

**Singleton Council - Planning Proposal for Lot 6 DP 827226
(via Preston Close) & Lot 2 DP 237057, Dalwood Road,
Branxton - August 2011 (File: LA6/2011)**

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1. Introduction

This planning proposal identifies the potential issues associated with rezoning the subject land from Rural 1(a) and Rural 1(d) to Residential to facilitate future subdivision of the land for residential purposes. The information contained within the proposal explains the intended effect of the proposed amending Local Environmental Plan (LEP) and the justification for making it.

In preparing this planning proposal Council staff have extensively used material submitted by JW Planning Pty Ltd in support of the rezoning request.

2. Site Description

The subject site is located adjacent to the established township of East Branxton as illustrated in **Attachment 1**. The subject site comprises two allotments Lot 6 DP 827226 and Lot 2 DP 237057, as described below:

Lot 6 DP 827226

Lot 6 DP 827226 contains an area of 5.96 hectares and is currently zoned Rural Small Holdings 1(d) under Singleton Local Environmental Plan (SLEP) 1996. Lot 6 contains a dwelling and farm sheds and is currently accessed via Preston Close.

Lot 2 DP 237057

Lot 2 DP 237057 contains an area of 10.23 hectares and is currently zoned Rural 1(a) under Singleton Local Environmental Plan (SLEP) 1996. Lot 2 contains a dwelling and farm sheds and is currently accessed via Dalwood Road.

The site adjoins existing rural residential properties and Dalwood Road to the north, rural land to the south and east and the existing village to the west. The majority of the site consists of pasture currently managed by livestock. A thin strip of riparian vegetation is located along Red House Creek which flows through the site in a south westerly direction. Three dams with minimal emergent vegetation are also located on site. The majority of the site slopes gently downward in a north western direction towards Red House Creek.

An aerial view of the site and surrounds is provided in **Attachment 2**.

3. The Amending LEP

The following matters address the requirements of a planning proposal as detailed in the Department of Planning “A guide to preparing planning proposals”.

3.1 Objective

The objective of the planning proposal is to amend Singleton Local Environmental Plan (SLEP) 1996 to permit (with consent) the subdivision of Lot 6 DP 827226 and Lot 2 DP 237057 for residential purposes.

3.2 Provisions

Although Singleton has recently completed an agreement for additional funding from the Department of Planning & Infrastructure to complete its Standard Instrument (SI) LEP it is not expected to take effect (be published on the NSW Legislation website) for another 18 months to two years. Therefore, the rezoning proposal needs to be progressed as an amendment to Singleton LEP 1996.

It is anticipated that the draft LEP will be along the followings lines:

1. Name of the plan

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

2. Aims of plan

This plan aims:

- a) to rezone land referred to in clause 4 from Zone 1 (a) (Rural Zone) and Zone 1(d) Rural Small Holdings to Zone Residential R1,
- b) to provide a minimum lot size for lots resulting from the subdivision of land for Residential R1 purposes'
- c) To require a development control plan to be prepared to the satisfaction of Council before consent may be granted to development on the land to which this plan applies.

3. Commencement

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

4. Land to which plan applies

This plan applies to Lot 6 DP 827226 and Lot 2 DP 237057, Dalwood Road Branxton as shown edged heavy black on the map marked "Singleton Local Environmental Plan 1996 (Amendment No. ?)" deposited in the office of Singleton Council.

Schedule 1 Amendment of Singleton Local Environmental Plan 1996

[1] Clause 9(1) How are terms defined in this plan?

Insert in the definition of "Lot Size Map" in appropriate order:

Singleton Local Environmental Plan (Amendment No ??) Sheet 2 Lot Size Map

Insert in the definition of “the map” in appropriate order:

Singleton Local Environmental Plan (Amendment No ??) Sheet 1

[2] Clause 14F

Insert after clause 14E:

14E What provisions apply generally to the Sedgfield Rural Residential development area?

- (1) This clause applies to the following land:

Lot 6 DP 827226 & Lot 2 DP 237057, Dalwood Road, Branxton, as shown edged heavy black on the map marked “Singleton Local Environmental Plan 1996 (Amendment No ??)” deposited in the office of Singleton Council.
- (2) Development consent must not be granted for any development on land to which this clause applies unless a development control plan has been prepared for the land in accordance with subclause (3).
- (3) The development control plan must, to the satisfaction of Council:
 - (a) contain a subdivision layout plan that provides for the conservation, enhancement and regeneration of areas of native vegetation with significant biodiversity value (including riparian corridors), and
 - (b) contain provisions to conserve, enhance and encourage the regeneration of areas of native vegetation with significant biodiversity value (including riparian corridors), and
 - (c) contain a staging plan which makes provision for necessary infrastructure and sequencing to ensure that the development occurs in a timely and efficient manner, and
 - (d) provide for an overall movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles and public transport, and
 - (e) contain stormwater and water quality management controls, and
 - (f) provide for amelioration of natural and environmental hazards, including bushfire, flooding, landslip, erosion, salinity, and potential contamination, and
 - (g) contain measures to conserve any identified heritage.

Attachment 3 illustrates the existing zoning of the Dalwood Road area, including the subject site.

3.3 Justification for Amending LEP

3.3.1 Section A - Need for the planning proposal

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

The Singleton Land Use Strategy (SLUS) was endorsed by the Department of Planning on 21 April 2008. The SLUS does not provide for any additional residential land in Branxton.

In Section 6 'Urban Settlement' the SLUS states:

'A significant issue over the life of this Strategy is the proposed urban area identified south of Branxton by the Lower Hunter Regional Strategy, including some land within Singleton LGA. While this has the potential for around 2000 residential lots in Singleton, planning processes have been established to determine a structure plan, and the urban boundaries are to be defined through future local planning. Planning and development within this area will primarily be aligned to growth within the Lower Hunter Region, and is not expected to significantly impact on growth and demand projections for Singleton identified in this Strategy.'

Section 8.8 'Branxton -Whittingham Corridor Development Options' of the SLUS references the following advice Council received from the Department of Planning in July 2007:

- *'Cessnock City Council has stated that it has no intention of pursuing new residential development in the vicinity of Branxton other than those already identified in the Lower Hunter Regional Strategy: Huntlee New Town (7200 dwellings), Greta Migrant Camp (up to 2000 dwellings) and Greta Wyldham Street Precinct (approx 300 dwellings).*
- *Given the land supply provided by the above developments, there is unlikely to be a need for additional residential sites around Branxton for a considerable number of years.'*

Based on this advice, the SLUS concluded *'no additional residential land in the vicinity of Branxton will be provided for in the Singleton LGA, other than south of the railway line as provided under the Lower Hunter Regional Strategy'*.

