

PLANNING PROPOSAL

(Muswellbrook LEP 2009 Amendment No. 13)

WOODLANDS RIDGE EXTENSION REZONING

Lot 42 DP 748269

362, Muscle Creek Road, Muswellbrook

August 2015

**MM HYNDES BAILEY & Co.
(Incorporating KF Murphy & Assoc.)**

108 Bridge Street
(P.O. Box 26)
Muswellbrook NSW 2333
Phone : (02) 6543 2475
Fax: (02) 6543 4400

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PLANNING PROPOSAL

Local Government Area	: Muswellbrook
Proposal	: Rezoning of Lots 42 DP 748269 from RU1 Primary Production to R5 Large Lot Residential
Property	: Lot 42 DP 748269
Applicant	: MM Hyndes Bailey & Company
Owners	: Ardee Holdings Pty Ltd

BACKGROUND:

The land which is proposed to be rezoned, comprises an area of approximately 40ha and is currently zoned RU1 Primary Production under the Muswellbrook Local Environmental Plan 2009 (LEP). The land is bounded along its western side by land zoned R5 Large Lot Residential. The existing R5 zoned land represents the five stages of the Woodlands Ridge Estate which has had four stages constructed and stage 5 recently received final development approval.

The subject land represents a “logical” extension to the existing large lot residential area in this location. It is very pertinent to note that the proposed rezoning of this land has been envisaged for a number of years with an application for same being lodged with Muswellbrook Shire Council in 2010. Council at its Meeting on 15 June 2010 supported the recommendation that:

“The Planning Proposal to rezone Lot 42 DP 748269 Muscle Creek Road, Muswellbrook from RU1 Primary Production to R5 Large Lot Residential be forwarded to the Minister for Planning pursuant to Section 56 of the Environmental Planning & Assessment Act 1979”

The subsequent advice from the Department of Planning’s Gateway Determination (2/8/10) was that the Proposal should not proceed at the time for the following reasons:

- 1 The proposal is more appropriately considered within the strategic context of Council’s Rural Lands Strategy which should be finalised prior to specific rezoning being sought*
- 2 Proposals for additional rural residential development should be justified , in part, on the basis of supply, demand and the take-up rate for this type of development*

The required strategic planning investigation has now been completed. The Muswellbrook Residential and Rural Residential Strategy (MRRRS) was adopted by Council at its ordinary meeting on 10 March 2014 and endorsed by the Department of Planning and Environment in May 2015. The MRRRS is referred to in more detail, elsewhere in the report. .

The specialist consultant reports submitted with the Planning Proposal in 2010 have been relied upon and included with this Planning Proposal. It is acknowledged that there may be a necessity to update some of these, however they provide a firm basis for assessment of potential impacts attributable to the future rural residential development of the subject land.



Figure 1: Entry to Woodland Ridge Estate



Figure 2: Entry to land to be rezoned

SITE IDENTIFICATION

The site comprises approximately 40 hectares and is identified as Lot 42 DP 748269. The site identification map is attached as Appendix A.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The rezoning of the subject land will:

- enable the logical extension and continued development of existing large lot residential zone.
- provide for the efficient use of existing and proposed servicing infrastructure
- ensure conservation of identified land

It is intended to amend the Muswellbrook LEP 2009 Maps:

- Land Zoning,
- Lot Size,
- Height of Building.

PART 2 – EXPLANATION OF THE PROVISIONS

The proposed outcome will be achieved by:

- Amendment of the Muswellbrook LEP 2009 Land Zoning Map (LZN_008) in respect of Lot 42 DP 748269 in accordance with the proposed zoning map shown in Part 4 Map A. This amendment will permit land to be developed for large lot residential purposes.
- Amendment of the Muswellbrook LEP 2009 Lot Size Map (LSZ_008) in respect of Lot 42 DP 748269 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) in respect of Lot 42 DP 748269 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.

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 2014 Muswellbrook Residential and Rural Residential Strategy (MRRRS) was adopted by Council at its meeting in March 2014 and has recently been endorsed by the Department of Planning and Environment (DP&E).

The MRRRS identifies land suitable for residential and large lot residential and prioritises rezoning of such land. The subject land is referred in the MRRRS as Candidate Area B in Muswellbrook. The MRRRS considers a range of factors (constraints) when prioritising the candidate areas for rezoning including environmental and infrastructure.

Following consideration of the above, the MRRRS categorised the candidate areas. The subject land at Woodlands Ridge is identified as “Category 1”, being land which 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 states that Category 2 should not be investigated prior to release of Category 1 land.

The study indicates that, based on medium growth scenario, there will be a shortfall of 62 rural residential lots in the Muswellbrook area, around 2021-2026 and recommends releasing new supply after 2016 before 2021.

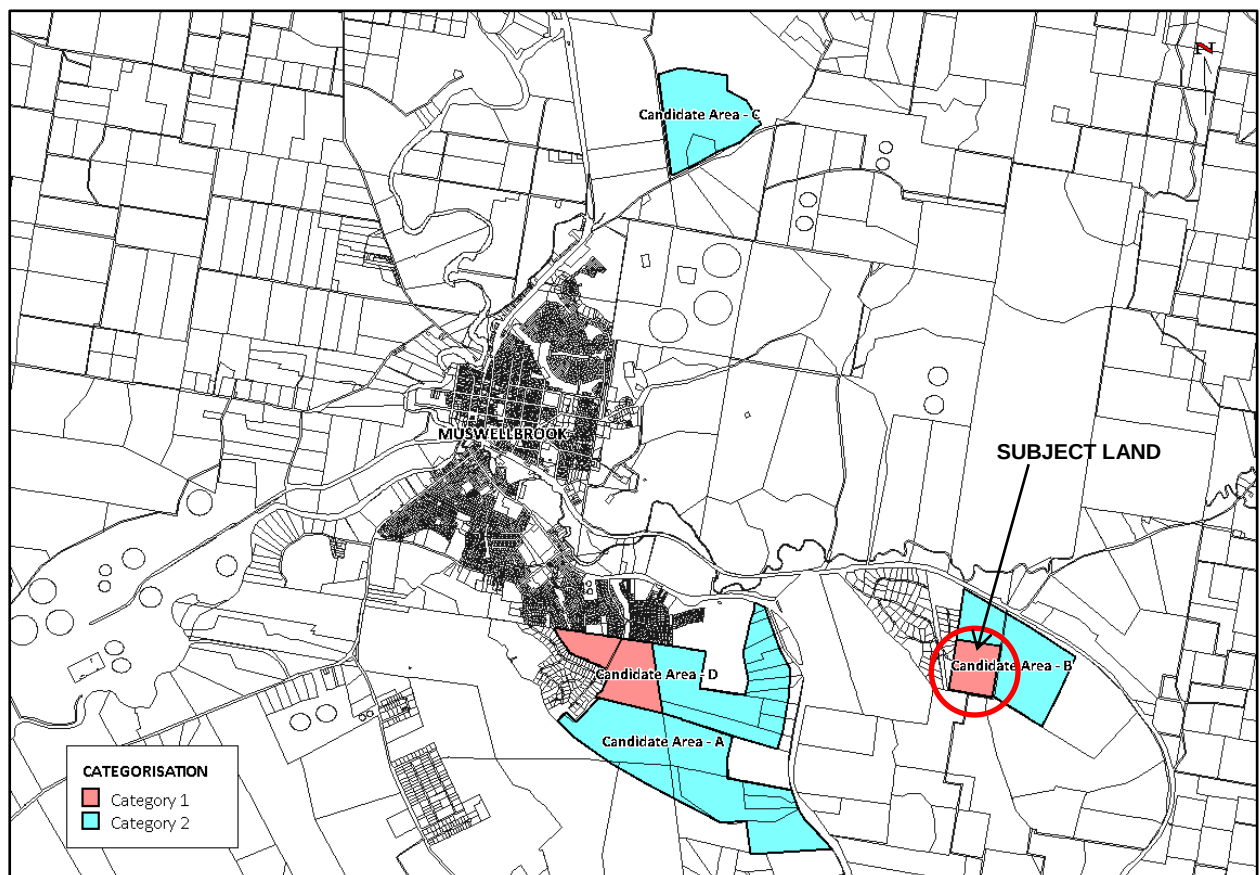


Figure 3: MRRRS Candidate Area and Subject Land

The proposed rezoning of this land from RU1 Primary Production to R5 Large Lot Residential is consistent with the findings of the MRRRS which has been endorsed by the DP&E.

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

The Planning Proposal will enable rezoning of the land from RU1 Primary Production with a minimum lot size of 80ha to R5 Large Lot Residential is effectively the only way to achieve the objective.

The existing Woodlands Ridge Estate has been a popular development as evidenced by the continuing staged development and land sales/housing construction. The current ownership developed the existing, adjoining Woodland Ridge Estate. These owners have a desire to continue the style and quality land development that has been created for large lot residential development which will be contiguous with existing zoned land.

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).

