



Gateway determination report – PP-2024-732

Additional Permitted Uses (Stage 2) - Bayswater Power Station

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

- Council Resolution – Prepare Planning Proposal - 20240423
- PP 2024-24 – Bayswater (Stage 1) – Report to Council - 20240423
- Planning Proposal – New England Highway Muswellbrook – Bayswater (Stage 2) – PP2024-25
- 1264330 – REP – C _ Broader Employment Transition Area Planning Proposal

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Muswellbrook Shire Council
PPA	Muswellbrook Shire Council
NAME	Additional Permitted Uses - Bayswater Power Station (600 Jobs)
NUMBER	PP 2024-732
LEP TO BE AMENDED	Muswellbrook Local Environmental Plan 2009
ADDRESS	New England Highway, Muswellbrook
DESCRIPTION	Site 1 & Site 2 - Part of Lot 2 DP 1095515 Site 3 - Part of Lot 601 DP 1019325, Part of Lot 34 DP 752486 and Part of Lot 145 DP 752486
RECEIVED	29/05/2024
FILE NO.	IRF24/1232
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 objective of the proposal is to facilitate the ongoing transition of the existing AGL Power Station to allow for a broader range of employment activities and to make use of the available infrastructure.

The proposal seeks to facilitate industries such as solar panel manufacturing, solar panel refurbishment and recycling and green steel production on parts of Lot 2 DP 1095515, Lot 34 DP752486, Lot 601 DP 1019325 and Lot 145 DP752486. An estimated 600 jobs will be created.

The planning proposal contains objectives that adequately explain the proposal.

1.3 Explanation of provisions

The planning proposal seeks to amend the Muswellbrook Local Environmental Plan (LEP) 2009 through the inclusion of a new local provision and a key sites map to achieve the stated objectives.

The new local provision seeks to permit with consent 'industry' on the subject sites.

The inclusion of industries in a local provision is considered appropriate as it is not suitable to permit it across the entire SP2 Zone or to undertake a rezoning of a small area within the broader AGL site.

The proposal also seeks to amend the SP2 land use table to include 'environmental protection works' as permitted without consent and 'roads' and 'water storage facilities' as uses permitted with consent. The inclusion of these proposed uses in the SP2 Zone table is considered appropriate as they are suitable to permit across the entire SP2 Zone.

It is noted that planning proposal PP-2024-68 for a similar additional permitted use (brick manufacturing utilising ash by-product) on another site within the AGL holdings also seeks to make these changes to the SP2 land use table. Should it be completed prior to this proposal, these amendments to the SP2 zone table will not be required.

1.4 Site description and surrounding area

The proposal applies to land located adjacent to the New England Highway, Muswellbrook and is comprised of three separate sites (**Figure 1**) identified as:

- Site 1: Part of Lot 2 DP 1095515 (Approx. 10.5 ha)
- Site 2: Part of Lot 2 DP 1095515 (Approx. 9.7 ha)
- Site 3: Part of Lot 601 DP 1019235, Part of Lot 34 DP 752486 and Part of Lot 145 DP 152486 (Approx. 85 ha)

The subject sites are located within highly disturbed landscapes that do not possess any significant intact native vegetation.

The broader land holding is currently zoned SP2 Infrastructure and contains a coal fired power station and former, decommissioned, coal fired power station (that is scheduled for demolition). In addition to the power station, the site is currently being used for ancillary activities including the Bayswater Ash Dam, coal stockpile areas, coal conveyancing, electricity switching yards and electricity transmission lines.

