

## Planning and Assessment

IRF21/4444

### Gateway determination report

<b>LGA</b>	Muswellbrook
<b>PPA</b>	Muswellbrook Shire Council
<b>NAME</b>	72 -74 Maitland Road, Muswellbrook
<b>NUMBER</b>	PP-2021-6523
<b>LEP TO BE AMENDED</b>	Muswellbrook Local Environmental Plan 2009
<b>ADDRESS</b>	72-74 Maitland Street, Muswellbrook
<b>DESCRIPTION</b>	Lot 100 DP 1261496
<b>RECEIVED</b>	07/10/2021
<b>FILE NO.</b>	IRF21/4444
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Site description

The planning proposal site is a triangular shaped lot covering 2.4ha of former State forest land. The site is no longer used for forestry purposes and is currently underutilised land. Vegetation covers the northern part of the site. Towards the southern boundary of the site are several empty buildings associated with the former land use, a plant nursery.

The site fronts Maitland Street (New England Highway) extending north-east toward the Muswellbrook golf course.

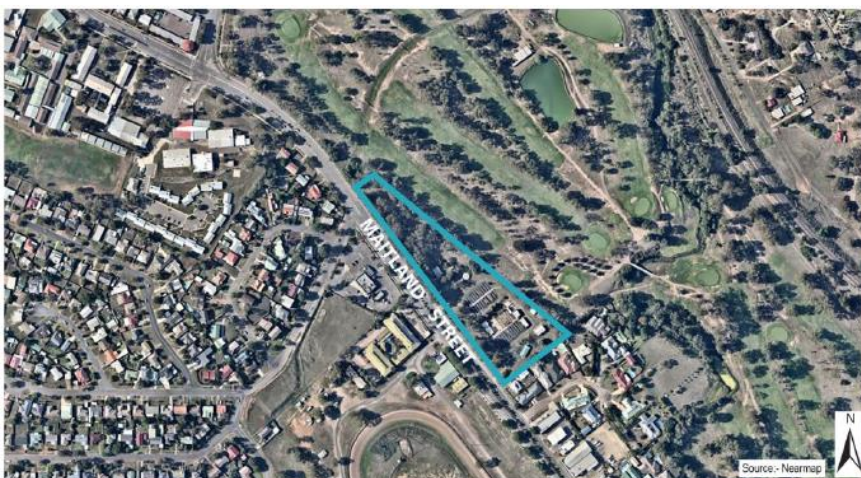


Figure 1 Site context

## 1.2 Existing planning controls

The site is currently zoned RU3 Forestry. There are no height of building or floor space ratio controls over the site. The planning proposal intends to rezone the site to R1 General Residential and implement height of building and floor space ratio controls.

