



**muswellbrook
shire council**

Muswellbrook Shire Council
ORDINARY COUNCIL MEETING

BUSINESS PAPER
11 JUNE 2019



ORDINARY COUNCIL MEETING, 11 JUNE 2019

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
7 June, 2019

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the CHAMBERS, Administration Centre, Muswellbrook on **11 June, 2019** commencing at 6.00pm.

Fiona Plesman
GENERAL MANAGER

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**MUSWELLBROOK SHIRE COUNCIL
ORDINARY COUNCIL MEETING**

**AGENDA
TUESDAY 11 JUNE 2019**

- 1 ACKNOWLEDGEMENT OF COUNTRY**
- 2 CIVIC PRAYER**
- 3 APOLOGIES AND LEAVE OF ABSENCE**

Moved: _____ **Seconded:** _____

- 4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING
RECOMMENDATION**

That the Minutes of the Ordinary Meeting held on **14 May 2019**, and the Extra Ordinary Meeting held on **21 May 2019**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

Moved: _____ **Seconded:** _____

- 5 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.

6 PUBLIC PARTICIPATION**7 MAYORAL MINUTES****8 GENERAL BUSINESS****9 BUSINESS ARISING**

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 78/2018 - MIXED USE DEVELOPMENT COMPRISING A SERVICE STATION AND RESTAURANT

Attachments:	<ul style="list-style-type: none">A. DA 78/2018 - Section 4.15 Assessment ReportB. DA 78/2018 - Recommended Conditions of ConsentC. DA 78/2018 - Proposed Plans (Revision E)D. DA 78/2018 - Pylon Sign Design PlanE. DA 78/2018 - Revised Statement of Environmental EffectsF. DA 78/2018 - Statement of Heritage ImpactG. DA 78/2018 - Traffic and Parking AssessmentH. DA 78/2018 - Supplementary Traffic Statement (February 2018)I. DA 78/2018 - Noise Impact AssessmentJ. DA 78/2018 - Data Review of Previous Environmental Reports (Soil Validation)K. DA 78/2018 - Reports and Information Submitted by the Applicant in Response to Council's 29 April 2019 Request for Additional InformationL. DA 78/2018 - 88B Instrument Proposed by the ApplicantM. DA 78/2018 - NSW Police Referral CommentsN. DA 78/2018 - NSW Roads and Maritime Services Referral CommentsO. DA 78/2018 - Submissions
Responsible Officer:	Carolyn O'Brien - Acting Director - Environment & Community Services
Author:	Hamish McTaggart - Co-Ordinator - Development
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>Facilitate the inspection of all development sites subject to Development Application / Construction Certificate in accordance with statutory requirements.</i>

PURPOSE

This report has been prepared to inform Council in determining Development Application (DA) 78/2018. This Development Application has been assessed by Council Officers and a copy of 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 determining development applications under the *Environmental Planning and Assessment Act 1979* where the development has an estimated capital investment value that exceeds \$750,000.00. Delegations issued to the Development Assessment Committee include a limitation on the Committee determining development applications under the *Environmental Planning and Assessment Act 1979* where the development has an estimated capital investment value that exceeds \$2,000,000.00

The proposed development has an estimated Capital Investment Value of \$2,400,000.00 and therefore requires determination by Council.

RECOMMENDATION

Council approve Development Application No 78/2018, involving a Mixed Use Development of a Service Station and Restaurant, at Lot 1 DP 161784, Lot 1 DP 794803, Lot 1 DP 784361 and Lot 1 DP 159620, subject to the recommended conditions of consent contained in Attachment B.

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

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves the construction and operation of a service station and restaurant at Lot 1 DP 161784, Lot 1 DP 794803, Lot 1 DP 784361 and Lot 1 DP 159620 (147–153 Bridge Street, Muswellbrook).

The subject site is located on the corner of Bridge Street and St Heliers Street, and is part of the Muswellbrook Central Business District (CBD). Under the Muswellbrook Local Environmental Plan (LEP) 2009 the land is zoned B2 Local Centre, and is situated within the Muswellbrook Heritage Conservation Area and in the vicinity of Eatons Hotel, a State listed Heritage item.

The subject site was historically operated as a car dealership and mechanics workshop, until approximately 2013. Council approved demolition of existing buildings at the site and the construction of 'tourist accommodation' under DA 7/2013. Demolition works were carried out at the site, but the approved accommodation was never constructed.

The following works would be carried out at the site as part of the proposed development:

- Construction of a service station sales/service building with a floor area of 207m², the retail/customer area would be 80m².
- Installation of thirty - seven (37) car parking spaces.
- Refuelling area canopy and fuel bowsers.
- Underground fuel storage tanks.
- Free standing pylon sign advertisement structure.
- Restaurant building with 138m² indoor seating area and 65m² outdoor seating area.
- Service station and restaurant unloading areas.
- Blockwork retaining walls along the north, east and south property boundaries.
- A vehicle crossover point from Bridge Street.
- A two vehicle crossover points from St Heliers Street.
- Installation of landscaping.

- Construction of 1.8m acoustic timber fence along the sites boundary.

The proposed development was for a 24/7 operation of the service station but has been amended by the applicant and now proposes the following operating hours :

- **Restaurant** 6:00am – 10:00pm 7 days a week.
- **Service Station** 5:00am – 10:00pm 7 days a week

The 3D image below provides an overview of the proposed development and associated works.

The proposed development is permitted in the B2 Local Centre zone.

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. Council Officers recommend that development consent be granted to the proposed development, subject to recommended conditions of consent provided in Attachment B.

Key considerations and findings of the section 4.15 assessment include:

- The land subject to this development application is zoned B2 Local Centre under the Muswellbrook LEP 2009. The proposed development is permissible with consent under the provisions of the land use table for the B2 Local Centre land use zone.
- The proposed development would comply with the provisions of the Muswellbrook LEP 2009 that relate to the proposed development.
- The proposed development would be compatible with the requirements of the relevant State Environmental Planning Policies.
- Where the proposed development is carried out in accordance with the recommended conditions of consent Council Officers are satisfied that the development would be in accordance with the relevant requirements of the Muswellbrook Development Control Plan (DCP).
- The proposed development is not inconsistent with the recommendations in the Muswellbrook Town Centre Strategy and the Muswellbrook CBD Urban Domain plan.
- The proposed development was advertised and notified in accordance with the requirements of the Muswellbrook Development Control Plan. Submissions from two (2) individuals were received. The issues raised by the submitters have been considered by Council Officers and measures to mitigate environmental impacts have been incorporated into the recommended conditions.
- The proposed development was referred to the NSW Police and NSW Roads and Maritime Services who did not object to the development.
- The assessment report has considered potential environmental impacts related to the proposed development. Council Officers are satisfied that the proposed development is unlikely to have a significant adverse environmental impact where it is carried out in accordance with the recommended conditions of consent.

Where the proposed development is carried out in accordance with the recommended conditions of consent Council Officers are satisfied that it would be generally in accordance with the public interest. The proposed development has the potential to generate additional economic activity and retail/hospitality employment opportunities for the Muswellbrook community.

COMMUNITY CONSULTATION

The proposed development was notified and advertised in accordance with the requirements of the Muswellbrook DCP between 19 September 2018 and the 4 October 2018. Two (2) submissions were received during the notification period.

Following the receipt of additional information and revised plans, the proposed development was re-notified to the submitters. One (1) submitter responded to the re-notification of the proposed development and raised additional matters for consideration by Council.

Copies of the submissions received have been included as attachments to this report.

The issues raised by the submissions have been considered by Council Officers through the assessment of the development application, and are commented on in detail under the 'any submissions made' heading of the attached Section 4.15 Assessment.

Council Officers are satisfied that issues raised by the submissions can be appropriately managed by recommended conditions of consent. Council Officers are of the view that there are not any concerns or issues raised by the submissions that would substantiate a decision to refuse the proposed development.

CONSULTATION WITH PUBLIC AUTHORITIES AND COUNCIL DEPARTMENTS

Council Officers referred the proposed development to the NSW Roads and Maritime Services, and NSW Police for comment. The responses provided raise no objection to the proposed development, and are discussed in further detail in the Development Assessment Report. The comments provided by these public authorities have been included as attachments to this report.

The referral comments from both the NSW Roads and Maritime Services and the NSW Police recommend conditions of consent, and these have been incorporated into the recommended conditions of consent prepared by Council officers.

Council Planning Officers have also referred the proposed development internally to the following Council Officers/Departments:

- Heritage Advisor
- Water and Waste Team
- Building Surveyor
- Community Infrastructure (Roads and Drainage Team)
- Environmental Health Officer

The comments provided by each of these sections have been considered and commented on under the 'internal referrals' section of the attached Section 4.15 Assessment.

The reports from each of the Council Officers/Departments do not raise objection to the development. A number of referral responses put forward recommended conditions. These recommended conditions have been reviewed and have informed the conditions of consent recommended to Council.

OPTIONS

The Council 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.

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 in the Land and Environment Court.

CONCLUSION

DA 78/2018 is being reported to Council as the determination of the development application is outside the function delegated to the General Manager and the Development Assessment Committee. This is due to the value of the proposed development exceeding \$2,000,000.

Council Officers have completed a Section 4.15 Assessment in relation to the proposed development. The outcome of the Section 4.15 Assessment is that Council staff recommend that Council grant consent to DA 99/2018 subject, to the conditions of consent outlined in Attachment B.

DEVELOPMENT ASSESSMENT REPORT

ADDRESS:	LOT: 1 DP: 161784, LOT: 1 DP: 794803, LOT: 1 DP: 784361, LOT: 1 DP: 159620 147 Bridge Street to 153 Bridge Street MUSWELLBROOK
APPLICATION No:	78/2018
PROPOSAL:	Mixed Use Development Comprising a Service Station and Restaurant
OWNER:	Kanyon Pty Ltd
APPLICANT:	Inland Building And Construction Po Box 1864 BATHURST NSW 2795
AUTHOR:	Mr H A McTaggart
DATE LODGED:	06/09/2018
DATE OF REPORT:	5 April 2019

SUMMARY

SUBMISSIONS: Two (2)

RECOMMENDATION: Approval subject to conditions

1.0 SITE AND LOCALITY DESCRIPTION

The site subject to this development application is located in the northern part of the Muswellbrook CBD, at the corner of Bridge St and St Heliers Street. The site's address is 147 – 153 Bridge Street, and involves four (4) separate property titles, Lot 1 DP 161784, Lot 1 DP 794803, Lot 1 DP 784361 and Lot 1 DP 159620.

The subject site is identified in the figure below.



(Figure except from the SoEE, Anthony Dantith, 7 December 2018)

Under the Muswellbrook Local Environmental Plan 2009 (MLEP 2009) the subject land is zoned B2 Local Centre. The site adjoins similarly zoned land to the north, south and west. To the east the subject site is a B2 zoned and R1 General Residential zoned land. In the Muswellbrook Town Centre Strategy the site sits in a recommended Mixed Use Precinct, with further recommendations to encourage active street frontages to Bridge Street and to improve pedestrian infrastructure in Bridge Street and St Heliers Street.

The subject site is located in the Muswellbrook Heritage Conservation Area. The subject land is not identified as a heritage item, but is situated in the vicinity of Eatons Hotel, a State listed item that is located south east of the site on the opposite side of Bridge Street.

The Muswellbrook Hungary Jacks is located immediately south of the subject site, on the direct opposite side of St Heliers Street.

St Heliers Street is a part of the local Road network under the control of Council as the Roads Authority, while Bridge Street forms part of the New England Highway, which is managed and maintained by the NSW Roads and Maritime Authority as the relevant Roads Authority for classified state roads. The land also fronts Flanders Avenue, a local road for which Council is the Roads Authority. However, the proposed development does not propose any vehicle access to this road.

The site has a gradual west to east slope, sloping upward from Bridge Street toward Flanders Avenue.

The site was previously operated as a car dealership and mechanics workshop until approximately 2013. In 2013, Council approved a development application for 'tourist accommodation,' comprising 45 serviced units and demolition of existing buildings on the site (DA 7/2013). These approved units have not been constructed on the site. Demolition of the dealership buildings has been carried out.

2.0 DESCRIPTION OF PROPOSAL

The proposed development involves the construction and operation of a service station and restaurant at the site.

As part of the proposed development, the following would be carried out:

- Construction of a service station sales/service building with a floor area of 207m². The building would include a sales service area, unisex amenities, food prep area, office, store room and 80m² retail/customer floor area.
- Installation of seven (7) car parking spaces immediately adjacent the service area.
- Refuelling area canopy and fuel bowsers.
- Underground fuel storage tanks.
- Free standing pylon sign advertisement structure.
- Restaurant building to include amenities, kitchen preparation and sale area, cool room and freezer, office, 138m² indoor seating area, and 65m² outdoor seating area.
- Thirty (30) car parking spaces to the east of the restaurant.
- Blockwork retaining walls along the north, east and south property boundaries.
- A vehicle crossover entry point to the site from Bridge Street.
- A vehicle crossover exit point from St Heliers and a second vehicle crossover entry/exit point to St Heliers.

The applicant has advised Council that they anticipate that this development would support the employment of 6 full time employees and 8-10 casual positions.

When development application was lodged the applicant put forward the following operating hours for the proposed development:

- **Restaurant** 6:00am – 10:00pm 7 days a week.
- **Service Station** 24 hours 7 days a week.

Following a request for additional information, the applicant amended the proposed development and the hours of operation to between 5:00am – 10:00pm, 7 days a week.

3.0 SPECIALIST COMMENTS

3.1 Internal Referrals

The following Council Officers and Council Departments were referred the development application for consideration/comment.

3.1.1 Heritage Advisor

The proposed development is located within a Heritage Conservation Area and north east of Eatons Hotel a State Heritage item listed under the Muswellbrook LEP 2009.

The applicant was required to prepare a Statement of Heritage Impact (SOHI). Council's Heritage Officer was satisfied that the proposed development was satisfactory from a heritage impact perspective. The comments of the Heritage Advisor observed the physical separation between the site and Eatons Hotel as a key factor minimising impact.

3.1.2 Water and Waste

The proposed development was referred to Council's Water and Waste Team to consider the availability of sewer and water service connections to support the proposed development. No issues were raised with the development, however, the applicant will need to obtain a Notice of Requirements from Council for the carrying out of the development. Council's Water and Waste Team have also provided an

estimate of the anticipated Section 64 Contributions that would be payable for the development:

\$7,743.12 (water) and \$4,132.08 (sewer) based on the 2018/2019 fees and charges.

3.1.3 Building Surveyor

Council's Casual Building Surveyor raised no objection to the proposed development and recommended the imposition of a number of standard conditions of consent if development consent is granted to the development application.

3.1.4 Environmental Health Officer

Council's Environmental Health Officer initially asked for more information. Final comments were received from Council's Environmental Health Officer on 11 April and 30 May 2019.

Council's Environmental Health Officer has recommended the imposition of standard conditions of consent relating to the operation of the premises as a food, and that the development be progressed in accordance with the recommendations of the remediation action plan.

Issues were initially raised with the proposed 24/7 operation of the premises and the related Noise Impact Assessment. The proposed hours of operation for the premises were These hours of operation were reviewed and supported by Council's Environmental Health Officer supports the revised operating hours of between 5:00am and 10:00pm, 7 days per week, subject to a recommended condition of consent.

The conditions recommended by Council's Environmental Health Officer have informed the recommended conditions of consent.

3.1.5 Community Infrastructure/Roads and Drainage

Council's Community Infrastructure Assistant Director and Chief Engineer raised no objection to the proposed development from the perspective of Council's Community infrastructure Department provided it was carried out in accordance with a number of recommended conditions of consent:

- The applicant obtaining a section 68 approval for stormwater work and the submission of detailed stormwater drainage design information with any section 68 application
- The applicant obtaining a section 138 for the carrying out of works in Council's Road reserve and any section 138 application being accompanied by driveway crossover designs and a public domain plan.
- The establishment of no stopping zones in accordance with plans to be referred to Council's Traffic Committee.
- The construction of all required car parking areas, and installation of related signs and lighting.
- Replacement of redundant vehicle laybacks, the installation of new vehicle accesses, kerb and gutter and footpaths in accordance with plans approved with any Section 138 application.

Conditions that relate to the above requirements have been included as recommended conditions of consent.

3.2 External Referrals

The proposed development was referred to the following external Public Authorities for comment:

3.2.1 NSW Roads and Maritime Services

The proposed development was referred to the NSW Roads and Maritime Services (RMS) for concurrence as the development would be accessed from a Classified State road.

The NSW RMS provided final comments in relation to the proposed development on 13 March 2019. NSW RMS have no objection to the proposed development provided that any development consent included conditions which address the following matters:

- *Vehicular access from the proposed Bridge Street driveway to be left in only.*
- *All vehicles are able to enter and exit the site in a forward direction.*
- *Heavy vehicle fuelling shall not be permitted.*
- *Council to ensure turning paths for fuel deliveries is suitable.*

3.2.2 NSW Police

The proposed development was referred to NSW Police on the 19 September 2019 for comment. The proposed development does not require concurrence from the NSW Police.

NSW Police do not object to the proposed development, but made a number of recommendations in relation to the design and construction of the premises to manage the safety of the operation. A number of these recommendations have been incorporated into the recommended conditions of consent.

In addition to its recommendations the NSW Police correspondence included some commentary on the proposed 24/7 hour operation of the service station and possible conditions to limit anti-social behaviour. The applicant has now amended the hours to 5:00am and 10:00pm, 7 days per week to address these concerns.

4 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:

Muswellbrook Local Environmental Plan (LEP) 2009

Land Use Zone and Permitted Land Use

The proposed development relates to land zoned B2 Local Centre under MLEP 2009.

The proposed development involves the establishment of two (2) business premises - a service station and a restaurant or café. The MLEP 2009 definitions for these uses have been provided below:

***restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

Both land uses are permissible with consent in the B2 zone. When reviewing the land use table it is relevant to note that the restaurant or café land use is a sub-category of the commercial premises land use. Where a collective land use term such as the commercial premises land use is identified as a permissible land use all sub-categories of that land use are also taken to be permissible with consent unless the subcategories of that use are specifically identified as a prohibited land use elsewhere in the land use table.

The B2 Local Centre Land Use table has been included below:

2 Permitted without consent

Home occupations

3 Permitted with consent

*Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Health services facilities; Heavy industrial storage establishments; Highway service centres; Hostels; Information and education facilities; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Research stations; Respite day care centres; Restricted premises; Roads; **Service stations**; Sewage reticulation systems; Sex services premises; Shop top housing; Signage; Storage premises; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water reticulation systems; Wholesale supplies*

4 Prohibited

Pond-based aquaculture Any development not specified in item 2 or 3

As can be seen from the table above Service Stations are permissible with consent and commercial premises (of which restaurants or cafes is a sub-land use category) are permissible with consent. Therefore the proposed development is viewed as a development permissible with consent.

Objectives of the B2 Local Centre Zone

Clause 2.3 of Muswellbrook LEP 2009 requires a consent authority to have due regard to the land use objectives of a zone when determining a development application.

The land use objectives of the B2 Local Centre zone are as follows:

- *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.

Council's Heritage Advisor has reviewed the heritage impacts associated with the proposed development and is satisfied that the proposed development would not impinge on the heritage value of the locality. Council Officers are also satisfied that the proposed development would be supported by adequate off-street car parking.

In view of the above the proposed development is considered to compatible with the objectives of the B2 Local Centre zone and can be supported by Council.

Other Relevant Muswellbrook LEP 2009 Clauses

The following table considers the proposed development against the provisions of the proposed development relevant to the assessment of the proposed development.

<i>Part 1 Preliminary</i>	
<i>Part 2 Permitted or prohibited development</i>	
<i>2.3 Zone objectives and Land Use Table</i>	<p>Clause 2.3 of the Muswellbrook LEP 2009 requires a consent authority to have regard to the land use objectives of the relevant land use zone when determining a development application.</p> <p>The land subject to this development application is zoned B2 Local Centre and the relationship of the proposed development with the land use zone objectives have been considered above under the sub-heading Objectives of the B2 Local Centre Zone.</p> <p>The proposed development is considered to be compatible with the B2 Local Centre land use zoning objectives. Complies</p>
<i>Part 3 Exempt and complying development</i>	
<i>Part 4 Principal development standards</i>	
<i>4.3 Height of buildings</i>	<p>The maximum building height for the land subject to this development application as identified by the height of buildings map is 13m.</p> <p>The maximum height of the proposed development would be 6.6m. Complies</p>
<i>4.4 Floor space ratio</i>	<p>The maximum floor space ratio prescribed to the land related to this development</p>

	<p>application is 2:1.</p> <p>The proposed development would have a floor space ratio of 0.25:1. Complies</p>
<i>Part 5 Miscellaneous provisions</i>	
<i>5.10 Heritage conservation</i>	<p>The land subject to this development application is located within a heritage conservation area. The consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.</p> <p>A statement of heritage impact was prepared in relation to the proposed development and submitted to Council. Council's Heritage Advisor was satisfied that the propose development could be supported from a heritage impact perspective. Complies</p>
<i>Part 6 Urban release areas</i>	
<i>Part 7 Additional local provisions</i>	
<i>7.1 Terrestrial biodiversity</i>	<p>The land subject to this development application is not identified as 'biodiversity' by the relevant map. Accordingly, the provisions of this part do not require further consideration in relation to the development application. Not Relevant</p>
<i>7.6 Earthworks</i>	<p>The Clause specifies a number of matters that a consent authority must consider when assessing a development application involving earthworks.</p> <p>Council Officers have considered the, detailed comments are provided under the DCP and environmental impacts headings of this Section 4.15 Assessment Report.</p> <p>Based on these considerations, Council Officers are satisfied that the proposed development would be compatible with the requirements of this Clause where earthworks are carried out in accordance with the recommended conditions of consent. Complies</p>

State Environmental Planning Policy No. 33 Hazardous and Offensive Development

The aims and objective of this State Environmental Planning Policy (SEPP) relate to identifying hazardous and offensive development and additional assessment considerations for the determination of this type of development.

