MUSWELLBROOK SHIRE COUNCIL

DRAFT
LOCAL ENVIRONMENTAL PLAN 2007

SUMMARY OF CONSULTATIONS WITH AGENCIES AND RESPONSES UNDER

SECTION 62 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

June 2007

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SUMMARY

On 23 November 2006 Council forwarded letters and draft Local Environmental Plan (LEP) documents to various Government Agencies to seek responses to Council's draft LEP. The draft LEP was forwarded to the following agencies:-

- Department of Primary Industries
- Department of Environment & Conservation
- Hunter Central Rivers CMA
- Department of Natural Resources
- Roads and Traffic Authority
- Department of Housing
- NSW Heritage Office
- RailCorp & Australian Rail Track Corporation Ltd
- Mine Subsidence Board
- NSW Rural Fire Service
- Department of Lands
- Ministry of Transport
- Landcom
- Telstra
- State Valuation Office
- Department of Energy, Utilities and Sustainability
- NSW Department of Commerce
- Singleton Shire Council
- Upper Hunter Shire Council
- Mid-Western Regional Council

The documents forwarded to these agencies for comment comprised the following:-

1) Draft LEP
2) Draft LEP Maps
3) Shire Development Strategy and LEP 1985 Review
4) Draft West Denman Road Strategy
5) Draft West Denman Development Strategy
6) South Muswellbrook Traffic Study
7) South Muswellbrook Strategy
8) Heritage Conservation Maps

Reponses were received from the following agencies:-

- ✓ Department of Primary Industries
- ✓ Department of Environment & Conservation
- ✓ Hunter Central Rivers CMA
- ✓ Department of Natural Resources
- ✓ Roads and Traffic Authority
- ✓ Department of Housing
- ✓ NSW Heritage Office
- ✓ RailCorp & Australian Rail Track Corporation Ltd
- ✓ Mine Subsidence Board
- ✓ NSW Rural Fire Service
- ✓ Department of Lands
- ✓ Ministry of Transport

The following summary sheets detail the content of submissions received as part of the Section 62 Consultation Process and Council's proposed response to the matters raised by the relevant agencies.

Agency: Department of Primary Industries (DPI)

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 15 January 2007 • Meeting held on 13/02/07 with representatives from DPI, DEC, DoP and MSC • Follow up letter received on 22 March 2007	Glenda Briggs Department of Primary Industries PO Box 344 HUNTER REGION MAIL CENTRE NSW 2310 Ph. 4939 8942

Issues Raised by Agency	Planning Response	Completed?
1. Since the development of the Shire Development Strategy in 2003 there have been developments in Government Policy in relation primary industries, and additional resources made available to assist in the protection of primary industry resources. Such changes are not reflected in the draft LEP. Adaptation of previous zones to current standard template requirements has resulted in significant primary industry resources being variously located within RU1, RU2 and E3 zones, which have blurred the objectives and preferred land use outcomes are unclear.	**RU1 and RU2 zones to be combined into single RU1 zone. Zone objectives and permissible uses to be reviewed.**	June 2007
2. DPI recommends the review and rationalisation of proposed zone boundaries, zone objectives and permissible land uses for the RU1, RU2 and E3 zones.	**RU1 and RU2 zones to be combined into single RU1 zone. Zone objectives and permissible uses to be reviewed.**	June 2007
3. DPI recommends that Council commit to strategically identifying appropriate minimum lot sizes in accord with established DoP methodology, and subsequent revision of LEP provisions.	Council to seek moratorium on rural subdivisions that create a dwelling entitlement in line with Mid Western Regional Council's adopted LEP. Study to be undertaken to address this issue for inclusion in LEP amendment. Brief to be prepared for consultants including timeframes, community consultations and costs. Matter to be followed up following release of Minister's Independent Inquiry Panel Report for the Central West area.	Deferred
4. DPI recommends that clause 20A includes sunset provisions to reduce the risk of conflict and encourage continued use of historically created lots for primary industries, or biodiversity protection.	It is considered important that existing dwelling entitlements granted under previous planning regimes be maintained, until such time as a rural subdivision strategy/study is completed, which will also address this issue.	June 2007
5. DPI recommends that where rural workers dwelling provisions are deemed necessary this should clearly be linked to productive capacity and clear guidelines should be developed that:- - Minimise the potential for future subdivision and conflict. (Dwellings on the same title in reasonable proximity to the primary dwelling and with shared access points are encouraged. Temporary residences and detached duplexes	This issue would be addressed in a rural subdivision strategy/study relative to current agricultural activities. Need to identify need and appropriate criteria for rural dwellings. (eg, land holding sizes, horse studs etc.)	Deferred