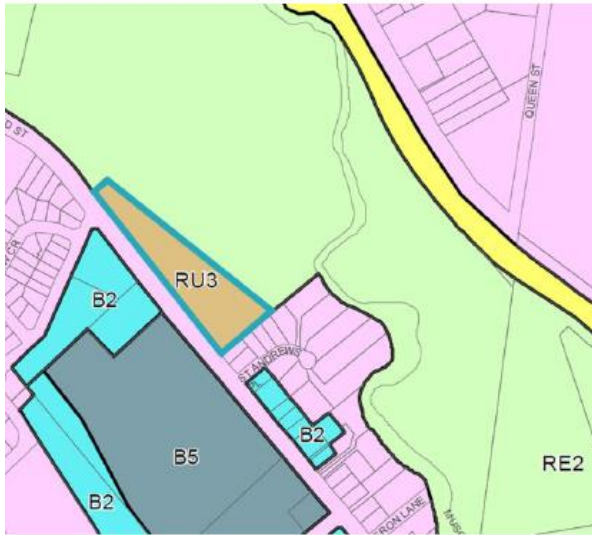


Figure 2 Existing Land Zoning

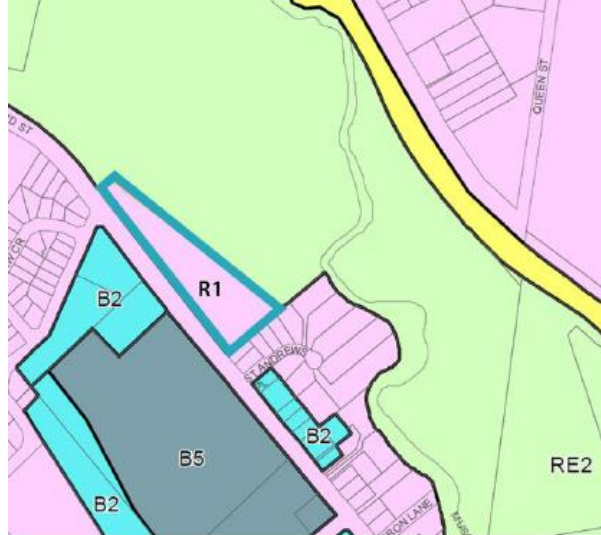


Figure 3 Proposed Land Zoning



Figure 4 Existing Height of Building Controls



Figure 5 Proposed Height of Building Controls

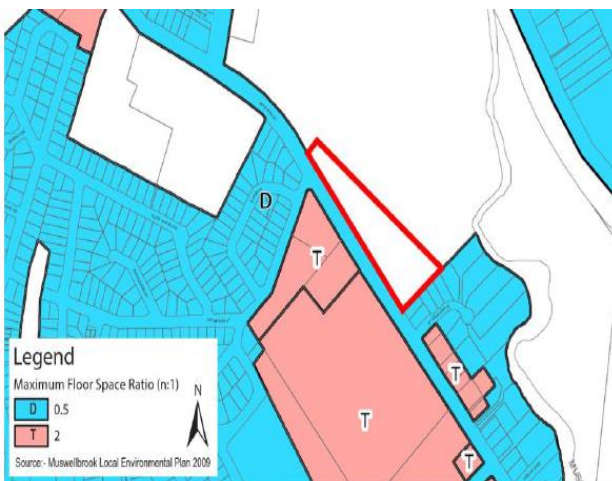


Figure 6 Existing Floor Space Ratio

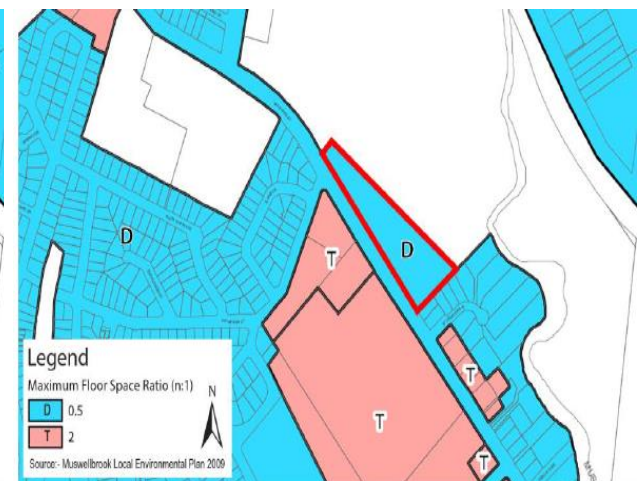


Figure 7 Proposed Floor Space Ratio

### **1.3 Surrounding area**

The Muswellbrook golf course adjoins the north eastern boundary of the site and residential properties adjoin the site on the south east boundary. The locality includes Muscle Creek (approximately 120m east), educational facilities (Muswellbrook TAFE and Muswellbrook South Public School approximately 130m north west) and retail outlets (approximately 600m to the south).

## **2. PROPOSAL**

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### **2.1 Description of planning proposal**

The planning proposal will rezone the site from RU3 Forestry to R1 General Residential to facilitate the development of the site for an educational establishment. In addition, height of building and floor space ratio controls are proposed to be introduced. Should the educational establishment not occur, and the site be developed for residential purposes, approximately 22 dwellings may result.

### **2.2 Objectives or intended outcomes**

The planning proposal intends to rezone the site to facilitate the relocation of Pacific Brook Christian School from 30 Sowerby Street, Muswellbrook.

### **2.3 Explanation of provisions**

The Planning Proposal seeks to amend the *Muswellbrook Local Environmental Plan 2009* to modify the:

- land zoning map from the current RU3 Forestry zone, to R1 General Residential zone;
- height of building map to include a maximum height of building of 8.5m; and
- floor space ratio map to include a floor space ratio of 0.5:1.

