

Planning Services

Gateway Determination Report

LGA	Muswellbrook
PPA	Muswellbrook Shire Council
NAME	Rezoning within the Lake Liddell Recreation Reserve (0 homes, 0 jobs)
NUMBER	PP_2018_MUSWE_002_00
LEP TO BE AMENDED	Muswellbrook Local Environmental Plan 2009
ADDRESS	Parts of Lake Liddell Recreation Reserve, 400 Hebden Road
DESCRIPTION	Various, refer to p1 of the planning proposal for the full property description.
RECEIVED	11 October 2018
FILE NO.	EF18/44200
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The proposal seeks to amend Muswellbrook Local Environmental Plan 2009 (MLEP 2009) to rezone land within the Lake Liddell Recreation Reserve (LLRR) to RE1 Public Recreation from SP2 Infrastructure (Power Station).

The intended outcome is to reflect the declared gazetted purpose of the reserve, being Public Recreation.

In the transition from Muswellbrook Local Environmental Plan 1985 to MLEP 2009, Council states that part of the recreation reserve was omitted from the RE1 Public Recreation zone and zoned SP2 in error.

Site description

The Lake Liddell Recreation Reserve is located on the northern foreshore of Lake Liddell. It is adjoined by Hebden Road and the Main Northern Railway to the north, beyond which is farmland. Refer to the Figure below.

The site is mostly cleared, consisting of grass lands with scattered trees and vegetation. A caravan park with associated facilities is located on part of the site. Formal and informal access paths cross parts of the site.

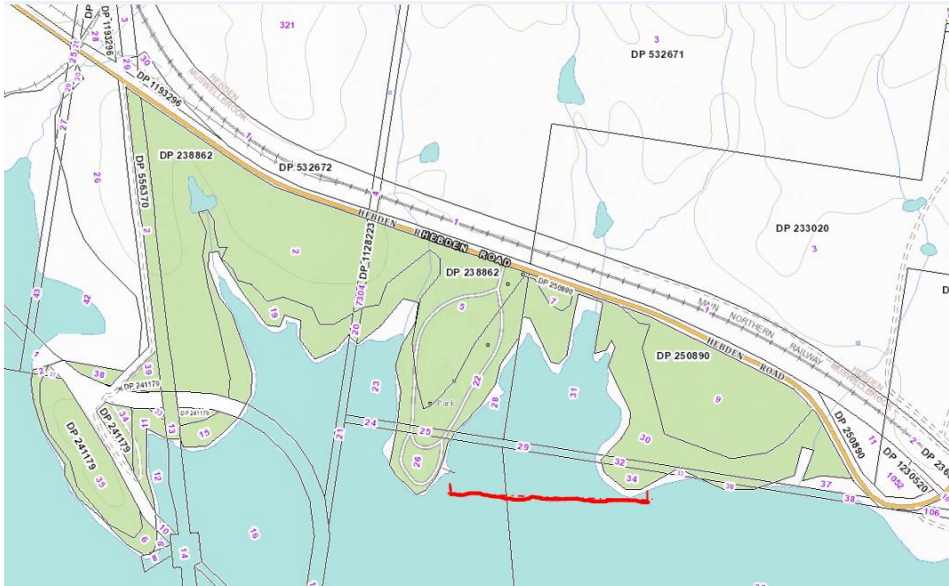


Figure 1: Lake Liddell Recreation Reserve (green, red scale bar is 0.5 km approx.)

The extent of the reserve included in the planning proposal is show in Figure 2.

