

## Planning Proposal – Ironbark Ridge Extension Rezoning

### PP\_2014\_MUSWE\_003\_00

<b>Local Government Area:</b>			Muswellbrook Shire Council (MSC)
<b>Name of Draft LEP:</b>			Muswellbrook Local Environment Plan 2009 - PP_2014_MUSWE_003_00
<b>Subject Land:</b>			Lot 101 and 103 DP 1170190 Muswellbrook.
<b>Land Owner:</b>			Mr. I R and Mrs. F Webber
<b>Applicant:</b>			Casson Planning & Development Services
<b>Folder Number:</b>			PP 009 - Rezoning of Lots 101 and 103 DP 1170190 from E3 Environmental Management to part R1 General Residential, part R5 Large Lot Residential and part E3 Environmental Management
<b>Date:</b>			18 Sept 2020
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<b>Attachments:</b>	No.	Details
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	2	Evaluation criteria for the delegation of plan making functions

### Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Muswellbrook Local Environmental Plan 2009 (MLEP 2009) in order to rezone Lots 101 and 103 DP 1170190 from E3 Environmental Management to part R1 General Residential, part R5 Large Lot Residential and part E3 Environmental Management. It is intended to amend the Land Zoning map, Lot Size map, Floor Space Ratio map, the Height of Building map and Urban Release Area map.

The intended outcome is to provide land that will:

- Allow subdivision into a range of residential lot sizes, consistent with adjoining land use;
- Provide land for a variety of residential development to be undertaken and thereby contribute towards the supply of housing in Muswellbrook;
- Enable the logical extension of and connection between existing residential areas; and
- Provide for the efficient use of existing and proposed servicing infrastructure.

### Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the MLEP 2009 by: -

Amendment Applies to	Explanation of provision
Land Zoning maps – Sheets LZN_008 and LZN_008A	To rezone land from E3 Environmental Management to R1 General Residential, R5 Large Lot Residential and E3 Environmental Management (See Map 4)
Lot Size maps - Sheets LSZ_008 and LSZ_008A	To alter the lot sizing as per Map 5.
Height of Buildings maps – Sheets HOB_008 and HOB_008A	To alter the height of buildings as per Map 6.
Floor Space Ratio maps – Sheets FSR_008 and FSR_008A	To alter the floor space ratios as per Map 7.
Urban Release Area maps – Sheets URA_008 and URA_008A	To identify the land as an Urban release Area as per Map 8.

### Part 3 – JUSTIFICATION

#### Section A – Need for the Planning Proposal

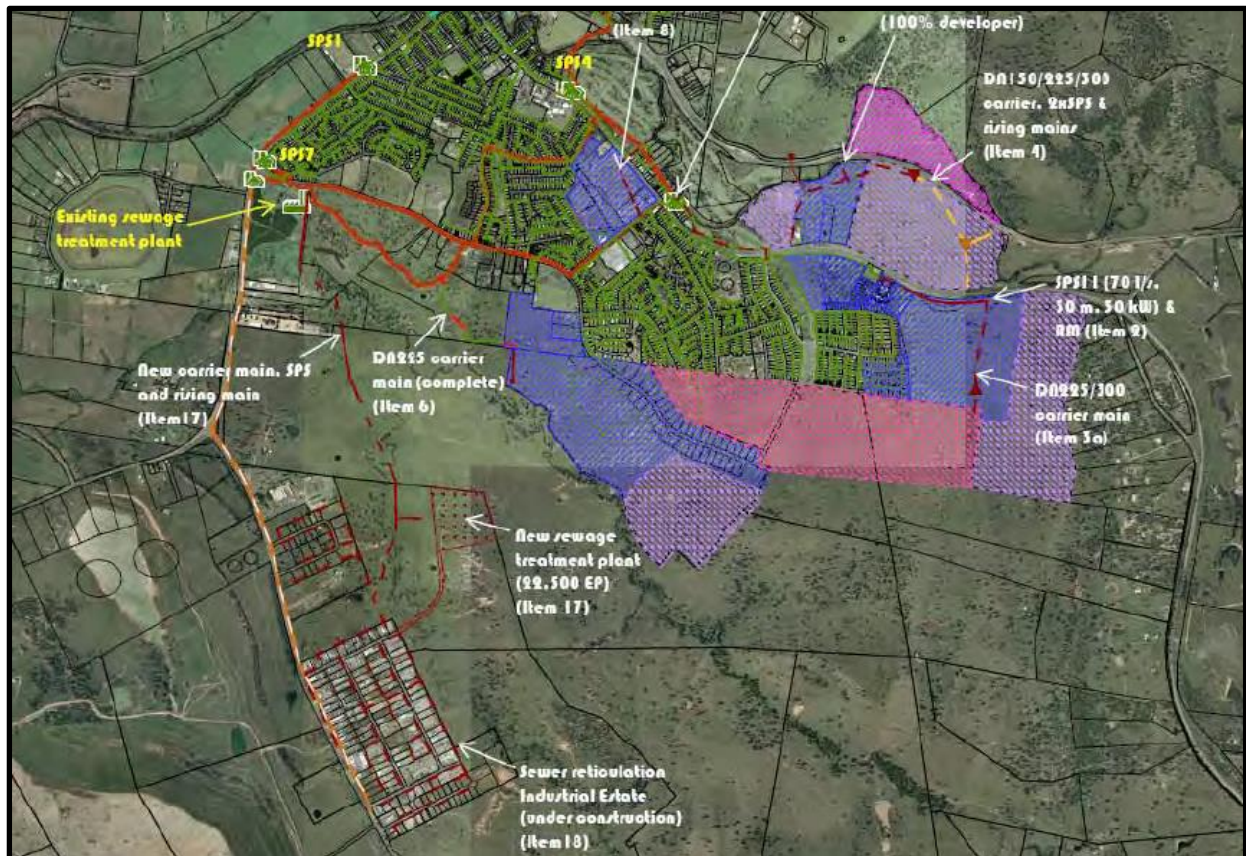
##### **1. Is the planning proposal a result of any strategic study or report?**

The planning proposal is supported by the Muswellbrook Residential and Rural Residential Strategy (MRRRS) adopted by Council at its ordinary meeting on 10 March 2014.

The MRRRS identifies land suitable for residential and large lot residential and prioritises rezoning of such land. The subject land is within an area identified as “Category 1” land in the above strategy (Candidate Area D - refer to below Figure 1).

The Strategy states that 'Category 1' land as *"land that is a logical extension of and located in close proximity to existing developed areas, building upon existing services and amenities and requires the augmentation of infrastructure"*.

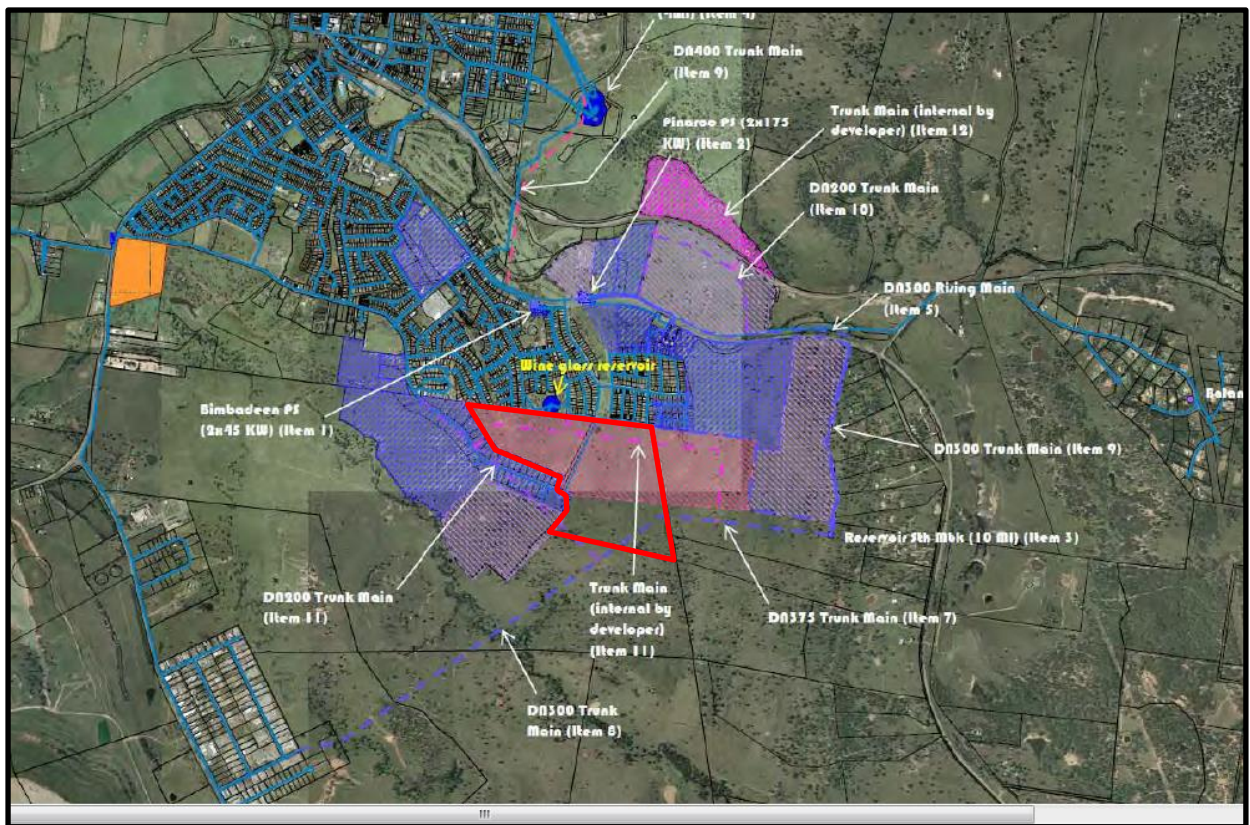
The MRRRS considered three scenarios for population growth in the LGA. The medium growth scenario assumes an average annual growth rate of 1.2% which results in an additional 3828 residents by 2031. Rezoning of the subject land will ensure that appropriate land is available to meet demand for residential land which will be evident over the next 20 years.



