



**muswellbrook
shire council**

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

SUPPLEMENTARY BUSINESS PAPER

12 JUNE 2018



Order of Business

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10 ENVIRONMENTAL SERVICES

10.3 DA110/2017 PROPOSED BUSINESS IDENTIFICATION SIGNAGE

Responsible Officer:	Carolyn O'Brien - Acting Director - Planning, Community & Corporate Services
Author:	Hamish McTaggart - Senior Development Planner
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>
Attachments:	<ul style="list-style-type: none">A. DA 110-2017 Recommended Conditions of ConsentB. DA 110/2017 Proposed PlansC. DA 110/2017 Statement of Environmental EffectsD. DA 110/2017 Heritage Impact StatementE. DA 110/2017 Submission

Documents referred to in assessment not attached:

- Local Environmental Plan 2009
- Development Control Plan 2009
- State Environmental Planning Policy (Exempt & Complying) 2008

APPLICATION DETAILS

Applicant:	W.A Brown Building Pty Ltd
Owner:	BK Property (NSW) Pty Ltd
Proposal:	Business Identification Signage
Location:	Lot A DP 332469, 4 Lorne Street Muswellbrook
Permissibility:	The proposed development is permissible as Signage within the B2 Local Centre zone
Recommendation:	Approval subject to conditions

RECOMMENDATION

Council determine DA No. 110/2017 for the installation of signage at Lot A DP 332469, 4 Lorne Street, Muswellbrook, by the granting approval to the signage, with the exception of the signage identified as lifestyle graphic 5 & 6 on the plans, and subject to the recommended conditions of consent.

Moved: _____ Seconded: _____

<input type="checkbox"/> Cr J. Ledlin	<input type="checkbox"/> Cr S. Bailey	<input type="checkbox"/> Cr G. McNeill
<input type="checkbox"/> Cr J. Foy	<input type="checkbox"/> Cr M. Green	<input type="checkbox"/> Cr R. Scholes
<input type="checkbox"/> Cr S. Reynolds	<input type="checkbox"/> Cr B.N. Woodruff	<input type="checkbox"/> Cr S. Ward
<input type="checkbox"/> Cr J.F. Eades	<input type="checkbox"/> Cr M. Bowditch	<input type="checkbox"/> Cr M.L. Rush

Aerial Photograph Identifying Development Site



EXECUTIVE SUMMARY

Development Application (DA) 110/2017 was lodged with Council on 19 December 2017. The development application seeks approval for the installation of twelve (12) signs on an existing commercial building located at 4 Lorne Street, Muswellbrook.

The proposed signage is to be installed on the north-western, south-eastern and south-western elevations of the existing building and would include six (6) business identification signs painted onto the upper building façade, displaying the corporate logo of the site operator, and six (6) business identification signs installed on the lower building elevations displaying images synonymous with the corporate branding of the site operator.

To reduce visual intrusion on an adjoining locally listed heritage item, 'Henkor', and to address a compliance issue relating to the colour scheme of the building, the application details an amended colour scheme for the building. The repainting of a building outside a heritage conservation area would normally constitute 'exempt development', however the building's colour scheme was a condition of consent when the building was originally approved.

In addition to changing the current paint scheme, the applicant has proposed landscape planting within Lorne Street. The planting of trees at this location would also meet the requirements of Condition 10 of the Notice of Determination for DA 107/2014.

One (1) submission was received objecting to the proposed outdoor signage due to its compatibility with Section 14 Outdoor Signage of Council's DCP and its impact on an adjoining heritage item.

An assessment of the proposed development has been carried out against the provisions of Council's DCP and the provisions of the State Environmental Planning Policy (Advertising and Signage). Based on that assessment, and the comments provided by Council's Heritage Advisor, it is recommended that Council grant development consent to the proposal, with the exception of Signs 5 & 6 (Lifestyle signage proposed to be installed on the buildings Lorne Street façade). Council has the ability to grant total or partial consent to a development application in accordance with Subsection 4.16(4) of the *Environmental Planning and Assessment Act 1979*.

REPORT

1.0 Background

The proposed development involves the installation of signage at a commercial premises at 4 Lorne Street, Muswellbrook.

The premises was approved for construction by Council under DA 107/2014 and an Occupation Certificate was issued by a Private Certifier on the 20 November 2017.

Following the issue of an Occupation Certificate for the premises, Council commenced regulatory action due to the developer's failure to comply with Conditions 10 and 43 of the Notice of Determination for DA 107/2014.

Condition 10, required the proponent plant landscaping within the Lorne Street Road Reserve, and Condition 43 stipulate an external colour scheme for the approved building. To date neither condition has been complied with.

This development application includes details of landscaping within the Lorne Street road reserve which would satisfy the requirements of Condition 10, and details of an alternative external colour scheme.

2.0 Site Description

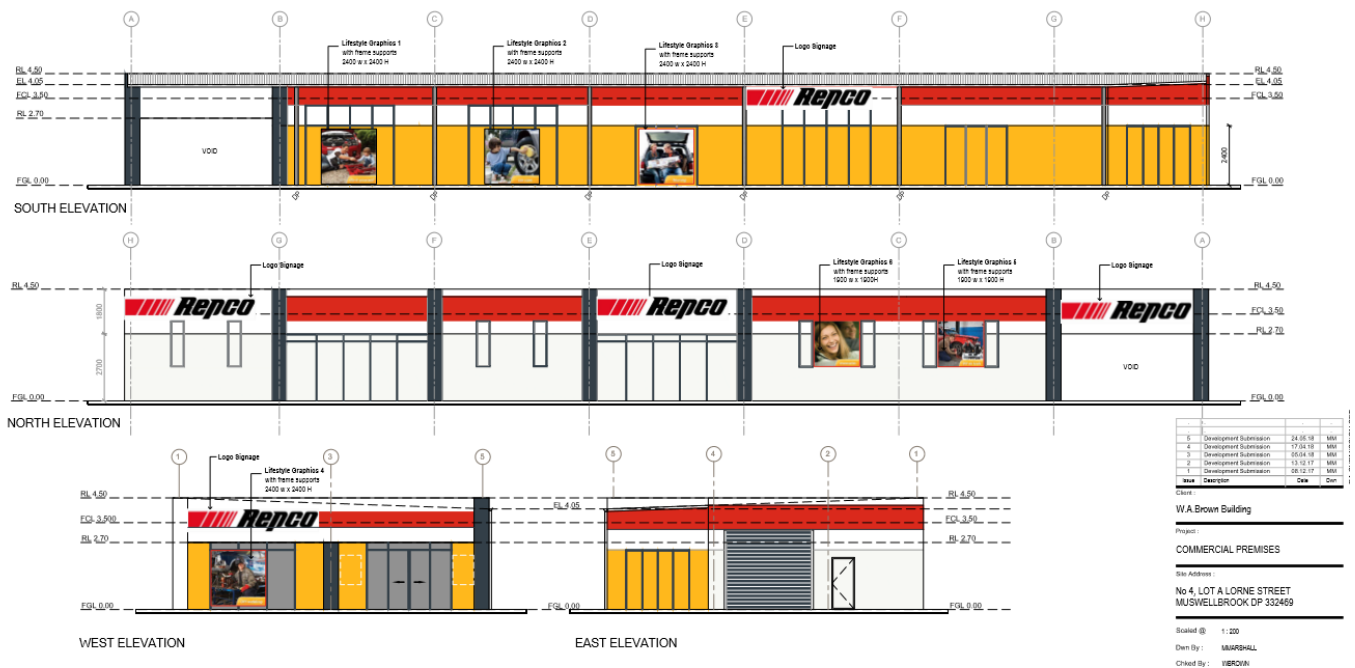
The subject land is identified as Lot A DP 332469, 4 Lorne Street, Muswellbrook. The site is located on the corner of the New England Highway and Lorne Street and is zoned B2 Local Centre under Muswellbrook Local Environmental Plan 2009. The site is in close proximity to Muswellbrook's core business centre and other commercial and retail businesses. The site has a boundary to Muscle Creek and is identified as low/medium flood prone. Local Heritage Item I104, 'Hennor', is located at 18 – 20 Maitland Street, on the opposite side of Lorne Street.