The proposed development involves the storage of dangerous goods, as it would have a total storage capacity of up to 105kl of flammable liquid and 35kl of combustible liquid.

Council Officers requested that the applicant to prepare a preliminary hazard assessment (PHA) to assess the development against relevant provisions of the SEPP and the Department of Planning and Environment's Hazardous Industry Planning Assessment (HIPA) Guidelines. The applicant provided Council with a Risk Screening Report. The conclusions of the Risk Screening Report is that, based on the quantities of dangerous goods to be stored at the site and the setback distances of dangerous good stores, the proposed development would not comprise a potentially hazardous development, and accordingly the preparation of a PHA is not required.

Based on the findings of the Risk Screening Report, the proposed development is not considered to be a 'hazardous' or 'potentially hazardous development' and further consideration of the provisions of the SEPP which relate to the determination of hazardous developments is not required.

State Environmental Planning Policy No. 55 – Remediation of Land

Under Clause 7 of this SEPP a consent authority must not consent to the carrying out of any development on land unless:

- (a) It has considered whether the land is contaminated, and*
- (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In reviewing the historic use of the development site (car dealership and mechanics) and Council's records, it was determined that information from an appropriately qualified person was required to confirm that the site had been appropriately remediated (or could be remediated) to support the proposed use.

The applicant engaged Presna to prepare a Data Review of previous Environmental Reports. This report was submitted to Council on the 21 March 2018 and concluded that remediation works and findings of the 2014 validation report supported the use of the site for a commercial purpose

'the validation samples reporting contaminant concentrations less than the adopted health and ecological investigation and screening levels for the proposed commercial use of the Site (i.e. a service station)'.

However, the report also identified the presence of fibre-cement fragments at the site and that this material was considered likely to be asbestos containing material not identified at the time of the 2014 report.

The report recommends that a remediation action plan be prepared in relation to the management of this residual material, prior to the commencement of redevelopment works, and that the development be carried out in accordance with the requirements of the Report.

Council Officers are satisfied that the land is not subject to contamination that would prevent the carrying out of the proposed development, provided it is carried out in accordance with the recommendations of Data Review of previous Environmental Reports, and a remediation action plan prepared in relation to the management of asbestos fragments during the construction and development of the site.

State Environmental Planning Policy No.64 – Advertising and Signage

The proposed development involves the installation of signs at the site to comprise:

- Business identification signs on the service station canopy and front and side elevations of the main service station building (non-illuminated)
- Business identification signs installed on the southern and western elevations of the premises (non-illuminated)
- Freestanding pylon advertisement structure to include the business logo of the service station and fuel price information.

Clause 13 of the SEPP requires a consent authority to consider the aims of the SEPP and assessment criteria listed in schedule 1 of the SEPP.

Council Officers have reviewed the proposed signs against the SEPP:

- The design of the proposed signs is considered to be compatible with the character of the area as a business area and would not impact on significant views and vistas.
- The proposed signs would not be illuminated with the exception of the pylon sign. The illumination of this sign would not have an unreasonable impact on the amenity of the locality and is unlikely to result in any light emissions with the potential to impact on the amenity of the locality.
- With the exception of wall sign proposed for the northern elevation of the service station building, the proposed signs are considered to be suitably located in respect to the existing environment. The sign on the northern elevation wall is inappropriate for the following reasons:
 - - The orientation of signs toward neighbouring properties is considered to be intrusive and an unnecessary impact on the utility and enjoyment of this adjoining land;
 - The sign would not advertise the premises direct to a public area; and
 - Vistas of the sign would be only observable from neighbouring premises

It is recommended that if development consent is granted to the proposed development, a condition be imposed on the consent to restrict the installation of the northern elevation business identification sign.

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

The proposed development does not relate to any draft environmental planning instrument. 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

Council Officers are satisfied that the proponent has adequately considered the provisions of this Section and prepared the documentation accompanying the development application in accordance with the requirements of this Section.

Section 4 – Notification

The proposed development was notified for a minimum of fourteen days, as specified by this section of the DCP. The proposed development was notified to neighbouring and potentially impacted properties between the 19 September 2018 and the 4 October 2018. A notice was also placed in the local newspaper, the Hunter Valley News, at the commencement of the notification period.

Two (2) submissions were received during the notification period.

Following the receipt of additional information and revised plans the proposed development was renotified to the submitters between the 13 December 2018 and 16 January 2019. One (1) submission was received in relation to the amended development.

The issues raised in the submissions have been considered and commented on under Submitter Concerns heading of this report.

Section 9 – Local Centre Development

This Section of the DCP relates to development in the Local Centre zone.

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 9 LOCAL CENTRE DEVELOPMENT		
DCP REQUIREMENTS	COMPLIES	PLANNING COMMENT
<p>9.1.1 Built Form</p> <p>(i) The design of new buildings should reflect and enhance the existing character of local centres. (refer to section 15 of this DCP for further guidance on development in the Bridge Street area)</p> <p>(ii) Building design should relate to its retail/commercial/office function.</p> <p>(iii) Building materials should be of high quality and harmonise with surrounding development. The use of reflective materials is discouraged. Materials and colours should not dominate the streetscape.</p> <p>(iv) Awnings should be designed to integrate with the architecture of the building façade and provide for continuous shelter for pedestrians. Awnings should follow consistent heights above the footpath with a minimum height to the underside of the awning of 3.2 metres</p> <p>(v) Building facades should relate to the context of buildings in the area to achieve continuity and harmony. The continuity of commercial frontages</p>	<p>Yes</p>	<p>The proposed development is considered to be compatible with the requirements of this Section of the Muswellbrook DCP. This view has been formed based on the following considerations:</p> <ul style="list-style-type: none"> ➤ The proposed development would be compatible with the character of the streetscape. There are other modern buildings in the vicinity of the development site including the adjoining Hungary Jacks. ➤ The design of the proposed service station and restaurant would support their intended use. ➤ The information submitted with the development application indicates that new materials would be used in the development construction and that those materials would not be highly reflective. ➤ The proposed restaurant has been designed to address Bridge Street and supports an active street frontage to that street for 50% of the frontage of the lot. The Service Station will also generate activity, although the sales area is setback from Bridge Street. ➤ The premises have been designed to incorporate signage to address the streetscape. ➤ The proposed development is located within a heritage conservation area. The proposed development has been reviewed by Council's Heritage Advisor who is satisfied that the proposed development would not have a significant adverse impact the cultural significance of the locality.

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 9 LOCAL CENTRE DEVELOPMENT		
DCP REQUIREMENTS	COMPLIES	PLANNING COMMENT
<p>should not be broken by parking areas, service and delivery areas etc.</p> <p>(vi) Buildings should provide for 'activated street frontages' by incorporating active uses at street level including cafes and other retail activities.</p> <p>(vii) Blank building facades to streets or public places are to be avoided.</p> <p>(viii) The placement of windows should provide visual interest and variation to the building façade and relate to those of adjacent buildings. (ix) Building designs should allow for passive surveillance of public places and streets.</p> <p>(ix) Building entrances should be well defined and well lit.</p> <p>(x) New residential development shall be located above street level.</p> <p>(xi) Incorporate areas for future signage into the building design.</p>		
<p>9.1.2 Height of Buildings</p> <p>(i) Building heights comply with the building height limits prescribed by Muswellbrook LEP 2009.</p> <p>(ii) The height of buildings should be consistent with the character of the area, and include roof parapets where that is a characteristic in the surrounding streetscape.</p> <p>(iii) The height of buildings should not result in unreasonable overshadowing or compromise the privacy of adjoining properties.</p>	Yes	<p>The proposed development would comply with the requirements of this section of the DCP. This view has been formed based on the observations below:</p> <ul style="list-style-type: none"> ➤ The height of the proposed development would not exceed the maximum building height for the land specified by the Muswellbrook LEP 2009 (see detailed comments under the Muswellbrook LEP 2009 heading of this report). ➤ The site subject to this development application is located on a corner lot adjacent the Hungary Jacks Restaurant and the former Philippe's restaurant. The height and bulk of the proposed development would be comparable with the nearby Hungary Jacks. ➤ The proposed development would not be constructed at the site in a manner that would result in unreasonable

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 9 LOCAL CENTRE DEVELOPMENT		
DCP REQUIREMENTS	COMPLIES	PLANNING COMMENT
		<p>overshadowing to an adjoining property.</p> <ul style="list-style-type: none"> ➤ The proposed restaurant and service station building would not include any external windows orientated toward an adjoining property. While views from the car parking area are possible into neighbouring residential properties, these views would be obscured by the slope of the site, and the construction of retaining walls and fence screening at the property boundary.
<p>9.1.3 Setbacks</p> <p>(i) The front of buildings should be aligned to provide a continuous street frontage.</p> <p>(ii) In some cases, front setbacks should allow for street landscaping and footpath widening where necessary.</p> <p>(iii) New development should respect the setbacks of other buildings along the streetscape.</p> <p>(iv) Separation fencing is provided between development land and any rail corridor.</p> <p>(v) (Not included Relates to Rail Corridor Development)</p>	Yes	<p>The proposed development is considered to be in accordance with the development controls specified by this Section of the DCP. This position has been informed by the following considerations:</p> <ul style="list-style-type: none"> ➤ The proposed restaurant would be constructed adjacent the boundary with Bridge and St Heliers street and establish active street frontages along both streets. Due to topography of the site, the building will be elevated above the footpath, but it would still be possible for passing pedestrians to see into the Restaurant. ➤ Landscaping has been included at a number of locations across the site and alterations and improvements to the footpath will be required to establish laybacks for the vehicle entry and exit points at the site. ➤ The development site is not situated adjacent a rail corridor and thereby the controls specified by 9.1.3 (iv) and (v) do not relate to the proposed development.
<p>9.1.4 Accessibility</p> <p>This Section of the DCP requires new commercial developments to be designed and constructed in a manner which comply with the relevant accessibility standard.</p>	Yes	<p>Should development consent be granted to the proposed development it would be subject to the works being carried out in accordance with the Building Code of Australia and Access to Premises Standard. Detailed designs plans will be required demonstrating that the development would comply with the relevant accessibility standards prior to the issue of a Construction Certificate and to ensure that the accessibility standards have been met prior to issue of an Occupation Certificate.</p>
<p>9.2.1 Urban Landscaping</p> <p>(i) Where appropriate, landscaping should be incorporated into building design to enhance the character of</p>	Yes	<p>The proposed plans provide detail of landscaping to be established on the development site and in the St Heliers Road Reserve to enhance the visual appearance of the proposed development and provide visual relief to the car park hardstand area. It is</p>

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 9 LOCAL CENTRE DEVELOPMENT		
DCP REQUIREMENTS	COMPLIES	PLANNING COMMENT
<p>the streetscape and the amenity of buildings and public places.</p> <p>(ii) Landscaping should reflect the size and height of buildings and should be consistent with the character of the area.</p> <p>(iii) Landscaping should be used to soften the impact of hard surfaces where necessary.</p> <p>(iv) Where landscaping is proposed to be incorporated into a new development, a landscape plan detailing hard and soft landscaping works should be submitted with the development application</p>		<p>considered that the level of landscaping proposed would be compatible with the requirements of this Section and the Muswellbrook CBD Urban Domain Plan. If development consent is granted a condition of consent is recommended requiring detailed landscape plans, with schedules of plant species, to be submitted for approval prior to the issue of a Construction Certificate.</p>
9.2.2 Car Parking	Yes	<p>This Section of the DCP requires the provision of sealed vehicle car parking and accessible parking in accordance with the off-street car parking requirements of Section 16 of the DCP.</p> <p>Council Officers are satisfied that the rate off off-street car parking proposed meets the relevant off-street car parking requirements.</p>
<p>9.2.3 Outdoor Eating Areas</p> <p>(i) Any outdoor eating areas should be located directly adjacent to cafes or restaurants.</p> <p>(ii) A clear space is required to be provided on the footpath to allow free flow of pedestrian traffic.</p> <p>(iii) Outdoor eating areas are required to comply with section 19 of this DCP.</p>	Yes	<p>The proposed restaurant would include an outdoor eating area along the Bridge Street frontage. The outdoor eating area would comply with the requirements of this section of the DCP and would be directly attached to the restaurant and not obstruct the public footpath.</p>
9.2.4 Signage and Advertising	Yes	<p>The proposed signs has been considered against the provisions of Section 14 of the DCP and the requirements of the SEPP Advertising Signage. Council Officers are satisfied that the proposed signage would be in accordance with requirements of this legislation and can be supported with the exception of the north elevation service station wall sign.</p>

Section 14 – Outdoor Signage

The proposed signage has been considered against the requirements of the Muswellbrook DCP that relate to signage installation.

Council Officers are satisfied that the proposed signage, with the exception of the business identification sign to be installed on the northern elevation of the service station building, would be compatible with the controls of this Section of the DCP and DCP objectives. It is recommended that if development consent is granted to the proposed development that no consent is granted to north elevation service station business identification sign.

Section 15 – Heritage Conservation

The site subject to this development application is located within the Muswellbrook Heritage Conservation Area and is located in the vicinity of the Eatons Hotel State Listed Heritage item. A Statement of Heritage Impact has been submitted to Council.

Council's Heritage Advisor considers that the proposed development would not have a significant impact on the significance of the heritage conservation area or nearby heritage item and could be supported from a heritage impact perspective.

In view of the comments from Council's Heritage Advisor, Council Officers are satisfied that the proposed development would be compatible with the heritage design requirements specified by this Section of the DCP.

Section 16 – Car Parking and Access

The proposed development has been assessed against the vehicle access, manoeuvrability and car parking requirements specified by this Section of the DCP.

To consider the adequacy of the vehicle access arrangements and internal loading, unloading and manoeuvring areas the proposed development was referred to Council's Community Infrastructure Section. In correspondence dated 31 May 2019 Council's Assistant Director and Chief Engineer indicated that Community Infrastructure did not have concerns regarding vehicle access or manoeuvrability.

This section of the DCP also prescribes rates at which off-street car parking should be provided to new development in the Muswellbrook LGA. The DCP prescribes the following rates of off-street car parking that relate to the proposed development.

Restaurant – 1 space per 7m² of gross floor area available for dining

Service Station – 1 space per 20m² of gross floor area of the convenience store plus 1 space per 6.5m² of gross floor area

These parking requirements have been considered in relation to the proposed development as follows:

Restaurant – total seating area 203m² 203/7 = **29 off-street car parking spaces**

Service Station – convenience store area 60m² 60/20 = **3 off street car parking spaces**
Other floor area 20m² 20/6.5 = **3.0 off street car parking spaces**

Based on the above calculations a total of 35 off-street car parking spaces are required for the development to comply with the DCP's off-street car parking requirements. The proposed plans indicate that 37 off-street parking spaces are proposed. Accordingly, Council officers are satisfied that the provision of off-street car parking meets the minimum off-street car parking requirements. If the development is approved it is recommended that conditions of consent are imposed, to require the construction of the off-street car parking in accordance with the approved plans and relevant Australian Standards.

Section 19 Use of Public Footpaths

The proposed development would not involve the establishment of any outdoor dining areas on public footpaths. Accordingly, the provisions of this Section are not considered to present any matters requiring further consideration in relation to the proposed development.

Section 20 – Erosion and Sediment Control

The proposed development involves a large area of disturbance, so it will be necessary for the applicant to prepare and submit an erosion and sediment control plan pursuant to the provisions of the DCP prior to the carrying out of any works.

To ensure compliance with this it has been recommended that a condition be imposed on any consent requiring the submission and approval of a sediment and erosion management plan prior to the issue of any Construction Certificate.

Section 24 – Waste Management

The proposed plans submitted with the development application identify waste storage areas to be made available to the development. The plans indicate that these storage areas would be discreetly located and screened in accordance with the requirements of this Section of the DCP. While turning circle information submitted also indicates that waste collection vehicles would be able to successfully access the waste stores for collection.

The applicant has also submitted a waste minimisation management plan. This waste management minimisation management plan has been reviewed by Council Officers and it is recommended that if the development is approved, conditions of consent be imposed on the development requiring it to be carried out in accordance with the requirements of this plan, and that screening be installed around outdoor waste storage areas.

Section 25 – Stormwater Management

The proposed development would increase stormwater runoff as a result of increased building footprint and car parking area.

Council's Community Infrastructure Department are satisfied with the conceptual stormwater management plan provided and indicated methods of stormwater collection and on-site detention. It would be necessary for detailed stormwater design plans to be provided to Council and approved prior to the issue of a Construction Certificate and any Section 68 Approval for the carrying out of stormwater work.

Section 94 Contributions Plan 2001

Section 94 Contributions are not applicable to the proposed development.

Section 94A Contributions Plan 2009

In accordance with Council's Section 94A Contribution Plan a developer contribution would be applicable to the proposed development at a rate of 1% of the total estimated capital investment value. The proposed development has a capital investment value of \$2,400,000 and thereby a contribution of \$24,000 would be applicable should the development application be approved.

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 proposed development. The prescribed conditions of this Division of the Regulations will be applied to the development where appropriate.

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

Likely impacts of the proposed development have been considered throughout the assessment of the development application. Potential impacts of the proposed development have been considered and commented on under the various headings of this report.

Based on the consideration of likely environmental impacts a number of recommended conditions have been imposed on the proposed development. The likely environmental impacts associated with the proposed development are not considered to be significant enough to substantiate a recommendation for the refusal of the proposed development.

Matters related to the following were considered through the assessment of likely environmental impacts.

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

The site subject to this development application is considered to be suitable to the proposed development. The subject site is zoned B2 Local Centre, has frontage to Muswellbrook's main street and adjoins other commercially developed land. While residential uses exist nearby, it is observed that this adjoining land is similarly zoned B2 Local Centre.

The site has access to services that would support the development of the land and is not subject to any hazards which would prevent the development from being carried out at the site.

Section 4.15(1)(d) any submissions made

The proposed development was placed on public notification in accordance with the requirements of the Muswellbrook DCP. Two submissions objecting to the proposed

development were received.

Following receipt of additional information on the 10 December 2018, the development was re-notified to submitters to review the additional plans and material and update their submissions accordingly. One (1) of the submitters provided an updated submission, while the other submitter did not outline any change to their previous submission.

The reasons for objection provided by the two (2) submitters have been considered by Council Officers through the assessment of the development application and key matters raised by the submissions have been summarised and commented on in the table below.

Issue Raised	Planning Comment
Impact of the proposed development on the privacy of 4 Flanders Avenue	No new buildings would have windows facing this property. The on-site parking area will be partially excavated to a level lower than the adjoining block. This combined with proposed fencing will restrict overlooking from the car park into the adjoining residential property.
Impact of the noise generated from the premises and its proposed 24 hour operation on the amenity of nearby residents.	<p>The proposed development has been amended by the applicant to no longer involve the 24 hour 7 day a week operation of the proposed service station. The proposed hours of would be between 5:00am – 10:00pm daily.</p> <p>The impact of noise from the premises on neighbouring properties has remained a relevant consideration for the assessment and determination of the development application.</p> <p>In determining the acceptability or otherwise of noise emissions of the proposed development Council Officers have reviewed the Noise Impact Assessment prepared by RCA Australia in relation to the proposed development and the existing site conditions. Council Officers are satisfied that the proposed development is unlikely to have a significant adverse impact on the amenity of the locality.</p> <p>Council Officers have drafted recommended conditions of consent to manage noise associated with the operation of the premises and control the risk of anti-social behaviour being carried out at the site.</p>
The 24 hour operation of the premises is out of character with the scope of commercial operations being carried out in the locality and is not appropriate given the sites interface with residentially developed land.	<p>The proposed hours of operation for the development would be between 5:00am – 10:00pm daily.</p> <p>This scale of operation is not considered to be out of character with the scope of approved commercial operations in the immediate locality of the development site. It is noted that the adjoining Hungary Jacks development has been approved to operate on a 24/7 basis and that the premises chooses to trade between 5:00am – 10:00pm for commercial reasons while the nearby Eatons</p>

	Hotel typically trades into the later hours of the evening.
Concern regarding the location of any smoking areas and the impact of second hand smoke from users of the premises on adjoining properties	It will be necessary for the proposed development to comply with relevant legislation that relates to maintaining a smoke free environment. The recommended conditions of consent include a draft condition regards relevant smoke free environment legislation.
The potential for anti-social behaviour to occur at the premises during late night trading.	<p>The proposed development was referred to the NSW Police who recommended a number of measures to manage anti-social behaviour at the premises. These recommendations have been reviewed and incorporated into recommended conditions of consent along with additional Council requirements.</p> <p>The proposed uses are typical for a town centre. Council Officers consider that it would be unreasonable to refuse of the development application due to likelihood of anti-social activity occurring as a result of the development.</p>
Risk of anti-social behaviour at the site affecting adjoining properties and the potential for people to trespass on neighbouring private properties.	The proposed development would include the construction of retaining walls and fencing at adjoining property boundaries. Council Officers are satisfied that these structures would provide reasonable protection measures against the likelihood of people trespassing onto neighbouring properties from the development site.
Lack of information provided about the management of waste and control of vermin at the site.	<p>The proposed development would need to be carried out in accordance with the requirements of the Public Health Act 2012 that relate to the operation of a food premises.</p> <p>A waste minimisation management plan has been provided in relation to the proposed development in accordance with the requirements of the Muswellbrook DCP. Council Officers are satisfied that adequate waste management measures will be incorporated into the development.</p>
Lack of information provided around external lighting at the premises and concern that lighting may be orientated toward neighbouring properties.	A recommended condition of consent has been proposed to ensure that all external lighting is constructed in accordance with Australian Standard 4282-1997 – 'Control of the obtrusive effects of outdoor lighting' to manage light spill and that non-security lighting is turned off at the close of business.
Lack of information provided around the location of any security cameras and concern that security camera locations may affect the privacy of adjoining properties.	A condition of consent has been recommended, in accordance with comments from the NSW Police around the installation of CCTV cameras at the site. This condition includes a Council requirement restricting the location of security cameras at the

	site in a manner that may infringe on the privacy of neighbouring residential properties.
Controls to manage damage to neighbouring properties during the construction and operation of the premises and the potential for property owners to receive or seek compensation for any damage	<p>The Environmental Planning and Assessment Regulation 2000 prescribes a condition of consent relating to the protection of neighbouring structures during the carrying out of the development and the underpinning of structures where required.</p> <p>This condition has been included in the recommended conditions of consent along with a pre-construction certificate condition requiring the preparation of a structural report relating to the prevention and management of damage to adjoining properties (this condition was prepared in consultation with Council's Building Surveyor).</p> <p>Council Officers are satisfied that the recommended conditions of consent would adequately manage this issue. Should any damage occur to adjoining properties, despite the recommended conditions, the affected property owner would have legal avenues to seek compensation.</p>
Impact of traffic from the development on the road network and existing traffic and parking conditions in nearby streets.	The proposed development was referred to Council's community Infrastructure Department who raised no issue with the proposed development from a traffic management perspective.
The design plans do not appear to be sympathetic to the heritage value of the area.	The proposed development was referred to Council's Heritage Advisor who raised no objection with the proposed development from a heritage impact perspective.
An interest in the inclusion of landscaping in the development design to mitigate the visual impact of the car parking areas and the impact of the development on adjoining residential properties.	The applicant has included landscaping in the design of the car park and fencing to manage the visual impact of the proposed development on neighbouring properties. Council Officers are satisfied that these mitigation measures would adequately manage the visual impact of the proposed development.

