

PLANNING PROPOSAL

(Muswellbrook LEP 2009 Amendment No. 09)

IRONBARK RIDGE EXTENSION REZONING

Lots 101 and 103 DP 1170190

September 2014 (Revision 1)

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PLANNING PROPOSAL

Local Government Area	: Muswellbrook
Property	: Lots 101 and 103 DP 1170190
Applicant	: MM Hyndes Bailey & Company
Owners	: Mr. I R and Mrs. F Webber
Proposal	: Rezoning of Lots 101 and 103 DP 1170190 from E3 Environmental Management to part R1 General Residential and part R5 Large Lot Residential

PROJECT BACKGROUND:

The land which is proposed to be rezoned comprises an area of approximately 80ha and currently zoned E3 Environmental Management under the Muswellbrook Local Environmental Plan 2009 (LEP). The land is bounded on two sides of its three primary boundaries, by land zoned R1 General Residential and R5 Large Lot Residential, respectively. The subject land represents a “logical” extension to the existing residential area of South Muswellbrook.

The proponents for the rezoning are the same as those who are currently developing the “Iron Bark Ridge” estate. They have a proven track record for the quality of the developed land (as evidenced by being a recent finalist in the Housing Industry Award Program) and in cooperation with Muswellbrook Shire Council through all stages of its development.



Figure 1 and 2: Iron Bark Ridge Estate

SITE IDENTIFICATION

The site comprises approximately 80 hectares and is identified as Lots 101 and 103 DP 1170190.

The site identification map is attached as Appendix A.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The rezoning of the subject land will:

- allow development into a range of residential lot sizes, consistent with adjoining land use.
- provide land which will allow for a variety of residential development to be undertaken and thereby contribute towards addressing housing affordability
- enable the logical extension of, and connection between existing residential and large lot residential zones.
- provide for the efficient use of existing and proposed servicing infrastructure
- provide continuing choice and selection of land use types and locations within the local government area

It is intended to amend the Muswellbrook LEP 2009 Land Zoning map, Lot Size map, Floor Space Ratio Map and Height of Building Map.

PART 2 – EXPLANATION OF THE PROVISIONS

The proposed outcome will be achieved by:

- Amendment of the Muswellbrook LEP 2009 Land Zoning Map (LZN_008 and LZN_008A) in respect of lots 101 and 103 DP 1170190 in accordance with the proposed zoning map shown in Part 4 Map A. This amendment will permit land to be developed as residential and large lot residential in accordance with the zoning and DCP provisions.
- Amendment of the Muswellbrook LEP 2009 Lot Size Map (LSZ_008 and LSZ_008A) in respect of lots 101 and 103 DP 1170190 in accordance with the proposed lot size map shown in Part 4 Map B. This amendment will ensure that the subject land has the same lot size restrictions as other similarly zoned land in the LGA.
- Amendment of the Muswellbrook LEP 2009 Height of Buildings Map (HOB_008 and HOB_008A) in respect of lots 101 and 103 DP 1170190 in accordance with the proposed height of buildings map shown in Part 4 Map C. This amendment will ensure that the subject land has the same building height restrictions as other similarly zoned land in the LGA.
- Amendment of the Muswellbrook LEP 2009 Floor Space Ratio Map (FSR_008 and FSR_008A) in respect of lots 101 and 103 DP 1170190 in accordance with the proposed floor space ratio map shown in Part 4 Map D. This amendment will ensure that the subject land has the same floor space ratio restrictions as other similarly zoned land in the LGA.

PART 3 – JUSTIFICATION FOR THE PROVISIONS

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal is supported by the identification of the subject land as “Category 1” land within the Muswellbrook Residential and Rural Residential Strategy (MRRRS) adopted by Council at its ordinary meeting on 10 March 2014.

The MRRRS identifies land suitable for residential and large lot residential and prioritises rezoning of such land. The subject land is within an area identified as “Category 1” land in the above strategy. (Refer to below Figure 3).

The Strategy states that ‘Category 1’ land as “land that is a logical extension of and located in close proximity to existing developed areas, building upon existing services and amenities and requires the augmentation of infrastructure”. The MRRRS confirms that Category 1 land may be investigated in the short term.

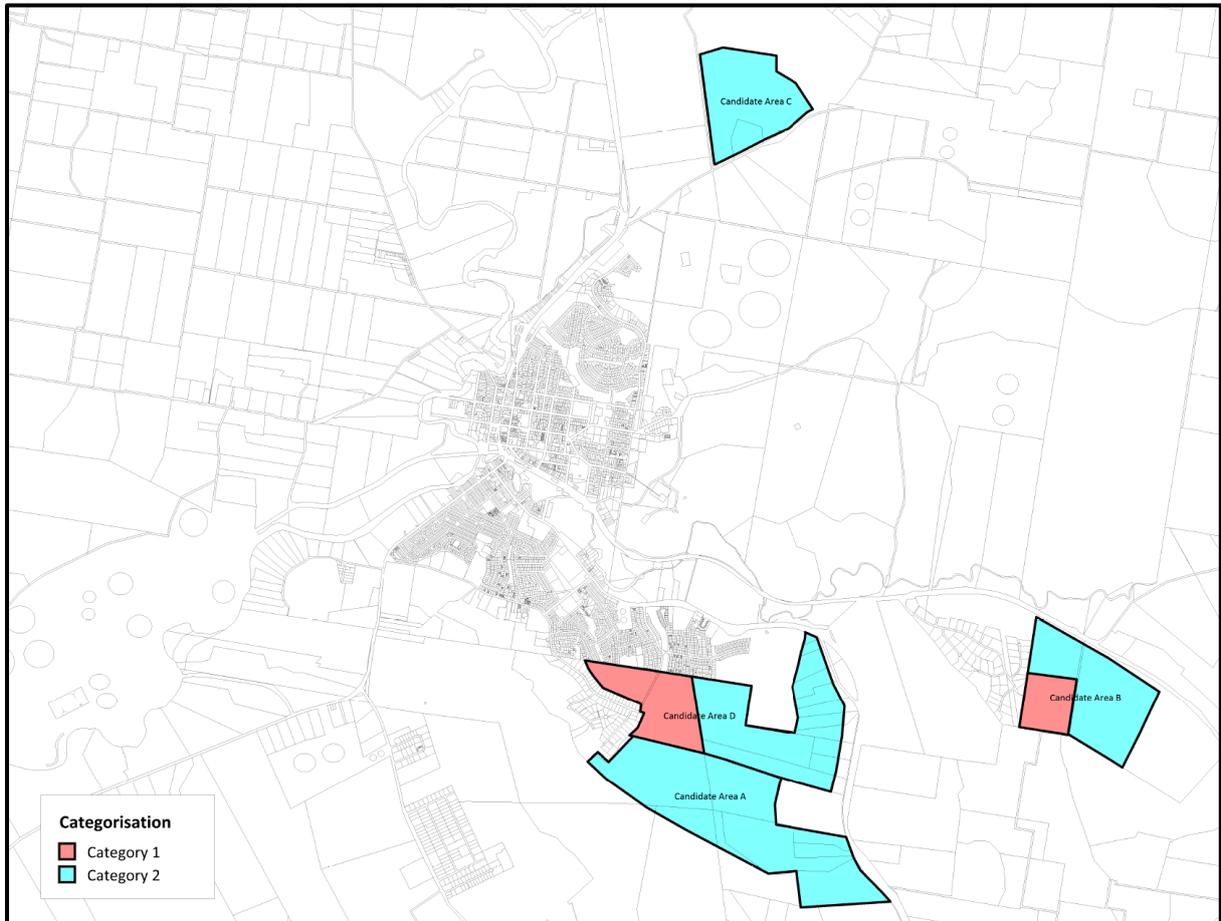


Figure 1 Extract from MRRRS adopted by Council 10 March 2014

The MRRRS considered three scenarios for population growth in the LGA. The medium growth scenario assumes an average annual growth rate of 1.2% which results in an additional 3828 residents in 2031.

Table 9 and figure 14 from the MRSS are shown below

TABLE 9. MUSWELLBROOK LGA POPULATION BY SCENARIOS AND YEAR

Year	Low Scenario	DP&I projection	Medium Scenario	High Scenario
2011	16,322	16,300	16,322	16,322
2016	16,508	17,100	17,356	18,170
2021	16,633	17,900	18,242	20,135
2026	16,695	18,600	19,172	21,993
2031	17,115	19,250	20,150	22,845

Source: SGS, 2013; DP&I, 2013.

FIGURE 14. MUSWELLBROOK LGA POPULATION BY SCENARIOS AND YEAR



Source: SGS, 2013; DP&I, 2013.