3.0 Description of Proposal

The proposed development involves the placement of advertisement signage on the building. The proposed development was partly amended by the applicant following a request for additional information by Council staff on the 24 April 2018.

The proposed development involves the installation of six (6) business identification signs displaying the corporate logo of the site operator, which would be painted onto the upper building façade, and six (6) business identification signs which would display images synonymous with the corporate branding of the site operator, to be located on the lower portion of the buildings elevations. In addition to the signage, the development plans include a new colour scheme for the premises and landscaping for the adjoining Lorne Street Road Reserve.

The figure below illustrates the proposed signage layout for the site.



4.0 Adequacy Of Applicant's Submission

The following documents have been submitted with the development application and have been included as attachments to this report.

- Site Plan and Elevations and Colour Selection
- Statement of Environmental Effects
- Heritage Impact Statement

The standard of information submitted is sufficient to enable the assessment of this development application.

5.0 Consultation

Heritage Advisor

The proposed development as originally submitted was referred to Council's Heritage Advisor who raised objection to the aspects of the proposed development. The concerns were conveyed to the applicant by Council Staff. Subsequently, the development application was amended and a Heritage Impact Statement submitted to Council for consideration. This information was again referred to Council's Heritage Advisor who provided the following comments:

I have considered the responses by WA Brown in their letter dated 18th April 2018 and the Heritage Impact Statement completed by Stephen Booker dated 19th April 2018. In respect to the my heritage advice provided 28/01/18 the following response is provided:

The heritage response provided by the applicant is contrary to the advice provided by the Muswellbrook Heritage Advisor in that bright colours and advertising material are not to be applied to the Lorne Street Elevation. It would be acceptable to allow for the upper most "Repco" sign (black text) and red band on white background to be retained. The lower portion of the Lorne Street wall can also include the black painted columns but the infill walls are to be of a neutral "off white colour."

These comments have been considered in the assessment of the development application and have informed the recommendation to Council that the development be approved, with the exception of the signs marked 'Lifestyle Graphics 5' and 'Lifestyle Graphics 6' on the proposed plans for the Lorne Street frontage. The heritage advice is supportive of the white painted colour scheme with black infill columns proposed for the buildings Lorne Street frontage.

Technical Manager of Recreation and Property

Under this proposal, trees would be planted within Council's Lorne Street Road Reserve so the matter was referred to Council's Technical Manager of Recreation and Property who raised no issue with the proposed plantings. Advice was also provided by Council's Sustainability Team Leader relating to the species of trees to be planted. *Callistemon viminalis* 'slim' was recommended and a condition requiring the planting of this species of vegetation has been recommended as a condition of consent.

NSW Roads and Maritime Services

As the proposed development involves the erection of signage adjacent to a classified state road, the New England Highway, the proposal was referred to the NSW Roads and Maritime Services (RMS) for comment. The NSW RMS provided a response to Council dated 23 March 2018 stating the following:

'Roads and Maritime has reviewed the information provided and raises no objection to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network'

6.0 Assessment

This report provides an assessment of the material presented in the Application against the relevant State and local planning legislation and policy.

Section 4.15 Matters for Consideration**Section 4.15(1)(a)(i) The provisions of any Environmental Planning Instrument (EPI)**

The following EPIs, DCPs, Codes and Policies are relevant to this Application:

1. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)**Land Use Zone and Permitted Land Use**

The development site is zoned B2 Local Centre pursuant to MLEP 2009. The proposal is best defined as *retail premise*, which is permitted with consent in the subject Zone.

Objectives of the B2 Local Centre Zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To maintain the status and encourage the future growth of the Muswellbrook established business centre as a retail, service, commercial and administrative centre while maintaining the centre's compact form.*
- *To enable a wide range of land uses that are associated with, ancillary to, or supportive of the retail and service functions of a business centre.*
- *To maintain the heritage character and value and streetscape of the business centre of Muswellbrook.*
- *To support business development by way of the provisions of parking and other civic facilities.*

It is considered that the development proposal is not contrary to the objectives of the Zone.

Clause 5.10 Heritage

The proposed development would be carried out in the vicinity of the 'Hennor', an item of Local heritage significance. A Heritage Impact Statement was submitted with the proposal. This statement has been reviewed by Council's Heritage Advisor who provided comments. This advice has been considered through the assessment of this development application and it has informed the recommendation that Council grant consent to part of the proposed development with the exception of some of the proposed signage on the Lorne Street facade.

2. **State Environmental Planning Policy**

State Environmental Planning Policy No 64 Advertising and Signage

SEPP No 64 applies to the Muswellbrook LGA and is of relevance to the assessment of development applications involving signage.

Clause 13 of the SEPP requires a consent authority to be satisfied of the following in relation to any proposed signage prior to granting consent to a development application to which the signage relates:

Aims of the Policy:

Part 3(1)(a) Aims	Planning Comment	Complies
Is compatible with the desired amenity and visual character of an area,	<p>The proposed signage has been reviewed in relation to the existing and desired amenity of the area. Matters considered:</p> <ul style="list-style-type: none"> ➤ the land is zoned B2 Local Centre and is located adjacent to a highly trafficked classified state road, ➤ The proposed signage would be installed on an existing commercial premises ➤ The density of signage proposed at the premises would not be such to overly clutter the shop front of the premises and would not have an untidy or unprofessional appearance, ➤ The premises is situated adjacent the 'Hannor' Local Heritage Item and Council's Heritage Advisor has provided comments advising against some of the signage on the Lorne Street elevation of the premises. <p>The majority of the signage proposed is in keeping with the desired character of the area, with the exception of the signs marked on the proposed plans as 'Lifestyle Graphics 5 & 6'. These two (2) signs are viewed as being incompatible with the heritage item 'Hannor'.</p>	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'
Provides effective communication in suitable locations	The proposed signage would communicate the business identity through the six (6) 'logo signs'. Staff are satisfied that each of these signs would be suitably located on the building's façade. No objection is raised in relation to the	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'

Part 3(1)(a) Aims	Planning Comment	Complies
	effectiveness of the communication of this signage, however it is considered that proposed 'Lifestyle Graphics 5 & 6' are in an un-suitable location. As discussed above, objection is raised to their location due to the incompatibility with the adjoining heritage item 'Hannor'.	
Is of high quality design and finish	From the information provided it is considered that all proposed signage would be of an acceptable design quality and would have a professional finish.	Complies

Schedule 1 Assessment Criteria:

Schedule Assessment Criteria	1	Planning Comment	Complies
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?		The proposed development is in a commercial area adjacent a well traffic classified road. Installation of some high quality signage at the site would not be contrary to the established or desired character of the locality. However, noting the proximity of the proposed development to a heritage item, Council must be satisfied that the installation of that signage would not have any significant adverse impact on the significance of that heritage item. The proposed development was referred to Council's Heritage Advisor, who raised objection to the installation of colourful signage on the premises Lorne Street frontage (the frontage adjacent the local heritage item). Council Officers view these signs as being contrary to the existing and desired character of the locality, while no objection is raised to the other signage proposed.	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?		The proposed advertising signage is not inconsistent with the signage used on other commercial premises with frontage to the New England Highway in the vicinity of the site.	Complies
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or		The impact of the proposed development on this item of heritage significance has been considered by Council's Heritage Advisor who provided advice which was supportive of the proposed building colour scheme to be featured at the sites frontage adjacent this heritage item and the 'business logo signage' that would feature on this frontage. The majority of the proposed signage, with the exception of the colourful signage	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'

Schedule Assessment Criteria	1	Planning Comment	Complies
residential areas?		proposed on the Lorne Street elevation, being 'Lifestyle Graphics 5 & 6', is considered to be compatible with this requirement and would not detract from the visual amenity of this heritage item.	
Does the proposal obscure or compromise important views?		The proposed signage would have a negligible impact on any existing views.	Complies
Does the proposal dominate the skyline and reduce the quality of vistas?		The proposed signage would be located on the existing façade of the premises and thereby would not dominate the skyline or significantly restrict any existing vistas.	Complies
Does the proposal respect the viewing rights of other advertisers?		The proposed signage would not obscure or affect the signage of other advertisers in the vicinity of the development site.	Complies
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?		The bulk of the proposed signage would present no issue in terms of its compatibility with the streetscape. Objection is raised to the compatibility of high colour signage on the Lorne Street elevation of the commercial premises due to its incompatibility with the adjacent heritage item.	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?		The bulk of the proposed signage would present no issue in terms of its compatibility with the streetscape. Objection is raised to the compatibility of high colour signage on the Lorne Street elevation of the commercial premises due to its incompatibility with the adjacent heritage item.	Partially complies, with the exception of the signage marked on the proposed plans as 'Lifestyle Graphic 5' and 'Lifestyle graphic 6'
Does the proposal reduce clutter by rationalising and simplifying existing advertising?		All advertising would be placed on the façade of the existing commercial premises and staff are satisfied that the proposed signage arrangement would appear in an uncluttered and rational manner.	Complies
Does the proposal screen unsightliness?		As discussed the proposed signage would be fixed to the existing building and would not be unsightly.	Complies
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?		No proposed signage would protrude above the existing building.	Complies
Does the proposal		The proposed development includes	Complies

Schedule Assessment Criteria	1	Planning Comment	Complies
require ongoing vegetation management?		details of vegetation to be planted within the Lorne Street Road Reserve. The species selected has a limited growth height and is not anticipated to require significant maintenance in relation to ensuring the signage visibility.	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?		The signage proposed is compatible with the scale of the building on which it is proposed to be located.	Complies
Does the proposal respect important features of the site or building, or both?		The proposed signage would not disguise any prominent existing building features.	Complies
Does the proposal show innovation and imagination in its relationship to the site or building, or both?		The proposed signage would be designed to display the corporate branding of the site operators. The proposed signage would not adversely reflect on the standing of the existing building at the site.	Complies
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?		No safety devices, platforms or lighting has been proposed, nor is it considered that any would be required.	Complies
Would illumination result in unacceptable glare?		The proposed signage would not be illuminated.	Complies
Would illumination affect safety for pedestrians, vehicles or aircraft?		No illumination of the signage has been proposed	Complies
Would illumination detract from the amenity of any residence or other form of accommodation?		No illumination of the signage has been proposed	Complies
Can the intensity of the illumination be adjusted, if necessary?		No illumination of the signage has been proposed.	Complies
Is the illumination subject to a curfew?		No illumination of the signage has been proposed.	Complies
Would the proposal		The proposed signage would not alter the	Complies

Schedule Assessment Criteria	1	Planning Comment	Complies
reduce the safety for any public road?		current traffic conditions or affect the safety of any public road.	
Would the proposal reduce the safety for pedestrians or bicyclists?		The proposed signage would be fixed onto the existing building and would not affect the safety of pedestrians or cyclists.	Complies
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?		As stated above the proposed signage would not affect pedestrian safety, and would not obscure sightlines from public areas.	Complies

Section 4.15(1)(a)(ii) the provisions of any draft EPI.

There are no draft EPIs relevant to the subject Application.

Section 4.15(1)(a)(iii) the provisions of any development control plan

Section 3 – Site Analysis

It is considered that the documentation provided with the Development Application satisfies the provisions of Section 3 of the Muswellbrook DCP.

Section 4 – Notification

In accordance with the provisions of Section 4 of the Muswellbrook DCP 2009, the Application was notified over the period of 21 December 2017 to 2 February 2018.

Following the submission of revised plans the proposed development was re-notified between the 27 April 2018 and the 16 May 2018.

A submission was received objecting to the proposed dated 16 May 2018. The content of this submission and the reasoning informing the objection is discussed under the Section 4.15(1)(d) of this report.

Note: additional revised plans have been received by Council on 25 May 2018 following the previous notifications of the development application. These revised plans remove any notation to the building extensions proposed under DA 108/2017 and do not make any changes to the scope of the development proposed by this application. These revised plans were requested by Council Officers to enable the consideration of this development application without any confusion being generated by the elements of the building extension proposed under DA 108/2017 being shown on the proposed plans.

Section 9 – Local Centre Development

The proposed development principle involves the installation of signage and also includes alterations to the building colour scheme and the planting of landscaping. The proposed development does not present any issue in relation to the majority of the DCP provisions under this Section.

Key controls outlined by this Section of the DCP which are of relevance are those stated under subsection 9.2.4 Signage and Advertising. The DCP controls specified by this part have been listed below along with comments from Council's Assessing Officer:

- (i) *Proposed signage to be in accordance with Section 15 – Outdoor Advertising.*

The proposed development has been considered against the DCP requirements of this Part under a later heading of this report.

- (ii) *Signage should be compatible with the scale and character of development in the area and the number and size of signs should be limited to avoid clutter and unnecessary repetition.*

The proposed signage is considered to be generally compatible with the character of the area, however, objection has been raised with the location of colourful signage on the Lorne Street elevation due to the adjoining heritage item. It is recommended that development consent not be granted to this component of the proposed signage.

- (iii) *Signage should form an integrated part of the building façade, architectural design and scale of the building.*

The proposed signage would be compatible with the architectural form of the building it is to be located and acceptably integrated into the appearance of that building.

- (iv) *No signage is permitted on a building wall abutting or facing a residential area*

The specific term 'residential area' is not defined by the DCP and the most logical inference of that term is an area of residential zoned land. Land in this location is zoned B2 Local Centre. The neighbouring 'Hennor' locally listed heritage item is also zoned B2 Local Centre.

Summary comment:

Noting the above the proposed signage with the exception of 'Lifestyle Graphics 5 and 6' are considered to be compatible with the requirements of this Section of the DCP.

Section 13 – Flood Prone Land

The site subject to this development application is identified as flood liable. The proposed development does not seek to alter the floor area of the existing building and thereby does not present any issue.