### **2.4 Mapping**

This planning proposal would require the amendment of the following maps;

- Land zone maps- Sheet LZN\_008A
- Height of building maps- Sheet HOB\_008A
- Floor space ratio maps- Sheet FSR\_008A

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not the result of a strategic study or report.

The site is no longer used for forestry and is currently underutilised. The RU3 Forestry zoning is now an anomaly and alternative zone and planning controls should be applied to the site. The desired outcome for the site is for it to be used as an educational establishment. As the current zoning prohibits the use, Council proposes an R1 General Residential zone because it permits educational establishments and would allow the site to be developed for residential should a school not be developed on the site.

Rezoning the land to R1 General Residential is seen as the best means of achieving the intended outcomes of the planning proposal. It would permit educational establishments and provide housing opportunities if the educational facility should not proceed. Alternative options such as allowing educational establishments as an additional permitted use or applying a business zone have been considered by Council and are not supported.



Rezoning the site to R1 General Residential would facilitate the redevelopment of this underutilised site for either an educational establishment or residential development, both of which would provide positive outcomes for the community.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional / District**

*Hunter Regional Plan 2036*

The planning proposal considers many directions and associated actions of the plan. The rezoning of underutilised land within the urban area will help revitalise existing communities (Direction 20) and deliver infrastructure to support growth and communities (Direction 26).

*Upper Hunter Strategic Land Use Plan 2012*

The Upper Hunter Strategic Land Use Plan outlines key challenges facing the Upper Hunter region and lists clear actions to address these challenges. Housing and settlement is identified as an issue. This planning proposal will address challenges associates with housing and settlement by supporting growth through the provision of either an expanded educational establishment or new housing.

### **4.2 Local**

*Muswellbrook Community Strategic Plan 2017-2027*

The planning proposal is consistent with the strategic plan. This planning proposal will improve the liveability and amenity throughout the communities within the local government area which is prioritised within the plan.

*Muswellbrook Local Strategic Planning Statement 2020-2040*

The planning proposal is consistent with this statement because it supports investments in education establishments as highlighted in planning priority 8.

### **4.3 State environmental planning policies (SEPPs)**

The planning proposal is consistent with all applicable SEPPs.

### **4.4 Section 9.1 Ministerial Directions**

#### **1.2 Rural Zones**

The planning proposal is inconsistent with this direction as it would rezone rural zoned land to a residential zone. This inconsistency is minor due to the current RU3 Forestry zone being identified as an anomaly. The site is situated within an urbanised area and is not considered a rural or agricultural site. Inconsistency with this direction can be reconsidered post exhibition.

#### **1.5 Rural Lands**

The planning proposal is inconsistent with this direction because by rezoning the site to R1 General Residential, the planning proposal would not be promoting investment in rural activities. Due to the site's infill location, proximity to residential uses and its limited size, productive and sustainable rural activities are unlikely to occur. Inconsistency with this direction can be reconsidered post exhibition.

#### **2.6 Remediation of Contaminated Land**

The planning proposal has considered contamination and remediation on the site. Geotechnical reports have identified potential areas of environmental concern across the site. Council advises remediation will be need and that these areas can be

managed through the development process. A Detailed Site Investigation and Remediation Action Plan have been prepared. The planning proposal is consistent with this direction.

### 3.1 Residential Zones

The planning proposal will rezone the site to residential land. If the educational facility should not proceed on the site, there is an opportunity for residential expansion on the site. The planning proposal is consistent with this direction.

### 4.3 Flooding

The planning proposal is considered inconsistent with this direction as it intends to rezone land in a flood planning area from a rural zone to a residential zone. Inconsistency with this ministerial direction can be considered following consultation with the Biodiversity Conservation Division.

### 5.10 Implementation of Regional Plans

The planning proposal aligns with the directions of the regional plan and therefore consistent with this ministerial direction.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The planning proposal is likely to have a positive social impact. A school on this site would provide educational facilities for the community. If construction of the proposed school does not occur, the alternate residential development could proceed catering for additional housing needs.

### **5.2 Environmental**

The north western portion of the site is affected by flooding (Figures 8 and 9). The risk associated with the planning proposal is likely minor as the remainder of the site is above the flood planning level. Consultation with Biodiversity Conservation Division to comply with ministerial direction 4.3 Flooding will assess the potential impacts of flooding on the site.