Chapter 4 refers to Infrastructure and has the following objectives:

- *Ensure sufficient infrastructure provision to cater for sustainable economic and population growth in the region.*
- *Ensure a balanced approach to infrastructure provision across all key industries, in particular to ensure that infrastructure growth to support the coal and coal seam gas industries does not adversely impact upon agriculture.*

The subject land is located adjoining existing rural residential development. Relevant infrastructure is therefore readily available and able to be extended to service the land. Such availability makes the proposed rezoning consistent with Action 4.3 as future housing will occur “in an area which can be adequately serviced”.

Chapter 6 refers to Housing and Settlement, which is particularly relevant to this Planning Proposal. The objectives are:

- *Ensure an adequate supply of housing to meet community needs.*
- *Ensure a greater diversity of housing types, including smaller housing types, rental housing and temporary housing.*
- *Improve the supply and range of affordable housing.*
- *Build cohesive and liveable communities by ensuring towns and villages are well designed, liveable and provide a range of housing types.*

In respect of “rural residential and lifestyle housing”, the plan indicates *that Rural residential and lifestyle housing is a popular housing choice throughout the region. This type of housing normally occurs around urban settlements and, if located appropriately, can contribute to the character, economy and social fabric of communities.* ”. (p52). Further, *“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). Note that comments below also incorporate relevant sections of the Muswellbrook Residential and Rural Residential Strategy (MRRRS) which has been referred to previously.

UHSRLUP Settlement Planning Principle	Comments
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.	The subject land will provide diversity in terms of location of large lot residential housing. The subject land is classified as Category 1 Candidate Area for rural residential rezoning in the MRRRS. The rezoning would extend the existing large lot residential option for housing types and ensure diversity of housing choice in Muswellbrook. It should be noted that the MRRRS identifies Lot 42 as the preferred candidate area for large lot residential in Muswellbrook.
Development will be located to maximise the efficiency of essential urban infrastructure, services and facilities, including transport, health and education.	Identification as Category 1 land in the MRRRS including assessment of various potential constraints including availability of infrastructure. The site is adjacent to existing development of this type and therefore considered suitably located in respect to services.
Development will respect and respond to the character of the area and the identified settlement hierarchy of the region	The land represents an extension of existing large lot residential development thereby providing consistency in the settlement patterns in the immediate locality and the region generally.
New residential areas will be planned with streets that make it easy for people to walk and cycle and with recreational and open space	The subject land will be an extension of existing large lot residential land. The nature of the existing development in this locality has not been required to provide cycle ways, or recreational open space.
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	The MRRRS has considered potential environmental constraints when categorising the candidate areas. This land was one of the least constrained and this has been confirmed in prior investigations in respect of environmental and cultural heritage issues. Copies of the studies are attached. The Aboriginal Heritage Assessment provided the following recommendation: “No further archaeological investigation or monitoring is required based on the findings of this report”.
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	The land has had limited agricultural use in the past. The existing circumstances for adjoining land zoned for large lot 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. The subject land is not within a Mines Subsidence Area. The MSB was consulted and MSB has no objection to the proposed rezoning. (refer Appendix C)
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.	The classification of the subject land as Category 1 in the MRRRS confirms the overall suitability of the land. The land adjoins existing land zoned for such purposes and provides for easy extension and linkage to infrastructure and services.

	The subject land is identified in MRRRS as “Category 1” land which 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”.
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The Planning Proposal is considered to be consistent with the objectives and actions contained within the UHSRLUP as relevant to rural residential land.

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.

Council adopted the MRRRS in March 2014. The document which has now been endorsed for DP&E, made recommendations in respect of both General Residential and Rural Residential land for Muswellbrook. The relevant section to rural residential is shown below.

Type	Supply – demand gap snapshot (medium scenario)	Preferred sequencing	Timing for new release	Comment
Rural Residential	Forecast shortage between 2021 and 2026	1. Candidate Area B 2. Candidate Area A 3. Candidate Area C	New supply required after 2016 and before 2021	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

Source: MRRRS

The subject land is included in Candidate Area B and shown as ‘Category 1’ land in Figure 3.

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 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	Relevance	Consistency and Implications
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 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 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 not within a Mines Subsidence Area as confirmed in Council's section 149 Certificate dated 10 June 2015 (refer Appendix D) The Mine Subsidence Board was consulted and MSB has no objection to the proposed rezoning. (refer Appendix C)
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.
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 RU1 Primary Production to R5 Large Lot Residential. The subject land is adjoining land currently zoned and developed as large lot residential land. The land has been identified as Category 1 land for rural residential development in Muswellbrook in the MRRRS, which has been adopted by Council and endorsed by DP&E. The land represents a relatively small reduction in available agricultural land and is well suited for large lot residential development due to its location, availability of services and proximity of existing 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.

SEPP	Relevance	Consistency and Implications
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 RU1 Primary Production to R5 Large Lot Residential. The Planning Proposal is consistent with the recommendations of the MRRRS adopted by Council and endorsed by the DP&E. Lot 42 is not a prime agricultural land and it has been used for minimum agricultural activities in the past, predominantly grazing. Therefore, the proposal is 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 R5 Large Lot Residential, which does not permit extractive industries. Given the proximity of the site to the existing rural 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 a preferred candidate area of rural residential housing. The Mine Subsidence Board has no objections to the proposed rezoning and advised to seek the MSB approval for any future subdivision or the erection of improvements at the appropriate time. In this context, the Planning Proposal is considered to be consistent with the intent of this direction.
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.	This proposal seeks to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential. The Planning Proposal is consistent with the recommendations of the MRRRS adopted by Council and endorsed by the DP&E.. 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 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.
2 — Environment and Heritage		
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The subject site is not identified as Terrestrial Biodiversity in Muswellbrook LEP 2009. An Ecological Impact Assessment (EIA) was undertaken by Ecovision in 2008 (Appendix E) the EIA recommended that an Impact Management Strategy be implemented to offset the impacts of the proposed development on the natural environment.

Directions	Aim of Direction	Consistency and Implications
		The EIA concluded that <i>"in light of the proposed mitigation works it is concluded that the proposed development will result in a low net impact on the relevant threatened biodiversity values. Thus it is expected that there will be no significant impact on listed TSC Act and/or EPBC Act threatened biodiversity"</i> The conceptual subdivision layout incorporates components of the Impact Management Strategy. It is concluded that the rezoning and subsequent rural residential development of the land in accordance with the recommendations will be of minor significance.
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.	Lot 42 is not within a heritage conservation area and there are no heritage listed items within the site as confirmed by Council section 149 Certificate 18842, dated 10/06/2015. An Aboriginal Heritage Assessment (Appendix G) was undertaken by ENSR Australia in 2008 to support the original request for rezoning. The assessment divided the subject land into areas of low, moderate or high sensitivity. The whole of the site was deemed to be low archaeological sensitivity and recommended that <i>"No further archaeological investigation or monitoring is required based on the findings of this report"</i>
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.	It is proposed to rezone subject site to R5 Large Lot Residential. The Planning Proposal is consistent with the recommendations of the local strategy MRRRS adopted by Council and endorsed by the DP&E. The rezoning will make efficient use of existing infrastructure and services providing a logical extension to adjoining R5 zoned land. The MRRRS identifies Lot 42 as the preferred candidate area for large lot residential in Muswellbrook. 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.
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.
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 rural residential area and it can be accommodated by extension to the existing street network. There are no constructed footpaths in this locality. A further consideration will be given on this Direction at the subdivision stage.
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 as confirmed by Council section 149 Certificate 18842, dated 10/06/2015
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 not within a Mine Subsidence Area as confirmed by Council section 149 Certificate 18842, dated 10/06/2015. The Mine Subsidence Board was consulted and MSB has no objection to the proposed rezoning. (Appendix C).

Directions	Aim of Direction	Consistency and Implications
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 Council section 149 Certificate 18842, dated 10/06/2015
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 is confirmed as having bushfire vegetation in Council's 149 certificate 18842, dated 10/06/2015. A Bushfire Assessment report (Appendix F) was completed in 2008. The report had the following recommendation: <i>The proposal has been assessed in accordance with the guidelines outlined in "Planning for Bushfire Protection" document. The applicant proposes to establish minimum boundary setbacks and APZ of 10m on all lots and increase on these minimums on the lots specified above. The subdivision will be serviced by reticulated water and proposed lots 604 and 605 are to have on site water for firefighting purposes.</i> <i>The subdivision has a main access via Woodland Ridge Estate and a secondary access over the existing crown road, which is to be sealed for the frontage of the subdivision. We believe these points meet the objectives of planning for bushfire.</i> If deemed necessary, this report will be updated following Gateway Determination.
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 is to enable extension of existing rural residential development in the locality. Previous development has not provided separate public recreation due to the size of the lots being created. Any public services contained within private land will be contained within easements.
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 not identified on Council's Terrestrial Biodiversity Mapping as containing any area of 'biodiversity' as indicated in Figure 4 below.

An Ecological Impact Assessment was prepared by Ecovision in 2008 and a copy of the report is attached as Appendix E.

