

**Planning Proposal – Administrative Amendment**  
**Muswellbrook Bypass**

<b>Local Government Area:</b>	Muswellbrook Shire Council (MSC)	
<b>Name of Draft LEP:</b>	Muswellbrook Local Environment Plan (MLEP) 2009	
<b>Subject Land:</b>	Lot 2 DP 249566; Lot 119 DP 613480; Lot 3 DP 249566; Lot 171 DP 571356; Lot 13 DP 249564; Lot 1A DP 16352; Lot 302 DP 715492; Lot 400 DP 1034562; Lot 56 DP 1025497; Lot 98 DP 1181251; Lot 1 DP 1167081; Lot 1 DP 249566; Lot 5 DP 1134398; Lot 5 & 6 DP 26760; Lot 1 DP 46760; Lot 7 DP 629631; Lot 12 DP 839233; Lot 1391 DP 590130; Lot 3 DP 1220491; Lot 1 DP 1135590; Lot 4 DP 1220491; Lot 7004 DP 1051571; Lot 7 DP 249566; Lot 4 DP 249566, Muswellbrook.	
<b>Land Owner:</b>	BI & JM Bennett; WJ & BJ Hopmans; L Hogan; WR & JM Budden; D Harris; T & RY Young; Cowtime Investments P/L; R Easton; Northview Holding Co P/L; AJR Madden Muswellbrook Coal; Alpha Distribution Ministerial Holdings (Ausgrid); Muswellbrook Shire Council; Roads and Maritime Services	
<b>Applicant:</b>	Muswellbrook Shire Council	
<b>Folder Number:</b>	PP 015 – Administrative Amendment – Muswellbrook Bypass	
<b>Date:</b>	28 August 2018	
<b>Author:</b>	Sharon Pope – Executive Manager Planning, Environment and Regulatory Services	
<b>Tables:</b>	Table No.	Details
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<b>Attachments:</b>	No.	Details
	1	Evaluation criteria for the delegation of plan making functions

## Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Muswellbrook Local Environmental Plan 2009 (MLEP 2009) in order to zone the proposed corridor for the Muswellbrook bypass as SP2 Classified Road zone and to zone land formerly identified as being in the Muswellbrook bypass corridor to match the zones of adjoining land. The Lot Size Map, Height of Buildings Map and Land Reservation Acquisition Map also need to be amended to match to zoning changes and to ensure consistency with all other corridor routes throughout the local government area. The intended outcome is to reflect current corridor planning.

## Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the MLEP 2009 by:

Amendment Applies to	Explanation of provision
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	Amend maps 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	Amend maps 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	Amend the maps to show the land now reserved for the bypass corridor.

## Part 3 – JUSTIFICATION

### Section A – Need for the Planning Proposal

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

The Planning Proposal is not the result of a strategic study or report. The purpose of the Planning Proposal is to reflect current corridor planning for the Muswellbrook Bypass. A request (letter dated 20 August 2018) has been received from the Roads and Maritime Services to adjust the bypass route to improve its economic viability. This request is based on the supporting report, *Muswellbrook Bypass Options Report July 2018* in which the Roads and Maritime Services considered 5 options.

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

In order to achieve the intended outcome the following options were considered:

### **Option 1 – Continuation of zones and map layers**

This option would incorrectly identify land for the future bypass and would not achieve the outcome sought by the Roads and Maritime Services.

### **Option 2 – Removal of any reference to the Muswellbrook Bypass in MLEP 2009**

This option would not protect the land required for the bypass corridor from new development. It would remove the certainty the community currently has on the location of the bypass, to the east of Muswellbrook, and new intersections with the New England Highway and local road network.

## **Section B – Relationship to Strategic Planning Framework**

### **3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

#### **Hunter Regional Plan 2036 (HRP)**

The HRP sets out a vision for the Hunter Region. The proposed amendment to MLEP 2009 will address:

*Direction 4: Enhance interregional linkages to support economic growth*

*Direction 13: Plan for greater land use compatibility*

*Direction 26: Deliver infrastructure to support growth and communities*

#### **New England Highway Strategy 2017 (NEHS)**

At 540km long, the highway runs between the western end of the Hunter Expressway at Branxton, through the regional centres of Singleton, Muswellbrook, Tamworth and Armidale, and to the Queensland border.

The NEHS aims to create an efficient road transport corridor that has the capacity for future growth. It will have the key benefits of:

- *Supports the user needs of regional industries, populations, commuters and tourists*
- *Aims to improve safety, capacity, reliability and freight access along the highway*
- *Acknowledges community value and use of areas in and around the corridor*

The short-term investment priorities for the NEHS are:

#### ***Increase road efficiency and capacity***

- *Construct the realignment at Bolivia Hill.*
- *Construct the highway upgrade between Belford and the Golden Highway.*
- *Develop options to progressively increase capacity between the Golden Highway and Muswellbrook (with priority between the Golden Highway and Singleton).*

#### ***Improve road integration with the whole transport network.***

- *Replace the existing rail over road bridge at Gowrie Gates.*

#### ***Support regional industries.***

- *Plan for heavy vehicle enforcement facilities to support the growth in freight.*

*Put in place a sustainable road maintenance program.*

- *Begin heavy-duty pavement reconstruction between Aberdeen and Willow Tree.*

*Create a reliable road transport corridor.*

- *Improve route reliability by looking at how to address flooding issues near Bendemeer and Whittingham.*
- *Improve customer journeys through an intelligent transport system strategy.*

*Look after the liveability of towns for communities along the road corridor.*

- *Construct the Scone Bypass.*
- *Investigate options for a bypass of Muswellbrook.*
- *Continue to preserve the Tenterfield heavy vehicle bypass and the Singleton bypass corridors.*

***Is the planning proposal consistent with a council's local strategy or other local strategic plan?***

**Community Strategic Plan (CSP)**

The proposal is considered consistent with Council's CSP 2017 – 2027:

*Community Infrastructure, Goal 19 Our community's infrastructure is planned well, is safe and reliable, and provides required levels of service.*

**4. *Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

**Table 1: Assessment of the Planning Proposal against relevant SEPPs**

<b>SEPP</b>	<b>Relevance</b>	<b>Implications</b>
<b>SEPP (Infrastructure 2007)</b>	The SEPP aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP 30 – Intensive Agriculture</b>	The SEPP provides considerations for consent for intensive agriculture	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP 44 – Koala Habitat Protection</b>	The SEPP encourages the conservation and management of natural vegetation that provides habitat for Koalas.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP No 55 – Remediation of Land</b>	<i>State Environmental Planning Policy No 55 – Remediation of Land</i>	It is not proposed to include any provisions which would be inconsistent with the SEPP.

SEPP	Relevance	Implications
	(SEPP 55) aims to promote the remediation of contaminated land for reducing the risk of harm to human health or any other aspect of the environment.	Past mining activities may have contaminated some of the land. The proposed zone changes are not intended to create additional residential development opportunities. Any future development applications would need to consider potential contamination.
<b>SEPP 64 – Advertising and Signage</b>	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of the area and provide effective communication in suitable locations.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP Rural Lands 2008</b>	The SEPP aims to facilitate the economic use and development of rural lands, reduce land use conflicts and provide development principles.	It is not proposed to include any provisions which would be inconsistent with the SEPP

#### 5. *Is the planning proposal consistent with applicable Ministerial Directions?*

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

**Table 2: Consistency with applicable Ministerial Directions**

Ministerial Direction	Objective/s	Consistency / Comment
1.1 Business and Industrial Zones	(a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified strategic centres.	N/A
1.2 Rural Zones	Protect the agricultural production value of rural land.	Consistent

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A
1.4 Oyster Aquaculture	Ensure Priority Oyster Aquaculture areas and oyster aquaculture generally are adequately considered when preparing a planning proposal.	N/A
1.5 Rural Lands	Ensure Planning Proposals that modify existing rural or environmental protection zones or minimum lot sizes to be consistent with SEPP Rural Lands 2008.	A Bypass corridor is already included in MLEP 2009 in the same general location. The changes to existing rural and environmental zoned land are minor.
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	Consistent
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. Detailed designs and approvals for the bypass are likely to require and Aboriginal heritage assessment.
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
3.1 Residential Zones	(a) Encourage a variety and choice of housing types to provide for existing and future housing needs, (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) Minimise the impact of residential development on the environment and resource lands.	N/A
3.2 Caravan Parks and Manufactured Home Estates	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
3.4 Integrating Land Use and Transport	<p>Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	Consistent.



<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
3.5 Development Near Licensed Aerodromes	<p>(a) Ensure the effective and safe operation of aerodromes, and</p> <p>(b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and</p> <p>(c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	N/A
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	N/A
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Consistent. Part of the site is within a mine subsidence district. Engineering designs for the bypass will need to take this constraint into consideration..

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
4.3 Flood Prone Land	(a) Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	N/A
4.4 Planning for Bushfire Protection	(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) Encourage sound management of bush fire prone areas.	Part of the site is classed as bushfire prone land – vegetation category 1 and vegetation buffer. The Proposal will not increase the intensification of land uses on the site.
5.10 Implementation of Regional Plans	Ensure Planning Proposals are consistent with a Regional Plan.	Consistent.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent.
6.2 Reserving Land for Public Purposes	(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and (b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	N/A

## **Section C – Environmental, Social and Economic Impact**

**6. *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 land affected by the Planning Proposal has already been modified by past rural and mining activities, however there is some potential for the bypass to impact on habitat, threatened species and ecological communities. Studies will be required for detailed design work and future development approval of the Bypass.

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

A Bypass corridor is already included in MLEP 2009 in the same general location. Some of the changes to the location of the corridor are intended to avoid significant vegetation and better work with the topography of the area.

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

A Bypass corridor is already included in MLEP 2009 in the same general location. No additional social or economic impacts are expected from the minor changes.

## **Section D – State and Commonwealth Interests**

**9. *Is there adequate public infrastructure for the planning proposal***

The purpose of the planning proposal is to reserve the corridor required for the Muswellbrook Bypass.

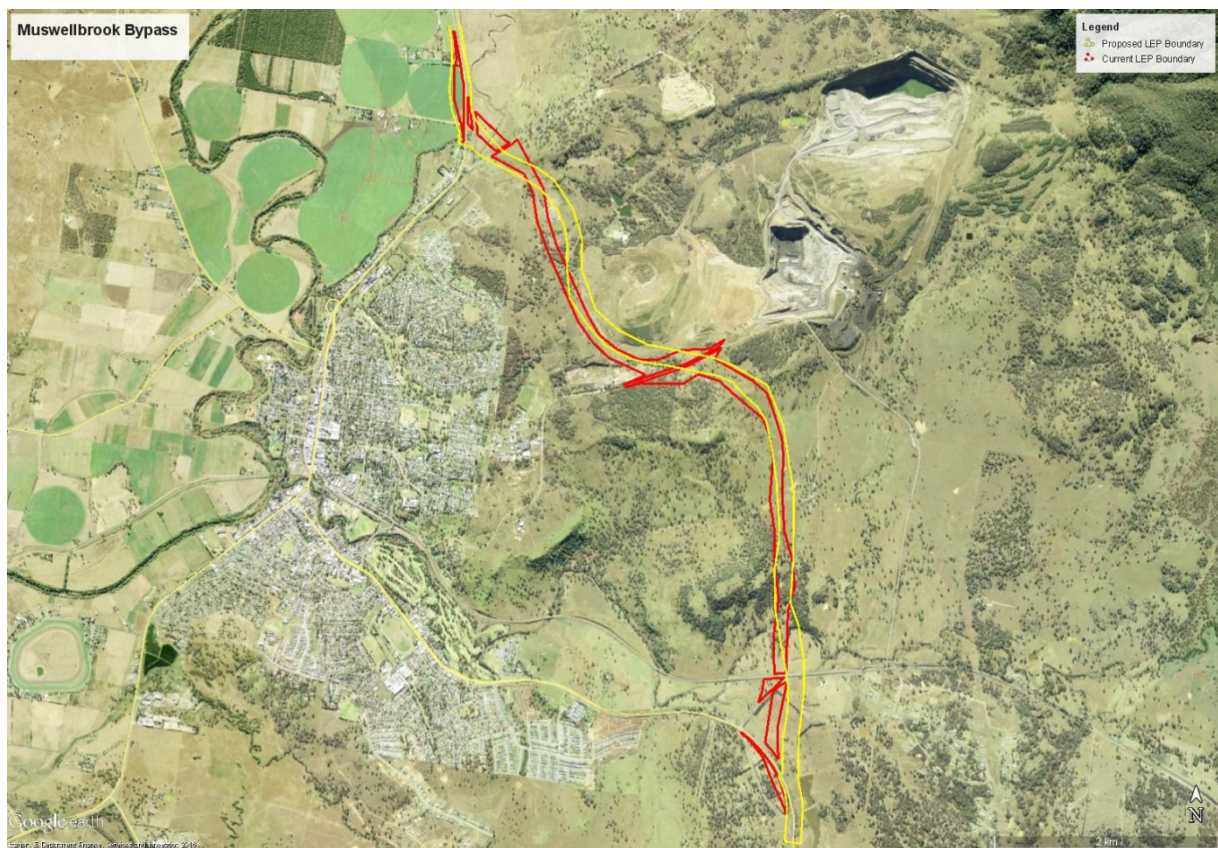
**10. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Consultation will occur with Government agencies according with the Gateway determination. Consultation with Roads and Maritime Services and Ausgrid is anticipated.

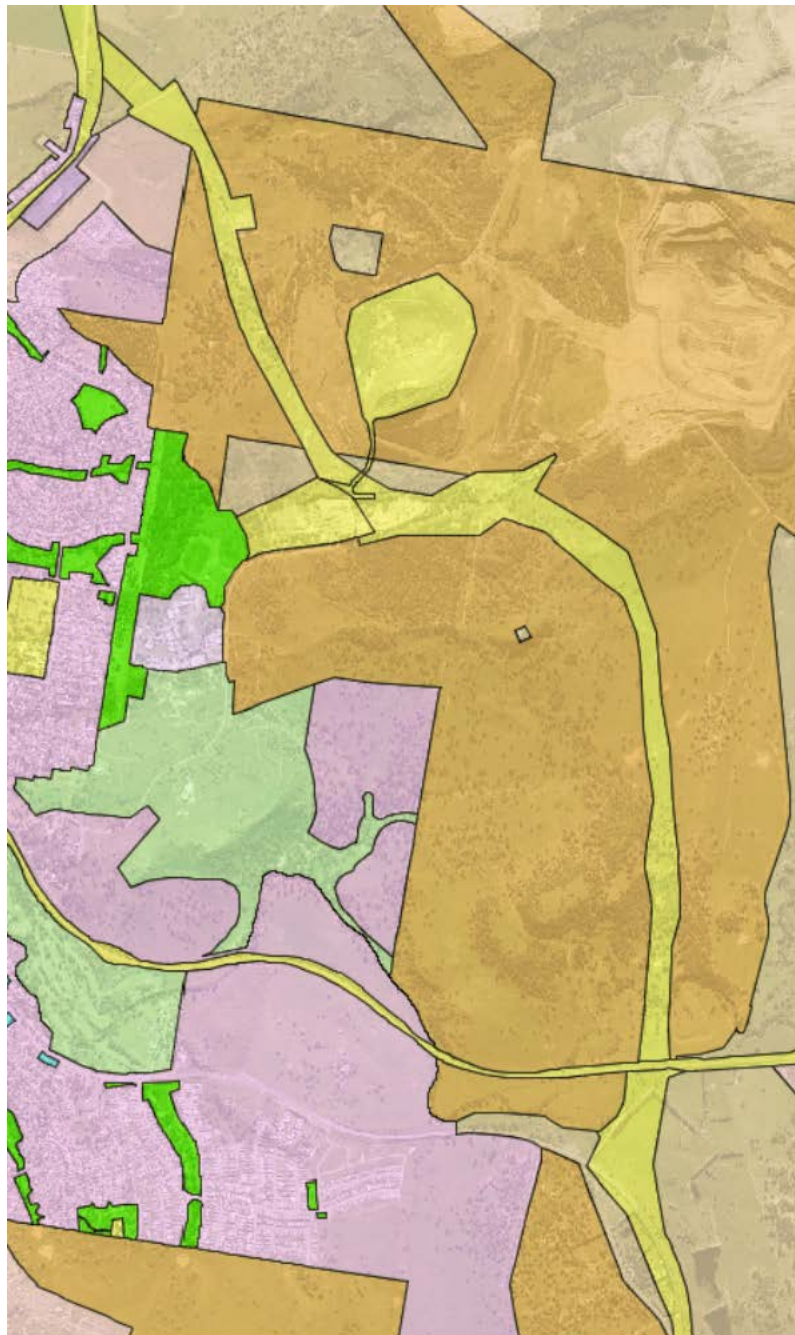
## **Part 4 – MAPPING**

The RMS have advised that this matter is to be treated as confidential (commercial in confidence) until a Gateway determination is made. Shape files for the revised bypass corridor will be issue to Council at that time.

**Map 1 – Locality / Aerial Photo with current and proposed bypass alignments**



## Map 2 – Existing Zones – Muswellbrook LEP 2009



Extract from

**Muswellbrook LEP 2009**

### Land Zoning Map

-  Business Development
-  Environmental Management
-  Forestry
-  General Industrial
-  General Residential
-  Infrastructure
-  Large Lot Residential
-  Light Industrial
-  Local Centre
-  National Parks and Nature Reserves
-  Natural Waterways
-  Primary Production
-  Private Recreation
-  Public Recreation
-  Village



North

## Part 5 – COMMUNITY CONSULTATION

The Planning Proposal will be placed on public exhibition in accordance with the Gateway determination's requirements.

## Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	September 2018
Anticipated timeframe for completion of required technical information	Nil
Timeframe for government agency consultation (pre exhibition)	21 days (if required)
Public exhibition (commencement and completion dates)	28 days
Date of Public hearing (if required)	Nil
Consideration of submissions	2 weeks
Timeframe for government agency consultation (post exhibition if required)	-
Post exhibition planning proposal consideration / preparation	8 weeks
Submission to Department to finalise LEP	2 weeks
Date RPA will make Plan (if delegated)	4 weeks
Date RPA will forward to the Department for notification (if not delegated)	4 weeks

Council intends to utilise delegations under s3.36 of the EP & A Act 1979 to finalise the Planning Proposal – see attachment 1.