

10.2 PLANNING PROPOSAL - NEW SHIRE-WIDE LOCAL ENVIRONMENTAL PLAN

Attachments:	A. Planning Proposal Muswellbrook LEP 2019(PP_2019_MUSWE_001_00)
Responsible Officer:	Carolyn O'Brien - Acting Director - Environment & Community Services
Author:	Sharon Pope - Assistant Director - Environment & Community Services
Community Plan Issue:	<i>Diversify the economy, facilitate the development of intensive agricultur and other growth industries, make the Shire a more attractive place to invest and do business</i>
Community Plan Goal:	<i>Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.</i>
Community Plan Strategy:	<i>Progress completion of an LEP and DCP.</i>

PURPOSE

Muswellbrook LEP 2009 is the main statutory document controlling local development within the Muswellbrook Local Government Area (LGA). The current LEP was adopted by Council on 14 July 2008 and was gazetted on 17 April 2009. The LEP comprises a written instrument and maps and was prepared in accordance with the requirements of the Standard Instrument Template. In the 2016/17 Operational Plan, Council identified the need for a review of the Muswellbrook Local Environmental Plan 2009 (LEP 2009). The purpose of this report is to seek Council's resolution to prepare a new LEP.

OFFICER'S RECOMMENDATION

Council:

1. Requests a Gateway determination from the Department of Planning & Environment, pursuant to the *Environmental Planning and Assessment Act 1979*, in relation to the Planning Proposal in Attachment A;
2. Places the Planning Proposal on public exhibition, subject to the outcome of the Gateway Determination; and
3. Notifies stakeholders and affected landowners of the Gateway determination and public exhibition period, as required.

Moved: _____ Seconded: _____

BACKGROUND

The Muswellbrook LEP 2009 was prepared in accordance with the requirements of the NSW State Government's Standard Instrument Template. It was one of the first instruments created in the Template format, and a number of the local clauses are not well tailored to suit the Shire's needs. There was a reluctance by the Department of Planning and Environment (DPE) to encourage many changes from the standard clauses in the Template in the first few years of the implementation of the Template. The DPE are now taking a more flexible approach to local clauses, as can be seen when comparing LEP's that have prepared more recently in other council areas.

In March 2018 the Environmental Planning & Assessment Act, 1979, was substantially modified. This includes the requirement for and new legal provisions for the status and role of Local Strategic Planning Statements and requires five-yearly reviews of LEP's.

CONSULTATION

Significant community consultation occurred in the preparation of the *Review of Muswellbrook LEP 2009 Discussion Paper - February 2018*. It is anticipated that when a new draft LEP has been prepared, it will be exhibited for community comment for a period of three months. The exact length will be identified in the Gateway Determination.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

There has been no direct consultation with the Councillor Spokesperson about this report. All Councillors were involved in the preparation of the *Muswellbrook LEP 2009 Review Discussion Paper* and understood that the next step in the process would be development of a Planning Proposal, to either amend the existing LEP or prepare a new Shire-wide LEP.

REPORT

The review of the LEP will look to implement the recommendations of:

- the *Review of Muswellbrook LEP 2009 Discussion Paper - February 2018*,
- the *draft Muswellbrook Local Strategic Planning Statement 2018-2038*,
- the *Hunter Regional Plan 2036*,
- the *Upper Hunter Economic Diversification Project: Action Plan* (Upper Hunter Economic Diversification Task Group, 2016) and
- the *Hunter Regional Economic Development Strategy 2018-2022* (Department of Premier and Cabinet, 2018).

A more diverse and stable economy, that can function on a more sustainable basis, is a key objective of the review of Muswellbrook LEP 2009. Muswellbrook Shire has a dominant mining industry, and as such the local economy is strongly dependent on this sector. It experiences regular cycles tied to the fortunes of the mining industry, which have negative and positive consequences, both economically and socially, at different times in the cycle. The other key sectors (retail, accommodation and food services as well as agriculture) are also tied to this cycle.

This is also a time of significant change and new opportunities for Muswellbrook and the wider Upper Hunter district. AGL Macquarie has notified its intentions to close both of the major coal fired power generators – Liddell and Bayswater in 2022 and 2035 respectively.

OPTIONS

1. Council resolves to support a Planning Proposal to develop a new shire-wide LEP to implement the recommendations from the *Review of Muswellbrook LEP 2009 Discussion Paper - February 2018*. Given the age of the existing LEP, and likely number of changes, it is considered more appropriate to convey the significance of the extent of changes by creating a new Shire-wide LEP with a contemporary date in the title. This is the preferred option.
2. Council resolves to support a Planning Proposal to amend MLEP 2009.
3. Council resolves to not proceed with amendments to the LEP or a new shire-wide LEP. This is not the recommended option as the *Environmental Planning and Assessment Act*, and related Ministerial Directions, require Council to regularly review the LEP to ensure it implements the latest policy position of the NSW State Government, and Council's Community Strategic Plan.

CONCLUSION

This is a time of significant change and new opportunities for Muswellbrook and the wider Upper Hunter district. The current LEP, Muswellbrook LEP 2009, is ten years old and requires updating to implement the directions in the *Muswellbrook Local Strategic Planning Statement 2018-2038*, the *Hunter Regional Plan 2036*, the *Upper Hunter Economic Diversification Project: Action Plan* (Upper Hunter Economic

Diversification Task Group, 2016) and the Department of Premier and Cabinet's *Hunter Regional Economic Development Strategy 2018-2022*.

SOCIAL IMPLICATIONS

The objective of preparing a new Shire-wide LEP is to improve social outcomes.

FINANCIAL IMPLICATIONS

The objective of preparing a new Shire-wide LEP is to improve economic sustainability of the Shire, and in turn, of Council. There will be no direct financial implications for Council apart from staff resources involved in preparing the LEP.

POLICY IMPLICATIONS

Muswellbrook LEP 2009 is the main statutory document controlling local development within the Muswellbrook LGA. A new Shire-wide LEP would replace the current document. While many provisions will remain unchanged, there will also be significant changes. These have been identified in the attached Planning Proposal.

STATUTORY IMPLICATIONS

The Planning Proposal will result in a new Local Environment Plan for the Shire.

LEGAL IMPLICATIONS

There are no legal implications for Council provided the amendment process follows the process outlined in the *Environmental Planning & Assessment Act 1979*, and the *Environmental Planning & Assessment Regulation 2000*.

OPERATIONAL PLAN IMPLICATIONS

The proposed LEP is intended to be consistent with the objectives of Council's draft Operational Plan 2019-20 and current Community Strategic Plan.

RISK MANAGEMENT IMPLICATIONS

The risks associated with preparing a Planning Proposal are minimised by following the process outlined in the *Environmental Planning & Assessment Act 1979*, and the *Environmental Planning & Assessment Regulation 2000*.