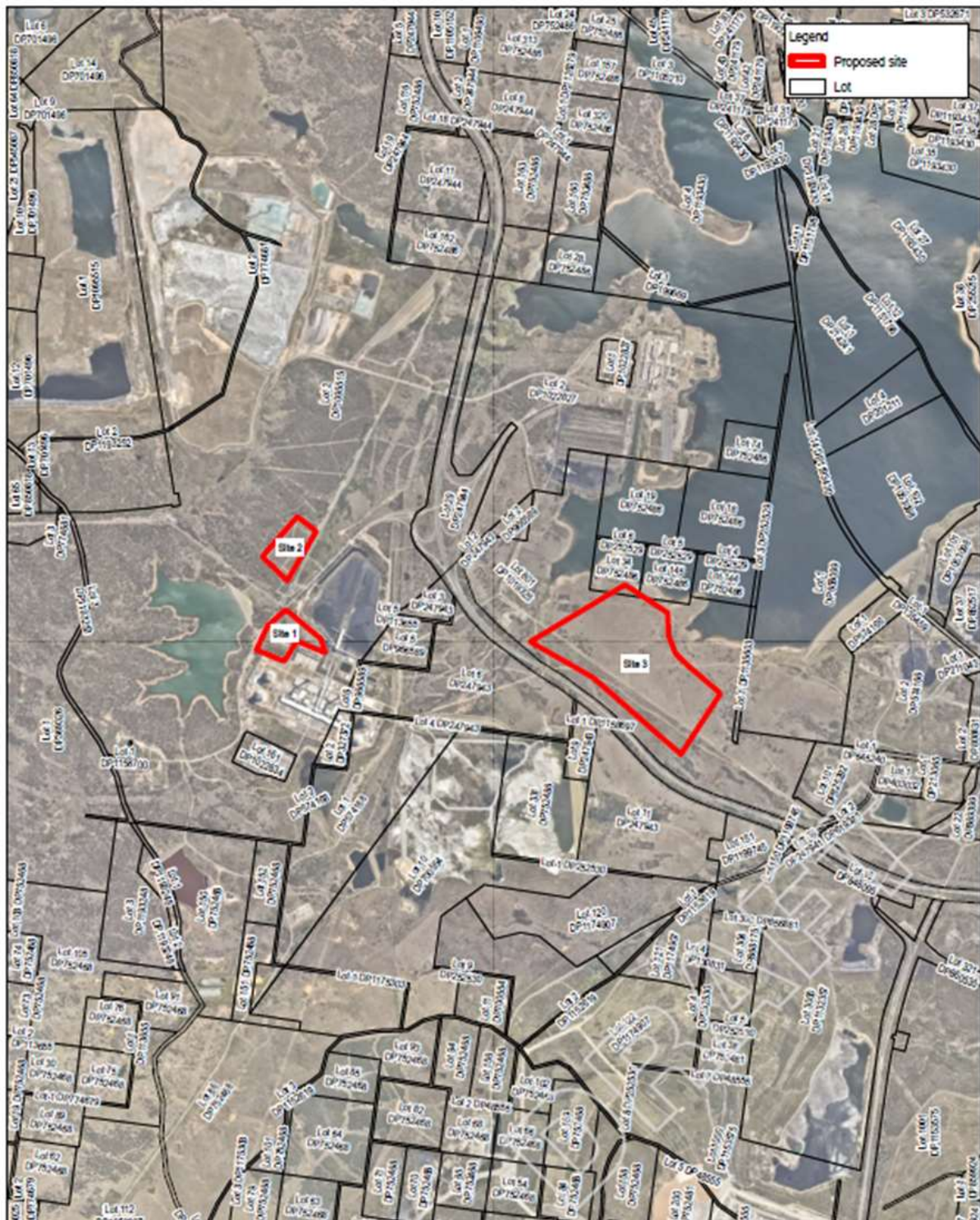


Figure 1 Subject site (source: Planning Proposal)