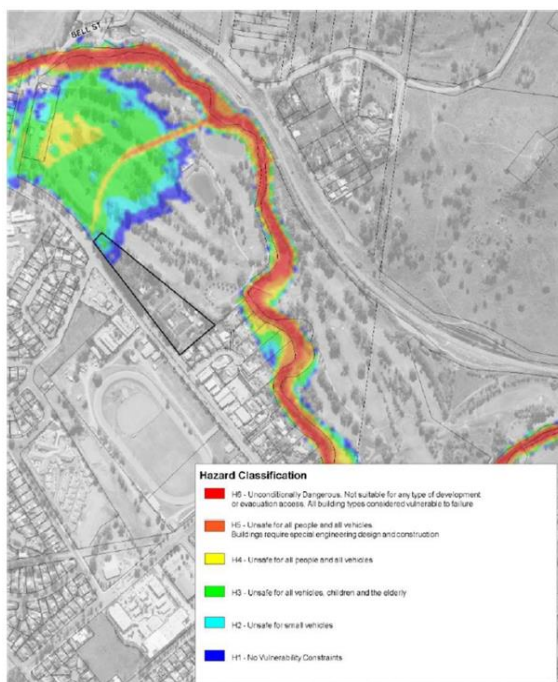


Figure 8 Flood Hazard

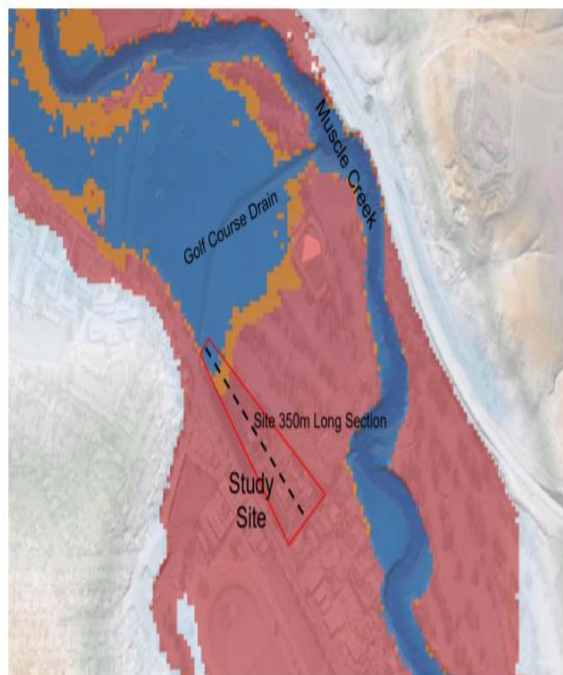


Figure 9 20year (blue), 100year (orange) and PMF (pink) Flood Extents

An ecology survey was undertaken on the site. Two locally listed threatened plant species were found on the site. Ecological impacts can be further examined at the development application stage.

The planning proposal includes advice relating to traffic and parking impacts on the New England Highway. Consultation with Transport for NSW is recommended.

### 5.3 Economic

No adverse economic impacts are anticipated.

### 5.4 Infrastructure

The site has access to existing essential services and adequate public infrastructure to accommodate development.

## 6. CONSULTATION

### 6.1 Community

Council has proposed a 28 day-exhibition period. A 14-day public exhibition period is considered appropriate given the relatively minor nature of this planning proposal. Public exhibition should commence within one month of the issued gateway determination.

### 6.2 Agencies

It is considered appropriate both Transport for NSW and the Biodiversity Conservation Division are consulted on this planning proposal.

## 7. TIME FRAME

Council have proposed a five-month timeframe from the Gateway determination. A six-month timeframe is considered appropriate to allow for unexpected delays.

## 8. LOCAL PLAN-MAKING AUTHORITY

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Council has requested it be authorised to be the local plan-making authority.

## 9. RECOMMENDATION

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Note the consistency with section 9.1 Direction 1.2 Rural Zones, 1.5 Rural Lands and 3.4 Flooding is unresolved and will require justification.

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 made available for community consultation for a minimum of 14 days, commencing within one month.
2. Consultation is required with the Biodiversity Conservation Division and Transport for NSW.
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



24/11/2021

**Ben Holmes**

**Manager**

**Central Coast and Hunter Region**

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