Section 14 – Outdoor Signage

14.1 Signage design analysis

The proposed development presents no issue in relation to the commercial character of the locality with the exception of the graphic signs proposed to be located on the premises Lorne Street elevation.

14.2 Matters for consideration

The matters for consideration prescribed by SEPP 64 have previously been considered in the tables under the SEPP heading of this report. The majority of the signage with the exception of the graphic signs proposed to be located on the premises Lorne Street elevation are considered to be compatible with the SEPP Assessment Criteria.

14.3 Sign Design and Location

14.2.1 Design Scale and Size

The proposed signage has been considered against the design criteria referenced by this part and against the provisions of SEPP 64. It is considered that the bulk of the signage installation would be of an acceptable design scale and size and therefore in accordance with the provisions of this part, with the exception of the signs marked on the proposed plans as 'Lifestyle Graphics 5 & 6' objection is raised to this signage surrounding their compatibility with the character of the streetscape, in particular the nearby heritage item.

14.2.2 Location

The proposed signage locations would not conflict with any existing pattern of signage locations in the area and therefore would be in accordance with the signage location provisions of this part.

Restrictions

14.2.3 The DCP restricts the maximum area of any permanent advertisement panel to 6m², the maximum area of a panel sign proposed under this development application would be 5.76m².

Note it is observed that this Section of the DCP restricts the number of 'large' advertisement structures, however the DCP does not identify what comprises a large advertisement sign.

14.2.4 Inappropriate forms

The proposed development does not involve any signage identified as inappropriate.

14.2.5 Content

All proposed signage would be of a professional design and their displays would be in accordance with the DCP.

14.2.6 Pedestrian and Road Safety

The proposed signage would not affect road safety and would comply with the requirements of this part.

14.2.7 Signs in heritage and conservation areas

The proposed signage is not within a heritage conservation nor is it to be situated on a heritage item. Accordingly, the provisions of this part present no issue in relation to the proposed development.

14.2.8 Illuminated signs

The proposed signage will not be illuminated. Accordingly the provisions of this part present no issue in relation to the proposed development.

14.2.9 Roof or sky advertisements

The proposed development does not involve any roof or sky advertisement.

14.2.10 Wall signs

The proposed signage would comply with the DCP requirements expressed for wall signs by this part.

14.2.11 Special promotional advertisements

The proposed signage would not display any specials or promotional advertisement.

14.2.13 New technologies

The proposed development does not relate to this part.

14.2.14 A- Frame Signs

The proposed development does not include an A-Frame sign.

Section 15 – Heritage Conservation

The land subject to this development application is not located within a heritage conservation area and no items of identified heritage significance are located at the site. As discussed throughout this report the land adjoins the locally listed heritage 'Hennor'.

Staff have assessed the impact of the proposed development on this adjoining heritage item. It is recommended that Council not grant development consent to the installation of the 'lifestyle' signage on the Lorne Street elevation, but grant development consent to the other signage proposed.

Section 16 – Car Parking and Access

The proposed development would not affect the floor space of any existing business premises and thereby presents no issue in relation to this section of the DCP.

Section 24 – Waste Management

A waste minimisation plan is not required to accompany a development application for the installation of signage.

Section 94A Contributions Plan 2009

The cost of carrying out the proposed development would be less than \$100,000 and in accordance with Council's Section 94A Plan, a contribution would not be required.

Section 4.15(1)(a)(iia) the provisions of any planning agreement

There are no planning agreements relevant to this development application.

Section 4.15(1)(a)(iv) the provisions of the regulations

The Environmental Planning and Assessment Regulation 2000 presents no specific matters of relevance to the assessment of this development application.

Section 4.15(1)(a)(v) the provisions of any coastal zone management plan

This item is not relevant to the subject Application. The Application does not relate to a coastal area.

Section 4.15(1)(b) the likely impacts of that development

The following additional matters were considered and, where applicable, have been addressed elsewhere in this report. It is considered that the proposed development would not have a significant adverse environmental impact in any of the areas referenced below with the exception to the manner the proposed colourful Lorne Street Signage.

Context & Setting	Waste
Built Form	Energy
Potential Impact on Adjacent Properties	Noise and Vibration
Access, Traffic and Transport	Natural hazards
Public Domain	Technological hazards
Utilities	Safety, Security, and Crime Prevention
Heritage	Social Impact on Locality
Other land resources	Economic Impact on the Locality
Water	Site Design and Internal Design
Soils	Construction
Air & microclimate	Cumulative Impacts
Flora & fauna	

Section 4.15(1)(c) the suitability of the site for the development

It is considered that the development is compatible with surrounding land uses and site characteristics, subject to consent conditions.

Section 4.15(1)(d) any submissions made

One (1) submission was received during the notification period. This submission has been included as an attachment to this report. The submission objects to the proposed development based on its compatibility with Sections 14 and 15 of the DCP. Planning comments are provided below:

Compatibility of the proposed development with Section 14 of the DCP

Planning Comment:

Council Officers have assessed the proposed development against this Section of the DCP and the provisions of SEPP 64 Advertisement Signage which are also referenced within Council's DCP. Comments relating to the assessment of the proposed development in relation to the DCP and SEPP have been included under previous headings of this Report. The assessment concluded that the proposed signage, with the exception of the two (2) proposed lifestyle graphic signs, proposed for the premises Lorne Street frontage, would be in accordance with the provisions of the SEPP and DCP requirements.

Compatibility of the proposed development with Section 15 of the DCP

Planning comment

The proposed development has been referred to Council's Heritage advisor to consider its impact on the adjoining heritage item.

The details of this referral and DA Assessment are outlined under the Referrals and DCP headings of this report.

Section 4.15(1)(e) the public interest.

It is considered that the proposed development would be compatible with the public interest subject to minor changes.

Council Adopted and Draft Policies

The Assessing Officer is unaware of any draft Policies of Council which present any issue in relation to this matter.

5 Conclusion

The application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. It has been identified that the majority of the proposed signage, with the exception of 'Lifestyle Graphics 5 & 6' are acceptable, while the proposed building colour scheme and landscaping (where the tree species is altered in accordance with staff recommendations) would be acceptable.

Disclosure of Political Donations and Gifts:

No disclosures of a political donations or gifts have been made in relation to this application.

SOCIAL IMPLICATIONS

The development as presented will not result in any specific social implications for Council.

FINANCIAL IMPLICATIONS

This development as presented has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

The development as presented will not result in any specific policy implications for Council.

STATUTORY IMPLICATIONS

Statutory implications relating to assessment of the subject application have been addressed in the body of the report

LEGAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination they will have the opportunity to appeal its decision at the Land and Environment Court in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

OPERATIONAL PLAN IMPLICATIONS

This matter has no specific Operational Plan implications for Council.

RISK MANAGEMENT IMPLICATIONS

This matter has no specific risk management implications for Council.

0 COMMUNITY INFRASTRUCTURE

S.1 DENMAN TOWN CENTRE UPGRADE WORKS CONCEPT

- Attachments:**
- A. Denman Town Centre Masterplan
 - B. Issue Summary
 - C. Civil Concept
 - D. Paxton St Bus Bay
 - E. Landscape Concept_R
 - F. Staging Plan
 - G. Carpark Option 1
 - H. Carpark Option 2
 - I. Carpark Option 3

Responsible Officer: Derek Finnigan - Director - Community Infrastructure

Author: Kellie Scholes - Project Manager

Community Plan Issue: *Our community's infrastructure is planned well, is safe and reliable and provides required levels of service*

Community Plan Goal: *Improve and maintain civic precincts.*

Community Plan Strategy: *Deliver the capital program substantially on time, on budget and in accordance with relevant design and construction standards.*

PURPOSE

To inform Council that the Denman Town Centre Conceptual Design drawings have been finalised and seek the Council's endorsement of these concepts prior to finalising the design and construction documentation.

