



IRF23/1223

Gateway determination report – PP- 2022- 4312

Administrative Amendment – Removal of Heritage
Item I112 (Muswellbrook Brickworks) – Coal Road
Muswellbrook NSW

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	3
1.1	Overview.....	3
1.2	Objectives of planning proposal	3
1.3	Explanation of provisions	3
1.4	Site description and surrounding area.....	4
1.5	Mapping.....	5
2	Need for the planning proposal	6
3	Strategic assessment	6
3.1	Hunter Regional Plan 2041	6
3.2	Local Strategic Plans	7
3.3	Section 9.1 Ministerial Directions	7
3.4	State environmental planning policies (SEPPs)	8
4	Site-specific assessment	8
4.1	Environmental.....	8
4.2	Social and economic.....	8
4.3	Infrastructure	8
5	Consultation.....	9
5.1	Community	9
5.2	Agencies.....	9
6	Timeframe	9
7	Local plan-making authority	9
8	Recommendation.....	9

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Council Report
Ordinary Council Meeting Minutes
Muswellbrook LEP Planning Proposal Brick Works
Appendix A – Historical Heritage Assessment

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Muswellbrook
PPA	Muswellbrook Council
NAME	Muswellbrook Brickworks
NUMBER	PP- 2022- 4312
LEP TO BE AMENDED	<i>Muswellbrook Local Environmental Plan 2009</i> (MLEP 2009)
ADDRESS	Coal Road Muswellbrook NSW 2333
DESCRIPTION	Lot 4 DP 1220491
RECEIVED	17/05/2023
FILE NO.	IRF23/1223
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 meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal is to amend the local environmental plan to remove a local heritage item that no longer exists.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the *Muswellbrook Local Environmental Plan 2009* per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU1 Primary Production, C3 Environmental Management, SP2 Classified Road	No change to zoning

The planning proposal includes the following minor changes to the local environmental plan and Heritage Map:

- Schedule 5 Environmental Heritage – remove item I112.
- Heritage Map – remove item I112

The planning proposal contains an explanation of provisions that adequately explain how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The former brickworks site is located on Lot 4 DP 1220491 (formerly Lot 101 in DP 578075) and forms part of the Muswellbrook Coal mine located outside the Muswellbrook township to the north. It contains some vegetated areas but is otherwise cleared.

The site is located on RU1 Primary Production, C3 Environmental Management zoned land, with land zoned SP2 Classified Road (future Muswellbrook bypass) passing through the centre of it.

The site is adjoined to the north by vacant blocks owned by Muswellbrook Coal Company zoned RU1 Primary Production and C3 Environmental Management zones. Land to the south is zoned SP2 Infrastructure (Waste Management) and contains the Muswellbrook Waste Management Facility.

The surrounding locality includes activities such as rural-residential areas, the Muswellbrook urban area, agricultural activities, a light industrial estate, and land formerly used for coal mining. Coal mining operations have now ceased and the Muswellbrook Coal Company is examining opportunities to diversify land uses on the site.

