

REZONING OF LAND AT BRENNAN PARK FOR AGED CARE FACILITY (20.000)

The Assistant Director Environmental Services reports:

i) SYNOPSIS:

This report has been prepared following advice from the Department of Planning that the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 is unable to be applied to the proposed development of an aged care facility at Brennan Park.

Rezoning of Brennan Park is required, and adoption of this report will commence that rezoning process through the Department of Planning and assist in making the subject land available for the purposes of an aged care facility.

ii) DATE OF REPORT: 4 September 2009

iii) REPORT:

Part 1

Statement of the Objectives or Intended Outcomes of the proposed LEP

To enable the development of Brennan Park at Cassidy Avenue, Muswellbrook for seniors housing, except for a portion of land to be retained as local parkland adjacent to the existing indoor sports centre to the south.

Part 2

An Explanation of the Provisions that are to be included in the proposed LEP

Amendment of the Muswellbrook LEP 2009 Land Zoning Map in accordance with the proposed zoning map shown at Appendix A; and

Amendment of the Muswellbrook LEP 2009 Height Map in accordance with the proposed height map, shown at Appendix B, which indicates a maximum permissible height of 8.5 metres on Brennan Park.

Amendment of the Muswellbrook LEP 2009 Floor Space Ratio Map in accordance with the proposed floor space ratio map, shown at Appendix C, which indicates a maximum permissible floor space ratio of 0.5:1 on Brennan Park.

Amendment of the Muswellbrook LEP 2009 Lot Size Map in accordance with the proposed lot size map, shown at Appendix D, which indicates a maximum permissible floor space ratio of 0.5:1 on Brennan Park.

The planning proposal includes reclassification of part of Brennan Park changed to Residential from 'community' land to 'operational' land, by amending schedule 4 of the Muswellbrook LEP 2009.

Part 3

The Justification for those objectives, outcomes and provisions and the process for their implementation

A report was prepared for the Council's Senior Citizens and Aged Care Services Committee meeting held on Wednesday, 8 April, 2009, which advised that the Department of Health is planning to divest itself of the 18 high care beds at Muswellbrook Hospital.

There is a need for increased residential aged care in Muswellbrook (town).

There are currently no local or regional strategies applicable to this form of development.

Background

1. Currently residential aged care in Muswellbrook is provided by Mt Providence (35 permanent low care, 1 respite bed and 14 self care units), Muswellbrook Hospital (18 high care beds) and Weidman Village (14 self care units).

The Department of Health is divesting itself of all high care beds including those in Muswellbrook. Current residents have been given security of tenure.

2. Whilst Mt Providence does have some high care residents who have 'aged in place', there is currently no facility in Muswellbrook that provides all care levels for the aged. This is a serious issue for many residents and has resulted in couples being separated due to differing care needs. People are having to take places in Scone, Murrurundi or Singleton making contact with their spouse or extended family difficult.
3. The funding and accountability requirements of aged residential care are very complex and providers indicate that a 60 bed facility with a mix of high and low care and independent living units is the way to be financially viable. This is also an ideal type of facility in terms of meeting the changing needs of residents.
4. The Department of Health has called for Expressions of Interest to find suitable providers to 'take up' the high care beds they currently provide. The 18 beds at Muswellbrook Hospital are not a viable unit on their own and need to be part of a larger aged care facility. It is essential that the places remain in Muswellbrook.
5. The Senior Citizens and Aged Care Services Committee of council has been considering these issues. At their meeting on the 4th February the committee established a sub committee to identify a potential site for an aged care facility.

Issues

The subject site is not subject to any known significant environmental values, resources or hazards. The land is bounded by Cassidy Avenue to the east and Kamilaroi Street to the north. The land currently contains a level playing

field with a cricket pitch at the northern end (lot 83). Lot 82 is open space that is underutilised.

Development to the west and north of the site is comprised of low density residential development (comprised of single detached dwellings) located within an R1 General Residential Zone under the Muswellbrook LEP 2009.