Section 4.15(1)(e) The public interest

The proposed development is considered to be generally in accordance with the public interest. This view has been informed by the following considerations:

- The proposed development is permissible with consent in the B2 local centre zone under the provisions of the Muswellbrook LEP 2009.
- The proposed development would be carried out in accordance with the relevant provisions of the Muswellbrook LEP 2009 and other applicable environmental planning instruments
- The proposed development would comply with the relevant requirements of the Muswellbrook DCP.

- The proposed development is not inconsistent with the recommendations in the Muswellbrook Town Centre Strategy and the Muswellbrook CBD Urban Domain Plan.
- Where carried out in accordance with the recommended conditions of consent the proposed development is unlikely to have a significant adverse environmental impact.
- The proposed development would generate additional economic activity and employment opportunities in the Muswellbrook locality.

5 CONCLUSION & RECOMMENDATION

The proposed development has been assessed against the relevant heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*. It is considered that the proposed development would be in accordance with the provisions of all relevant Environmental Planning Instruments, relevant Development Control Plans, the Environmental Planning and Assessment Act Regulations 2000, is unlikely to result in any significant adverse environmental impacts, is located on a site suited to the proposed development and is in the public interest.

It is recommended that development consent be granted to the proposed development subject to the recommended conditions of consent pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979.

DA 78/2018 – Recommended Conditions of Consent:

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
A101	E	Calare Civil	20 May 2019	23 May 2019
A201	E	Calare Civil	20 May 2019	23 May 2019
A202	E	Calare Civil	20 May 2019	23 May 2019
A203	E	Calare Civil	20 May 2019	23 May 2019
A204	E	Calare Civil	20 May 2019	23 May 2019
A205	E	Calare Civil	20 May 2019	23 May 2019
A206	E	Calare Civil	20 May 2019	23 May 2019
A207	E	Calare Civil	20 May 2019	23 May 2019
A301	E	Calare Civil	20 May 2019	23 May 2019
A302	E	Calare Civil	20 May 2019	23 May 2019
A303	E	Calare Civil	20 May 2019	23 May 2019
A304	E	Calare Civil	20 May 2019	23 May 2019
6m Pylon Sign Overall Views for Mobile Petroleum	-	JFH Design Services	20 January 2018	14 January 2019

(2) Development in Accordance with Documentation

The development is to be carried out generally in accordance with the following documents.

Where there is a discrepancy between any of the documents referenced by this condition of consent and any other condition referenced by the consent or an amendment to the application made by the applicant in writing the provisions of the related condition or amendment to the application takes precedence over matters referenced by the documents below.

Title	Written by	Date
Risk Screening Documentation	Hazkem Pty Ltd	May 2019
Data Review of Previous Environmental Reports for 147 – 153 Bridge Street Muswellbrook	Presna Pty Ltd	March 2019
Waste Minimisation Management Plan	Inland Building	9 May 2019
Statement of Environmental Effects	Anthony Daintith Town Planning	7 December 2018
Conceptual Stormwater Management Plan and Preliminary Site Servicing Assessment	Calare Civil Pty Ltd	May 2019

(3) Limitations on Approved Signage

Consent is not granted or implied for the business identification sign proposed for installation on the north elevation of the service station building. The approved elevation plan (drawing number A302) has been marked in red to clearly identify that no approval is granted to this advertisement sign.

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION
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(4) Building Code of Australia

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

(5) Access to premises standard

The building shall comply with the requirements of the *Commonwealth Disability (Access to Premise Standard) 2010*.

(6) Condition Relating to Maximum Capacity Signage

A sign specifying the maximum number of persons permitted in the restaurant building in accordance with the requirements of this consent is to be displayed at a prominent position in the building.

This is a prescribed condition under the provisions of Clause 98D of the Environmental Planning and Assessment Regulation 2000.

(7) Condition Relating to the Shoring and Adequacy of Adjoining Property

Where the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of the development consent must at their expense:

- (a) Protect and support the building, structure or work from possible damage from the excavation, and
- (b) Where necessary underpin the building, structure or work to prevent such damage.

REQUIREMENT FOR A CONSTRUCTION CERTIFICATE

(8) Construction Certificate Requirement

Works shall not commence on site until such time as a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works it must cover the works being undertaken onsite.

ANCILLARY MATTERS TO BE COMPLETED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

(9) Management of Asbestos Containing Material during Construction Works

Prior to the issue of a Construction Certificate for the development, an investigation of the site is to be carried out by an appropriately qualified person, to determine the extent of any asbestos containing material present at the site in accordance with the recommendations of the Data Review of Previous Environmental Reports for 147 – 153 Bridge Street prepared Presna and dated March 2019.

Where this investigation identifies residual asbestos contamination at the site requiring remediation a Remediation Action Plan is to be prepared and submitted to the Principle Certifying Authority and Council prior to the commencement of works.

Documented evidence is to be provided to the Principle Certifying Authority to demonstrate that this condition has been complied with prior to the issue of a Construction Certificate.

The development is to comply with all requirements of any Remediation Action Plan.

(10) Construction Management Program

Prior to the issue of a Construction Certificate a Construction Management Program must be prepared, submitted to and approved in writing by the Council prior. The program shall include such matters as:

- a) a Safe Work Method Statement;
- b) the proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- c) the proposed phases of construction works on the site, and the expected duration of each construction phase;
- d) the proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- e) the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- f) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- g) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- h) the proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- i) the proposed method of support to any excavation adjacent to adjoining

- properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer, or equivalent;
- j) proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings and fans over footpaths and laneways;
- k) proposed protection for Council and adjoining properties;
- l) the location and operation of any on site crane;
- m) the location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval; and
- n) location, identification, treatment and disposal of all hazardous materials on site.

All work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

(11) Sediment Control Plan

Prior to the issue of a Construction Certificate a sediment and erosion management plan is to be submitted to and approved by the Certifying Authority. As a minimum, control techniques are to be in accordance with Muswellbrook Shire Council's Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) all details to protect and drain the site during the construction processes;
- (b) all sediment control devices, barriers and the like;
- (c) sedimentation tanks, ponds or the like;
- (d) covering materials and methods;
- (e) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

(12) Landscape Design Plan

Prior to the issue of a Construction Certificate, a detailed landscape plan is to be prepared and submitted to Council and approved in writing.

The plan is to include botanical names, quantities, planted state of maturity of all proposed trees, shrubs and ground covers and should be prepared in accordance with Council's Landscaping Guidelines, the provisions of the Muswellbrook Development Control Plan 2009 and the Muswellbrook CBD Urban Domain Plan.

Written confirmation demonstrating that the Landscape Plan has been approved by Council should be provided to the Principle Certifying Authority with an application for a Construction Certificate.

(13) Flanders Avenue Street Frontage Fencing

Prior to the issue of a Construction Certificate a revised fence design is to be submitted for approval, fencing proposed along the boundary with Flanders Avenue. The revised design is to reduce the height, bulk and scale of the proposed fence, enable passive surveillance of the car park from the street and comply with the following:

- the height of the fence is to be between 1.2m and 1.6m above ground level,
- the fence is to be 50% translucent to allow for passive surveillance of the development site and car park area,
- The maximum spacing between any breaks in the fence is to be 125mm to ensure that the fence provides an effective safety barrier to prevent falls into the site.
- Materials used in the fence are to be of a high quality and its appearance and design remain in keeping with the streetscape.

(14) Muswellbrook Shire Water and Waste Division

A 'Notice of Requirements' under the Water Management Act 2000 must be obtained, prior to any Construction Certificate application, detailing water and sewer extensions to be built and charges to be paid by the applicant. Any charges identified in the 'Notice of Requirements' as requiring payment at construction certificate stage are to be paid prior to release of a Construction Certificate.

Details demonstrating compliance with any requirements for works by Muswellbrook Shire Council Water & Waste Department are to be provided with the Construction Certificate application.

The final compliance certificate must be submitted to the Certifying Authority prior to release of the Subdivision or Occupation Certificate.

(15) Cleanliness and Maintenance of Food Preparation Areas

Prior to the issue of a Construction Certificate the applicant shall submit detailed design plans to the Principle Certifying Authority in relation to the fit-out of the all kitchen, food preparation, storage, handling and serving areas.

These plans should demonstrate that fit out of the food handling areas would comply with the requirements of Food Act 2003, Food Regulation 2015 and Australian Standards relevant design construction and fit out of food premises (AS4674)

(16) No External Service Ducts

Service ducts shall be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Details demonstrating compliance are to be provided in the Construction Certificate documentation.

(17) 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 \$24,000 shall be paid to Muswellbrook Shire Council, being 1% of the cost of carrying out the development.

Documentary evidence demonstrating payment of the above contribution to Council is to be provided to the Principle Certifying Authority prior to the issue of a Construction Certificate.

(18) Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Construction Certificate the person acting with this consent shall obtain approval under Section 68 of the Local Government Act 1993 for the carrying out of stormwater works.

Documentary evidence is to be provided to the Principle Certifying Authority demonstrating that these approvals have been obtained prior to the issue of a Construction Certificate.

The person acting with this consent shall ensure that mandatory stage inspections prescribed by the Section 68 Approval are carried out by Council Officers at the relevant stage of development.

(19) Stormwater Drainage Design Detail

Any section 68 application for the carrying out of stormwater works is to be accompanied by a complete set of hydraulic plans and specifications for all stormwater infrastructure including the proposed underground detention tank. The stormwater management system installed at the site should include pollution control measures in accordance with the requirements of Council's Development Control Plan.

Where the stormwater detention tank is located beneath hardstand areas which are path of traffic flow for heavy vehicles at the site engineering design details are to be provided demonstrating that the roof slab of the underground tank would have the structural capacity to withstand the load of a 19m AV moving over the slab.

Documentary evidence is to be provided to the Principle Certifying Authority demonstrating that a section 68 application has been approved for the carrying out of stormwater works and the stormwater infrastructure plans endorsed by Council prior to the issue of a Construction Certificate

(20) Liquid Trade Waste Agreement

Prior to the issue of a Construction Certificate and any Section 68 Approval for sewage works a Commercial Liquid Trade Waste Application is to be completed, signed by the property owner and submitted to Council for approval along with relevant documentation, including hydraulic plans, relating to the construction of the required liquid trade waste infrastructure at the site.

Documentary evidence is to be provided to the Principle Certifying Authority confirming that a Liquid Trade Waste application has been lodged with Council prior to the issue of a Construction Certificate.

(21) Section 138 Approval Requirement

Prior to the issue of a Construction Certificate the person acting with this consent must obtain approval from Council under Section 138 of the Roads Act 1993 for the carrying out of works in the Bridge Street , St Heliers Street and Flanders Avenue Road Reserves.

Any Section 138 application must be accompanied by detailed design plans demonstrating that all required vehicle crossovers and associated works in the road

reserve will comply with the relevant Australian Standards and Council requirements.

Where works are carried out in the public domain it will be necessary for the footpath and public domain to be upgraded in accordance with the provisions of the Muswellbrook Public Domain Manual 2012. A Detailed Public Domain Plan must be prepared and submitted to Council for the making of improvements to the public domain adjacent the site with any Section 138 application in accordance with the requirements of the Muswellbrook Public Domain Manual 2012.

Note1: Additionally any road work undertaken in Bridge Street will require approval from the NSW Roads and Maritime Services and a 'Road Occupancy License' in accordance with standard NSW Roads and Maritime Services requirements.

Note2: Prior to the preparation and lodgement of any Section 138 Application and the undertaking of detailed design works for vehicle crossovers and the preparation of a Detailed Public Domain Plan it is recommended that the person acting with this consent contacts Council's Community Infrastructure Department on 65493700.

Note3: A copy of Council's Public Domain Manual 2012 can be viewed online at Council's website and is available at Council's Administration Building.

(22) Design and Construction of Service Station Forecourt

The service station is to be designed and constructed generally accordance with the Best Management Practice in Forecourt Design provisions of the NSW Environmental Protection Authority's Practice Note *Managing run-off from service station forecourts* or any document that supersedes this practice note.

Prior to the issue of a Construction Certificate detailed design plans should be provided to the principle certifying authority demonstrating the development design would be compatible with the design provisions of this document and that:

- a) The canopy extends to the maximum reach of fuel dispensing nozzles and has a 10 degree from vertical overhang reducing rainwater entering high contamination zones.
- b) Accessible spill kits are provided at the site
- c) Bunded areas are provided around the fuel dispensing areas and any hazardous chemical stores away from the refuelling area.
- d) Collection pits are provided the collection and management of high risk runoff from the refuelling zone.

(23) Shoring and Structural Adequacy of Adjoining Property

Prior to the issue of a Construction Certificate for the development a Structural Certification Report is to be prepared by an appropriately qualified Civil Engineer to identify that the development would be carried out to manage and maintain the structural stability of adjoining structures, buildings and works in accordance with the requirements of Condition 7 and the related provision of Clause 98E of the Environmental Planning and Assessment Act 1979.

This report should:

- certify the structural adequacy of adjoining structures to withstand the proposed excavation and construction activities,

- identify measures to protect structures from damage during the course of the works,
- Where necessary identify measures to underpin and support the structural stability of buildings that may be affected by the carrying out of the approved works.
- This document should include observations of any existing structural dilapidation of adjoining buildings, structures or works.

(24) Noise from Mechanical Plant Adjacent to Residential Premises

In accordance with the recommendations of the Operational Noise Impact Assessment the person acting with this consent should consult with a qualified Acoustic Engineer when selecting heating, ventilation and air conditioning plant positions.

A certificate from an appropriately qualified Acoustic Engineer is to be submitted to the Certifying Authority for approval with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm –6.00 am) when measured within a habitable room in any adjoining residential premises, and will comply with Environment Protection Authority Noise Policy.

(25) Endorsement of no Stopping Zones and Signage

Prior to the issue of a Construction Certificate, the person acting with this consent shall submit to Council plans relating to the establishment of no stopping zones along the entirety of the site Bridge Street frontage, between the driveways facing St Heliers Street and western driveway exit and the Bridge and St Heliers Street intersection. These plans should include details of signage proposed to be installed to establish the no stopping zones and the proposed location of its installation. All signage must be designed and located in accordance with the relevant Australian Standard.

These no stopping zones and related signage plans will be provided to Council's Local Traffic Committee for review and endorsement. The no stopping zones approved by Council's Traffic Committee are to be established adjacent the site in accordance with the conditions of this consent.

Documentary evidence is to be provided to the certifying authority demonstrating that the plans required by this condition have been submitted to Council for review or endorsed by Council's Traffic Committee prior to the issue of a Construction Certificate.

(26) Car Park Lighting

Prior to the issue of a Construction Certificate, the person acting with this consent shall submit to the Accredited Certifier, lighting design drawings for the car park and public places.

The design must be prepared in accordance with the requirements of Australian Standard AS 1158: Lighting for roads and public spaces and Australian Standard AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT
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(27) 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.

(28) 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.

(29) 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.

(30) Public Liability Insurance

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Muswellbrook Shire Council, as an interested party and a copy of the Policy must be submitted to Council and the Principal Certifying Authority prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(31) 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.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK
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(32) 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.

(33) Materials

In accordance with the provisions of the Muswellbrook Development Control Plan the external cladding of the building shall be constructed from non-reflective metal cladding. Zincalume or reflective white sheet metal cladding is not be used without the prior written approval from Council.

(34) Prohibition on Use of Pavements

Building materials and equipment must be stored wholly within the work site, unless prior written approval has been obtained from council. Equipment must not be operated on the footpath or roadway, unless prior written approval has been obtained from council.

(35) 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.

(36) Retaining Walls & Drainage

- a) The excavation, footings and drainage associated with construction of the retaining wall shall be located wholly within the property boundaries of the land which relates to this development application and not on any adjoining property or road reserve.
- b) The approved retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must:-
 - (i) be constructed as soon as practicable (not more than 30 days) after the site has been cut and filled.
 - (ii) have adequate provision for drainage in accordance with the requirements of AS3500.

(37) Mandatory Council inspections

During the carrying out of building works the person acting with this consent shall ensure that all mandatory stage inspections specified by any approvals issued under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993 are carried out by Council at the relevant stage of works specified by these approvals.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE
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(38) 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.

(39) Final Compliance Certificate for Water Supply and Sewerage Works

The final compliance certificate for water supply works is to be obtained from Muswellbrook Shire Council Water & Waste Department and a copy must be submitted to the Principal Certifying Authority prior to release of any Occupation Certificate.

(40) Stormwater infrastructure

Prior to the issue of an Occupation Certificate all stormwater management infrastructure is to be installed in accordance the stormwater management plan approved by Council, AS 3500.3, the provisions of the relevant Section 68 Approval and industry best practice.

(41) Connection to Sewer

Prior to the issue of an Occupation Certificate the premises shall be connected to the sewer system in accordance with the Australian Standard 3500 and the requirements of any Section 68 Approval. A Trade Waste Agreement is to have been entered into between the owner of the land and Council and the required Trade Waste infrastructure installed to Council's satisfaction in accordance with the Trade Waste Agreement.

A works as executed plan on Council's approved form is to be submitted to Council within seven (7) days following the final drainage inspection and prior to any Occupation Certificate being issued.

(42) Construction of Parking Areas

Prior to the issue of an Occupation Certificate all parking areas, loading bays, driveways, internal access ways, vehicular ramps and turning areas shall be fully constructed, sealed, line marked, sign posted in accordance with the approved plans and AS.2890.1 2004 Parking Facilities and the relevant provisions of AS1428.1 and AS1428.4.

Car park lighting is also to be installed in accordance with the approved lighting plan and AS 1158 and AS 4282-1997.

(43) Consolidation of Lots

The person acting with this consent must consolidate Lot 1 DP 161784, Lot 1 DP 794803, Lot 1 DP 784361 and Lot: 1 DP 159620.

Prior to the issue of an Occupation Certificate the person acting with this consent shall provide suitable documentary evidence to the Principle Certifying Authority to demonstrate that a survey plan has been prepared for the consolidation of the Lots and that plan has been lodged with Lands and Property Information or the appropriate authority for the registration of land at the time the Occupation Certificate is applied for.

(44) Registration of Easement for Support

The person acting with this consent must register an easement for support over the land subject to this development application relating to the construction, maintenance and upkeep of retaining walls on the site. The terms of this easement should be generally in accordance with the terms set-out in the draft 88B instrument provided to Council in an email from the applicant dated 24 May 2019.

The easement should be registered in favour of Muswellbrook Shire Council and the owners of the adjoining properties Lot 1 DP 229566 and Lot 1 DP 198349.

Prior to the issue of an Occupation Certificate the person acting with this consent shall provide the Principle Certifying Authority with suitable documentary evidence that the 88B instrument has been lodged with Lands and Property Information or the appropriate authority for the registration of land at the time the Occupation Certificate is applied for.

(45) Site Fencing

Prior to the issue of any Occupation Certificate the following site fencing is to be constructed in accordance with the approved plans and the requirements of this consent:

- A 1.8m high timber acoustic fence is to be constructed at the boundary between the development site and adjoining properties at 4 Flanders Avenue and 155 Bridge Street in accordance with the approved plans.
- A fence is to be constructed along the sites boundary with Flanders Avenue in accordance with the revised fence plan required as a condition of this consent.

(46) Food Shop Registration Requirement

Prior to the issue of an Occupation Certificate, the food premises must be registered with Council's Environmental Health section accordance with the Food Safety Standards, prior to commencement of food business operations.

Upon completion of the work and prior to the issuing of an occupation certificate, the premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant construction requirements and Food Safety Standards.

(47) Damage to Adjoining Properties

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

On completion of the works and prior to the issue of an Occupation Certificate, a certificate is to be prepared to the effect that that no damage has resulted to adjoining premises, and is to be provided to Council and the Principal Certifying Authority.

Alternatively, if damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to the issue of a final Occupation Certificate.

(48) Disposal Information

Upon completion of works and prior to occupation, the person entitled to act on this consent shall provide to Council the following information;

- (a) the total tonnage of all waste and excavated material disposed of from the site;
- (b) the disposal points and methods used; and
- (c) a copy of all disposal receipts are to be provided

(49) Redundant Vehicle Crossings

Where a redundant layback will occur at the frontage of the property, a new concrete kerb and gutter must be constructed to replace the redundant layback prior to the issue of an occupation certificate.