The SLUS reflects the circumstances that applied to the Branxton area at the time of drafting. However, circumstances have changed with the delay and uncertainty of the Huntlee New Town project and the commitment to proceed with the Hunter Expressway expansion of the F3 Freeway. This expressway is fully funded by the Government, is currently under construction and is due for completion in 2013.

The delay on Huntlee New Town has left a shortfall in potential housing numbers to meet with demand specified in the Lower Hunter Strategy. It is acknowledged that a revised submission has recently been lodged with the Department of Planning, however this only covers Stage 1 of the development which does not

involve any new residential housing within the Singleton LGA. The development of housing within the Singleton LGA is not scheduled until Village 2 and 3 and the timing of these is unknown as no staging plan has been provided in the documentation supporting Huntlee New Town.

It is considered that the current circumstances provide an opportunity for some limited urban expansion of the East Branxton village. The land the subject of this planning proposal has the potential to contribute to the supply of residential housing within the Singleton LGA. These lots can be bought forward in a timely manner, independent of the Huntlee New Town proposal and are a natural expansion of the existing East Branxton village.

Further to the above, the proponent of a similar rezoning request over adjacent land to the north (LA4/2010), has carried out an analysis of residential land supply and demand in the area, which confirms that supply is currently constrained.

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

The proposed planning proposal is considered to be the best means of achieving the objectives or intended outcomes. It is best considered as a single amendment to the Singleton LEP 1996, since the timeframe for completion of Council's new comprehensive Standard LEP is very tight and tied to funding milestones. Attempting to include spot rezonings in Council's Standard LEP would risk extending the timeframe and making milestones unachievable. If the Standard LEP were to proceed to finalisation prior to this planning proposal, this proposal could then be converted to an amendment of the Standard LEP.

The consideration of this proposal concurrently with other rezoning requests is consistent with Department of Planning guidelines that seek to reduce the overall number of LEP amendments by requiring minor amendments to be grouped together. However, grouping should be left to the final stages to avoid unnecessary delays and complications.

Is there a net community benefit?

A Net Community Benefit Test has been undertaken and provided below.

Net Community Benefit Test

Criteria	Planning Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	No. However, the site is located within 3 kilometres of Branxton train station, which was a key consideration for land release areas in the Draft Lower Hunter Regional Strategy. The site is adjacent to the existing village of East Branxton and is a logical urban expansion.

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	The site is located immediately adjacent to the existing East Branxton village, within the Hunter Region, which is the subject of significant investment in new and existing industries and will benefit from the Hunter Expressway extension of the F3 Freeway.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	The subject site is located immediately adjacent to the existing village and forms a logical expansion for residential purposes. There is other residential land in the vicinity of the site however it is not likely that the proposal will set a precedent or alter the expectation of landholders.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	To our knowledge there have not been any other spot rezoning within the vicinity of the site in recent years.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The LEP will not facilitate a permanent employment generating activity or result in the loss of employment lands. The proposal is to enable intensification of residential development within the locality.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The proposal will enable an increase in the available stock of residential land for future development. Currently the only planned residential land supply for the whole of Branxton is associated with the Huntlee New Town, which is separated from this site by the New England Highway and Ralline. Support for this proposal will provide competition in the market and an alternative source of land supply, which is desirable given the delays and uncertainty of the timing of the Huntlee development. The land can be brought on line quickly and would offer a few years interim supply, subject to satisfactory servicing.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	The site is serviced by Dalwood Road and Preston Close. A preliminary servicing enquiry to Hunter Water confirmed that although not a priority development site upgrading works to the water supply are scheduled for 2014/2015, which would, subject to a water servicing strategy, provide the necessary capacity for the development. In regard to wastewater upgrade works were scheduled for 2010/2011 and, subject to a wastewater servicing strategy, there would be capacity in the system to service the proposed development. Footpaths would be provided to ensure a pedestrian link to the existing village.

Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The subject proposal seeks to provide residential development close to the existing village of Branxton. This is a natural expansion of the village and it is likely that there would be a number of shared trips as is currently the case with the adjoining village housing. The provision of footpaths would encourage alternatives to car usage, however, it is unlikely this would result in significant reduction in green house gas emissions.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	The proposal would result in a small increase in patronage of government rail and bus services and local government services. The development of the site would attract Section 94 Contributions covering the increase in use of local community facilities.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	The proposal will be able to be implemented without adverse impact on the ecology of the site. An ecological constraints report has been prepared by Wildthing Environmental Consultants to support this planning proposal (Appendix 1 of the supporting Orbit Planning Report). The land has the potential to be partially affected by localised flooding associated with Red House Creek, however the flood affected area would be limited to the riparian corridor which would not contain housing. The land is also mapped as being partially Bushfire affected from this riparian corridor, however the majority of the site would be able to be developed in compliance with Planning for bushfire protection (Appendix 2 of Orbit Planning Report) The land is not constrained by other environmental factors.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The LEP will be compatible with the area to the west of the subject site, which is the established Village of East Branxton. Land to the north of Lot 6 contains rural residential housing and land to the south and east is rural. The impact on the amenity will be marginal as the rural residential and rural land is not isolated and is already on the edge of the village. At sub-division stage works within the road reserve and riparian corridor along Red House Creek would contribute to the amenity of the public domain.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The proposal will not provide any retail or commercial premises.

If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	The site is located close to existing East Branxton Village. The proposal itself does not have the potential to develop into a centre.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	It is in the interest of the public to provide an alternative source of residential land within the Branxton area to complete with Huntlee New Town and to provide an interim source of land within the Singleton LGA. If the LEP amendment does not proceed the subject land will remain as Rural and Rural Residential and other land further from the existing Village services would need to be found, potentially at higher servicing costs and costs to the environment which in turn will impact on the affordability of the blocks.

It is conclude that there will be a net community benefit as a result of the proposal.

3.3.2 Section B - Relationship to strategic planning framework

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 subject land.

