1ha and 4ha minimum lot sizes for R5 and E4 land respectively, as these are generally large enough to accommodate on-site effluent dispersal.

### *Singleton Community Strategic Plan (CSP) 2013*

The planning proposal is consistent with the principles in the Singleton CSP 2013. The proposed mix of R5, E4, RU4 and RE1 zones will help provide some opportunities for growth within the village, identify local heritage items, help maintain important environmental characteristics and protect agricultural activities on the site.



## **Section 117(2) Ministerial Directions**

Council has identified a number of s 117 Directions as being relevant to the Proposal. Further analysis is provided below for those Directions where additional discussion or work is required before consistency can be determined or where the Proposal is inconsistent.

### *1.2 Rural Zones*

The objective of this Direction is to protect the agricultural production value of rural land. The proposal seeks to rezone the site from wholly rural land, to a mix of residential, environmental, recreational and rural land and in this regard, is inconsistent with the Direction.

The site is currently zoned 1(d) Rural Small Holdings in the Singleton LEP 1996. Although a residential zone, the proposed R5 Large Lot Residential zone has objectives that align with the 1(d) zone. Both the R5 and 1(d) zones provide for residential housing in appropriate rural settings without impacting on visual amenity and existing or future public services. The R5 zone additionally provides for the minimisation of land use conflicts. The proposed R5 zone is predominantly being used for non-agricultural purposes and contains Bulga village centre. A small part of this proposed zone is however, being used for cropping and grazing, which is prohibited under the R5 zone. Council suggests that if the land is not zoned either R5 or E4, it will remain as an isolated agricultural lot on the periphery of a residential zone and will adjoin environmental land, thereby increasing the potential for land use conflict. Figure 6 identifies where existing agricultural activities generally occur within the proposed R5 zone (approximately 16ha total) and illustrates that these activities are adjacent to land proposed for environmental protection (to the south) but are isolated from other agricultural land.

Whilst it is acknowledged that application of the R5 zone to land currently being used for agriculture is inconsistent with Direction 1.2, it is considered to be the best approach for the location on account of its isolated nature and noting the intended future uses envisaged by Council for the adjoining lands.

The E4 zone will primarily apply to land that contains EECs, riparian areas and intermittent watercourses. As an environment zone, it is inconsistent with Direction 1.2 because it will not protect the agricultural production value of the land. The proposed E4 zone and increase in minimum lot size from the current 8000sqm to 4ha will however, better align with the existing settlement patterns (rural lifestyle housing) of the area than a rural zone. It will also provide an important buffer between the R5 and RU4 zones (see Figure 6), as well as the Wollemi National Park to the south.

Agricultural production in the northwest and southeast part of the site will continue as part of the proposal. Application of the RU4 Primary Production Small Lots zone will help retain existing primary industries such as grazing, cropping, viticulture, olive groves and orchards. A minimum lot size of 40ha is proposed for this component of the site to align the land with neighbouring RU4 land and to protect the agricultural production value of the land. This component of the proposal is considered consistent with the direction.

Inconsistency with Direction 1.2 can potentially be justified on the basis that Council is seeking to achieve a balance of agricultural, environmental and residential outcomes for the site to enable its successful transition into the Singleton LEP 2013. Notwithstanding, consultation with NSW DPI is recommended before the Secretary decides whether to agree that the inconsistency with the Direction is justified.