may also be considered) - Avoids the referral of routine proposals and applications to NSW DPI.		
6. DPI recommends that provisions under clause 34(8)(a) are extended to also specifically exclude the clearing of native vegetation in accord with recognized exemptions for routine agricultural activities.	Clause 34 to be deleted from draft LEP.	June 2007
7. DPI recommends that provisions under clause 39(6) are extended to also list adverse impacts on agricultural use of that land as grounds on which Council may refuse a proposal for development on flood fringe land.	Clause 39 referred to in the Section 62 version was an overlay intended to address flood impacts and not land use conflicts which are addressed through zoning and development assessment processes. Council does not have sufficient mapping data to include ALL flood prone land on an overlay, and the flooding provisions will be incorporated into DCP provisions.	June 2007
8. DPI recommends that Council reviews the detailed prescriptions for exempt and complying development in rural zones.	Exempt and complying development provisions reviewed to specifically expand the range of exempt development and clarify complying development criteria.	June 2007
9. DPI recommends that 'key fish habitats' such as Hunter and Goulburn Rivers be zoned E3 or W1. Other fish habitats should be identified on an overlay.	Hunter and Goulburn Rivers to be rezoned as W1 – Natural Waterways	June 2007
10. Objectives for waterways should ensure that - development maintains and enhances the integrity of the water quality, ecosystem health and biodiversity within or adjacent to key fish habitats - opportunities for public access and use of aquatic resources for commercial and recreational fishing, oyster farming and aquaculture activities are maintained and enhanced.	To be included in objectives for W1 zone	June 2007
11. Include heads of consideration to be applied when assessing proposals in waterways zones (as per details in submission).	To be addressed in DCP provisions	DCP
12. Riparian buffers should be explicitly included in waterways zones to ensure protection from future development impacts since "degradation of native riparian vegetation" is a key threatening process under Fisheries Management Act.	Riparian buffers are to be included into DCP provisions as they relate to W1 zones and tributaries.	DCP
13. LEP should prohibit most developments in waterways and riparian buffers to ensure they not degraded. Permissible developments should only be essential works or environmental works.	Ensure that permissible uses in W1 zone reflect this requirement.	June 2007
14. Waterways zones should have high performance criteria and standards for:- - maintain bank and riparian stability - erosion and sediment control - maintaining vegetation cover	To be included in draft DCP controls.	DCP

- minimise disturbance to potential habitats - water quality protection - rehabilitation and restoration following disturbance		
15. 'Removal or relocation of large woody debris' should be designated as requiring development consent, as it is potential habitat for fish and is a key threatening process under the Fisheries Management Act.	This is a not a definition contained within the standard instrument template, and is unclear what "large woody debris" is defined as. May caught under other standard definitions as permissible development. This issue is better addressed via DCP controls to clarify this issue	DCP
16. Development in waterways zones should comply with the Department's 'Policy and Guidelines – Aquatic Habitat Management and Fish Conservation 1999'.	This is to be included in a draft DCP provision.	DCP
17. LEP should include notes to remind Council staff, developers and consultants that work in rivers or streams may require permits from DPI.	These notes to be included in draft DCP.	DCP
18. A map of fish migration routes should be included in an overlay map and performance standards should explicitly apply to developments that may obstruct free passage of fish in waterways.	This issue to be addressed in draft DCP.	DCP
19. Notes should be added alerting people that installation of in-stream structures is a key threatening process.	This issue to be addressed in draft DCP.	DCP
20. Waterway structures including weirs, road crossings and the like are to be excluded from exempt and complying development.	No works within W1 zone will be exempt or complying development. Maintenance to existing roads and bridges is included in draft LEP as exempt development.	June 2007
21. To support clause 34 of the LEP, a DCP should prescribe the species or kinds of trees that the clause applies to, specifically in relation to aquatic vegetation.	Clause 34 is to be deleted from the draft LEP.	June 2007
22, A note should be added to alert people that decline of riparian vegetation is a key threatening process.	Previously noted for inclusion in draft DCP.	DCP
23. Avoid establishing zones where subdivision is permissible for lands that includes major waterways, in particular 'key fish habitats'. Subdivision layouts should avoid creating multiple lot frontages to waterways.	This issue is to be addressed in draft DCP for subdivision.	DCP
24. Notes should be included dredging, reclamation, fish passage and vegetation that approvals other than development consent from Council may be required.	To be included into draft DCP provisions.	DCP
25. To avoid possible conflict and confusion which may dissuade future aquaculture developments within the LGA, DPI recommends that the draft LEP is amended to permit aquaculture with consent in appropriate zones, as specified in their letter.	Aquaculture is to be permitted in zones generally as recommended by DPI.	June 2007
26. DPI recommends that Council apply the appropriate zoning to the following land so that authorized uses are permissible	These amendments are to be incorporated into amended draft LEP instrument.	June 2007