(50) Installation of landscaping

Prior to the issue of any Occupation Certificate landscaping is to be installed at the site in accordance with the approved Landscape Plan, the requirements of this consent or as otherwise directed by Council in writing.

(51) Installation of vehicle laybacks and public domain improvements

Prior to issue of any Occupation Certificate, the footpath along the frontage of Bridge Street and St Heliers Streets shall be constructed in accordance with Council's Public Domain Manual Muswellbrook CBD May 2012 and in accordance with the detailed design plans submitted to Council and approved with any Section 138 Permit.

The person acting with this consent shall provide the Principle Certifying Authority with documentary evidence demonstrating that Council is satisfied that these required works have been completed to a satisfactory standard.

(52) Construction of Waste Storage Areas

Prior to issue of any Occupation Certificate the bin storage area is to be constructed in accordance with the approved plans and requirements of this condition or as otherwise specified by Council in writing.

In addition to the design information included on the approved plans the bin storage area is to be constructed in accordance with the following:

- The bin storage is to be discreetly located at the site and screened through the construction of a gated fence/screen enclosure.
- All internal walls of this enclosure are to have a smooth service and the enclosure is to coved flood/wall intersection.
- The floor is to be graded toward the centre of the enclosure to prevent the escape of waste.
- A tap is to be located in a close proximity to the waste storage area.

(53) Installation of Underground Petroleum Storage System

The Applicant shall not commission a new storage system unless properly designed, installed, equipped and tested in accordance with Part 2 of the Underground Petroleum Storage Systems (UPSS) Regulation 2014. The new storage system must:

- (a) be designed and installed by a duly qualified person in accordance with the EPA guidelines;
- (b) be equipped with the mandatory pollution protection equipment and a secondary leak detection system;
- (c) be tested in accordance with written by a duly qualified person to confirm equipment integrity; and
- (d) be certified by the person by whom the test was carried out by as having satisfied the test.

Documentary evidence should be provided to the Principle Certifying Authority demonstrating compliance with the requirements of this condition prior to the issue of any Occupation Certificate for or in relation to the underground petroleum storage system.

(54) Emergency Spill Response Management Plan

Prior to the issue of any Occupation Certificate an Emergency Spill Response Management Plan is to be submitted to and approved by Muswellbrook Shire Council. The plan shall include but no be limited to the following:

- a) List of chemicals and maximum quantities to be stored at the site;
- b) Identification of potentially hazardous situations;
- c) Procedure for incident reporting;
- d) Details of spill stations and signage;
- e) Containment and clean-up facilities and procedures; and
- f) The roles of all staff in the Plan and details of staff training. The plan is to be to the satisfaction of council.

Documentary evidence should be provided to the Principle Certifying Authority demonstrating compliance with the requirements of this condition and the endorsement of the emergency response plan prior to the issue of any Occupation Certificate which relates to the service station.

(55) Construction of Refuelling Areas

Prior to the issue of any Occupation Certificate for the Service Station all refuelling areas are to be constructed, bunded and provided with emergency spill kits in accordance with the detailed design plans submitted with any Construction Certificate application.

(56) Evidence of Mandatory Council Inspections

Prior to the issue of an Occupation Certificate the person acting with this consent should provide the Principle Certifying Authority with documentary evidence that all mandatory Council inspections required under any Section 68 and 138 Approvals have been carried out. This evidence should include a satisfactory inspection report is to be obtained from Council confirming that the outcome of the inspection.

Where a mandatory inspection has not been carried out that relates to alterations to Council infrastructure it will be necessary for the person acting with this consent and

the Principle Certifying Authority to confirm that Council does not require further details in relation to the construction of the relevant infrastructure or the carrying out of any improvements to the completed works.

(57) Directional Signage

Prior to the issue of any Occupation Certificate, vehicle directional signage is to be installed at the premises to manage access to the site and clearly identify all entry and exit points, and to advise that heavy vehicles are not to fuel at the site. Where an access point is entry or exit only appropriate signage is to be installed to identify this to customers. Where there is a car park pedestrian crossing appropriate pedestrian signage should also be installed. All necessary signage installations must comply with the relevant Australian Standard.

(58) Establishment of no stopping areas

Prior to the issue of any Occupation Certificate, no stopping areas are to be established in the St Heliers and Bridge Street Road Reserves in accordance with no stopping zones endorsed by Council's Local Traffic Committee and related no stopping and signage plans endorsed by Council and the Traffic Committee in accordance with the conditions of this consent.

All required no-stopping signage is to be installed at no cost to Council by the person acting with this consent.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

(59) Stormwater Disposal

All stormwater from the development, including all hardstandings and overflows from rainwater tanks, is to be collected and disposed of in accordance with the requirements of any approval under Section 68 of the Local Government Act 1993 and the approved stormwater management plans. This will include management of rubbish and pollutants in accordance with section 25 of Muswellbrook DCP 2009.

(60) Hours of Operation –

The premises may be open for business only between the following hours:-

Restaurant:	6:00am – 10:00pm 7 days a week
Service Station	5:00am – 10:00pm 7 days a week

Upon expiry of the permitted hours, all restaurant service (and entertainment) shall immediately cease, no person shall be permitted entry and all customers on the premises shall be required to leave within the following half hour.

(61) Fencing

Unless otherwise approved by Council in writing, the required site fencing is to be maintained at the site and repaired or replaced as required due to damage or age.

(62) Maximum Number of Patrons

Unless otherwise approved by Council, no more than sixty (60) customers may attend the restaurant premises at any one time.

(63) Delivery Hours

Unless otherwise approved by Council in writing no deliveries, loading, unloading or waste collection is to take place at the site before 7:00am or after 7:00pm on any day.

(64) Trade Waste

At all times liquid trade waste from the premises shall be disposed of in accordance with the requirements of the trade waste agreement between the owner of the premises and Muswellbrook Shire Council.

(65) No Illumination of Fascia Sign

Unless otherwise approved by Council in writing, the signage installed at the premises, with the exception of the pylon advertisement structure, shall not be illuminated or flood lit.

The pylon advertisement sign may be illuminated as set-out in this development application. However, the illumination of this sign is to cease nightly at the close of business.

(66) Landscaping

The landscaped area of the development is to be maintained at all times in accordance with the approved landscape plan

(67) Litter Patrols

The operator of the restaurant shall ensure that regular litter patrols are carried out by staff. A litter patrol procedure is to be established and enacted for the management of litter at the site and in the locality and must include the following minimum litter management requirements:

- a) Litter patrols are to be carried out twice a day (subject to weather).
- b) A litter patrol route is to be prepared and is to include litter patrols and collections in the car park and parts of Flanders Avenue, St Heliers Street and Bridge Street that adjoin the site.

(68) Collection of Customer Waste

The person acting with this consent shall ensure that bins are made available for waste collection from vehicles and customers at the service station bowsters, at accessible locations within the car park and within the restaurant and service station premises.

(69) Lighting

All external lighting shall comply with the provisions of Australian Standard 4282-1997 – 'Control of the obtrusive effects of outdoor lighting'.

All lights at the premises (with the exception of security lighting) are to be turned off nightly at the close of business.

(70) Smoking

The operator of the development shall ensure that it complies with the relevant requirements of the Smoke Free Environment Legislation.

(71) Tyre Air Pump Noise Management

Any tyre air pump installed at the site must not contain an audible alarm of beeping mechanism that creates intrusive noise.

(72) Noise Management General

At all times the person acting with this consent must undertake reasonable steps to control and manage any intrusive noise associated with the operation of the premises. This would include the carrying out of the following:

- a) A record of noise complaints received in relation to the operation of the premises is to be kept by the person operating with this consent and is to be made readily available to Council Officers on request.
- b) Within one (1) month of the commencement of the sites operation the person acting with this consent shall take reasonable steps to advise neighbouring property owners of how to make complaints in relation to the operation of the premises.
- c) Where a large number of noise complaints are received due to disturbances outside the core business hours of 8:00am – 6:00pm, the person acting with this consent is to investigate the likely source or sources of any intrusive noise emissions and implement control measures to mitigate the impact of noise emissions on affected residential receivers.

ADDITIONAL RECOMMENDED CONDITIONS OF CONSENT IMPOSED BY NSW ROADS AND MARITIME SERVICES NOT LISTED ELSEWHERE IN THIS CONSENT

(73) Left only Bridge Street Access

Vehicle Access from the proposed Bridge Street Driveway is to be left in only.

(74) Vehicle Entry/Exit

All vehicles are to enter and exit the site in a forward direction.

(75) Heavy Vehicle Fuelling

Heavy vehicle fuelling shall not be permitted.

(76) Delivery Turning Paths

Turning paths for fuel deliveries are to be suitable for the size of vehicles making deliveries.

ADDITIONAL OPERATIONAL CONDITIONS RECOMMENDED BY NSW POLICE NOT SPECIFIED ELSEWHERE IN THIS CONSENT
--

(77) CCTV Surveillance

CCTV surveillance is to be installed, operated and maintained at the premises in accordance with the following:

- a) The installation of CCTV equipment should be located to achieve coverage in accordance with the following:
 - Cameras should be installed both in and around the business to maximise surveillance opportunities.
 - Cameras should monitor the cashier's area, high cost merchandise areas with poor natural surveillance and entry/exit doors.
 - TV monitors should enable staff to monitor activities on the camera.
 - Recording equipment should be installed away from the counter area to avoid tampering.
 - Store windows are not obstructed with merchandise that may hinder surveillance into or out of the building.
 - Cameras should be located at the site in a manner to avoid inadvertent surveillance of neighbouring residential properties and infringe on the privacy of any residents of those properties (Additional Council CCTV Requirement).
- b) CCTV recording equipment video tapes, discs and or hand held recordings shall be retained for a minimum of 21 days and provided Council, Police Officers or Special Inspectors on request.

(78) Lighting

Lighting installed at the development should comply with the following:

- d) Light installations should be high quality, vandal resistant lamps which are less likely to require replacement or maintenance.
- e) Security/sensor lighting should be installed for areas not in use after dark which can detect movement and highlight unwanted activities. Any such sensor lighting should not be installed at the site at locations that are likely to cause light pollution to neighbouring residential properties and have an inadvertent adverse impact on the enjoyment of this land.
- f) All lighting is to be maintained in accordance with a maintenance plan.

(79) Access Control

The main entry points of the development should be fitted with single cylinder locksets (Australian and New Zealand Standards – Locksets), which comply with the Building Code of Australia.

The windows should also be fitted with key operated locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorised access to the development.

(80) Service Station Access Control

- a) Counters should be designed to reduce the opportunity for assault of staff and unauthorised access to behind counter areas by having the 'Sales Service Area' as its own secured lockable area and with anti-jump barriers to restrict any persons from jumping the counter or having unauthorised access to behind the counter. Consider the width, height and location of the counter.
- b) Installation of an access door from sales service area to food prep area to allow staff to move to a safe area in the event of a robbery or aggressive person.
- c) The access door to the food prep area (as per plans) should be fitted with security access pad or key lock to restrict unauthorised access to the office area.
- d) For business handling cash, a safe designed and installed to the Australian Standards can provide additional security to money and other valuables. As a minimum a drop safe for use should be installed for the service station to ensure a minimal amount of cash is kept in the till.
- e) To enhance security of the business, a monitored intruder alarm system is recommended.
- f) For service station centre staff, incorporating a duress facility into the alarm system to enable staff to activate the system manually in the event of an emergency is recommended.
- g) For the service station staff, they should be able to control the main customer entry/exit point from behind the service station counter so that they can control customer entry within later hours of trading.

(81) Restaurant Access Control

- a) The office door should be fitted with security access pad or key lock to restrict unauthorised access to the office area. There will be minimal supervision at the rear entry.
- b) That the rear entry/exit be only for deliveries. This will allow for surveillance of all customers and will reduce the excuse for being in an out of bounds area. Clear signs should be displayed to indicate restricted areas.

(82) Space/Activity Management

A site maintenance plan is to be prepared in relation to the operation of the site and should include provisions relating to the following:

- a) The picking up of discarded rubbish from the fast food outlet outside the perimeter of the development, on nearby footpaths and street.
- b) The use of graffiti resistant materials, particularly on the fences, ground floor and areas which are accessible by other structures to reduce such attacks or assist in the quick removal of such attacks.
- c) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for

reducing graffiti attacks is the quick removal of such material generally within a twenty-four to forty-eight hour period.

(83) Space/Activity Management Crowd Management

Staff are to be trained and need to monitor groups gathering that may generate unacceptable noise and take appropriate action, especially in the car park to the rear of the development.

(84) Space/Activity Management Bicycle Rack

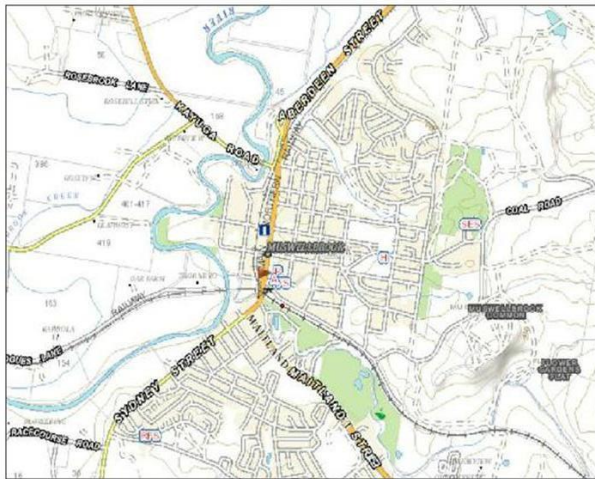
A bicycle rack is to be included at the premises in a well-lit supervised area.

PROPOSED SERVICE STATION AND FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK



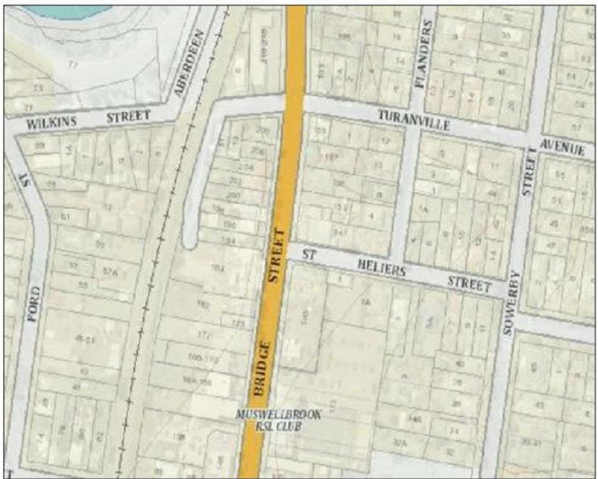
DEVELOPMENT PERSPECTIVE

Refer Site Plan on Sheet A201



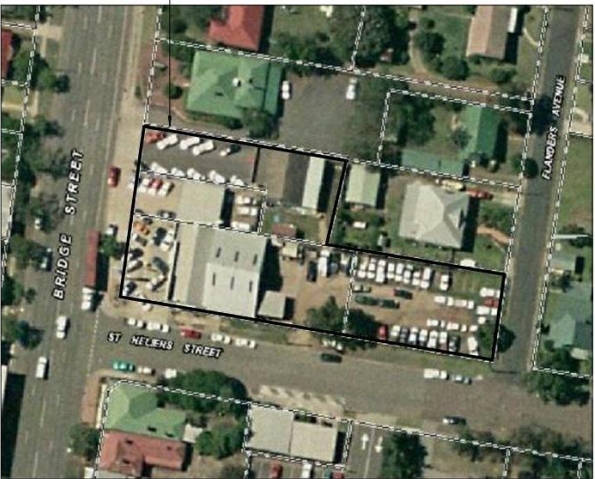
LOCALITY PLAN - Muswellbrook

NOT TO SCALE



LOCATION PLAN - Bridge Street

NOT TO SCALE



AERIAL PHOTO

NOT TO SCALE

SHEET LIST	
A101	COVER SHEET
A201	SITE PLAN
A202	BUILDING LAYOUT - OLIVERS
A203	ROOF PLAN - OLIVERS
A204	BUILDING LAYOUT - SERVICE STATION & CANOPY
A205	ROOF PLAN - SERVICE STATION & CANOPY
A206	TRAFFIC PLAN
A207	RETAINING WALLS & LANDSCAPING
A301	ELEVATIONS & SECTION - OLIVERS
A302	ELEVATIONS - SERVICE STATION & CANOPY
A303	SECTION - SERVICE STATION & CANOPY
A304	STREETSCAPE ELEVATIONS