**Figure 1 - Extract from MSC Developer Servicing Plan – Sewer**

Council's Developer Servicing Plans also identifies the land as being suitable for the extension of new, and augmentation of existing services for water and sewer infrastructure to service the subject land and other adjoining land which is being developed. (Refer to Figure 1 and 2).





**Figure 2 - Extract from MSC Developer Servicing Plan – Water**

Figure 1 and 2 above clearly shows the merit of rezoning the land, in terms of its location in relation to proposed extension of sewer and water services for nearby development. The Trunk Main South (sewer) shown above bisects the subject land and provides access to sewer for the future residential supply. The land is well located in respect of the proposed new sewer treatment plant.

**2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

The rezoning would provide opportunities for residential development that will be contiguous with the adjoining existing residential zoned land and provides vehicular and pedestrian connections between existing residential zones.

The following represents a summary of the findings of the absolute constraints for Candidate area D (the subject land), Urban Release Area North and Urban Release Area South:

**Table 1  
Absolute Constraints**

<b>Area</b>	<b>Total Constrained (ha)</b>	<b>Total Unconstrained (ha)</b>	<b>% Constrained</b>
<b>Muswellbrook D</b>	5.0	235.6	2%
<b>URA North</b>	12.9	110.6	10%
<b>URA South</b>	25.0	26.7	48%

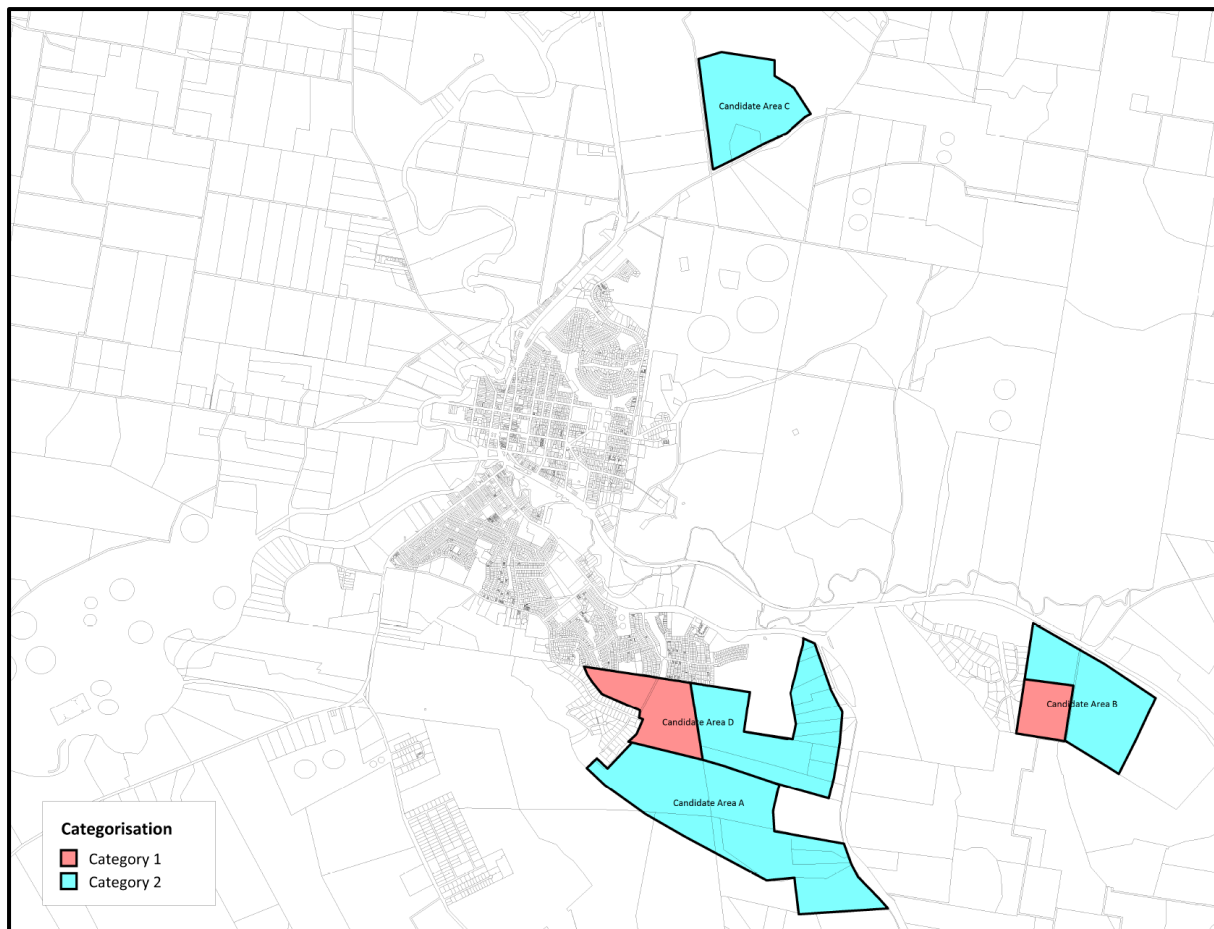
Candidate Area D ranked as more constrained for environmental constraints, due to it being within a Mines Subsidence Area. In terms of infrastructure constraints, Candidate Area D was the least constrained, and from a total constraint (environmental and infrastructure) ranking perspective, Candidate Area D was the least constrained followed by URA South then URA North.

Council adopted the MRRRS in March 2014 with its recommendations in respect of both General Residential and Rural Residential land for Muswellbrook:

**Table 2  
MRRRS Recommendations**

<b>Type</b>	<b>Supply – demand gap snapshot (medium scenario)</b>	<b>Preferred sequencing</b>	<b>Timing for new release</b>	<b>Comment</b>
General Residential	Forecast shortage between 2021 and 2026	<ol style="list-style-type: none"> <li>1. Candidate Area D</li> <li>2. URA South</li> <li>3. URA North</li> </ol>	New supply required after 2016 and before 2021	To ensure sufficient contestability and hence competition in the general residential market, at least one additional development front or new developer should be contemplated, particularly where it is sequential development and there is no net cost to Council or the State Government
Rural Residential	Forecast shortage between 2021 and 2026	<ol style="list-style-type: none"> <li>1. Candidate Area B</li> <li>2. Candidate Area A</li> <li>3. Candidate Area C</li> </ol>	New supply required after 2016 and before 2021	To ensure sufficient contestability and hence competition in the rural residential market, at least one additional development front or new developer should be contemplated, particularly where it is sequential development and there is no net cost to Council or the State Government

The subject land is included in Candidate Areas D and A referred to in the above recommendations (see Figure 3).



**Figure 3 - Extract from MRRRS**

The planning proposal is the best means of achieving the rezoning of subject land.

### **Section B – Relationship to Strategic Planning Framework**

#### **3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

##### Upper Hunter Strategic Regional Land Use Plan (UHSRLUP)

The UHSRLUP “*outlines a range of key challenges facing the Upper Hunter region and lists clear actions to address these challenges*” (p7). One of the key areas applies to Housing and Settlement which is particularly relevant to this Planning Proposal.

The plan indicates that “*in Muswellbrook there is potential for a further 1,300 new dwellings in the zoned residential land at South Muswellbrook. This is expected to be adequate for these areas for the short to medium term. However, with the additional demands coming from the growth of mining, councils will need to continue to assess the adequacy of supply of housing in the region*” (p51).