Figure 2 Table 9 and figure 14 from MRSS

Rezoning of the subject land will ensure that appropriate land is available to meet a proportion of the demand for residential land which will be evident over the next 25 years.

The land has also been identified in Council's Developer Servicing Plans for the extension of new, and augmentation of existing services for water and sewer infrastructure to service the subject land and other adjoining land which is being developed, as detailed within this planning proposal. (Refer to Figure 4 and 5).

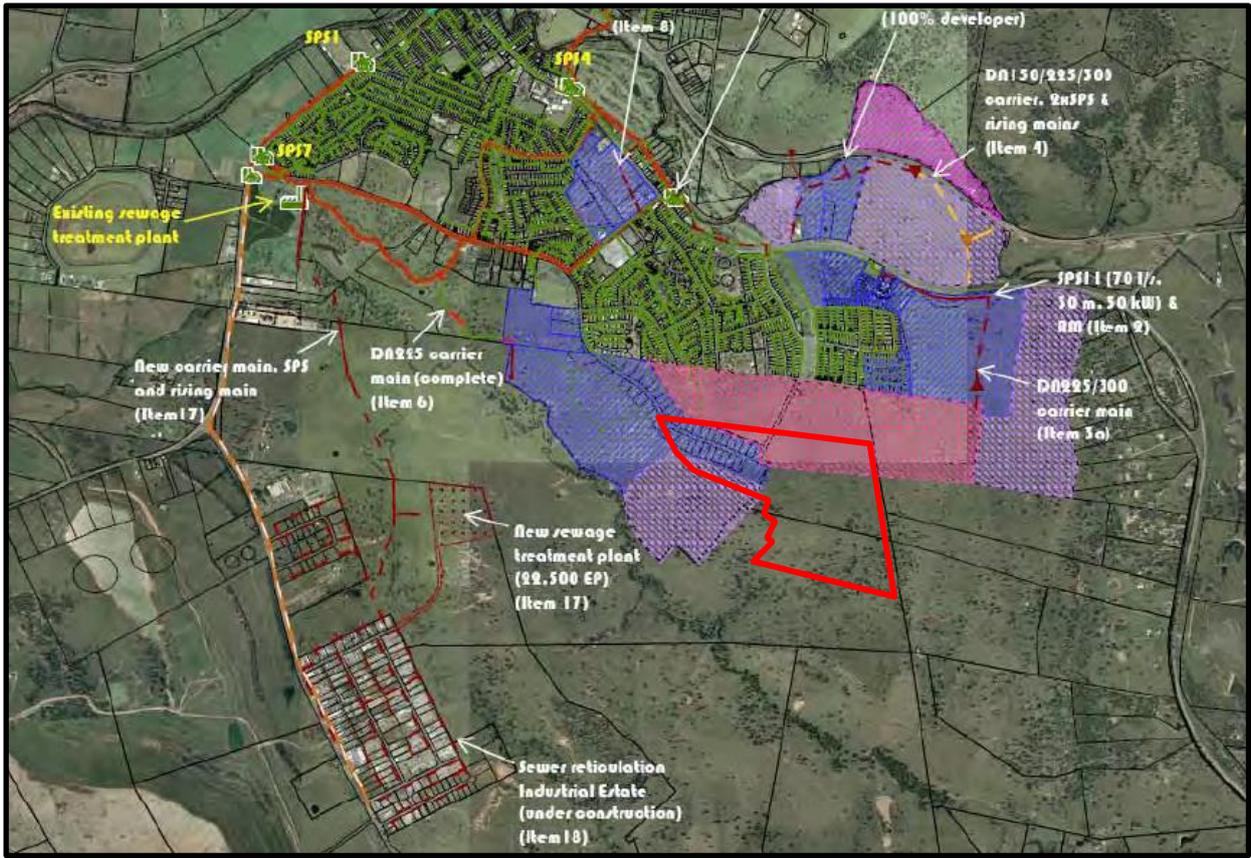


Figure 3 Extract from MSC Developer Servicing Plan – Sewer

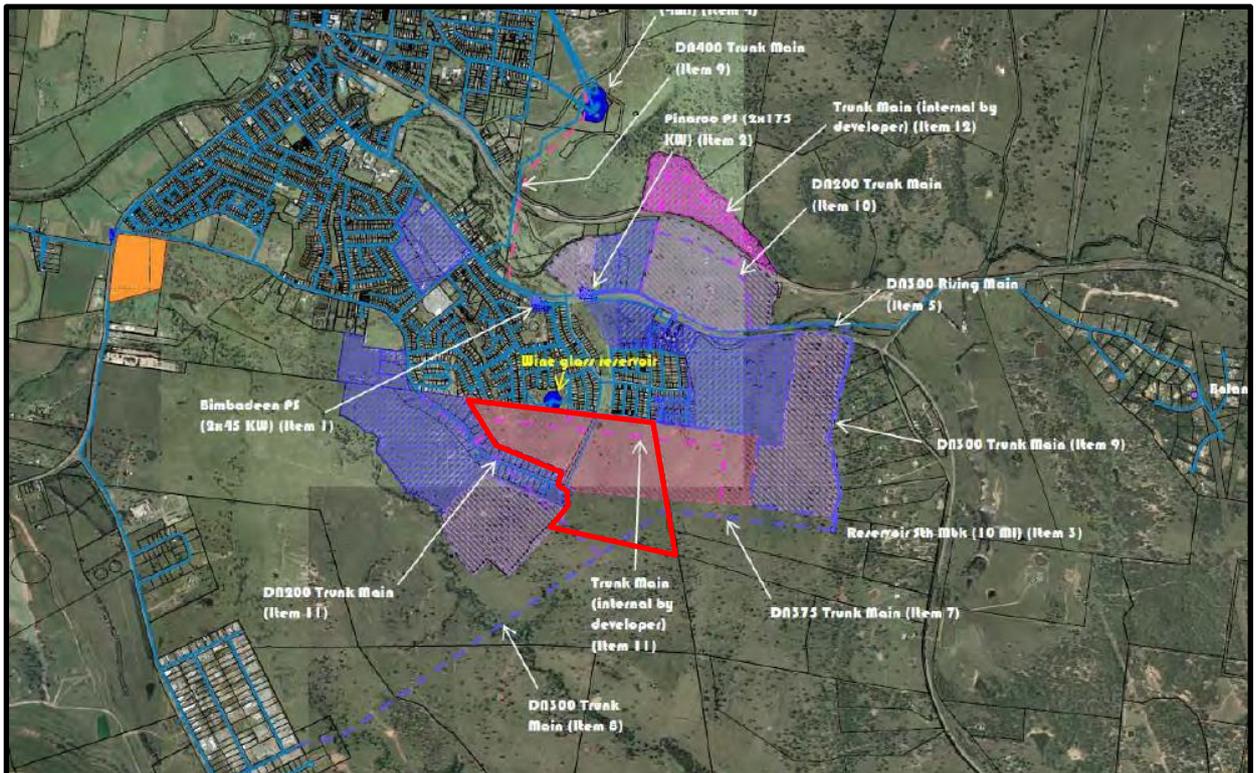


Figure 4 Extract from MSC Developer Servicing Plan – Water

Figure 3 and 4 above clearly shows the merit of the land in terms of its location in relation to proposed extension of sewer and water services for nearby development.

The Trunk Main South (sewer) shown above bisects the subject land and provides access to sewer for the future residential supply. The land is well located in respect of the proposed new sewer treatment plant. There are several water supply pipes passing through the land.

The economic benefits of developing land which has existing or proposed infrastructure in place or planned to be constructed is an important advantage to the proposed area to be rezoned. If one considers also that the current plans indicate only minor work for extension of water and sewerage infrastructure to the urban release area north of the railway line, it is clear that the subject land is well positioned for provision of Council infrastructure.

The above Figures 4 and 5 clearly shows the merit of the land in terms of its location in relation to proposed extension of sewer and water services for nearby development. The economic benefits of developing land which has existing or proposed infrastructure in place or planned to be constructed is an important advantage to the proposed area to be rezoned.

The existing Iron Bark Ridge Estate has been a popular development as evidenced by the continuing staged development and land sales / housing construction. The rezoning would provide land which would attract land owners seeking property in this location and catering for both those wishing to acquire large lot residential and residential holdings.

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

It is considered that the planning proposal is the best way of achieving the objectives as the land is the “logical link” between existing residential zones. The capacity and availability of services is an important issue to consider and the subject land, as previously indicated is well serviced and / or designated as being within an area which will benefit by augmentation of existing water and sewer infrastructure.

The current ownership is the same as that for the existing Iron Bark Ridge Estate. These owners have a desire to continue the style and quality land development that exists for large lot residential and also provide opportunities for residential development which will be contiguous with existing residential zoned land.

