

## Planning Proposal – Administrative Amendment

### Lake Liddell Recreation Reserve

<b>Local Government Area:</b>		Muswellbrook Shire Council (MSC)
<b>Name of Draft LEP:</b>		Muswellbrook Local Environment Plan (MLEP) 2009
<b>Subject Land:</b>		Lot 35 DP 241179, Lot 7304 DP 1128223 Lot 37 DP 241179 Lot 2 DP 238862, Lot 22 DP 1193430, Lot 2 DP 556370, Lot 31 DP 241179, Lot 40 DP 241179, Lot 34 DP 241179, Lot 38 DP 241179, Lot 39 DP 241179, Lot 33 DP 241179, Lot 41 DP 241179, Lot 20 DP 1193430, Lot 2 DP 1193430, Lot 6 DP 1193430, Lot 7 DP 1193430, Lot 11 DP 1193430, Lot 13 DP 1193430, Lot 15 DP 1193430, Lot 19 DP 1193430, Lot 25 DP 1193430, Lot 26 DP 1193430, Lot 30 DP 1193430, Lot 32 DP 1193430, Lot 34 DP 1193430 and Lot 36 DP 1193430 Muswellbrook.
<b>Land Owner:</b>		NSW Department of Industries
<b>Applicant:</b>		Muswellbrook Shire Council
<b>Folder Number:</b>		PP 016 – Administrative Amendment – Lake Liddell Recreation Reserve
<b>Date:</b>		6 September 2018
<b>Author:</b>		Libby Cumming – Strategic Planner
<b>Tables:</b>	Table No.	Details
	1	Assessment of the Planning Proposal against relevant SEPPs
	2	Consistency with applicable Ministerial Directions

<b>Maps:</b>	No.	Details
	1	Locality / Aerial Photo showing full extent of Recreation Area.
	2	Existing Zones Under MLEP 2009
	3	Zones Under the MLEP 1985

<b>Attachments:</b>	No.	Details
	1	NSW Industry – Lands & Forestry - Letter dated 19 September 2017
	2	Evaluation criteria for the delegation of plan making functions

## Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Muswellbrook Local Environmental Plan 2009 (MLEP 2009) in order to rezone land within the Lake Liddell Recreation Reserve (LLRR) to RE1 – Public Recreation from SP2 – Infrastructure. There will no other Map changes. The intended outcome is to reflect the declared gazetted purpose of the reserve, being Public Recreation.

## Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the MLEP 2009 by: -

Amendment Applies to	Explanation of provision
Land Zoning Map – Sheets LZN_012	To rezone land to RE1 Public Recreation.

## Part 3 – JUSTIFICATION

### Section A – Need for the Planning Proposal

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

The Planning Proposal is not the result of a strategic study or report but rather at the request of NSW Industry – Lands & Forestry (NSW Lands) - see Attachment 1. The purpose of the Planning Proposal is to reflect the declared gazetted purpose of the reserve, being Public Recreation.

The land within the LLRR was zoned entirely 6(a) in the Muswellbrook Local Environmental Plan 1985 (MLEP 1985) but when converted to the MLEP 2009 part of the reserve had been altered to reflect an infrastructure usage. This may have been in response to the resumption of land for a rail spur, but this land particular to the planning proposal was not included within the resumption. Therefore it is concluded that the zoning of SP2 – Infrastructure was an administrative error at the time of conversion to the Standard Instrument in 2009.

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

To not rezone would incorrectly identify land for infrastructure purposes, not the gazetted purpose of public recreation and would not achieve the outcome sought by NSW Lands. Therefore this is the only way to correct the administrative mapping error that occurred at the time of conversion to the Standard Instrument in 2009.

### Section B – Relationship to Strategic Planning Framework

#### ***3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

##### Hunter Regional Plan 2036 (HRP)

The HRP sets out a vision for the Hunter Region. The proposed amendment to MLEP 2009 will address:

*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.*

#### **4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

Muswellbrook Community Strategic Plan 2017 – 2027

The proposal is considered consistent with the Muswellbrook Community Strategic Plan 2017 – 2027:

**Issue:** *Community Infrastructure – Our community's infrastructure is planned well, is safe and reliable and provides required levels of service*