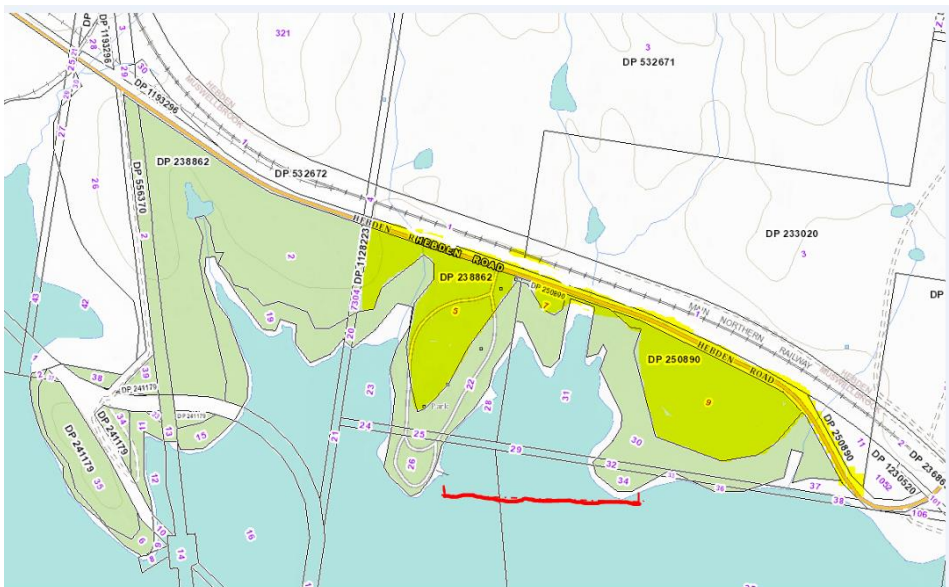
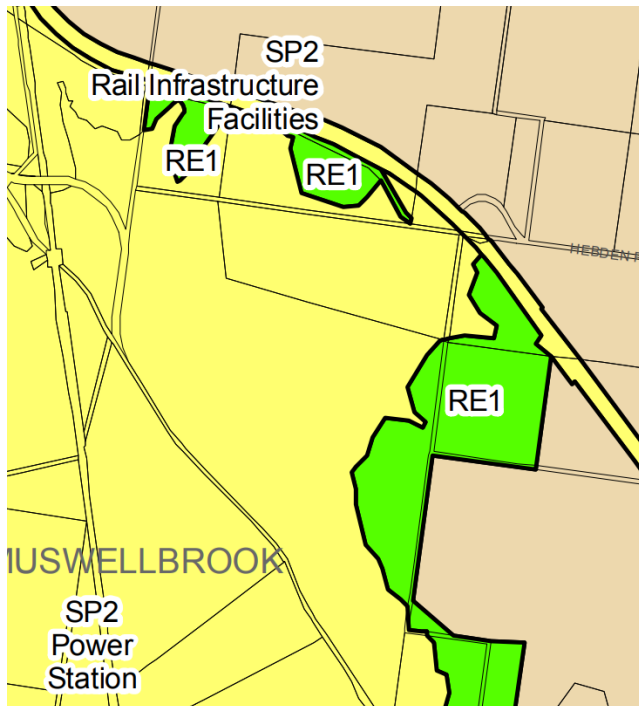


Figure 2: Area of crown reserve (green), existing area zoned for public recreation (yellow) (red scale bar is 0.5 km approx.)

Existing planning controls

The site subject to the planning proposal is currently zoned SP2 Power Station. Other land included in the reserve but not included in the proposal is already zoned RE1 Public Recreation. An extract from the LEP zone map is below.



RE1 Public Recreation **SP2** Infrastructure **RU1** Primary Production

Figure 3: LEP zone map extract

Surrounding area

This rural precinct south of Muswellbrook township is substantially agricultural except for a large SP2 Infrastructure (Power Station) zone which accommodates and protects the operations of the Lake Liddell (coal-fired) Power Station operated by AGL Pty Ltd. The lake is used as a source of cooling water for the power station. This has raised the general temperature of the lake such that it hosts a virus which causes human health impacts. This risk led to the indefinite closure of the lake itself for recreation in early 2016. The campsite on the lakeshore remains open to the public.

The site is bounded by the Main Northern Railway to the north and by Lake Liddell to south, east and west.

Summary of recommendation

The proposal is supported. Notwithstanding, referral to DPE (Energy) is recommended given its interest in the power station's activities and recent news that AGL is assessing the potential of Lake Liddell as a pumped-hydro site post coal fired power production.

The proposal should be amended pre-exhibition to include the request from Department of Industry which details the historic use of the land for recreation. This information provides justification for the changes proposed.

PROPOSAL

Objectives or intended outcomes

The stated objective is to have the zoning match the Gazetted boundary of the Crown Public 'Lake Liddell Recreation Reserve' as per the MLEP 1985 to correct the partial omission of the majority of the reserve in the transition to the (Standard Instrument) MLEP 2009.

Explanation of provisions

The request to rezone the land from SP2 Power Station to RE1 Public Recreation is clear, however the justification and history may be better explained and substantiated. The proposed conditions will strengthen these aspects of the proposal.

Mapping

The proposal involves changing MLEP zoning map sheet 012 so as to extend the RE1 Public Recreation zone to cover the full extent of the Gazetted Recreation Reserve boundary.

NEED FOR THE PLANNING PROPOSAL

The proposal arises from a request by Lands and Forestry division of NSW Department of Industry to Council to amend MLEP 2009 so as to fully carry-over the recreation zoning of the Lake Liddell Reserve as it was in the Muswellbrook LEP 1985. Council advises that an error arose in transitioning to the Standard Instrument LEP in 2009.

While it is noted that the State Environmental Planning Policy (Infrastructure) 2007 offers a range of exemptions for the use of Crown Reserves that are not conservation reserves, this proposal provides clarity regarding the recreation purpose of the land and facilitates recreation uses subject to development consent, consistent with the controls that apply to the balance of the reserve.

STRATEGIC ASSESSMENT

State

The land adjoins a strategic energy complex, being the buffer zone and the cooling water source of the Lake Liddell (coal-fired) Power Station, currently operated by AGL Pty Ltd. The company has scheduled the power plant for closure in 2022. AGL has recently announced that it is investigating the use of the Liddell site as a pumped-storage hydro power complex providing renewable energy to NSW.

Whether these investigations result in the use of Liddell for this purpose, and in turn whether it may affect the reserve is not known. Notwithstanding, it is appropriate to consult with DPE (Energy) regarding the proposal as it affects land adjoining the power station land.