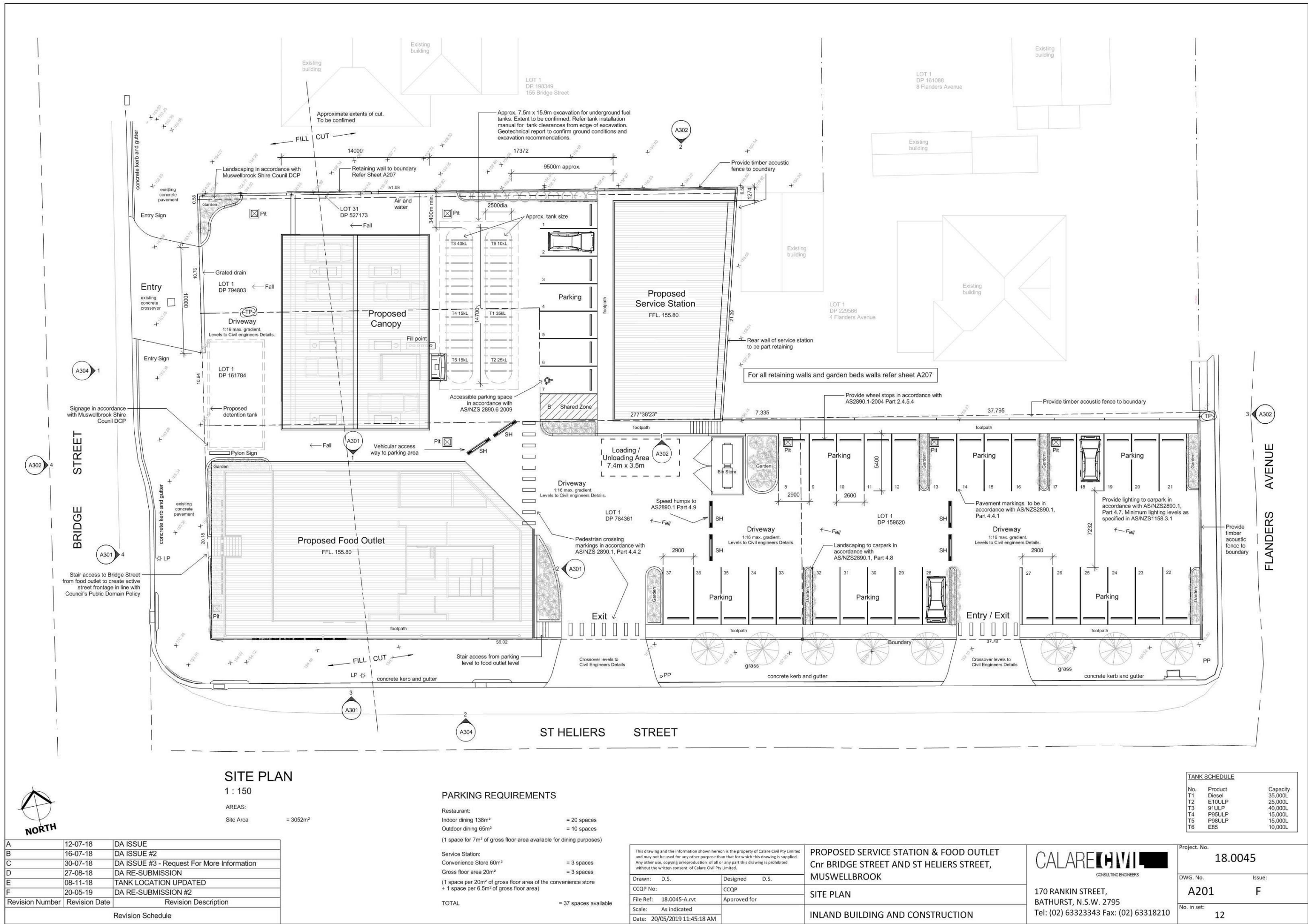
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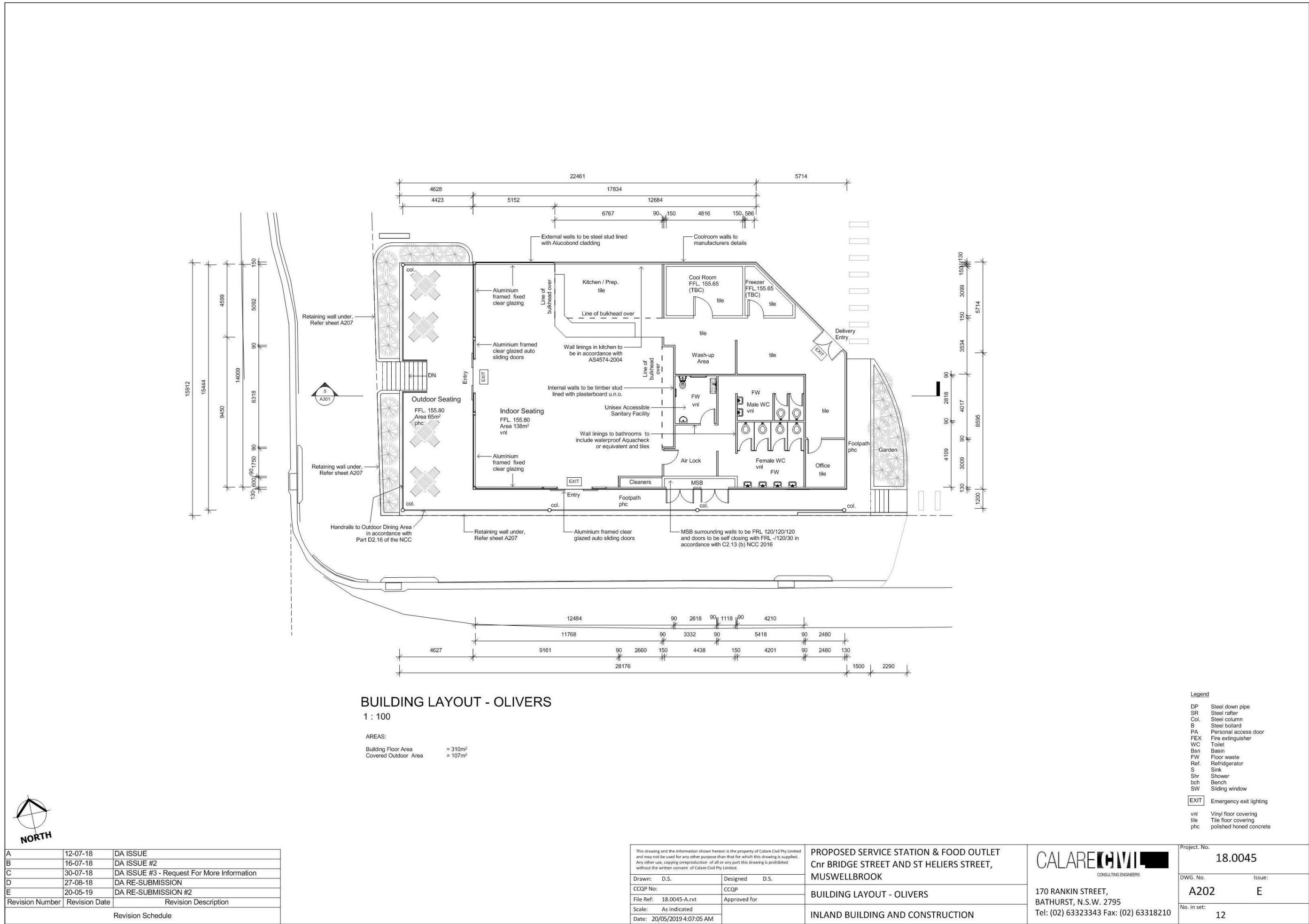
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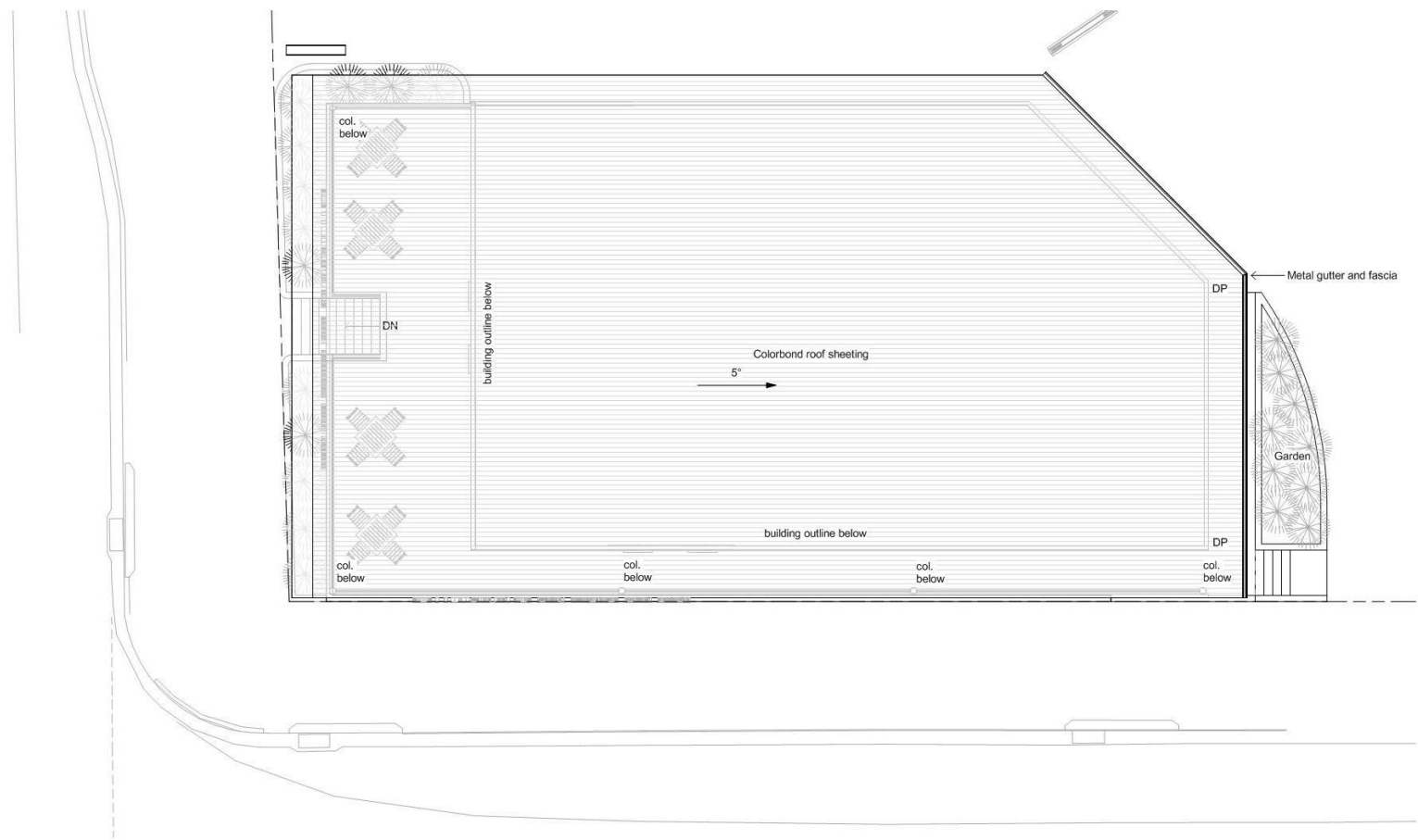
PROPOSED SERVICE STATION & FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK	
COVER SHEET	
INLAND BUILDING AND CONSTRUCTION	

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Project: No.	18.0045
DWG. No.	A101
Issue:	E
No. in set:	12








ROOF LAYOUT - OLIVERS
1 : 100

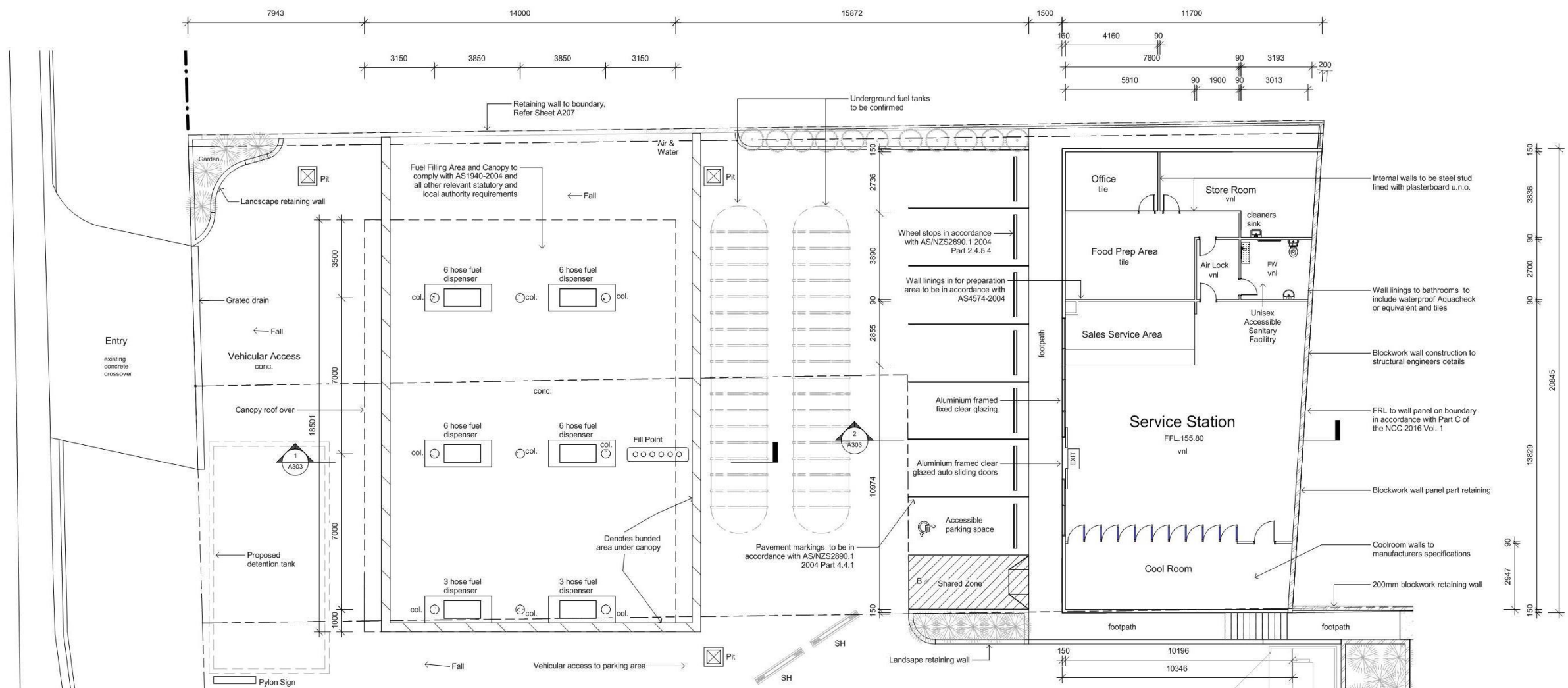


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Revision Schedule		

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Drawn: D.S.	Designed: D.S.	ROOF PLAN - OLIVERS		DWG. No. A203	Issue: E
CCQP No:	CCQP	INLAND BUILDING AND CONSTRUCTION		No. in set: 12	
File Ref: 18.0045-A.rvt	Approved for:				
Scale: 1 : 100					
Date: 20/05/2019 4:05:58 AM					
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BUILDING LAYOUT - SERVICE STATION
1 : 100

AREAS:
Service Station Floor Area = 220m²
Canopy Covered Area = 259m²

- Legend
- DP Steel down pipe
 - SR Steel rafter
 - Col. Steel column
 - B Steel bollard
 - PA Personal access door
 - FEX Fire extinguisher
 - WC Toilet
 - Bsn Basin
 - FW Floor waste
 - Ref. Refrigerator
 - S Sink
 - Shr Shower
 - bch Bench
 - SW Sliding window
 - EXIT Emergency exit lighting
 - vnl Vinyl floor covering
 - tile Tile floor covering
 - phc polished honed concrete



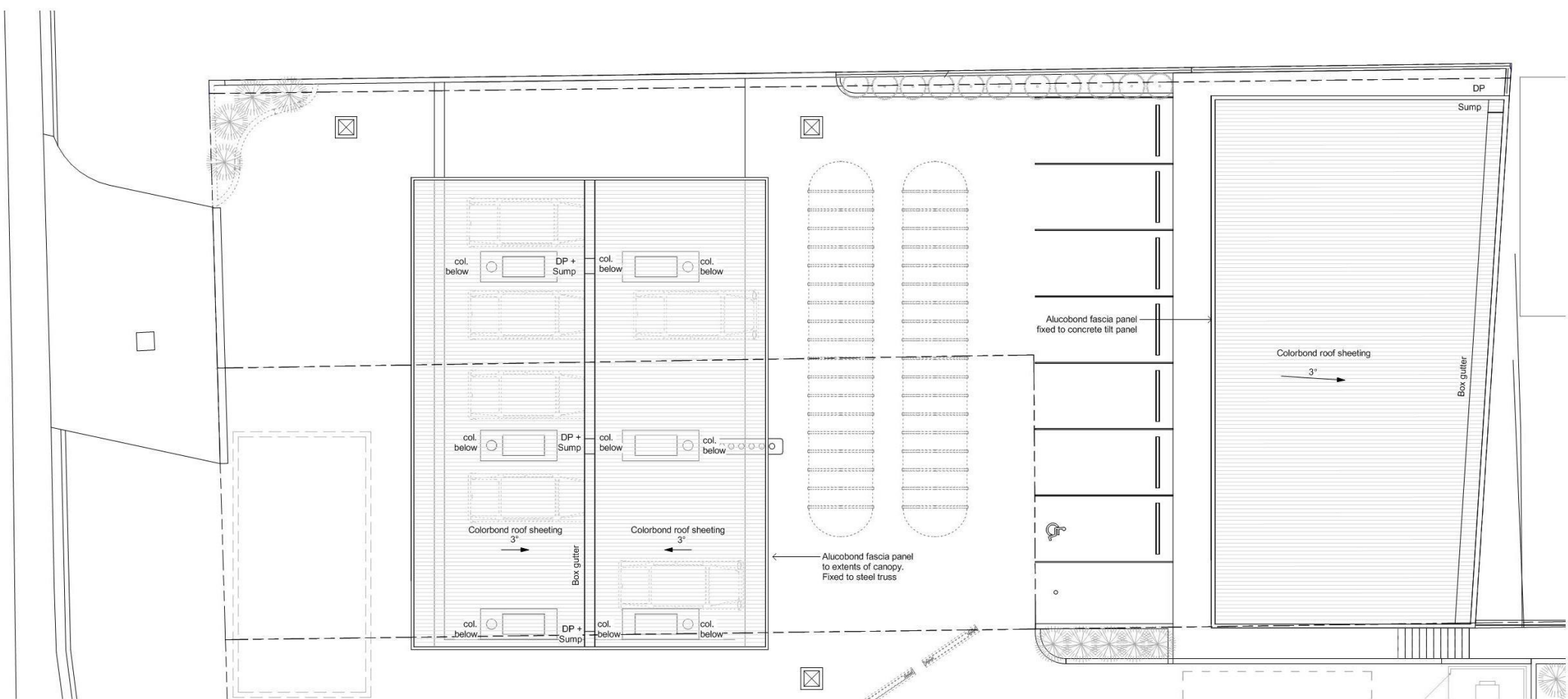
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B	30-07-18	DA ISSUE #3 - Request For More Information
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PROPOSED SERVICE STATION & FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK	
BUILDING LAYOUT - SERVICE STATION & CANOPY	
INLAND BUILDING AND CONSTRUCTION	

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Project: No.	18.0045
DWG. No.	A204
Issue:	D
No. in set:	12



ROOF LAYOUT - SERVICE STATION & CANOPY
1 : 100

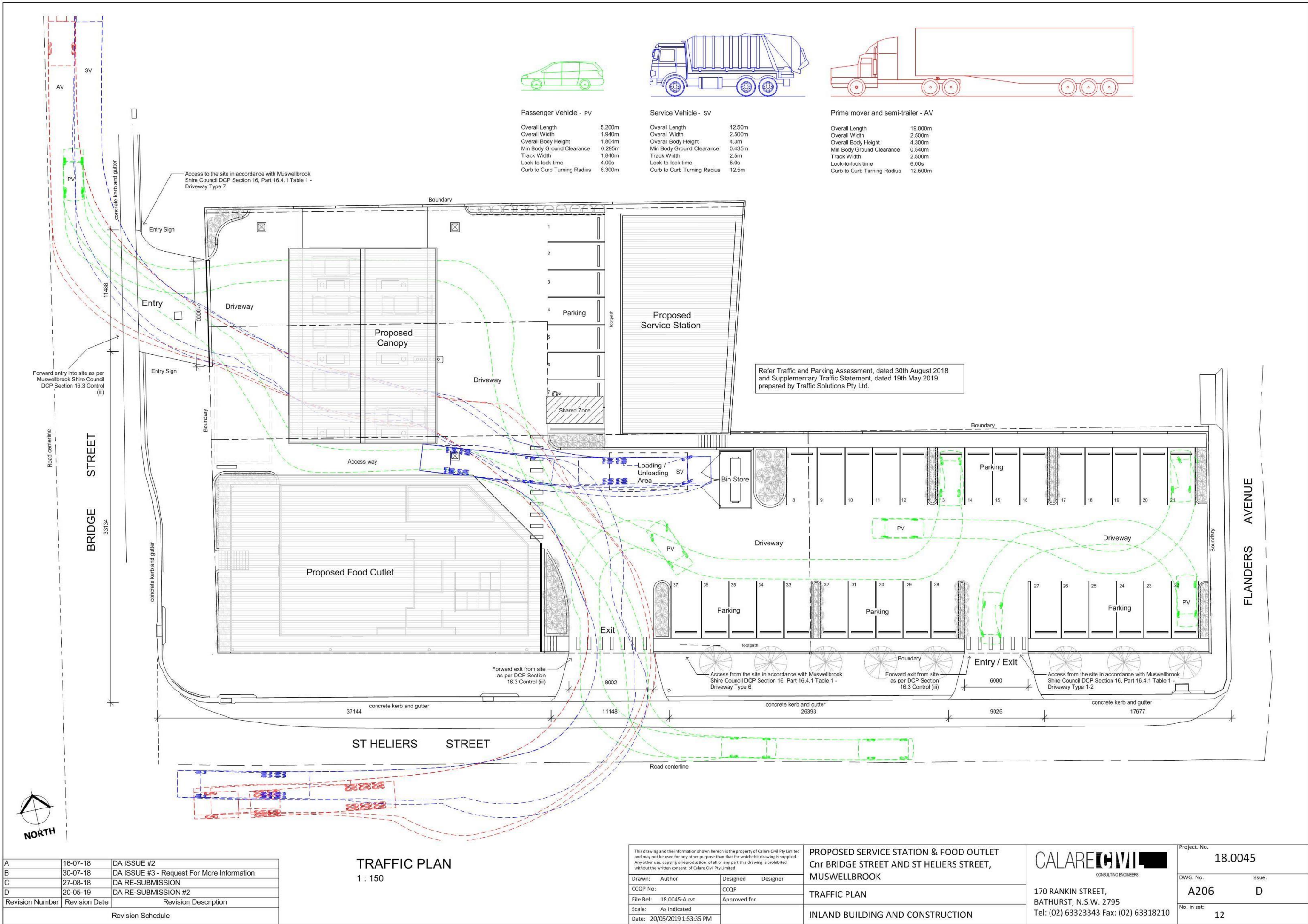


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C	30-07-18	DA ISSUE #3 - Request For More Information
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CCQP No:	CCQP				<div>No. in set: 12</div>	
File Ref: 18.0045-A.rvt	Approved for					
Scale: 1 : 100	<div>INLAND BUILDING AND CONSTRUCTION</div>		<div>170 RANKIN STREET, BATHURST, N.S.W. 2795 Tel: (02) 63323343 Fax: (02) 63318210</div>		<div><div>CALARE CIVIL</div><div>CONSULTING ENGINEERS</div></div>	
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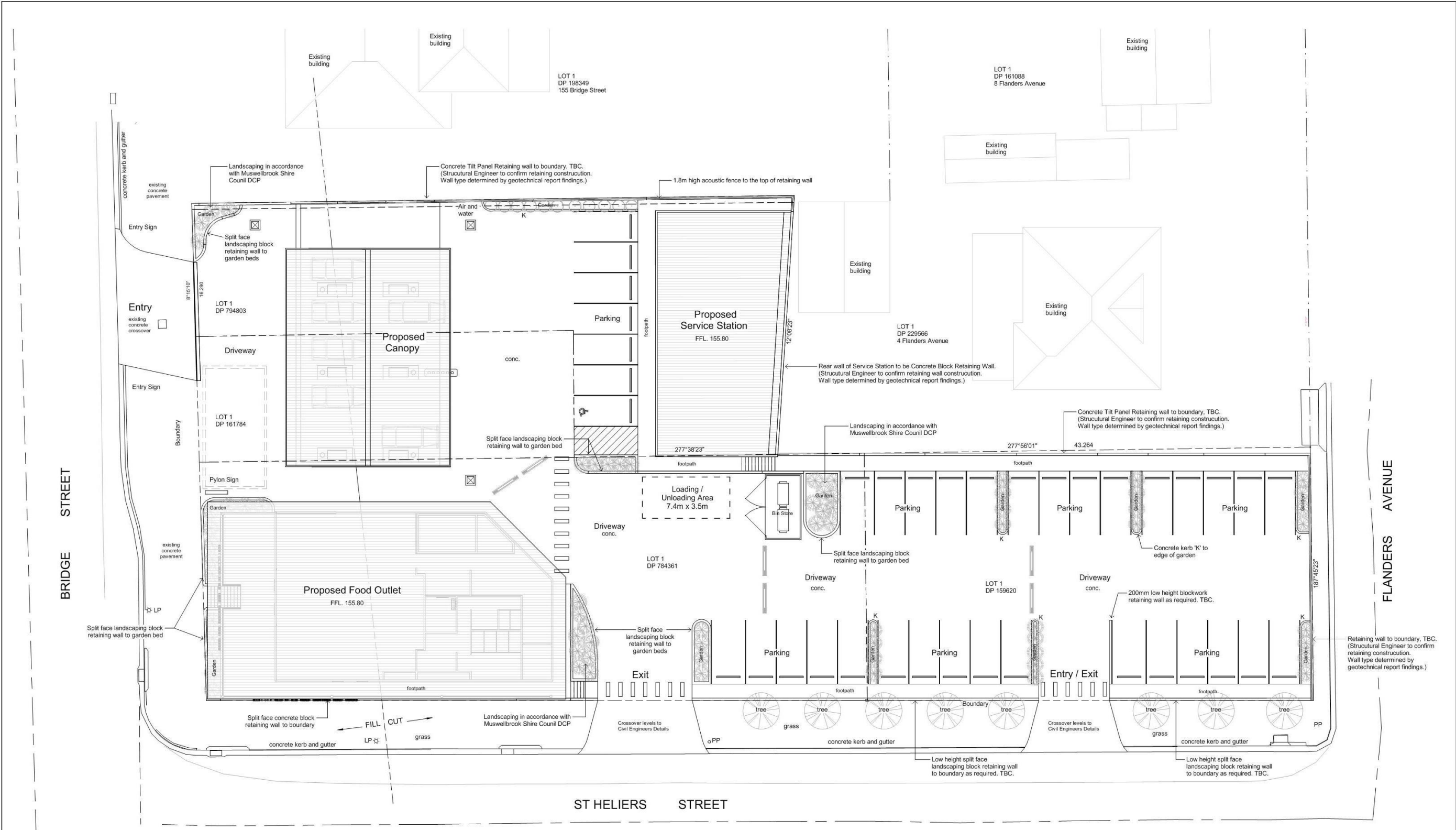
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Revision Number	Revision Date	Revision Description
Revision Schedule		