The report recommended the following Impact Management Strategy to offset the impacts of the proposed development on the natural environment

- *Avoid the removal of trees with the site, particularly those with hollows, where practicable. Use a Section 88b instrument is recommended to enforce the intent of this management strategy*
- *Implement a plan of management for tree hollow management, including removal where such impact is unavoidable*
- *Retention of native vegetation throughout the site, where practical, with native vegetation located within 40m of the centre creek line to be retained for microchiropteran bat and woodland bird habitat*
- *Avoid the impacts on the Painted Dirui (D. tricolor) detected onsite through subdivision design and specification for building envelopes within effected allotments, use of a Section 88b instrument is recommended to enforce the intent of this management strategy*
- *Create a conservation allotment for the main population of Painted Dirui (D. tricolor) and its habitat, and*
- *Undertake a targeted impact management works to offset the development impact on known habitat for Painted Dirui (D. tricolor) EP, with mitigation to be consistent with one or more of DECCs priority action for this species (ie onsite management and monitoring)*

The conclusion of the EIA was,

The assessment contained with this report has considered the magnitude of the development's impact on the receiving environment and in light of the proposed mitigation works it is concluded that the proposed development will result in a low net impact on the relevant threatened biodiversity values. Thus it is expected that there will be no significant impact on listed TSC Act and/or EPBC Act threatened biodiversity.

There will be no significant impact on SEPP 44 habitats or native vegetation cover.

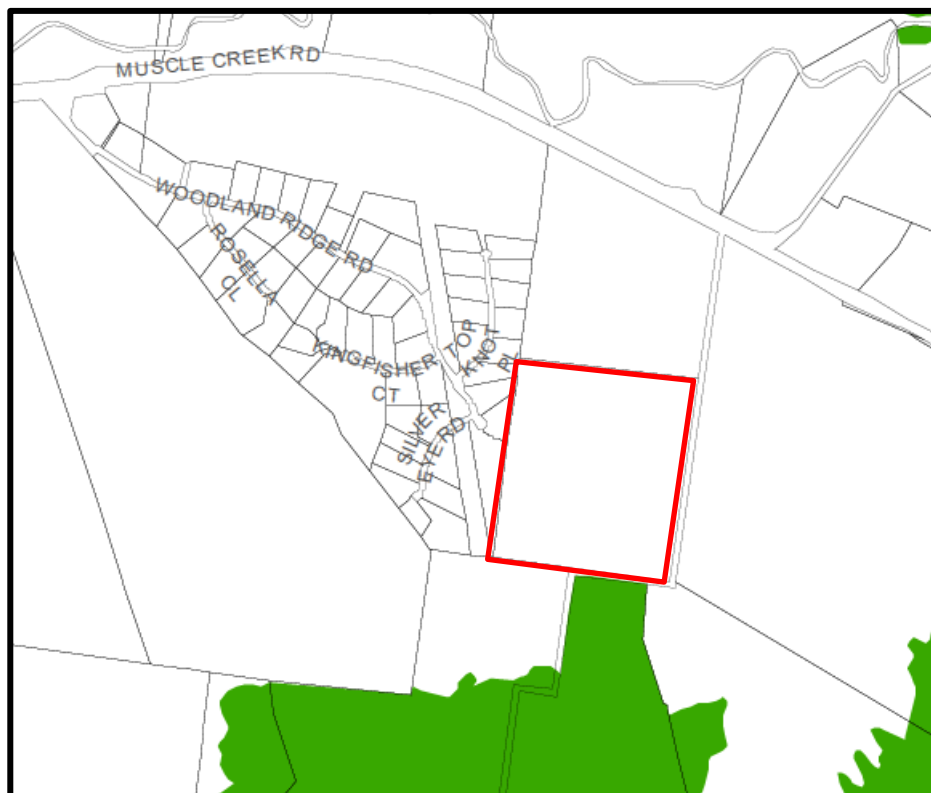


Figure 4: Muswellbrook LEP 2009 Terrestrial Biodiversity Map

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

Flooding

The subject site is not shown as being flood affected land on Muswellbrook Councils Flood Maps which is confirmed in Council's 149 Certificate 18842, dated 10/06/2015.

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.

Contamination

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.

Bush Fire Assessment

Council's section 149 Certificate 18842, dated 10/06/2015 confirms Bushfire Vegetation Mapping on the land as shown in figure 6. MM Hyndes Bailey completed a report with the original submission (see Appendix F). The report had the following conclusion:

- The proposal has been assessed in accordance with the guidelines outlined in "Planning for Bushfire Protection" document. The applicant proposes to establish minimum boundary setbacks and APZ of 10m on all lots and increase on these minimums on the lots specified above. The subdivision will be serviced by reticulated water and proposed lots 604 and 605 are to have on site water for fire fighting purposes.*
- The subdivision has a main access via Woodland Ridge Estate and a secondary access over the existing Crown road, which is to be sealed for the frontage of the subdivision. We believe these points meet the objectives of planning for bushfire.*

The aerial view of the land in Figure 6 indicates scattered vegetation which in general would give minimal concern regarding future rural residential development of the land.



Figure 5: Bushfire Mapping

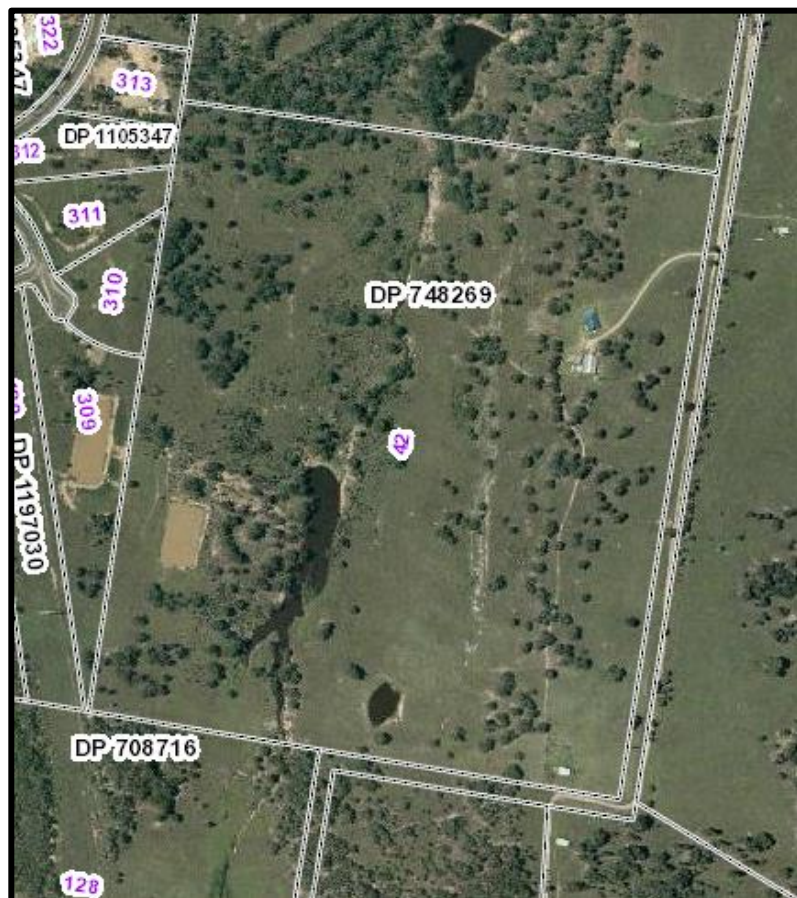


Figure 6: Aerial view of subject land (Source: 2015 SIX Viewer)

Mine Subsidence

The subject land is not within the Mine Subsidence Area as shown on Figure 7 below and as confirmed by Council section 149 Certificate 18842, dated 10/06/2015.

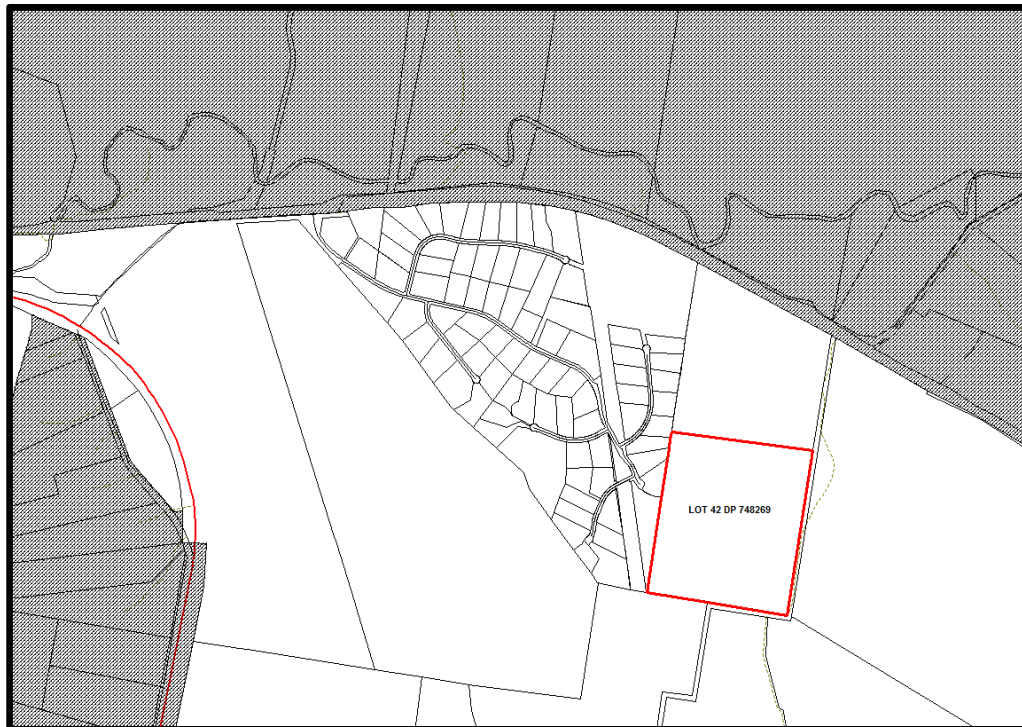


Figure 7: Mine Subsidence Area

The Mine Subsidence Board was consulted and MSB has no objection to the proposed rezoning. MSB correspondence is attached as Appendix C.