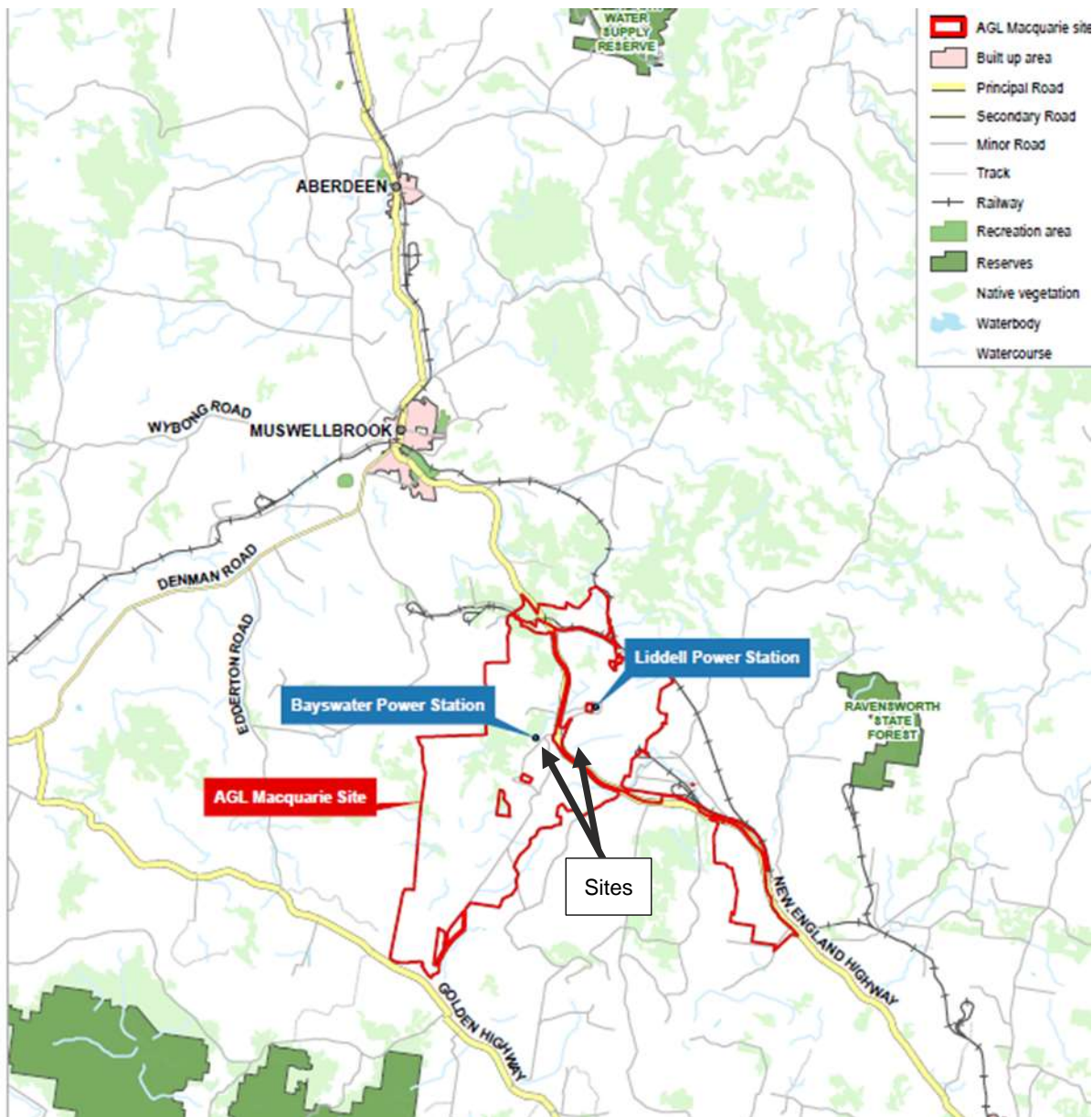


Figure 2 Site context – Bayswater and Liddell Power Station (Source: Planning Proposal)

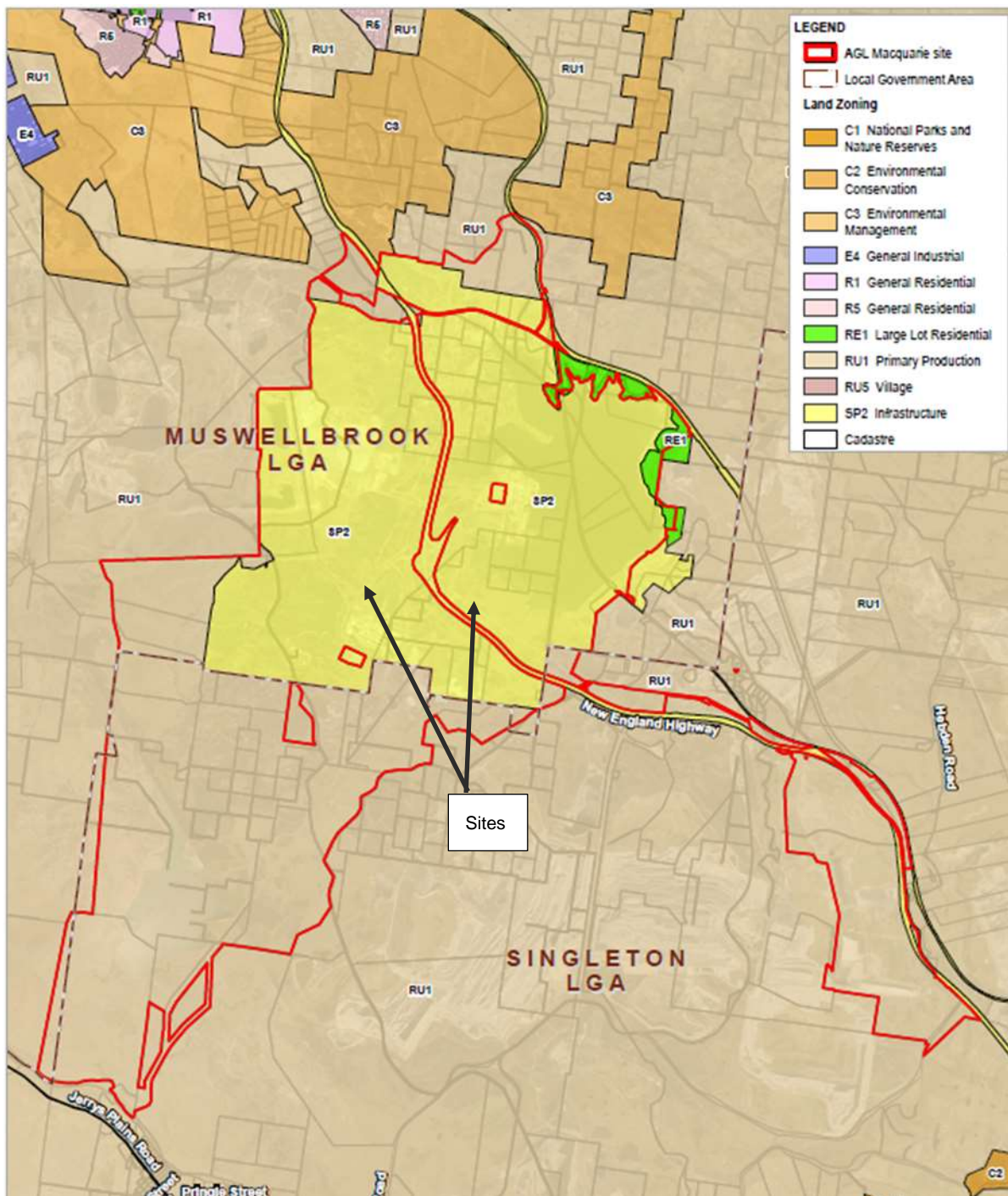


Figure 3: Muswellbrook LEP 2009 - Land Zoning Map Sheet (LZN-009)

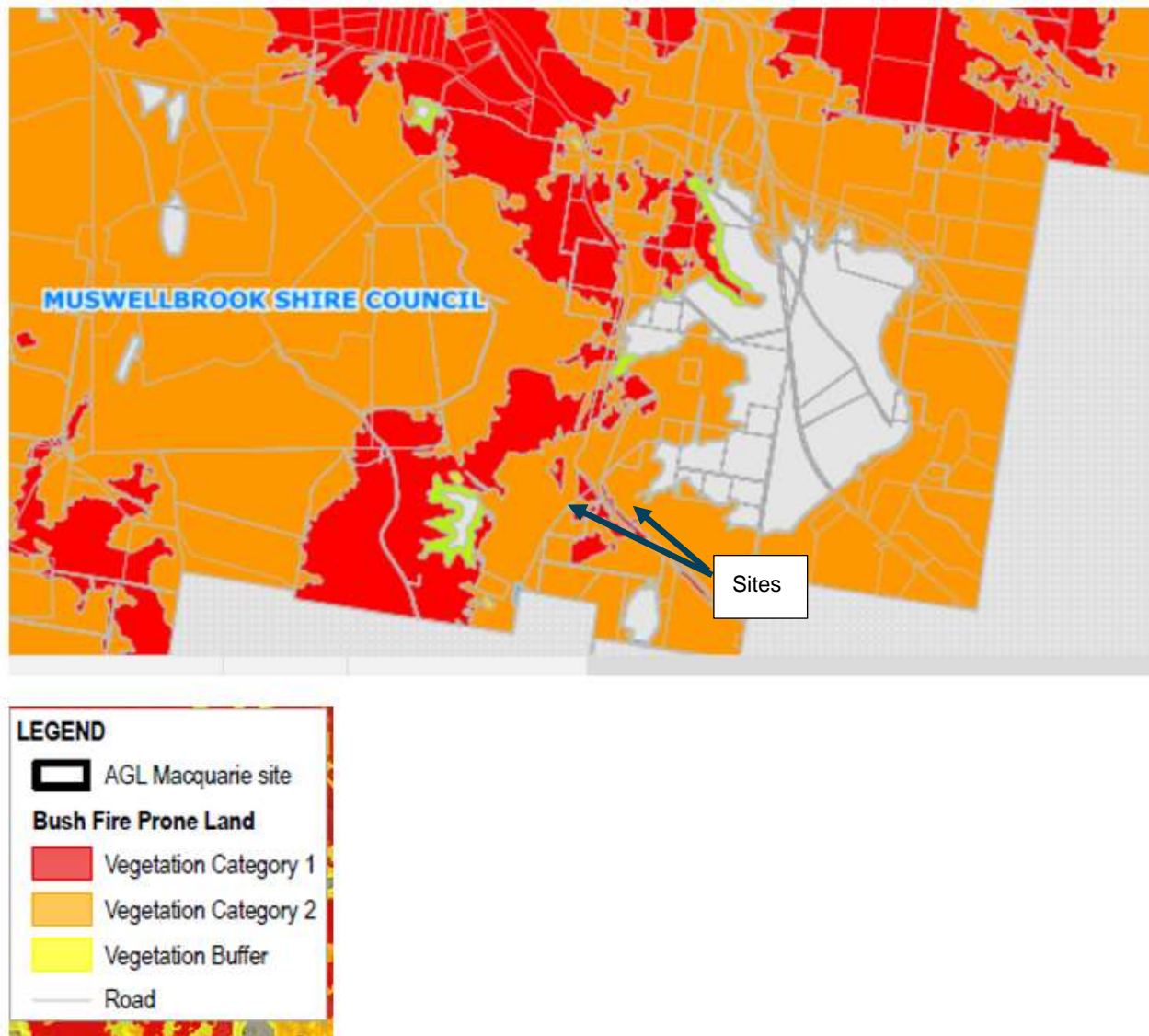


Figure 4: Bushfire Mapping (Source: e-spatial viewer)

1.5 Mapping

The planning proposal does not include mapping showing the proposed changes to the Key Sites maps. It is recommended that this be included prior to consultation.

2 Need for the planning proposal.

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

The proposal is the best means of achieving the objectives and intended outcomes to enable a range of compatible industrial uses on the site.

Alternative options such as rezoning the land or amending the land use table have been considered by Council and were determined not appropriate or as suitable as an additional permitted use on a few key selected areas.

3 Strategic assessment

3.1 Regional Plan

The Hunter Regional Plan 2041 acknowledges the importance of planning for alternative land uses for former mine and power station sites. The planning proposal is consistent with the plan including the objectives to diversify the Hunter's mining, energy and industrial capacity and to plan for other employment generating opportunities and activities in and around the Bayswater and (former) Liddell Power Stations and the surrounding regional significant growth area.

3.2 Local

The proposal is consistent with the following local plans and endorsed strategies.

Table 3 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The Planning Proposal is consistent to Planning Priorities 1-3 in the Muswellbrook Local Strategic Planning Statement 2020 (LSPS).
Muswellbrook Shire Council Community Strategic Plan 2022-2032	The Planning Proposal is consistent with the Muswellbrook Council Community Strategic Plan.

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered consistent with relevant section 9.1 Directions except as discussed below:

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Justified	The proposal is inconsistent with this direction as it could permit an intensification of development on the site and is not supported by a flood study. This inconsistency is considered to be of minor significance as Council has confirmed that the site is not identified as being flood prone, the existing developed nature of the site, the low sensitivity of the proposed industrial uses and as flood issues can be considered at the DA stage and in accordance with Council's DCP if needed.
4.3 Planning for Bushfire Protection	Unresolved	The proposal is potentially inconsistent with this direction as it is located on bushfire prone land. The potential inconsistency is unable to be resolved until after consultation with the NSW RFS has been undertaken in accordance with the terms of the direction.

4.4 Remediation of Contaminated Land	Unresolved	<p>The proposal is potentially inconsistent with this direction as the site is located on land that has been used for power station uses (which is referred to in Table 1 to the contaminated land planning guidelines) and is not supported by a preliminary site investigation confirming the site is suitable for the proposed future land uses.</p> <p>It is recommended that this direction remain unresolved until a preliminary site investigation is completed to confirm that site is suitable for the proposed future uses and consultation is undertaken with the NSW EPA.</p>
8.1 Mining, Petroleum Production and Extractive Industries	Unresolved	<p>The proposal is inconsistent with this direction as it will permit an additional use that once established could restrict the potential development of coal resources.</p> <p>Consultation with NSW Mining, Exploration and Geoscience is recommended to confirm the suitability of the proposal prior to determining the consistency of this direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The sites are not located on conservation land or land that is identified as having high biodiversity value. The sites are in a highly disturbed landscape and no significant impacts to ecological or environmental value is considered likely.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 5 Social and economic impact assessment

Social and Economic Impact	Assessment
Traffic and Transport	<p>The proposal will have a positive economic impact with an estimated 600 additional jobs.</p> <p>No adverse traffic impact is considered likely noting the traffic generation of the previous land uses on the site that have now declined and as the site is connected to the surrounding road network via a purpose-built access road and grade-separated interchange to and from the New England Highway. While the traffic assessment notes that should more than 22 hectares of land be developed for</p>

industrial purposes, additional upgrades to the New England Highway may be required (and the current proposal applies to 105ha), it is considered that this issue can be adequately considered and addressed at the development application stage once more certainty over the proposed land uses can be confirmed and noting that much of the 105ha will not be converted into industrial gross floor area but will be used for lower traffic generating activities such as storage and buffers. Consultation with Transport for NSW is however recommended.

4.3 Infrastructure

No additional infrastructure (including sewerage and reticulated water) is necessary or required to service the site.

5 Consultation

5.1 Community

Council proposes a community consultation period of 14 days.

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- NSW EPA
- NSW Mining, Exploration and Geoscience
- Transport for NSW

6 Timeframe

Council proposes an approximate 6 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

An LEP completion date of 6 months is in line with the benchmark timeframes and the Department's commitment to reducing processing times. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal is consistent with the regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 4.1 Flooding is minor and justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land and 8.1 Mining, Petroleum Production and Extractive Industries are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultation, the proposal is to be amended to:
 - include a key-sites map; and
 - include a preliminary site investigation for potential contamination to confirm the suitability of the land for its intended future use.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - NSW EPA
 - NSW Mining, Exploration and Geoscience
 - Transport for NSW
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. The timeframe for the LEP to be completed is on or before 6 months of the Gateway determination date.



13/6/24

(Signature)

(Date)

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