without consent:- - Zoning Coricudgy SF and Muswellbrook SF as RU3 – Forestry - Noting that the Forestry Act 1916 exempts forestry operations on Crown lands from the EP & A Act and hence LEP provisions. - Preferentially zoning lands suitable for private forestry and plantation investment as RU1 – primary industry and ensuring that forestry activities are permissible. - Noting that plantations registered under part 6 of the Plantations & Reafforestation Act are exempt from the EP & A Act, and hence LEP provisions.		
27. Council needs to be mindful of mining and natural resources at depth, and ensure that land uses are not in conflict with the future extraction of such resources.	Council is aware of the significant resources below ground surface in the LGA, however, the extent of the LGA affected by strict implementation of this issue as a restriction on development would significantly constrain future development in the LGA. Land uses in the rural zone are to be consistent with agricultural activities and ancillary uses to mitigate potential adverse impacts, which would be assessed at DA stage if necessary.	June 2007
28. Rural zones should not restrict valid opportunities for intensive agricultural development, should not appear to conflict with valid opportunities for continued development of state significant mineral resources, failed to recognize or adequately protect fisheries habitat.	See 27 above.	June 2007
29. 40ha & 80 ha rural lot sizes is inconsistent with the Minister for Planning's letter of 27/9/06 for the protection of agricultural land through LEP's. The letter cautioned that opportunities for rural residential development or lifestyle development must be justified and provided for in a strategic manner. DPI is concerned that:- - retaining the current lot sizes would facilitate the ongoing subdivision of productive farmland into residential, or lifestyle focused holdings. This would restrict the scope for efficient, sustainable agricultural development and increase the risk if land use conflict; - the 80ha minimum would facilitate the creation of rural small holdings across the shire and restrict opportunities for primary industries, agriculture investment, mining and farm forestry.	**RU1 and RU2 zones to be combined into single RU1 zone. Zone objectives and permissible uses to be reviewed.**	June 2007
30. Proposed lot sizes would need to be justified by a comprehensive strategic analysis of issues.	Council to seek moratorium on rural subdivisions that create a dwelling entitlement in line with Mid Western Regional Council's adopted LEP. Study to be undertaken to address this issue for inclusion in LEP amendment. Brief to be prepared for consultants including timeframes, community consultations and costs.	Deferred
31. DPI recommends:- - further refinement of zone boundaries	LEP Review Committee is recommending that Council seek a moratorium on rural subdivisions that create a dwelling entitlement, and commits to the	June 2007

- moratorium on subdivisions which create a dwelling entitlement within rural zones, OR an increase in the minimum lot size to 200ha - formal commitment by Council to the timely, strategic assessment of appropriate minimum lot sizes for efficient and productive primary industries within the shire, and subsequent amendment of the LEP in consultation with DPI and DoP.	preparation of a formal study into rural lot sizes to protect land for primary industries. The options and scope for the study is to be provided following independent inquiry panel report to Minister for Planning on Central West. Option for 200ha lot sizes rejected by Council.	

Agency: Department of Environment & Conservation (DEC)

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 29 January 2007 • Meeting held on 13/02/07 with representatives from DPI, DEC, DoP and MSC Follow up letter received on 6 March 2007	Karen Thumm Department of Environment & Conservation PO Box 488G NEWCASTLE NSW 2300 Ph. 4908 6829

Issues Raised by Agency	Planning Response	Completed?
1. Amended Threatened Species Conservation Act places emphasis on up front assessment of biodiversity values and strategic planning using landscape attributes such as vegetation as a guide. The protection of remnant vegetation and regional corridors via land use planning and directing development away that would sever these corridors. CMA data on remnant vegetation should be used for regional assessment of biodiversity.	Council amended zonings to include remnant vegetation identified in the Peake Report as E2 – Environmental Protection. This resulted in a zone conflict with E3 zones which have blurred the objectives and preferred land use outcomes are unclear. The standard template objectives for E2 and E3 zones are to similar to provide any real distinction between the zones. The E2 zone created identified conflicts with existing land uses (eg grazing, dwellings), that DECC representatives have indicated should be prohibited within the zone. From an assessment point of view the outcomes from inclusion within a proposed E2 zone are not manageable. Council has included remnant vegetation mapping in an E3 zone with an overlay provided in accordance with the DECC draft Guidelines dated April 2007, which will allow for future inclusion of such areas into an appropriate zone when E2 and E3 zone objectives are reviewed. Include future corridors for linkages between areas of remnant vegetation into draft DCP in accordance with existing maps.	June 2007
2. An LES should be prepared addressing biodiversity and Aboriginal heritage to inform the LEP which may be difficult at this stage, however the need for such studies for rezoning and subdivision proposals is considered important.	DoP have advised that an LES is not required for this LEP.	June 2007
3. West Denman and South Muswellbrook Strategies appear premature and do not address flora and fauna or Aboriginal heritage, and contain areas of remnant vegetation worthy of conservation.	These issues are addressed in the relevant strategies and link in with other provisions that are incorporated with the draft LEP.	June 2007
4. There is no E2 zone in the draft LEP. DoP's LEP practice note PN06-0002 states that such a zone is intended to protect land that has a high conservation value, but is not National Park (zone E1). Areas of large remnant vegetation should be an E2 zone, particularly where threatened flora and fauna is known to exist. Endangered or threatened ecological communities should be E2 zone, and all vegetation fragments considered by the	Council had mapping completed for E2 zone to be included in the draft LEP based on remnant vegetation areas identified in the Peake Report. See point 1 above.	June 2007