Aboriginal Heritage Assessment

An Aboriginal Heritage Assessment was undertaken by ENSR Australia Pty Ltd in 2008 associated with the original submission for rezoning. The report confirmed the extent of Aboriginal community consultation undertaken in accordance with the relevant Department of Environment and Conservation Guidelines at the time and, in addition to their own field work, considered a number of other studies in the locality (Appendix G).

The assessment divided the subject land into areas of low, moderate or high sensitivity. The whole of the site was deemed to be low archaeological sensitivity. The assessment included the following recommendations / conclusions.

7.1.3 General Recommendations

Should suspected skeletal material be uncovered during the course of site works, all works must cease and the Department of Environment and Conservation, the NSW Police and the NSW Coroner's Office contacted immediately, regardless of any existing DEC permits for the development.

7.1.4 Specific Recommendations

No further archaeological investigation or monitoring is required based on the findings of this report

9. How has the Planning Proposal adequately addressed any social and economic effects?

The proposed rezoning would provide approximately 29 lots. The development of the land would provide a link between existing land developed for large lot residential purposes in the locality. The additional land would retain and continue 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 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 aspects associated with this Planning Proposal.

SECTION D – STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the Planning Proposal?

The land does not have an augmented sewerage system available and will utilise on site sewerage management systems. Coffey Geotechnics prepared an “On Site Effluent Disposal Assessment” to support the original rezoning proposal (Appendix H). The report indicated potential 45 lot subdivision of the land which, under the current conceptual plan, has been reduced to 29. The report considered results and assessment of some 30 samples across the site and concluded that:

“the following systems would be considered feasible for the site:

- *Evaporation assisted beds*
- *Irrigation areas “*

The final plan of subdivision will need to incorporate features of the assessment and also give due consideration to buffer distances and watercourses.

There is existing water infrastructure for the adjoining rural residential development. Development of the subject land will require extension of such infrastructure.

Other Services:

Provision of other services including telecommunication and electricity 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 Northern Transport Planning & Engineering Pty Ltd in 2008 (see Appendix I) to assess potential impacts of the rezoning. The investigation at the time allowed for 46 residential lots to be accommodated. The number of lots in the current conceptual plan of subdivision is approximately 29.

It is important to note that the study at the time indicated that the Woodlands Ridge Estate had 20 dwellings and there was potential for another 60 residences. Approvals for the existing four stages have created approximately 72 lots. Therefore the 2008 study assumed additional existing lots, and also allowed for additional proposed lots.

The report included a SIDRA Analysis which used predicted volumes for 2018 at the intersections of Woodlands Ridge Road / Muscle Creek Road and New England Highway / Muscle Creek Road to determine the levels of intersection performance based on the proposed development of the additional lots.

The discussion in the report following analysis of results indicated that:

- *These Sidra results show that the intersection of Woodland Ridge Road / Muscle Creek Road will perform at Level of Service B or A for all movements for both the AM and PM Peak hour in year 2018.*
- *The intersection of Muscle Creek Road / New England Highway will perform at Level of Service C or better for all movements.*
- *It is therefore concluded that the additional trips generated by the proposed 46 lot residential development can be accommodate without any adjustments to the existing intersection layouts.*

The recommendation of the report stated that:

Based on this assessment of predicted traffic impacts it is recommended that the proposed development be approved.

Whilst the report was completed in 2008, it considered traffic generation at 2018 and assumed additional lots to those developed and now proposed in the rezoning, when considering traffic generation and impact on intersections.

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

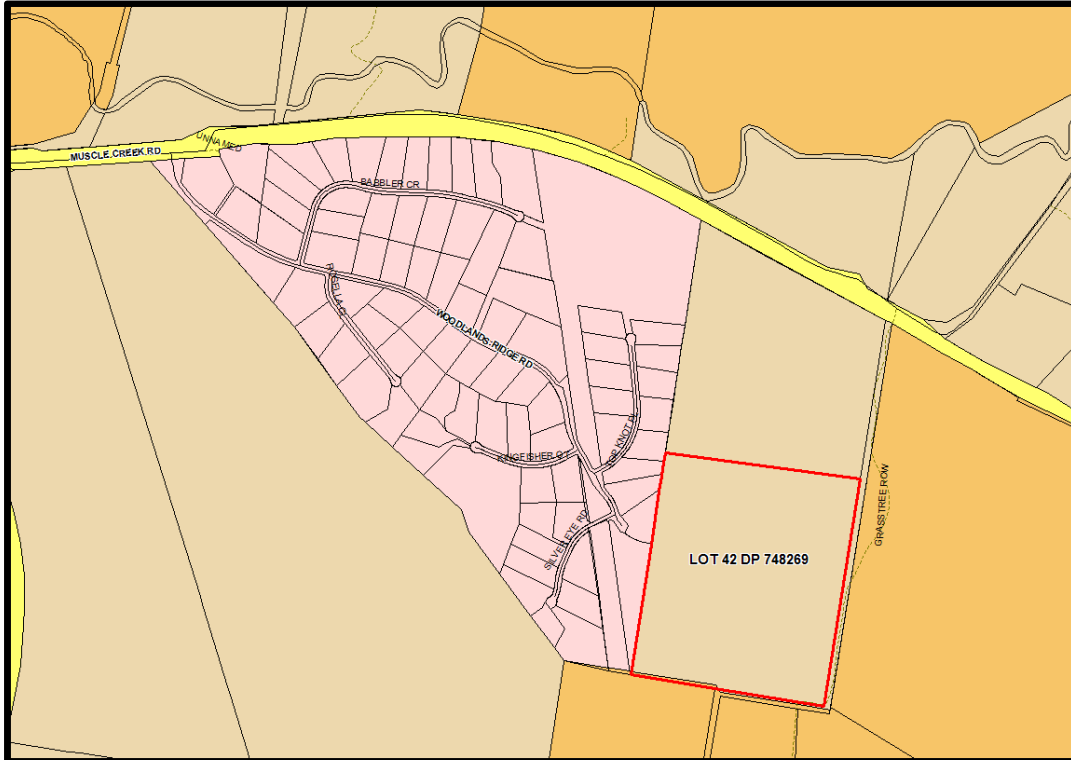
Consultation with the Mine Subsidence Board has been undertaken. The MSB has no objection to the proposed rezoning. MSB correspondence is attached as Appendix C.