OFFICER'S RECOMMENDATION

Council:

1. Endorse the Concept Designs for the Denman Town Centre Upgrade Project as detailed in this report and attached as C, D and E.
2. Endorse Option 1 for the Southern Carpark Layout
3. Approve the Concept Designs attached as C,D and E to be placed on public exhibition and appropriate consultation be undertaken and
4. Authorise the General Manager to enter into negotiations with the property owners of 35, 33 and 31 Ogilvie St to obtain an agreement to construct integrated parking over a portion of their land as detailed on Option 3 of the Southern Carpark Layout.
5. Authorise the use of unspent funds in the Investigation and Design allocation to undertake further investigation and designs of the Denman Masterplan works.

Moved: _____ **Seconded:** _____

BACKGROUND

Council endorsed the 'Denman Town Centre Masterplan dated November 2016' at the November 2016 meeting of Council. The Masterplan is attached as A to this report. This Masterplan broadly outlines

Council's vision for upgrading the town centre in terms of streetscape, public domain assets and function, and provides a basis for the further development of civil and landscape designs for;

- reconstructing Ogilvie St to widen the footpaths, to activate street frontage and promote commercial and hospitality development within the civic node,
- implementing a one-way flow of traffic in the section from Palace to Paxton St,
- construction of a service road and carpark to the south of Ogilvie St from Palace to Paxton St. Formalising off-street parking.
- Improve connectivity between Memorial Park and the civic node of Ogilvie St,
- Expand Memorial Park to accommodate a children's play facility and for Commercial events,
- Create a viewing platform and plaza near the levee bank on the eastern end of Ogilvie St,
- Improve accessibility for road crossing,
- Inclusion of feature landscaping and pavements which link civic nodes and heritage buildings,
- New street tree planting.

Extensive stakeholder consultation was undertaken during the development of the Masterplan and during the initial exhibition period and subsequent re-exhibition period, where Council received twenty (26) submissions. The summary of submissions reported to Council when adopting the Masterplan in 2016 is attached as attachment B. The issues and concerns raised in these submissions have been reviewed and all except the following matters have been used to inform the Concepts presented.

1. Northern side service road – Not included in the concept,
2. Location of public art – Although the concepts proposed with support the inclusion of public art this matter is to be reported separately,
3. RV dump site – being investigated as part of the project to develop the Denman Rec area.

Council allocated an amount of \$ 200,000 in the 2017-2018 Capital Expenditure Budget for design and investigation to further develop the ideas outlined in the Masterplan and enable the implementation of the work as funding permits.

CONSULTATION

Council's Heritage Advisor – Ms Lillian Cullen – Heritage Streetscape Concepts

Water and Waste Staff – Shaun Guilfoyle and Graham Chevis – Water main replacement

Property owner – 31 Ogilvie St – Car parking options

Property owner – 33 Ogilvie St – Car parking options

Property owner – 35 Ogilvie St – Car parking options

Sustainability Team Leader – Nicholas Alexander - Vegetation species

Roads and Drainage Team – Construction staging and construction estimation

CONSULTATION WITH COUNCILLOR SPOKESPERSON

No specific consultation made with the Councillor Spokesperson as this report seeks Council's endorsement of the concept design plans.

REPORT

In accordance with the requirement of Council to report the Concept for any project with an estimated construction cost of greater than \$80,000 prior to finalising the design, concepts have been prepared for the streetscape work proposed for the Denman Town Centre project.

Informed by the Masterplan document, the concepts have been prepared following preliminary Civil and Landscape design and investigation. Concept designs have been prepared for the;

- Reconstruction of Ogilvie St,
- Construction of the service lane and carpark (southern side of Ogilvie St between Palace and Paxton St),
- Redevelopment of Memorial Park,
- Construction of a coach and caravan parking bay in Paxton St.

The Concepts have been developed and are presented in two (2) parts; Civil Design and Landscape Design, using an approach where the civil design has provided the road geometry and new surface levels as a foundation for the streetscape to be enhanced with the addition of hard and soft landscaping. Council engaged consultants ACOR to undertake the civil design component and Terras Landscape Architects to undertake the landscape component.

The Civil Design Concept drawings are attached as C to this report. The Concept achieves the following;

- Reconstruction of road pavement and kerb and gutter in Ogilvie St,
- Widening of footpaths and new footpath surfaces with improved grades and compliance with the Disability Discrimination Act requirements,
- Enhanced footpath widening in Ogilvie St (Palace to Paxton St) to achieve an increase in public space and facilitate one way flow of traffic, east to west.
- Retention of parallel parking in Ogilvie St,
- Renewal of existing AC water mains and galvanized water services with Dual 150mm PE/PVC-O water mains with PE/copper water services,
- Construction of a 6.5m wide service road on the southern side of Ogilvie St (Palace to Paxton St) to access public parking, improve circulation of traffic within the precinct and provide rear access to properties fronting Ogilvie St. The properties on the southern side of Ogilvie St do not have legal rear access currently,
- Construction of an off street parking area on the southern side of Ogilvie St,
- Construction of a parking bay for long vehicles in Paxton St adjacent to Memorial Park. Attached as D to the report,
- Improvements to the storm water drainage system. Including creation of an easement through private properties to cater for existing drainage paths. An easement to be created over 20 and 21 Ogilvie St to cater for stormwater overflows in major storm events.

The Landscape Concept drawings are attached as E to this report. The Concept achieves the following;

- Streetscape works which provide an improved footpath environment and visual amenity which is sympathetic to the heritage conservation area,
- Removal of the existing street trees and replacement in tree pits systems within the footpath area rather than on the roadway with the new Prunus Nigra trees,
- Reconstruction of the footpath surfaces using select concrete finishes which enhance the heritage streetscape. Concrete containing locally sourced river aggregate will be sand blasted to reveal the coloured stone which will mirror earlier concrete finishes. Use of native species where possible which support sustainable outcomes,

- Surfacing of the plaza area at the eastern end of Ogilvie St using coloured printing on Asphalt to reference 'Old Merton' street layout,
- Facilitating the existing heritage walk through hard landscaping features and public art.
- Redevelopment of Memorial Park space to include event lawn, paved plaza area, space for public art, enhancement of the memorial, linkage to Ogilvie St, new amenities, and a children's play area.

Planting of new trees – Prunus 'Nigra' trees in Ogilvie St.

This species has been selected for the following reasons;

- Small compact tree which has a visually appealing form appropriate for an urban setting
- Grows well in local conditions
- Suitable for planting under powerlines, awnings and adjacent to utilities
- Suitable for planting in containers
- Deciduous in winter
- Solid purple canopy presents at its best in May (wine and food month)
- Maroon foliage colour will compliment mass planting foliage colours of Maroon and White
- Flowers late winter early spring – pink blossoms
- Replacement stock readily available

Native species of street tree were considered for Ogilvie St, with small varieties of Brachychiton such as the 'Bella-donna' and 'Bidwilli' closely looked at. The suppliers advised that these varieties are slow growing and often hard to obtain and that they would need to be grown to order. This would make replacements difficult. The Brachychiton was considered to have several disadvantages for street tree planting in this location;

- listed as unsuitable for planting near water and sewer mains by Hunter Water
- has a non- uniform canopy
- aesthetically not at best in May
- Deciduous in summer
- Bella-donna grows to 8m and would be unsuitable for under powerlines.