It is noted that the land was indetified under the Draft Lower Hunter Regional Strategy as having potential for urban development as it is within 3km of existing railway station. However, on adoption of the Lower Hunter Regional Strategy any such infill development was removed in favour of the Huntlee New Town development.

Following preliminary discussions between Council and the Department of Planning (Newcastle Office) it was recommended that the planning proposal have regard to the sustainability criteria within the Lower Hunter Regional Strategy. The following comments are offered in response to this established:

Sustainability Criteria	Explanation	Comment
1. Infrastructure Provision: Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.	- Development is consistent with any regional strategy, subregional strategy, State Infrastructure Strategy, or section 117 direction. - The provision of infrastructure (utilities, transport, open space and communications) is costed and economically feasible based on Government methodology for	The development is a logical expansion of the existing village of East Branxton and existing roads, open space and communications are provided and connections can be readily made. Preliminary servicing enquiries with Hunter Water have been

	determining infrastructure development contributions. • Preparedness to enter into development agreement	undertaken and there is likely to be capacity available to service the site in the future. A water and wastewater servicing strategy would be prepared if gateway approval is provided.
2. Access: Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.	• Accessibility of the area by public transport and/or appropriate road access in terms of: > Location/land use – to existing networks and related activity centres. > Network – the area's potential to be serviced by economically efficient transport services. > Catchment – the area's ability to contain, or form part of the larger urban area, which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals. • No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	The site is accessed off Dalwood Road, which in turn will be accessible from the New England Highway and Hunter Expressway northern link road. The site is on two bus routes, which connect the site to the retail and commercial services within the Branxton Village and further afield to Singleton to the west and Green Hills and Rutherford to the east. The site would also be serviced by Branxton Ralline which provides a transport link to the north and south of the State. The development would not have a negative impact on performance of existing road, bus or rail networks.
3. Housing Diversity: Provide a range of housing choices to ensure a broad population can be housed.	• Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	The site has the potential to provide for a number of housing types to meet the demands of the community.
4. Employment Lands: Provide regional/local employment opportunities to support the	• Maintain or improve the existing level of subregional employment self-containment.	The rezoning of the site does not contain any employment lands, however it does have

Lower Hunter's expanding role in the wider regional and NSW economies.	• Meets subregional employment projections. > Employment-related land is provided in appropriately zoned areas.	the potential to provide residential accommodation for workers which is in short supply in the Singleton LGA.
5. Avoidance of Risk: Land use conflicts, and risk to human health and life, avoided	• No residential development within 1:100 floodplain. • Avoidance of physically constrained land, e.g. > high slope > highly erodible. • Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. • Where relevant available safe evacuation route (flood and bushfire).	The site will not provide any residential development within the 1:100 floodplain. The site is mapped as potentially being bushfire affected. A preliminary assessment against Planning for Bushfire Protection 2006 has been carried out and minimum Asset Protection Zones have been established together with recommendations for compliance (see Appendix 2 of the Orbit Planning Report) The neighbouring land to the south contains an existing poultry farm which is located over 200 metres from the common boundary. This farm is at a similar setback to the existing East Branxton Village, where to the best of our knowledge there is no history of land use conflict. Although not visible from the site due to the change in topography vegetative screening could be adopted as part of the development as required.
6. Natural Resources: Natural resource limits not exceeded/environmental footprint minimised	• Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows. • Demonstrates most efficient/suitable use of land:	A preliminary servicing enquiry to Hunter Water confirms the site has the potential to be serviced in the future, subject to a water servicing strategy.

	> avoids identified significant agricultural land > Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying. • Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy – requires demonstration of efficient and sustainable supply solution.	The site is within the Branxton Soil Landscape as defined by Kovac and Lawrie (1991) which comprises Class IV and V agricultural land. Part of the site is already zoned for Rural Residential purposes and neither site is used for sustainable agricultural production. The site is also not affected by coal deposits. The use of the site for residential housing purposes is suitable. The site is currently serviced by Ausgrid and further connections are likely to be available. A servicing enquiry will be undertaken with AusGrid should gateway approval be granted.
7. Environmental Protection: Protect and enhance biodiversity, air quality, heritage and waterway health	• Consistent with Government-approved Regional Conservation Plan (if available). • Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats. • Maintain or improve existing environmental condition for air quality. • Maintain or improve existing environmental condition for water quality: > consistent with community water quality objectives for	There is no Regional Conservation plan applicable to the site. • An Ecological Constraints Study has been undertaken by Wildthing Consulting and is included in full in Appendix 1. A summary of the potential ecological constraints to the development of the site is summarised below. One endangered ecological community Swamp Oak Floodplain Forest was present within the riparian and low-lying areas on site. The

	recreational water use and river health (DEC and CMA) > consistent with catchment and stormwater management planning (CMA and council). • Protects areas of Aboriginal cultural heritage value (as agreed by DEC).	majority of this assemblage is located within the 1:100 year flood zone where building constraints already exist. Areas of Swamp Oak Forest located outside of the flood zone should also be preserved or incorporated into the landscaping of any future development. Threatening processes impacting upon this community on site include the invasion of <i>Lantana camara</i> (Lantana) and <i>Olea europea</i> ssp. <i>cuspidata</i> (African Olive) both of which will need to be controlled during and post any future development. The potential construction of a road and bridge across Red House Creek is likely to require the removal of a small amount of EEC vegetation within the riparian zone. Generally the removal of an area of an EEC requires replacement at a rate of 4:1 (e.g. 4ha revegetated on site or reserved elsewhere for every 1ha removed). It is anticipated that any clearing for bridges and roads would be minimal and there would be ample scope to revegetate within the creek buffer zones as shown in Figure 3. An isolated tree located along the eastern boundary had buds consistent with <i>Eucalyptus</i>
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		<i>camaldulensis</i> (River Red Gum), an endangered population in the Hunter Valley. Further samples when the tree is in flower may be required to confirm the species of the tree. It is recommended that this tree be retained within any future proposal at least until its status is determined. In conclusion, provided the constraints identified in the report are implemented it is considered that the threatened flora, fauna and ecological communities considered in this report are unlikely to be adversely affected from the future development of the site. • The development would not have any adverse impacts on air quality • The development would not have any adverse impacts on Water Quality • A search of AHIMS confirmed there are no known artefacts on site. It is envisaged that a full cultural heritage assessment would be undertaken on site should gateway approval be granted.
8. Quality and Equity in Services Quality health, education, legal, recreational, cultural and community development and other Government services are accessible	• Available and accessible services: > Do adequate services exist? > Are they at capacity or is some capacity available? > Has Government planned and budgeted for further service provision? > Developer funding for	There are a range of services and facilities available in Branxton to service the existing Village including (but not limited to) the following: • 2 x primary schools