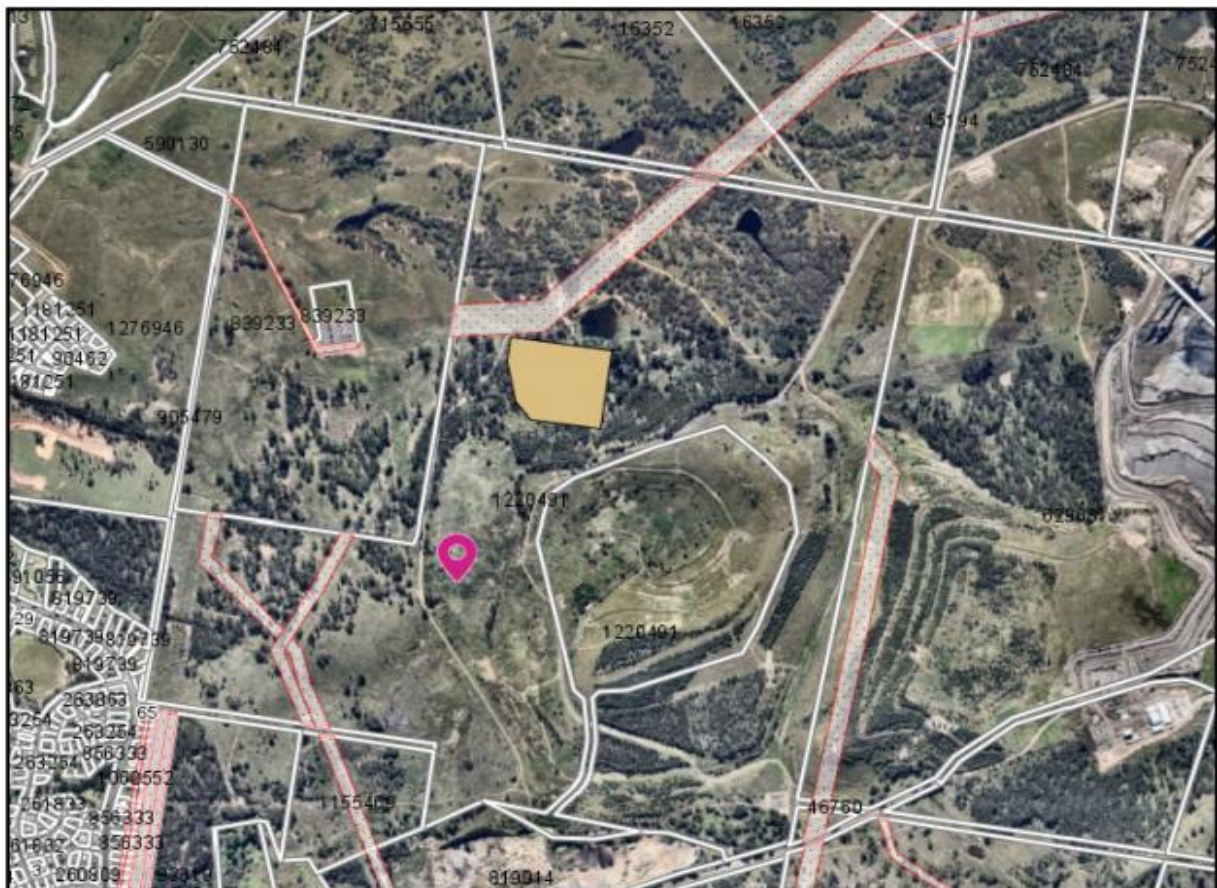


Figure 1 Site context (source: Council Report)



Figure 2: Site Locality Map (source: Near Maps)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the heritage map, which are suitable for community consultation.

The brickworks was located at Coal Road Muswellbrook within Lot 4 DP1220491. It is noted that Schedule 5 contains incorrect (outdated) location information with its location being Muswellbrook Common, Lot 101 DP 578075.

The proposal seeks to amend the Heritage Map to remove Item I112 identified in **Figure 3**.