Peake Report 2005 as high or very high regional threat should be E2 zone. (ie mapping vegetation units 10, 11, 13, 14, 17, 19, 22, 24, 28, & 30) All other remnant vegetation could be E3 zone.		
5. The proposed permissible uses in the E3 zone are likely to conflict with conservation aims in these areas, and will not ensure protection of endangered ecological communities. An alternative may be the use of overlays to ensure protection of remnant vegetation which do not have conservation as their main focus.	Permissible uses in E3 zone to be reviewed in conjunction with mapping process to ensure clear objectives that are compatible with permissible uses. An overlay map has been included in the draft LEP to address these issues.	June 2007
6. DEC strongly recommends that Council undertakes assessment and consideration of Aboriginal cultural heritage. This would provide clarity for developers, and provide a more productive forum to engage the Aboriginal community as the primary determinants of their heritage in providing input into the decision making process. Will still need to address Aboriginal heritage at DA stage, but strategic planning decisions are far more robust.	Council currently has an arrangement where the local land Council is advised of proposed developments, and may require Aboriginal assessment in relation to that proposal. There is a need to be provide some certainty for developers, and it is recommended that Council require Aboriginal Heritage assessments for rezoning proposals, large developments on existing vacant land and subdivisions comprising 3 lots or more. Other DA's could be called in by the Land Council or aboriginal representatives provided some justification is provided. Further discussion with Wanaruah Land Council has identified that existing arrangements for referral and advertising of DA's and requirements for aboriginal assessments are compliant with DECC guidelines and are accepted within the aboriginal community. Documentation of the requirements including referrals and when aboriginal heritage assessments are required will be provided within DCP provisions. Mapping of items of aboriginal heritage significance is resisted from some sections within the aboriginal community.	DCP
7. Consultation with Aboriginal community would lead to the development of a Cultural Heritage Management Plan including consultation protocols, in addition to appropriate zonings, overlays, maps, schedules.	See 6 above.	DCP
8. Potential land use conflicts associated with air, noise or odour impacts are adequately addressed. Particularly for POEO Act licensed premises.	The location of such future developments are considered to be adequately addressed and reflect existing circumstances and permissible uses.	June 2007
9. Any areas of contamination are to be identified and managed in accordance with CLM Act.	To be addressed in draft DCP for contaminated land.	DCP
10. Storm water from new urban areas must be managed sustainably to prevent impacts on ecosystems.	Council's Integrated Water Cycle Management plan to be incorporated into draft DCP controls.	DCP
11. All landscaping works in the LGA should use native vegetation using local seed bank of vegetation community in the area.	To be addressed in draft DCP.	DCP

12. If the LEP affects any species requiring consideration under Commonwealth EP & DC Act, then consultation with Federal Department of Environment and Heritage would be required.	Draft LEP is not considered to have any adverse impacts on species listed under EP & DC Act as most zones are translations from existing LEP.	June 2007
13. Mining restoration corridors as suggested by 'Synoptic Plan: Integrated Landscapes for Coal Mine Rehabilitation in the Hunter Valley of NSW' should be overlaid on vegetation map and areas not included in E2 or E3 zone should be zoned E3 to indicate incentive for repair of vegetation corridors.	To be investigated for inclusion into draft DCP.	DCP
14. A 50m riparian buffer zone should be provided to major creeks and rivers. Land uses and development should be used to determine buffer distances.	Riparian areas to be incorporated into DCP provisions to ensure protection of these areas from future development.	DCP
15. Draft LEP should refer to Ecologically Sustainable Development.	Include in aims and objectives of draft LEP.	June 2007
16. All lands currently zoned 8(a) – National Park Estate or 8(b) – Proposed National Parks Estate, and Part 11 (Ministerial Lands) should be included in E1 zone.	To be included in draft LEP.	June 2007
17. All lands identified to support high conservation value native vegetation, including EECs and important remnant vegetation patches should be included in an E2 zone. Areas of Aboriginal cultural heritage significance can also be included in this zone.	See 1 & 6 above.	June 2007
18. All lands identified as medium to low conservation value native vegetation requiring environmental management including EECs and important remnant vegetation patches should be included in an E3 zone. Areas of Aboriginal cultural heritage significance can also be included in this zone.	To be adopted.	June 2007
19. E4 – Environmental Living zone is not recommended for the LGA.	Not included in draft LEP.	June 2007

Agency: Hunter Central Rivers Catchment Management Authority (CMA)

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Letter received by Council on 1 March 2007	David Green Regional Catchment Coordinator Hunter Central Rivers CMA 816 Tocal Road PATERSON NSW 2421 Ph. 4337 1207

Issues Raised by Agency	Planning Response	Completed?
1. Draft West Denman Development Strategy – would like to see consideration of following issues as site constraints:- - soils (erodibility, shallow, and suitability for effluent discharge) - vegetation (native vegetation, and non-riparian) - slope (15 degrees is a constraint in DCP 11) - salinity (discharge and recharge areas, high salinity) CMA strongly supports restorative action of land degradation and retention and protection of all remnant woodland and habitat areas.	To be addressed in strategy prior to adopt by Council. Issues addressed and adopted by Council in strategy in June 2007.	June 2007
2. DCP 11 – South Muswellbrook Strategic Study, CMA supports "slope" as a constraint", and the need for detailed flora and fauna studies. Siltation plan should be "sediment control plan".	Noted.	April 2007
3. What is meant by 'increase flexibility of zoning provisions and widen discretion available to the Council in relation to: - vegetation management - minimizing land degradation - conserving tree and native vegetation, under the aims of the plan?	Clause deleted from draft LEP	May 2007
4. Need to ensure consistency with requirements of Native Vegetation Act and 'improve or maintain" tests for clearing approvals, and the need for offsets of 'like for like or better'.	To be included in draft DCP provisions. Also included in E3 zone objectives.	June 2007
5. BASIX requirements should apply to all zones.	BASIX requirements do not need to be included as zone objectives as it is separately legislated under SEPP.	June 2007
6. 'Clearing' is not permitted with consent in any zone and would therefore be prohibited. CMA assumes that land use activities are matters where Council is consent authority as distinct from NV Act,	Native Veg Act is separate from Draft LEP and standard template. Issue of clearing to be addressed in exempt development provisions subject to CMA concurrence and compliance with Native Veg Act requirements. Clearing is not defined in the LEP dictionary.	June 2007
7. CMA is looking for options to strengthen relationship between	Reviewed CAP and incorporated appropriate measures into draft LEP or	June 2007