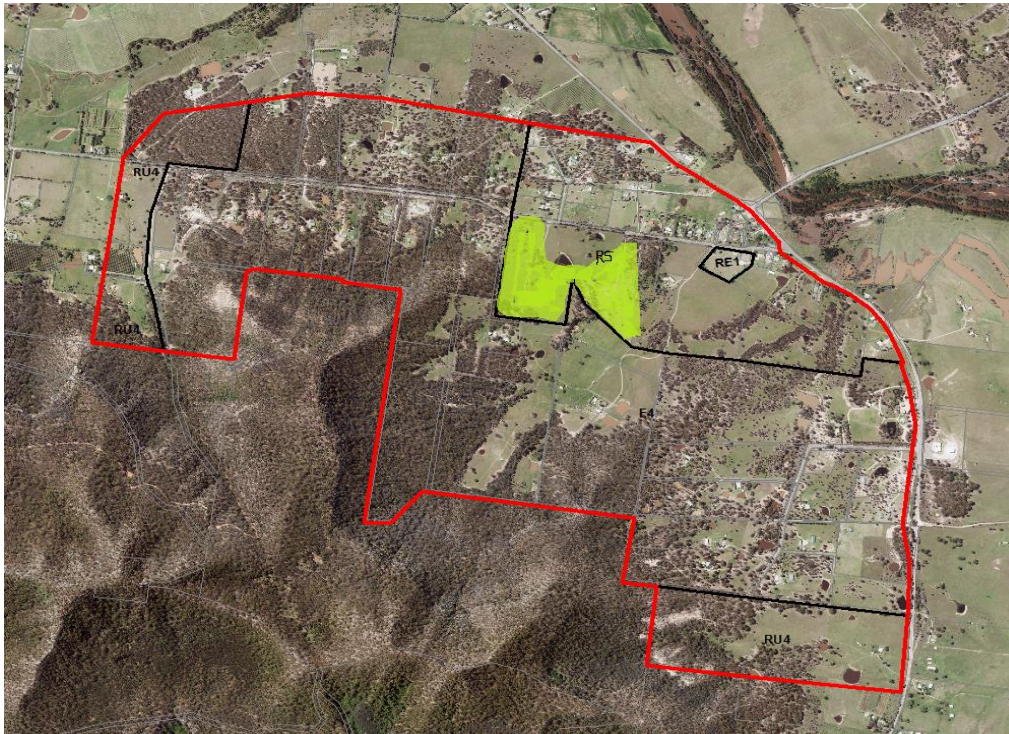


Figure 6 – Green highlight shows where existing agricultural activities occur in the proposed R5 zone

### 1.3 Mining, Petroleum Production and Extractive Industries

According to the UHSRLUP, the site has an existing exploration license and has prospective coal and gas exploration potential. The Bulga Mine Complex is also located approximately 3km to the west southwest of the site.

According to State Significant Development Assessment – Bulga Optimisation Project (SSD 4960), mining related impacts are expected to decrease overtime as the mine operations progress. Similarly, impacts from the Mount Thorley Continuation and Warkworth Expansion Projects (SSD 6464/6465) are also expected to decrease over time.

The planning proposal will have the effect of prohibiting open cut mining and extractive industries. Any effect can be determined through consultation with NSW Resources & Energy, after which, consistency with this Direction can be determined.

### 1.5 Rural Lands

Direction 1.5 applies because the planning proposal will affect land within an existing or proposed rural or environment protection zone and will change the existing minimum lot size of rural land. The proposal is considered to be generally consistent with the Rural Planning Principles and Rural Subdivision Principles in SEPP (Rural

Lands) 2008, with the exception of a property in the proposed R5 Large Lot Residential zone.

The proposal is generally consistent with Direction 1.5 in the following ways:

- it seeks to protect areas of the site identified as having important agricultural value, including existing primary industries such as grazing, viticulture and orchards;
- it seeks to balance the social, economic and environmental interests of the community by providing for a limited amount of infill growth around the existing settlement, continued agricultural and rural activities and improved environmental protection and the maintenance of biodiversity;
- it provides for rural lifestyle opportunities that will contribute to the social and economic welfare of the Bulga community; and
- it proposes a balance of zoning that considers the existing settlement pattern and creates land use buffers to minimise land use conflict.

Whilst the R5, E4 and RE1 zones will reduce the agricultural production potential of the site, these zones have been chosen to reflect existing settlement patterns, land uses and environmental constraints. Land within these zones is not considered to be suitable for cultivation, with the exception of an existing property within the R5 zone. This property is currently being used for grazing and cropping. Application of the R5 zone to this property is inconsistent with Direction 1.5 and will result in the fragmentation of this property from other rural land. However, given its location, the future uses intended for the adjoining lands, and, in Council's view, marginal agricultural nature, if the land was zoned for rural purposes it would remain isolated, increase the potential for land use conflict and weaken the proposed buffer between different land uses.