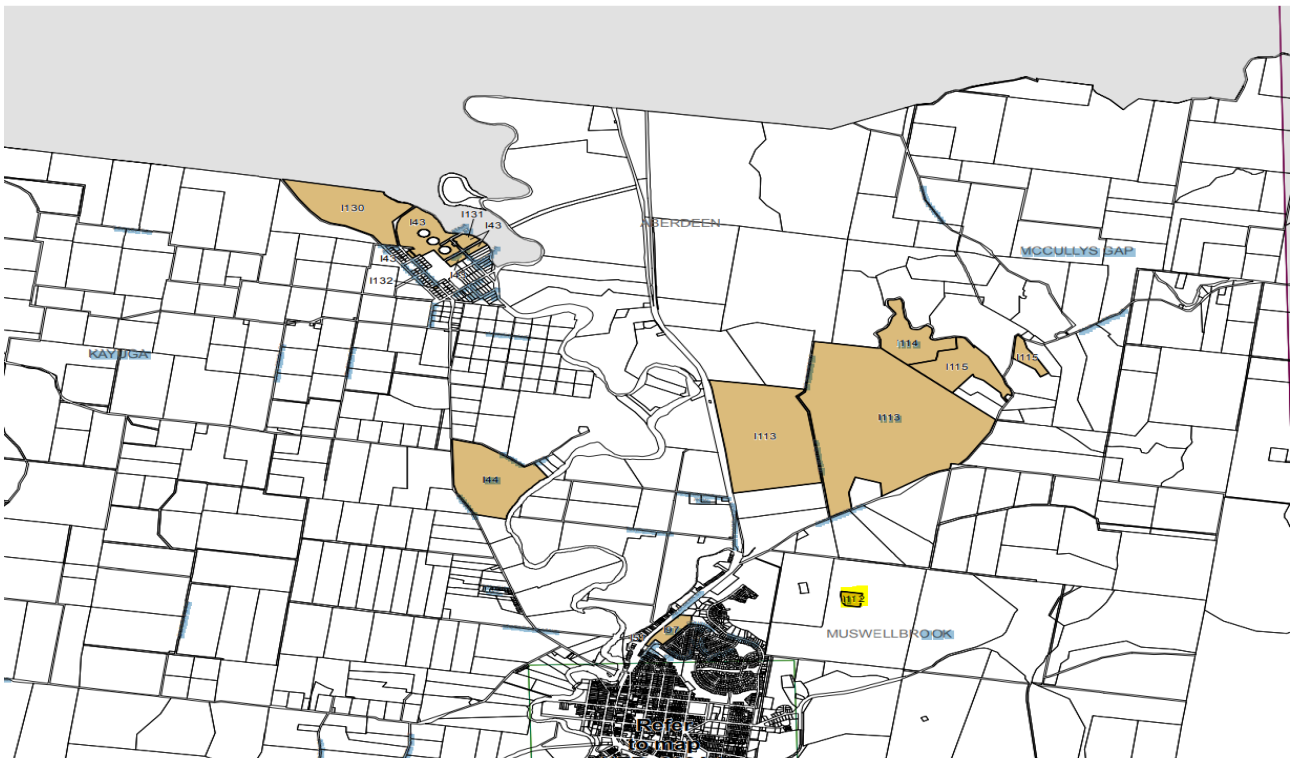


Figure 3: Current Heritage map (Source: LEP Heritage map - 5650_COM_HER_008_080_20150914)

2 Need for the planning proposal

The planning proposal is considered the best means to achieve the intended outcomes. The proposal is not the result of a specific strategic study or report.

Consent for demolition of brickworks was granted by Council in 2009 and demolition occurred in 2012. Council advises the site no longer has heritage significance and so should be removed from the local environmental plan.

3 Strategic assessment

3.1 Hunter Regional Plan 2041

The *Hunter Regional Plan 2041* (HRP 2041) acknowledges the importance of conserving heritage and the value that creates for communities and their economies. The plan promotes the adaptive re-use of heritage items to support investment (Objective 6).

Table 4 Hunter Regional Plan 2041 assessment

Hunter Regional Plan 2041 section	Justification
<p>Strategy 1.1: Planning proposals for mine or power station sites identified as regionally significant growth areas will be supported by a place strategy which demonstrates how the proposal will:</p> <ul style="list-style-type: none"> • maximise employment generation or will attract visitors to the region • make use of voids and/or site infrastructure such as rail loops, hard stand areas, power, water and road access • support the growth of adjoining industrial areas or settlement areas • enhance corridors within the landscape such as biodiversity corridors or disused infrastructure corridors • complement areas with special amenity value such as critical industry clusters, open space, villages and residential areas • have considered the existing and likely future uses of adjoining land and avoid land use conflict • align with any specific guidance in the district planning priorities section of this plan. 	<p>The planning proposal seeks to regularise the local environmental plan for an item that has been demolished.</p> <p>A place strategy is not warranted for the proposal.</p>