It also states that “*Housing affordability is highly varied across the region. However, one issue that is relevant across the entire region is the current lack of housing choice through the provision of smaller and more affordable housing options such as one and two bedroom*

houses and town houses. This current lack of housing choice is significantly contributing to housing stress” (p51), and that:

*“Rural residential and lifestyle housing growth should occur in close proximity to existing centres, towns and villages and is to be consistent with the settlement planning principles identified below with regard to residential lands” (p52).*

The Settlement Planning Principles set out for planning for housing growth in the UHSRLUP are:

- *Development will contribute to the diversity of housing types available. Any medium or higher density housing should be located in central and accessible locations to ensure access to a full range of services within a reasonable walking distance.*

The rezoning would permit a range of housing types. It also forms a natural and logical extension from the existing Iron Bark Ridge Estate. It will provide for continuation of the roads, cycleway, and pedestrian path from the existing residential areas to proposed area.

- *Development will be located to maximise the efficiency of essential urban infrastructure, services and facilities, including transport, health and education.*

The planning proposal seeks to rezone land to provide residential development. The site is considered to be suitably located for access to utilities and infrastructure.

- *Development will respect and respond to the character of the area and the identified settlement hierarchy of the region*

The land represents an extension of existing large lot residential development and adjoins existing residential zoned land, repeating the settlement patterns in the immediate locality.

- *New residential areas will be planned with streets that make it easy for people to walk and cycle and with recreational and open space.*

Consideration will be given to extension of footpath and cycleways within the subject site to link with the existing/proposed open space and recreational areas and shops and services consistent with Council requirements set out in Muswellbrook DCP 2009 and Auspec.

- *New residential and rural residential areas will respect environmental and cultural heritage and avoid areas most affected by natural hazards or having high cultural significance*

The area does not raise any concerns in respect of environmental or cultural heritage issues, or natural hazards. Land with high environmental values are intended to remain zoned E3 Environmental Management.

- *New residential and rural residential areas should minimise the potential for land use conflict with land needed for valuable economic activities, such as valuable agricultural lands and natural resource lands. This includes avoiding locations where possible adverse impacts associated with industry (such as noise, dust, visual impacts or other amenity impacts) are likely to affect future residents*

The land is being used for extensive agriculture with the grazing of cattle. The existing adjoining land uses of large lot residential and residential will effectively be ‘mirrored’ by this proposal. Rezoning of the subject land would not result in a loss of prime agricultural land or employment land.



- *New rural residential areas should be located adjacent to, or in close proximity to, existing urban centres and be within easy access of relevant infrastructure and services.*

The land is adjacent to existing land zoned for residential purposes and represents a logical extension of the urban area. Infrastructure and services are available and to be extended and/or augmented to develop the subject land.

The Settlement Planning Principles then lead into the following policy objectives:

- *Ensure an adequate supply of housing to meet community needs.*  
The rezoning of the land will ensure that there is ongoing supply of vacant residential land, and choice of location and lot sizes for landowners.
- *Ensure a greater diversity of housing types, including smaller housing types, rental housing and temporary housing.*  
The subject land would have two residential zones allowing for a range of housing types, in accord with the zoning objectives and minimum lot size maps.
- *Improve the supply and range of affordable housing*  
Potential for a range of housing types provides potential for increased range of affordable housing.
- *Build cohesive and liveable communities by ensuring towns and villages are well designed, liveable and provide a range of housing types*  
New roads connections in the future will improve connection between residential areas. New open space and environmental areas will become available for public use.
- *Action 6.1 - Work with Singleton and Muswellbrook Councils to identify the nature of change in population growth and demand for housing and to identify sufficient land and other opportunities to facilitate an adequate supply of appropriately located housing to meet identified demand*  
The identification of the subject land as being appropriate for residential and large lot residential development has been indicated in MRRRS. A review of existing residential zoned land within the general locality and of the land identified as urban release area, would suggest that it is timely to consider rezoning of additional land for such purposes.

Council's Developer Servicing Plan have identified the subject land for future development and infrastructure for both water and sewerage mains have been planned to have capacity to cater for its development as well as other land in the locality which is being developed.

### Hunter Regional Plan 2036 (HRP)

The HRP sets out a vision for the Hunter Region. The proposed amendment to MLEP 2009 will address:

*Direction 17:- Create healthy built environments through good design*

*Action 17.1 - Develop best-practice guidelines for planning, designing and developing healthy built environments.*

*Direction 21:- Create a compact settlement*

*Direction 21.1 - Promote development that respects the landscape attributes and the character of the metropolitan areas, towns and villages.*

*Direction 21.4 - Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.*

*Direction 21.6 - Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.*

*Direction 21.7 - Promote new housing opportunities in urban areas to maximise the use of existing infrastructure.*

*Direction 22:- Promote housing diversity*

*Direction 22.2 - Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes.*

*Direction 22.3 - Develop local housing strategies to respond to housing needs, including social and affordable housing, and support initiatives to increase the supply of affordable housing.*

*Direction 25:- Monitor housing and employment supply and demand*

*Direction 25.3 - Sequence new greenfield urban development that makes efficient use of infrastructure networks and capacity.*

*Direction 26:- Deliver infrastructure to support growth and communities*

*Direction 26.1 - Align land use and infrastructure planning to maximise the use and capacity of existing infrastructure and the efficiency of new infrastructure.*

#### **4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

##### Muswellbrook Community Strategic Plan 2017 – 2027

The proposal is considered consistent with the following goals within the Muswellbrook Community Strategic Plan 2017 – 2027:

##### **Issue:** Community Infrastructure

**Goal 19:** Our community's infrastructure is planned well, is safe and reliable and provides required levels of service

**Goal 20:** A safe, secure and reliable water supply and sewerage services are provided to all residents that will ensure public health.

**Goal 21:** The road, footpath and cycleway networks are integrated and allow for the safe movement of residents around the Shire.

**5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

**Table 3: Assessment of the Planning Proposal against relevant SEPPs**

<b>SEPP</b>	<b>Relevance</b>	<b>Implications</b>
<b>SEPP 6 — Number of Storeys in a Building</b>	The SEPP clarifies the reference to storey, floors and levels.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>SEPP 33 — Hazardous and Offensive Development</b>	The SEPP provides considerations for consent for hazardous & offensive development.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>SEPP (Koala Habitat Protection) 2019</b>	This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	It is not proposed to include any provisions which would be inconsistent with the SEPP. Flora and Fauna investigations completed for the Planning Proposal have not identified the site as providing habitat for koalas. Significant tree stands will be zoned E3 Environmental Management.
<b>SEPP 55 — Remediation of Land</b>	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	The previous use of the land has been limited to light agricultural practices only and it is unlikely to contain any contaminants. A preliminary site investigation has been carried out with findings that indicate contamination.
<b>SEPP 64 — Advertising and Signage</b>	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>SEPP 65 — Design Quality of Residential Flat Development</b>	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>Housing for Seniors or People with a Disability 2004</b>	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	It is not proposed to include any provisions which would be inconsistent with the SEPP.

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<b>Building Sustainability Index: BASIX 2004</b>	The SEPP provides for the implementation of BASIX throughout the State.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>Mining, Petroleum Production &amp; Extractive Industries 2007</b>	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	<p>The subject land is not within the Mines Subsidence Area (refer Appendix A).</p> <p>Consultation with NSW Resources &amp; Energy has been undertaken and their response is included in Appendix B, confirming that the subject land is not covered by a current coal title. There is however a Petroleum Exploration Licence over a broad regional area which includes the subject site. The letter in Appendix B was dated 8/12/14. Appendix L includes a subsequent update from the NSW Department of Planning and Environment, Division of Resources &amp; Geoscience, Geological Survey confirming that the previous advice was still valid.</p>
<b>Major Development 2005</b>	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>Infrastructure 2007</b>	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	It is not proposed to include any provisions which would be inconsistent with the SEPP.

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<b>SEPP (Primary Production and Rural Development) 2019</b>	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<p>The subject land adjoins land currently zoned and developed as residential and large lot residential land. The land has been identified as appropriate for such use in Council's strategic planning documents. The land represents a relatively small reduction in available agricultural land and is well suited for residential and large lot residential development due to its location, availability of services and proximity of existing residential and large lot residential land uses.</p> <p>NSW Department of Primary Industries have confirmed that there is no objection to the planning proposal for the subject land – refer to Appendix I.</p> <p>The proposed changes under this planning proposal are considered of minor significance and are consistent with the intent of this SEPP.</p>
<b>Exempt and Complying Development Codes 2008</b>	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
<b>Affordable Rental Housing 2009</b>	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	It is not proposed to include any provisions which would be inconsistent with the SEPP.

### **6. Is the planning proposal consistent with applicable Ministerial Directions?**

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 4 below.