There is potential however for such ownership to change and the opportunity to be lost to provide this linkage between existing developments, should the land not be rezoned and / or change hands to an entity with no desire for development of the land (eg: a coal mine seeking to acquire the land for non-residential purposes).

The MRRRS identifies three locations as Candidate and Urban Release areas in table 13 of the document; Candidate area D (the subject land), Urban Release Area North and Urban Release Area South.

The MRRRS identifies a series of constraints for each of the areas. The following represents a summary of the findings:

Area	Total Constrained (ha)	Total Unconstrained (ha)	% Constrained
Muswellbrook D	5.0	235.6	2%
URA North	12.9	110.6	10%
URA South	25.0	26.7	48%

The MRRRS considered environmental and infrastructure constraints for the areas. Candidate Area D ranked as more constrained for environmental constraints due to it being within a Mines Subsidence Area. In terms of infrastructure constraints, Candidate Area D was the least constrained and the document confirmed that from a total constraints (environmental and infrastructure) ranking perspective, Candidate Area D was the least constrained followed by URA South then URA North.

The following extracts from Table 19 in the MRRRS show the comments in relation to mining related constraints for the relevant areas.

Muswellbrook URA Northeast	Coal mining immediately to the east and Mine Subsidence District to the north and east - it is recommended that any proposed rezoning and/or development would require consultation with the MSB, MRB and any relevant title holders.	Given the location near the CCL 713, any proposed rezoning and/or development should consult with the MSB, MRB and any relevant titleholders
Muswellbrook URA Northwest	Partly overlies a coal lease area with a portion of the subject area falling within the Muswellbrook MSD any proposed rezoning and/or development in this area should be in consultation with the MSB, MRB and any relevant titleholders.	Given the location within the CCL 713 and Muswellbrook MSD, any proposed rezoning and/or development would be required to be in consultation with the MSB, MRB and any relevant titleholders.
Muswellbrook URA South	No resource concerns within this area, and it is not within a MSD, however a coal lease and MSD exist immediately to the east, and therefore it is recommended that any proposed rezoning and/or development would require consultation with the MSB, MRB and any relevant titleholders.	Given the location near the CCL 713 and Muswellbrook MSD, any proposed rezoning and/or development should consult with the MSB, MRB and any relevant titleholders
Muswellbrook Candidate D	There are no resource concerns with this site. However, the area is within the Muswellbrook MSD and any proposed rezoning and/or development would be required to be in consultation with the MSB and MRB.	Given the location within the Muswellbrook MSD, any proposed rezoning and/or development would be required to consult with the MSB and MRB.

Note that Appendix C includes correspondence from the Mines Subsidence Board in relation to Candidate Area D with no objection to the rezoning, subject to the usual application of requirements for structures.

The MRRRS identifies that there are ownership constraints for part of the area nominated in Candidate D, with BHP being a substantial land owner and potentially posing a risk to amount of developable land in the precinct. The Wanaruah Local Area Lands Council own a large proportion of the Urban Release Area, however while they are interested in developing the land, they restricted by capital and capacity and have no specific timeframe for such development.

The Urban Release Areas as indicated are constrained by lack of infrastructure. Development of the Urban Release Areas, under clause 6.2 of the MLEP 2009 requires any essential public infrastructure to be available or adequate arrangements for supply being in place.

The proponent owns adjoining land which has been developed as a rural residential estate. While there would be proportionally a small amount of rural residential development proposed in the land to be rezoned, the significant component is the creation of residential lots, thereby providing an alternate development front. Approximately 63% of the land zoned for rural residential development owned by the proponent has been developed to date.

The planning proposal is considered to be the best means of achieving the rezoning of subject land for part general residential and part large lot residential purposes.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The Upper Hunter Strategic Regional Land Use Plan (UHSRLUP) was released in September 2012. The plan *“outlines a range of key challenges facing the Upper Hunter region and lists clear actions to address these challenges”* (p7). One of the key areas applies to Housing and Settlement which is particularly relevant to this Planning Proposal.

The plan indicates that *“in Muswellbrook there is potential for a further 1,300 new dwellings in the zoned residential land at South Muswellbrook. This is expected to be adequate for these areas for the short to medium term. However, with the additional demands coming from the growth of mining, councils will need to continue to assess the adequacy of supply of housing in the region”*(p51)

It also states that *“Housing affordability is highly varied across the region. However, one issue that is relevant across the entire region is the current lack of housing choice through the provision of smaller and more affordable housing options such as one and two bedroom houses and town houses. This current lack of housing choice is significantly contributing to housing stress”* (p51), and that

“Rural residential and lifestyle housing growth should occur in close proximity to existing centres, towns and villages and is to be consistent with the settlement planning principles identified below with regard to residential lands”. (p52)

The UHSRLUP then provides the following “Settlement Planning Principles” (p53)

When planning for housing growth, the following settlement planning principles must be considered:

UHSRLUP Settlement Planning Principle	Comment
<i>Development will contribute to the diversity of housing types available. Any medium or higher density housing should be located in central and accessible locations to ensure access to a full range of services within a reasonable walking distance.</i>	The rezoning would provide for a range of housing types. It also forms a natural and logical extension from the existing Iron Bark Ridge Estate. It will provide for continuation of the roads, cycleway, and pedestrian path from the existing residential areas to proposed area.

<i>Development will be located to maximise the efficiency of essential urban infrastructure, services and facilities, including transport, health and education.</i>	The planning proposal seeks to rezone land to provide residential development. The site is considered to be suitably located for access to utilities and infrastructure.
<i>Development will respect and respond to the character of the area and the identified settlement hierarchy of the region</i>	The land represents an extension of existing large lot residential development and adjoins existing residential zoned land thereby providing consistency in the settlement patterns in the immediate locality and the region generally.
<i>New residential areas will be planned with streets that make it easy for people to walk and cycle and with recreational and open space</i>	Consideration will be given to extension of footpath/cycleway to the subject site and link it to the existing/proposed open space and recreational areas consistent with Council requirements.
<i>New residential and rural residential areas will respect environmental and cultural heritage and avoid areas most affected by natural hazards or having high cultural significance</i>	The area does not raise any concerns in respect of environmental or cultural heritage issues, or natural hazards. It is considered that further investigations into these aspects will be undertaken following the Gateway Determination and the recommendations of the study will be followed.
<i>New residential and rural residential areas should minimise the potential for land use conflict with land needed for valuable economic activities, such as valuable agricultural lands and natural resource lands. This includes avoiding locations where possible adverse impacts associated with industry (such as noise, dust, visual impacts or other amenity impacts) are likely to affect future residents</i>	The land has had limited agricultural use in the past. The existing circumstances for adjoining land zoned for large lot residential and residential will effectively be 'mirrored' by this proposal. It is considered that there would be no additional impacts likely to affect future residents. Rezoning of the subject land would not result in a loss of prime agricultural land or employment land.
<i>New rural residential areas should be located adjacent to, or in close proximity to, existing urban centres and be within easy access of relevant infrastructure and services.</i>	The land is adjacent to existing land zoned for such purposes and represents a logical extension of and link between. Infrastructure and services are available and to be extended and/or augmented to develop the subject land.

The Principles then lead to the development of the following policy response and action plan.

Objective	Comment
<i>Ensure an adequate supply of housing to meet community needs.</i>	The rezoning of the land will ensure that there is not only adequate supply but choice of location for land owners.
<i>Ensure a greater diversity of housing types, including smaller housing types, rental housing and temporary housing.</i>	The subject land would have two zones allowing for a range of housing types, in accord with the zoning provisions.
<i>Improve the supply and range of affordable housing</i>	Potential for smaller housing types and medium density development (based on land area) provides potential for increased range of affordable housing.

<i>Build cohesive and liveable communities by ensuring towns and villages are well designed, liveable and provide a range of housing types</i>	The development would be a continuation in the style of the popular Iron Bark Ridge Estate with the new residential area to be developed with its own style that is appropriate for the locality.
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	Action Plan	Lead Agencies	Time Frame
6.1	Work with Singleton and Muswellbrook councils to identify the nature of change in population growth and demand for housing and to identify sufficient land and other opportunities to facilitate an adequate supply of appropriately located housing to meet identified demand	Department of Planning and Infrastructure (DOPI)	2012
6.2	Work with Urban growth NSW and the housing and development industry to develop models and demonstration projects for the delivery of more housing, and a more diverse range of housing types, focussing on the major towns of Singleton and Muswellbrook.	DOPI	2013
6.3	Local councils will zone land through their local environmental plans to ensure an adequate supply of land for residential development and to facilitate delivery of a range of housing types.	Councils	Ongoing
6.4	Local councils will ensure that new residential development makes a positive contribution to liveability and character by ensuring residential areas are planned in accordance with the settlement planning principles in this plan.	Councils	Ongoing
6.5	Work with local councils, infrastructure providers and the housing and development industry to establish the Upper Hunter Urban Development Program. This program will monitor the supply of residential land and the delivery of new housing, as well as establishing priorities for the delivery of housing	DOPI	2013 / Ongoing
6.6	Prepare guidelines for temporary workers accommodation for mining projects	DOPI	2013

It is suggested that the planning proposal presented for consideration goes towards addressing the issues raised in the document as well as being consistent with the policy objectives and action steps.