Inconsistency with Direction 1.5 can potentially be justified on the basis that application of the R5, E4 and RU4 zones and associated minimum lot size requirements will help protect existing agricultural production values of the site to achieve the orderly and economic development of rural lands and associated activities. Nevertheless, further agency and community consultation is required before the Secretary determines consistency with this Direction.

### *2.1 Environment Protection Zones*

The planning proposal is generally consistent with Direction 2.1, however ecological aspects of the proposal remain unresolved and consistency should be determined following further consultation with OEH. As the proposal includes provisions to facilitate the protection and conservation of environmentally sensitive areas, including areas with the Central Hunter Grey Box – Ironbark Woodland EEC and riparian areas, the environmental protection standards of the site will increase under an E4 Environmental Living zone and a 4ha minimum lot size (currently 8,000 sqm). Council has advised that as part of the preparation of the Singleton LEP 2013 and during a community consultation workshop held at Bulga, OEH recommended that the entire site be zoned E4 to include lots comprising EECs and land which adjoined the Wollemi National Park. Further consultation with OEH is required to ensure identified environmental values are adequately protected under the proposal. Consistency with Direction 2.1 should be determined following further consultation.



### *2.3 Heritage Conservation*

The proposal is consistent with Direction 2.3, as it is not expected to impact on Aboriginal or European cultural heritage and includes provisions to facilitate identification of the War Memorial Gates at Bulga Recreation Ground as being of local heritage significance. The proposed mapping of the gates is for administrative purposes, as the gates are already listed in Schedule 5 of the Singleton LEP 2013.

### *3.1 Residential Zones*

The planning proposal seeks to apply the R5 Large Lot Residential zone, with a 1ha minimum lot size requirement, to the existing Bulga village area. This will provide limited opportunity for infill development, deliver potential diversity of housing choice, accommodate future housing needs and concentrate future development within the existing footprint to reduce impacts on the environment and resource lands and make efficient use of existing services. Council has advised the 1ha lot size, as opposed to an 8000sqm lot size, is required to provide adequate effluent dispersal opportunities and help reduce environmental effects for future subdivision within the R5 zone. This is consistent with the approach taken through the rest of the Singleton LGA. In regard to servicing, Council has advised that the Bulga Water Supply Scheme project is already underway and is due for completion in May 2018. This will supply reticulated potable water to the immediate village area. The proposed residential land will therefore be adequately serviced. Notwithstanding, the proposal would result in a decrease in residential density due to the minimum lot size of the land increasing from 8,000 sqm to 1 ha. The proposal is therefore considered inconsistent with the direction.

The E4 Environmental Living portion of the site, which will permit limited low-impact residential development, will result in the residential density of this land being reduced due to the minimum lot size changing from 8,000 sqm to 4 ha. This is inconsistent with the requirements of the direction. Council has sought to limit future growth in this area in response to the environmental values of that land. A 4ha minimum lot size will provide some scope for subdivision within the E4 zone but it will not provide for future growth of the immediate village or increase impacts on vegetated areas of the site.

Council has sought to achieve a balanced outcome for the site, having considered the characteristics of the land, existing uses and intended future uses of the site. While the inconsistency with this direction may be justified, further agency and community consultation is required before the Secretary should agree that the inconsistency is justified.

### *3.4 Integrated Land Use and Transport*

Application of the R5 zone and 1ha minimum lot size requirement would provide some opportunity for infill development. Future development is anticipated to be on a lot by lot basis. The zone also accommodates existing residential housing and associated village activities. The planning proposal is generally consistent with Direction 3.4. The small amount of potential infill development within the immediate village and adjoining E4 zoned land is not expected to increase traffic movements or public transport demand.

### *4.2 Mine Subsidence and Unstable Land*

The planning proposal incorrectly identifies the subject site as being within a Mine Subsidence District. Land to the east of the Wollombi Brook is part of the Patrick Plains Mine Subsidence District but land to the west of Wollombi Brook is not contained in the District. The planning proposal should be amended to reflect this. Given that the land is not within a Mine Subsidence District, the proposal is consistent with Direction 4.2.