	required service upgrade/ access is available.	• 3 x childcare/play group centres • 2 x doctors surgeries • Branxton Police Station • Branxton Fire Brigade • Branxton Post Office • IGA Supermarket and over 35 retail shops and light engineering workshops • Millar Park Sporting Complex (athletics, soccer, tennis, netball, cricket, playground, bowling greens) • Branxton Memorial Swimming Pool • Branxton Oval (football, cricket) • Branxton Gold Club • Branxton Community Hall • Branxton RSL • Anglican Church • Methodist Church • Branxton Railway • Hunter Valley Buses The services are sufficient to cater for the limited additional population generated by the development of this land. Notwithstanding, Section 94 Contributions
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		would be imposed as a result of any future subdivision of the land.
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Table 2: Sustainability Criteria (LHRS)

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

Singleton Council is currently preparing a Community Strategic Plan (CSP) as required by the NSW Department of Local Government. It is anticipated that it will be completed by mid 2012.

The Singleton Land Use Strategy (SLUS) 2008 is the relevant (adopted and endorsed) local strategic plan under which the proposal should be considered.

Although the site is not specifically identified within the SLUS, the underlying intent of the planning proposal to rezone the land for residential purposes is consistent within the following aims and objectives of the SLUS:

(b) to ensure the most appropriate and efficient use or management of land and natural resources;

Comment: The subject site is located on the urban fringe of the existing East Branxton village and is a prime candidate area for urban expansion. Part of the site is already zoned for rural residential development and it does not support a viable and sustainable agricultural unit. The intensification of the site for urban housing purposes would be the most appropriate and efficient use of the land.

(c) to co-ordinate economic development so that there is optimum and equitable economic and social benefit to the local community;

Comment: The development of the site for urban housing purposes would maximise the economic return from the subdivision of this property, generating Section 94 Contributions and general rate revenue, which Council would use for the benefit of the local community.

(d) to ensure that the environmental impact of development is adequately assessed, including the consideration of alternatives;

Comment: The environmental impacts of the development will be clearly investigated and detailed subject to a favourable Gateway determination. The preliminary investigations indicate that the site can be developed without adverse impact on the environment. Preliminary ecology and bushfire investigations support this position (**Appendix 1 & 2** of supporting Orbit Planning Report). The proposal represents a sound alternative to that likely to be provided by any future Huntlee New Town proposal.

(e) to establish a pattern of broad development zones as a means of:

(i) separating incompatible uses;

Comment: The site adjoins the existing village and represents a logical expansion for housing purposes. There is sufficient physical distance and opportunity for buffer planting to alleviate any potential conflict between future housing on the subject site and the poultry farm to the south of the site. It is noted that the poultry farm has co-existed at a similar distance to houses within the existing village for many years without incident. It is envisaged that further consideration of this issue would be undertaken following Gateway determination.

(ii) *minimising the cost and environmental impact of development*

Comment: The subject site adjoins the existing village and has access to existing infrastructure and services. The site is largely free of constraints and can be developed with minimal environmental impact. It is intended that Red House Creek will be protected through the development. Vegetation along the Creek will be retained and where appropriate enhanced (as detailed in the ecological constraints report). The majority of housing will be confined to the existing expanses of cleared land.

(iii) *maximizing efficiency in the provision of utility, transport, retail and other services.*

Comment: The proximity of the site to the existing village provides an opportunity to maximize efficiency in the provision of utility services to the development. It is envisaged that the subject site would be able to be serviced by the existing transport and retail services available in Branxton, as listed in Table 2.

(j) *to progress development in an ordered and economic manner.*

Comment: The use of the subject site for housing purposes makes efficient use of available infrastructure and services and represents a logical expansion of the existing village. East Branxton urban area has expanded steadily in recent years as a result of similar urban subdivision developments in the nearby Dalwood Road and McMullins Road vicinity.

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

The Amending LEP is not inconsistent with any applicable state environmental planning policy. Future residential development of the site has the potential to be affected by the following state environmental planning policies:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Rural Lands) 2008.

Full consideration of the impacts of state environmental planning policies will be considered at the development application stage. Discussion on the amending

LEP's consistent with the rural principles under SEPP (Rural Lands) 2008 is provided below.

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

The Minister for Planning issued new directions to Council's under section 117(2) of the Environmental Planning and Assessment Act 1979, commencing 1 July 2009. The new directions that affect the proposal are outlined below:

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 (including the alteration of any existing rural zone boundary).

The Direction states that a planning proposal must:

- not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- not contain provisions which will increase the permissible density of land within a rural zone (other than land within an existing town or village).

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 Department of Planning 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
- is in accordance with the relevant Regional Strategy prepared by the Department, or
- is of minor significance.

Although not currently included within the SLUS the location of the site immediately adjoining the village of East Branxton enables some consideration to be given to the proposal on merit having regard to the threshold sustainability criteria for development sites outside designated areas, permitted under the Lower Hunter Regional Strategy. In this regard an assessment of the site against this sustainability criteria has been undertaken as detailed above. The proposed site meets the criteria and this planning proposal demonstrates there are minimal constraints to development and the proposal would be of minor significance, and that any inconsistency with Direction No 1.2 is fully 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 and related purposes. This direction applies when a council prepares a planning proposal that affects land within an existing or proposed rural or environmental protection zones and when a planning proposal changes the existing minimum lot size on land within a rural or environmental protection zone.

The Direction states that this planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Rural Planning Principles 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 importance 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,*
- (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 Department of Planning or any applicable local strategy endorsed by the Director-General.*

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 Department of Planning 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
- is of a minor significance.

The proposed development has been assessed against the sustainability criteria of the Lower Hunter Regional Strategy and is considered to be of minor significance. The site comprises poorer agricultural land that does not support sustainable agricultural production. The site is located immediately adjacent to the existing village and presents a logical urban expansion opportunity. Rezoning the land for residential purposes would reduce the pressure on other more productive rural land from being utilised for housing purposes. The planning proposal will provide an opportunity for new residential land, and does not reduce the availability of good agricultural land.