While there are some 1300 lots identified as being available for the short to medium term, the UHSLUP acknowledges the need for ongoing assessment of adequacy of supply of housing in the area. The identification of the subject land as being appropriate for residential and large lot residential development has been indicated in Council's MRRRS document. A review of existing residential zoned land within the general locality and of the land identified as urban release area, would suggest that it is timely to consider rezoning of additional land for such purposes.

The proponents for the planning proposal have had preliminary meetings with Council representatives regarding the proposal. The discussion acknowledged the benefits of the location of the land in relation to providing a continuation of existing development as well as the obvious and logical linkage to adjoining residential land. The ability to service the land by either existing infrastructure or in conjunction with planned augmentation added to the advantages of the land.

It is important to ensure that there is efficient use of resources and linkages between residential and large lot residential development which is adjoining or nearby. Council's

Developer Servicing Plan have identified the subject land for future development and infrastructure for both water and sewerage mains have been planned to have sufficient capacity to cater for its development as well as other land in the locality which is being developed.

The linkage between the proposed and existing residential area will enable important road infrastructure to be provided with minimal overall impact as the majority of the increased density has been accounted in a Council's Traffic Study recently undertaken and the additional traffic not allowed for, further considered in the Better Transport Future's Report and deemed as having minimal impact on transport infrastructure.

As the land is currently in the same ownership as the adjoining Iron Bark Ridge Estate, it is timely to undertake the rezoning of the land as soon as possible to ensure that the land is developed for such purposes. Should the land not be rezoned, there is potential for it to be sold with new owner's (eg Coal mine) acquiring the land with no intent or desire for such development to be undertaken.

The proposed zone provide for a range of development and housing styles within the provisions of the Muswellbrook LEP. Importantly, it also provides choice for land purchasers, rather than the majority of available land being in a limited number of ownerships with the subsequent disadvantage of such owners being able to strongly effect such things as timing of land releases and sale prices.

4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

The planning proposal is consistent with Muswellbrook Shire Council's Community Strategic Plan 2013-2023.

The long term goal as specified in the document is to:

- *Provide sufficient serviced land for residential, commercial and industrial purposes.*
- *Plan for a diverse range of housing types which meet the changing needs of the community.*

The relevant outcome is:

- *To support high quality subdivisions from private developers.*

The strategies to achieve this are:

- *Encourage developers to undertake subdivision development of a high standard with appropriate infrastructure.*
- *Provide developers with appropriate guidelines for infrastructure provision.*
- *Subdivide and develop land in accordance with the feasibility studies.*

The objective of this planning proposal is to ensure that land well suited and located for residential and large lot residential development is rezoned accordingly to not only provide appropriate land but to ensure that the "logical link" between existing zoned land is not lost.

Council adopted the MRRRS prepared by SGS Economics & Planning at its ordinary meeting in March 2014. The document made recommendations in respect of both General Residential and Rural Residential land for Muswellbrook:

Type	Supply – demand gap snapshot (medium scenario)	Preferred sequencing	Timing for new release	Comment
<i>General Residential</i>	<i>Forecast shortage between 2021 and 2026</i>	<ol style="list-style-type: none"> 1. <i>Candidate Area D</i> 2. <i>URA South</i> 3. <i>URA North</i> 	<i>New supply required after 2016 and before 2021</i>	<i>To ensure sufficient contestability and hence competition in the general residential market, at least one additional development front or new developer should be contemplated, particularly where it is sequential development and there is no net cost to Council or the State Government</i>
<i>Rural Residential</i>	<i>Forecast shortage between 2021 and 2026</i>	<ol style="list-style-type: none"> 1. <i>Candidate Area B</i> 2. <i>Candidate Area A</i> 3. <i>Candidate Area C</i> 	<i>New supply required after 2016 and before 2021</i>	<i>To ensure sufficient contestability and hence competition in the rural residential market, at least one additional development front or new developer should be contemplated, particularly where it is sequential development and there is no net cost to Council or the State Government</i>

The subject land is included in Candidate Areas D and A referred to in the above recommendations (see figure 2).

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

An assessment of relevant SEPPs against the planning proposal is provided in below table.

SEPP	Relevance	Consistency and Implications
SEPP 1 — Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	This does not apply to the Muswellbrook LGA as per Clause 1.9 (2) of the MLEP 2009.
SEPP 4 — Development without Consent and Miscellaneous Complying Development	The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy.	This does not apply Clause 6 and Parts 3 and 4 to the Muswellbrook LGA as per Clause 1.9 (2) of the MLEP 2009.
SEPP 6 — Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 21 — Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 22 — Shops and Commercial Premises	The SEPP provides for the change of use of commercial premises.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 30 — Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 32 — Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the redevelopment of urban land suitable for multi-unit housing and related development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
SEPP 33 — Hazardous and Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 44 — Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 55 — Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	The previous use of the land has been limited to light agricultural practices only and it is unlikely to contain any contaminants. A contamination assessment report will be undertaken following Gateway Determination if required.
SEPP 60 — Exempt and Complying Development	This SEPP aims to provide for exempt development and complying development in certain LGAs that have not provided for those types of development through a LEP.	This does not apply to the Muswellbrook LGA as per Clause 1.9 (2) of the MLEP 2009.
SEPP 64 — Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 65 — Design Quality of Residential Flat Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
Mining, Petroleum Production & Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	The subject land is within the Mines Subsidence Area however advice from the Mines Subsidence Board (refer Appendix C) advises that the Board has approved surface development and revised building guidelines for the site, and that there are no restrictions on buildings within the area, subject to approval from the Board prior to commencing construction. Further consultation with Mine Subsidence Board and NSW Trade and Investment will be undertaken following Council receiving a Gateway Determination.
Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
Temporary Structures 2007	The SEPP aims to ensure that suitable provision is made for ensuring the safety of persons using temporary structures.	Nothing in this planning proposal affects the aims and provisions of this SEPP
Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	It is not proposed to include any provisions, which would be inconsistent with the SEPP.
Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The proposal seeks to rezone the land from E3 Environmental Management to R1 General Residential and R5 Large Lot Residential. The subject land is adjoining land currently zoned and developed as residential and large lot residential land. The land has been identified as appropriate for such use in Council's strategic planning documents. The land represents a relatively small reduction in available agricultural land and is well suited for residential and large lot residential

SEPP	Relevance	Consistency and Implications
		development due to its location, availability of services and proximity of existing residential and large lot residential land uses. The proposed changes under this planning proposal are considered of minor significance and are considered to be consistent with the intent of this SEPP.
Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Additional and supporting information to the MLEP 2009. Nothing in this planning proposal affects the aims and provisions of this SEPP.
Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this planning proposal affects the aims and provisions of this SEPP

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

An assessment of relevant S117 Directions against the planning proposal is provided in the table below.

Directions	Aim of Direction	Consistency and Implications
1 — Employment and Resources		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Planning Proposal not affected by this direction.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	This proposal seeks to rezone the subject land from E3 Environmental Management to part R1 General Residential and part R5 Large Lot Residential. The rezoning of the land is not consistent with the Direction, however it is consistent with the recommendations of the MRRRS adopted by Council. The MRRRS is yet to be endorsed by the Department of Planning, however there has been considerable interaction between Council and the Department and it is anticipated that such endorsement will be forthcoming. The land the subject of this application is not prime agricultural land and it has been used for minimum agricultural activities in the past, predominantly grazing. The rezoning of the land will reduce the amount of available land for potential agricultural production, however the historic use of the land would suggest that such loss would be minimal. The land is ideally suited in terms of proximity to existing, similar residential and rural residential development and available / proposed infrastructure. The amendment is therefore considered of minor significance and its impacts to the rural zone also negligible.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials is not compromised by inappropriate development.	This planning proposal will rezone the land to R1 General Residential and R5 Large Lot Residential, which does not permit extractive industries. Given the proximity of the site to the existing residential areas, it is considered unlikely that the site would be deemed suitable for future mining. The site has been identified in the adopted MRRRS as the preferred candidate area of residential housing. Advice from Resources & Energy dated 12/10/12 offered no objection to the proposed rezoning due to "faulted nature of the region and cindered coal seams" (refer Appendix D) In this context, the planning proposal is considered to be consistent with the intent of this direction.