TRAFFIC PLAN
1 : 150

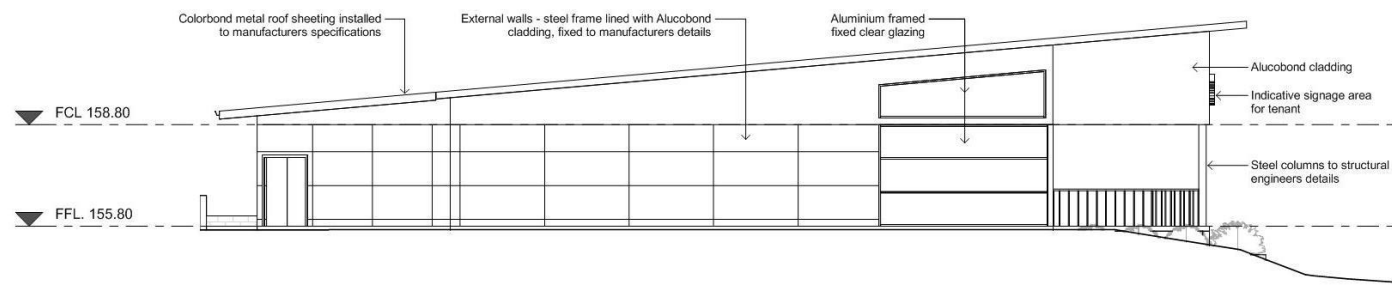
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Drawn: Author	Designed: Designer	TRAFFIC PLAN			DWG. No. A206	Issue: D
CCQP No:	CCQP	INLAND BUILDING AND CONSTRUCTION			No. in set: 12	
File Ref: 18.0045-A.rvt	Approved for:					
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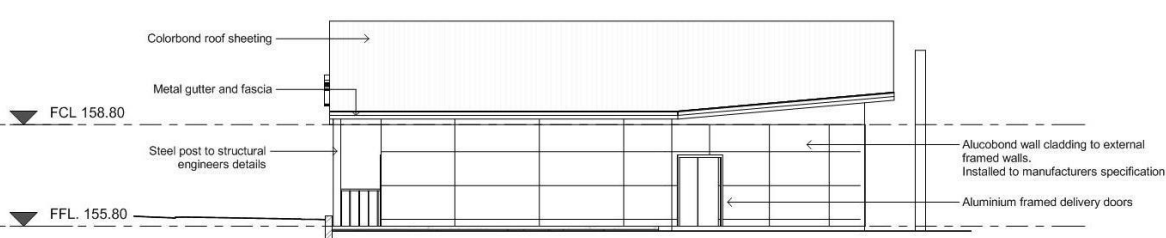
LANDSCAPE AND RETAINING WALL LAYOUTS
1 : 150

A	20-05-19	DA RE-SUBMISSION #2
Revision Number	Revision Date	Revision Description
Revision Schedule		

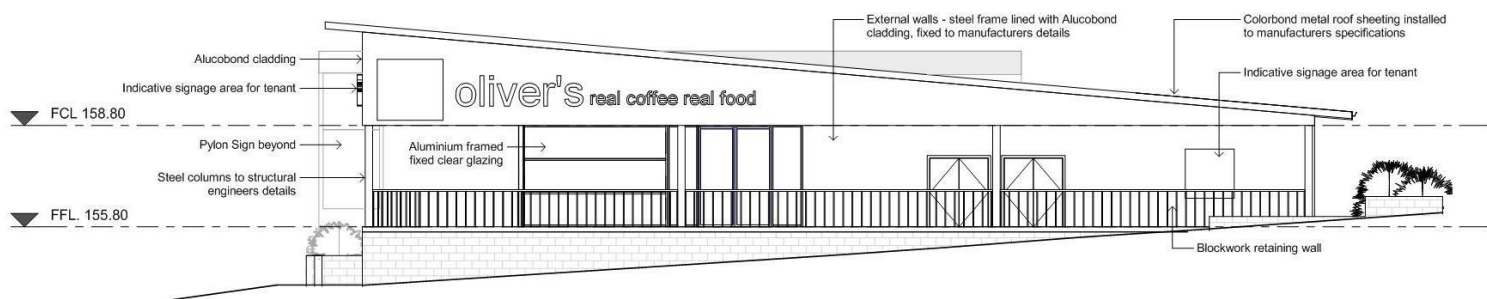
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Drawn: Author	Designed: Designer	RETAINING WALLS & LANDSCAPING		DWG. No. A207	Issue: A
CCQP No:	CCQP	INLAND BUILDING AND CONSTRUCTION		No. in set: 12	
File Ref: 18.0045-A.rvt	Approved for:	170 RANKIN STREET, BATHURST, N.S.W. 2795 Tel: (02) 63323343 Fax: (02) 63318210			
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Date: 20/05/2019 1:35:55 PM					



NORTH ELEVATION - OLIVERS
1 : 100



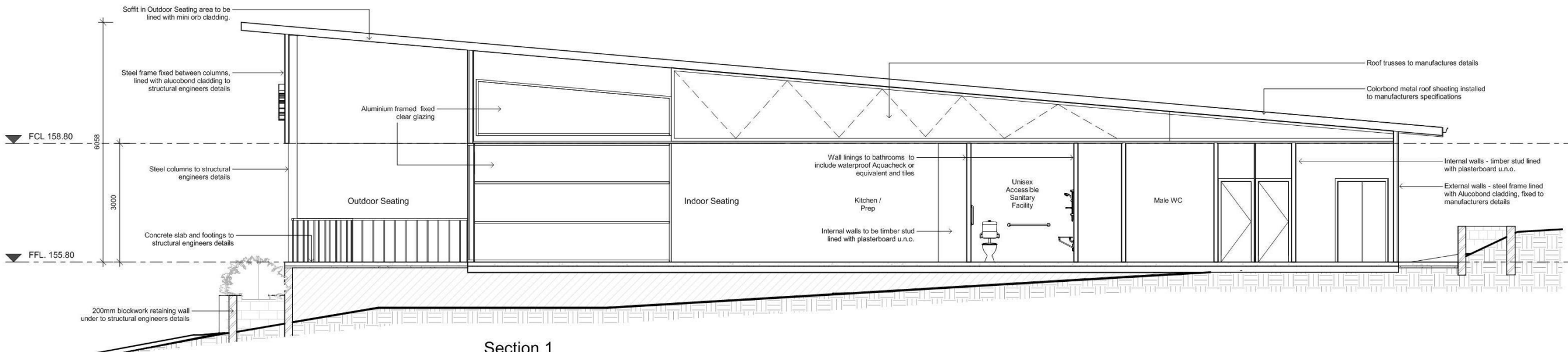
EAST ELEVATION - OLIVERS
1 : 100



SOUTH ELEVATION - OLIVERS
1 : 100



WEST ELEVATION - OLIVERS
1 : 100



Section 1
1 : 50

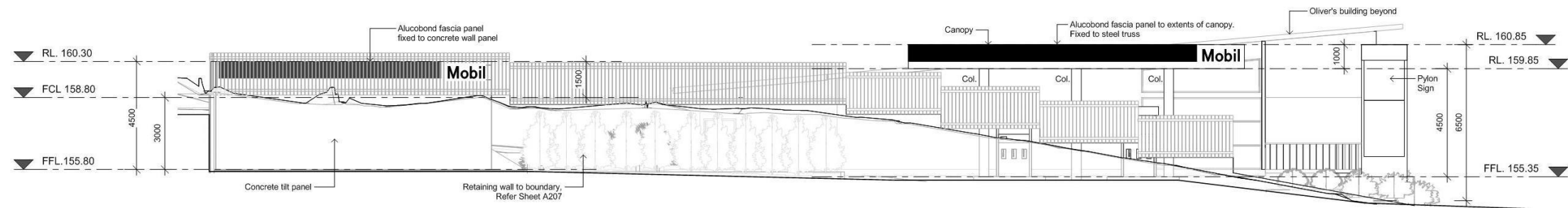
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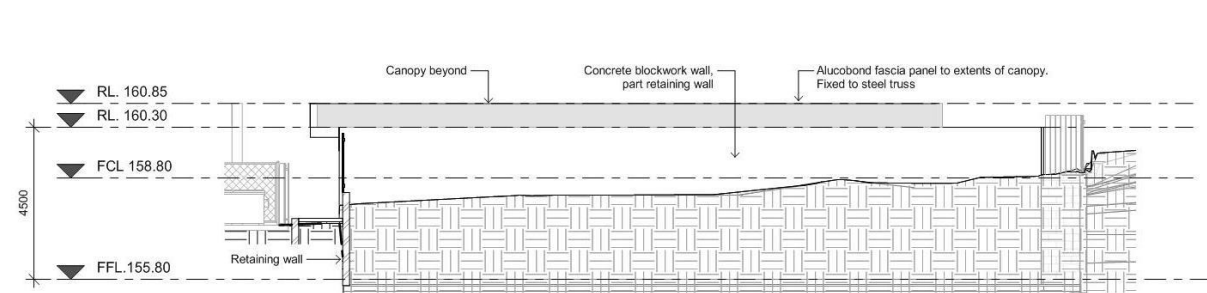
PROPOSED SERVICE STATION & FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK
ELEVATIONS & SECTION - OLIVERS
INLAND BUILDING AND CONSTRUCTION

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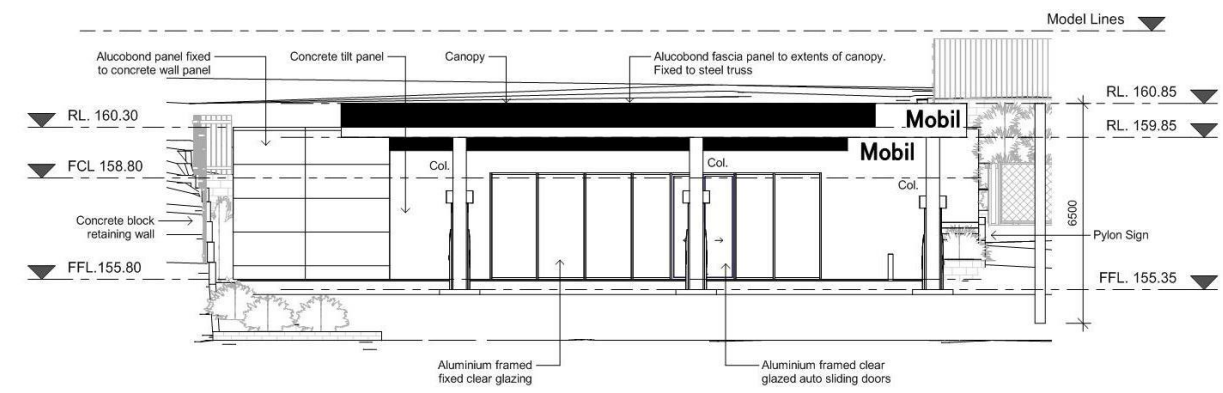
Project: No.	18.0045
DWG. No.	A301
Issue:	E
No. in set:	12



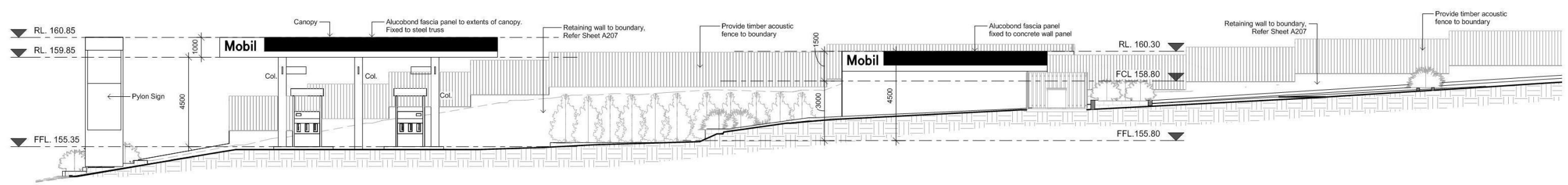
NORTH ELEVATION - SERVICE STATION
1 : 100



EAST ELEVATION - SERVICE STATION
1 : 100



WEST ELEVATION - SERVICE STATION
1 : 100



SOUTH ELEVATION - SERVICE STATION
1 : 100

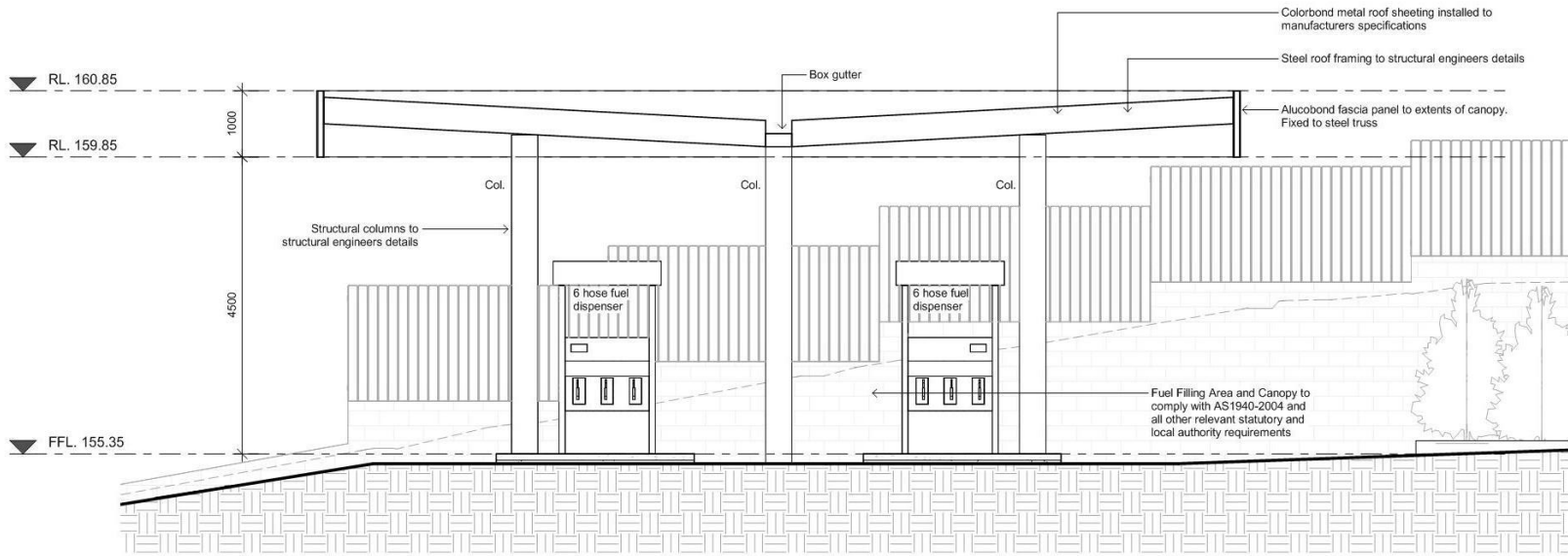
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B	16-07-18	DA ISSUE #2
C	30-07-18	DA ISSUE #3 - Request For More Information
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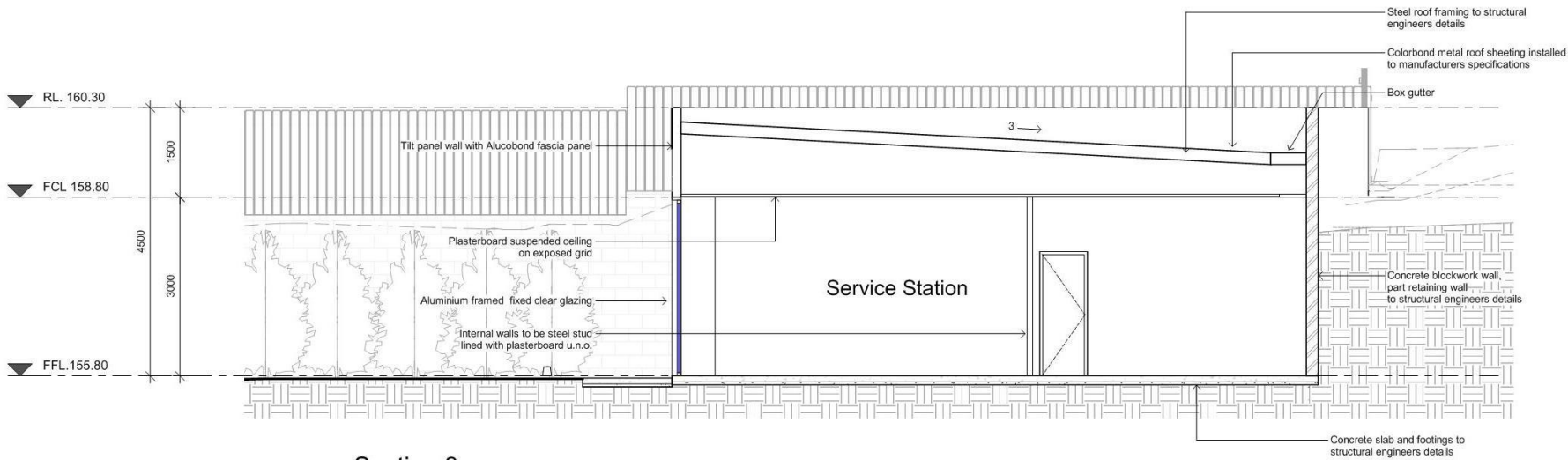
PROPOSED SERVICE STATION & FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK
ELEVATIONS - SERVICE STATION & CANOPY
INLAND BUILDING AND CONSTRUCTION

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Project: No.	18.0045
DWG. No.	A302
Issue:	E
No. in set:	12



Section 2
1 : 50



Section 3
1 : 50

A	12-07-18	DA ISSUE
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C	30-07-18	DA ISSUE #3 - Request For More Information
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E	20-05-19	DA RE-SUBMISSION #2
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PROPOSED SERVICE STATION & FOOD OUTLET Cnr BRIDGE STREET AND ST HELIERS STREET, MUSWELLBROOK
SECTION - SERVICE STATION & CANOPY
INLAND BUILDING AND CONSTRUCTION

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Project: No.	18.0045
DWG. No.	A303
Issue:	E
No. in set:	12



BRIDGE STREET SITE ELEVATION
1 : 100

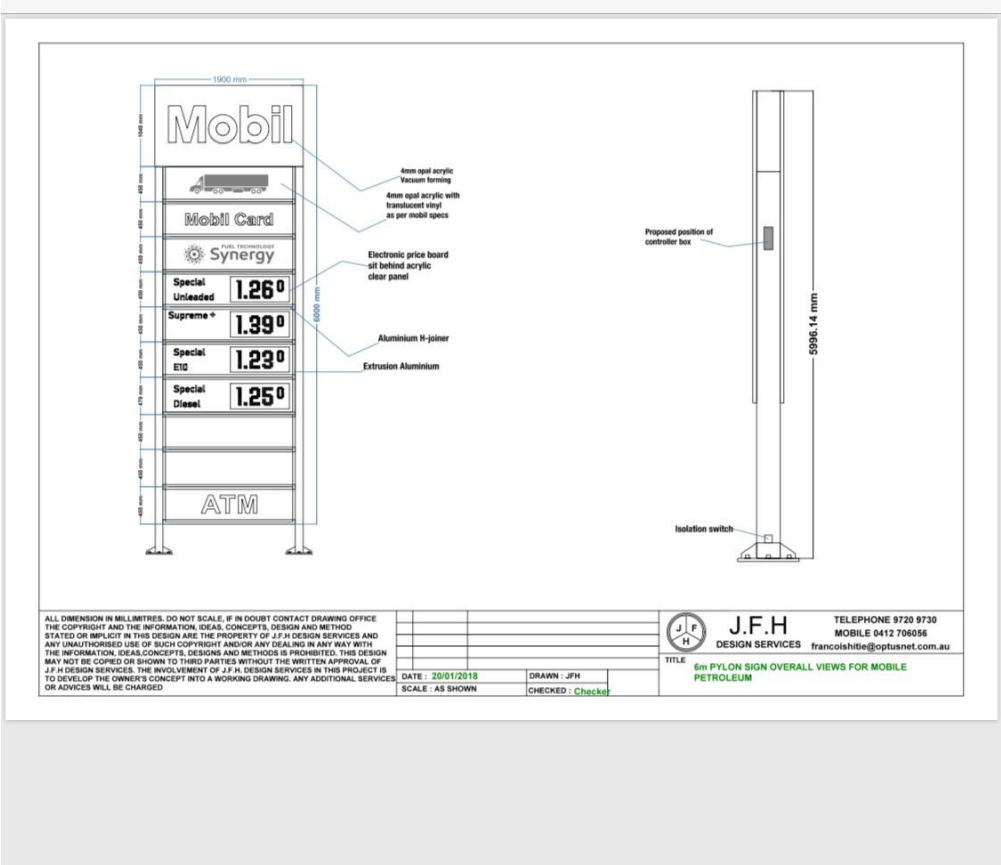


ST HELIERS STREET SITE ELEVATION
1 : 125

	Alucobond Plus Grey Metallic 502		Blue	
	Colorbond Wallaby		Red	
	Colorbond Surfmist		Pure White	
	Alucobond PMS 361C			

A	30-07-18	DA ISSUE #3 - Request For More Information
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C	20-05-19	DA RE-SUBMISSION #2
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Drawn: D.S.	Designed: D.S.	STREETScape ELEVATIONS		DWG. No. A304	Issue: C
CCQP No:	CCQP	INLAND BUILDING AND CONSTRUCTION		No. in set: 12	
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STATEMENT OF ENVIRONMENTAL EFFECTS

DA 78/2018



CLIENT:

Inland Building and Construction

PROPOSAL:

Service Station and Restaurant

ADDRESS:

147-153 Bridge Street, Muswellbrook

DATE:

7 December 2018



DESCRIPTION: Service Station & Restaurant

CLIENT: Inland Building and Construction

Anthony Daintith Town Planning Pty Ltd
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QUALITY ASSURANCE

This document has been prepared, checked and released in accordance with the Quality Control Standards established by Anthony Daintith Town Planning.

Version	Date	Description	By
1.0	17/10/2018	Draft	AD
2.0	8/11/2018	Draft	AD
3.0	7/12/2018	Approved	AD

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A handwritten signature in black ink, appearing to read 'AD', is written over a horizontal line.

This document has been authorised by

Anthony Daintith (Principal)
 Date: 7 December 2018



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147-153 Bridge Street, Muswellbrook

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1. BACKGROUND

1.1 Introduction

Inland Building and Construction has engaged Anthony Daintith Town Planning to prepare a Statement of Environmental Effects (SOEE), to support a development application (DA 78/2018) to Muswellbrook Shire Council, for a service station and restaurant development located at 147-153 Bridge Street, Muswellbrook.

The purpose of this document is to:

- Describe the existing environment;
- Outline the proposed development;
- Consider relevant statutory matters; and
- Make conclusions and recommendations for Councils consideration.

The development application consists of the following components:

- Completed DA form;
- Statement of Environmental Effects;
- Traffic Report; and
- Site & Development Plans.

1.2 Applicant and Owner

The applicant is Inland Building and Construction.

The owner of the subject land is Canyon Pty Ltd. The owner has provided their owners consent to the lodgement of the development application.



2. SUBJECT LAND

2.1 Location and Title

The subject land is identified as 147-153 Bridge Street, Muswellbrook. The area of the subject land is 3106m². Refer to **Figures 1-2**, which depict the site within the locality.

The land title description is as per **Table 1** below.

Table 1: Land Title Description

Lot	DP
1	794803
1	161784
1	784361
1	159620

Figure 1: Locality Map

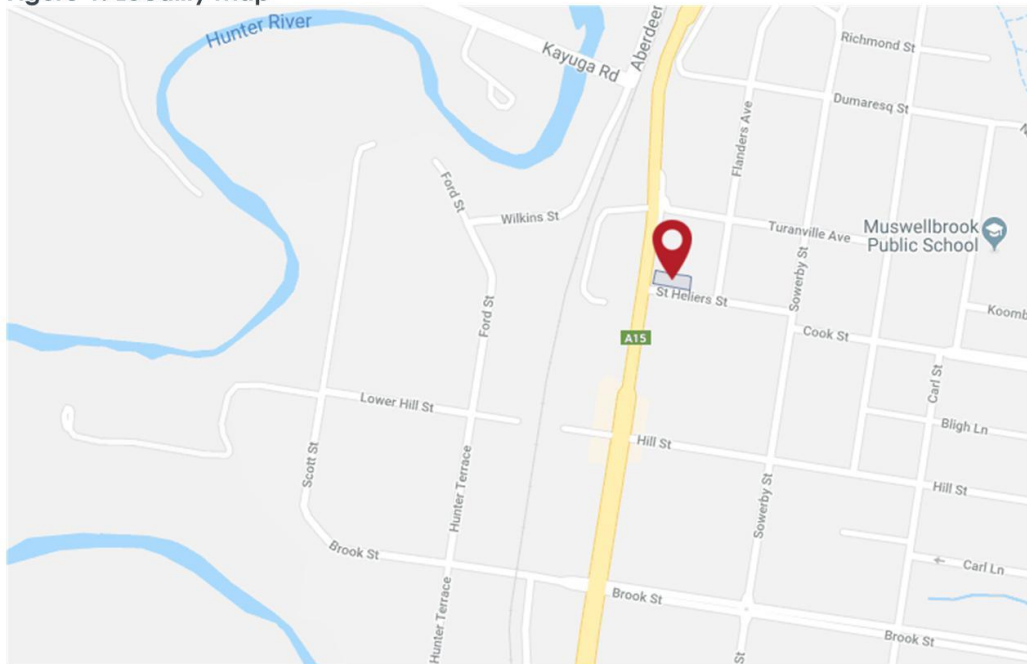
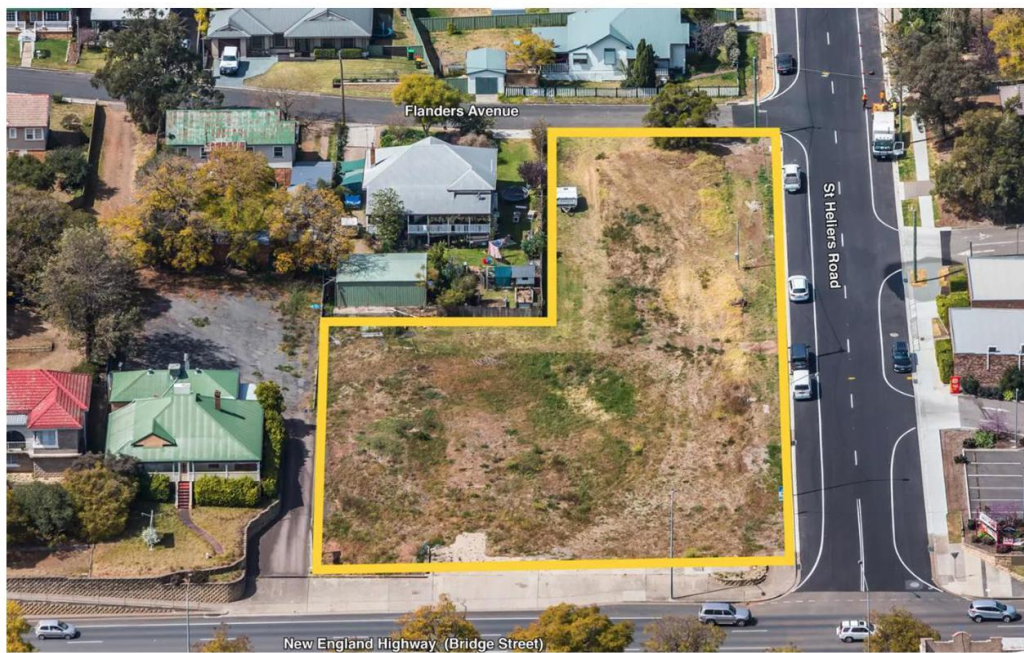


Figure 2: Aerial Photos



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2.2 General Site Description

Topography

Slopes from the east (Flinders Avenue) down to the west (Bridge Street by about 8 metres).

Vegetation

The site has been cleared of vegetation.

Waterways

There are no water courses traversing the site.

Buildings

Vacant land.

Photos 1-4 provide a visual representation of the site.

Photo 1: Front of the land looking north east



Photo 2: Rear of the land looking west towards Bridge Street



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Photo 3: Subject land looking north from St Heliers Street



Photo 4: St Heliers Street frontage





2.3 Adjoining Development

There is a mixture of commercial and residential land uses in the locality of the subject land.

North – commercial (including restaurant)

West – commercial

East – residential

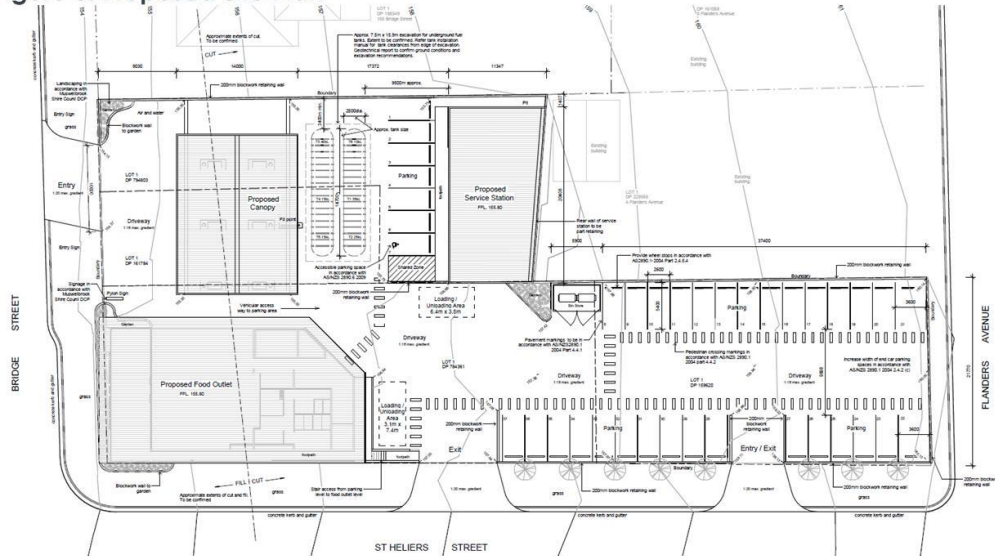
South – commercial (including Hungry Jacks restaurant)

3. PROPOSAL

The proposed development involves the following components:

- Service Station
- Restaurant (60 seats)

Figure 3: Proposed Site Plan



The proposed development involves a new service station with a convenience store (207m² total area with 80m² of customer area), and a separate restaurant (with seating area indoors and outdoors).

Access to the site is proposed via a 10m wide entry driveway off Bridge Street and separate entry and exit driveways to St Heliers Street (Entry 9m wide at boundary widening to 13.4m at kerb. Exit is 6m wide widening to 10.4 at the kerb).

- Service station building with sales service area, unisex sanitary facility, food preparation area, office and store room.
- Canopy with 6 bays.
- Blockwork retaining walls to part of the north, east and south boundaries.
- Food outlet with indoor and outdoor dining areas, male, female and accessible sanitary facilities, service area, kitchen, cool room, freezer, storage areas, and office.
- Parking areas to accommodate both the service station and restaurant (37 car spaces including 1 disabled).
- Access driveways from Bridge Street and St Heliers Street.
- Pylon business identification sign on Bridge Street.
- Landscaping.

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- Concrete access driveways through the site.
- Concrete refuelling forecourt.

Hours of Operation

Restaurant: 6am until 10pm 7 days
Service Station 24 hours 7 days a week

Staff

It is likely that the proposal will have 6 Full time employees and 8-10 casual employees.

Proposed Signage



BRIDGE STREET SITE ELEVATION



ST HELIERS STREET SITE ELEVATION

Emergency management response procedures

Emergency management response procedures will be developed in accordance with the requirements of Council and the relevant Australian Standard.



4. TOWN PLANNING ASSESSMENT

Pursuant to Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979*, the following matters must be taken into consideration when assessing a development application:

4.15 Evaluation

(cf previous s 79C)

Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.



The provisions of any environmental planning instrument

Muswellbrook Local Environmental Plan 2009

Zoning

The subject land is zoned B2 Local Centre under the provisions of the LEP.

Figure 4: LEP Zoning Map



Zone B2 Local Centre

1 Objectives of 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.

2 Permitted without consent

Home occupations

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Environmental

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facilities; Environmental protection works; Flood mitigation works; Function centres; Health services facilities; Heavy industrial storage establishments; Highway service centres; Hostels; Information and education facilities; Medical centres; Mortuaries; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Research stations; Respite day care centres; Restricted premises; Roads; **Service stations**; Sewage reticulation systems; Sex services premises; Shop top housing; Signage; Storage premises; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water reticulation systems; Wholesale supplies

4 Prohibited

Any development not specified in item 2 or 3

Comment

It is considered that the proposed development is consistent with the objectives of the B2 Local Centre Zone:

Objective	Comment
<ul style="list-style-type: none"> 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. 	Complies – The development will serve both the local population and the travelling public.
<ul style="list-style-type: none"> To encourage employment opportunities in accessible locations. 	Complies – The development will create a number of numbers in both the construction and operational stages. It is anticipated that there will be 6 FTE jobs created (including part time and casual roles).
<ul style="list-style-type: none"> To maximise public transport patronage and encourage walking and cycling. 	Complies – no negative impacts identified.
<ul style="list-style-type: none"> 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. 	Complies – the development will boost the Muswellbrook economy and maintain the status of the CBD.
<ul style="list-style-type: none"> 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. 	Complies – the service station and restaurant will support the Muswellbrook retail area.
<ul style="list-style-type: none"> To maintain the heritage character and value and streetscape of the business centre of Muswellbrook. 	Complies – the design of the proposed buildings on the site is considered sympathetic to the existing streetscape and consistent with other surrounding recent retail developments.
<ul style="list-style-type: none"> To support business development by way of the provisions of parking and other civic facilities. 	No really relevant to this proposal.



The proposed service station and restaurant is permitted with consent in the B2 Local Centre zoning.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.
Note.

Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary.

4.3 Height of buildings

(1) The objectives of this clause are as follows:

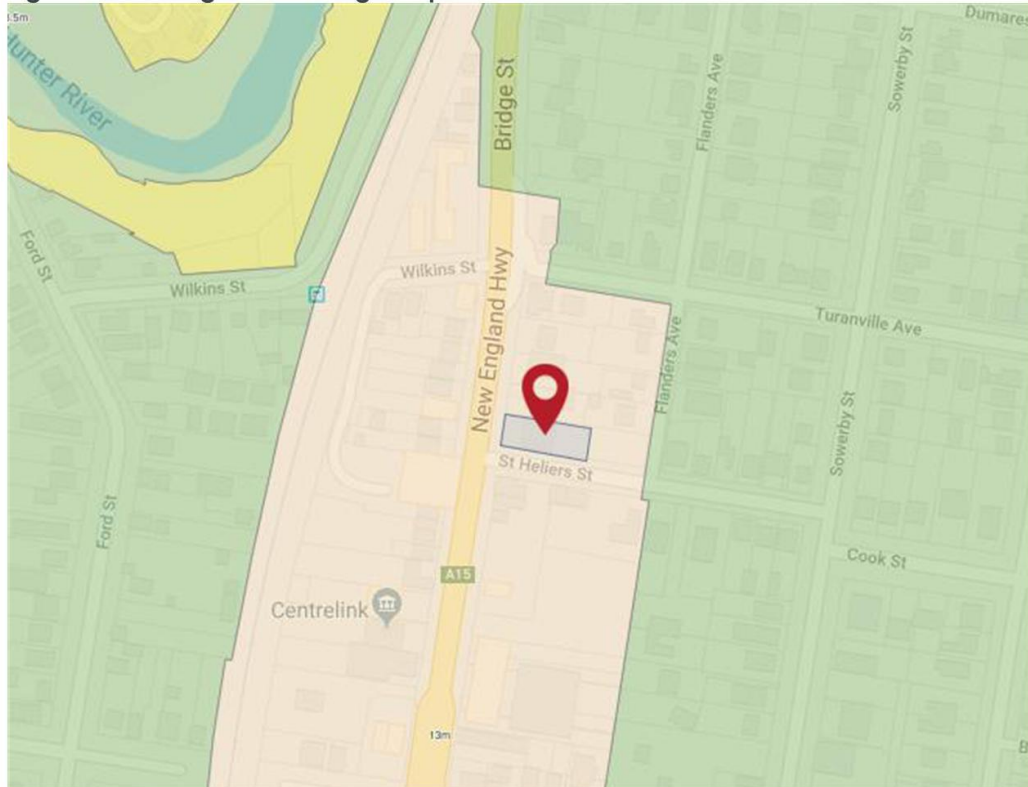
- (a) to limit the height of buildings,
- (b) to promote development that is compatible with the height of surrounding development and conforms to and reflects natural landforms by stepping development on sloping land to follow the natural gradient,
- (c) to promote the retention and, if appropriate, sharing of existing views,
- (d) to maintain solar access to new and existing dwellings and public recreation areas and to promote solar access to new buildings,
- (e) to maintain privacy for residents of existing dwellings and promote privacy for residents of new buildings.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Comments

The LEP permits a height of building up to 13 metres. Each building is less than 13 metres in height. The service station has a height of 4.5m, the canopy 6.6m and the restaurant a height to 5.9m.

Figure 5: LEP Height of Buildings Map



4.4 Floor space ratio

(1) The objectives of this clause are as follows:

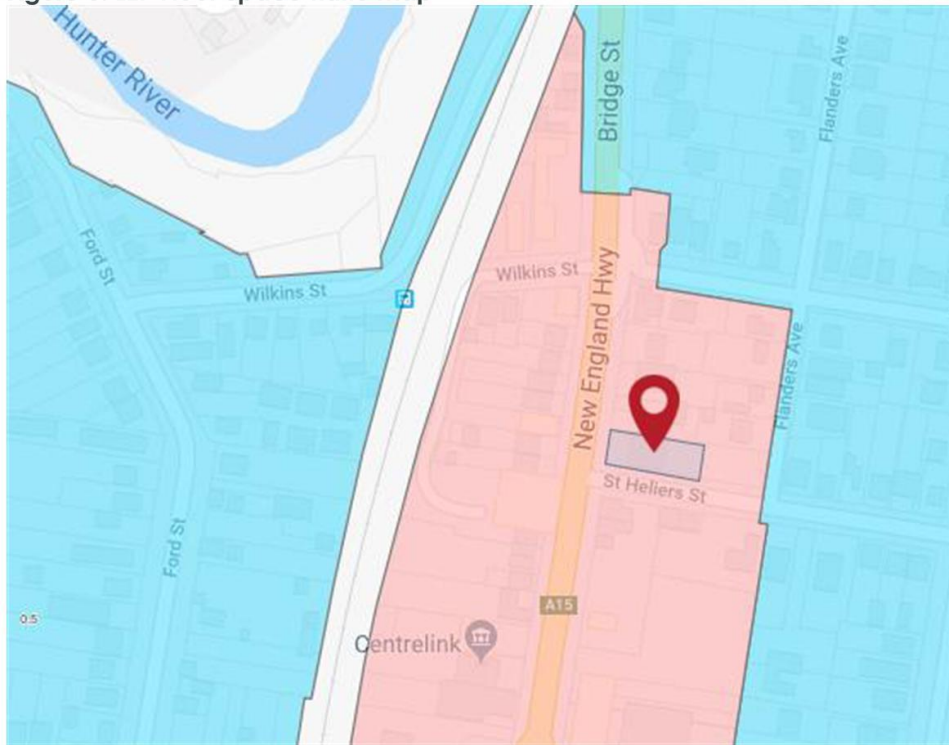
- (a) to ensure a degree of equity in relation to development potential for sites of different sizes and for sites located in different parts of Muswellbrook,
- (b) to ensure that proposals for new buildings are assessed with due regard to the context of surrounding development,
- (c) to ensure that the bulk and scale of proposed buildings are compatible with surrounding (or intended future) development,
- (d) to provide sufficient floor space for high quality development for the foreseeable future,
- (e) to regulate density of development and generation of vehicular and pedestrian traffic,
- (f) to ensure the preservation of reasonable amenity on surrounding land.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Comments

The LEP Floor Space Ratio (FSR) requirement is 2:1. The proposed of the site is 0.25:1 (780m²/3106m²).

Figure 6: LEP Floor Space Ratio Map



5.10 Heritage conservation

Note.

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Muswellbrook,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:

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- (i) on which a heritage item is located or that is within a heritage conservation area, or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.
- (3) When consent not required However, development consent under this clause is not required if:
 - (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
 - (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
 - (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
 - (d) the development is exempt development.
- (4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).
- (5) Heritage assessment The consent authority may, before granting consent to any development:
 - (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
 require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):
 - (a) notify the Heritage Council of its intention to grant consent, and
 - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:
 - (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
 - (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.
- (9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:
 - (a) notify the Heritage Council about the application, and



(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

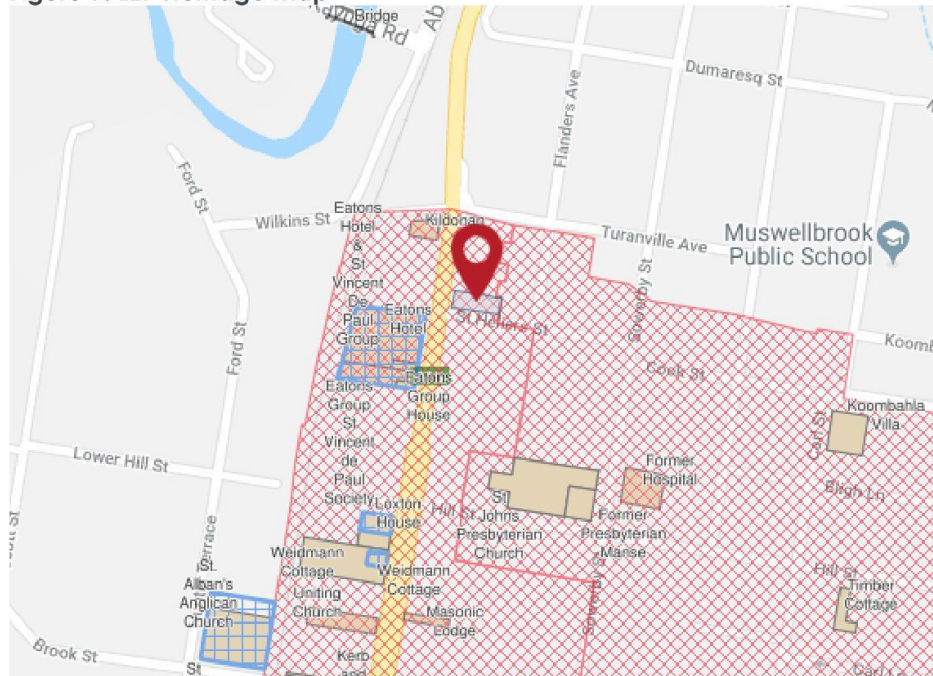
(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Figure 7: LEP Heritage Map



Comments

The subject land is located within the Heritage Conservation Area of Muswellbrook. There are no heritage items of the site or immediately adjoining lands.