Endorsement of the Concepts will allow further consultation to be undertaken, comments and feedback considered and the design finalized. Once the design is complete and the construction drawings finalised this project will be shovel ready and able to be implemented as funds permit. Some planning for construction has commenced on the basis of a staged implementation, based on the following stages; The Implementation Staging Plan attached as F to the report.

Stage 1 Service Road and Carpark

Water main Construction Ogilvie St

Stage 2 Ogilvie St (Paxton St east side to Levee)

Stage 3 Ogilvie Street (Virginia St to Paxton St east side)

Stage 4 Memorial Park redevelopment, including bus bay in Paxton St.

The construction of the service road and southern carpark as the first stage of the project is in preparation for Stage 2 construction as the service road will facilitate access to properties and businesses within the block between Palace and Paxton St and the carpark will be available for use, whilst this section of Ogilvie St is in construction. Also included in Stage 1 work is the installation of new water mains and water services for the entire length of Ogilvie St (Virginia St to the Levee). This installation work needs to be undertaken prior to the road reconstruction of Ogilvie St. The water mains will be installed using non- destructive direction drilling and this will allow for the situation of either part

(just stage 2) or full road reconstruction (stage 2 and 3) depending on funding availability due to the fact that funding is currently not certain.

OPTIONS

Three (3) options have been prepared for the Southern Carpark layout.

Option 1 – attachment G.

- A single 6.5m road way,
- A wider footpath/shared zone of 4m;
- Trees incorporated into the shared zone to provide shade and softening. Trees have been located to align with property boundaries to allow clear access to properties for deliveries etc;
- A roll over type kerb to allow vehicular access to the Ogilvie St properties for deliveries, access etc.; With 'roll' type kerb enabling flexibility in location of the access,
- A 4.5m landscaped strip to the south to allow for softening and privacy to adjoining properties and area for any future cycleway linkage to the south;
- An additional footpath from the carpark entrance to Ogilvie Street along Paxton Street;
- 37 car parking spaces.

Option 2 – attachment H.

- Access via 6.5m wide service roadway and 3.3m circulation path,
- 45 car parking spaces,
- Minimal landscaping to adjoining southern boundary,
- Linkage to future cycleway through drainage overland flow path to the south.

Option 3 – attachment I.

This option provides additional parking spaces directly adjacent to the three properties 35,33 and 31 Ogilvie St by integrating parking on both private lands and land owned by Council. This option can be constructed to complement either parking layout in Option 1 or Option 2. Construction of parking lots in properties 35,33 and 31 would enhance either option by providing additional parking spaces and demonstrating how parking can be successfully integrated with private parking and access to adjoining businesses.

A total of twelve (12) spaces are created with this option. However, pending discussions with the property owners involved three (3) may be dedicated for use as rear access to their properties in lieu of the use of their land. Construction of this option would be dependent on obtaining consent from all three property owners and may be subject to Council agreeing to take responsibility for maintenance, covering all costs for construction, and Public Liability.

Initial consultation with each of the three (3) property owners have indicated that this option may be favourable to them should Council wish to proceed.

CONCLUSION

In comparison, Option 2 provides more available parking spaces; with 45 spaces opposed to Option 1 having 37 spaces. However Option 1 provides better landscaping shade and screening to the adjoining property. Option 1 provides a simpler arrangement for the circulation of traffic, more generous pedestrian access, and better facilitates the future connection of a cycleway to the south. Therefore it is recommended to adopt the parking layout in Option 1 together with parking provisions within properties 35,33 and 31 subject to negotiated agreement with property owners.

The endorsement of these Concepts will allow the design drawings and construction documentation to be completed in preparation for future construction. Once the design has been finalised quantities, construction methodologies and full costings can be determined.

Cost EstimatesStage 1

The estimated cost of stage 1 work excluding installation of new water mains is \$ 1.28M. This cost includes an amount of \$ 435,000 for the disposal of waste materials to Council's Waste Management Centre at Muswellbrook. Staff are investigating alternatives to reduce this disposal cost. If successful in sourcing this alternative disposal site, then there would be about \$ 385,000 savings in the disposal cost. In order to be able to possible use of the alternative site, it will be required to undertake the soil classification tests to make sure the soil falls into Excavated Natural Material (ENM) or Virgin Excavated Natural Material" (VENM).

Cost of replacement of AC water mains is about \$ 730,000 and these works will be funded through the water fund.

Stage 2a – Paxton Street to Palace Street

The estimated cost of stage 2a work is \$ 2.9 M and includes a disposal of waste cost of about \$ 410,000. The above estimate does not include the cost require to obtain an easement to drain stormwater over the properties 21 and 23 Ogilvie St. If the alternative disposal site is available to Council, then the disposal cost would be reduces by about \$ 370,000.

Stage 2b – Palace Street to Levee

The estimated cost of stage 2b work is \$ 655,000. The above cost does not include the construction of a viewing platform. The concept design includes the access via steps and an access ramp. Once the concept design is endorsed by Council, the detail design including the structural design for the viewing platform can be undertaken and cost estimates prepared.

Stage 3

The estimated cost of the stage 3 work is \$ 2.5 M and includes a disposal of waste cost of about \$ 410,000. The total cost would be reduced by about \$ 370,000 if the alternative disposal arrangement is available to Council.

Stage 4 – Memorial Park

The estimated cost of the stage 4 work is \$ 1.1 M.

It is important to note that the estimates are based on the concept drawings only.

The estimates have been prepared based on each stage of construction and are presented below.

Stage	Total Est Cost (\$)	Est. Cost (Reduced Disposal Cost) (\$)
Stage 1 Car Park and Laneway	1,280,000	845,000
Stage 2a Palace to Paxton	2,900,000	2,530,000
Stage 2b Palace to Levee	655,000	
Stage 3 Paxton to Virginia	2,500,000	2,130,000
Stage 4 Memorial Park	1,100,000	
TOTAL ESTIMATED COST	8,435,000	

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SOCIAL IMPLICATIONS

The renewal of the streetscape and provision of off street parking will have a positive impact on the Community due to improved parking availability, accessibility and amenity of public spaces. The landscaping will complement and enhance the heritage of the town therefore supporting the existing value of this aspect to the Community and interest for potential tourism.

FINANCIAL IMPLICATIONS

The 2018-19 proposed budget includes an allocation of \$2.5M for the Denman Masterplan works. Council can implement only stage 1 work with this allocation. Council has made a \$ 2.5 M grant application through the Resources for Regions Program. If Council receive the grant for these works, then it is possible to complete the works on stages 1, 2a and 2b.

Council has allocated an amount of \$ 200,000 for the Denman Masterplan Design works. The above funds have been spent to undertake the investigation and development of the Denman Masterplan Work designs. Funds are not available in this allocation to undertake further investigation required to identify the soil classifications. However, \$90,000 unspent funds are available in the Investigation and Design operational budget (0010.0540.500), and these funds can be used in the current financial year to undertake the above investigations.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Not Applicable.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

The proposed work supports item 19.3 in the Operational Plan to facilitate investment in high quality community infrastructure necessary to a regional centre.