LEP and Catchment Action Plan, and in particular the following areas relevant to Muswellbrook LGA: - protection of native vegetation and biodiversity - salinity, a constraint on land with aged geology, drainage lines and footslopes - soil erosion CMA requests that Draft CAP be taken into consideration in draft LEP.	DCP. Draft LEP is consistent with guiding principles for land use change as it is primarily a translation from the existing LEP 1985. The draft LEP will not compromise achievement of the CAP objectives.	

Agency: Department of Natural Resources

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 4 January 2007 requesting more time. • Follow up letter received on 21 February 2007	Jeff Hunt Senior Natural Resource Planner Department of Natural Resources PO Box 2213 DANGAR NSW 2213 Ph. 4904 2634

Issues Raised by Agency	Planning Response	Completed?
1. Concerned about lack of recognition of the Hunter River as a specific W1 Natural Waterways zone, which is a high hazard river and is acknowledged by Council as such. DNR recommends the Hunter River and an undisturbed riparian buffer of minimum width 40m from the top of each bank and major tributaries be W1 Natural Waterways zone. Alternatively, riparian buffer zone could be E3 Environmental Management zone, to ensure water quality and sharing issues considered in land use decisions.	Hunter and Goulburn Rivers to be incorporated into W1 Natural Waterways zone. Riparian zones to be included in draft DCP controls.	June 2007
2. Protection of existing (including riparian) vegetation is an important issue. DNR recommends existing riparian vegetation a 40m buffer be included from the top of each river, creek or stream to ensure a sustainable ecosystem. The Shire Development Strategy recommends management actions for these areas, and therefore, in areas with little or no riparian vegetation, native vegetation be planted and riparian buffer restored. This could be referenced in LEP and implemented through DCP.	Riparian zones to be included in draft DCP controls. 40m riparian area to be provided.	DCP
3. The Draft West Denman Development Strategy indicates 40m buffers along creek lines. DNR is concerned about the north western extension of Denman Village zone onto steeper timbered slopes, and no supporting studies have been provided in relation to this rezoning.	A supporting study for inclusion of land in the West Denman village zone will be provided to underpin the draft LEP.	June 2007
4. Draft LEP does not include and RU4 zone, but later refers to one in clause 20(2).	Mandatory clause.	June 2007
5. Rural residential developments need to consider impacts on access to water, water sharing plans, native vegetation and soils. DNR notes fragmentation and loss of connectivity for native vegetation arising from clearing. Rural residential development can exacerbate these issues.	Rural residential subdivisions to be addressed in rural subdivision strategy and study. These issues will be addressed in subdivision DCP.	DCP
6. Far north west sector of Muswellbrook LGA contains	Council amended zonings to include remnant vegetation identified in the	June 2007

significant intact native vegetation, and is proposed for an E3 zone. Should be an E2 zone for greater environmental protection.	Peake Report as E2 – Environmental Protection. E2 zone is unworkable.	
7. Definition of clearing in clause 34(3) differs from Native Vegetation Act.	Clause 34 deleted.	June 2007
8. The Shire Development Strategy recommends water cycle management planning or all developments, and that new developments incorporate water sensitive designs. Should be in DCP or LEP.	Draft DCP controls to incorporate Integrated Water Cycle management principles adopted by Council.	DCP
9. No consideration of protection of groundwater dependent ecosystems, including wetlands, and requires further investigation.	Draft LEP is a translation from existing LEP provisions and the identification of groundwater dependent ecosystems is not considered to warrant further investigation at this stage of the plan preparation.	June 2007
10. The Draft West Denman Development Strategy in section 4.5 (bushfire management) fails to identify asset protection zones, which should not impinge upon riparian buffers or remnant vegetation. Should be a DCP provision.	Bushfire asset protection zones will need to be identified in DA's for West Denman and have been addressed in supporting studies.	June 2007
11. Water Act and Water Management Act require DNR administration and recognize landholder rights to extract water without a licence. This has potential to impact on existing water users where riparian frontage is subdivided creating new water access rights. Council should have innovative subdivision layout options via a DCP to address this issue.	This issue is to be addressed in draft subdivision DCP.	DCP
12. DNR recommends that Council amends the Shire Development Strategy to contain directions for:- - riparian buffers - asset protection zones - incorporation of water sensitive urban designs - assessment of salinity risk at DA stage - location, size and licensing of farm dams - land capability assessments at DA stage - impact of subdivision of riparian lands on water access rights	These issues will be addressed in draft DCP controls.	DCP

Agency: Roads and Traffic Authority (RTA)

Details of Consultations undertaken:	**Agency Contact**
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 9 March 2007	Mr Dave Young Manager, Land Use Development Hunter Operations & Engineering Services Locked Bag 30 NEWCASTLE NSW 2300 Ph. 4924 0240