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

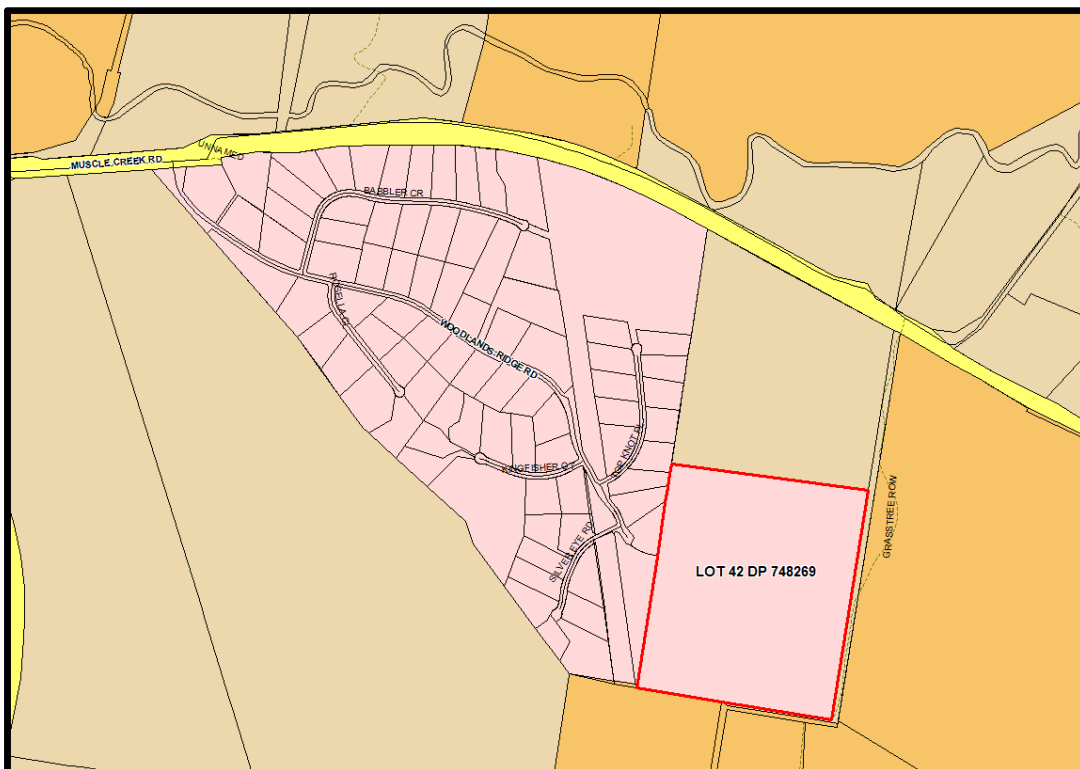
PART 4 – MAPS

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

(a) Current Land Zoning – RU1 Primary Production

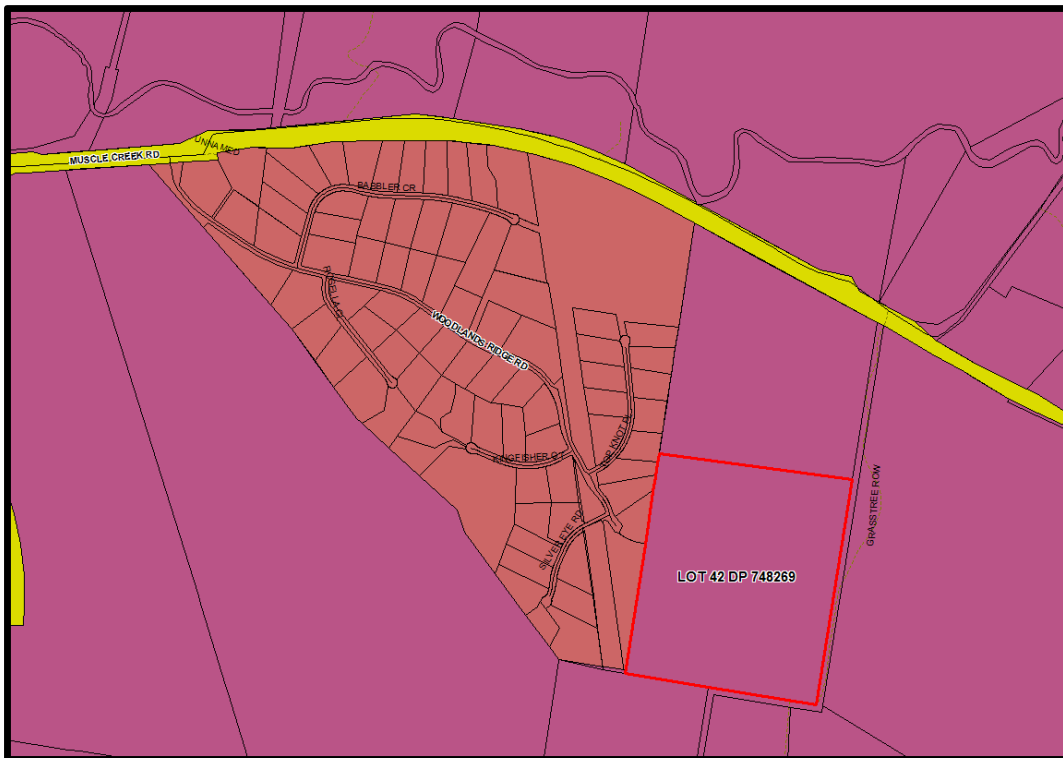


(b) Proposed Land Zoning – R5 Large Lot Residential

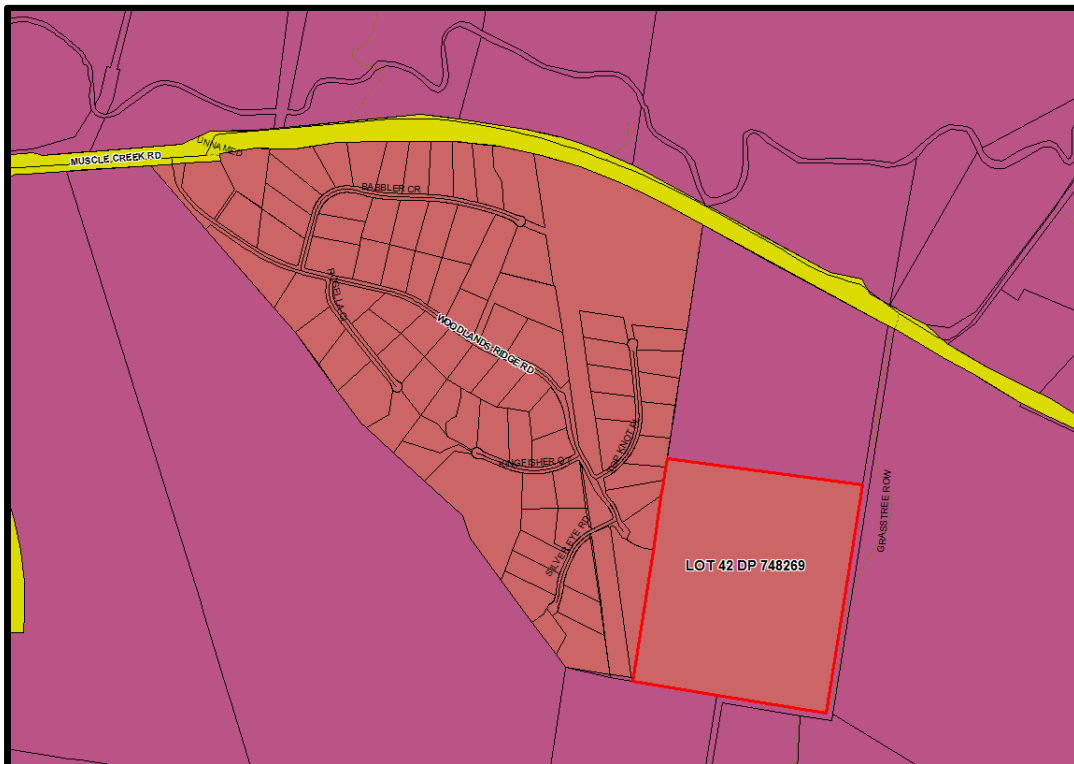


MAP B: MLEP 2009 - Lot Size Map Sheet (LSZ-008)

