

Planning Proposal

Local Government Area: Muswellbrook Shire
Name of Draft LEP: Muswellbrook Local Environmental Plan (MLEP) 2009
(Amendment No. 4)

Part 1 – Objectives of the proposed LEP

To amend MLEP 2009 to enable subdivision of Lot 42 in DP748269 for large lot residential development and conservation purposes.

Part 2 – Explanation of the Provisions

The LEP proposes to:

- rezone Lot 42 in DP748269 from zone RU1 Primary Production to zone R5 Large Lot Residential under MLEP 2009;
- amend the MLEP 2009 Lot Size map to show Lot 42 in DP 748269 as minimum lot size 4,000m²; and
- amend the MLEP 2009 Building Height Map to show Lot 42 in DP 748269 as maximum Building Height 8.5m.

Part 3 – Justification for the Provisions

Section A – Need for the planning proposal

The planning proposal is not the result of any strategic study or report. The planning proposal is necessary if the land is to be subdivided for the purpose of creating large residential lots. Subdivision for residential purposes is not permissible under the land's existing RU1 Primary Production Zone or under the MLEP 2009 Lot Size Map.

It is considered that the planning proposal will result in net community benefit. The proposal will provide additional land for large lot residential development, and is likely to result in modest economic benefits for the Muswellbrook Town Centre due to increased patronage.

The proponent has indicated that the planning proposal will assist in keeping land and housing prices for rural residential properties at affordable prices in a growing township. The proponent has also indicated that agricultural use of the land, under its existing RU1 Primary Production zoning, is limited to a hobby farm venture at best, with occupants requiring external employment to make a living.

Section B – Relationship to strategic planning framework

There is no regional or sub regional strategy applicable to the Muswellbrook LGA, nor is there a Community Strategic Plan applicable to the Muswellbrook LGA.

Consistency with applicable State Environmental Planning Policies

SEPP	Objective	Consistent	
44—Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.	Yes	A comprehensive EIS has been undertaken by Ecovision Consulting in relation to the subject land. No evidence of recent koala activity was observed on site. The Assessment identifies measures to minimise possible impacts of future development, such as the retention of a Habitat Protection Zone.
55—Remediation of Land	Aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	Yes	It is understood that the subject land has previously been used for grazing cattle. The land is largely vacant, apart from a dwelling and sheds in the central eastern portion of the site. Due to the site's history, contamination is unlikely.
Exempt and Complying Codes 2008	Aims to provide streamlined assessment processes for development that complies with specified development standards.	Yes	The LEP Amendment is consistent with this SEPP.
Infrastructure 2007	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services.	Yes	The subject site does not have access to a reticulated wastewater service. As a result, future residential developments within the site will be required to install onsite wastewater management systems. Council's reticulated water supply is getting towards the limit of supply causing some water pressure issues for the area. Development arising from the draft LEP Amendment will likely require the upgrade of some of the water supply infrastructure.
Rural Lands 2008	Aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes.	Yes	The LEP Amendment is consistent with this SEPP.

Consistency with applicable Ministerial Directions (s.117 directions)

Ministerial Direction	Objective	Consistent	
1.2 – Rural Zones	The direction requires that a draft LEP protect the agricultural production	No	Agricultural activities under the subject land's existing RU1 Primary Production zoning are

Ministerial Direction	Objective	Consistent	
	value of rural land.		limited due to poor soil quality. The land provides for a hobby farm at best with occupants requiring external employment to make a living. The proposed LEP Amendment is considered of minor significance.
1.3 – Mining, Petroleum Production and Extractive Industries	The direction requires a draft LEP does not compromise the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials by inappropriate development.	Yes	The draft LEP will be consistent with this requirement.
1.5 – Rural Lands	The direction requires that a draft LEP protect the agricultural production value of rural land, and facilitates the orderly and economic development of rural lands for rural and related purposes.	Yes	Agricultural activities under the subject land's existing RU1 Primary Production zoning are limited due to poor soil quality. The land provides for a hobby farm at best with occupants requiring external employment to make a living. The proposed LEP Amendment is considered of minor significance.
2.1 – Environmental Protection Zones	This direction requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	Yes	A comprehensive EIS has been undertaken in relation to the subject land. Measures are proposed in the Study to protect land identified as environmentally sensitive.
2.3 – Heritage Conservation	The direction requires that a draft LEP include the provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	Yes	An Aboriginal Heritage Assessment has been prepared in relation to the subject land. The Assessment concluded that the land was of low archaeological sensitivity. The subject land does not contain any known items of European heritage.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling land to be developed for a recreation vehicle area.	Yes	The Planning Proposal does not propose any recreation vehicle areas.
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that encourage the provision of housing.	Yes	The Planning Proposal will provide large lot residential land that is in close proximity to Muswellbrook Town Centre, and existing water and electricity services. The subject site does not have access to a reticulated wastewater service. As a result, future residential