**Goal:** *Facilitate investment in high quality community infrastructure necessary for a regional centre*

**Strategy:** *Deliver timely, quality professional development engineering and assessment.*

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

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

**Table 1: Assessment of the Planning Proposal against relevant SEPPs**

SEPP	Relevance	Implications
<b>SEPP (Infrastructure 2007)</b>	The SEPP aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP 21 – Caravan parks</b>	This SEPP provides considerations and protections for land used or intended to be used as a caravan park, including the provision of community facilities for land so used, and protection of the environment in the immediate vicinity.	By changing the zoning to RE1, the land will now have the permissibility with consent to be utilised as a caravan park. It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>SEPPP 44 – Koala Habitat Protection</b>	The SEPP encourages the conservation and management of natural vegetation that provides habitat for Koalas.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP No 55 – Remediation of Land</b>	<i>State Environmental Planning Policy No 55 – Remediation of Land</i> (SEPP 55) aims to promote the remediation of contaminated land for reducing the risk of harm to human health or any other aspect of the	It is not proposed to include any provisions which would be inconsistent with the SEPP. The land has not been listed as

	environment.	being contaminated, neither is it considered to be potentially contaminated.  The proposed zone changes are not intended to create additional residential development opportunities. Any future development applications would need to consider potential contamination.
<b>SEPP 64 – Advertising and Signage</b>	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of the area and provide effective communication in suitable locations.	It is not proposed to include any provisions which would be inconsistent with the SEPP
<b>SEPP Rural Lands 2008</b>	The SEPP aims to facilitate the economic use and development of rural lands, reduce land use conflicts and provide development principles.	It is not proposed to include any provisions which would be inconsistent with the SEPP

**6. *Is the planning proposal consistent with applicable Ministerial Directions?***

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

**Table 2: Consistency with applicable Ministerial Directions**

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	(a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified strategic centres.	N/A
1.2 Rural Zones	Protect the agricultural production value of rural land.	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A
1.4 Oyster Aquaculture	Ensure Priority Oyster Aquaculture areas and oyster aquacultures generally are adequately considered when preparing a planning proposal.	N/A
1.5 Rural Lands	Ensure Planning Proposals that modify existing rural or environmental protection zones or minimum lot sizes to be consistent with SEPP Rural Lands 2008.	N/A

<b>2. Environment and Heritage</b>		
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	N/A
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. Any future development on the land would require an Aboriginal heritage assessment.
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Consistent. Recreation facilities (outdoor) will become permissible development with consent, thus an appropriate assessment will be undertaken on any future proposed development, including a study of environmental impact.
<b>3. Housing, Infrastructure &amp; Urban Development</b>		
3.1 Residential Zones	(a) Encourage a variety and choice of housing types to provide for existing and future housing needs, (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) Minimise the impact of residential development on the environment and resource lands.	N/A
3.2 Caravan Parks and Manufactured Home Estates	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	Does not apply to Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989.
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	N/A
3.4 Integrating Land Use and Transport	Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable	N/A

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	operation of public transport services, and (e) providing for the efficient movement of freight.	
3.5 Development Near Licensed Aerodromes	(a) Ensure the effective and safe operation of aerodromes, and (b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	N/A
<b>4. Hazard &amp; Rise</b>		
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	N/A
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A
4.3 Flood Prone Land	(a) Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	N/A
4.4 Planning for Bushfire Protection	(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) Encourage sound management of bush fire prone areas.	Part of the site is classed as bushfire prone land – vegetation category 1 and vegetation buffer. The Proposal will not increase the intensification of land uses on the site.
<b>5. Housing, Infrastructure &amp; Urban Development</b>		
5.10 Implementation of Regional Plans	Ensure Planning Proposals are consistent with a Regional Plan.	Consistent.
<b>6. Local Plan Making</b>		
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent.

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6.2 Reserving Land for Public Purposes	(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and (b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent. Under clause (4), concurrence is required from the Director-General of NSW Planning & Environment.
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	N/A
<b>7. Metropolitan Planning</b>		
Not Applicable		

### 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 land is currently being used as a recreation reserve. There will be no impact.

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

The land is currently being used as a recreation reserve. There will be no impact.

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

No additional social or economic impacts are expected from the rezoning.

### Section D – State and Commonwealth Interests

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

There is adequate public infrastructure in place.