(a) Current Lot Size – minimum 80ha

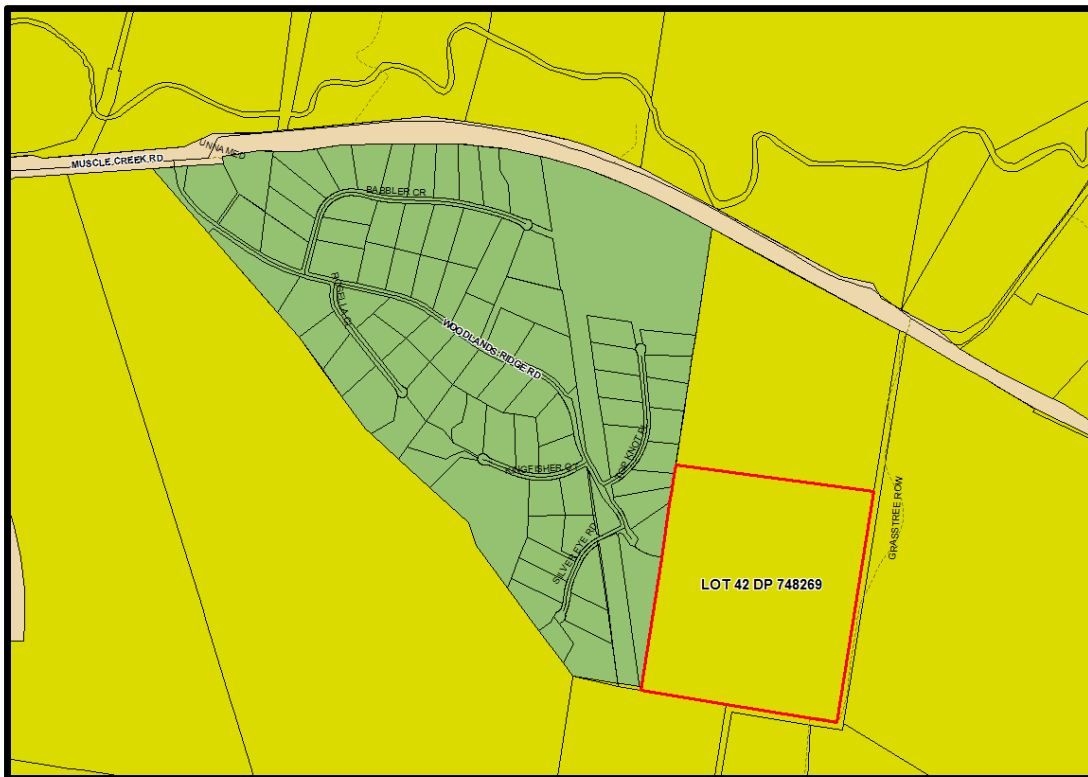


(b) Proposed Lot Size – R5 minimum 4000m²

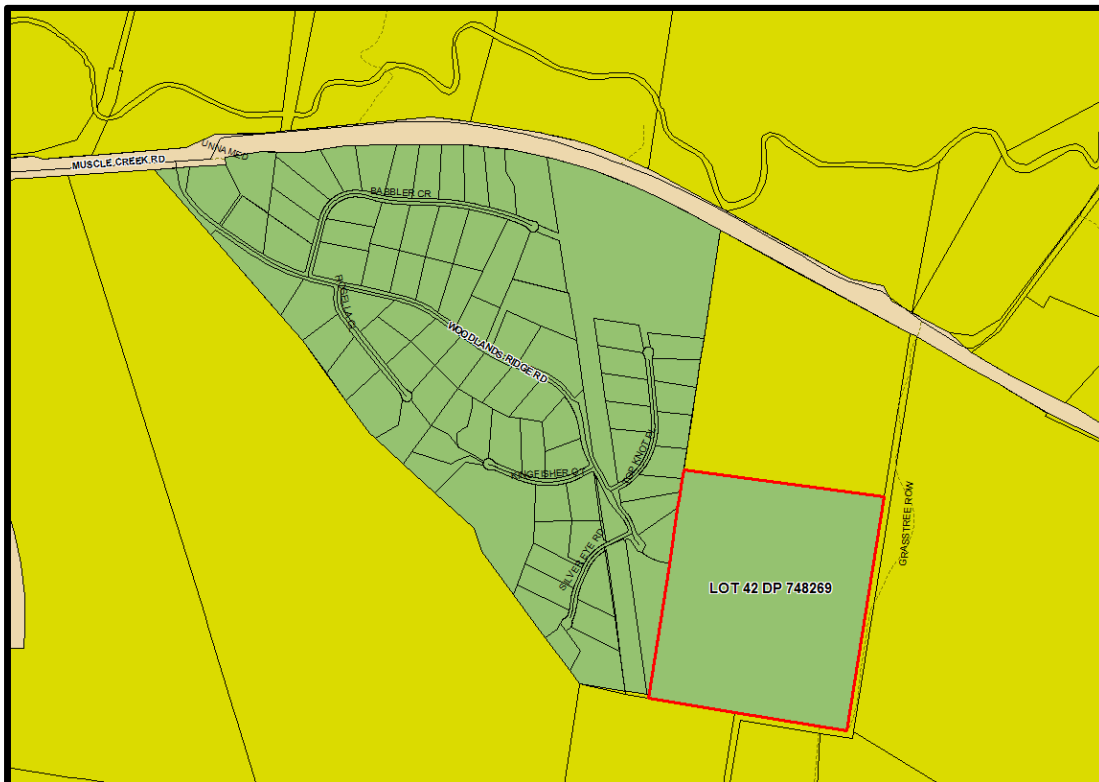


MAP C: MLEP 2009 Height of Building Map Sheet (HOB-008)

(a) Current Height of Building – 12m



(b) Proposed Height of Building – 8.5m



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													
	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	Jun 2016	July 2016	Aug 2016	Sep 2016	Oct 2016	
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: *Mine Subsidence Board - Advice*

Appendix D: *Section 149 Certificate No 18842 – 10/06/2015*

Appendix E: *Ecological Impact Assessment Ecovision Consulting (Attached separately)*

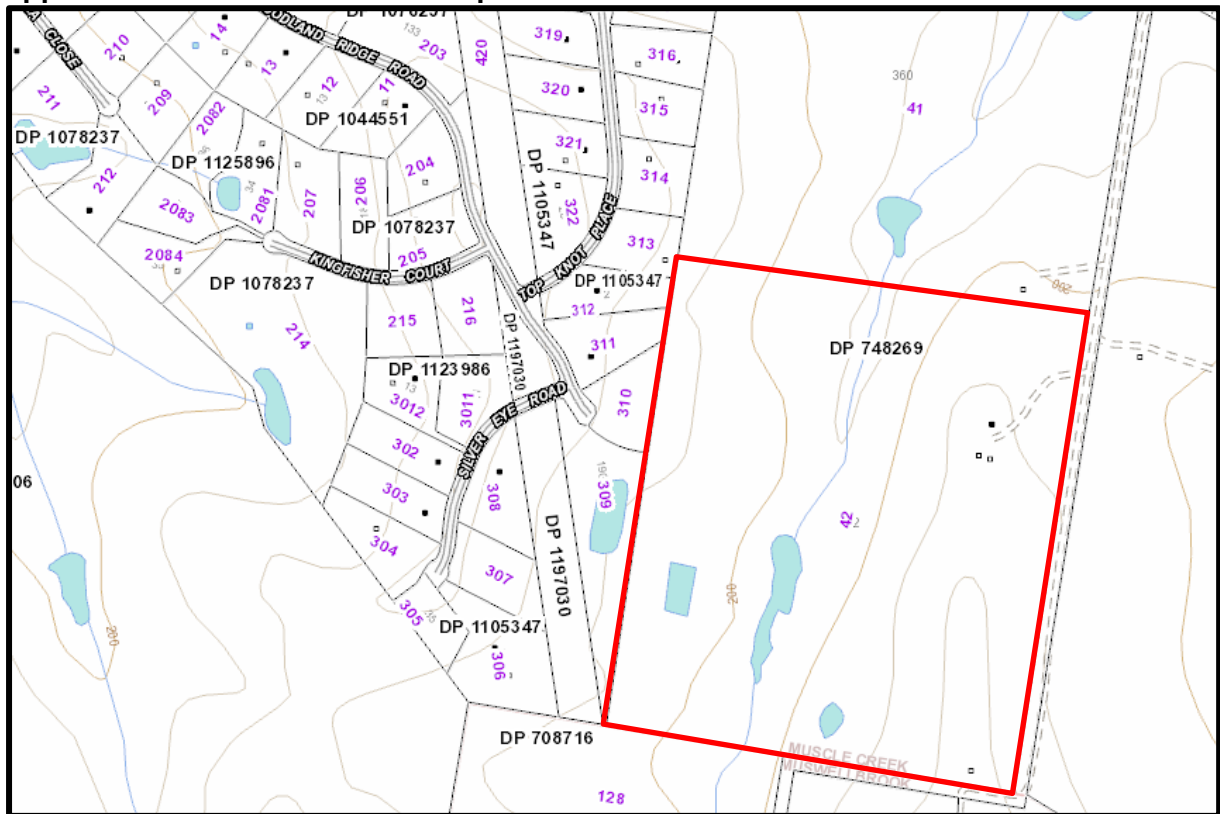
Appendix F: *Bushfire Assessment – M M Hyndes Bailey & Co (Attached separately)*

Appendix G: *Aboriginal Heritage Assessment – ENSR Australia Pty Ltd (Attached separately)*

Appendix H *On Site Effluent Disposal Assessment – Coffey Geotechnics (Attached separately)*

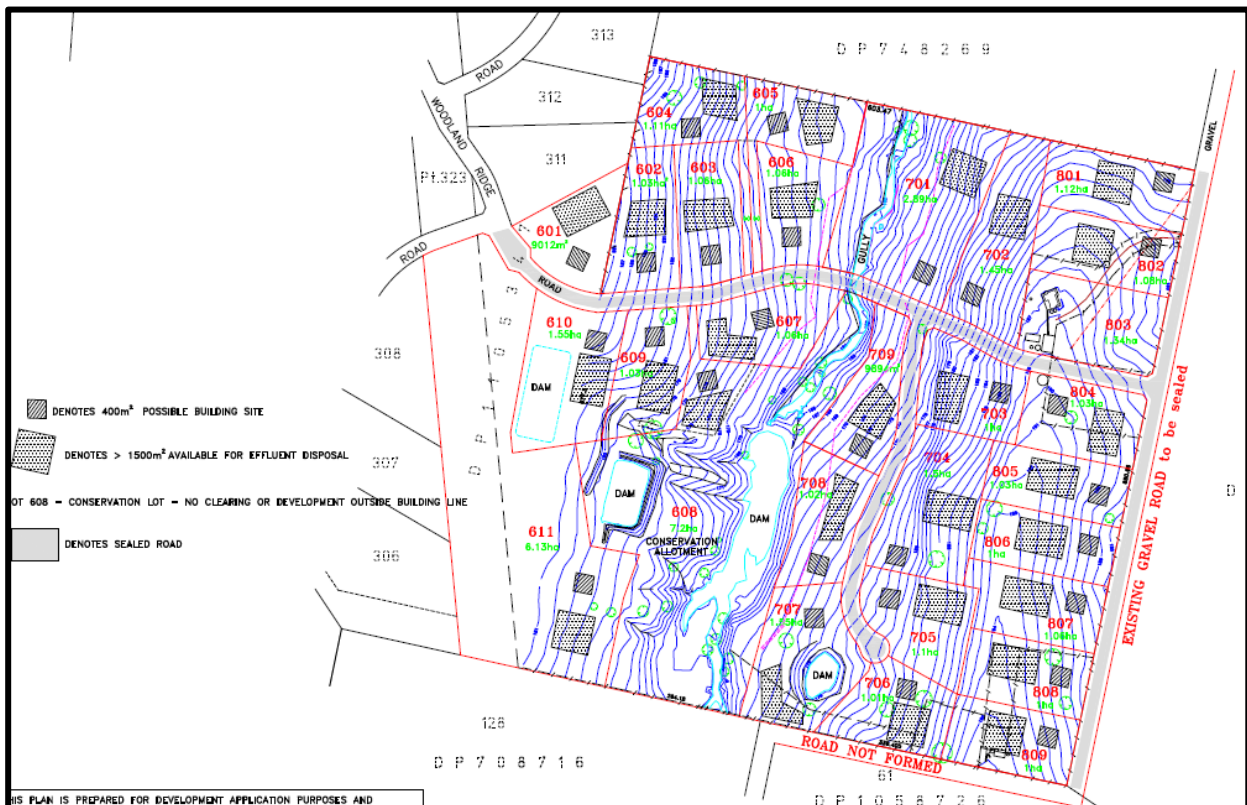
Appendix I *Traffic Impact Study – Northern Transport Planning & Engineering Pty Ltd (Attached separately)*