Directions	Aim of Direction	Consistency and Implications
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	<p>This proposal seeks to rezone the subject land from E3 Environmental Management to part R1 General Residential and part R5 Large Lot Residential. The rezoning of the land is not consistent with the Direction, however it is consistent with the recommendations of the MRRRS adopted by Council. The MRRRS is yet to be endorsed by the Department of Planning, however there has been considerable interaction between Council and the Department and it is anticipated that such endorsement will be forthcoming.</p> <p>The land the subject of this application is not prime agricultural land and it has been used for minimum agricultural activities in the past, predominantly grazing. The rezoning of the land will reduce the amount of available rural land and thereby its potential agricultural production value, however the historic use of the land would suggest that such loss would be minimal. The land is ideally suited in terms of proximity to existing, similar residential and rural residential development and available / proposed infrastructure</p> <p>The rezoning of a relatively small amount of rural land which has minimal agricultural use and is well located and suited for residential / rural residential expansion will be of minor significance.</p>
2 — Environment and Heritage		
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	<p>The subject site is currently zoned as E3 Environmental Management zone and the part of the lots are being identified as Terrestrial Biodiversity. It is proposed to rezone subject site to part R1 General Residential and part R5 Large Lot Residential.</p> <p>A Seven Part Test on Threatened Flora and Fauna by <i>Wildthing Environmental Consultants</i> has been commissioned for the subject land. The report concluded that “with the application of the recommendations within this report it is unlikely that the proposed rezoning will bare a significant adverse impact upon any viable local populations or individuals of the threatened species, populations or individuals of the threatened species, populations or communities considered in this report.</p> <p>Therefore, the rezoning and subsequent residential development of the land in accordance with the recommendations will be of minor significance.</p>
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Not within a heritage conservation area and there are no heritage listed items within the site, as confirmed in s149 certificate No. 16272 issued by Council, dated 28.09.12
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).	Planning proposal not affected by this direction.
3 — Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	<p>It is proposed to rezone subject site to part R1 General Residential and part R5 Large Lot Residential. Further, the planning proposal is consistent with the recommendations of the local strategy MRRRS adopted by Council. The site is identified as the preferred candidate area of ‘Category 1’ in Muswellbrook. The rezoning will increase the diversity of housing options and provide contestability in the market. The proposed zones provide for a variety of residential choice in accordance with the aims and objectives of the zones.</p> <p>The planning proposal is considered to be consistent with the intent of this direction. Any perceived inconsistencies with this direction are considered to be of minor significance.</p>
3.2 Caravan Parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estate.	Planning proposal not affected by this direction and it does not involve any caravan parks or manufactured home estates.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low impact small businesses in dwelling houses.	The home occupations are permitted without consent in the proposed zone under Muswellbrook LEP 2009. The planning proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	The planning proposal is an extension of established urban area and it can be accommodated by extension to the existing street network/footpaths. The development will require extension to existing roads, footpath/cycleway with the locality, which will lead to improved transport outcomes for both existing and future residents in the area.

Directions	Aim of Direction	Consistency and Implications
3.5 Development near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning Proposal not affected by this direction.
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	Planning Proposal not affected by this direction.
4 — Hazard and Risk		
4.1 Acid Sulphate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	This direction does not apply as the site is not noted as having Acid Sulphate Soils as confirmed by s149 certificate No. 16272 issued by council, dated 28.09.12
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The subject land is within a Mines Subsidence Area as confirmed by s149 certificate No. 16272 issued by council, dated 28.09.12. Consultation with the Mines Subsidence Board (MSB) has been undertaken and their response is attached in Appendix C. The MSB have advised that they approve surface development and revised building guidelines for the site and there are no restrictions on the erection of improvements on this land subject to MSB approving plans prior to commencement of construction. The planning proposal is considered to be consistent with the intent of this direction. Any perceived inconsistencies with this direction are considered to be of minor significance.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	This direction does not apply as the site is not noted as being Flood Prone as confirmed by s149 certificate No. 16272 issued by council, dated 28.09.12
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	The site has a very small area shown as containing bushfire prone. The area of bushfire vegetation is a very minor section of the subject land and should any requirements regarding asset protection zones be required, will be satisfied in the future lot layout and restrictions on the titles as required. A bushfire assessment report will be completed following Gateway Determination if required.
5 — Regional Planning		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal is considered to be consistent with the objectives and actions contained in the UHSRLUP 2012 and its settlement planning principles as discussed previously.
6 — Local Plan Making		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	There are no additional requirements in terms of concurrence, consultation or referral proposed for development applications, or additional items defined as designated development within the subject area.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The proposal will allocate land for open space and community uses.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This direction does not apply as there are currently no site specific provisions relating to the subject site.
7 — Metropolitan Planning		
<i>No directions in this section apply to this planning proposal.</i>		

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. 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 subject land is identified on Council's Terrestrial Biodiversity Mapping as containing a small area of 'biodiversity' as indicated in figure 3 below and confirmed in Council's 149 (2) certificate 16272 issued 28 September 2012.

Figure 6: Extract from Terrestrial Biodiversity Map – Muswellbrook LEP 2009



The owners of the land commissioned a report from *Wildthing Environmental Consultants* which was entitled "Seven Part Test on Threatened Flora and Fauna for a proposed rezoning at Lots 101 & 103 DP 1170190 Ironbark Road Muswellbrook NSW", dated June 2012.

A copy of the report is provided with the Planning Proposal. The report provided the following recommendations and conclusion:

- *It is recommended that the removal of hollow-bearing trees be avoided where possible. If any habitat trees require removal it is recommended that a suitably qualified ecologist be on hand to supervise their removal to reduce the impact on any fauna species which may be present.*
- *To further mitigate the loss of hollows it is recommended that consideration be given to the installation of nest boxes of similar habitat value within any trees retained in reserve areas prior to any clearing taking place on site. Provided these recommendations are implemented and given the small amount of habitat to be impacted the proposal is unlikely to have an adverse effect on the life cycle of this vegetation community or the habitat it provides.*
- *It is recommended that where possible species consistent with Map Unit 11 – Upper Hunter White Box – Ironbark Grassy Woodland (Peake, 2006) be utilised within landscaping of reserve and open space areas and that existing trees be retained where possible within these areas and the larger lots in the south around Ironbark Road.*

- *It is recommended that ongoing weed control be conducted within any proposed reserve areas within the scope of the development. (p36)*

“In conclusion, with the application of the recommendations within this report it is unlikely that the proposed rezoning will bear a significant adverse impact upon any viable local populations or individuals of the threatened species, populations or communities considered in this report” (p39)

Based on the conclusion of the report, it is reasonable to state that the proposal will have minimal impact subject to compliance with the recommendations.

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

The subject site is not shown as being flood affected land on Muswellbrook Councils Flood Maps and this is confirmed in Council’s 149 (2) certificate 16272 issued 28 September 2012.

Future development of the subject site will have to ensure that drainage is treated in an acceptable manner. Therefore, proper assessment of stormwater detention and treatment to meet current accepted standards at the development application stage will apply. Subject to appropriate engineering measures in the detailed design phase, it is considered that the site is suitable for development.

No Environmental Audit or Contamination Assessment has been undertaken at this time. The land has been used for minimal agricultural activities in the past, predominantly grazing. If required by the Gateway determination, an initial site contamination investigation will be undertaken to confirm the land is suitable for the rezoning.

The site has a very small area shown as containing bushfire prone vegetation as shown in Figure 4. A bushfire assessment has not been undertaken at this stage due to the small amount of land affected. Such report will be completed if required following review by the Gateway.

Figure 7: Bushfire Prone Vegetation



The subject land is within the Mines Subsidence Area however advice from the Mines Subsidence Board (refer Appendix C) advises that the Board has approved surface development and revised building guidelines for the site, and that there are no restrictions on buildings within the area, subject to approval from the Board prior to commencing construction.

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

The proposed rezoning would provide approximately 600 lots released over multiple stages according to demand (likely to be 20-30 lots per stage). The development of the land would provide a link between existing land developed for residential and large lot residential purposes in the locality.

The additional land would provide an important option to other land for prospective purchasers to choose from and would encourage an increased feeling of community with the connection of road infrastructure between the localities over time.

In terms of economic benefits, as well as ongoing employment opportunities during the construction of the various stages of the subdivision, having increased choice for housing locality will also benefit the housing industry and employment within the industry.

It is unlikely that there would be any adverse impacts in terms of either social or economic associated with the planning proposal.