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

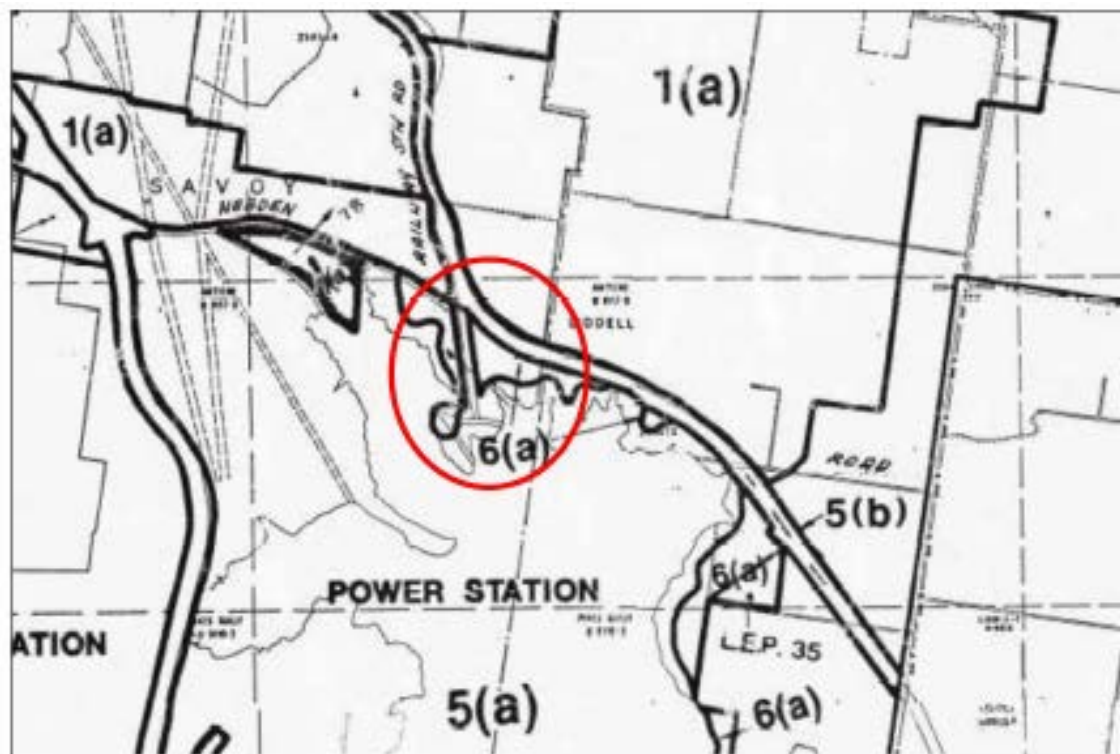
Consultation will occur with Government agencies according with the Gateway determination.

## Part 4 – MAPPING

### Map 1 – Existing Zones – Muswellbrook LEP 2009



### Map 2 – Previous Zones – Muswellbrook LEP 1985





## **Part 5 – COMMUNITY CONSULTATION**

The Planning Proposal will be placed on public exhibition in accordance with the Gateway determination's requirements.

## **Part 6 – PROJECT TIMELINE**

<b>Action</b>	<b>Timeframe</b>
Anticipated commencement date (date of Gateway determination)	October 2018
Anticipated timeframe for completion of required technical information	Nil
Timeframe for government agency consultation (pre exhibition)	21 days (if required)
Public exhibition (commencement and completion dates)	14 days
Date of Public hearing (if required)	Nil
Consideration of submissions	2 weeks
Timeframe for government agency consultation (post exhibition if required)	-
Post exhibition planning proposal consideration / preparation	8 weeks
Submission to Department to finalise LEP	2 weeks
Date RPA will make Plan (if delegated)	4 weeks
Date RPA will forward to the Department for notification (if not delegated)	4 weeks

Council intends to utilise delegations under s3.36 of the EP & A Act 1979 to finalise the Planning Proposal – see Attachment 2.

## **Attachment 1**

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### **Letter from NSW Industries – Lands & Forestry**

## **Attachment 2**

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### **Evaluation Criteria for the Issuing of an Authorisation**

## Attachment 2 – Administrative Amendment – Lake Liddell Recreation Reserve

### Evaluation criteria for the issuing of an Authorisation

(Note – where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not Relevant	Agree	Disagree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain detail related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Secretary?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
<b>Minor Mapping Error Amendments</b>				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
<b>Heritage LEPs</b>				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
<b>Reclassifications</b>				
Is there an associated spot rezoning with the reclassification?		√		
If yes to the above, is the rezoning consistent with an endorsed Plan of management (POM) or strategy?		√		
Is the planning proposal proposed to rectify an anomaly in a classification?		√		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		√		
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		√		

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Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		√		
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding <i>classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		√		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		√		

### Spot Rezoning

Will the planning proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	N/A			
Does the planning proposal create an exception to a mapped development standard?	N			

### Section 73A matters

<p>Does the proposed instrument</p> <p>a) Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provision, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;</p> <p>b) Address matter in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or</p> <p>c) Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(Note – the Minister/GSC (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>				
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### Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, or any other local strategic planning document that is endorsed by the Secretary of the Department.
- Matters that will routinely be delegated to a Council under administration are confirmed on the Department's website [www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/](http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/)