**Table 4: Consistency with applicable Ministerial Directions**

<b>Ministerial Direction</b>	<b>Objective/s</b>	<b>Consistency / Comment</b>
<b>1. Employment and Resources</b>		
<b>1.1 Business and Industrial Zones</b>	(a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified strategic centres.	N/A
<b>1.2 Rural Zones</b>	Protect the agricultural production value of rural land.	<p>This proposal seeks to rezone the subject land from E3 Environmental Management to part R1 General Residential and part R5 Large Lot Residential. The rezoning of the land is not consistent with the Direction, however, it is consistent with the recommendations of the MRRRS adopted by Council and endorsed by the Department of Planning, Industry and Environment.</p> <p>The land is not prime agricultural land and it has been used for extensive agricultural activities in the past, predominantly grazing. The rezoning of the land will reduce the amount of available land for potential agricultural production; however the historic use of the land would suggest that such loss would be minimal. The land is ideally suited in terms of proximity to existing, similar residential and rural residential development and available / proposed infrastructure.</p> <p>NSW Department of Primary Industry have offered no objection to the Planning Proposal – refer Appendix I.</p> <p>The amendment is therefore considered of minor significance and its impacts to the rural zone also negligible.</p>

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<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<p>The proposed R1 General Residential and R5 Large Lot Residential zones do not permit extractive industries. Given the proximity of the site to the existing residential areas, it is considered unlikely that the site would be deemed suitable for future mining or quarrying activities due to impacts. Advice from Resources &amp; Energy dated 12/10/12 offered no objection to the proposed rezoning due to “faulted nature of the region and cindered coal seams” (refer Appendix B)</p> <p>In this context, the planning proposal is consistent with the intent of this direction.</p>
<b>1.4 Oyster Aquaculture</b>	Ensure Priority Oyster Aquaculture areas and oyster aquacultures generally are adequately considered when preparing a planning proposal.	N/A
<b>1.5 Rural Lands</b>	Ensure Planning Proposals that modify existing rural or environmental protection zones or minimum lot sizes to be consistent with SEPP Rural Lands 2008.	<p>The rezoning of the land is not consistent with the Direction; however it is consistent with the recommendations of the MRRRS adopted by Council. The MRRRS has been endorsed by the Department of Planning, Industry and Environment.</p> <p>The land the subject of this application is not prime agricultural land and it has been used for extensive agricultural activities in the past, predominantly grazing.</p> <p>The rezoning will be of minor significance. NSW Department of Primary Industry have offered no objection to the Planning Proposal – refer Appendix L.</p>
<b>2. Environment and Heritage</b>		
<b>2.1 Environment Protection Zones</b>	Protect and conserve environmentally sensitive areas.	<p>The subject site is currently zoned as E3 Environmental partially identified as containing Terrestrial Biodiversity. It is proposed to rezone subject site to part R1 General Residential, part R5 Large Lot Residential and part E3 Environmental Management.</p> <p>A Seven Part Test on Threatened Flora and Fauna by <i>Wildthing Environmental Consultants</i> has been commissioned for the subject land. The report</p>

		<p>concluded that “<i>with the application of the recommendations within this report it is unlikely that the proposed rezoning will be a significant adverse impact upon any viable local populations or individuals of the threatened species, populations or individuals of the threatened species, populations or communities considered in this report.</i>”</p> <p>Office of Environment &amp; Heritage – refer to Appendix G1. The correspondence dated 18/11/14 indicated that additional survey was required during the flowering period of two nominated flora species, and in respect of hollow bearing trees. This survey / assessment has been undertaken with the additional reports in Appendix D. Significant vegetation will be retained in the E3 zone.</p> <p>Therefore, the rezoning and subsequent residential development of the land in accordance with the recommendations will be managed to ensure it is of minor significance.</p>
<b>2.2 Coastal Protection</b>	Implement the principles in the NSW Coastal Policy.	N/A
<b>2.3 Heritage Conservation</b>	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Not within a heritage conservation area and there are no heritage items within the site. OEH is of the view that there are no associated constraints relating to Aboriginal cultural heritage.
<b>2.4 Recreation Vehicle Areas</b>	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A
<b>3. Housing, Infrastructure &amp; Urban Development</b>		
<b>3.1 Residential Zones</b>	<p>(a) Encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p>	It is proposed to rezone subject site to two residential zones: R1 General Residential and R5 Large Lot Residential. The planning proposal is consistent with the recommendations of the MRRRS adopted by Council. The site is identified as the preferred candidate area of ‘Category 1’ in Muswellbrook. The rezoning will

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	(c) Minimise the impact of residential development on the environment and resource lands.	allow a diversity of housing options and provide contestability in the market. The planning proposal is consistent with the intent of this direction.
<b>3.2 Caravan Parks and Manufactured Home Estates</b>	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	N/A
<b>3.3 Home Occupations</b>	Encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed zones under Muswellbrook LEP 2009. The planning proposal is consistent with this direction.
<b>3.4 Integrating Land Use and Transport</b>	Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	The rezoning is an extension of an established urban area and the existing street network/footpaths. The development will require extension to existing roads, footpath/cycleway with the locality, which will lead to improved connectivity outcomes for both existing and future residents in the area.  See the report by Better Transport Future in Appendix H.
<b>3.5 Development Near Licensed Aerodromes</b>	(a) Ensure the effective and safe operation of aerodromes, and (b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	N/A
<b>3.6 Shooting Ranges</b>	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issued that must	N/A

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	be addressed when rezoning land adjacent to an existing shooting range.	
<b>4. Hazard &amp; Rise</b>		
<b>4.1 Acid Sulfate Soils</b>	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	This direction does not apply as the site is noted as not having Acid Sulphate Soils.
<b>4.2 Mine Subsidence and Unstable Land</b>	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Correspondence from the Mines Subsidence Board dated 18 July 2017 (Appendix A) confirms that the subject land has not being undermined. The planning proposal is consistent with the intent of this direction.
<b>4.3 Flood Prone Land</b>	<p>(a) Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and</p> <p>(b) Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>The site is not noted as being Flood Prone, but the land contains several watercourses, and small dams that are currently on the land. Therefore, there are components of this land that are flood prone. A drainage strategy addressing local stormwater flooding will be undertaken as part of any future development application for subdivision.</p> <p>The planning proposal is consistent with the intent of this direction.</p>
<b>4.4 Planning for Bushfire Protection</b>	<p>(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) Encourage sound management of bush fire prone areas.</p>	<p>A bushfire assessment report was completed following Gateway Determination, A response from the Rural Fire Service has been obtained and is included as Appendix F.</p> <p>The RFS had no objections subject to a future requirement that any subdivision complies with Planning for <i>Bush Fire Protection 2019</i> &amp; consideration given to potential threat from unmanaged grasslands (<i>AS3959-2009 Construction of buildings in bushfire-prone areas</i>)</p> <p>The planning proposal is consistent with the intent of this direction.</p>



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<b>5. Housing, Infrastructure &amp; Urban Development</b>		
<b>5.10 Implementation of Regional Plans</b>	Ensure Planning Proposals are consistent with a Regional Plan.	<p>The planning proposal is consistent with the objectives and actions contained in the UHSRLUP 2012 and its settlement planning principles as discussed previously.</p> <p>The planning proposal is consistent with the strategies of the Hunter Regional Plan.</p>
<b>6. Local Plan Making</b>		
<b>6.1 Approval and Referral Requirements</b>	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The planning proposal is consistent with the intent of this direction.
<b>6.2 Reserving Land for Public Purposes</b>	<p>(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and</p> <p>(b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	The planning proposal is consistent with the intent of this direction.
<b>6.3 Site Specific Provisions</b>	Discourage unnecessarily restrictive site-specific planning controls.	N/A
<b>7. Metropolitan Planning</b>		
Not Applicable		

### Section C – Environmental, Social and Economic Impact

**7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The land is currently being used for grazing purposes.

The subject land is identified on Council's Terrestrial Biodiversity Mapping as containing a small area of 'biodiversity' as indicated in Figure 4 below however the land is not biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 which was applicable when the application was submitted).



**Figure 4 - Extract from Terrestrial Biodiversity Map – Muswellbrook LEP 2009**

The owners of the land commissioned a report from *Wildthing Environmental Consultants* which was entitled “*Seven Part Test on Threatened Flora and Fauna for a proposed rezoning at Lots 101 & 103 DP 1170190 Ironbark Road Muswellbrook NSW*”, dated June 2012. (Appendix D)

It provided the following recommendations and conclusion:

- *It is recommended that the removal of hollow-bearing trees be avoided where possible. If any habitat trees require removal it is recommended that a suitably qualified ecologist be on hand to supervise their removal to reduce the impact on any fauna species which may be present.*

- *To further mitigate the loss of hollows it is recommended that consideration be given to the installation of nest boxes of similar habitat value within any trees retained in reserve areas prior to any clearing taking place on site. Provided these recommendations are implemented and given the small amount of habitat to be impacted the proposal is unlikely to have an adverse effect on the life cycle of this vegetation community or the habitat it provides.*
- *It is recommended that where possible species consistent with Map Unit 11 – Upper Hunter White Box – Ironbark Grassy Woodland (Peake, 2006) be utilised within landscaping of reserve and open space areas and that existing trees be retained where possible within these areas and the larger lots in the south around Ironbark Road.*
- *It is recommended that ongoing weed control be conducted within any proposed reserve areas within the scope of the development. (p36)*
- *“In conclusion, with the application of the recommendations within this report it is unlikely that the proposed rezoning will bear a significant adverse impact upon any viable local populations or individuals of the threatened species, populations or communities considered in this report” (p39)*

The document was subsequently referred to the Office of Environment and Heritage (Appendix G1). The correspondence dated 18/11/14 indicated that additional survey was required during the flowering period of two nominated flora species, and also in respect of hollow bearing trees. Such survey / assessment has been undertaken with the additional reports in Appendix D and revised proposed subdivision layout in Map 3.