RISK MANAGEMENT IMPLICATIONS

Not applicable.

12 CORPORATE AND COMMUNITY SERVICES

12.4 APPLICATION FOR CONTINUATION OF SPECIAL VARIATION

Attachments:	Nil
Responsible Officer:	Fiona Plesman - Acting General Manager
Author:	Joshua Brown - Co-ordinator Executive Services
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Review Council's rating structure to ensure that it remains equitable and sustainable.</i>

PURPOSE

The purpose of the report is to seek Council endorsement to make an application to the Independent Pricing and Regulatory Tribunal (IPART) for the continuation of the Special Variation approved for 2018/19.

OFFICER'S RECOMMENDATION

1. Council endorse the making of an application to the Independent Pricing and Regulatory Tribunal for a one-off Special Variation increase of 12.4% (plus the rate peg) in 2019/20 to remain permanently in the rate base, comprising the following:
 - a. Residential, Business and Farmland rating revenue increase by 10.0% (plus the rate peg) in 2019/20; and
 - b. Mining rating revenue increase of 16.0% (plus the rate peg) in 2019/20.
2. That the funds raised from this Special Variation are to be dedicated to the proposed Drainage, Parks and Roads program; Olympic Park Master Plan projects; Entertainment and Conference Centre Project; Jobs Creation package; and to offset a shortfall in rating revenues arising from a change in NSW Government policy with respect to biodiversity offsets.
3. That an amount of \$60k be allocated to the 2018/19 budget for a community engagement program to facilitate consultation with the community in regard to a proposed application to IPART for a Special Variation.

Moved: _____ Seconded: _____

BACKGROUND

All NSW Councils seeking special variations to general rating income (above the rate peg amount) are required to submit applications to the NSW Independent Pricing and Regulatory Tribunal (IPART) for review and assessment by the mid-February 2019 (the application date is expected to be announced in December 2018), with applications generally determined by May of each year.

CONSULTATION

Acting General Manager

Chief Finance Officer and Manager Corporate Services
Integrated Planning Coordinator

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Councillor Spokesperson for Finance

REPORT

The NSW Independent Pricing and Regulatory Tribunal (IPART) conditionally approved a Special Variation (SV) to Muswellbrook Shire Council's rating for 2018/19 to fund the following projects:

- improvements in stormwater management;
- upgrades to Muswellbrook's Olympic Park sporting precinct;
- a new Regional Entertainment and Convention Centre for the region;
- additional support for job creation across the Shire; and
- the recovery of rating income lost as a consequence of the conversion of mining biodiversity offsets to voluntary conservation agreements.

The approval has been granted for twelve months with an invitation to apply in 2019 for the increase to become permanent once the Delivery Program is reviewed to include the projects. In its determination IPART noted that Council demonstrated community awareness, that the impact on ratepayers was reasonable and that there were demonstrable productivity improvements and cost containment in the Council organisation.

Preparing an application to IPART for a special variation to general rating income requires extensive community consultation. It is noted the IPART has provided advice to Council that the program of community engagement undertaken as part of the previous application was comprehensive and will satisfy in large part the requirements for the application for a continuation of the special variation approved for 2018/19. Notwithstanding, it is recommended that the specifics of the proposed continuation be subject to community consultation to ensure the requirements set by the Office of Local Government are best met and the community is aware of Council's proposal. Should Council endorse the preparation of an application to continue the special variation the following community engagement program is proposed for immediate implementation:

- Form a community panel, selected from the residents who nominated to participate in August 2017, to be conducted from August to October 2018.
- Conduct a mail out to all residents clearly outlining the proposed continuation of the special variation, its purpose, impact on ratepayers and proposed benefit to the community including the link with the Community Strategic Plan and Delivery Program.
- Conduct a full media program, via radio, print, and social media.
- Subject a reviewed Delivery Program and the Long Term Financial Plan on public exhibition for a minimum of 28 days.

OPTIONS

Council may determine to either make application to apply or not to apply for the continuation of the Special Variation approved by IPART for 2018/19.

CONCLUSION

It is recommended that Council prepare an application to IPART for the continuation of the SV for 2018/19 as a permanent increase to the general rating income of 12.5% (including the assumed allowance for inflation – the rate peg), to develop an Entertainment and Conference Centre, Olympic Park Masterplan works, the continuation of Council's job creation program and to provide for an additional allocation of \$400,000 a year for stormwater drainage, road and parks asset maintenance. The application will also seek the continuation of an increase in the mining category of approximately

5.5% to 'catch-up' for lost revenue associated with biodiversity offsetting and to create a job creation and economic diversification program of an equivalent amount.

The alternative, not to apply for a continuation of the SV increase, will ultimately jeopardise each of the projects approved for funding by the SV. Currently, the three infrastructure projects and job creation program are dependent on the long-term income generated by the SV rate increase and currently there are no alternative funding sources. Furthermore, not continuing the SV after the initial 12 months will nullify much of the progress made within the first year of the approved SV increase (2018/19). Any initial designs and preparations that would have been started on some projects funded by the SV will be likely rendered unusable. It is therefore inadvisable to opt for this option.

SOCIAL IMPLICATIONS

The development of the proposed regional facilities will improve the social and cultural amenity of the region.

FINANCIAL IMPLICATIONS

Council's Long Term Financial Plan has anticipated the requirement for an SV to deliver these major programs and proposed improvements to regional infrastructure.

An allocation of \$60k is recommended for the costs associated with the application, based upon the following estimates:

1. Letter to ratepayers (est 8,000):

Printing (letters and envelopes)	\$2,850.32
A4 double-sided colour printed flyer	\$4,500.00
Postage	\$5,924.05
Total	\$13,274.37

2. Community Panel

Honorarium (40 panel members x \$200 x 5 forums)	\$40,000.00
Venue Hire (\$320 x 5 forums)	\$1,600.00
Catering (M/T and lunch \$1,400 (\$35/head) x 5 forums)	\$7,000.00
Total	\$46,350.00

3. Additional staff allocation

Administration support (\$48.47 x 14 hours x 9 weeks)	\$6,107.22
Community Panel (\$99.24 x 7 hours x 5 forums)	\$3,473.25
Total	\$9,580.47

TOTAL	\$69,204.84
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POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Not applicable

OPERATIONAL PLAN IMPLICATIONS

A special variation application is required to deliver on the regional projects identified in the CSP and Delivery Program.

RISK MANAGEMENT IMPLICATIONS

Full risk assessments have been undertaken as part of the business case and CAPEX review.

12.5 MUSWELLBROOK SHIRE LOCAL STRATEGIC PLANNING STATEMENT

Attachments:	A. Draft Muswellbrook Local Strategic Planning Statement
Responsible Officer:	Fiona Plesman - Acting General Manager
Author:	Sharon Pope - Executive Manager - Planning, Environment & Regulatory Services
Community Plan Issue:	<i>Diversify the economy, facilitate the development of intensive agricultur and other growth industries, make the Shire a more attractive place to invest and do business</i>
Community Plan Goal:	<i>Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.</i>
Community Plan Strategy:	<i>Progress completion of an LEP and DCP.</i>

PURPOSE

Amendments made in March 2018 to the *Environmental Planning and Assessment Act 1979*, have introduced the requirement for each council to prepare a Local Strategic Planning Statement (the Statement). The Statement is to set out the 20-year vision for land-use in the local area. The Statement is to shape how development controls in the local area evolve over time.

