

## 10.1 ADMINISTRATIVE AMENDMENT TO MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 - MUSWELLBROOK BYPASS

<b>Attachments:</b>	<p>A. Muswellbrook Bypass current and proposed boundaries - Confidential</p> <p>B. Planning Proposal - Administrative Amendment - Muswellbrook Bypass - Confidential</p>
<b>Responsible Officer:</b>	Carolyn O'Brien - Acting Director - Planning, Community & Corporate Services
<b>Author:</b>	Sharon Pope - Executive Manager - Planning, Environment & Regulatory Services
<b>Community Plan Issue:</b>	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
<b>Community Plan Goal:</b>	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
<b>Community Plan Strategy:</b>	<i>Seek support for the prioritisation of the Muswellbrook bypass.</i>

### **REASON FOR CONFIDENTIALITY**

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(d)(I) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

### **PURPOSE**

Muswellbrook Local Environmental Plan 2009 (MLEP 2009) includes a corridor for the proposed Muswellbrook bypass. Information on the bypass corridor was provided by the Roads and Maritime Services (RMS) based on preliminary concept work from 2008.

Over the past ten years the RMS have completed further investigations on the proposed bypass route, and a number of modifications are proposed to avoid significant electricity transmission infrastructure and to follow more desirable topography. The corridor has also been narrowed in a number of places, and the southern connection to the New England Highway has been changed. The proposed changes are shown in Attachment A. RMS staff have advised that it would be desirable for Council to amend MLEP 2009 to show these changes.

The purpose of this report is to seek a resolution from Council to prepare a Planning Proposal to amend MLEP 2009, and to seek a Gateway Determination from the Department of Planning and Environment (DoPE).

### **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 B;
2. Advises the Department of Planning & Environment that Council is requesting an authorisation to exercise its delegation of the plan making functions under Section 3.36 of the Environmental Planning and Assessment Act 1979;
3. Places the Planning Proposal on public exhibition, subject to the outcome of the Gateway Determination; and

4. **Notifies stakeholders and affected landowners of the Gateway determination and public exhibition period, as required.**

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

## **BACKGROUND**

Muswellbrook bypass has been proposed, but unfunded, for approximately 20 years. A route selection process for the bypass was complete in the mid-2000s. When Council was preparing MLEP 2009, the RMS requested that the preferred eastern bypass route be protected from further development through appropriate zoning.

While funding for detailed road design work is still outstanding, RMS staff have refined the location of the proposed bypass route through site inspections, access to improved aerial imagery and LiDAR, and discussions with utility and service providers. This has allowed the proposed corridor to become narrower, and has required realignment in a number of locations, as shown in Attachment A.

The RMS have indicated that amending the bypass corridor shown in MLEP 2009 would assist their efforts to secure funding for detailed design work, and would limit the potential for unnecessary land acquisition.

## **CONSULTATION**

The Executive Manager of Water and Waste has been involved in discussions with RMS staff, as the bypass corridor currently shown in MLEP 2009 would impact on the future operations of the Muswellbrook Waste Management Facility. A narrower bypass corridor, and an alignment further east, would lessen potential impacts on the Waste Management Facility.

Community consultation has not been undertaken, however, community consultation is expected to follow the Gateway determination in accordance with schedule 1 cl 4 of the Environmental Planning and Assessment Act 1979.

## **CONSULTATION WITH COUNCILLOR SPOKESPERSON**

The Mayor has been consulted on requested changes to the bypass corridor.

## **REPORT**

The proposal is to amend the MLEP 2009 to reflect the yellow outlined corridor in attachment A. This will require amendments to:

- Land Zoning Map – Sheets LZN\_008 and LZN\_008A to rezone land to SP2 Classified Road; SP2 Waste Management Facility; E3 Environmental Management; and RU1 Primary Production.
- Height of Buildings Map – Sheets HOB\_008 and HOB\_008A so that the permitted height for development on the bypass corridor will be 13m and development on land removed from the corridor will have a permitted height of 12m, the same as adjoining land.
- Lot Size Map – Sheets LSZ\_008 and LSZ\_008A so that the permitted minimum lot size for the corridor will be 600sqm and the land removed from the corridor will have a permitted minimum lot size of 80ha, the same as adjoining land.
- Land Reservation Acquisition Map – Sheets LRA\_008 and LRA\_008A to show the land now reserved for the bypass corridor.

The subject land is has been predominantly cleared for farming and mining related activities. The full environmental, social and financial impacts of the proposed bypass will be subject to studies and separate approval processes in the future.

The RMS have requested the matter be treated confidentially until a Gateway Determination is provided by the Department of Planning and Environment (DoPE).

**OPTIONS**

1. Council resolves to support the Planning Proposal to amend *MLEP 2009* to adjust the location and width of the Muswellbrook bypass corridor. This is the preferred option.
2. Council resolves not to support the Planning Proposal to amend *MLEP 2009*. This is not the preferred option as RMS staff have indicated that changing the zoning to reflect the realigned corridor may assist in securing funding for the bypass. It would also remove the corridor from Council's waste management facility which would assist the current proposal for expansion of this facility.

**CONCLUSION**

The proposed amendment to MLEP 2009 will reflect current information on the proposed Muswellbrook bypass corridor, it will reduce potential impacts on Council's Waste Management Facility site and minimise the potential for unnecessary land acquisition.

It is recommended that Council resolves to forward the Planning Proposal to the DoPE for a Gateway Determination.

**SOCIAL IMPLICATIONS**

There will be no social implications from the proposed amendment to MLEP 2009.

**FINANCIAL IMPLICATIONS**

There will be no financial implications for Council apart from staff resources involved in the processing of the LEP amendment.

**POLICY IMPLICATIONS**

The proposal is to amend MLEP 2009, which is a policy of Council. The proposed amendments are relatively minor, a corridor for the proposed Muswellbrook bypass will continue to be shown in the LEP.

**STATUTORY IMPLICATIONS**

There are no statutory implications under the LG Act. If landowners impacted by the bypass corridor demonstrate financial hardship they are able to request the RMS to purchase the land.

**LEGAL IMPLICATIONS**

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

**OPERATIONAL PLAN IMPLICATIONS**

The proposed amendments are consistent with the objective of Council's Operational Plan 2018-

**19.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, the Environmental Planning & Assessment Regulation 2000.