#### *4.3 Flood Prone Land*

Isolated parts of the site are subject to localised flooding from Wollombi Brook and a series of intermittent watercourses also dissect the site. The proposal is therefore inconsistent with Direction 4.2. The Wollombi Brook Flood Study 2016 indicates that parts of Bulga village could be affected by flood inundation for the 1% AEP and Extreme Flood events. The flood prone land is primarily located within a small area of the existing village, in the south-eastern corner of the proposed R5 zoned land. Although this area is proposed to be zoned R5 Large Lot Residential, its development potential is unlikely to increase given its proposed 1ha minimum lot size requirement and existing settlement pattern. Future development of potential flood affected land within the site should be subject to further detailed flood investigation. Inconsistency with Direction 4.2 is considered to be of minor significance.

#### *4.4 Planning for Bushfire Protection*

Parts of the site are mapped as bushfire prone. Those parts are primarily contained within the E4 zone, which will enable the associated 4ha minimum lot size requirement to help provide for dwelling house construction with adequate asset protection zones. Consultation with RFS is required before consistency with this Direction can be determined.

#### *5.10 Implementation of Regional Plans*

As outlined above, the proposal is consistent with the Hunter Regional Plan 2036. In particular, it achieves the objectives of Direction 10: Protect and enhance agricultural productivity, Direction 14: Protect and connect natural areas, Direction 19: Identify and protect the region's heritage, Direction 20: Revitalise existing communities, Direction 21: Create a compact settlement and Direction 22: Promote housing diversity.

#### *6.2 Reserving Land for Public Purposes*

The planning proposal seeks to rezone the existing Bulga Recreational Ground, which is owned by Singleton Council and is presently used for public recreation. The proposal will rezone the ground from 1(d) Rural Small Holdings Zone to RE1 Public Recreation. Given the current use and ownership of the Bulga Recreation Ground, the proposal is not expected to generate any adverse impacts on public land. Rezoning will legitimise the existing land use. The direction requires that the Secretary agree to the creation of zonings of land for a public purpose. As such, and noting that the land is owned by Council and used for public recreation, the Secretary should agree to the proposed RE1 Public Recreation zoning being applied.

### **State Environmental Planning Policies** *SEPP (Rural Lands) 2008*

This SEPP applies because the site is currently zoned 1(d) Rural Small Holdings Zone under the Singleton LEP 1996. The Proposal is consistent with the SEPP because it facilitates the orderly and economic use and development of rural land in line with the Rural Planning Principles and Rural Subdivision Principles. The Proposal considers the nature of existing agricultural holdings in the Bulga area, the existing and planned future supply of residential land and the appropriate lot sizes for the subject site based on environmental, servicing and land use constraints of the land.

Existing agriculture located within the site will be protected by the proposed RU4 Primary Production Small Lots Zone. Its proposed associated 40ha minimum lot size requirement will reduce the potential for rural land fragmentation. The RU4 zone recognises the importance of rural lands and agriculture and will provide for the continuation of viticulture, orchards, grazing, cropping and other agricultural activities. It is separated from the R5 Large Lot Residential zone by the E4 Environmental Living zone which seeks to reduce potential land use conflict by creating a buffer between agricultural activities and residential land use.

The creation of an R5 Large Lot Residential zone will provide for rural lifestyles. Future development within the R5 zone will strengthen the existing Bulga village settlement pattern and viability of the existing water supply network.

EECs and other environmental values of the subject site will be managed by an E4 Environmental Living zone, with large allotments comprising 4ha or more. This is consistent with the planning principles of the SEPP, as it provides for protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation and the importance of water resources. The E4 zone will serve as an important buffer between agricultural and residential uses and Wollemi National Park to the south. Creating this transition considers the natural constraints of the land.

#### *SEPP (Vegetation in non-Rural Areas) 2017*

This SEPP will apply to the proposed R5 and E4 zoned land. The Central Hunter Grey Box – Ironbark Woodland EEC is located on certain land in the proposed E4 zone and neighbouring Wollemi National Park. Certain parts of the proposed R5 zone also comprise native vegetation.