Ministerial Direction	Objective	Consistent	
			developments within the site will be required to install onsite wastewater management systems.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.	Yes	The proposal will not affect provisions relating to Caravan Parks or Manufactured Home Estates.
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	Yes	The amendment will not affect provisions relating to home occupations, and will retain the provisions of the principal LEP in this regard.
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	Yes	The draft LEP will be consistent with this requirement.
4.4 – Planning for Bushfire Protection	The direction requires that a draft LEP 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.	Yes	A Bushfire Risk Assessment has been undertaken in relation to the subject site. The Assessment proposes measures to mitigate the risk of bushfire to future development within the site. Further consultation with the Rural Fire Service will be undertaken if directed by the Department of Planning.
6.1 Approval and Referral Requirements	The direction prevents a draft amendment from requiring concurrence from, or referral to, the Minister or a public authority.	Yes	The draft LEP will be consistent with this requirement.
6.2 – Reserving Land for Public Purposes	The direction states that a draft LEP shall not create, alter, or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning.	Yes	The amendment will not create, alter, or reduce existing zonings or reservations of land for public purposes.

Section C – Environmental, social and economic impact

Flora and Fauna

A comprehensive Ecological Impact Study (EIS) has been prepared by Ecovision Consulting in relation to the subject site. The Report identified the following environmental issues:

- One threatened plant species listed on the Environmental Protection and Biodiversity Conservation Act (EPBC Act) 1999 was observed within the site during the survey period (i.e. Painted Diuris (*D. tricolour*)).
- Three threatened fauna species listed in the Threatened Species Conservation Act (TSC Act) 1995 have been recorded onsite these being the Eastern Bent-wing Bat, Eastern Free-tail Bat and Grey-Crowned Babbler.
- One Endangered Population listed on the TSC Act 1995 occurs within the site, i.e. the Painted Diuris (*D. tricolor*), for the Muswellbrook Local Government Area).

Future development associated with the subject site is likely to have an impact on the natural environment. An Assessment of Significance has been prepared under section 5A of the EP&A Act 1979 and included with the EIS. The Assessment of Significance considers whether there will be a significant impact on threatened biodiversity and their habitats. The Assessment of Significance also identifies measures to minimise possible impacts of future development.

Services

While the subject site has access to electricity and Council's reticulated water service, it does not have access to a reticulated wastewater service. As a result, future residential developments within the site will be required to install onsite wastewater management systems. In this regard, the proponent has submitted an Onsite Effluent Disposal Assessment, prepared by Coffey Geotechnics.

Traffic

A Traffic Impact Study, prepared by Northern Transport Planning and Engineering PL, has been submitted with the proponent's Planning Proposal. The Study does not highlight any significant traffic impacts resulting from future residential development within the site.

Other Environmental Considerations

The subject site is not within a Mine Subsidence Area, nor is the site flood prone. The site is identified as bushfire prone and as such, a Bushfire Assessment has been prepared by the proponent. Measures to mitigate the risk of bushfire are identified in the Assessment and will be incorporated into the any subdivision plan for the site.

Section D – State and Commonwealth Interests

The Planning Proposal seeks to subdivide the subject land into 29 rural residential lots. It is considered that adequate public infrastructure exists to service the subdivision. The site does not have access to a reticulated sewer service. Future development within the subject land will require onsite wastewater management systems.

Part 4 - Community Consultation

The gateway determination will specify the community consultation that must be undertaken on the planning proposal. The consultation to this specific proposal will involve public exhibition for a period of 28 days.

In accordance with the Department of Planning's document 'A guide to preparing local environmental plans', community consultation is commenced by giving notice of the public exhibition of the planning proposal:

- in a newspaper that circulates in the area affected by the planning proposal;
- on the web-site of the Relevant Planning Authority (RPA); and
- in writing to adjoining landowners.

The written notice will:

- Give a brief description of the objectives or intended outcomes of the planning proposal;
- Indicate the land affected by the planning proposal;
- State where and when the planning proposal can be inspected;
- Give the name and address of the RPA for the receipt of submissions;
- Indicate the last date for submissions.

During the exhibition period, the following material must be made available for inspection:

- The planning proposal, in the form approved for community consultation by the Director General of Planning;
- The gateway determination; and
- Any studies relied upon by the planning proposal.

Pursuant to Section 57(8) of the Environmental Planning and Assessment Act 1979, the community consultation is complete only when the RPA has considered any submissions made concerning the proposed LEP and the report of any public hearing into the proposed LEP.

Appendix B – Location of Subject Land



Location of Subject Land



DISCLAIMER: No responsibility is taken for any errors or omissions that may be contained within the map and associated data. No guarantee is given as to the accuracy of the information contained within this map. This is not a Department of Planning certified copy of the map accompanying the Muswellbrook LEP 2003 and is for indicative purposes only. Muswellbrook Shire Council takes no responsibility for reliance upon the information contained on this map. To determine the zoning attributes applying to a property, a Section 149 certificate must be obtained or certified copies of the LEP maps can be obtained from the following website: www.legislation.nsw.gov.au

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Appendix C – Aerial Photograph of Subject Land



Subject Land - LOT 42 DP 748269



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