Land adjoining the eastern boundary is currently occupied by the Muswellbrook Showground. It is anticipated that Council will shortly receive a proponent initiated planning proposal to rezone that land for use as bulky goods premises.

Development adjoining the southern boundary of the site contains the Council's Indoor Sports Centre and associated car park facility, which is partly located on the subject site. The southern boundary immediately adjoins a Stock Route.

Development further to the south on the southern side of Rutherford Road but within 200m of the southern boundary, is comprised of land zoned B2 under the Muswellbrook LEP 2009, which contains a shopping facility containing Coles and Aldi supermarkets, butchers, chemist, variety stores, Harvey Norman, bottle shop, fruit and vegetable retail and other minor retail uses.

Alternate sites were investigated and it was agreed that Brennan Park would be the best site for an aged care facility. To find an area of vacant land that is large enough, level and close to shops is difficult, and Brennan Park is fairly level, close to shops and facilities and in a suitable area. The land is the right size. Brennan Park is divided into 2 lots in addition to the Indoor Sports Centre. (A map is attached)

Council staff were consulted and there is a variety of issues to consider.

a) Loss of a Recreation Area

Council's Recreation Officer is concerned about the loss of a Recreation Area.

Currently one of the ovals is used for Junior Cricket who has put in facilities. The other oval, which is closer to the Indoor Sports Centre, has lighting installed. This lighting and the irrigation systems mean that over the years council has spent approximately \$200,000 on infrastructure.

There is also concern that Brennan Park is part of a sporting precinct. To diminish that capacity jeopardizes long term potential for the area.

The subject site is currently under utilised for recreation purposes. Muswellbrook has approximately 105ha of land zoned RE1, which is utilised for passive and active recreation purposes. This area of recreation land equates to 10.3ha/1000 persons in the Muswellbrook urban area. This is well beyond the needs for local parks. Many of these facilities also cater for surrounding rural areas, and therefore have a regional significance. Council is in the process of developing a needs analysis of the extent of recreational land in Muswellbrook, so that funding can be targetted to specific facilities.

The proposed development of the subject site will include provision of a local park to meet the needs of local residents.

b) Traffic

Due to road layout, staff concerned with traffic flow prefer that Lot 82 (next to the Sports Centre) be used. This would allow the entrance to any facility to be on Cassidy Avenue or even Rutherford Road and not the bend in Kamilaroi Street.

c) Zoning

Brennan Park is currently Zoned RE1 – Public Recreation. This is not appropriate for an aged care facility. The land would need to be rezoned.

d) The Land Itself

Currently the car park for the Indoor Sports Centre extends across the Stock Route easement and into Lot 82. There is also an area of trees which separates the Indoor Sports Centre and the oval on Lot 82 which it would be preferable to keep. Arrangements would need to be made to accommodate both these aspects.

Any decision to utilize Brennan Park for an aged care facility will need to be informed by these views.

The Role of Council

There is no intention that Council should operate an aged care facility. It is intended that the availability of the land will help attract interested service providers to tender for the high care with the Department of Health.

Council has a role to ensure that the residents have access to a full range of community and care services.

Financial Implications

This will be dependant on the value of the land and the extent to which council reduces the cost to any successful tender applicant. Potentially there is a significant cost.

However there will be a reduction in the amount of land council cares for on a day to day basis. It has also been suggested that the community would be getting better value from a currently underutilized parcel of land.

This remains the case with the additional financial implication of relocating Junior Cricket with monies from the land sale.

Next Steps

Action is needed to progress the aged care facility at Brennan Park. At the April Council meeting, Council resolved that:

- (a) *"Part of Brennan Park (Lot 82 DP 262393) be made available at a discount to any not for profit aged care service provider who successfully tenders for the high care places from the Department of Health and will provide a range of residential aged care including independent living in Muswellbrook.*
- (b) *Authority is given to the General Manager to enter into a contractually binding relationship to supply land to any prospective, accredited provider."*

Since that time NSW Health called for Expressions of Interest for the transfer of the state owned nursing homes to the non government sector. Seventeen expressions were received state wide. Several of these related to the eighteen high care places currently at Muswellbrook Hospital.