The planning proposal does not propose clearing of vegetation and is generally consistent with the SEPP. The R5 zone is intended to allow limited infill growth, whilst the E4 zone aims to protect the biodiversity values of the land and create a transition between agricultural, residential and environmental values. By increasing the current minimum lot size requirement from 8000sqm to 1ha and 4ha respectively, the potential future impacts of development will be reduced because dwellings can appropriately sited, accounting of environmental constraints.

Future development of the site will be subject to the provisions and vegetation clearing processes under the SEPP, Biodiversity Conservation Act 2016 and Local Land Services Assessment Act 2017.

## **SITE SPECIFIC ASSESSMENT**

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## **Social**

### *Land use conflict*

The land is being zoned a mix of R5, E4, RU4 and RE1 zones which reflects Council's desire to adopt a balanced approach to the proposed planning controls for Bulga. Minimum lot size requirements for these zones (except RE1) are 1ha, 4ha and 40ha respectively. The minimum lot size requirements will provide for some limited growth (up to approximately 50 dwellings) in the immediate village, whilst maintaining and protecting important environmental values. Existing land use in the village is not expected to change under an R5 zone. It is acknowledged that one property in the proposed R5 zone is presently being used for agriculture. This land is approximately 16ha in area. The majority of lots surrounding the property are being used for rural lifestyle purposes. It is considered that application of the R5 zone is most suitable for this land, as a rural zoning would result in isolation of a single rural property. The consequence of this is that the long-term outcome for this land involves it being surrounded by non-rural uses, thereby potentially making current activities on this site unviable in the long-term. The R5 zone will also provide a transition between the R5 and E4 zoned land, thereby helping to minimise potential conflict between agricultural, residential and associated land uses. Future development of the proposed R5 land would be in accordance with development controls to reduce the impacts of development.

Land uses in the proposed E4 zone are unlikely to significantly alter from existing rural lifestyle uses. As the most common land use conflict in rural settings is loss of amenity, application of the E4 zone to this part of the site will help preserve the existing natural amenity of its wooded areas. It will also increase protections for its EECs and other environmental attributes. Although OEH has previously recommended that the entire Deferred Matter site be zoned E4, this would be unsuitable for all current land uses and would increase the likelihood of land use conflict.

The proposed RU4 zone will be applied to land used for agricultural produce industry purposes. It will provide for agriculture and compatible uses and adjoins existing agricultural lands outside of the site. Land within the site that adjoins the RU4 zone will be zoned E4 to accommodate environmental attributes and create a vegetation buffer between the residential village area and agricultural activities. This will help mitigate noise, spray drift and improve visual amenity, thereby reducing the potential for land use conflict.

The RE1 zone will align zoning of the Bulga Recreation Ground with its existing recreational use. Land use conflict from this rezoning is not anticipated, however community consultation needs to occur so that potential social impacts and concerns can be raised and considered.

### *Reduction in development potential*

Increasing the minimum lot size requirement for the proposed R5 Large Lot Residential area of the site from 8000sqm to 1ha reduces its development potential. Council has advised that a 1ha minimum lot size is appropriate for the R5 area because it will provide adequate effluent dispersal opportunities and help reduce environmental effects for any future subdivision of land within that zone. A 1ha minimum lot size or less is also generally applied to other R5 zones land throughout

the LGA. The impact of this is that what is potentially possible under the existing controls may cease to be possible under the new lot size requirement. Further community consultation on Council's approach is required.

## **Environmental**

### *Ecology*

The site does not contain threatened species per Schedule 1 of the Biodiversity Conservation Act 2016 and according to the OEH conservation project database, there are no known/identified threatened species populations on the site. It does however comprise the Central Hunter Grey Box – Ironbark Woodland EEC. The majority of land comprising this EEC will be zoned E4, which is intended to help maintain and protect the EEC and important biodiversity values. It is acknowledged that some EEC populated land will be within the RU4 zone. Given minimum lot sizes are proposed to increase from 8000sqm to 4ha and 40ha for the E4 and RU4 zones respectively, the proposal is expected to reduce impacts on vegetated areas of the site and future subdivision should be designed to avoid impacts on habitat.

### *Heritage*

An Aboriginal Cultural Due Diligence Assessment has not been proposed for the planning proposal.