Appendix A: Site Identification Map



Appendix B: Conceptual Lot Layout

Please note that this plan is conceptual only to provide an indicative lot layout. Further consultation will be undertaken with Council prior to lodgement of a development application in the future to identify recommended modifications.



Appendix C: Mine Subsidence Board - Advice

In reply please send to: Singleton

Our reference: FN15-45741S1-TA-ET

Your reference:

Contact: Troy Atkin (02) 6572 4344

Mr D Casson
Planning & Development Advisor
MM Hyndes Bailey and Co
PO Box 26
MUSWELLBROOK NSW 2333

28 July 2015

Dear Mr Casson

REZONING APPLICATION NO TENQ15-12741S1
LOT 42 DP 748269 NO 362 MUSCLE CREEK RD MUSCLE CREEK
PLANNING PROPOSAL REQUEST

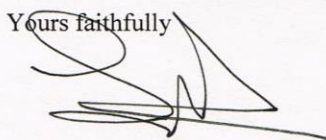
Thank you for your invitation to comment on the planning proposal request for 362 Muscle Creek Rd, Muscle Creek, and Lot 42 DP 748269.

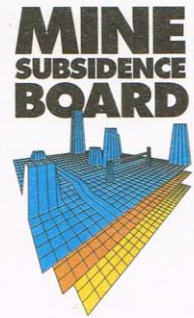
The Mine Subsidence Board has no objections to the proposed rezoning as described in your letter of 29 May 2015 and accompanying plan.

The property is not located within a Mine Subsidence District and the Mine Subsidence Board approval is not required for the surface development outside of a proclaimed Mine Subsidence District.

Should you require any further information please don't hesitate to contact me?

Yours faithfully


Troy Atkin
Acting District Manager



ABN: 87 445 348 918

NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 488G Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 488G
Newcastle 2300
Telephone: (02) 4908 4395
Facsimile: (02) 4929 1032



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Appendix D: Section 149 Certificate No 18842 – 10/06/2015

**PLANNING CERTIFICATE UNDER
SECTION 149 ENVIRONMENTAL PLANNING
AND ASSESSMENT ACT 1979**

Enquiries 2006
Contact 02 6549 3700
Receipt no. 845698
Your reference Ardee Holdings

Date: 10 June 2015

Assessment: 69195

Cert No: 18842

**MM Hyndes Bailey & Co
PO Box 26
MUSWELLBROOK NSW 2333**

Owner (as recorded by Council)

Ardee Holdings Pty Ltd

Property Description: 362 MUSCLE CREEK ROAD MUSWELLBROOK 2333
LOT: 42 DP: 748269

Land to which the certificate relates

The land to which this certificate relates, being the lot or lots described on the application form, is shown in the Council's records as being situated at the street address described above. The information contained in this certificate relates only to the lot or lots described on this certificate. Separate planning certificates can be obtained upon application for other lots, those certificates may contain different information than is contained in this certificate.

CERTIFICATE UNDER SECTION 149(2) ENVIRONMENTAL PLANNING & ASSESSMENT ACT

LOCAL ENVIRONMENTAL PLANS

PLANNING INSTRUMENT Muswellbrook Local Environmental Plan 2009

LAND USE ZONING RU1 Primary Production

PERMITTED WITHOUT CONSENT

Extensive agriculture; Home occupations; Intensive plant agriculture

PERMITTED WITH CONSENT

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Crematoria; Depots; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Function centres; Group homes; Hazardous industries; Health consulting rooms; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home industries; Industrial retail outlets; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Kiosks; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural worker's dwellings; Secondary dwellings; Service stations; Sewerage systems; Signage; Storage premises; Take away food and drink premises; Tourist and visitor accommodation; Transport depots; Truck depots; Turf farming; Veterinary hospitals; Waste disposal facilities; Water supply systems.

PROHIBITED

Any development not specified above.

Muswellbrook Shire Council ABN 86 864 180 944

Address all communications to The General Manager Mail PO Box 122 Muswellbrook NSW 2333 Phone 02 6549 3700
Fax 02 65 49 3701 Email council@muswellbrook.nsw.gov.au Web www.muswellbrook.nsw.gov.au

Date: 10 June 2015

Cert No: 18842

MINIMUM LAND DIMENSIONS FOR THE ERECTION OF A DWELLING

Under the provisions of the Muswellbrook Local Environmental Plan 2009, the minimum subdivision lot size is 80ha and is also subject to the provisions detailed below.

Land zoned RU1 Primary Production may, with the consent of Council, be subdivided for the purpose of primary production to create a lot less than the minimum lot size. However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot. A dwelling cannot be erected on such a lot created.

Development consent must not be granted to the subdivision of a lot in a strata plan or community title scheme on land zoned RU1 Primary Production that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation.

Only one dwelling house may be erected on land zoned RU1 Primary Production only if the land is:

- (a) a lot created in accordance with clause 4.1 of the LEP 2009, or
- (b) a lot created before the LEP 2009 commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
- (c) a lot created before the LEP 2009 commenced that is at least the minimum lot size specified for that lot by the Lot Size Map, or
- (d) a lot for which subdivision approval was granted before the LEP 2009 commenced and on which the erection of a dwelling house would have been permissible immediately before that commencement, or
- (e) an existing holding.

NOTE: EXISTING HOLDING means all adjoining land, even if separated by a road or railway, held in the same ownership:

- (a) on 11 April 1974, and
- (b) at the time of lodging a development application for the erection of a dwelling house under this clause.

and includes any other land adjoining that land acquired by the owner since 11 April 1974.

NOTE: The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

WHETHER THE LAND INCLUDES OR COMPRISES CRITICAL HABITAT

The subject land is not known to include or comprise critical habitat.

HERITAGE

The land is NOT affected by any known or listed heritage item, heritage conservation areas or archaeological sites.

Date: 10 June 2015

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STATE ENVIRONMENTAL PLANNING POLICIES (EXEMPT & COMPLYING DEVELOPMENT CODES 2008)

CERTIFICATE UNDER SECTION 149(2) IDENTIFYING THE INFORMATION SET OUT IN CLAUSE 3 OF SCHEDULE 4 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT REGULATIONS

Part 3 General Housing Code

Not applicable to the land to which this certificate relates.

Part 3A Rural Housing Code

YES. Complying development specified in the Rural Housing Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Part 4 Housing Alterations Code

YES. Complying development specified in the Housing Alterations Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Part 4A General Development Code

YES. Complying development specified in the General Development Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Part 5 Commercial and Industrial Alterations Code

Not applicable to the land to which this certificate relates.

Part 5A Commercial and Industrial (New Buildings and Additions) Code

Not applicable to the land to which this certificate relates.

Part 6 Subdivision Code

YES. Complying development specified in the Subdivision Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Part 7 Demolition Code

YES. Complying development specified in the Demolition Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Part 8 Fire Safety Code

YES. Complying development specified in the Fire Safety Code may be carried out on this land in certain circumstances pursuant to Clause 1.19 of State Environmental Planning Policy (Exempt and

Date: 10 June 2015

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Complying Development Codes) 2008.

STATE ENVIRONMENTAL PLANNING POLICIES

The following State Environmental Planning Policies apply to land within the Muswellbrook Shire LGA:-

No. 15. Rural Landsharing Communities - Makes multiple occupancy permissible, with council consent, in rural and non-urban zones, subject to a list of criteria in clause 9(1) of the policy. The policy encourages a community-based environmentally-sensitive approach to rural settlement, and enables the pooling of resources to develop opportunities for communal rural living.

No. 21. Caravan Parks - Ensures that where caravan parks or camping grounds are permitted under an environmental planning instrument, movable dwellings, as defined in the Local Government Act 1993, are also permitted. The policy ensures that development consent is required for new caravan parks and camping grounds and for additional long-term sites in existing caravan parks.