The addendum report refers to further updated plans of subdivision which indicate a total reserve area of some 13.35ha. Approximately 7.67ha of Narrow Leaved Ironbark – Grey Box Grassy Woodland (an EEC), out of a total of 18.26ha, will be retained within the E3 zoned areas on site. It is expected that additional areas of the EEC will need to be set aside on site or offset outside the site. Final determination of the lot layout of the future subdivision will be required to take such factors into account and will be able to be assessed in final detail following submission of a development application for subdivision.

### **8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed***

The subject site is not shown as being flood affected land on Muswellbrook Councils Flood Maps. Local ephemeral drainage lines will need to be considered as part of the subdivision process. A preliminary site investigation report has been undertaken by Valley Civilab as a result of the Gateway Determination. A copy of the report is Appendix M.

Proper assessment of stormwater detention and treatment, to meet current standards, will be addressed at the subdivision application stage. Subject to appropriate engineering measures in the detailed design phase, it is considered that the site is suitable for development.

The site has a very small area shown as containing bushfire prone vegetation as shown in Figure 5. A response from the RFS to the planning proposed (refer Appendix F) advised no objection subject to compliance with the requirements of *Planning for Bush Fire Protection*.



**Figure 5: Bushfire Prone Vegetation**

**9. *How has the planning proposal adequately addressed any social and economic effects?***

The proposed rezoning would provide approximately 500 lots released over multiple stages according to demand (likely to be 20-30 lots per stage). The development of the land would provide a link between existing areas of land developed for residential and large lot residential purposes in the locality.

In terms of economic benefits, as well as ongoing employment opportunities during the construction of the various stages of the subdivision and subsequent dwellings, additional population living in Muswellbrook will support the viability of existing retail and support services.

It is unlikely that there would be any adverse impacts in terms of either social or economic associated with the planning proposal.

### **Section D – State and Commonwealth Interests**

**10. *Is there adequate public infrastructure for the planning proposal***

Council's Technical Staff have advised that there is capacity within the existing water and sewer infrastructure to cater for the initial stages of development of the land. Augmentation will be required.

Provision of other services including Telecommunication and Electrical supply will be clarified with further consultation with the relevant service providers.

Investigations by Better Transport Futures, to assess potential impacts of the rezoning, identified that a report previously prepared for Council in 2010 by Parsons Brinkerhoff –

Muswellbrook Traffic Study, had included the subject land in its assessment of expected residential and commercial growth in Muswellbrook up to 2037.

The report concluded that the additional lots attributable to future development within the subject land in the context of the overall growth expected in Muswellbrook would *“have a negligible impact upon the road network upgrades identified in the Muswellbrook Traffic Study. Further, it is considered that no additional road upgrades over and above those identified in the Muswellbrook Traffic Study will be required due to this proposed development”*.

A response from the Roads and Maritime Services to the Planning Proposal (refer to Appendix H) confirmed no objection to the proposed rezoning – all future subdivision proposals will require a Traffic Impact Study. As the site will connect to Bimbadeen Drive, there may be a requirement for a future contribution to the upgrade of the intersection of Bimbadeen Dive and Maitland Street.

### **11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Agencies consulted were:

- Subsidence Advisory NSW (previously Mines Subsidence Board) refer Appendix A. The correspondence dated 18/7/17 confirmed that the subject land has been reviewed and is no longer within a Mines Subsidence District.
- NSW Trade & Investment – Resources and Energy – Refer to Appendix B. Correspondence dated 8/12/14 confirmed that the subject area is not covered by a current coal title. It was noted a Petroleum Exploration License (PEL 4) covers a broad part of the region including the subject site.
- Office of Environment & Heritage – refer to Appendix G1. The correspondence dated 18/11/14 indicated that additional survey was required during the flowering period of two nominated flora species, and also in respect of hollow bearing trees. Such survey/assessment has been undertaken with the additional reports in Appendix D and revised subdivision layout in Appendix X. The response also recommended that an Aboriginal Cultural Heritage Assessment be undertaken. Such assessment is included as Appendix G1.
- Roads & Maritime Services – refer to Appendix H– The correspondence dated 8/12/14 advised that there was no objection to the rezoning, however a traffic impact study to identify likely traffic impacts and subsequent road upgrade requirements, would have to accompany any future subdivision proposals.
- NSW Department of Primary Industry – refer to Appendix I. Correspondence dated 4/12/14 advised that the subject land is not an ad-hoc dispersed area nor currently zoned for primary production. As a result, there is no objection to the planning proposal.
- NSW Department of Primary Industry – Office of Water – refer to Appendix J1– Correspondence dated 25/11/14 advised that a detailed stormwater management plan should be prepared to address stormwater quality and quantity. Note that such plan has been completed and is also included in Appendix J2.



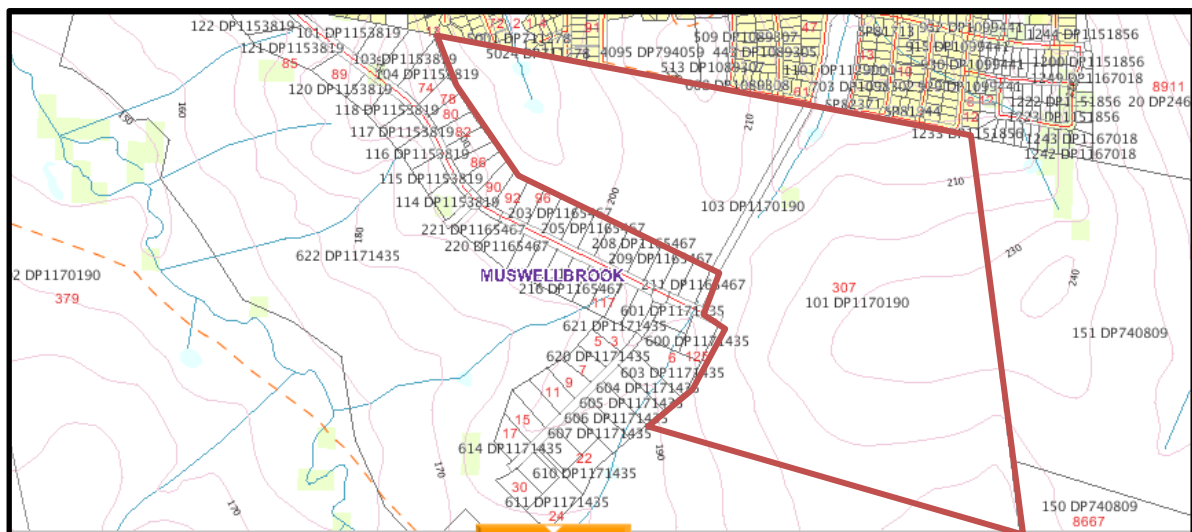
- NSW Aboriginal Land Council – refer to Appendix K1 – Correspondence dated 27/1/15 advising that the proposal had been referred to the Wanaruah Local Aboriginal Land Council (WLALC) for comment. Appendix K2 is the letter from the WLALC raising concerns about the content and process for the planning proposal and emphasizing that an Aboriginal Cultural Heritage Assessment will be required before any earthworks are undertaken. Note that such assessment has been completed and is Appendix X.