While the timeframe for Muswellbrook to complete a Local Strategic Planning Statement is July 2020, the work Council has recently undertaken to prepare the *Muswellbrook Community Strategic Plan, 2017-2027* and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*, provides the information necessary to prepare the Statement. It is also timely to develop the Statement now, as Council is preparing a new Local Environmental Plan (LEP).

The purpose of this report is written to seek Council's endorsement of the draft Muswellbrook Local Strategic Planning Statement. (Attachment A).

OFFICER'S RECOMMENDATION

Council seek community feedback on the draft Muswellbrook Local Strategic Planning Statement by endorsing public exhibition for 56 days.

Moved: _____ **Seconded:** _____

BACKGROUND

As a result of recent changes to the *Environmental Planning and Assessment Act, 1979*, councils are now required to prepare a local strategic planning statement. The Statement is expected to be a succinct and easy to understand document that allows community members to contribute to and understand the future direction of land use in their area. The Statement is required to set out a 20-year vision for land-use in the Shire, the special character and values that are to be preserved and how change will be managed into the future.

The Statement will need to align with the regional and district plans, and Council's own priorities in the community strategic plan. The Statement will shape how the development controls in Muswellbrook Shire evolve over time. The Statement must identify the planning priorities for an area and explain how these are to be delivered. They must also show how the council will monitor and report on how the priorities will be implemented.

Local strategic planning statements are different to community strategic plans as they will focus on the vision and priorities for land use in the local area, whereas community strategic plans (prepared under the *Local Government Act 1993*), have a broader focus on achieving the long term social, environmental and economic aspirations of the community. The two plans will be complementary.

Muswellbrook Shire Council is required to prepare a Statement by July 2020. Given Council is currently preparing a new LEP and DCP, it is an appropriate time to prepare a Statement. The work done to prepare the *Muswellbrook Community Strategic Plan 2017-27*, and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*, also means Council holds contemporary information and feedback from the community that would enable preparation of the Statement.

CONSULTATION

There has been no direct consultation with council staff or the community in preparing the draft Statement. There has, however, been substantial involvement by Council staff and the community in preparing *2017-27 Muswellbrook Community Strategic Plan 2017-27*, and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*, and the draft Statement is based on those documents.

The Discussion Paper was exhibited from 21 June to 22 September, 2017. A total of twenty-four submissions were received in response to public exhibition including from the coal and electricity sectors, community, local agricultural organisations, chambers of commerce and State Government Agencies. A workshop was held with key local stakeholders. The workshops were facilitated by the consultant. The participants were asked questions designed to develop a vision for the future and actions to achieve that vision.

The purpose of placing the draft Statement on public exhibition is to provide the community with an opportunity to comment on the Plan. Feedback received would be reported to Council.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

There has been no direct consultation with Councillors in preparing the draft Statement. There has, however, been substantial involvement by Councillors in preparing the *Muswellbrook Community Strategic Plan 2017 -27*, and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*, and the draft Statement is based on these documents.

REPORT

The requirement for Local Strategic Planning Statements in the Environmental Planning and Assessment Act creates the opportunity for Muswellbrook Shire Council to prepare such a Statement that sets a strong direction setting foundation for the new LEP and DCP, and to aid Council in being an advocate on behalf of the community for state and federal level funding and policy/legislation decisions.

The draft Statement (attachment A), is based upon the data collected and analysed, and stakeholder engagement undertaken for the *2017-27 Muswellbrook Community Strategic Plan*, and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*.

The following Vision is proposed in the draft Statement:

The Strategic Land Use Vision for Muswellbrook Shire is to facilitate a transition from being the State's primary coal mining centre to a more diversified economy based upon being:

- The State's major food bowl, through large scale food production and processing (agribusiness);
- An important location for equine and viticulture industries;
- The State's ongoing and innovative major energy centre
- A place that celebrates our natural, Aboriginal and non-Aboriginal heritage; and
- Served by the growing Regional Centre of Muswellbrook.

OPTIONS

Option 1

Council resolves to support preparation and public exhibition of a Local Strategic Planning Statement, as provided in Attachment A. This is the preferred option as Council is currently preparing a new LEP and DCP, making it an appropriate time to prepare the first Statement.

Option 2.

Council supports preparation of a Local Strategic Planning Statement but seeks changes to the draft Statement in attachment A prior to public exhibition. Councillors would need to identify areas requiring change.

Option 3

Council resolves not to prepare a Local Strategic Planning Statement at this time. This is not recommended as Council would need to commit resources in the 2019/20 financial year to prepare a Statement instead.

CONCLUSION

It is recommended that Council supports preparation and exhibition of a Local Strategic Planning statement. The work done to prepare the *Muswellbrook Community Strategic Plan 2017-27*, and the *Muswellbrook Local Environmental Plan 2009 Review Discussion Paper*, means Council holds contemporary information and feedback from the community that would enable preparation of the Statement

SOCIAL IMPLICATIONS

Preparation of the Statement is an opportunity for community members to contribute to and understand the future direction of land use in their area. The Statement is required to set out a 20-year vision for land-use in the Shire, the special character and values that are to be preserved and how change will be managed into the future.

FINANCIAL IMPLICATIONS

Preparation of the Statement will have no direct financial impact.

POLICY IMPLICATIONS

The draft Statement aligns with the Hunter Regional Plan, and Council's own priorities in the Community Strategic Plan. The draft Statement will shape how the development controls in the form of policies, the DCP and LEP, evolve over time.

STATUTORY IMPLICATIONS

Preparation of the Local Strategic Planning Statement will meet the new requirements set out in the Environmental Planning and Assessment Act. The Department of Planning and Environment haven't

released guidelines on the format that should be followed. The current draft Statement is based on verbal advice that it should be no more than 20 pages long and should include measurable actions.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

The draft Statement will shape how the development controls in the form of policies, the DCP and LEP, evolve over time. The intention is that the Statement will aid the implementation of the Community Strategic Plan.

RISK MANAGEMENT IMPLICATIONS

The most likely risk is a reputational risk if the Statement does not reflect the vision of the community. This is a low risk as the Statement is based on substantial community engagement, and there will be an opportunity for the community to provide feedback prior to Council finalising the Statement.

15 QUESTIONS WITH NOTICE

15.1 AIRBORNE DUST

Attachments: Nil

Responsible Officer: Fiona Plesman - Acting General Manager

Councillor Graeme McNeill has asked the following question with notice for the Council Meeting on 13 June 2018, as follows:

Which council officer should be contacted in the absence of the Mining Liaison Officer to report dust emissions by mining operations?



Moved: _____ Seconded: _____

RESPONSE BY GROUP MANAGER

Oversight and compliance of permitted dust emissions, in particular dust emissions by mines, rests with the NSW Environment Protection Authority.

The Environmental Health Officer and/or Consulting Mining Officer forward complaints in regard to air quality, in particular dust, usually with photographic evidence to the EPA. Community members can assist in monitoring dust emissions by reporting observed dust levels and taking photographic evidence and then reporting this directly to the EPA or to Council.

Emissions observed or experienced outside of business hours can be reported to the General Manager. Upon receiving a complaint from a Councillor or community member with an accompanying photo, the General Manager will immediately instruct Councils Environmental Health officer to report the issue with the EPA.