NSW Health has evaluated those expressions and has invited suitably qualified respondents to submit detailed proposals, which will be due in September.

To enable applicants to develop their detailed proposals they will require further information from council about the land to be made available.

Space.

Previously council determined to only make available Lot 82. It is clear from discussions with potential applicants that it is necessary to also make Lot 83 available. This will enable applicants to include the range of aged care we hope to attract, including independent living units.

Currently Junior Cricket utilizes the oval on Lot 83. It would be possible to allocate some monies from the land sale to relocate Junior Cricket to another suitable sports ground.

Council Resolution of August 2009

At the meeting of Council held in August 2009, Council resolved as follows:

That

- (i) *Lot 83 (DP 262393) be made available at a discount to the successful not for profit aged care service provider that tenders for the high care places with the Department of Health, and also seeks to provide a range of residential aged care including independent living in Muswellbrook, in addition to Lot 82 (DP 262393).*
- (ii) *Authority is given to the General Manager to enter into a contractually binding relationship to supply land to any prospective, accredited provider.*
- (iii) *The Manager of Recreation of Buildings develops a plan to relocate Junior Cricket to another sports ground.*
- (iv) *Council apply for a Site Compatibility Certificate under SEPP – Housing for Seniors and People with a Disability.*
- (v) *The process for reclassification of the land to 'operational' be commenced.*

Need for the planning proposal.

The planning proposal is not the result of any strategic study or report. See above details for an explanation of the need.

The planning proposal is the best means of achieving the objectives or intended outcomes.

There is a net community benefit arising from the planning proposal.

Relationship to strategic planning framework.

There is no regional or sub regional strategy applicable to the Muswellbrook LGA.

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

The planning proposal is inconsistent with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and therefore rezoning of the subject land is required. The planning proposal is consistent with other SEPP's.

The planning proposal consistent with applicable Ministerial Directions (s.117 directions)**Environmental, social and economic impact.**

There is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

Other likely environmental effects as a result of the planning proposal are proposed to be managed through the development application process for the site, which is to be redeveloped as a whole.

The planning proposal adequately addresses any social and economic effects, and is not subject to any heritage controls.

State and Commonwealth interests.

There is adequate public infrastructure for the planning proposal.

No specific State and Commonwealth public authorities have been consulted at this stage.

Part 4**Details of the Community Consultation that is to be undertaken on the planning proposal.**

The gateway determination will specify the community consultation that must be undertaken on the planning proposal. The consultation to this specific proposal will be generally as follows:

Public exhibition for 28 days.

Community consultation is commenced by giving notice of the public exhibition of the planning proposal:

- in the Hunter Valley News that circulates in the area affected by the planning proposal;
- on the web-site of Muswellbrook Shire Council; 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; and
- Include a written statement including the following:
 - (a) the reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the demand for aged care facilities in Muswellbrook
 - (b) the current and proposed classification of the land
 - (c) the reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification
 - (d) council's ownership of the land, if this applies
 - (e) the nature of council's interest in the land, e.g. council has a 50 year lease over the site
 - (f) how and when the interest was first acquired
 - (g) section 94
 - (h) the reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency
 - (i) any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement
 - (j) an indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre
 - (k) the asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details of any possible financial arrangements, how the council may or will benefit financially
 - (l) whether there has been an agreement for the sale or lease of the land; the basic details of any such agreement and, if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time

- (m) Relevant matters required in plan making under the EP&A Act
- (n) A copy of the Department of Planning's practice note must be included in the exhibition material to assist the community in identifying information requirements.

During the exhibition period, the following material will also 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.