No. 30. Intensive Agriculture - Requires development consent for cattle feedlots having a capacity of 50 or more cattle or piggeries having a capacity of 200 or more pigs. The policy sets out information and public notification requirements to ensure there are effective planning control over this export-driven rural industry. The policy does not alter if, and where, such development is permitted, or the functions of the consent authority.

No. 32. Urban Consolidation (Redevelopment of Urban Land) - States the Government's intention to ensure that urban consolidation objectives are met in all urban areas throughout the State. The policy:

- focuses on the redevelopment of urban land that is no longer required for the purpose it is currently zoned or used
- encourages local councils to pursue their own urban consolidation strategies to help implement the aims and objectives of the policy.

Councils will continue to be responsible for the majority of rezonings. The policy sets out guidelines for the Minister to follow when considering whether to initiate a regional environmental plan (REP) to make particular sites available for consolidated urban redevelopment. Where a site is rezoned by an REP, the Minister will be the consent authority.

No. 33. Hazardous and Offensive Development - Provides new definitions for 'hazardous industry', 'hazardous storage establishment', 'offensive industry' and 'offensive storage establishment'. The definitions apply to all planning instruments, existing and future. The new definitions enable decisions to approve or refuse a development to be based on the merit of proposal. The consent authority must carefully consider the specifics of the case, the location and the way in which the proposed activity is to be carried out. The policy also requires specified matters to be considered for proposals that are 'potentially hazardous' or 'potentially offensive' as defined in the policy. For example, any application to carry out a potentially hazardous or potentially offensive development is to be advertised for public comment, and applications to carry out potentially hazardous development must be supported by a preliminary hazard analysis (PHA).

No. 36. Manufactured Home Estates - Helps establish well-designed and properly serviced manufactured home estates (MHEs) in suitable locations. Affordability and security of tenure for residents are important aspects. To enable the immediate development of estates, the policy allows MHEs to be located on certain land where caravan parks are permitted. There are however, criteria that a proposal must satisfy before the local council can approve development.

No. 44. Koala Habitat Protection - Encourages the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Date: 10 June 2015

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No. 55. Remediation of Land - Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals.

No. 62. Sustainable Aquaculture - The policy implements the regional strategies already developed by creating a simple approach to identify and categorise aquaculture development on the basis of its potential environmental impact. The SEPP also identifies aquaculture development as a designated development only where there are potential environmental risks.

No. 64. Advertising and Signage - Aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising. The policy responds to growing concerns from the community, the advertising industry and local government that existing controls and guidelines were not effective. SEPP No. 64 offers the comprehensive provisions and consistent approach needed. SEPP 64 – Advertising and Signage: Explanatory Information should be read in conjunction with the policy.

No. 65. Design Quality of Residential Flat Development - Raises the design quality of residential flat development across the state through the application of a series of design principles. The policy provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development. The accompanying regulation requires the involvement of a qualified designer throughout the design, approval and construction stages.

SEPP (Housing for Seniors or People with a Disability) 2004 - Encourage the development of high quality accommodation for our ageing population and for people who have disabilities - housing that is in keeping with the local neighbourhood

SEPP (Building Sustainability Index: BASIX) 2004 - This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX.

SEPP (Major Development) 2005 - Defines certain developments that are major projects under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. The SEPP also lists State Significant Sites. This SEPP was formerly known as State Environmental Planning Policy (State Significant Development) 2005.

SEPP (Infrastructure) 2007 - Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007 - This Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establishes appropriate planning controls to encourage ecologically sustainable development.

SEPP (Miscellaneous Consent Provisions) 2007 - Provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity. The SEPP supports the transfer of the regulation of places of public entertainment and temporary structures (such as tents, marquees and booths) from the Local Government Act 1993 to the Environmental Planning and Assessment Act 1979.

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SEPP (Rural Lands) 2008 - The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes.

SEPP (Exempt and Complying Development Codes) 2008 – This policy streamlines assessment processes for development that complies with specified development standards. The policy provides exempt 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.

SEPP (Affordable Rental Housing) 2009 – The aims of this policy are to provide a consistent planning regime for the provision of affordable rental housing; facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanding zoning permissibility, floor space ratio bonuses and non-discretionary development standards; facilitate the retention and mitigate the loss of existing affordable rental housing; employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing; facilitate an expanding role for not-for-profit-providers of affordable rental housing; support local business centres by providing affordable rental housing for workers close to places of work; and facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

SEPP (State and Regional Development) 2011 – The aims of this policy are to identify development that is State significant development; identify development that is State significant infrastructure and critical State significant infrastructure; and confer functions on joint regional planning panels to determine development applications.

Further details regarding these State Environmental Planning Policies and the circumstances in which they may apply to the subject and can be found on the Department of Planning's website.

REGIONAL PLANNING INSTRUMENTS

There are no Regional Environmental Plans applying within the Muswellbrook Shire Council area.

DEVELOPMENT CONTROL PLANS

This land is affected by the following Development Control Plans:
Muswellbrook Shire Development Control Plan 2009

COASTAL PROTECTION

The land IS NOT affected by the operations of Sections 38 and 39 of the *Coastal Protection Act 1979*.

MINE SUBSIDENCE

The land IS NOT WITHIN a Mine Subsidence District proclaimed under section 15 of the Mine Subsidence Compensation Act, 1961.

ROAD WIDENING AND ROAD REALIGNMENT

The subject land IS NOT affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the Roads Act 1993, or
- (b) Any environmental planning instrument, or
- (c) Any resolution of the council.

Date: 10 June 2015

Cert No: 18842

COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS

The land IS NOT affected by a policy adopted by the council, or adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council: that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

FLOOD RELATED DEVELOPMENT CONTROLS INFORMATION

Development on the land or part of the land IS NOT subject to flood related development controls.

LAND RESERVED FOR ACQUISITION

There are NOT any environmental planning instruments; deemed environmental planning instruments or draft environmental planning instruments applying to the land that provide for the acquisition of the land by a public authority, as referred to in section 27 of the Environmental Planning and Assessment Act 1979.

CONTRIBUTIONS PLANS

The Muswellbrook Section 94 Contributions Plan 2001 and Muswellbrook Section 94A Contributions Plan 2009 apply to all land within the Muswellbrook Shire Local Government Area.

MATTERS RELATING TO THE MANAGEMENT OF CONTAMINATED LAND

- (a) The land to which this certificate relates is NOT within land declared to be significantly contaminated land under the Contaminated Land Management Act 2008 at the date when the certificate is issued.
- (b) The land to which this certificate relates is NOT subject to a management order under the Contaminated Land Management Act 2008 at the date when the certificate is issued.
- (c) The land to which this certificate relates is NOT the subject of approved voluntary management proposal the subject of the Environment Protection Authority's agreement under the Contaminated Land Management Act 2008 at the date when the certificate is issued.
- (d) The land to which this certificate relates is NOT the subject to an ongoing maintenance order under the Contaminated Land Management Act 2008 at the date when the certificate is issued.
- (e) The land to which this certificate relates has NOT been the subject of a site audit statement provided to Muswellbrook Shire Council.

BUSH FIRE PRONE LAND

Rural Fire and Environmental Assessment Legislation Amendment Act 2002. This land is designated as bush fire prone land and any development of the land will require appropriate fire protection assessment prior to such development of the land. For further information concerning the bush fire status of the land, please contact Council on (02) 6549 3700.

PROPERTY VEGETATION PLANS

Council has NOT been notified of the existence of such a plan or if the land is land to which a property vegetation plan under the Native Vegetation Act 2003 applies.

Date: 10 June 2015

Cert No: 18842

ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006

Council has NOT been notified of any order made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

DIRECTIONS UNDER PART 3A

There is NOT a direction by the Minister in force under section 75P (2) (c1) of the Act in relation to prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act.

SITE COMPATIBILITY CERTIFICATES AND CONDITIONS FOR SENIORS HOUSING

There is NOT a current site compatibility certificate (of which the council is aware), issued under clause 25 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in respect of proposed development on the land.

SITE COMPATIBILITY CERTIFICATES FOR INFRASTRUCTURE

There is NOT a valid site compatibility certificate (of which the council is aware), issued under clause 19 of State Environmental Planning Policy (Infrastructure) 2007 in respect of proposed development on the land.

SITE COMPATIBILITY CERTIFICATES AND CONDITIONS FOR AFFORDABLE RENTAL HOUSING

There is NOT a current site compatibility certificate for affordable rental housing (of which the council is aware), issued under clause 37 of State Environmental Planning Policy (Affordable Rental Housing) 2007 in respect of proposed development on the land.

PAPER SUBDIVISION INFORMATION

There is NOT an adopted development plan or subdivision order that applies to the land.

SITE VERIFICATION CERTIFICATE

There is NOT a current site verification certificate (of which the council is aware), issued under clause 17C of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, in relation to the land.

The accuracy and currency of the details provided by agencies external to Council have not been verified by Muswellbrook Shire Council and should be verified by the applicant.

For further information, please contact the
Environmental Services Department.

S J McDonald
General Manager

DJ Watson

Per: _____