Whilst the proposed R5, E4 and RU4 zones will provide some opportunities for subdivision and development, the likelihood of disturbance is not expected to substantially increase. The associated minimum lot size requirements for each zone are proposed to increase, which will reduce the potential impact on items or places of significance. Existing levels of disturbance, including historic land clearing and agriculture, also minimises the likelihood of the site comprising heritage items. Anecdotally, areas in proximity to the Wollombi Brook may contain Aboriginal heritage items. Future development applications will need to apply for an Aboriginal Heritage Impact Permit if it is determined that the development will impact on heritage items.

The proposal includes mapping the Bulga War Memorial Gates at Bulga Recreational Ground, an item of local significance. The proposal is not expected to result in any impacts on the item.

### *Flooding*

Figure 7 is derived from the Wollombi Brook Flood Study 2016. Figure 7 illustrates those parts of the site affected by 1% AEP flooding. The Flood Study indicates that parts of Bulga village could be affected by flood inundation for the 1% AEP and Extreme Flood events. The flood prone land is primarily located within a small area of the existing village, in the south-eastern corner of the proposed R5 zoned land. Although this area is proposed to be zoned R5 Large Lot Residential, its development potential is unlikely to increase given its proposed 1 ha minimum lot size requirement. Future development of flood prone land will be subject to further detailed flood investigation.

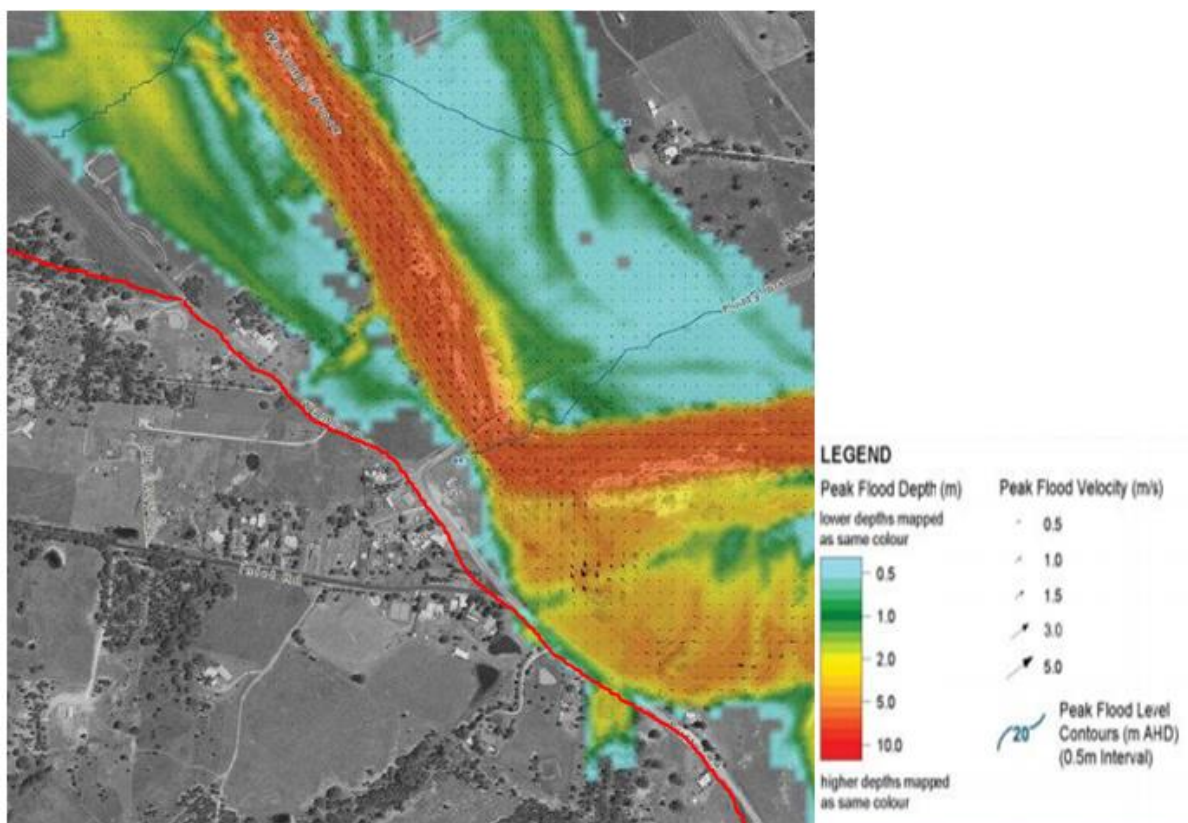


Figure 7 – Flood map for 1% AEP, Wollombi Brook Flood Study 2016 (red line outlines subject site)