SECTION D – STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

Discussions have taken place with Council's Technical Staff to determine adequacy and availability of public infrastructure. While detail planning and strategies are yet to be finalised, the staff have advised that there is capacity with the existing infrastructure to cater for the initial stages of development of the land.

It is acknowledged that augmentation will be required, in conjunction with the expansion of services for other development / subdivisions in close proximity. The information indicates that there are no obvious issues associated with such augmentation, subject to appropriate arrangements for developer contributions / payments etc.

Water:

Detailed investigations will ensure that adequate public infrastructure for water supply is available before any future development application is approved. Council has prepared a Developer Servicing Plan (2012) in respect of water which identifies the extent of capital works and other augmentation required to cater for future identified growth within the Muswellbrook LGA. This plan provides the basis for developer contributions towards such work to be undertaken.

The existing and proposed system is shown in Figure 5 which identifies that the subject land as a future development area and has existing or proposed infrastructure nominated on the plan.

Sewerage:

Future development of this site will require further detailed investigation in respect to the extension of the existing sewerage system. There are not however any significant concerns given the location of existing services in adjoining residential developments. Council has prepared a Developer Servicing Plan (2012) in respect of sewer which identifies the extent of capital works and other augmentation required to cater for future identified growth within the Muswellbrook LGA. This plan provides the basis for developer contributions towards such work to be undertaken.

The existing and proposed system is shown in Figure 4 which identifies that the subject land a future development area and has existing or proposed infrastructure nominated on the plan.

Other Services:

Provision of other services including Telecommunication and Electrical supply will be clarified with further consultation with the relevant service providers. Once again, it is not envisaged that any issues will be evident in this regard.

Traffic

The owners commissioned a report from Better Transport Futures to assess potential impacts of the rezoning. The investigation identified that a report previously prepared for Council in 2010 by parsons Brinkerhoff – Muswellbrook Traffic Study, had to a large extent included the subject land in its assessment of expected residential and commercial growth in Muswellbrook up to 2037.

The study indicated that the majority of the expected future residential growth will be developed on green field sites and a total will of 3,954 new dwellings will be constructed on 11 designated areas. The land the subject of the planning proposal is contained primarily within Areas 5 & 7 in the report, however there was a relatively small section of land which was not included with the area identified. The report calculated that there were approximately 320 lots not accounted for within the Muswellbrook Traffic Study.

The Better Transport Futures report identified a potential shortfall of some 25% in developed area / lots in Area 7 which would indicate an overestimation of traffic impacts associated with this area by some 150 dwellings. On this basis, the additional lots are reduced to approximately 150 dwellings which represents a 4% increase to the traffic volumes assessed in the Muswellbrook Traffic Study.

The report concluded that the additional lots attributable to future development within the subject land in the context of the overall growth expected in Muswellbrook would *“have a negligible impact upon the road network upgrades identified in the Muswellbrook Traffic Study. Further, it is considered that no additional road upgrades over and above those identified in the Muswellbrook Traffic Study will be required due to this proposed development”*

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Consultation with the Mines Subsidence Board (MSB) and NSW Resources & Energy has been undertaken.

MSB response dated 5 November 20112 is attached as Appendix C. The MSB have advised that they approve surface development and revised building guidelines for the site and there

are no restrictions on the erection of improvements on this land subject to MSB approving plans prior to commencement of construction.

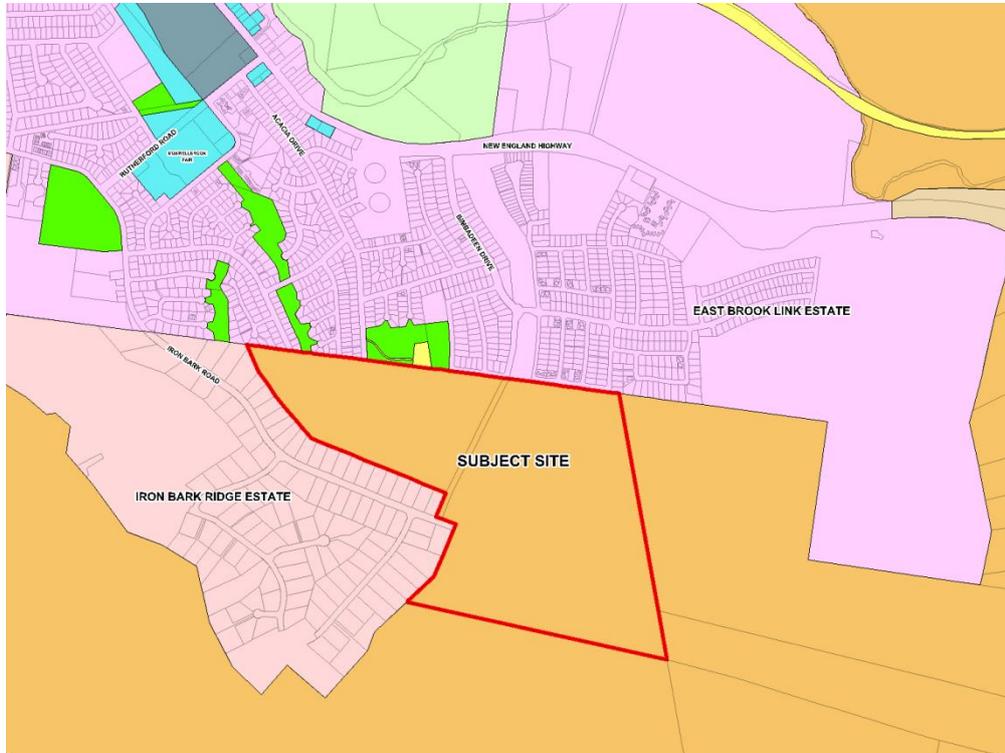
Advice from NSW Resources & Energy dated 12 October 2012 offered no objection to the proposed rezoning due to “faulted nature of the region and cindered coal seams”, is attached as Appendix D.

Further, consultation with relevant public authorities will be undertaken upon favourable determination from the Gateway.

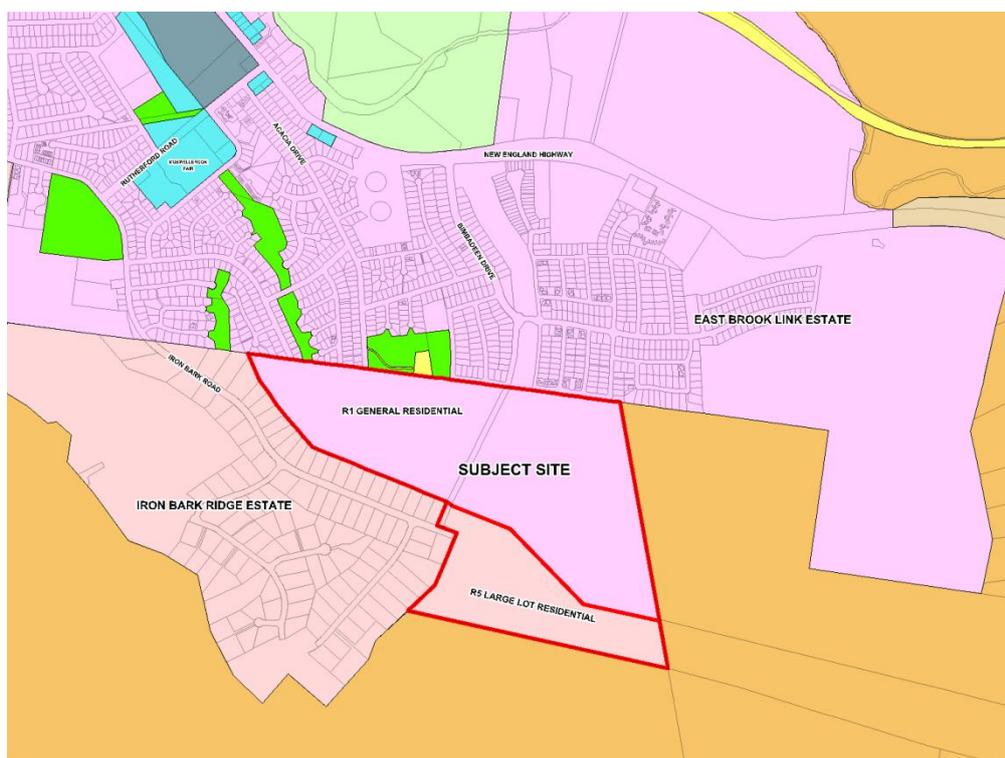
PART 4 – MAPS

MAP A: Muswellbrook LEP 2009 - Land Zoning Map Sheet (LZN-008 and 008A)