It is considered that any consistency with Direction No 1.5 is fully justified.

Direction 2.1 – Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. To be consistent with this Direction, planning proposals must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

Areas identified as being ecologically significant will be addressed by the amending LEP requiring relevant DCP provision to be prepared for the development of the site. The use of a conservation zone may also be considered.

The proposal is considered to be consistent with this Direction.

Direction 2.3 – Heritage Conservation

The objective of Direction 2.3 is to conserve items, areas, 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 Department of Planning 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
- The provisions of the planing proposal that are inconsistent are of minor significance.

The planning proposal will not impact on any known item of environmental heritage. A search of the Aboriginal Heritage Information Management System (AHIMS) confirmed there are no known artefacts on site. It is envisaged that a full cultural heritage assessment would be undertaken on site should gateway approval be granted.

It is considered that the planning proposal will be consistent with Direction No. 2.3.

Direction 3.1 Residential Zones

The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

The proposal is considered to be consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

Residential development of the subject site will improve the permeability of the existing street network for walking, cycling and buses. This also means access to Branxton rail station and the Hunter rail corridor. This allows for greater viability of any existing and future public transport servicing the area.

The site provides relatively easy access to the large employment providers within the wine and coal industries that necessitate being located considerable distance from residential land uses. Large numbers of employees are required to travel from Maitland, Newcastle and Lake Macquarie to service these industries and an increase in available land within Branxton will assist in reducing the distances travelled for employment.

These issues will also be addressed in the provisions of the DCP which will be required to be prepared. It is therefore considered that the proposal is consistent with this Direction.

Direction 4.4 - Planning for Bush Fire Protection

The objectives of Direction 4.4 are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land

uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.

The directive applies when a Council prepares a planning policy that will affect, or is in proximity to land mapped as bushfire prone. The subject site is mapped as containing bushfire affected land and a preliminary Bushfire Assessment Report has been undertaken by Newcastle Bushfire Consulting (**Appendix 2** of supporting Orbit Planning Report). The preliminary assessment confirms there is sufficient constraint free land that could be utilised for residential housing purposes, with complying Asset Protection Zones (APZ's). It has been demonstrated that the 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 further Bushfire Protection Assessment.

It is considered that the proposed rezoning is consistent with Direction 4.4.

Direction 5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

The proposal is consistent with the Lower Hunter Regional Strategy (see Relationship to Strategic Planning Framework section above), consistent with this Direction.

Direction 6.1 Approval and referral requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The Planning Proposal will not require the concurrence, consultation or consent of a minister or public authority, consistent with this Direction.

Direction 6.3 Site Specific Provisions

Objective

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

No site specific planning controls are proposed, consistent with this Direction.

3.3.3 Section C - Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The location of Endangered Ecological Communities on site is depicted in **Attachment 5**.

As discussed in Section 3.3.2 above a preliminary Ecological Constraints Study has been undertaken by Wildthing Consulting and is included in full in **Appendix 1** of the supporting Orbit Planning Report. The conclusions of this study are detailed as follows:

The Central Hunter Swamp Oak Forest (CHSOF) found mostly within the riparian areas on site is consistent with the EEC Swamp Oak Floodplain Forest. The understorey of this assemblage is usually sparse but was heavily disturbed in parts due to grazing and the prevalence of weeds. The majority of this assemblage is located within the 1:100 year flood zone where building constraints already exist. Areas of CHSOF located outside of the flood zone should also be preserved or incorporated into the landscaping of any future development. Threatening processes impacting upon this community on site include the invasion of Lantana camara (Lantana) and Olea europea ssp. cuspidata (African Olive) both of which will need to be controlled during and after any future development.

The potential construction of a road and bridge across Red House Creek is likely to require the removal of a small amount of EEC vegetation. Generally the removal of an area of an EEC requires replacement at a rate of 4:1 (e.g. 4ha revegetated on site or reserved elsewhere for every 1ha removed). It is anticipated that any clearing for bridges and roads would be minimal and there would be ample scope to revegetate within the outlined creek buffer zones.

An isolated tree located along the eastern boundary had buds consistent with Eucalyptus camaldulensis (River Red Gum) which is listed as an endangered population in the Hunter Valley. The tree was unusual as it is isolated on a hill away from the creekline which is generally the typical habitat for this species. The leaves were also much wider than what is typical and may be a hybrid of this species. Further samples when the tree is in flower may be required to confirm the species of the tree. It is recommended that this tree be retained within any future proposal at least until its status is determined.

While no threatened species were recorded on site during the brief site inspection, of the 36 threatened species considered in this report, 25 were considered to have potential habitat resources of mostly low quality across the site. The removal of vegetation on site may be seen as an incremental decline of habitat in the local area. As the habitat attributes found on site are quite limited and common in the local area the development of the site is unlikely to result in the loss of a viable local population of any of the threatened species considered in this report.

Consideration of State Environmental Planning Policy 44 – Koala Habitat Protection, identified that the site does not constitute 'Potential Koala Habitat' and this policy is unlikely to place any additional constraints upon the proposal.

Considerations have been given to the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999. It was determined that a matter of National Environmental Significance was unlikely to impose any additional constraints on the proposed rezoning of the site.

Consideration has also been given to the Water Management Act 2000. The potential

construction of a road and bridge across Red House Creek will require approval from the NSW Department of Water and Energy. It was determined that Red House Creek is likely to require a 30m vegetated buffer and a vegetation management plan to ensure protection of the riparian zone.

In conclusion, provided the constraints identified in this report are implemented it is considered that the threatened flora, fauna and ecological communities considered in this report are unlikely to be adversely affected from the future development of the site.

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

As discussed above the site is bushfire prone and a preliminary Bushfire Assessment Report has been undertaken by Newcastle Bushfire Consulting (**Appendix 2**) to support this planning proposal. The preliminary assessment confirms there is sufficient constraint free land that could be utilised for residential housing purposes, with complying Asset Protection Zones (APZ's). It has been demonstrated that the 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 further Bushfire Protection Assessment.

The site is also likely to be subject to localised flooding from Red House Creek. The extent of flood affectation is, however, limited to the width of the riparian zone and would not further affect the development potential of the site.

