

10 ENVIRONMENTAL SERVICES

10.1 MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 AMENDMENT NO 12 (ADMINISTRATIVE AMENDMENTS)

Attachments:	A. Planning Proposal
Responsible Officer:	Glenn Bunny - Director Environmental Services
Author:	Pathum Gunasekara - Strategic Planner
Community Plan Issue:	<i>Plan liveable and sustainable urban areas</i>
Community Plan Goal:	<i>Sustainable planning, design and regulation support community needs</i>
Community Plan Strategy:	<i>Improve strategic Planning Processes and Deliverables</i>

PURPOSE

Staff have prepared a planning proposal to address relatively minor land use and administrative issues and to correct anomalies identified in Muswellbrook Local Environmental Plan (LEP) 2009.

This report is seeking Council approval to forward the planning proposal to the Department of Planning and Environment for a Gateway Determination.

OFFICER'S RECOMMENDATION

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*.
- (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*.

Moved: _____ Seconded: _____

REPORT

The planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's guidelines. It explains the intended effect of, and provides justification for the proposed amendments to Muswellbrook LEP 2009.

The planning proposal intends to rectify various anomalies, ambiguities and errors in Muswellbrook LEP 2009 to strengthen the integrity and accuracy, and incorporate additional provisions into LEP to ensure LEP functions efficiently and its provisions are up-to-date.

The planning proposal is attached as **Appendix A** and proposes the following amendments.

- (a). **Rezone Lot 10 DP 1181346, Lot 116 DP 1075666 and Lot 1380 DP 1164893 from R1 General Residential to RE1 Public Recreation**

Lot 10 DP 1181346, Lot 116 DP 1075666 and Lot 1380 DP 1164893 has been dedicated to Council by the Eastbrook Links Estate as public and drainage reserves. The above lots are currently zoned as R1 General Residential.

This planning proposal proposes to correct this minor mapping anomaly of Lots 10, 116 and 1380 by rezoning these reserves into RE1 Public Recreation in consistent with MLEP 2009. This would reflect the actual use of above land parcels and will assist the community to correctly identify land use zones.

(b). Split zoning – Queen Street, Lonhro PI/Sepoy Cr

Council has identified that an administrative amendment is required to Land Zoning Map Sheet LZN_008A to make an adjustment to the location of the zoning boundaries of the following lots:

- Lot 84 DP 1181251
- Lot 85 DP 1181251
- Lot 86 DP 1181251
- Lot 87 DP 1181251
- Lot 88 DP 1181251
- Lot 89 DP 1181251
- Lot 90 DP 1181251
- Lot 91 DP 1181251
- Lots 1 and 2 SP 88952

This amendment proposed to remove split zoning from above lots by rezoning minor areas from R5 Large Lot Residential to R1 General Residential to correct mapping anomaly.

(c). Correct minor anomalies identified in the Heritage Schedule

Council has identified that an amendment is required to the Schedule 5 (Environmental Heritage) of the MLEP 2009, as follows:

- Muswellbrook Railway Station (Heritage Item i105) is incorrectly referenced as being located within Lot 1 DP 1010686. The correct reference is Lot 11 and Lot 12 ALT DP 1115346.
- Muswellbrook Railway Signal Box (Heritage Item i106) is incorrectly referenced as located within Lot 1 DP 1010686. The Railway Signal Box is located within the rail corridor, adjacent to Lot 12 ALT DP 1115346.
- Merton, Denman (Heritage Item i17) is incorrectly referenced in 'Address' column as "4833 Jerry's Plains Road". The correct address is "4883 Jerry's Plains Road".
- Pickering, Denman (Heritage Item i19) is incorrectly referenced as "Local" significance heritage item. Pickering is "State" significance heritage item.

(d). Inclusion of a local provision - "Events permitted without development consent"

Council proposes to simplify the approval process for community events by removing the need for development consent under the *Environmental Planning & Assessment Act 1979* for temporary events and activities on public reserves, roads or any other public space by including a clause "events permitted without development consent" into MLEP 2009.

Inclusion of the above clause permitting events without development consent will streamline the approval process for events and provide time and resource savings for Council and the organisers of events. This would enable the temporary use of public reserves and roads for the purpose of events and activities for cultural, recreational charitable purposes, to be undertaken without the need to obtain development consent. However, other approvals may be required under other legislations including the *Local Government Act 1993*, the *Roads Act 1993* and the *Crown Lands Act 1989*.