3.2 Local Strategic Plans

The planning proposal states it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
<i>Muswellbrook Local Strategic Planning Statement 2020-2040</i>	<p>Muswellbrook LSPS 2020-2040 is a strategic land use document which identifies the key outcomes and actions council aims to achieve and sets out social, economic and environmental planning priorities for the future.</p> <p>The Planning proposal is consistent with the following priorities from the LSPS:</p> <ul style="list-style-type: none"> <i>Planning Priority 14: Our Aboriginal and Non-Aboriginal cultural heritage is protected and celebrated</i> <p>Council advises the site 'brickworks', no longer contains any items of heritage significance and is therefore not contradicting any of the priorities relating to heritage in the LSPS.</p>
<i>Muswellbrook Community Strategic Plan 2022-2032</i>	<p>The Community Strategic Plan is an overview document that identifies the community's vision and goals for the future.</p> <p>The Community Strategic Plan identifies a goal of achieving cultural vitality to ensure '<i>conservation of heritage and history of the Shire</i>'. The planning proposal remains consistent with the plan, as it is considered a minor administrative amendment and will not have effect on heritage conservation.</p>
Muswellbrook Shire Council Heritage Strategy	<p>The item in the management of the local heritage ensuring that Items that can no longer contain heritage significance and cannot be restored are no longer registered in the Muswellbrook Local Environmental Plan.</p> <p>The strategy discusses a number of ways in which Council aims to retain, enhance and protect the local heritage of the locality, including the management of local heritage in a positive manner.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Ministerial directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal does not warrant a place strategy to be prepared consistent with strategy 1.1 of the regional plan. The inconsistency is minor.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Consistency yet to be justified.	<p>The planning proposal is supported by a heritage assessment which examined the site to determine whether the item retained heritage value. While the brickworks have been demolished, there is potential for subsurface relics to exist which may have heritage significance. An assessment of the likelihood of the potential for sub surface relics and their value was undertaken, concluding that any remaining sub surface evidence would not meet the threshold to be protected by the Heritage Act.</p> <p>Advice from Heritage NSW needs to be sought following the Gateway determination.</p>

3.4 State environmental planning policies (SEPPs)

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Primary Production 2021	The aims of the SEPP include to facilitate the orderly economic use and development of lands for primary production.	Yes	The proposed site is zoned RU1 Primary Production. The planning proposal will facilitate the orderly and economic use and development of the land for primary production.

4 Site-specific assessment

4.1 Environmental

The planning proposal is a minor administrative amendment and does not involve works that will impact the local ecological amenity, character, and value of the land. The proposal is unlikely to have an impact on local flora and fauna or on any threatened species, populations, or ecosystems.

4.2 Social and economic

The planning proposal is a minor administrative amendment and does not involve works that will have any social or economic impacts. There are no anticipated social or economic effects.

4.3 Infrastructure

The planning proposal has no anticipated effects on local infrastructure as the planning proposal is an administrative amendment to the local environmental plan. The proposal does not require public infrastructure.

5 Consultation

5.1 Community

The planning proposal is categorised as basic in the *Local Environmental Plan Making Guideline* and an exhibition period of 10 working days is considered appropriate, and this forms part of the conditions of the Gateway determination.

5.2 Agencies

It is recommended Heritage NSW be consulted on the planning proposal and given 28 days to comment.

6 Timeframe

No timeframe specified by Council, but the timeframe to complete finalise proposal will be based on benchmark timeframes nominated by Council (see below). These reflect the timeframes for a basic planning proposal under the *Local Environmental Plan Making Guideline* which should be completed within 140 working days.

Stage	Estimated timeframe
Consideration by council	1-2 months
Council decision	
Gateway determination	25 days
Pre-exhibition	20 days
Commencement and completion of public exhibition period	70 days
–Consideration of submissions	
Post-exhibition review and additional studies	
Submission to the Department for finalisation (where applicable)	25 days
Gazettal of LEP amendment	

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site is not owned by Council and the planning proposal is categorised as basic, the department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Direction 3.2 Heritage Conservation is unresolved and will require justification.

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

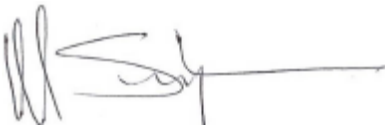
1. Consultation is required with Heritage NSW.
2. The planning proposal should be made available for community consultation for a minimum of 10 working days.
3. The planning proposal must be exhibited 3 months from the date of the Gateway determination.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



2/6/2023

Ben Holmes

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(Signature)

____8/6/2023_____
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