Issues Raised by Agency	Planning Response/Action Proposed	Completed?
1. Muswellbrook By-Pass boundaries appear correct and in accordance with previous RTA advice, except for northern end of by-pass where RTA has refined boundaries. Copy of refined boundaries attached to letter.	Forward by-pass boundary alignment refinements at northern end to consultants for inclusion into mapping layers.	June 2007
2. Muswellbrook By-Pass to be a controlled access road with access only at designated locations.	No action required. Any future access points will require concurrence from RTA.	March 2007
3. Clause 25 –Land Acquisition should be updated to incorporate RTA's Acquisition clause	Clause 25 is a compulsory clause. Generally a local subclause should not be added to such a standard mandated clause. There are, however, a number of specific standard clauses where a council can, in accordance with a direction, add the type of local content specified, but this clause is not one of them.	No further action
4. RTA would object to any rezoning for future residential areas that may be affected by road noise and access/ congestion issues. Zoning of areas adjacent to by-pass corridor should recognize these constraints.	No areas proposed for significant rezoning under this draft LEP adjacent to such roads, and LEP zonings adjacent to by pass corridor are translated from existing LEP.	June 2007
5. Council to ensure traffic generation from rezoned areas has been considered and traffic transport infrastructure requirements identified. Comply with RTA guidelines for Traffic Generating Developments. Ensure appropriate funding through Section 94 plans to cover costs of road infrastructure and upgrades, relevant to demand. RTA will not fund any works as a result of increased land usage.	The only area of proposed rezoning affected by this comment is West Denman that has a road strategy identified for implementation in conjunction with rezoning of that land. Section 94 plan under review.	June 2007
6. Rezoned areas are to make provision for alternate transport systems, including public transport, cyclists and pedestrian networks.	These issues to be incorporated into draft subdivision controls.	DCP
7. RTA objects to the inclusion of Yarrawa Bridge and Kayuga Bridge in the LEP, or nay additional requirements that would delay or interrupt essential works.	These items to remain in draft LEP as heritage items, for the reasons referenced on the relvant heritage inventory sheets.	June 2007
8. Yarrawa Bridge should not be heritage item as there are only a few remaining spans of the original timber truss. The rest was washed away by floods and replaced with steel and concrete.	Council has resolved that this item be retained for heritage listing.	June 2007

9. Kayuga Bridge is programmed for upgrading and listing as heritage item may delay these works.	Council has resolved that this item be retained for heritage listing.	June 2007
10. The RTA would support exhibition but holds an objection until the above matters are addressed to the satisfaction of the RTA. Would like opportunity to comment on the draft LEP during public exhibition.	Opportunity to comment on draft LEP will be provided to all agencies as part of public exhibition process.	June 2007
11. Concerned that the cost of works for the West Denman Roads Strategy will not cover scope of works. Suggested that scope of works be reviewed along Golden Highway (H27) to ensure cost estimates reflect works, and necessary funds collected for works.	Justification to be provided by Director of Community Infrastructure. This matter will also be addressed as part of the review of the West Denman Road Strategy and Section 94 Plan.	By September 2007

Agency: Department of Housing (DoH)

Details of Consultations undertaken:		Agency Contact
• Letter and documents sent 23 November 2006 • Letter received by Council on 5 January 2007		Sue Brown Senior Planner - Dept of Housing PO Box 524 COFFS HARBOUR NSW 2450 Ph. 8753 8529

Issues Raised by Agency	Planning Response	Completed?
1. Currently 503 social housing dwellings in Muswellbrook LGA, and DoH is a significant property owner. A key issue is declining affordability and loss of low cost housing to the private sector. This low supply is leading to increased demand on DoH.	This is a statewide issue that requires a response from the NSW Government to implement affordable housing strategies on a regional basis. Housing affordability is currently driven by market forces, and would require legislative reform beyond local planning controls to address in any significant manner.	June 2007
2. DoH properties need upgrading, but if density standards are set too low, redevelopment opportunities are limited. Most of the DoH stock is located in low density zone which would prohibit multi unit housing. Want to ensure that potential rezoning of sites close to town centre and DoH may realign its assets.	Existing housing densities to be substantially retained within amended draft LEP zones on a translation basis and subject to review of DCP controls.	June 2007
3. DoH is concerned that affordable housing needs have not been addressed. There is substantial unmet demand from lower income households for affordable housing access. Attached overview of housing market in Muswellbrook drawn from DoH Housing Markets Strategy.	Council recognizes that an important component of affordable housing provision is providing a variety of housing choices to meet demand. This issue is driven by the market and is linked to rises in property valuations, and variety of housing options is included with the draft LEP.	June 2007
4. Council should consider active steps to promote affordable housing opportunities. Objective relating to affordable housing need to be incorporated into draft LEP, including promoting a variety of housing to improve housing choice, facilitate broader ranges of affordable housing types, encourage retention of existing affordable housing including boarding houses, and low rental flat buildings.	This would be similar to approaches adopted by SEPP 10, and SEPP 70. The approach adopted will only work if adopted on a regional basis such as a SEPP.	June 2007
5. Recommend that clause be placed in the LEP requiring a social impact assessment for major developments or rezoning applications to address impacts on housing market and increased demand for housing assistance.	Social Impact assessments have limited opportunity to address such issues. They are currently required for larger development proposals. No further action proposed by Council.	June 2007
6. DoH would like further meetings and has resources available to improve affordable housing options.	Issues need to be addressed at the next tier of government (state) to ensure consistency of application across the region and anticipated outcomes.	June 2007
7. Possible options for Council to consider are planning incentives, planning agreements under Section 94, or joint projects.	The examples provided are not accurately described. Waverley Council's controls require dedication of units on existing affordable housing sites to Council to be managed by real estate agents. The North Sydney plan allowed an increase in GFA in accordance with	June 2007

	controls (not exceeding the controls) subject to planning agreement on contribution to railway station upgrade. At present there is no clear nexus to substantiate such provisions within the Muswellbrook LGA.	