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

The planning proposal has considered the sites potential for aboriginal cultural heritage and the AHIMS searches confirm there are no known artefacts on site. Further investigation of this issue would be undertaken should the gateway approval be granted. The planning proposal has also given consideration to introducing an alternative source of residential land in the Branxton area, separate to that which may be provided in the future by Huntlee New Town. It is in the interest of the public to provide competition in the market for residential land which provides choice and drives down prices.

3.3.4 Section D - State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The site currently has vehicle access from Dalwood Road and Preston Close and future connections to these roads would be achievable. A preliminary servicing enquiry to Hunter Water confirmed that although not a priority development site upgrading works to the water supply are scheduled for 2014/2015 which would, subject to a water servicing strategy, provide the necessary capacity for the development. In regard to wastewater upgrade works were scheduled for 2010/2011 and, subject to a wastewater servicing strategy, there would be capacity in the system to service the proposed development. Footpaths would be provided to ensure a pedestrian link to the existing village. It is considered that the

planning proposal would not place unreasonable additional demands on available public infrastructure.

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

A response to this Section can be provided following the gateway determination.

3.4 Community Consultation

The gateway determination will specify the community consultation requirements for this planning proposal.

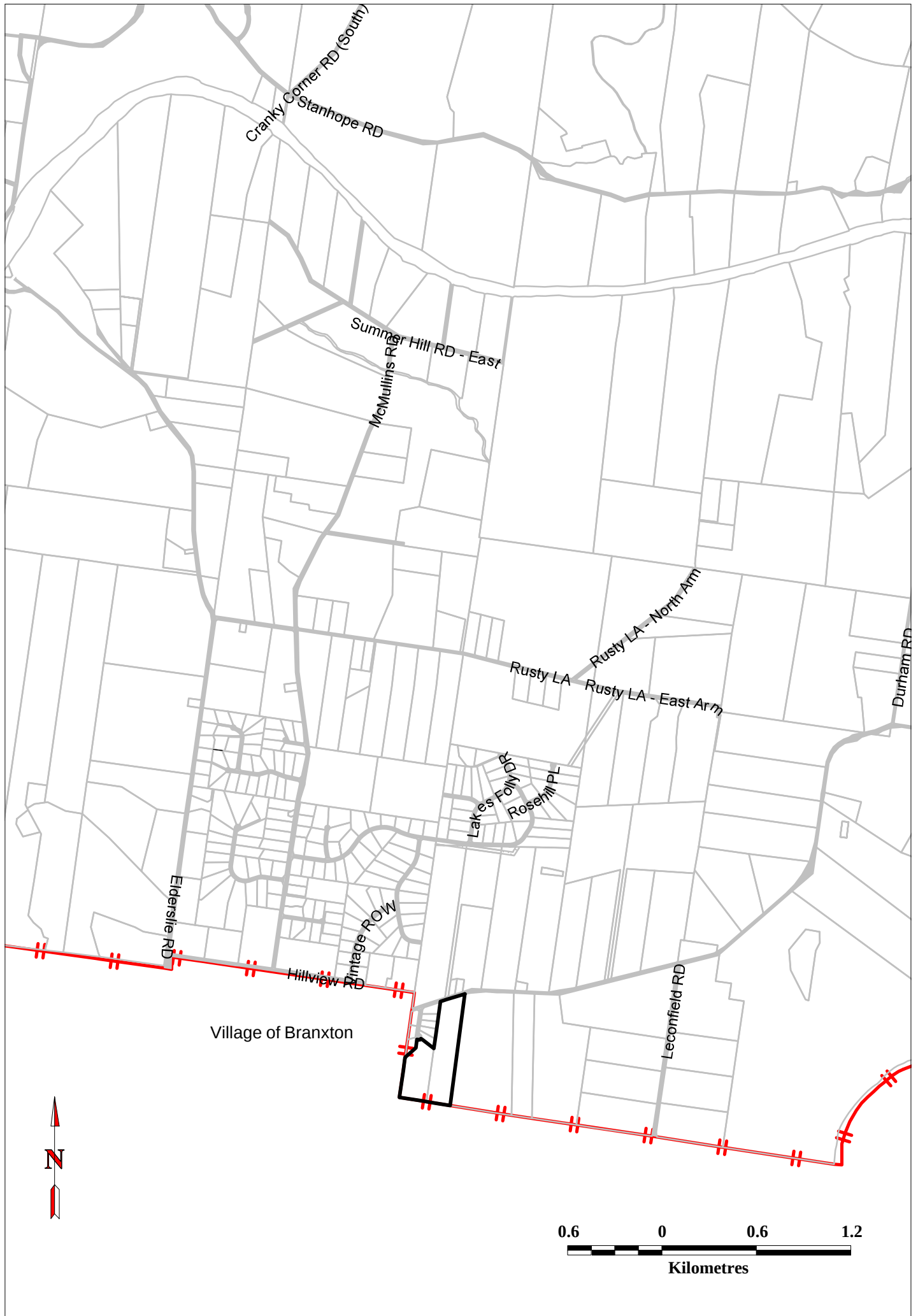
4. Conclusion

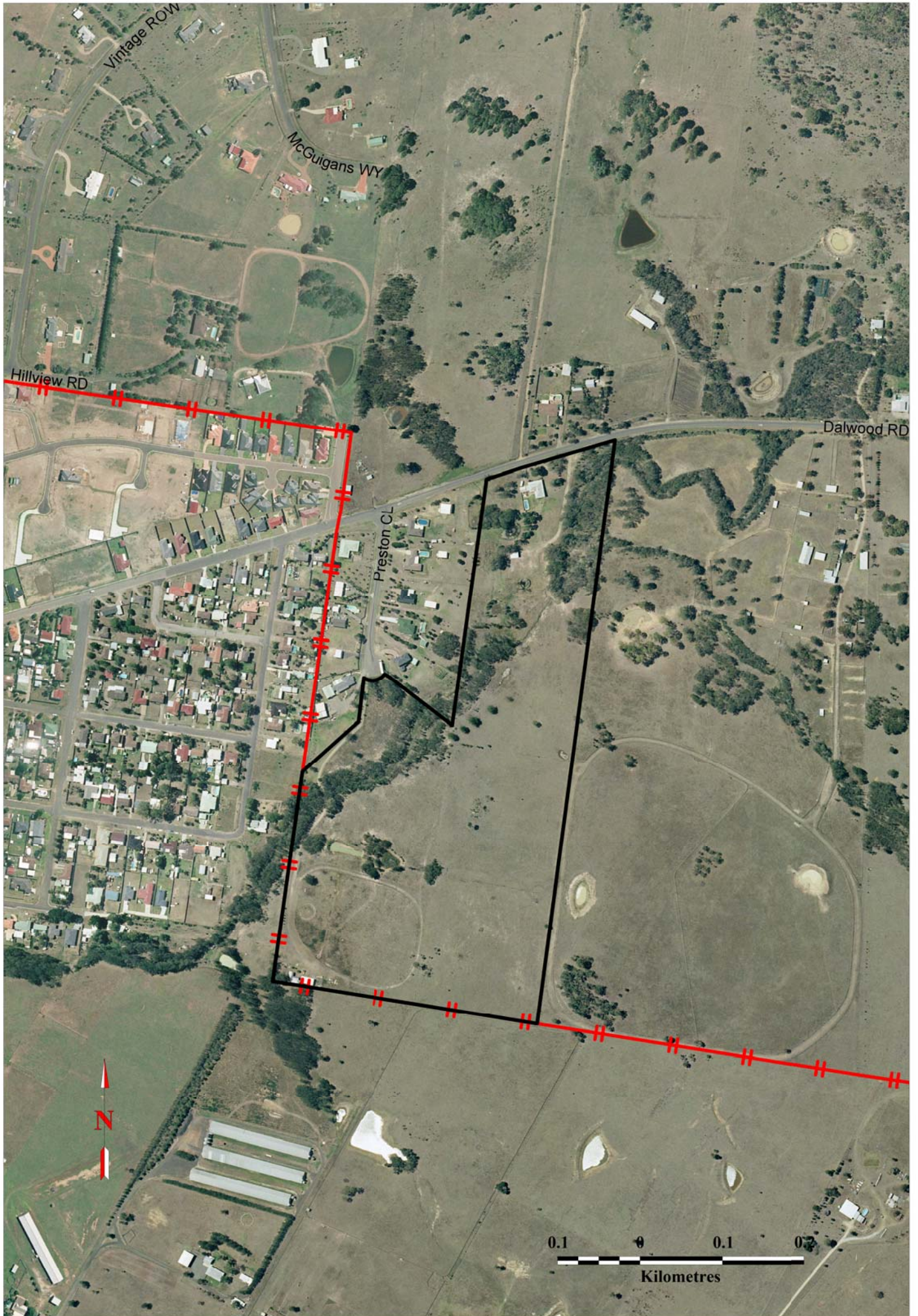
It is considered that the land the subject of this planning proposal is suitable for rezoning for residential housing purposes. The following key issues are highlighted in support of this position:

- The land was identified under the Draft Lower Hunter Regional Strategy as having potential for urban development (within 3km of existing railway station);
