



**muswellbrook  
shire council**

**Muswellbrook Shire Council**

**DEVELOPMENT ASSESSMENT  
COMMITTEE MEETING**

**BUSINESS PAPER  
5 NOVEMBER 2018**



## Development Assessment Committee

### **Aim**

The aim of the Development Assessment Committee is to:

- To determine development applications;
- To monitor the progress of development applications not yet determined;
- To recommend to Council the need to develop or amend policies in relation to planning related matters – including strategic planning.

### **Associated Principal Activities:**

Development Assessment & Regulation

### **Specific Tasks & Parameters**

1. The determination of development applications under the *Environmental Planning and Assessment Act* 1979 not otherwise delegated to the General Manager except where: the development application is for, or in any way related to:
    - (a) (i) food and drink premises used for, or proposed to be used for, the sale of alcohol;
    - (ii) electricity generating works;
    - (iii) mines and extractive industries;
    - (iv) a waste disposal facility; or
    - (v) subdivisions into more than ten lots; or
  - (b) where the capital investment value of the development specified in the development application exceeds \$2,000,000; or
2. The Development Assessment Committee the determination of any development applications under the *Environmental Planning and Assessment Act* 1979 otherwise delegated to the General Manager, which the Development Assessment Committee by resolution elects to determine.
  3. The Development Assessment Committee be constituted as follows:
    - (i) the Councillor Spokesperson for Planning (as Chair);
    - (ii) the Councillor Spokesperson for Infrastructure;
    - (iii) the Councillor Spokesperson for Utilities; andin the absence of any of the councillors set out in (i) to (iii) any other councillor nominated by the Committee Chair or Acting Chair (as the case may be).

### **Recommendations**

- Make recommendations Council;

### **Staff Support:**

Director – Environment & Community Services  
Assistant Director – Environment & Community Services  
Senior Development Co-Ordinator  
Project Engineer – Water & Waste  
Manager – Roads, Drainage & Technical Services  
Environment & Sustainability Co-Ordinator

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**DEVELOPMENT ASSESSMENT COMMITTEE MEETING, 5 NOVEMBER 2018**

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122

MUSWELLBROOK

2 November, 2018

Cr Martin Rush (Chair)  
Cr Brett Woodruff  
Cr Rod Scholes  
Carolyn O'Brien  
Sharon Pope  
Hamish McTaggart  
Gamini Hemachandra  
Kellie Scholes  
Mark Scandrett

You are hereby requested to attend the Development Assessment Committee Meeting to be held in the COUNCILLORS ROOM, Administration Centre, Muswellbrook on **5 November, 2018** commencing at 4.00pm.

Joshua Brown

**MANAGER - INTEGRATED PLANNING, RISK & GOVERNANCE**

# Order of Business

ITEM	SUBJECT	PAGE NO
1	APOLOGIES AND LEAVE OF ABSENCE	5
2	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	5
3	DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST	8
4	PUBLIC PARTICIPATION	8
5	BUSINESS ARISING	8
6	BUSINESS	9
6.1	DA 52/2018 DWELLING HOUSE LOT 18 DP 663977 14 LORNE STREET, MUSWELLBROOK	9
6.2	OUTSTANDING DEVELOPMENT APPLICATIONS REPORT	34
7	DATE OF NEXT MEETING 19 November 2018	41
8	CLOSURE	41



**MUSWELLBROOK SHIRE COUNCIL  
DEVELOPMENT ASSESSMENT COMMITTEE MEETING**

**AGENDA**  
**MONDAY 5 NOVEMBER 2018**

**1 APOLOGIES AND LEAVE OF ABSENCE**

Leave of Absence for the meeting was previously granted to Councillor Woodruff.

Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_

**2 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**RECOMMENDATION**

That the Minutes of the Development Assessment Committee held on **22 October 2018**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_

**PRESENT:** Cr M. Rush (Chair), Cr B. Woodruff and Mr M. Bowditch.

**IN ATTENDANCE:** Ms C. O'Brien (Acting Director – Environment & Community Services), Ms S. Pope (Assistant Director – Environment & Community Services), Mr H. McTaggart (Co-Ordinator - Development) and Mrs K. Scholes (Manager – Roads, Drainage & Technical Services).

## **1 APOLOGIES AND LEAVE OF ABSENCE**

RECOMMENDED on the motion of Crs Woodruff and Bowditch that:

The apologies for inability to attend the meeting submitted by Cr. R. Scholes be ACCEPTED.

## **2 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

RECOMMENDED on the motion of Crs Woodruff and Bowditch that:

The Minutes of the Development Assessment Committee held on 8 October 2018, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

## **3 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST**

Nil

## **4 PUBLIC PARTICIPATION**

Nil

## **5 BUSINESS ARISING**

Nil

## **6 BUSINESS**

### **6.1 OUTSTANDING DEVELOPMENT APPLICATIONS REPORT**

RECOMMENDED on the motion of Crs Rush and Woodruff that:

The Committee note the undetermined Development Applications listed in Attachment A and the status of their assessment.

### **6.2 MEETING FREQUENCY**

RECOMMENDED on the motion of Crs Rush and Woodruff that:

The Development Assessment Committee meet fortnightly.

## **7 DATE OF NEXT MEETING**

5 November 2018

## 8 CLOSURE

The meeting was declared closed at 4.11pm.

.....  
Cr M. Rush

**Chairperson**

### **3 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST**

Section 451 of the Local Government Act requires that if a councillor or member of a council or committee has a pecuniary interest in any matter before the council or committee, he/she must disclose the nature of the interest to the meeting as soon as practicable and must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss (see sections 442 and 443 of the Local Government Act).

A non-pecuniary interest can arise as a result of a private or personal interest which does not involve a financial gain or loss to the councillor or staff member (eg friendship, membership of an association, or involvement or interest in an activity). A councillor must disclose the nature of the interest to the meeting as soon as practicable.

Council's Model Code of Conduct now recognises two forms of non-pecuniary conflict of interests:

- Significant
- Less than significant

A Councillor must make an assessment of the circumstances and determine if the conflict is significant.

If a Councillor determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.

If the Councillor has disclosed the existence of a significant non-pecuniary conflict of interests at a meeting they must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

### **4 PUBLIC PARTICIPATION**

Mr and Mrs Doyle – Item 5.1

### **5 BUSINESS ARISING**



## 6 BUSINESS

### 6.1 DA 52/2018 DWELLING HOUSE LOT 18 DP 663977 14 LORNE STREET, MUSWELLBROOK

<b>Responsible Officer:</b>	<b>Carolyn O'Brien - Acting Director - Environment &amp; Community Services</b>
<b>Author:</b>	<b>Alisa Evans - Projects Planner</b>
<b>Community Plan Issue:</b>	<b><i>Support initiatives which reduce the community's impact on the environment</i></b>
<b>Community Plan Goal:</b>	<b><i>Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible.</i></b>
<b>Community Plan Strategy:</b>	<b><i>Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible.</i></b>
<b>Attachments:</b>	<b>A. DA 2018-052 Assessment Report version 2 DAC attachment</b> <b>B. DA 52/2018 Recommended Conditions of Consent</b> <b>C. DA 52/2018 Proposed Plans</b>

#### PURPOSE

This report has been prepared to inform the Committee in determining Development Application (DA) 52/2018. This Development Application has been assessed by Council Officers and a copy the Section 4.15 Assessment Report and recommended conditions of Consent are attached for Council's information.

Delegations issued to the General Manager include a limitation on the General Manager's determining matters under the *Environmental Planning and Assessment Act 1979* as follows:

(iii) *[determine matters]* which are for, or in any way related to;

(f) works alongside or adjoining any waterway

The application before the Committee involves the construction of new dwelling house on Lot 18 DP 663977, 14 Lorne Street, Muswellbrook. The subject land contains a drainage channel, so is being reported to the Committee for determination.

#### OFFICER'S RECOMMENDATION

**The Committee approve DA 52/2018 for the construction of a dwelling house subject to the recommended conditions of consent contained in Attachment B.**

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

#### DESCRIPTION OF THE PROPOSAL

DA 52/2018 was lodged with Council on the 14 June 2018 and relates to 14 Lorne Street Muswellbrook (Lot 18 DP 663977). The subject land is located in an established residential area. The development proposal involves the erection of a brick veneer dwelling house.

A fibro, single storey on the subject land was approved to be demolished under DA 10/2018. The subject land is identified in the image below.



## ASSESSMENT SUMMARY

Council Officers have assessed the development application under the relevant heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. A copy of the Section 4.15 Assessment is provided in Attachment A. The result of the Section 4.15 Assessment is that staff recommend that development consent be granted to the proposed development subject to recommended conditions of consent. The recommended conditions of consent are provided in attachment B.

Key considerations and findings of the section 4.15 assessment include:

- The proposed development is in accordance with all relevant provisions of the Muswellbrook Local Environmental Plan (LEP) 2009.
- The proposed development has been considered against the provisions of relevant State Environmental Planning Policies (SEPP's) and there are no provisions which would prevent Council from granting development consent to the proposed development.
- The proposed development has been considered against the requirements of the Muswellbrook Development Control Plan (DCP) and is in accordance with the requirements of the DCP.
- The proposed development is not considered to have any significant environmental impacts that would present Council with a reason to refuse the development.
- The proposed development was referred to Council's Building Surveyor Officer and the Acting Manager of Technical Services. Both Officers provided comments in relation to the proposed development which informed the assessment of the application, recommendation and conditions of consent.
- Council's Acting Manager of Technical Services recommended a condition requiring the imposition of an easement in favour of Council over a waterway within the site. This recommendation was informed by Council's Rivers and Drainage Policy and it was intended that the easement benefit Council.

The Section 4.15 Assessment has considered the request of the Acting Manager of Technical Services, and the related provisions of the Rivers and Drainage Policy. The request for a condition of consent requiring an easement is not supported by the Assessing Officer as:

- The proposed development does not alter or affect the waterway.
- Council has powers to carry out drainage work under the Roads Act 1993 and Local Government Act 1993 through its function as a local authority and road authority even where an easement does not exist.
- Section 4.17 of the *Environmental Planning and Assessment Act 1979* outlines circumstances under which a consent authority can impose conditions of consent on a development. There is various case law and guidance around the imposition of conditions of consent, ultimately the principles established by this case law set out that a condition must fairly and reasonably relate to the development subject of the development application, should be for a planning purpose and must not be so unreasonable that no reasonable planning authority could impose the condition.

It is the opinion of the Assessing Officer that it would be unreasonable for Council to require a condition of consent requiring an easement be granted in Council's favour as the proposed development would not cause an increase in the quantity of stormwater to be disposed, not affect time of concentration of runoff in the area, would not alter the waterway over which Council is seeking the easement. Having an open drain adjacent to a dwelling is not desirable, however there is an existing dwelling on the site, this proposal will replace that dwelling with the benefit of lifting the floor level to meet the current flood floor planning level.

To address the issue of stormwater management and the risks the open channel may pose to occupant's on the site, Council may still wish to approach the landowner, outside the development assessment process, to seek their agreement to creation of the easement over the waterway and piping of the open drain.

## COMMUNITY CONSULTATION

The development application was notified to adjoining properties in accordance with the requirements of the Muswellbrook DCP, for the period 27 June and the 11 July 2018.

No submissions were received by Council.

## OPTIONS

Council Officers have completed an assessment of the proposed development against the relevant provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. This assessment concludes that the proposed development would be in accordance with the relevant provisions of Section 4.15 and recommends the approval of the development application subject to the conditions contained in Attachment B.

The Development Assessment Committee may:

- A) Grant development consent to the proposed development subject to the recommended conditions of consent,
- B) Grant development consent to the proposed development unconditionally or subject to amended conditions of consent, or
- C) Refuse development consent to the proposed development and nominate reasons for refusal.
- D) Resolve not to determine the development application and defer its determination to the elected Council.

**LEGAL IMPLICATIONS**

Where the applicant is dissatisfied with the determination of the development application they have an opportunity under the provisions of the *Environmental Planning and Assessment Act 1979* to appeal that determination at the Land and Environment Court.

**CONCLUSION**

DA 52/2018 has been reported to the Development Assessment Committee for determination as it is outside the function delegated to the General Manager and Council Staff as the development is for works alongside or adjoining a waterway.

Council Officers have completed a Section 4.15 Assessment in relation to the proposed development. Staff recommend that the Development Assessment Committee grant development consent to DA 52/2018 subject to conditions of consent outlined in Attachment B.

**DEVELOPMENT ASSESSMENT REPORT**

**Attached:** Site Plan

**REPORT TO THE GENERAL MANAGER**

<b>ADDRESS:</b>	LOT: 18 DP: 663977 14 LORNE STREET MUSWELLBROOK			
<b>APPLICATION No:</b>	52/2018			
<b>PROPOSAL:</b>	New Dwelling House			
<b>PLANS REF:</b>	Drawings no.	Drawn by	Date	Received
	098-17 101	P.B.Eveleigh Plan Service	1/11/2017	14/06/2018
	098-17 1	P.B.Eveleigh Plan Service	1/11/2017	14/06/2018
<b>OWNER:</b>	Mr J M & Mrs S L Doyle			
<b>APPLICANT:</b>	Mrs S L Doyle & Mr J M Doyle 27 Woollybutt Way MUSWELLBROOK NSW 2333			
<b>AUTHOR:</b>	Ms A J Evans			
<b>DATE LODGED:</b>	14/06/2018			
<b>AMENDED:</b>				
<b>ADD. INFO REC'D:</b>				
<b>DATE OF REPORT:</b>	4 September 2018			

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**SUMMARY**

**ISSUES:** Nil

**SUBMISSIONS:** Zero (0)

**RECOMMENDATION:** Approval subject to conditions

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## **1.0 BACKGROUND**

The land subject to this development application is 14 Lorne Street, Muswellbrook, and is formally known as Lot 18 DP 663977.

The site contains an existing fibro cottage constructed in the 1950s. The existing fibro cottage will be demolished to accommodate the proposed new dwelling, under and approval granted by DA10/2018.

The land is affected by Hunter River flooding, and has an open drainage channel traversing the site. The watercourse that traverses the site and has been subject to some modification since the creation of the land via the 'Skellatar Estate' subdivision. The plans accompanying the development application indicate that no alterations to the water course are proposed.

## **2.0 SITE AND LOCALITY DESCRIPTION**

The site is zoned R1 General Residential under Muswellbrook Local Environmental Plan 2009. An existing fibro cottage constructed in the 1950's is situated at the site and has been approved for demolition under DA 10/2018.

The site has access from Lorne Street and is located approximately 150m from the Maitland Street/New England Highway intersection.

The land is flood prone with a flood level of 145.02m AHD for the 1:100 year flood event. The flood planning level is 145.52m AHD for habitable buildings. The development has been designed to account for the site's flood risk with habitable rooms of the dwelling to be constructed 0.5m above the 1 in 100 year flood height.

## **3.0 DESCRIPTION OF PROPOSAL**

The application is for a 4 bedroom brick veneer dwelling, slab on ground with colorbond roof. The dwelling will be serviced with a double attached garage with access via Lorne Street.

The floor will be constructed on an elevated mound to achieve the flood planning level of 145.52m AHD. The dwelling slab is located 3m from the wall of the drainage channel wall and battered down. The drainage channel is unaffected by the proposed dwelling.

## **4.0 ADEQUACY OF APPLICANT'S SUBMISSION**

In relation to the Statement of Environmental Effects, the plans and other documentation submitted with the Application, the applicant has provided adequate information to enable an assessment of the Application.

The applicant has included the following ancillary reports with the supporting documentation:

- *Detailed Plans*
- *BASIX Certificate*
- *Statement of Environmental Effects*

## **5.0 SPECIALIST COMMENTS**

### **5.1 Internal Referrals**

The application was referred to Council's Community Infrastructure Section and the Building Section.



Community Infrastructure

Community Infrastructure comments have been included in the table below

Item no.	Consideration	Planning Control / Council Policy Applicable	Control	Comment	Suggested Condition
1	Flood prone Land –	To ensure that the development satisfies the requirements of DCP Section 13 – Flood Prone Land.	<p>The proposed development shall not result in increased flood hazard or flood damage to other properties;</p> <ul style="list-style-type: none"> <li>Proposed development should be of a type, height and scale that is compatible with the existing urban and historic fabric of the area;</li> <li>Construction methods and materials for that part of the development below the 1% AEP flood levels (as determined by Council) should conform with the flood proofing code as detailed in Section 12.</li> <li>Proposed development shall be able to withstand the force of flowing floodwaters, including debris and buoyancy forces.</li> </ul>	<p>This development is on land which is flood prone.</p> <p>The proponent was advised in writing 13 Feb 2017 that the subject property is subject to flooding and the flood levels for the site range from 144.98 AHD to 145.02 AHD.</p>	<p>Potential Flood Damage to Building</p> <p>An assessment, report and certification by a qualified practising Consulting Engineer stating that the structure has been designed to withstand the flood pressures, including debris and buoyancy forces, imposed in the event of a 1% AEP flood and that the structure will not sustain unacceptable damage from the impact of floodwater and debris is to be submitted to the Certifying Authority for approval with the Construction Certificate.</p>
		MSC policy R25/1 Rivers and Drainage Channels	Easements to drain water in favour of Council will be required for all new development.	<p>A natural watercourse exists on the site. See attached plan of subdivision.</p> <p>Site plans need to show the location of the watercourse and specifically the details of the constructed channel. This is to be clearly identified so as to assess the distance to the closest proposed structure.</p>	<p>An easement to drain water in favour of Council shall be provided over the existing water course, at the cost to the proponent.</p> <p>The easement will extend from the northern side of the constructed channel for a minimum width of 3.0m.</p>
2	Driveway	MSC policy F10 – Footpaths and kerb and guttering	Driveway standards	<p>A new driveway is proposed.</p> <p>There is an existing light pole located at the site for the proposed driveway.</p>	<p>The light pole will require removal / relocation at the developers cost.</p> <p>An S138 permit will be required prior to any works within the road reserve. This includes the construction of driveways associated with proposed development.</p>

Planners Comments.

The flooding and access conditions put forward by Council's Community Infrastructure Department have been incorporated into the proposed conditions of consent.

However, comments put forward in relation to the establishment of an easement over the site for the benefit of Council are not supported by the Assessing Officer. The comments

provided by Community Infrastructure are guided by the provisions of the MSC Policy R25/1 Rivers and Drainage Channels. Section 4.15 of the *Environmental Planning and Assessment Act 1979* does not reference Council Policies as a relevant development assessment consideration. Accordingly, limited weight should be given to a Council policy in the assessment of a development application, although it is a relevant factor to consider for assessing the suitability of the site for the proposed development and the public interest.

The Rivers and Drainage Channels (R25/1) is a broad policy and includes provisions unrelated to the development assessment process as well as some matters which it intends to be considered with the assessment of development applications. This proposed development would have no impact on the existing waterway. It is relevant to observe the following points which have informed the Assessing Officers formation of that opinion:

- The development application involves the construction of a new dwelling at a site where an existing dwelling is currently located and would be demolished to make way for the new building proposed.
- The proposed development would not cause additional stormwater to be conveyed into the waterway at the property. All stormwater from the proposed building would be piped to the Lorne St kerb and gutter. This would be in line with the requirements of Council's Development Control Plan and would be administered via a condition of consent.
- The Department of Industries Office of Water is the authority responsible for the assessment of the impact of development applications on existing waterways. The Office of Waters roll in the assessment of such applications is governed by the *Environmental Planning and Assessment Act 1979* and the *Water Management Act 2000*. The Water Management Act 2000 and associated Regulation exempts development for the purpose of dwellings within a 40m of a watercourse from requiring a Controlled Activity permit.
- Where there is longstanding arrangement where an authority or individual drains water across another individual's land it is possible that authority or person may have an implied easement negating the need for a formal easement to be registered on the land. If Council is interested in establishing an easement over the land it should investigate this further.
- Section 4.15 of the *Environmental Planning and Assessment Act 1979* which establishes the matters for a consent authority to consider when determining a development application does not reference a Council or consent authority policy as a relevant development assessment consideration. Council cannot rely on the provisions of the Rivers and Drainage Channels as justification that an easement should be imposed over the site or the applicant should be required to carry out any work to rehabilitate the waterway.
- Section 4.17 of the *Environmental Planning and Assessment Act 1979* outlines circumstances under which a consent authority can impose conditions of consent on a development. The terms of this section amongst other things includes requirements that conditions must relate to a matter specified by Section 4.15 (1). There is various case law and guidance around the imposition of conditions of consent and how a condition may relate to Section 4.15 of the EP&A Act 1979, ultimately the principles established by this case law set out that a condition must fairly and reasonably relate to the development subject of the development application, should be for a planning purpose and must not be so unreasonable that no reasonable planning authority could impose the condition. It is the opinion of the Assessing Officer that it would be unreasonable for Council to require a condition of consent to benefit it by requiring an easement to be granted in its favour.

In summary, the proposed development is not impacting the drainage channel. It is not reasonable to impose a requirement for the applicant to create an easement, at the applicant's expense, to provide an easement over the existing drainage channel to benefit Council.



If Council and the owner would like create an easement or improve the drainage system it should be done independently from the Development Application. Attached is a Department of Local Governments – Circular to Councils regarding Council's powers under the Local Government Act.

#### Office of Water

The application does not require referral to the Office of Water for Integrated Development under the Water Management Act 2000 for works within 40m of a watercourse as the proposal is for a dwelling house and is exempt from the process.

### **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 R1 General Residential pursuant to MLEP 2009. The proposal is best defined as a *dwelling house* which is permitted with consent in the subject Zone.

##### Objectives of the R1 General Residential Zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable sensitive infill development of other housing types.*
- *To allow people to carry out a reasonable range of activities from their homes, where such activities do not adversely affect the living environment of neighbours.*
- *To promote the principles of ecological sustainable development including energy and water efficient subdivision and housing design.*
- *To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.*
- *To ensure that development is carried out in a way that is compatible with the flood risk of the area.* It is considered that the development proposal is not contrary to the objectives of the Zone.

**Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009**

<i>Part 1 Preliminary</i>	
1.1 Name of Plan	Muswellbrook Local Environmental Plan 2009
1.1AA Commencement	The MLEP 2009 was gazette 17 April 2009.
1.2 Aims of Plan	Noted
1.3 Land to which Plan applies	The MLEP 2009 applies to the whole of Muswellbrook Local Government Area.
1.4 Definitions	Noted
1.5 Notes	Noted
1.6 Consent authority	The consent authority for this development is Muswellbrook Shire Council.
1.7 Maps	Noted.
1.8 Repeal of planning instruments applying to land	Noted.
1.8A Savings provision relating to pending development applications	Noted
1.9 Application of SEPPs	Noted
1.9A Suspension of covenants, agreements and instruments	Noted
<i>Part 2 Permitted or prohibited development</i>	
2.1 Land use zones	Noted
2.2 Zoning of land to which Plan applies	See above
2.3 Zone objectives and Land Use Table	See above
2.4 Unzoned land	Not applicable
2.5 Additional permitted uses for particular land	NA
2.6 Subdivision—consent requirements	NA
2.7 Demolition requires development consent	NA
2.8 Temporary use of land	NA
<i>Part 3 Exempt and complying development</i>	
3.1 Exempt development	NA
3.2 Complying development	NA
3.3 Environmentally sensitive areas excluded	NA
<i>Part 4 Principal development standards</i>	
4.1 Minimum subdivision lot size	NA
4.1AA Minimum subdivision lot size for community title schemes	NA
4.2 Rural subdivision	NA
4.3 Height of buildings	MLEP 2009 specifies a maximum building height of 8.5 m in relation to the land. The proposal does not involve building works over 6m.
4.4 Floor space ratio	MLEP 2009 specifies a floor space ratio of 0.5:1 in relation to the land. The proposal does not involve building works that would result in floor space greater than 0.5:1 of the site.
4.5 Calculation of floor space ratio and site area	Building Area 306.5 Site Area 3522m. sq. FSR 0.09:1
4.6 Exceptions to development standards	NA
<i>Part 5 Miscellaneous provisions</i>	NA
<i>Part 6 Urban release areas</i>	NA
<i>Part 7 Additional local provisions</i>	NA

## **2. State Environmental Planning Policy**

The following State Environmental Planning Policies apply to the Muswellbrook Local Government Area and were considered and found not to be applicable to the proposed development.

- SEPP No. 21 Caravan Parks
- SEPP No. 30 Intensive Agriculture
- SEPP No. 33 Hazardous and Offensive Development
- SEPP No. 36 Manufactured Home Estates
- SEPP No. 44 Koala Habitat Protection
- SEPP No. 55 Remediation of Land
- SEPP No. 62 Sustainable Aquaculture
- SEPP No. 64 Advertising and Signage
- SEPP No. 65 Design Quality of Residential Flat Development
- SEPP (Housing for Seniors or People with Disability) 2004
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (infrastructure) 2007
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (miscellaneous Consent Provisions) 2007
- SEPP (Rural Lands) 2008
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Affordable Renting Housing) 2009
- SEPP (State and Regional Development) 2011

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

There are no relevant draft EPIs.

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

#### **Section 3 – Site Analysis**

It is considered that the proposed Development 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 for a period of not less than fourteen days from 27/06/2018 to 11/07/2018. A notice was also placed in the local newspaper, the Hunter Valley News, at the commencement of the notification period.

No submissions were received during the notification period.

#### **Section 6 – Residential Development**

	Comments
<b>6.1 Built Form</b>	
<b>6.1.1 Context</b>	The locality residential in nature.
<b>6.1.2 Front Setbacks</b>	DCP requires setback of 4.5m. The garage is setback 7.5m from front boundary with the remainder of the frontage stepped back 2.1m.
<b>6.1.3 Side and Rear Setbacks</b>	The dwelling is set 1.35m from north side boundary and 14m from south side boundary.
<b>6.1.4 Building Height and Scale</b>	The building to ridge line is 6m above natural ground level. The dwelling height is elevated onto a mound to achieve the flood planning level of 145.52m AHD. The pre-development R/L for the site is 144.5m AHD.
<b>6.1.5 Front Fencing and Retaining Walls</b>	No fencing or retaining walls shown. Site has existing fencing on boundary that will likely be maintained.
<b>6.2.1 Usable Open Space</b>	Dwelling has a large covered alfresco area leading from internal living space. Area complies with DCP requirements.

6.2.2 Carparking	Double garage complies with DCP section and section 16.
6.2.3 Landscaped Area	3200m. sq.
6.3 Environmental	
6.3.1 Topography	Applies
6.3.2 Solar Access	BASIX applied and thermo mass assessment
6.3.3 Visual Privacy	Adequate setbacks and living spaces are directed to the rear of the property and do not overlook adjoining properties.
6.3.4 Acoustic Privacy	Complies
6.4 Site Operation	
6.4.1 Energy Conservation	Complies, BASIX
6.4.2 Stormwater Management	Water collected to tank and over flow diverted to street.
6.4.3 Security, Site Facilities and Services	Good street surveillance and adequate site services.

**Section 13 – Flood Prone Land**

House has been design and the finished floor level is compliant with the Flood Planning level of 500mm above the 1:100 year flood event.

**Section 16 – Car Parking and Access**

The development complies with Section 16 of the Muswellbrook Development Control Plan regarding car parking. The dwelling is provided with two covered car parking space with the garage and the garage having a total setback from Lorne Street of over 7 metres allows for an additional two (2) stack parks.

**Section 20 – Erosion and Sediment Control**

Erosion and sediment control plan provided and complies with the requirement of Section 20 of MDCP 2009.

**Section 24 – Waste Management**

<i>24.4 Development specific assessment criteria/controls</i>	
<i>24.4.1 Single dwellings, semi-detached and dual occupancy</i>	Condition imposed requiring waste management to be carried out in accordance with DCP

**Summary Comment**

In view of the above considerations approval of development is recommended.

**Section 94A Contributions Plan 2009**

A developer contribution of \$4,572.48 will apply to the proposed development should the Application be approved.

The following sections of the Muswellbrook Development Control Plan 2009 were considered and found not to be applicable to the proposed development:

Section 1 - Introduction	Section 2 – Submitting an application
Section 5 – Subdivision	Section 6 – Residential Development
Section 7 – Village Zones	Section 8 – Rural Development
Section 9 – Local Centre Development	Section 10 – Industrial Development
Section 11 – Extractive Industries	Section 12 – Tourist Facilities and Accommodation
Section 13 – Flood Prone Land	Section 14 – Outdoor signage
Section 15 – Heritage Conservation	Section 16 – Carparking and Access
Section 17 – Sex Services Premises	Section 18 – Child Care Centres
Section 19 – Use of Public Footpaths	Section 20 – Erosion and Sediment Control
Section 21 – Contaminated Land	Section 22 – Land Use Buffers
Section 23 – Onsite Wastewater management systems	Section 24 – Waste Management
Section 25 – Stormwater Management	Section 26 – Site Specific controls
Section 27 – West Denman Urban Release Area	

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

There are no planning agreements relevant to the subject Application.

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

Division 8A of the Environmental Planning and Assessment Regulation 2000 applies to the development.

**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**

***Expand on Significant Matters listed in the table below.***

The following additional matters were considered and, where applicable, have been addressed elsewhere in this report:

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**

No submissions were received during the notification period:

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

It is considered that the proposal is not contrary to the public interest.

NSW Legislation

The applicable legislation has been listed at the start of the report. The assessment has considered these pieces of legislation.

Council Adopted and Draft Policies

The following policies have been adopted by Council and are required to be considered in the assessment of the application.

D7/1 Development Cost Estimating  
D25/1 Rivers and Drainage Channel

**5 CONCLUSION**

It is recommended the application be approved subject to conditions of consent.

Signed by:

Alisa Evans  
Project Planner

Date:

## dlg circular to councils

Circular No. 06-01  
Date 4 January 2006  
Doc ID. A40313

Contact Vaughan Macdonald  
02 4428 4179  
vaughan.macdonald@dlg.nsw.gov.au

### LOCAL COUNCIL WATER UTILITY POWERS UNDER THE LOCAL GOVERNMENT ACT 1993

Recent changes to the rules for subsidy under the Country Towns Water Supply and Sewerage (CTWS&S) Program enable local government water utilities to take increased control over their water supply and sewerage projects, including responsibility for land access and acquisition matters.

Under previous program rules, land access and acquisition for approved program projects were often undertaken under the *Public Works Act 1912* (PW Act) or sometimes under the *Local Government Act 1993* (LG Act). All non-program projects were undertaken under the LG Act.

Following the announcement of the changes to the CTWS&S Program rules, many councils have requested clarification of available powers to construct and maintain works of water supply, sewerage or drainage.

This Circular has been developed in consultation with the Department of Energy, Utilities and Sustainability (DEUS) to clarify the legislative mechanisms and powers available to local government for the provision of water supply, sewerage and stormwater drainage and, in particular, where it occurs on non-council land.

While the PW Act provides broad powers of entry for construction, a strong preference for negotiated outcomes means that these powers are seldom used. Access arrangements are negotiated and formalised with the landowners signing a Consent-to-Enter document and any subsequent land purchase or easement creation are negotiated under the *Land Acquisition (Just Terms Compensation) Act 1991* (LA (JTC) Act). Further advice on this process may be sought from the Department of Commerce.

The introduction of the LG Act removed the powers of entry to construct works of water supply, sewerage or drainage that were available under the previous Act. However, an amendment to the LG Act in 2002 effectively restored these powers. The LG Act now provides councils with the power to enter to construct and maintain their works of water supply, sewerage and stormwater drainage on private land.

Department of Local Government  
5 O'Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541  
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209  
E [info@dlg.nsw.gov.au](mailto:info@dlg.nsw.gov.au) W [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au) ABN 99 567 863 195

2

Legal advice obtained by the Department of Local Government confirms that s.191A of the LG Act achieves a power of entry onto private land for the construction of new works provided that the works are authorised under the LG Act (or any other Act). If additional rights are required over and beyond the statutory rights created by s.191A, then either the consent of the landholder or an easement or other proprietary interest would be required.

While the LG Act provides local councils with powers of entry to construct, maintain and repair works of water supply, sewerage and stormwater drainage work, it is this Department's long held position that the powers under s.191A should only be used as a last resort. The construction of works on private land should ordinarily be conducted with the consent of the landowner. If agreement cannot be reached after all reasonable efforts at negotiation, council can use its compulsory acquisition powers under the Act to acquire land or an interest in land.

In these cases the private landowner may be entitled to compensation determined either by agreement with the council or by using the LA (JTC) Act. No compensation would be payable if the new works are for the individual benefit of a landowner's property.

Councils are given powers to acquire land (including an interest in land) by sections 186-190 of the LG Act for the purpose of exercising any of its functions. Councils may do so by either agreement or compulsory process in accordance with the LA (JTC) Act. Councils are reminded of DLG Circular to Councils No. 97/1 and its attached Guidelines, which provide detailed information to assist in the compulsory acquisition procedures of land.

Negotiations with landowners should include matters such as:

- benefits of the works
- location of works
- timing and duration of construction
- property disturbance during construction and commissioning
- notification protocols for construction, operation and maintenance, and
- costs and compensation matters

Councils are encouraged to reach a negotiated agreement wherever possible and to implement procedures that ensure fairness for landowners affected by proposed new works. Councils need to observe the notice of entry requirements of the LG Act. This includes giving reasonable notice to landowners of when inspections, testing and construction on their land will be undertaken, as well as when maintenance and repair works are required. Councils have the power to maintain and repair works owned by the council and are also required to follow the notice of entry provisions set out in sections 191-201 of the Act when using these powers.



Garry Payne  
Director General



## IDENTIFICATION OF APPROVED PLANS

**1. Development in Accordance with Plans**

The development being carried out in accordance with the development application and the drawings referenced below, and endorsed with Council's approval stamp, except where amended by the following conditions.

Drawing No.	Revision	Drawn by	Drawing Date	Received
098-17 Sheet No. 1	-	P.B Eveleigh Plan Service	1/11/2017	14/06/2018
098-17 Sheet 101	-	P.B Eveleigh Plan Service	1/11/2017	14/06/2018

## OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

**2. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**3. Home Building Act**

- (1) Building work that means residential building works (under the meaning and exemptions of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development which the work relates:
  - (a) In the case of work being carried out by a licensed builder :
    - (i) Has been informed in writing of the licensee's name and license number, and;
    - (ii) Has received Home Owners Warranty Insurance for works where the contract price of the works exceeds \$20,000.
  - (b) In the case of an Owner Builder:
    - (i) Has been informed in writing of the person's name and Owner Builder permit number where the cost of works is greater than \$10,000, or;
    - (ii) Has been given declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials is less than \$10,000.
- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
- (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

- Note: (1) The amounts referred to in point 1 may be subject to change as regulations are amended.
- (2) An owner that engages multiple licensees/contracts or contracts for part of the work and completes work themselves is considered an Owner Builder under the *Home Building Act 1989*.

<b>CONSTRUCTION CERTIFICATE REQUIREMENTS</b>
--

**4. Construction Certificate Requirement**

No works shall commence on-site until such time as a Construction Certificate has been issued for either part or all of the works to be undertaken. If a Construction Certificate is issued for part of the approved works it must relate to all works being undertaken.

**Note:** a construction certificate issued by an Accredited Certifying Authority must be deposited with Council at least 48 hours prior to the commencement of any earthworks, engineering or building work at the site.

**5. Floor Levels for Flooding**

Habitable floor levels adjacent to overland flow paths and flood affected land are to be minimum 500mm above the 1 in 100 year flood level. Plans and certification prepared by an appropriately qualified person demonstrating compliance with this requirement are to be submitted to the Certifying Authority for approval with the Construction Certificate.

**6. Potential Flood Damage to Buildings**

An assessment, report and certification by a qualified practising Consulting Engineer stating that the structure has been designed to withstand the flood pressures, including debris and buoyancy forces, imposed in the event of a 1% AEP flood and that the structure will not sustain unacceptable damage from the impact of floodwater and debris is to be submitted to the Certifying Authority for approval with the Construction Certificate.

**7. BASIX Commitments**

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. Details and plans demonstrating compliance with these requirements are to be submitted to the Certifying Authority for approval with the Construction Certificate.

In this condition:

- (a) relevant BASIX Certificate means:
- i. a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is

applicable to the development when this development consent is modified); or

- ii. if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

- (b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

## **8. Section 7.12 Contributions**

Pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$4,572.00 shall be paid to Muswellbrook Shire Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010. The contribution is to be paid prior to the issue of the Construction Certificate.

## **9. Section 68 Local Government Act Approval**

Prior to issue of a Construction Certificate and the carrying out of any works it will be necessary for the person acting with this consent to obtain approval under Section 68 Local of the Government Act 1993 for the carrying out of all water supply and sewer drainage works.

**Note:** it will be a mandatory requirement of any Section 68 Approval for Council to undertake critical stage inspections of water, sewer and stormwater pipework prior to any backfilling at the site.

<b>FLOOD RISK CERTIFICATION REQUIREMENT TO BE COMPLIED WITH DURING THE CARRYING OUT OF BUILDING WORK</b>
--

## **10. Flood height certification**

Written verification from a registered Surveyor shall be provided to the Principle Certifying Authority certifying that the height of all habitable rooms is consistent with or greater than the minimum floor level. This written verification is to be provided to the Principle Certifying Authority prior to the **slab inspection and the placement of any wall framing members**.

<b>CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT</b>
--

## **11. Site Sign**

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;

- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

## **12. Damage to Public Infrastructure**

The applicant shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, of any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damaged infrastructure at their expense.

## **13. Site Facilities**

- (a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.
- (c) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.
- (f) Each toilet provided must:
  - be a standard flushing toilet, connected to a public sewer, or
  - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
  - an approved temporary chemical closet.
- (g) The provision of toilet facilities must be completed before any other work is commenced.
- (h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
  - protect and support the building from damage, and
  - If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.

- (i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.
- (j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

**14. Sediment and Erosion Control**

All required erosion and sedimentation techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

Throughout the carrying out of the development the erosion and sediment control fences are to be regularly monitored and repaired or replaced where necessary. No fill or sediments are to be placed within the waterway at the site.

**15. Stabilised access (Residential)**

Unless existing site access is utilised, stabilised site access consisting of at least 200mm of aggregate at 30–60mm in size and a minimum of 3m in width must be provided from the road edge to the front of the building being constructed prior to the commencement of work. The stabilised access must be fully maintained and removed from the site when a permanent driveway has been constructed.

**16. Stabilised access (Residential)**

Prior to issue of a construction certificate, approval for the relevant authority for the removal and relocation of the existing light pole located within the proposed new driveway layback is to be gain. The applicant shall bear the cost of all works associated with the works.

The light pole relocation works are to be completed prior to the issuing of an Occupation Certificate.

<b>CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK</b>
--

**17. Construction Hours**

- (a) Subject to this clause, building construction is to be carried out during the following hours:
  - i. between Monday to Friday (inclusive)—7.00am to 6.00pm
  - ii. on a Saturday—8.00am to 1.00pm
- (b) Building construction must not be carried out on a Sunday or a public holidays.
- (c) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.
- (d) The builder and excavator must display, on-site, their 24 hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.

**18. Dust Emission and Air Quality**

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in addition odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

**19. Applicant's Cost of Work on Council Property**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

**20. Erosion and Sediment Controls**

The approved Sediment & Erosion controls shall be reinstated daily prior to workers leaving the site where modified at any time. Any sediment that escapes from the allotment shall be cleaned, collected and disposed of to Council's waste management facility or the sediment shall be returned to the subject allotment on a daily basis.

**21. Site Waste Minimisation**

Throughout the carrying out of building works the person acting with this consent shall take reasonable steps to minimise waste from the carrying-out of the development in accordance with the following objections of Chapter 24 Waste Minimisation and Management of Council's Development Control Plan.

- Optimise adaptive reuse opportunities of existing building/structures
- Maximise reuse and recycling of materials
- Minimise waste generation
- Ensure appropriate storage and collection of waste
- Minimise environmental impacts associated with waste management
- Avoid illegal dumping
- Promote improved project management.

<b>CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE</b>
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**22. Occupation**

The building is not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

**23. Connection to Sewer**

Prior to the issue of any Occupation Certificate the premises shall be connected to the sewer system in accordance with the Australian Standard 3500.

In accordance with the relevant Section 68 Approval a works as executed plan must be submitted to Council. This drainage diagram should be prepared on Council's approved form and submitted seven (7) days following the final drainage inspection and prior to any Occupation Certificate being issued.

**24.      Installation of Driveways**

Prior to the issue of any Occupation Certificate, a sealed vehicular crossover shall be constructed between the property boundary and the proposed garage in accordance with the approved plans, this development consent and any approval under Section 138 of the Roads Act 1993.

**25.      Street Numbering**

Prior to the issue of any Occupation Certificate the relevant street number is to be displayed at the site in a manner so to make it visible from the front property boundary.

**26.      Occupation Certificate**

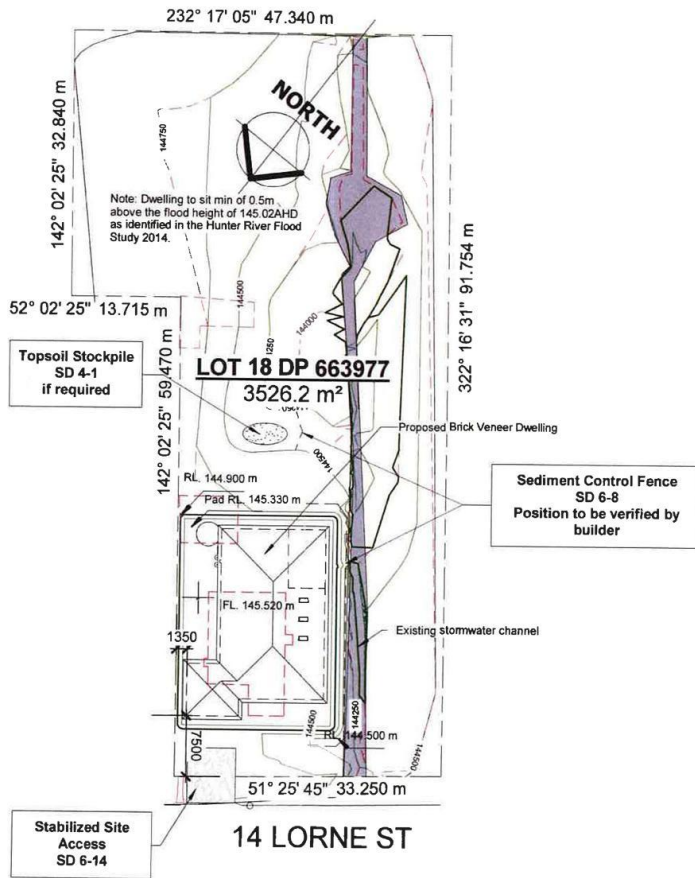
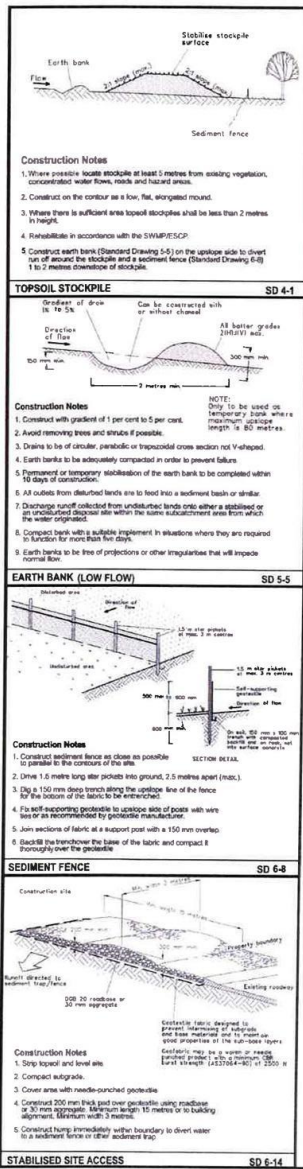
Prior to the issue of any Occupation Certificate any redundant vehicle laybacks shall be broken out and replaced with standard kerb and gutter.

<b>CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES</b>
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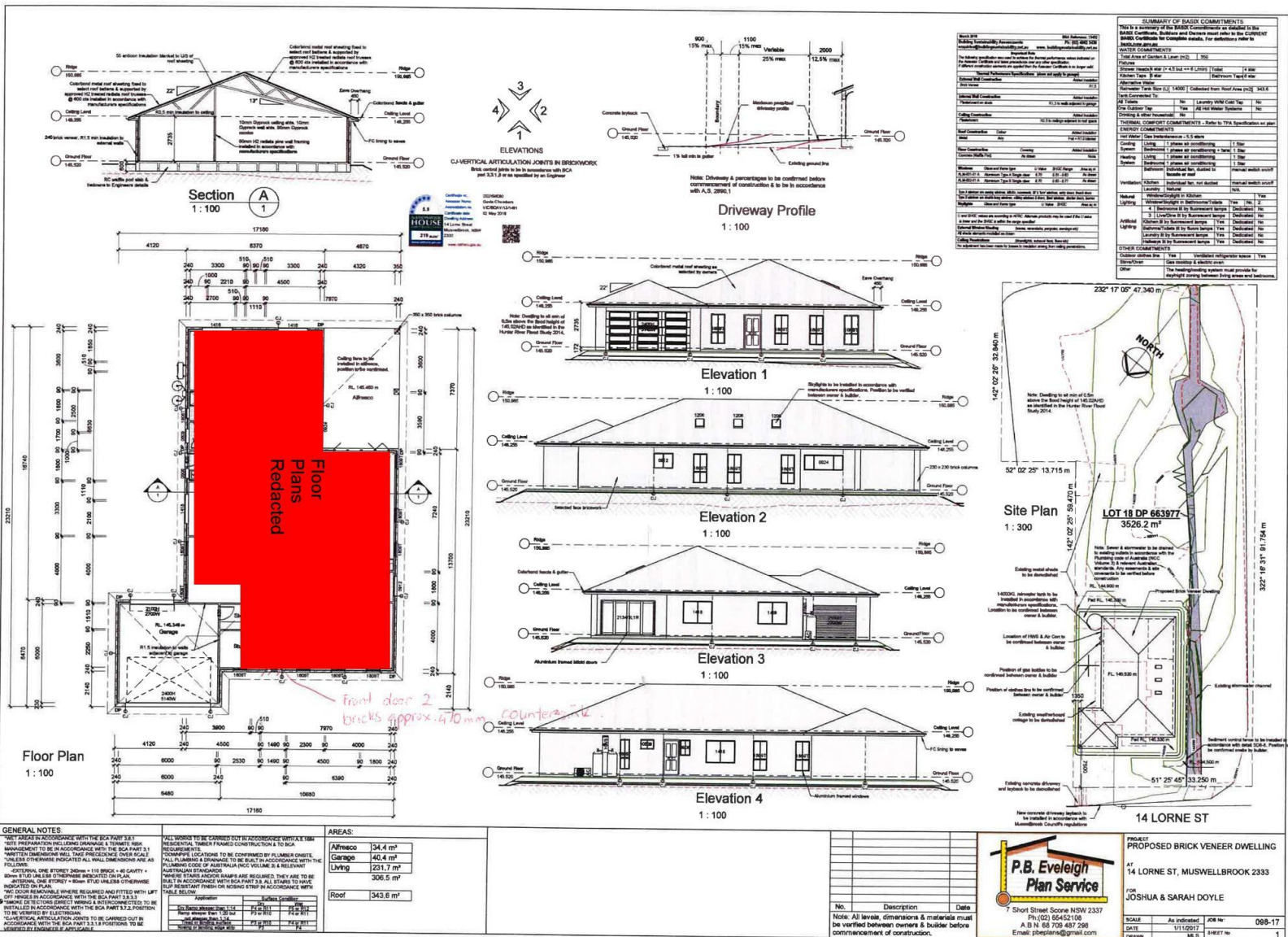
**27.      Stormwater Disposal**

All stormwater from the development including all hardstandings and overflows from rainwater tanks is to be collected and disposed of to:

- (a)    the kerb and gutter (piped)







**6.2 OUTSTANDING DEVELOPMENT APPLICATIONS REPORT**

<b>Attachments:</b>	<b>A. Outstanding Development Applications 1 November 2018</b>
<b>Responsible Officer:</b>	<b>Carolyn O'Brien - Acting Director - Environment &amp; Community Services</b>
<b>Author:</b>	<b>Hamish McTaggart - Co-Ordinator - Development</b>
<b>Community Plan Issue:</b>	<b><i>Support initiatives which reduce the community's impact on the environment</i></b>
<b>Community Plan Goal:</b>	<b><i>Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible.</i></b>
<b>Community Plan Strategy:</b>	<b><i>Require all development proposals to avoid and mitigate against potential environmental impacts and facilitate improved environmental outcomes where possible.</i></b>

**PURPOSE****OFFICER'S RECOMMENDATION**

The Committee note the undetermined Development Applications listed in Attachment A and the status of their assessment.

Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_

**STATUTORY IMPLICATIONS**

Under the provisions of the Environmental Planning and Assessment Regulation 2000 Council has a statutory obligation to assess:

General development applications within 40 days (excluding stop the clock days) of their receipt; and

The following types of development applications within 60 days (excluding stop the clock days) of their receipt:

- (i) Designated development,
- (ii) Integrated development,
- (iii) Development for which the concurrence of a concurrence authority is required, and
- (iv) A development application accompanied by a biodiversity development assessment.

## Development Assessment Committee - Outstanding DAs as at 1/11/2018

<u>Account</u>		<u>Property</u>	<u>Applicant</u>	<u>Value</u>	<u>Received</u>	<u>Days</u>	<u>Current Status</u>
005.2013.00000064.002	S4.55 (2) Modification - Enclose Carport	64-66 Ironbark RD MUSWELLBROOK LOT: 101 DP: 1153819	Mr M D Thorley	\$0	26/10/2018	6	CC Application Received
005.2018.00000099.001	Demolition of a Shed and the Construction of a Centre-Based Child Care Facility Classroom, Storage Shed, Fencing and Signage	Turner ST DENMAN Lot: 230 DP:729996 Turner ST DENMAN PRT: 231 DP: 729996 REF: FIELD	HWD	\$580,000	23/10/2018	9	Notify Adjoining Owners
005.2018.00000098.001	Ancillary Development - Garage, Deck with Roof and Games Room	LOT: 7 DP: 5634	Ms J Tukaki	\$27,535	19/10/2018	13	Notify Adjoining Owners
005.2018.00000097.001	Signage (Business Identification Sign and Advertisement Structure)	49-51 Maitland ST MUSWELLBROOK LOT: 390 ALT: DP: 1144132 REF:	Mobil Oil Australia Pty Ltd	\$80,000	18/10/2018	14	Notify Adjoining Owners
005.2018.00000096.001	Ancillary Development - Shed	2 Top Knot PL MUSWELLBROOK LOT: 312 DP: 1105347	Mr B Barnes	\$19,040	18/10/2018	14	Notify Adjoining Owners
005.2018.00000095.001	Ancillary Development - Shed and Retaining Wall	7 Marlock PL MUSWELLBROOK LOT: 4050 DP: 794059	Mr T J Grady	\$32,205	17/10/2018	15	Notify Adjoining Owners
005.2018.00000094.001	Ancillary Development - Above Ground Pool and Deck	LOT: 504 DP: 804146	Mr L E Worth	\$25,000	12/10/2018	20	Notify Adjoining Owners
005.2018.00000093.001	Ancillary Development - Shed	LOT: 1 DP: 365913	Mr S E Millwood	\$39,350	11/10/2018	21	Notify Adjoining Owners
005.2018.00000092.001	Ancillary Development - Retaining Wall	51A King ST MUSWELLBROOK LOT: 2 DP: 607907	Mr R J Hartin	\$9,749	11/10/2018	21	Advertisement - Proposal

## Development Assessment Committee - Outstanding DAs as at 1/11/2018

<u>Account</u>		<u>Property</u>	<u>Applicant</u>	<u>Value</u>	<u>Received</u>	<u>Days</u>	<u>Current Status</u>
005.2018.00000091.001	Ancillary Development - Retaining Wall	11 Northerly CL MUSWELLBROOK LOT: 34 ALT: DP: 1112082 REF:	Mr W A Voigt	\$5,000	8/10/2018	24	Notify Adjoining Owners
005.2018.00000090.001	Ancillary Development - Swimming Pool	LOT: 1 DP: 509026	Mrs J E Alexander	\$22,710	4/10/2018	28	Notify Adjoining Owners
005.2018.00000089.001	Ancillary Development - Shed	LOT: 22 DP: 260394	Mr P G Smith	\$18,965	2/10/2018	30	Notify Adjoining Owners
005.2018.00000088.001	Commercial Alterations and Additions	Bell ST MUSWELLBROOK LOT: 265 DP: 1030447 REF: GOLF	Stanton Dahl Architects	\$68,162	26/09/2018	36	Additional Info Required
005.2018.00000080.001	Ancillary Development - Shed	149 Queen ST MUSWELLBROOK LOT: 66 DP: 1181251	Mr T J Cooper	\$24,000	7/09/2018	55	Notify Adjoining Owners
005.2018.00000078.001	Service Station (Operating Hours - 24 hours, 7 days a week) and Restaurant (Operating Hours - 6:00am to 10:00pm, 7 days a week)	147/151 Bridge ST MUSWELLBROOK LOT: 1 DP: 159620  LOT: 1 DP: 161784  LOT: 1 DP: 784361  LOT: 1 DP: 794803	Inland Building and Construction	\$2,400,000	6/09/2018	56	Advertisement - Proposal
005.2018.00000077.001	Change of Building Use (Shop 3) to a Business Premises - Beauty and Nail Room	LOT: 51 DP: 850159	Glamour Beaute	\$2,955	29/08/2018	64	DA Acknowledgement

## Development Assessment Committee - Outstanding DAs as at 1/11/2018

<u>Account</u>		<u>Property</u>	<u>Applicant</u>	<u>Value</u>	<u>Received</u>	<u>Days</u>	<u>Current Status</u>
005.2018.00000074.001	Office Premises and Car Parking Area Ancillary to Security and Traffic Control at Bayswater Power Station	New England HWY MUSWELLBROOK PT: 2 ALT: A DP: 1095515	Monteath & Powys Pty Ltd	\$115,700	20/08/2018	73	Additional Info Required
005.2018.00000076.001	Installation of New Telecommunications Facility	Hill ST MUSWELLBROOK LOT: 18 DP: 1075238 REF: PARK	Kordia Solutions Australia	\$200,000	14/08/2018	79	Notify Adjoining Owners
005.2018.00000064.001	Ancillary Development - Garage	LOT: 12 DP: 237872	Miss K Hunter	\$8,964	30/07/2018	94	Notify Adjoining Owners
005.2018.00000062.001	Two (2) Lot Subdivision	Honey LA SANDY HOLLOW LOT: 2 DP: 1234634	Monteath & Powys Pty Ltd	\$10,000	23/07/2018	101	Notify Adjoining Owners

## Development Assessment Committee - Outstanding DAs as at 1/11/2018

<u>Account</u>		<u>Property</u>	<u>Applicant</u>	<u>Value</u>	<u>Received</u>	<u>Days</u>	<u>Current Status</u>
005.2018.00000054.001	Demolition of a Commercial Building and the Construction of a Two (2)	LOT: 1 DP: 11221  LOT: 2 DP: 11221  LOT: 7 DP: 71755 REF: LIBRARY  PT: 8 ALT: A SEC: 6 DP: 758740 REF: LIBRARY 83 Hill ST MUSWELLBROOK LOT: 5 DP: 11221 REF: TERTIARY ED* 85 Hill ST MUSWELLBROOK LOT: 4 DP: 11221  LOT: 3 DP: 11221 Bridge ST MUSWELLBROOK PT: 8 ALT: B SEC: 6 DP: 758740 REF: WEIDMAN 83 Hill ST MUSWELLBROOK LOT: 5 DP: 11221 REF: CARPARK	Mr S Rose	\$3,556,300	15/06/2018	139	Notify Adjoining Owners
005.2018.00000052.001	New Dwelling House	LOT: 18 DP: 663977	Mr J M Doyle	\$457,248	14/06/2018	140	CC Application Received
005.2018.00000048.001	Change of Building Use to Dwelling House and Alterations and Additions	1820 Merriwa RD SANDY HOLLOW LOT: 300 DP: 750963 Merriwa RD SANDY HOLLOW LOT: 301 DP: 750963	Mr J R Dowse	\$12,936	1/06/2018	153	CC Application Received
005.2018.00000047.001	Boarding House	28 Wollombi RD MUSWELLBROOK LOT: 495 DP: 1175898 REF: DOH	Baini Design	\$183,700	31/05/2018	154	Additional Info Required

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005.2003.00000072.004	S4.55(2) Modification - Alter Hours of Operation of Restaurant Drive-thru (McDonald's)	83-89 Maitland ST MUSWELLBROOK LOT: 100 DP: 793194	McDonalds Australia Limited	\$0	31/05/2018	154	Additional Info Required
005.2018.00000039.001	Alterations and additions to a heritage listed dwelling	LOT: 11 DP: 844666	Mr A C Neil-Smith	\$48,000	10/05/2018	175	DA Acknowledgement
005.2018.00000018.001	Water Treatment and Recycling Plant ancillary to Existing Winery and Distillery	Hunter ST MUSWELLBROOK LOT: 1 DP: 995228	Hunter Wine Services	\$400,000	28/02/2018	246	Advertisement - Proposal
005.2002.00000342.005	S96(2) Modification - Consolidate Two Consent Documents into One with Modified Conditions Where Applicable	8440 New England HWY MUSWELLBROOK LOT: 30 ALT: DP: 815308	Casson Planning and Development Services	\$0	28/02/2018	246	Subdiv. Cert. App. Received
005.2017.00000058.002	S96 (1A) Modification - Modify Condition 8	Jerdan ST DENMAN LOT: 1 DP: 151236	Ms M J Melville	\$0	19/02/2018	255	Advertisement - Proposal
005.2017.00000108.001	Extension to Existing Commercial Building	4 Lorne ST MUSWELLBROOK ALT: A DP: 332469	W.A. Brown Building Pty Ltd	\$44,000	14/12/2017	322	Additional Info Required
005.2017.00000095.001	Concrete Block Retaining Wall and Steel Framed Shed	70-72 Ironbark RD MUSWELLBROOK LOT: 103 DP: 1153819	Mr B J Osborn	\$145,000	27/10/2017	370	Additional Info Required
005.2017.00000076.001	Renovations and Additions to Racing and Function Centre	LOT: 150 DP: 708030	Muswellbrook Race Club Limited	\$4,000,000	24/08/2017	434	Additional Info Required

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005.2017.00000060.001	Change of Use - Building Materials Recycling Depot	7 Glen Munro RD MUSWELLBROOK LOT: 5 DP: 1018378	Mr L McWhirter	\$0	23/06/2017	496	Additional Info Required
005.2000.00000212.006	S96(1a) Modification - Extension of timeframe of Operations & Extraction Area, Site Plan, Removal of Conditions	Denman PH COUNTY BRISBANE LOT: 1 DP: 221400 2449 Denman RD MUSWELLBROOK LOT: 12 DP: 1027580	Cardno (NSW/ACT) Pty Ltd	\$0	29/05/2017	521	Advertisement - Proposal
005.2016.00000032.001	Placement of Fill	110 Merriwa RD DENMAN LOT: 402 DP: 1175263 Merriwa RD DENMAN LOT: 403 DP: 1175263	Casson Planning and Development Services	\$5,000	12/04/2016	933	Additional Info Required
<b>DAs Outstanding:</b>		<b>35</b>					



**7 DATE OF NEXT MEETING**

19 November 2018

**8 CLOSURE**