Agency: NSW Heritage Office

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 2 January 2007	Jenny Climas NSW Heritage Office Locked Bag 5020 PARRAMATTA NSW 2124 Ph. 9873 8588

Issues Raised by Agency	Planning Response	Completed?
1. No objection to content and intent of draft LEP.	Noted	April 2007
2. Note that Shire Development Strategy and review dated 2003 did not include heritage impact assessment. Unfortunate given that the Shire Heritage Study was completed in 1996, and proposed schedule of draft items may not reflect extent of heritage items currently existing. Heritage Office would expect Council to undertake heritage review as part of LEP process. Council is therefore urged to undertake a heritage impact assessment as part of the LEP review process.	Council's draft LEP has been in development for the last 6 years. At this stage it is not considered viable to undertake a shire wide heritage study. It is proposed that Council will undertake an ongoing review of existing and proposed heritage items (items requiring further investigation) through Council's heritage advisor as a rolling program. At present, the heritage items in the Hunter REP are not readily identified, the Muswellbrook LEP is considered to be an essential starting point for further investigations and heritage review once gazetted.	June 2007
3. Heritage Impact Assessment should address:- - assessment of heritage assets, and include natural and Aboriginal items of significance - State heritage inventory should be consulted - Non-Aboriginal heritage items should be identified by field survey, statement of significance drafted, recordings made, policies/ measures for protection to be identified, all in accordance with NSW Heritage Manual and by a qualified expert - Survey of site significant to Aboriginal people should be undertaken in consultation with Aboriginal community and NP & WS guidelines - Survey significant existing or potential cultural landscapes, views and vistas, covering all major historical land uses and themes. Supplement this by boundary definition, and appropriate zoning recommendations to conserve significant land uses so that future development is not in conflict. Subdivision lot sizes, protection of agricultural land, and vicinity to heritage items require consideration. Land use conflicts need to be identified and mitigation measures and strategies put in place. - Rezoning should consider heritage issues, and must be compatible.	A significant amount of work has been undertaken to identify and document a number of sites of heritage sites in the LGA. This documentation has been prepared to comply with heritage office guidelines, and have been mapped and linked to relevant inventory sheets. Council has discussed the Aboriginal heritage issues with the Wanaruah Land Council to determine an appropriate course of action which resulted in comments that Council's existing process was working satisfactorily. Any further action agreed will be undertaken as part of a LEP review, or if greater consultation is required then Council would undertake to implement further guidelines consistent with guidelines produced by DEC for wider involvement of the Aboriginal community. This would be subject to grant funding being made available for this purpose. The E3 zoning of remnant vegetation will assist in preserving the cultural landscapes, and the rural subdivision study will ensure the protection of agricultural land. Land use conflicts and cartilage issues will be addressed in DCP provisions. There is no proposed rezoning included in the draft LEP that would adversely affect items of heritage significance.	June 2007

4. It would be appreciated if Council could consider the above comments and incorporate into draft plan. No need to return draft plan to Heritage Office unless the plan is further amended as a result of public exhibition, accompanied by appropriate information.	The inclusion of heritage items into the draft LEP is a step forward in protecting those items that have already have inventory sheets completed and have been recognized for their heritage significance. Further studies, ongoing review and implementation will compliment this first step in protecting heritage items.	June 2007

Agency: RailCorp & Australian Rail Track Corporation Ltd (ARTC)

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 26 February 2007 from RailCorp advising that ARTC would be responding. • Letter received from ARTC on 28 February 2007 Further letter received from ARTC on 15 March 2007	ARTC Derek Rogers GPO Box 14 SYDNEY NSW 2001 Ph. 8259 0700

Issues Raised by Agency	Planning Response	Completed?
1. The NSW Government's Level Crossing Strategy Council is committed to the reduction of the number of level crossings on rail network, and ARTC is reviewing adequacy of level crossings under its management.	Noted	June 2007
2. ARTC requests that comments be sought when new level crossings are proposed or required, land relies on existing level crossing, additional traffic is generated over level crossings without active protection, or development may impact safety elements. ARTC consideration would include legal or practical case that level crossing is still required, or there will be no increase in safety risk, demonstrated by safety analysis.	Referral of such matters to be included in draft DCP controls.	DCP
3. Need to ensure land use is appropriate adjoining rail corridors to mitigate potential impacts from noise and vibration. Relevant publications for consideration are:- * *Rail Related Noise and Vibration; Issue to Consider in Local Environmental Planning* * *Interim Guidelines for Councils - consideration of rail noise and vibration in the planning process.* * *Guidelines for applicants - consideration of rail noise and vibration in the planning process*	These issues will be addressed in supporting justification for West Denman and in draft DCP controls.	DCP
4. Need to ensure that developments include appropriate attenuation measures at the design stage. Council is encouraged to adopt recommendations of ARTC publications.	This will be addressed at DA stage for developments.	DCP
5. Development within 60m of an active rail corridor should have specific condition of consent requiring and acoustic assessment.	Standard condition to be drafted and reflected in drat DCP controls.	DCP
6. Run-off storm water from development onto rail corridor is not acceptable.	To be included in draft DCP controls.	DCP
7. Request conditions of consent to require separation fencing between development land and rail corridor.	Standard condition to be drafted and reflected in drat DCP controls.	DCP
8. ARTC has an interest in land at Lot 1, DP1006369, which is proposed for zoning under draft as SP2 – School. ARTC	This land is currently zoned 5(a) Special Uses and is located within a lot that comprises a school. The zoning type requested would be 'general residential'	June 2007