- The land is not constrained by virtue of coal deposits;
- The land has access to existing infrastructure and village services and provides a logical urban expansion for East Branxton Village;
- The rezoning and ultimate development of the land will assist in the short term urban planning for East Branxton, and provide an alternative choice for future purchasers of land wishing to construct family homes within the Singleton LGA, close to Branxton Village shops, schools and train station;
- The land can be serviced by infrastructure and utility services, (subject to implementation of a servicing strategy);
- The land has minimal constraints to development in relation to ecology, contamination, hydrology, and bushfire hazard. It is noted that detailed specialist studies will need to be prepared following gateway determination, however, preliminary investigations indicate any issues could be readily addressed through detailed investigation and design at the subdivision stage of development;
- The property is subject to localised flooding only (not within the 1:100 year flood as mapped) and does not comprise good quality agricultural land;
- The property is not of sufficient area (16.19 hectares) to form a viable agricultural unit capable of supporting sustainable agricultural production;

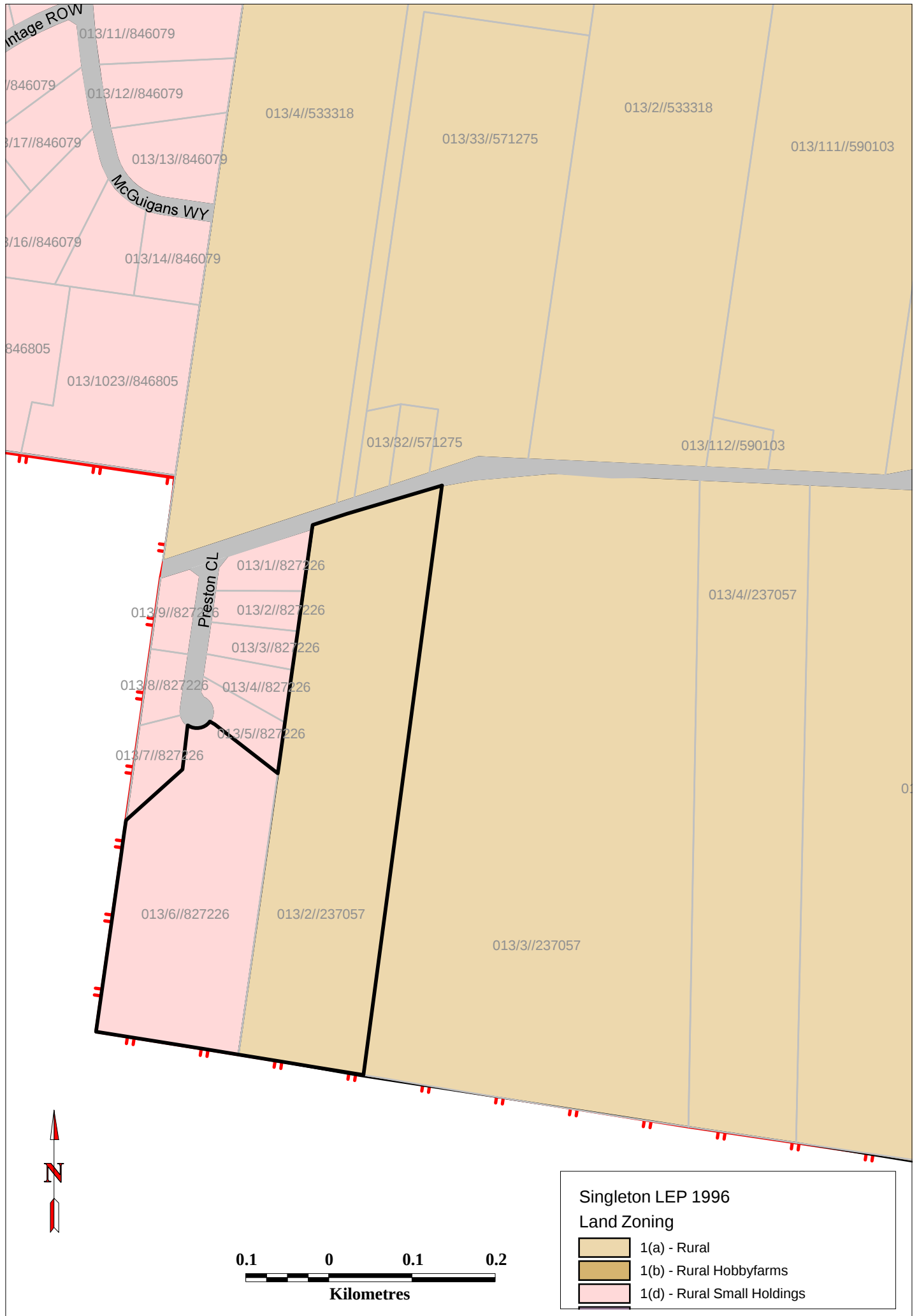
- The land is elevated, has a good aspect and a high visual amenity;
- The proposal would provide a supply of residential land, separate to the Huntlee New Town proposal, encouraging competition in the market place. It is noted that the SLUS does not currently identify any new residential land for Branxton other than the Huntlee New Town proposal;
- The alternative development option of proceeding with rural residential rezoning and subdivision has been considered but would not be viable, given the estimated low lot yield and associated development costs. Urban residential rezoning will enhance and confirm the economic and social benefits to the community; and
- The landowners are committed to proceeding with the development as soon as all relevant planning issues are resolved and have the resources to bring this development on to the market at the earliest opportunity.