The community consultation will be complete only when Muswellbrook Shire Council has considered any submissions made concerning the proposed LEP and the report of any public hearing into the proposed LEP.

Public hearings

Where a planning proposal includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with new section 57(6) of the EP&A Act.

Muswellbrook Shire Council is required to conduct a public hearing in the case of LEPs that propose to reclassify public land from "community" to "operational" under the *Local Government Act 1993*, and will give notice of the arrangements for the public hearing in a local newspaper; and in a letter to each of the persons who requested a public hearing when making a submission, at least 21 days before the date of the hearing. Notice of the public hearing will not be given before the conclusion of the public exhibition of the planning proposal to ensure each person making a submission and requesting a public hearing is given the requisite 21 days notice.

Minor amendment to Lot Size Map

Lot size map sheet LSZ - 024 contains an incorrect label for land south of the Skellatar Stock Route zoned R5 – Large Lot Residential. The lot size map has coloured the land for a 4000m2 minimum lot size, however the 'U' label on this area should be a 'W' to accord with colour and intention of the LEP.

This amendment is considered minor to correct and obvious error, and should not warrant notification of this amendment.

iv) FINANCIAL IMPLICATIONS:

Preparation of the LEP amendment is being done 'in house'. Costs may apply for map preparation advertising, and public hearings.

v) POLICY IMPLICATIONS: Sir/Madam

vi) MANAGEMENT PLAN IMPLICATIONS:

Community Planning Section 7.1 states "Make available a parcel of land at reduced cost for the purposes of aged care."

ACTION RECOMMENDED:

That the planning proposal to rezone Brennan Park to enable development for the purpose of an aged care development be forwarded to the Minister for Planning pursuant to section 56 of the Environmental Planning & Assessment Act 1979.

Moved:.....

Seconded:

Report prepared by	Peter Jeuken
Accepted for inclusion into Business Paper	Chris Gidney

Appendices	A - Amendment of the Muswellbrook LEP 2009 Land Zoning Map
	B - Amendment of the Muswellbrook LEP 2009 Height Map
	C - Amendment of the Muswellbrook LEP 2009 Floor Space Ratio Map
	D - Amendment of the Muswellbrook LEP 2009 Lot Size Map
	E – Additional information on planning proposal