requests reconsideration of this site previously occupied by previous rail barracks and since demolished. Request a zoning to allow more versatility in usage. Residential, office, hostel accommodation have been suggested locally.	or 'local centre'. This may result in land use conflicts and the site has access constraints. Any rezoning would need to be justified by the proponent relative to the preferred use rather than a general rezoning.	

Agency: Mine Subsidence Board

Details of Consultations undertaken:	**Agency Contact**
• Letter and documents sent 23 November 2006 • Letter received by Council on 1 December 2006	Garry Moore PO Box 524 SINGLETON NSW 2330 Ph. 6572 4344

Issues Raised by Agency	Planning Response	Completed?
1. No issues subject to Board's assessment of any improvements, subdivisions, and rezoning within the Proclaimed Mine Subsidence District.	- Existing integrated development application procedure will remain in place - Rezoning requests will be referred to MSB where located within Mine Subsidence District - Proposed land for rezoning in draft LEP to be referred to MSB at section 65 stage.	June 2007

Agency: NSW Rural Fire Service (RFS)

Details of Consultations undertaken:	**Agency Contact**
• Letter and documents sent 23 November 2006 • Initial letter received by Council on 23 April 2007	Mark Hawkins NSW Rural Fire Service Locked Mail Bag 17 Granville NSW 2142 Ph. 8741 5555

Issues Raised by Agency	Planning Response	Completed?
RFS raises no concerns or special considerations in relation to bushfire matters for the proposed LEP.	Noted	April 2007
Any proposals for residential and special fire purpose developments will be subject to requirements of Section 100B of RFA or EP & A Act.	Noted	April 2007

Agency: Department of Lands

Details of Consultations undertaken:	**Agency Contact**
• Letter and documents sent 23 November 2006 • Initial e-mail response by Council on 30 May 2007	Sue Effenberger NSW Dept Lands PO Box 6 East Maitland NSW 2323 Ph. 49379368

Issues Raised by Agency	Planning Response	Completed?
Compiled the following data sets with features: 1. Master spreadsheet (Land Schedule) indexed by Parish, LEP Zone and Certainty of proposal. 2. Summary on the spreadsheet of the zones and approximated transition into the new draft zones, and approximate Crown land areas (ha) versus total area in the LGA (ha) 3. The GIS_ID in the spreadsheet relates to the numbers on the attached maps for cross referencing. 4. Summary map showing the distribution of Crown land (orange) over the LGA, overlain by Parish areas. 5. Detail maps that I have tried to match with the areas on sheets supplied in the S65 consultation. 6. The colouring on the detail maps indicated the 1985 zoning of the Crown land (not purpose, this is on the spreadsheet). 7. Details maps showing existing zones and the Crown land (orange) in relationship to the zones. 8. State Forests and National Parks have been depicted on the maps.	- Reviewed land identified as “LEP certain” notated as ‘1’ to ensure correct zoning is applied to that land as indicated by Dept of Lands. - Reviewed proposed purpose of all lands to ensure future use is compatible with surrounding land use and proposed zoning.	June 2007

Agency: Ministry of Transport

Details of Consultations undertaken:	Agency Contact
• Letter and documents sent 23 November 2006 • Letter received by Council on 15 January 2007	Mr Lyall Kennedy or Juliet Grant Ministry of Transport GPO Box 1620 SYDNEY NSW 2001 Ph. 9268 2241

Issues Raised by Agency	Planning Response	Completed?
1. Ministry of Transport provides a Country Transport Resource Kit on its website which includes information guides on transport development, case studies, demand indicators and may be useful for further planning.	Noted	April 2007
2. Ministry supports Local Centre and Medium Density zones due to their proximity to transport. Future development areas away from town centre must maximize existing infrastructure and support bus services and community transport as well as walking and cycling.	Incorporate alternative transport provisions into draft DCP.	DCP
3. Elements of settlement are within 60m of the rail corridor. Careful consideration must be given to mitigation measures and sensitive land uses to avoid conflict.	Noted – see comments from ARTC	April 2007
4. Reforms for provision of bus services in rural and regional areas are underway involving new contracting, funding and service planning arrangements. Ministry is committed to working with Councils to better service all areas with Muswellbrook LGA.	Noted – draft LEP will not preclude this from occurring	April 2007
5. Draw attention to 117 Direction #17 and SEPP 66 as well as other guidelines to assist in this planning task.	Noted	June 2007