## Economic

### *Servicing and infrastructure*

Council has committed to delivering the Bulga Water Supply Scheme, which will provide potable water to the Bulga village. Plans are progressing for the project and a 50% funding commitment has been secured from the NSW Government.

The Mt Thorley Warkworth Voluntary Planning Agreement has also been negotiated to ensure funding for community infrastructure and services for mine affected areas, including Bulga village. Bulga will receive approximately \$6.6million over the 21-year life of the VPA. Overall, this funding will provide improved services and facilities for the community.

## CONSULTATION

### **Community**

Council proposes a minimum 28-day exhibition period. This approach is supported because the proposal the proposal is not considered to be low impact, given the interest of the community in the rezoning process and the size of the area proposed for rezoning.

Additionally, Council intends to conduct a community consultation workshop for residents and interested stakeholders to discuss the changes. This is supported given the extent of properties proposed to be affected.

### **Agencies**

Council is to consult with the following agencies and public authorities:



- NSW Office of Environment and Heritage (OEH)
- NSW Rural Fire Service (RFS)
- NSW Department of Primary Industries – Agriculture
- NSW Planning and Environment – Resources & Energy

## **TIMEFRAME**

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The planning proposal outlines a 12-month timeframe for completing the LEP. Further advice provided by Council however, indicates that an 18-month timeframe is more realistic, given the extent of consultation required. The Department supports an 18-month completion timeframe. It is recommended that Council amend this section of the proposal to reflect the proposed timeframe.

## **DELEGATION**

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Council does not request delegation for the proposal. This can be supported, noting the high level of interest in Bulga's planning controls during the preparation of the Singleton LEP 2013.

## **CONCLUSION**

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Preparation of the planning proposal is supported to proceed with conditions.

The proposal is consistent with the strategic framework and will complete the repeal of the Singleton LEP 1996. It supports the objectives of the Hunter Regional Plan 2036 and provides for strengthening of agricultural productivity, the protection and connection of natural areas, the identification and protection of heritage, the creation of infill housing opportunities and the revitalisation of existing communities.

The proposal seeks to effectively manage various environmental, residential and agricultural constraints across the subject site to maintain balanced land use, protect environmentally sensitive areas and provide for the orderly and economic use and development of the land. Agency and community consultation will assist in establishing the suitability of Council's proposed approach.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. Agree any inconsistency with Section 117 Direction 4.3 Flood Prone Land is minor and justified;
2. Agree to the proposed RE1 Public Recreation zoning of the Bulga Recreation Ground; and
3. Note that consistency with Section 117 Directions 1.2 Rural Zones 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones and 4.4 Planning for Bushfire Protection is unresolved and requires further consultation.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities prior to exhibition:
  - NSW Office of Environment and Heritage
  - NSW Rural Fire Service
  - NSW Department of Primary Industries – Agriculture
  - NSW Department of Planning and Environment – Resources and Energy
3. The timeframe for completing the LEP is to be 18 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.
5. The proposal should be amended to:
  - reflect a revised 18-month timeframe for completion;
  - clarify in the planning proposal 'Objectives' that the proposal intends on completely repealing the Singleton LEP 1996 by using Clause 1.8 of the Singleton LEP 2013 and what savings provisions there will be for existing DAs;
  - update the 'Explanation of Provisions' to identify that the proposal will repeal the Singleton 1996 LEP;
  - incorporate assessment of the Hunter Regional Plan 2036 under 'Relationship to Strategic Planning Framework'; and
  - update Direction 4.2 to identify that the proposal is not within in a Mine Subsidence District.



25/1/2018

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