Muswellbrook Local Environmental Plan 2009

Land Zoning Map - Sheet LZN-024

Muswellbrook LGA

Cadastre

Roads

LZN Legend

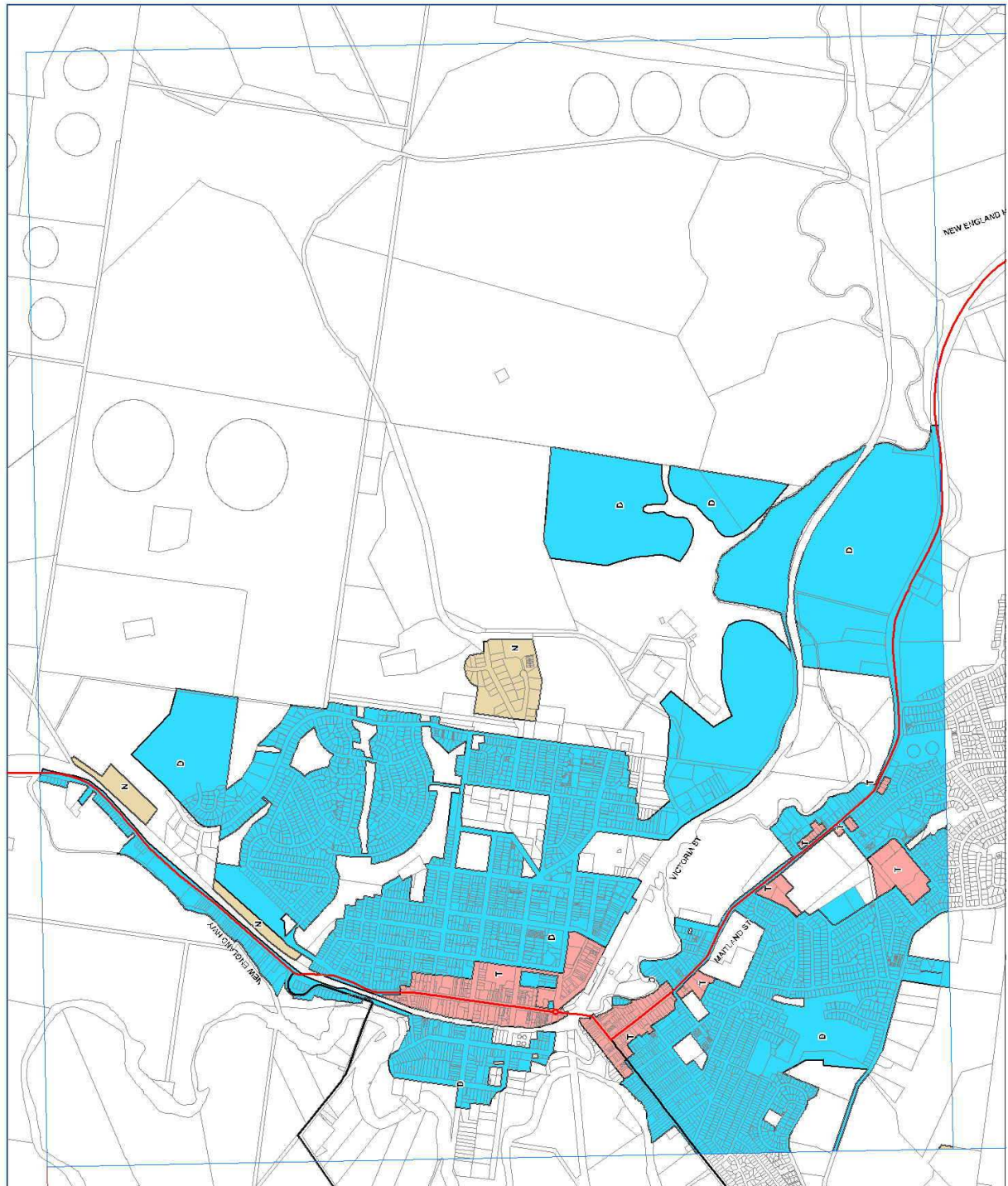
Scale

North Arrow

Map Identification Number:

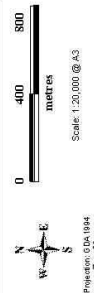
5560-CM-LZN-024-003-20090001

C - Amendment of the Muswellbrook LEP 2009 Floor Space Ratio Map



Floor Space Ratio Map - Sheet FSR-024

- Muswellbrook LGA**
 - LGA Boundary
- Cadastre**
 - Cadastre 9/5/00 © Dept of Lands
- Roads**
 - Highway
 - Main Road
- Floor Space Ratio (n:1)**
 - 0.5
 - 1
 - 2