(a) Current Land Zoning – E3 Environmental Management

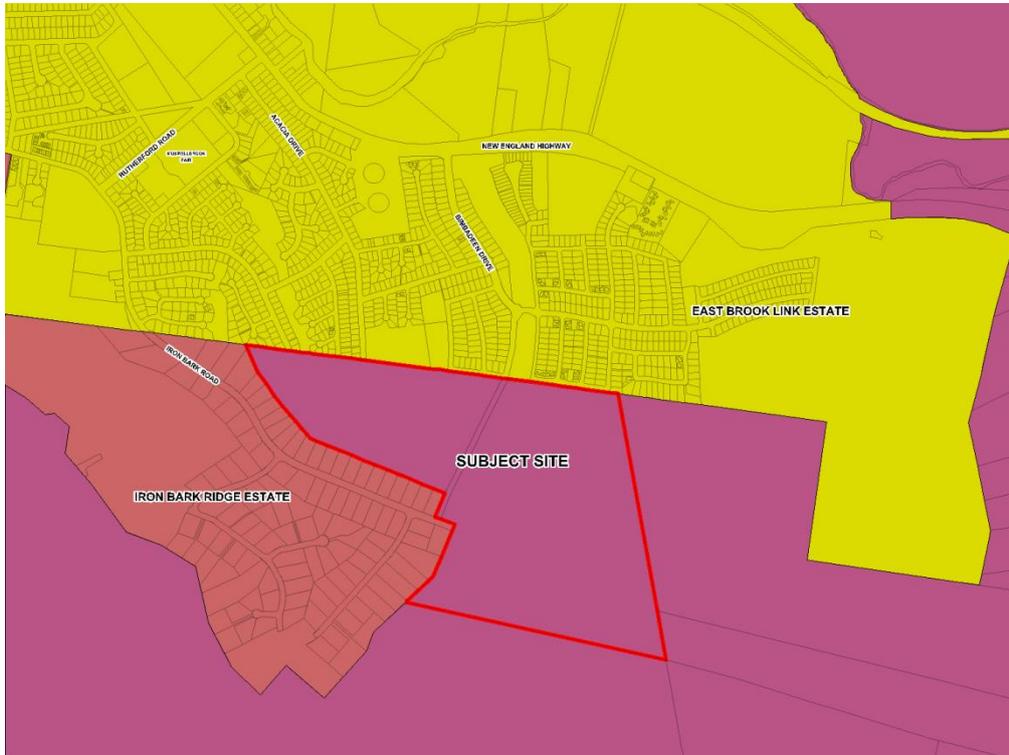


(b) Proposed Land Zoning – R1 General Residential and R5 Large Lot Residential

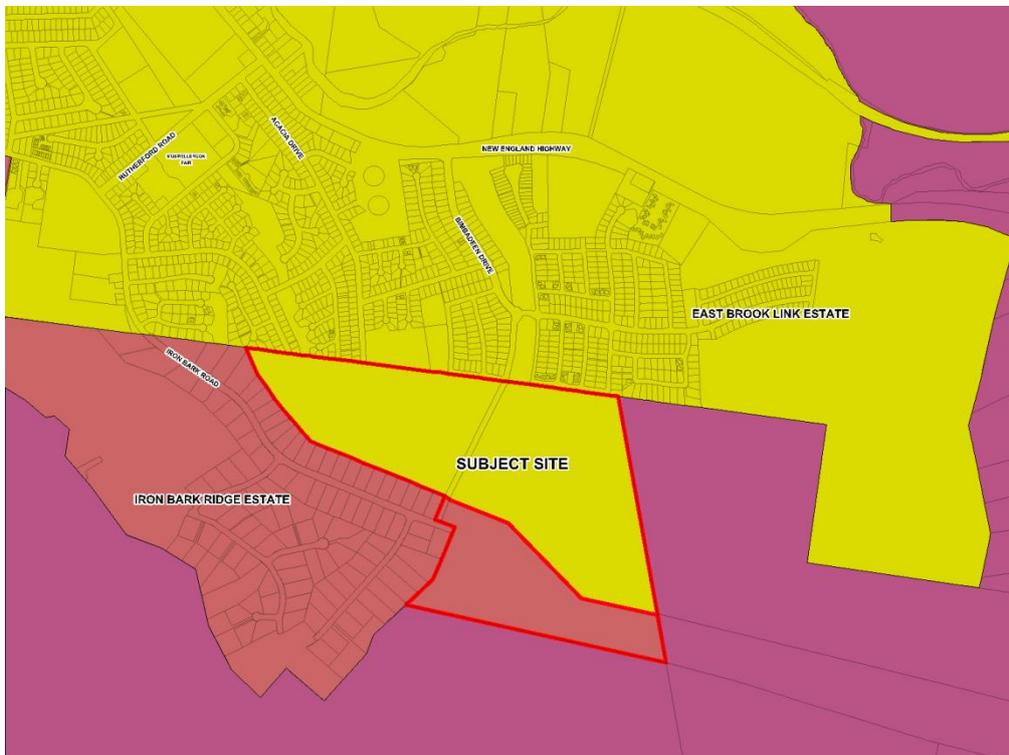


MAP B: MLEP 2009 - Lot Size Map Sheet (LSZ-008 and 008A)