## Part 4 – MAPPING

### Map 1 – Locality



### Map 2 - Site Identification Map

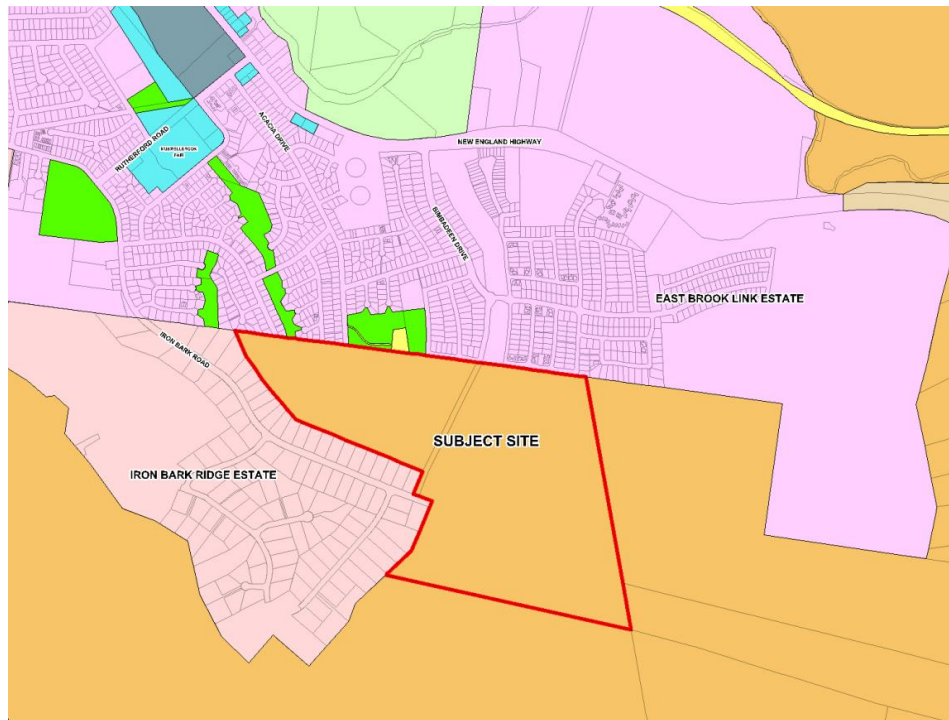




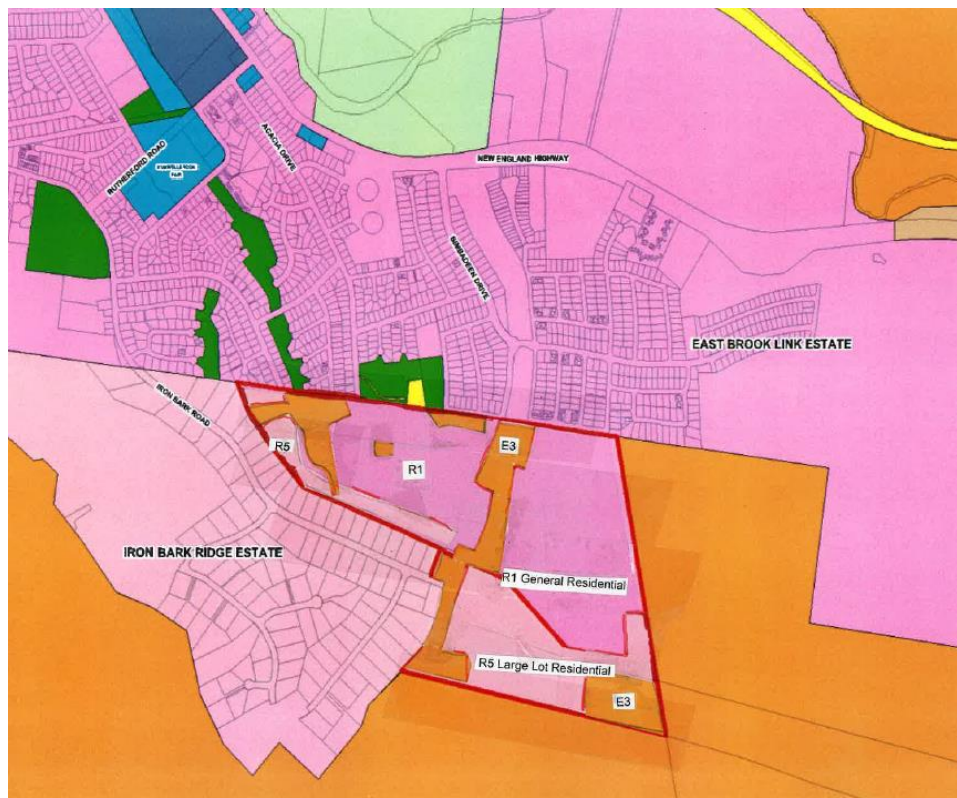


### Map 4 - Muswellbrook LEP 2009 - Land Zoning Map Sheet (LZN\_008 and 008A)

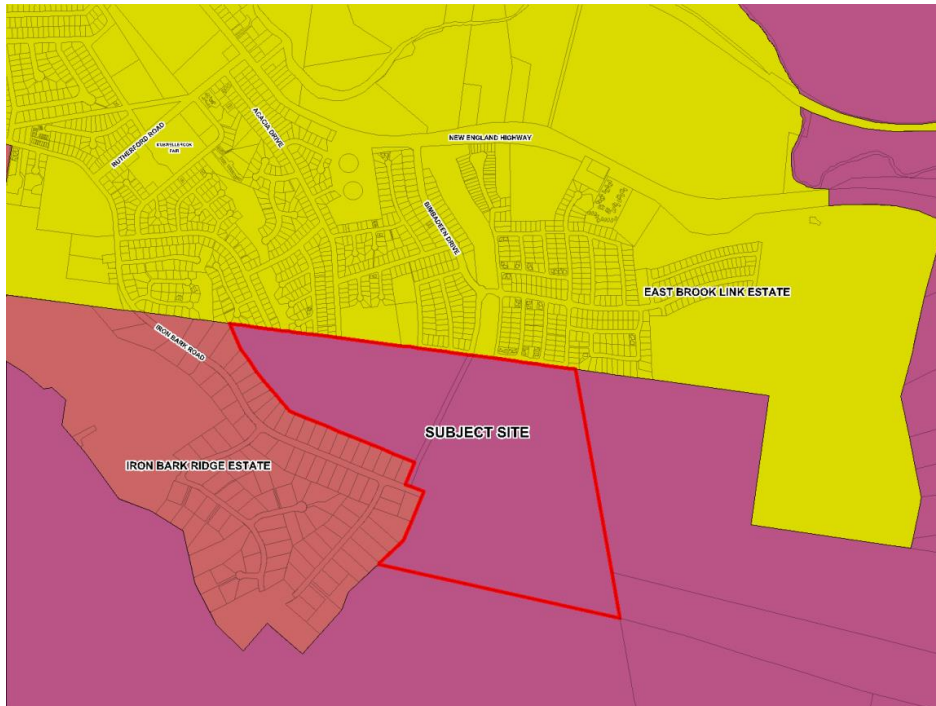
#### (a) Current Land Zoning – E3 Environmental Management