Map Identification Number:
6663_COM_FSR_024_001_2009001

D - Amendment of the Muswellbrook LEP 2009 Lot Size Map

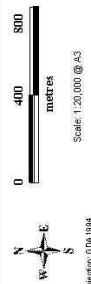


**Muswellbrook
Local
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Lot Size Map - Sheet LSZ-024

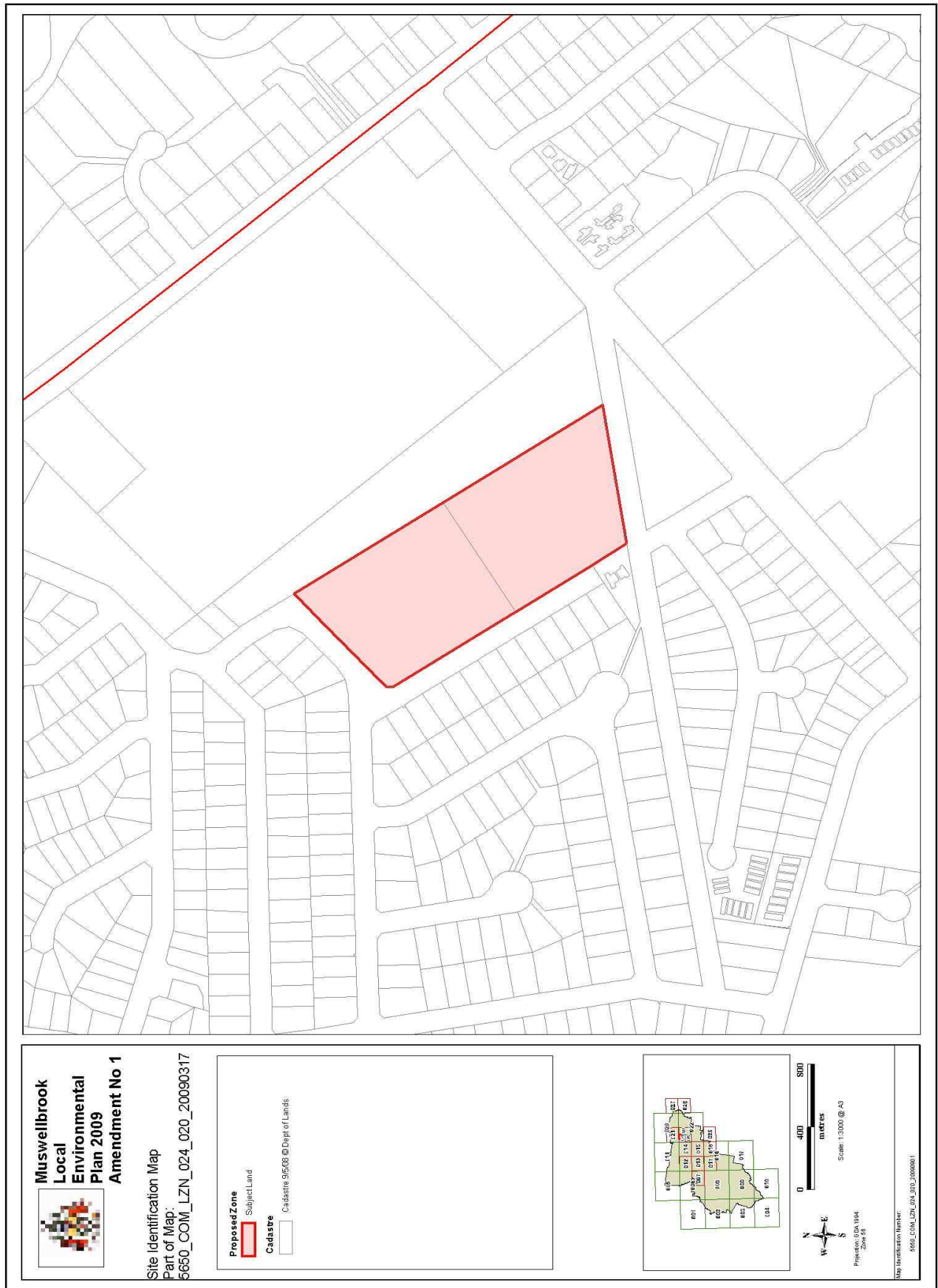
- Muswellbrook LGA**
 LGA Boundary
- Cadastral**
 Cadastral 9/5/08 © Dept of Lands
- Roads**
 Highway
 Main Road
- Lot Size**
 AC 800,000m²
 M 800m²
 R 750m²
 U 100m²
 V 200m²
 W 400m²



Projection: GDA 1994
 Zone 56

Map Modification Number:
 6960_LCL_LSZ_024_000_2009001

E – Additional information on planning proposal





Brennan Park Aerial View



Scale: 1:50m





Scale: 1:50m



Brennan Park

Aerial View with surrounding properties

