



Mr Steve McDonald  
General Manager  
Muswellbrook Shire Council  
PO Box 122  
MUSWELLBROOK NSW 2333

Dear Mr McDonald,

**Planning Proposal to amend Muswellbrook Local Environmental Plan 2009**

I refer to Council's letter of 3 December 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to undertake a number spot rezonings and to correct an administration error in the RU1 Primary Production Land Use Table. The spot rezonings include rezoning land to facilitate a future Waste Management Facility, Aged Care Facility and the removal of split zones.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 2.1 Environment Protection Zones and 4.3 Flood Prone Land are of minor significance. In respect to Direction 6.2 Reserving Land for Public Purposes, I approve the rezoning of RE1 Public Open Space to R1 General Residential. No further approval is required in relation to these Directions.

Consultation regarding outstanding directions is conditioned through the Gateway Determination. Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to Councils in October 2012 and it is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan because the reclassification of community land requires the Governor's approval.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly

available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any questions regarding this matter, please contact Trent Wink of the Department's Newcastle office on 49042716.

Yours sincerely,

 18/12/13  
Michael Leavey  
Acting General Manager, Hunter & Central Coast Region

## Gateway Determination

**Planning Proposal (Department Ref: PP\_2013\_MUSWE\_002\_00):** to undertake a number of spot rezonings and to correct an administration error in the RU1 Primary Production Land Use Table.

I, the Acting General Manager, Hunter & Central Coast Region at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Muswellbrook Local Environmental Plan (LEP) 2009 to rezone land to facilitate a future Waste Management Facility, Aged Care Facility, the removal of split zones and to permit "Intensive plant agriculture" without consent in the RU1 Primary Production zone should proceed subject to the following conditions:

1. Council is to amend the planning proposal prior to commencing public exhibition as follows:-
  - remove the minimum lot size (leave blank) for the land being rezoned SP2 Infrastructure (Waste Management) to facilitate the future subdivision of the Waste Facility.
  - Include a reclassification information map to identify the additional land being reclassified from Community to Operational lands.
2. Prior to public exhibition, Council is to review the proposed zoning of the landfill access strip, where it crosses the proposed by-pass corridor, to ensure the ongoing permissibility of the proposed by-pass.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
  - NSW Department of Primary Industries - Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
  - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
  - Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
  - Environmental Protection Agency (with respect to the proposed landfill)
  - Roads & Maritime Services (with respect to proximity to the proposed by-pass corridor)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing for the reclassification of land under the Local Government Act 1993.
6. The timeframe for completing the LEP is to be **6 months**.

Dated 18<sup>th</sup> day of December 2013.

  
**Michael Leavey**  
**Acting General Manager**  
**Hunter & Central Coast Region**  
**Department of Planning and Infrastructure**

**Delegate of the Minister for Planning and Infrastructure**