Regional / District

Hunter Regional Plan

Key regional plan actions applicable to this proposal are:

Direction 18: Enhance access to recreational facilities and connect open space

Action 18.2 - Deliver connected biodiversity-rich corridors and open space areas for community enjoyment.

Action 18.3 - Enhance public access to natural areas, including coastal and lake foreshores.

Action 18.4 - Assist councils to develop open space and recreation strategies that identify a range of accessible open space and recreation opportunities; integrate open space, active transport and recreation networks; and improve public foreshore access.

The rezoning is broadly consistent with these objectives as it provides clarity in the LEP regarding the recreation purpose of the reserve, noting that the land is already a public reserve and used for recreation purposes.

Direction 5: Transform the productivity of the Upper Hunter

Action 5.1 Prepare for the diversification and innovation of the economy in response to long term industry restructuring in coal and power generation and the growth in new high-technology primary industry and associated specialist knowledge-based industries and rural tourism.

5.2 Leverage the regional advantages of the Upper Hunter to create a diverse, thriving and prosperous economy built upon industry growth and investment.

5.3 Identify the land and infrastructure requirements to develop the Hunter's coal and alternative energy resources.

The planning proposal affects land that adjoins the power station site and renewable energy generation is being considered for this land. While these investigations are ongoing, the proposal does not preclude the achievement of these regional plan actions in the future regarding the Liddell power generation site.

Local

Muswellbrook Community Strategic Plan (CSP)

The recreational aspects of the CSP relate more to local recreational facilities. It is noted that the Lake Liddell Reserve is promoted more widely and is likely to provide transit camping facilities for people from outside the shire.

Section 9.1 Ministerial Directions

The following directions are relevant to the proposal:

2.4 Recreation Vehicle Areas

Council advises that direction 2.4 Recreation Vehicle Areas applies because the proposal would permit recreation facilities (outdoor) which enables recreation vehicle use of the site in the LEP. The proposal is inconsistent with this direction because Council has not considered the proposal against two guidelines relating to recreation vehicle areas.

This inconsistency is of minor significance. Enabling recreation vehicle areas is not the intent of the proposal and should such a proposal arise it would be subject to adequate consideration through development assessment.

4.4 Planning for Bushfire Protection

Council advises that this direction applies, and that the proposal is consistent. Consistency can only be determined following consultation with the Rural Fire Service (RFS). Consultation with RFS is required.

5.10 Implementation of Regional Plans

The proposal is consistent with this direction because the proposal is consistent with the Hunter Regional Plan 2036.

6.2 Reserving Land for Public Purposes

The direction specifies that Council cannot rezone the land without the approval of the relevant public authority and the Secretary. Council advises that the proposal has been initiated in response to a request from the Department of Industry (Land and Forestry) who owns the land. As progression of the proposal is supported, it is recommended that the Secretary approve the proposal in terms of this direction.

State Environmental Planning Policies (SEPP)

The following SEPPs are relevant to the proposal:

State Environmental Planning Policy No 44— Koala Habitat

Small stands of remnant native bushland are not known to provide habitat for koalas, neither do they appear to have potential for such habitat or movement corridors.

State Environmental Planning Policy No 55— Contaminated Land

Council advises that the site is not declared contaminated land nor have a history indicative of likely contamination. It states that the proposed zone changes are not intended to create additional residential development opportunities and that any future development applications would need to consider potential contamination.

SITE-SPECIFIC ASSESSMENT

Social

As a rezoning that clarifies the existing and intended use of the land, consistent with that applying to the balance of the reserve, no social impacts are anticipated.

Environmental

As a rezoning that clarifies the existing and intended use of the land, consistent with that applying to the balance of the reserve, no social impacts are anticipated.

Economic

The economic imperatives in the Upper Hunter are diversification in general and transitioning to renewable energy sources. Lake Liddell may have a role to play in pumped-storage hydro-electric power after 2022 when the Liddell power station is scheduled to close. Until AGL Pty Ltd has completed/ published its feasibility study of this potential there is no known assessment of this potential. Agency consultation, as recommended, may shed light on this potential.

Infrastructure

The rezoning does not imply any obligation to provide state infrastructure.

CONSULTATION

Community

Council proposes a 14-day exhibition of the proposal which is supported.

Agencies

Agency consultation with DPE (Energy) and RFS is proposed, as discussed.

TIME FRAME

The timeframe provided anticipates an October Gateway determination followed by a four-month program to submission for Notification. Given the Gateway date and intervention of the Christmas holiday it is suggested that a 9-month period for finalisation may be pragmatic.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority and should be authorised to be the local plan-making authority as the amendment is largely administrative with the required additional documentation to support the rezoning.

CONCLUSION

The proposal is supported to proceed with conditions as it appears demonstrable as an administrative amendment and within Council's resources to finalise.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. approve the rezoning of a public reserve in accordance with section 9.1 Direction 6.2 Reserving Land for Public Purposes.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated to include the request from the Department of Industry.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authorities:
 - DPE- Energy
 - RFS
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.

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6/11/2018

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7/11/2018

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