#### (b) Proposed Land Zoning – R1 General Residential, R5 Large Lot Residential and E3 Environmental Management

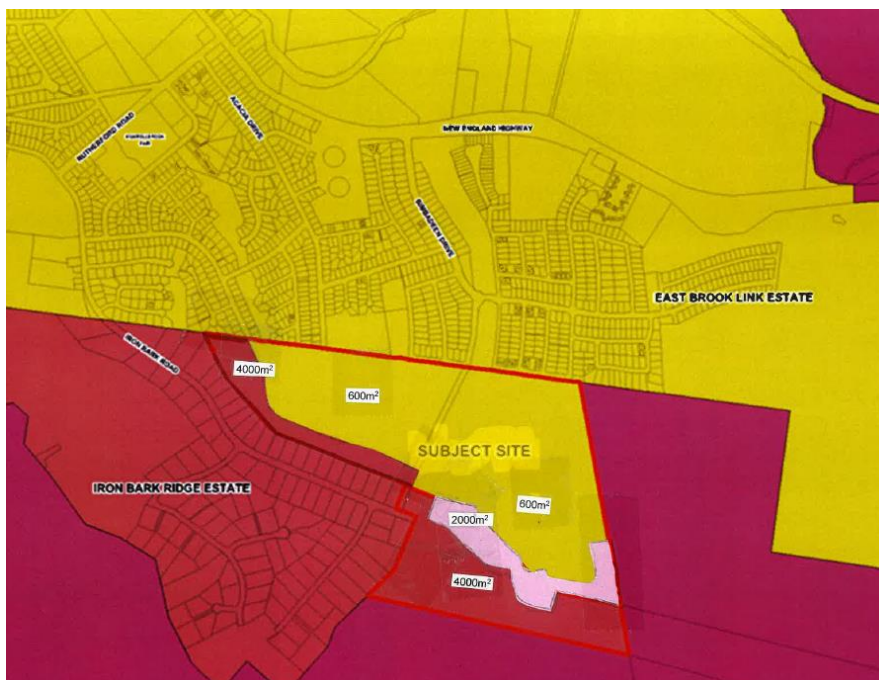


**Map 5 - MLEP 2009 - Lot Size Map Sheet (LSZ\_008 and 008A)**



(a) Current Lot Size – minimum 80ha

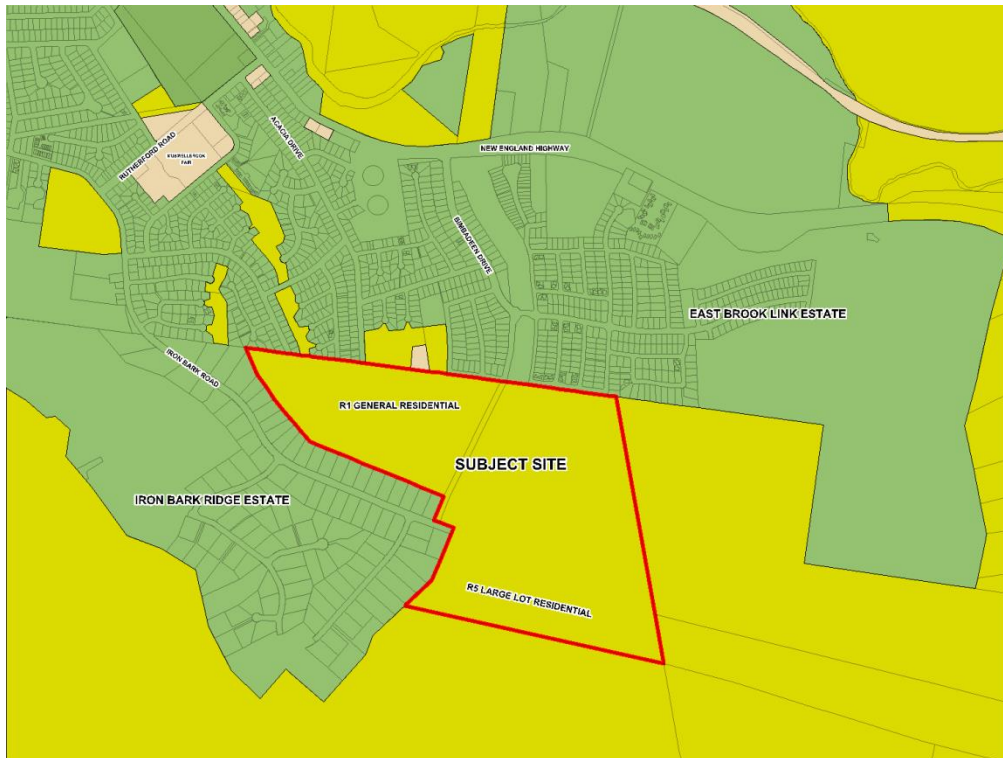
(b) Proposed Lot Size – R1 minimum 600m<sup>2</sup> and R5 minimum 4000m<sup>2</sup> & 2000m<sup>2</sup>



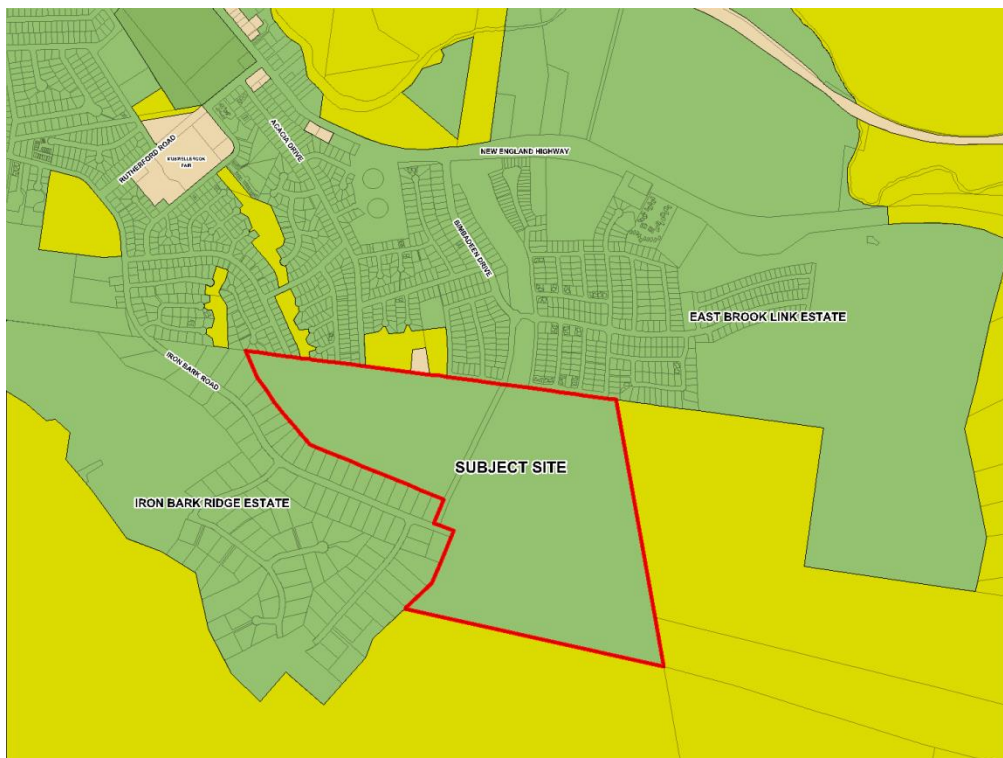


Map 6 - MLEP 2009 Height of Building Map Sheet (HOB\_008 and 008A)