(e). Minimum subdivision lot size for community title schemes

In the MLEP 2009 the minimum subdivision lot size clause 4.1 applies to a subdivision of any land shown on the Lot Size Map that requires development consent. The size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map. However, this clause does not apply to the subdivision of lots in a community title scheme.

Currently, under the Clause 4.1 a community title subdivision is not restricted to minimum lot size map and as a result there is a potential for community titles lots to be less than the minimum lot size. Though this position can impact on affordability of housing it can undermine the strategic planning principles of recommended minimum lot sizes and affect the efficient and effective provision of services and infrastructure having negative social and economic effects on planned residential neighbourhoods.

There is an optional clause in *Standard Instrument - Principal Local Environmental Plan* (SI-PLEP) to restrict the size of community title subdivision and its objective being to ensure that land is not fragmented by subdivisions that would create additional dwelling entitlements. The clause restricts the size of community title subdivision in the prescribed zones to not less than the minimum lot size identified on the Lot Size Map. That is, the minimum lot size will be the same for community title subdivision in these prescribed zones. This clause has not been adopted in MLEP 2009.

It is noted that neighbouring councils apply this clause for a range of zones including RU1 Primary Production, R5 Large Lot Residential, RU5 Village, E3 Environmental Management etc.

In recent years, it is apparent that developers are utilising the community title scheme to subdivide residential zoned land as a means of obtaining small residential allotments, less than the lot sizes shown on the MLEP 2009 Lot Size Map, thereby achieving higher development yields and potentially having undesirable planning outcomes.

Adherence to minimum lot size is important particularly in residential areas as supporting infrastructure and agreements to provide required infrastructure and/or development contributions are linked. Variations to minimum lot sizes can result in increased densities having infrastructure, social and economic environmental implications, which in turn may result in the need for reconsideration of various strategies and planning agreements.

The current LEP allows the community title subdivision in certain rural and environmental zones (i.e. RU1 Primary Production and E3 Environmental Management, where minimum lot size is 80 hectares), with lot sizes that did not meet the minimum lot size provisions. This cluster style community title scheme in rural areas provides an opportunity to co-existence of farming activities and supporting non-farming residents under the provisions of the Community Land Management Act 1989. This type of scheme will lead to expand farming activities in rural areas more productive and sustainable manner.

In this context, it is proposed that clause 4.1AA "minimum subdivision lot size for community title schemes" from the SI-PLEP is adopted into MLEP 2009. It is also proposed that the clause 4.1AA apply to zones R1 General Residential, R5 Large Lot Residential and RU5 Village. This amendment ensures that the minimum lot size provisions are applied equally to subdivision under a community title scheme in residential zones.

CONCLUSION

The proposed amendments will address a range of relatively minor landuse and administrative issues and correct anomalies identified in MLEP 2009.

It is recommended that the planning proposal be forwarded to the Department of Planning and Environment for consideration under the Gateway process. If the Department agrees that the proposal should be investigated further, they will advise Council:

- the government agencies to be consulted,
- the community consultation process to be followed,

- timeframe for the completion, and;
- any other requirements.

From 1 November 2012, the Minister for Planning & Environment has delegated his functions under the Part 3 Section 59 of the *Environmental Planning and Assessment Act 1979*. The delegations will operate in respect of draft LEPs for local matters where council receives an authorisation following the Gateway Determination. When submitting a planning proposal to the Gateway process, Council is required to advise the Department whether the Council will be exercising the delegated functions.

It is recommended that Council advise the Department that an authorisation to exercise its delegation of the plan making functions under Section 59 of the *Environmental Planning and Assessment Act 1979* be delegated to the previously nominated Council's officers.

SOCIAL IMPLICATIONS

No adverse social effects are anticipated as a result of the above LEP administrative amendments. It will assist the community to correctly identify land use zones and heritage items.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

If supported, the planning proposal will result in various amendments to MLEP 2009.

LEGAL IMPLICATIONS

There are no statutory implications under the Local Government Act 1993 due to this proposal.

OPERATIONAL PLAN IMPLICATIONS

The proposed amendments are consistent with the objective of Council's Operational Plan 2014-2015.