ATTACHMENT 1 - LOCALITY PLAN - SINGLETON LEP 1996 AMENDMENT- LA 6/2011

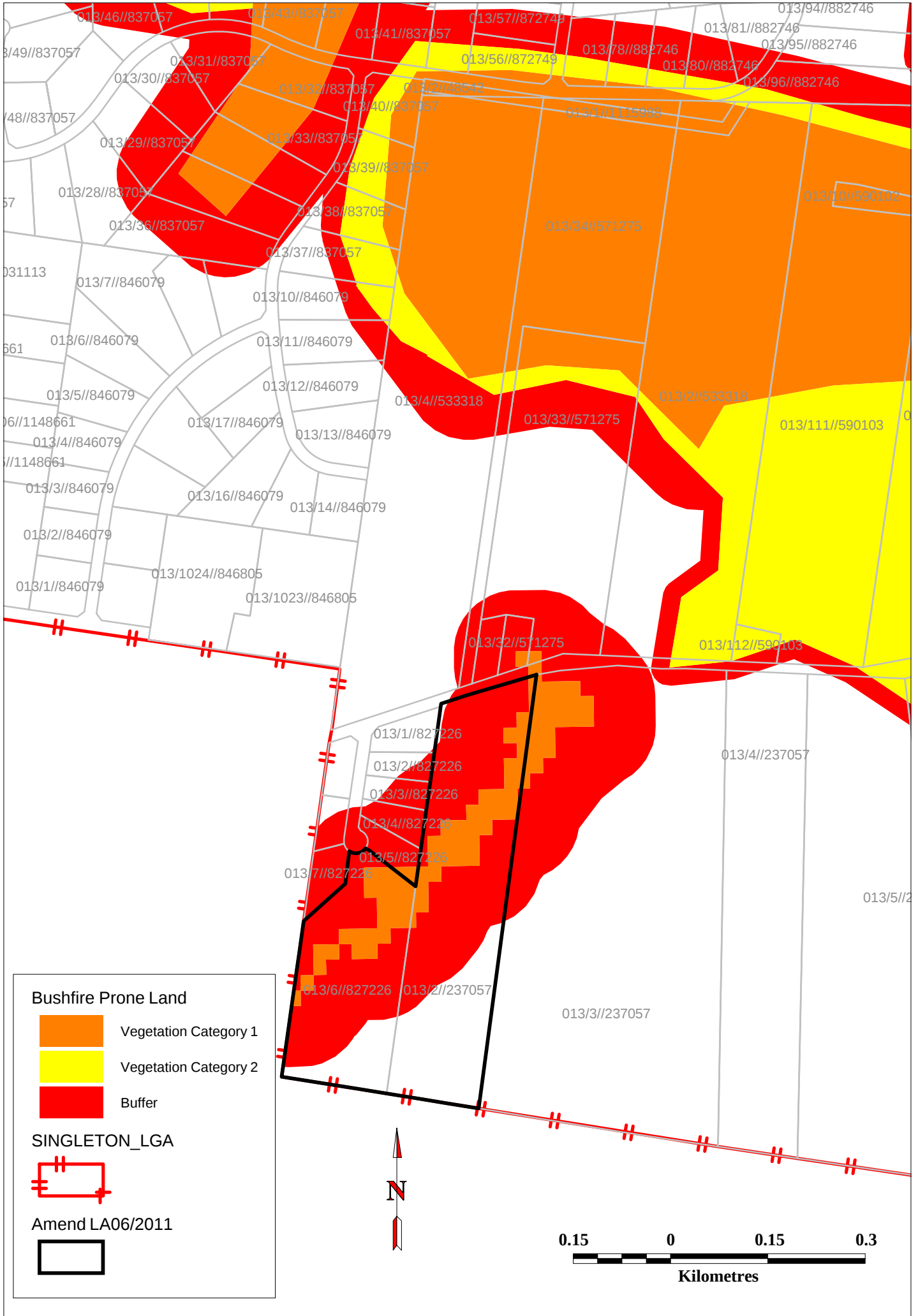




ATTACHMENT 3 - EXISTING LEP ZONING - SINGLETON LEP AM - LA6/2011



ATTACHMENT 4 - BUSHFIRE PRONE MAP - SINGLETON LEP AM - LA6/2011



ATTACHMENT 5 - EEC MAP - SINGLETON LEP AM - LA6/2011