(a) Current Height of Building – 12m

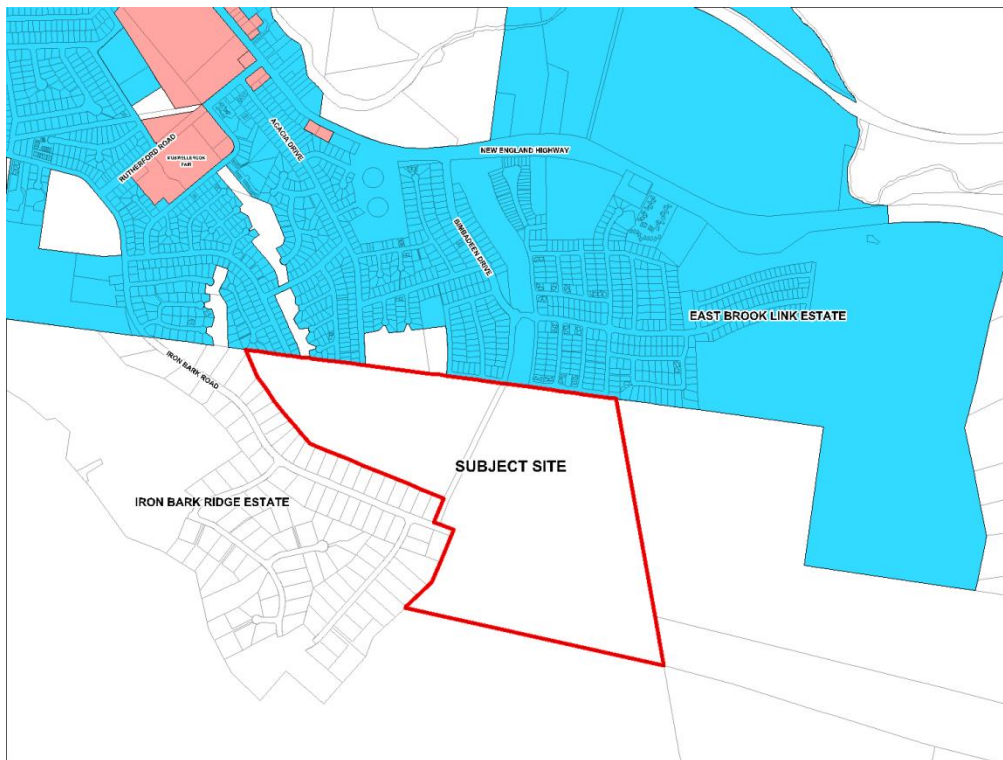


(b) Proposed Height of Building – 8.5m

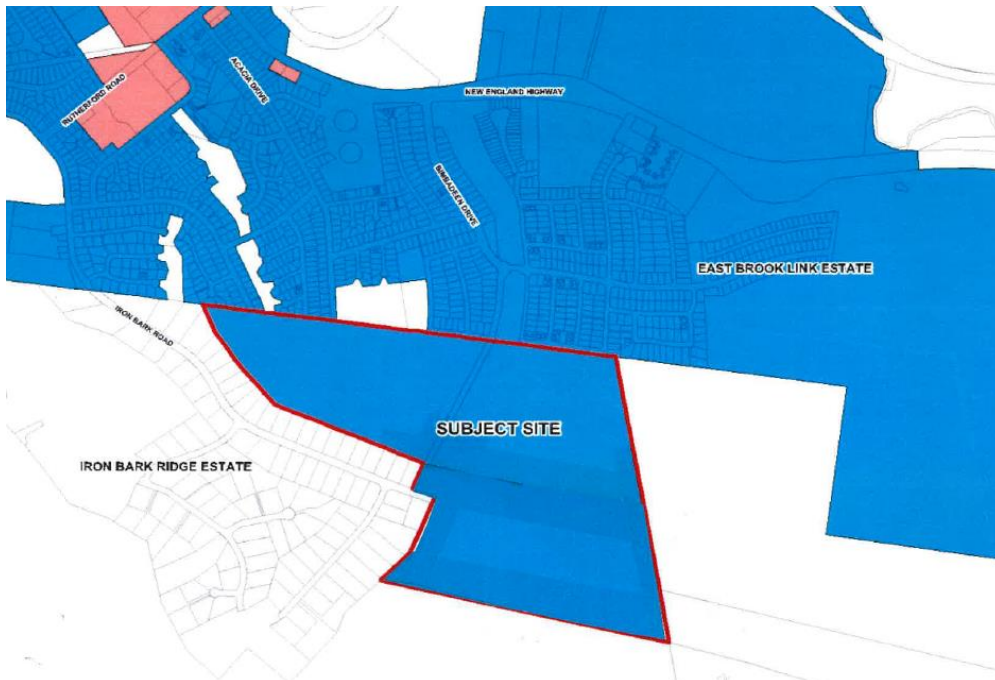


**Map 7 - MLEP 2009 Floor Space Ratio (FSR-008 and 008A)**

*(a) Current Floor Space Ratio – Nil*

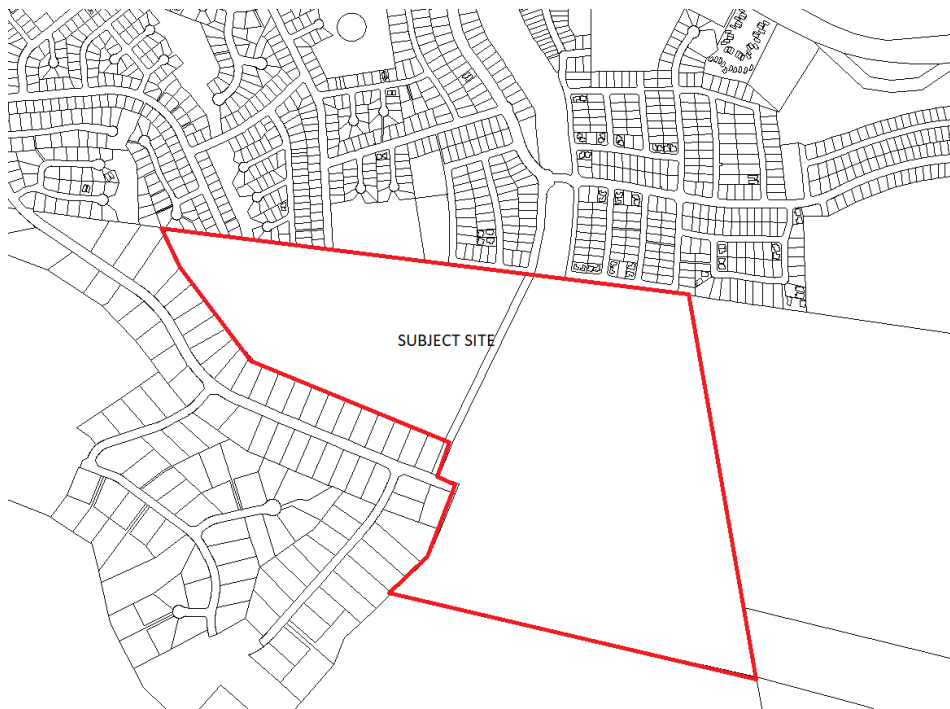


*(b) Proposed Floor Space Ratio – 0.5:1*

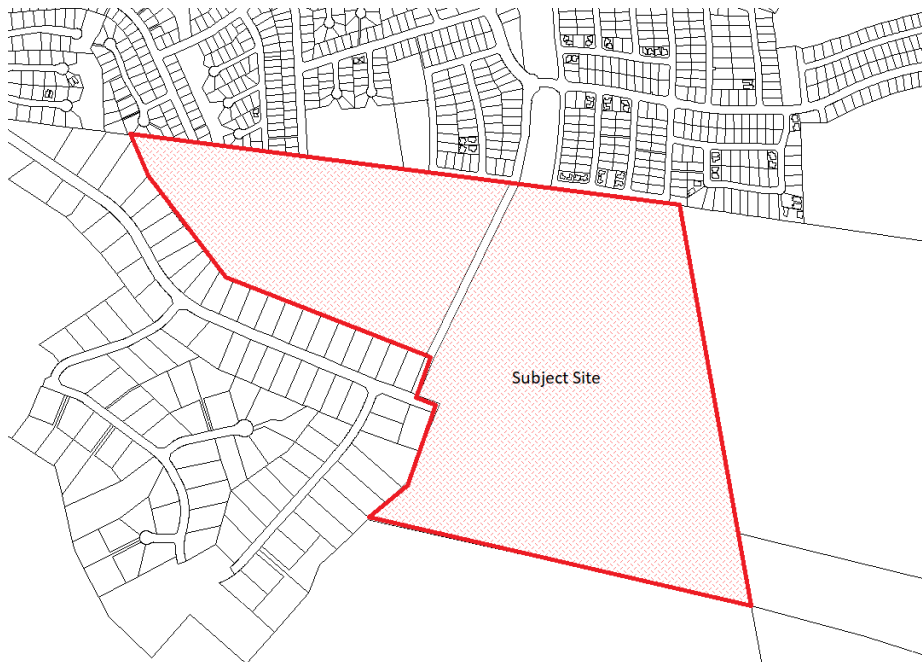


**Map 8 - MLEP 2009 Urban Release Area map (URA\_008 and 008A)**

*(a) Current Urban Release Area – Nil*



*(b) Proposed Urban Release Area*





## **Part 5 – COMMUNITY CONSULTATION**

The Gateway Determination dated 21/10/14 confirmed a 28-day exhibition period.

## **Part 6 – PROJECT TIMELINE**

<b>Action</b>	<b>Timeframe</b>
Anticipated commencement date (date of Gateway determination)	21/10/14
Anticipated timeframe for completion of required technical information	24/04/2019
Timeframe for government agency consultation (pre exhibition)	complete
Public exhibition (commencement and completion dates)	02/11/2019 to 02/12/2019
Date of Public hearing (if required)	N/A
Consideration of submissions	30/06/2020
Timeframe for government agency consultation (post exhibition if required)	15/01/2020
Post exhibition planning proposal consideration / preparation	30/09/2020
Submission to Department to finalise LEP	30/10/2020
Date RPA will make Plan (if delegated)	
Date RPA will forward to the Department for notification (if not delegated)	

Council intends to utilise delegations under s3.36 of the EP & A Act 1979 to finalise the Planning Proposal.

# Attachment 1

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## APPENDICIES

Appendix A:	Mines Subsidence Board - Advice
Appendix B:	NSW Resources & Energy – Coal Advice
Appendix C:	Traffic Report
Appendix D:	Seven Part Test on Threatened Flora and Fauna
Appendix E:	Section 149 Certificate
Appendix F:	Rural Fire Service – Advice
Appendix G1	Office of Environment and Heritage – Advice
Appendix G2	Aboriginal Cultural Assessment
Appendix H	Roads & Maritime Services – Advice
Appendix I	Department of Primary Industries – Advice
Appendix J1	Department of Primary Industries – Office of Water – Advice
Appendix J2	Stormwater Management Plan
Appendix K1	NSW Aboriginal Land Council - Advice
Appendix K2	Wannaruah Local Aboriginal Land Council – Advice
Appendix L	NSW Planning & Environment – Response to Muswellbrook Residential and Rural Residential Strategy 2014
Appendix M	Preliminary Site Investigation – Valley Civilab

## **Attachment 2**

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### **Evaluation Criteria for the Issuing of an Authorisation**

## Attachment 2 – Ironbark Ridge

Evaluation criteria for the issuing of an Authorisation				
(Note – where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not Relevant	Agree	Disagree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain detail related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Secretary?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
<b>Minor Mapping Error Amendments</b>				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
<b>Heritage LEPs</b>				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
<b>Reclassifications</b>				
Is there an associated spot rezoning with the reclassification?		√		
If yes to the above, is the rezoning consistent with an endorsed Plan of management (POM) or strategy?		√		
Is the planning proposal proposed to rectify an anomaly in a classification?		√		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		√		
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		√		

## Ironbark Ridge Extension Planning Proposal

Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		√		
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding <i>classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		√		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		√		
<b>Spot Rezoning</b>				
Will the planning proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		√		
Does the planning proposal create an exception to a mapped development standard?	N			
<b>Section 73A matters</b>				
Does the proposed instrument <ul style="list-style-type: none"> <li>a) Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provision, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?</li> <li>b) Address matter in the principal instrument that are of a consequential, transitional, machinery or other minor nature? or</li> <li>c) Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</li> </ul> (Note – the Minister/GSC (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).		√		

### Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, or any other local strategic planning document that is endorsed by the Secretary of the Department.
- Matters that will routinely be delegated to a Council under administration are confirmed on the Department's website [www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning](http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning)