

10.3 MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 AMENDMENT NO.12 (ADMINISTRATIVE AMENDMENTS 2015)

Attachments:	A. Gateway Determination and Written Authorisation to Exercise Delegation B. Planning Proposal - July 2015
Responsible Officer:	Graham Gardner - Acting Director Environmental Services
Author:	Pathum Gunasekara - Strategic Planner
Community Plan Issue:	<i>Plan liveable and sustainable urban areas</i>
Community Plan Goal:	<i>Protect our natural environment</i>
Community Plan Strategy:	<i>Improve strategic Planning Processes and Deliverables</i>

PURPOSE

The purpose of this report is to inform Council of the Gateway Determination and to seek Council endorsement for exhibition of the Planning Proposal with the intention to streamline the internal reporting process for the Muswellbrook Local Environmental Plan 2009 (LEP) Amendment No. 12.

OFFICER'S RECOMMENDATION

That:

- (a). Council accept the Gateway Determination conditions and delegation of plan making functions under section 59 of the Environmental Planning & Assessment Act 1979;
- (b). Undertake consultation with the Mine Subsidence Board in accordance with the Gateway Determination;
- (c). Exhibit the updated Planning Proposal for a period of 14 days;
- (d). If no submissions are received from the public during the public exhibition period, commence legal drafting of the instrument and making of draft LEP.

Moved: _____ **Seconded:** _____

BACKGROUND

At its ordinary meeting held on 11 May 2015, Council considered a report regarding the abovementioned Planning Proposal and resolved that:

- (a). The Planning Proposal for various amendments to MLEP 2009, be forwarded to the Department of Planning & Environment seeking a Gateway Determination pursuant to Section 56 of the Environmental Planning & Assessment Act 1979, except in so far as Item 5 concerning minimum subdivision lot sizes.*
- (b). The Department of Planning & Environment be advised that Council is requesting an authorisation to exercise its delegation of the plan making functions under Section 59 of the Environmental Planning and Assessment Act 1979.*

In accordance with the above Council resolution, Item 5 of the Planning Proposal has been removed. The updated Planning Proposal was submitted to the NSW Department of Planning & Environment (DP&E) on 19 May 2015 to proceed through Gateway process.

REPORT

On 30 June 2015, Council received a Gateway Determination for the proposed LEP amendment. The DP&E has determined that the proposed amendments to the Muswellbrook LEP 2009 should proceed subject to the following conditions:

- (1). Prior to undertaking public exhibition, Council is to amend the Planning Proposal to correct the Lot Size Map error relating to Lot 42 DP 748269.

It is noted that the above minor mapping error was not included in the original Planning Proposal submitted to Council in May 2015 as it was identified more recently. Subsequently the DP&E was requested to consider this error as a part of this Planning Proposal in order to rectify it in timely manner rather preparing a separate Planning Proposal.

- (2). Community consultation is required for a minimum 14 days.
- (3). Consultation is required with Mine Subsidence Board, prior to public exhibition.
- (4). No public hearing is required under the section 56(2)(e) of the Environmental Planning and Assessment Act 1979.
- (5). Complete the LEP amendment within 9 months.

A copy of the DP&E's correspondence including the cover letter, Gateway Determination and written authorisation to exercise delegation is attached as Appendix A for the information of Council.

As of 1 November 2012, the Minister for Planning & Infrastructure delegated functions under the Part 3 Section 59 of the Environmental Planning and Assessment Act 1979. The delegations operate in respect of draft LEPs for local matters where council receives an authorisation following the Gateway determination.

Council has received an authorisation to exercise its delegation of the plan making for this amendment.

DISCUSSION

In accordance with the Gateway Determination, the draft LEP should be completed within 9 months and it is proposed to;

- consult Mine Subsidence Board (MSB);
- update the Planning Proposal;
- exhibit Planning Proposal for 14 days; and
- if no submissions are received from the public during the public exhibition period, commence legal drafting of the instrument and the making of draft LEP.

To allow the draft LEP to proceed in a timely manner, the DP&E's GIS team will be requested to assist with the preparation of the maps to comply with the Department's Standard Instrument LEP mapping technical requirements. Once Council receives the draft maps from the Department's GIS team and comments from Mine Subsidence Board, the updated Planning Proposal will be exhibited for a period of 14 days.

CONCLUSION

It is recommended that the Planning Proposal is placed on public exhibition and proceed in accordance with the Gateway Determination issued by the Department.

SOCIAL IMPLICATIONS

The administrative amendments assist the community to correctly identify land use zones, development standards and heritage items.

FINANCIAL IMPLICATIONS

Not applicable

POLICY IMPLICATIONS

The planning proposal will result an amendment to Muswellbrook Local Environmental Plan 2009. The Planning Proposal will enable Council to address relatively minor errors/anomalies in mapping, correct description errors in the Heritage Schedule and heritage maps, rezone land already dedicated council for public and drainage purposes and introduce a local provision to enable events permitted without development consent.

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Not applicable

OPERATIONAL PLAN IMPLICATIONS

The proposed amendments are consistent with the objective of Council's Operational Plan 2012-2013, Section 6.1.2(a)(i) – Review Strategic Planning and Development documents as required and report to Council.

RISK MANAGEMENT IMPLICATIONS

Not applicable

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(ADMINISTRATIVE AMENDMENTS 2015)**

176 RESOLVED on the motion of Crs Lecky and Woodruff that:

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- (b) Undertake consultation with the Mine Subsidence Board in accordance with the Gateway Determination;
- (c) Exhibit the updated Planning Proposal for a period of 14 days;
- (d) If no submissions are received from the public during the public exhibition period, commence legal drafting of the instrument and making of draft LEP.

In Favour: Crs R.B Butchard, J.L. Lecky, G. McNeill, M.R. Ogg, J.F. Risby, M.L. Rush, R Scholes, S Ward and B.N. Woodruff.

Against: Nil.