(a) Current Lot Size – minimum 80ha

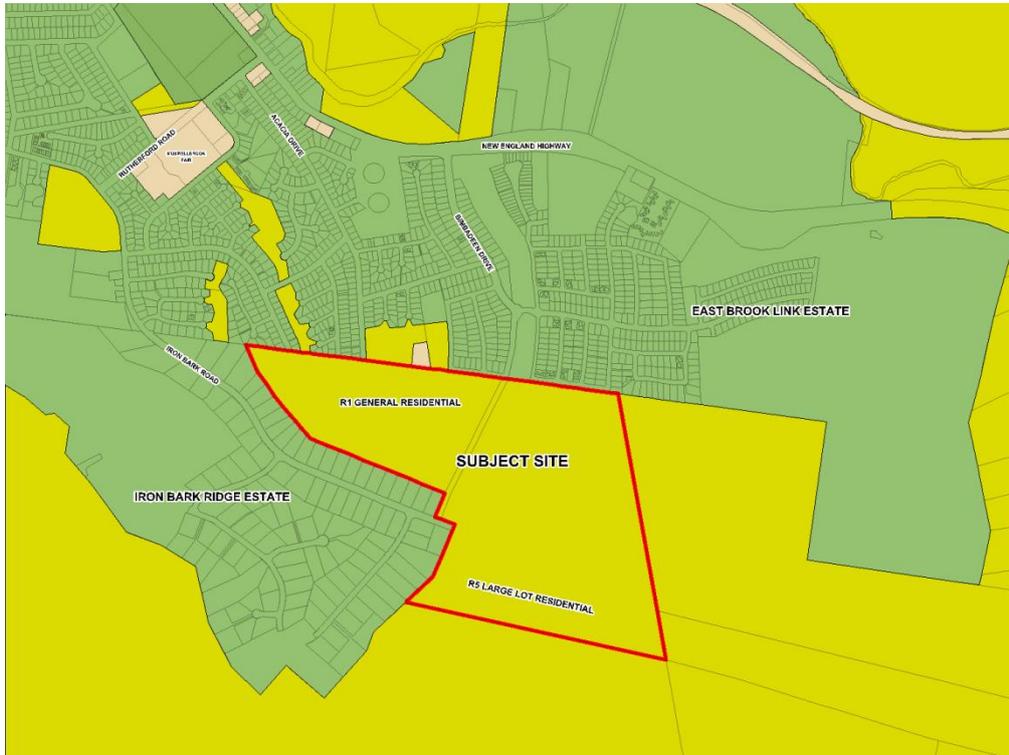


(b) Proposed Lot Size – R1 minimum 600m² and R5 minimum 4000m²

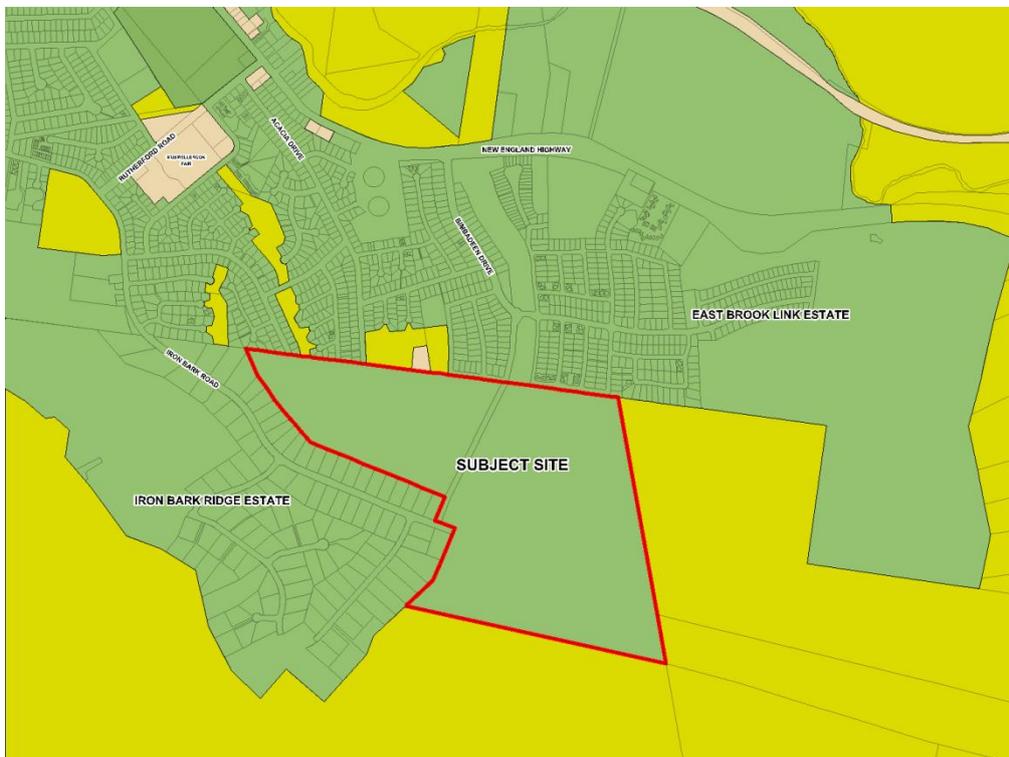


MAP C: MLEP 2009 Height of Building Map Sheet (HOB-008 and 008A)

(a) Current Height of Building – 12m

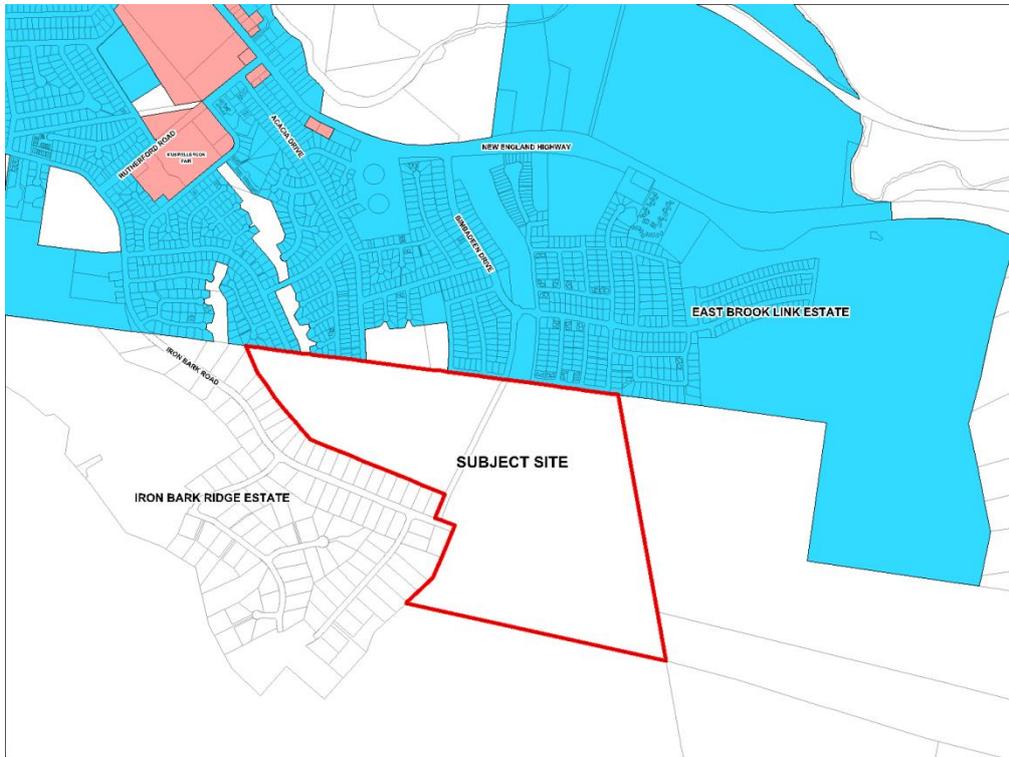


(b) Proposed Height of Building – 8.5m

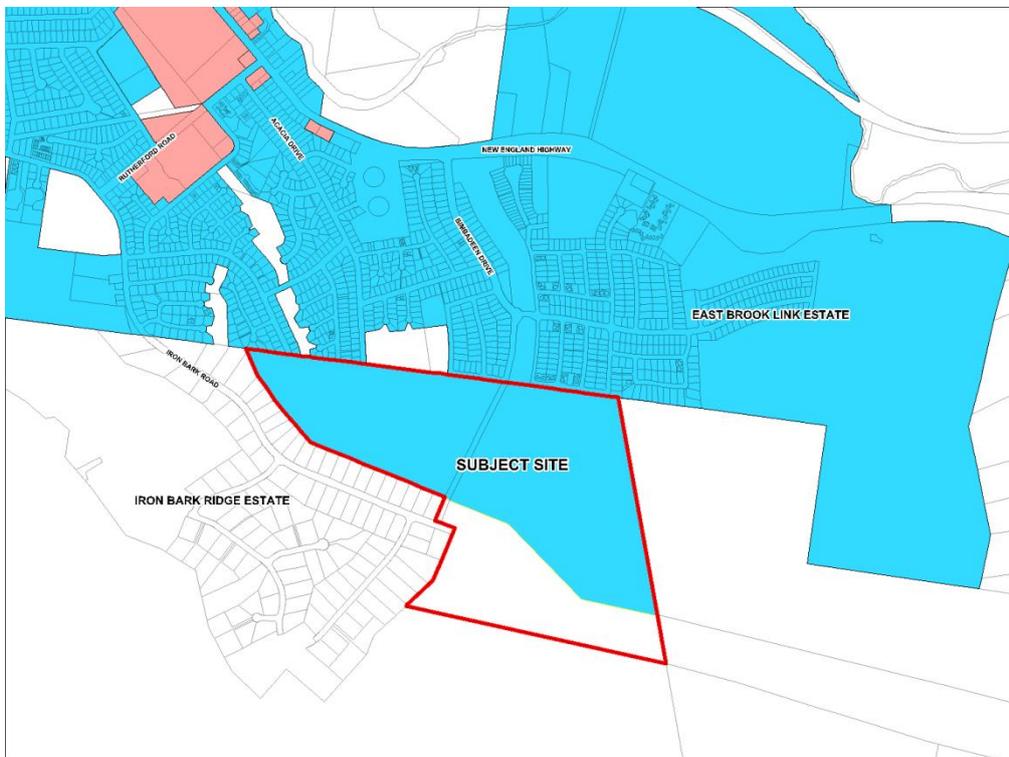


MAP D: MLEP 2009 Floor Space Ratio (FSR-008 and 008A)

(a) Current Floor Space Ratio – 0.5:1



(b) Proposed Floor Space Ratio – R1 0.5:1 and R5 nil



PART 5 - COMMUNITY CONSULTATION

The community consultation proposed for the planning proposal is recommended to be 28 days. While there is an argument to suggest that the proposal is 'low impact' as it meets the criteria generally specified in the DOPI Guide to Preparing Local Environmental Plans and therefore 14 days would be appropriate, there is no objection to the extended 28 day period to the area of land involved and number of potential lots.

Irrespective of the above, public consultation will be undertaken in accordance with the directions from the Gateway determination.

PART 6 – PROJECT TIMELINE

TASK	PROPOSED TIMEFRAME													
	Aug 2014	Sep 2014	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015	Apr 2015	May 2015	Jun 2015	July 2015	Aug 2015	
Issue of Gateway Determination (GD)	■													
Report GD to Council		■												
Completion of required further investigations in accordance with the GD and in consultation with relevant public authorities			■	■	■									
Update planning proposal incorporating recommendations of the above investigations						■								
Preparation of draft maps for exhibition						■								
Report to Council for public exhibition							■							
Public exhibition							■	■						
Consultation with public authorities according to the GD							■	■	■					
Review of submissions									■					
Update planning proposal									■					
Report to Council following public exhibition										■				
Submission to the Department to finalise LEP amendment											■			
Gazettal of LEP Amendment											■	■	■	

ANNEXURES

Appendix A: Site Identification Map

Appendix B: Conceptual Lot Layout

Appendix C: Mines Subsidence Board - Advice

Appendix D: NSW Resources & Energy – Coal Advice

Appendix E: Traffic Report

Appendix F: Seven Part Test on Threatened Flora and Fauna

Appendix G: Section 149 Certificate