The proposed development is not inconsistent with the existing development along Bridge Street (including the hotel across Bridge Street).



There is a mix of modern buildings (i.e. Hungry Jacks) and older buildings like Eatons Hotel). There is no clear theme created along Bridge Street that the proposed development would create a negative precedent with.

There are no known aboriginal heritage sites on the subject land or neighbouring lands.

6.3 Earthworks

- (1) *The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*
- (2) *Development consent is required for earthworks unless:*
 - (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) *the earthworks are ancillary to other development for which development consent has been given.*
- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

Comments

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental



functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Detailed plans have been prepared and provided with the development application on how the land will be shaped as part of the development (including the use of retaining walls due to the slope of the site).

State Environmental Planning Policy 55 – Remediation of Land

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is:
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and



- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Comment

There has been a number of contamination investigations undertaken over the site.

“Environmental Site Assessment (ESA) and Geotechnical Investigation for 147-151 Bridge Street, Muswellbrook NSW” was prepared by “Prensa” dated September 2012.

The ESA and Geotechnical investigation was instigation to satisfy the requirements of SEPP 55 – Remediation of Land. The ESA was instigated to determine whether the land would be suitable for commercial development. The client at the time indicated that the redevelopment of the site would involve mixed use commercial properties. The objective of the ESA was to assess the potential for contamination to exist at the site as a result of current and/or historical activities that could present a potential risk to future users of the site, in light of the proposed mixed use commercial redevelopment.

The report concluded:

Based on the proposed redevelopment of the Site and the findings of this report it is considered that in accordance with the former NSW Department of Urban Affairs and Planning (now NSW Department of Planning and Infrastructure) EPA SEPP 55 Planning Guidelines for Managing Land Contamination, no further investigation or remediation of this site is considered necessary in order to render the soil and groundwater at the site suitable for the stated intended use.

Soil Validation Assessment of Underground Petroleum Storage System 147-151 Bridge Street, Muswellbrook, NSW” was prepared by “Prensa” dated September 2012.

The site was historically used as a service station and car yard. Validation of the former underground storage tank (UST) and associated fuel dispensing infrastructure was required to be undertaken in accordance with the remedial action plan (RAP) developed for the site by Presna (January 2014). This report concluded:

The objectives of the soil validation works were to:

- Assess the soil contamination status within the walls and base of the former UST excavation;
- Assess the soil contamination status immediately underlying the former fuel line extending from the UST to the fuel dispenser;
- Assess the soil contamination status underlying the former fuel dispenser; and
- Assess the soil contamination status of backfill material used in the former UST excavation.



Prensa collected ten (10) validation soil samples (V01 to V10), including eight (8) from the walls and base of the UST excavation pit, one (1) from beneath the former fuel line and one (1) from beneath the former fuel dispenser. The samples reported contaminant concentrations less than adopted ecological and health investigation/screening levels. Therefore, it is considered that the remaining soil within the former UST excavation and beneath the former fuel infrastructure is unlikely to pose a health or ecological risk to future users of the Site, construction workers or nearby receptors based on the proposed future land use of the Site (understood to be mixed commercial).

Approximately 58 m³ of soil was excavated from the UST pit and stockpiled east and north east of the UST pit. Analysis of four (4) soil samples collected from the stockpile indicated that the soil was classified as General Solid Waste (non-putrescible) for off-site disposal. The results were also compared to the adopted investigation/screening levels (commercial/industrial) as detailed in the National Environment Protection (Assessment of Site Contamination) Amendment Measure 2013 (No. 1) (NEPM 2013). Based on the data the soil was considered acceptable to be reused as backfill in the UST pit.

Therefore the soil was considered acceptable to be reused as backfill in the UST pit.

“Soil Validation Assessment of Former Oil Storage Area” was undertaken regarding the level of contamination on the premises near the stockpile area by Presna dated 12 March 2014 ref 51742. The report concluded:

The samples reported soil contaminant concentrations less than adopted health investigation/screening levels. Therefore, it is considered that the remaining soil within the excavation is unlikely to pose a health risk to future users of the Site, construction workers or nearby receptors based on the proposed future commercial land use of the Site.

The soil contaminant concentrations reported for the validation samples were less than the adopted HILs and HSLs and would therefore not preclude the use of the Site as the proposed commercial land use. It is also noted that the soil contaminant concentrations were less than the adopted TRH management limits adopted for the health of construction workers during the proposed redevelopment of the Site.

Therefore, it is considered that the remaining soil within the excavation is unlikely to pose a health risk to future users of the Site, construction workers or nearby receptors based on the proposed future commercial land use. It should be noted that a basement carpark is due to be constructed. Consequently a large excavation is proposed, which will remove the fill and a portion of the underlying natural soil on-site.



State Environmental Planning Policy No 64—Advertising and Signage

Schedule 1 – Assessment Criteria needs to be considered by Council when assessing an application for advertising signage.

1. Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

Comment

It is considered that proposed signage will be compatible and comparable to similar buildings in the general locality.

- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Comment

There is no clearly identified theme in this particular area.

2. Special areas

- 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 residential areas?

Comment

There are no special areas identified in the locality of the subject land.

3. Views and vistas

- Does the proposal obscure or compromise important views?

Comment

There are no identified views of significant in the surrounding area.

- Does the proposal dominate the skyline and reduce the quality of vistas?



Comment

The proposed signage does not dominate the skyline or reduce the quality of any vistas. It is comparable to other signage in the locality. No important vistas have been identified from this site. The signage has been designed to meet Council DCP requirements.

- Does the proposal respect the viewing rights of other advertisers?

Comment

There are no other advertisers in the immediate area whose viewing rights will be affected by the proposed signage.

4. Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

Comment

The scale and proportion are considered appropriate in this business use area. The signage will be comparable with the nearby commercial land uses and restaurants.

- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

Comment

There are no negative impacts anticipated. The signage is appropriate for the proposed land uses (i.e. service station and restaurant). The design, colour scheme and materials are appropriate.

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?

Comment

There is no existing signage.

- Does the proposal screen unsightliness?

Comment

No unsightliness has been identified.



- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

Comment

The signs will not protrude above the top of the proposed buildings.

- Does the proposal require ongoing vegetation management?

Comment

No.

5. Site and building

- 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?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

Comment

The proposed signage has been designed to be in proportion with the buildings and the surroundings.

6. Associated devices and logos with advertisements and advertising structures

- 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?

Comment

No.

7. Illumination

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?



- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

Comment

The pylon sign is proposed to be illuminated with the fuel prices for the service station. There is no curfew proposed due to the proposed 24 hour operation of the service station. The illumination would be consistent with any other service station. As it is located within the business area, there are no other sensitive receivers that should be negatively impacted upon.

8. Safety

- Would the proposal reduce the safety for any public road?

Comment

No traffic safety issues have been identified.

- Would the proposal reduce the safety for pedestrians or bicyclists?

Comment

No impact expected.

- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Comment

No sight lines have been identified that would be affected.

State Environmental Planning Policy 33 – Hazardous and Offensive Development

Section 13 of SEPP No. 33 requires a Consent Authority to consider any 'preliminary hazard analysis' prepared by the Applicant to assess the potential impacts of any 'potentially offensive industry'. The definition of a 'potentially offensive industry' is defined in SEPP No. 33 as:

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the



locality or on the existing or likely future development on other land, and includes an offensive industry and an **offensive storage establishment**.

In this regard the proposed service station that includes installation of two below ground fuel storage tanks could be considered a 'potentially offensive industry' by virtue of consisting of a potentially 'offensive storage establishment'

Accordingly, section 12 of SEPP No. 33 requires preparation of a 'preliminary hazard assessment' in accordance with the *Hazardous Industry Planning Advisory Paper No. 3 (2011)* prepared by the NSW Department of Planning and Environment. A preliminary hazard assessment is included below:

Event	Cause	Possible Result	Prevention / Detection
Tanker Unloading	Over filling tank	Potential fuel spillage causing risk of ignition or harm to the environment. Lack of ullage space may cause storage tank to rupture due to thermal expansion of hydrocarbon.	Ensure product reconciliation is performed daily. Provide accurately calibrated tank dips or auto tank gauging. Tanker driver to confirm product volumes prior to performing a fuel transfer. Provide overfill protection within the tanks.
Tanker Unloading	Minor fuel spill (up to 20L.)	Vapour from spill could ignite causing injury or damage to property. Hydrocarbons could find their way into storm water system and waterways causing environmental harm.	Provide an emergency spill kit on site that is readily accessible from the dispensers. Provide training on its use to site staff and tanker drivers. Fill points are to be located within a spill safe fill box draining back into the fuel system.
Tanker Unloading	Major fuel spill (over 20L.)	Vapour from spill could ignite causing injury or damage to property. Hydrocarbons could find their way into storm water system causing a potential	Provide an emergency plan and ensure training of workers in its use. Console operator to shut down site and proceed with



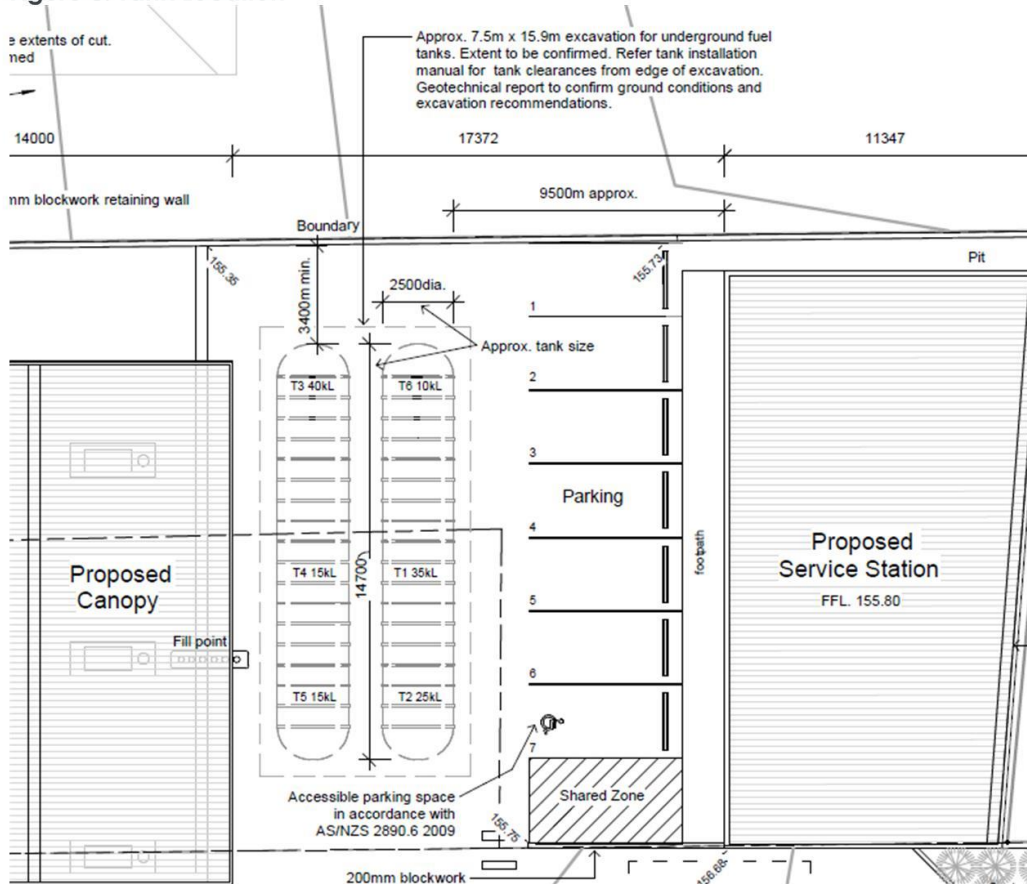
		explosive atmosphere within pipework. Hydrocarbons could find their way into waterways causing environmental harm.	emergency plan, evacuate if necessary. Ensure all fill points are installed within the catchment area that drains to a treatment system. Spillage is contained and dealt with in line with specifically formulated emergency procedures.
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The location of the 6 tanks are shown on the figure below. There will be a total capacity of 140kL. The tanks will be located no closer than 3.4m from the boundary of the site and will be sited between the canopy and the service station.

Approximately 7.5m x 15.9 m excavation for the underground storage tanks will be required (extent to the confirmed). Refer to the tank installation manual for tank clearances from the edge of the excavation. Geotechnical report to confirm ground conditions and excavation recommendations.



Figure 8: Tank Location



Any draft environmental planning instrument

There is no known draft state or local planning instruments applicable to this proposal.

Any development control plan

MUSWELLBROOK SHIRE COUNCIL DCP

Section 9 – Local Centre Development

9.1 Built Form

Building Design

There is no clearly defined existing character along Bridge Street. There is a combination of quite modern buildings with a mix of sporadic heritage listed buildings. The buildings proposed on the site relates to its proposed functions.

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The restaurant and service station will enhance the streetscape and activate a site that has been vacant for some time in the CBD. There are no blank facades proposed on either of the buildings. The building entrances are well defined and acceptable passive surveillance provided.

Building Height

The heights proposed are less than that prescribed by the Local Environmental Plan. There are no overshadowing or privacy impacts identified. The buildings are not inconsistent with the character of the locality.

Setbacks

The setbacks proposed are consistent with the Bridge Street commercial area (there is seating proposed within the front setback for the restaurant). The service station is located further back on the site.

Accessibility

Access for the disabled is in accordance with AS1428.1-2009.
Accessible car parking is in accordance with AS/NZS2890.6-2009.

Unisex accessible sanitary facilities are provided in the service station and restaurant.

9.2 Urban Landscape

Landscaping

Landscaping is proposed along the St Heliers Street frontage and at the entry off Bridge Street.

Car parking

Refer to Section 16 assessment. All vehicles will be able to enter and leave in a forward direction. All parking areas are sealed.

Outdoor eating areas

There is an outdoor eating area proposed at the front of the restaurant along Bridge Street.

Signage and Advertising

The proposed signage is shown on the elevation plans for the development. There is signage proposed on each building and a separate pylon sign for the



service station on the Bridge Street frontage. The signage has been designed in accordance with DCP and SEPP 64 requirements.

Section 14 – Outdoor Signage

Refer to the SEPP 64 analysis. The proposed signage (including the pylon sign) has been designed to meet specified requirements.

Section 16 Car Parking and Access

Council's Development Control Plan (Development Control Plan Section 16 Car Parking and Access) specifies the following car parking requirements applicable to this proposal:

Restaurants:

- 1 space per 7m² GFA available for dining.

Service Stations:

- 1 space per 20m² of GFA convenience store; plus
- 1 space per 6.5m² of GFA

Accordingly, the car parking required for this development proposal calculates as:

Restaurant indoor plus outdoor seating area 203m²

@ 1 space/7m² = 29 spaces.

Service Station Convenience store 60m² @ 1 space/20m² = 3 spaces.

Remaining service station gross floor area 20m²

@ 1 space/6.5m² GFA = 3 spaces.

TOTAL = 35 spaces.

Consequently, the proposed development satisfies Council's parking requirements with the provision of **37 off-street parking spaces**.

Any Planning Agreements

There are no known planning agreements affecting the property.



Any matters prescribed by the regulations

Government Coastal Policy

Not applicable to Muswellbrook LGA.

Building Demolition

Not applicable to this proposal.

Upgrading of Buildings

Not applicable to this proposal.

Fire Safety

No upgrading proposed.

Temporary Structures

Not applicable to this proposal.

Deferred Commencement Consent

Not applicable to this proposal.

Modification or Surrender of Development Consent or Existing Use

Not applicable.

Ancillary Development

Not applicable to this proposal.

BASIX

Not applicable to this proposal.

Any coastal zone management plan

Not applicable.



The likely impacts of the development

Compliance with Planning Instruments and Controls

Unless stated otherwise, the proposed development either complies with or is consistent with all relevant planning instruments and controls set out in this report, in that:

- A Service Station and Restaurant is permissible within the B2 Local Centre zone under the *Muswellbrook LEP 2009*;
- The proposal is compliant with the relevant sections of the *Muswellbrook DCP 2009*; and
- The proposal is compliant with the specifications set out within this report related to the various relevant Commonwealth and State Legislation applicable to the proposed development.

Context and Setting

The property is within a mixed use area that contains a range of land uses.

It is considered that the proposal is within the context of the locality and is compatible with the surrounding area and will have acceptable impact in regards to (as justified in this report):

- Adjacent properties;
- Adjoining land uses;
- Overshadowing; and
- Views and vistas.

Traffic, Parking and Access

Entry to the site is off both Bridge Street and St Heliers Street (exit only onto St Heliers Street). Bridge Street is a 4 lane bitumen sealed road (New England Highway) and St Heliers Street a 2 lane bitumen road.

As per the DCP analysis, there is a requirement to provide 35 car parking spaces required – 37 are proposed to be provided.

All vehicles can enter and leave in a forward direction.

A traffic report has been prepared by Traffic Solutions Pty Ltd and forms part of the development application. The traffic report concludes:



5. CONCLUSIONS

The preceding analysis has revealed that:

- The proposed vehicle access driveways are suitably located and will provide good sight distance along New England Highway and St Heliers Road frontages of the site.
- The proposed development satisfies the related geometric design specifications contained in the Australian Standards for off - street parking and vehicular access for cars and trucks.
- The 37 off-street parking spaces provided in the proposed development exceeds Council's development control plan requirements.
- The vehicle access road widths, diesel dispensers and proposed fuel fill point can be access by vehicles up to the 19m articulated vehicles in a forward direction entering and exiting the site.
- The subject proposal is estimated to potentially generate approximately 69 vehicle trips in the evening peak hour.
- The results of the SIDRA analysis reveal that the existing intersection of New England Highway and St Heliers Road and the proposed intersection with the new access driveway will operate at a good Level of Service and minimal delays with the estimated traffic volumes of the proposal.

Public Domain

It is considered that the development will have a negligible impact on the public domain in terms of:

- Public recreational opportunities in the locality;
- Amount, location, design, use and management of public spaces in and around the development; and
- Pedestrian linkages and access between the development and public areas.

Utilities & Services

All reticulated services are available on site for connection in accordance with the requirements of the relevant service provider.



Heritage

The subject land is located within the Heritage Conservation Area of Muswellbrook. There are no heritage items of the site or immediately adjoining lands.

The proposed development is not inconsistent with the existing development along Bridge Street (including the hotel across Bridge Street).

There is a mix of modern buildings (i.e. Hungry Jacks) and older buildings like Eatons Hotel). There is no clear theme created along Bridge Street that the proposed development would create a negative precedent with.

There are no known aboriginal heritage sites on the subject land or neighbouring lands.

Flora and Fauna

There is no existing flora and fauna on the site.

There are no threatened species and critical habitats on the site.

Energy

A Section J Certificate under the NCC will be required as part of the Construction Certificate application.

No overshadowing impacts have been identified.

Amenity

The service station and restaurant are considered to be compatible with the existing and likely future character and amenity of the B3 Local Centre zoning.

Operationally, the business will generate limited impact as a result of noise. The main noise source will be via traffic movements to and from the site (there is extensive traffic volumes along Bridge Street 24 hours a day with the highway traffic).

There will be no impact from dust generation due to the sealing of the driveway and parking areas. All lighting will be baffled to ensure that there is no light spillage.

There are no issues in relation to privacy and overshadowing as part of the proposal. The site will be lower than neighbouring development due to the reshaping of the site.



The service station building will act as a physical barrier to the refuelling area and the restaurant from the surrounding residential buildings.

Noise, Odour and Dust

Noise

Increased noise levels during construction works may result from the use of on-site and off-site mechanical equipment during the course of the works. Use of equipment during construction will be managed in accordance with the relevant NSW Construction Noise Guidelines.

It is not expected there will be significant operational noise emissions from the service station or restaurant developments on the subject land.

Odour

The service station has been designed and will be required by legislation to meet odour requirements to ensure that there are no negative impacts on onsite and to neighbouring properties.

Dust

During the earthworks, dust will be visually monitored. If excessive dust is being generated, areas of earthworks will be sprayed with water to reduce dust levels. Soil to be stockpiled will be covered or wetted down to minimise dust generation.

During excavation and transport of any soil off-site, truck wheels should be cleaned to prevent potentially contaminated soil from being transported onto local roads.

There will be no operational issues from dust impacts as all areas will be sealed (or landscaped).

Natural Hazards

There are no known flooding, bushfire or land subsidence issues in the general locality of the site.

Potential Contamination

Refer to SEPP 55 comments.



Water Management

Any soil stockpiled during excavation works will be suitably contained to prevent run-off of any potentially contaminated water or soil to the surrounding environment, including the stormwater system. Control measures to be identified on the erosion and sediment control plan.

Existing onsite stormwater systems will be reinstated / maintained and proposed works will be connected to the existing system.

Local Character

It is considered that the proposed development is not inconsistent with the local character along Bridge Street. There is a mixture of building and development types along Bridge Street with no clearly identified theme. There has been new development in recent times within the CBD that have brought a new design, colours and materials to the streetscape. This new development has been constructed with consideration of the heritage items that remain within the streetscape.

Safety, Security & Crime Prevention

Crime Prevention Through Environmental Design (CPTED)

CPTED employs four key strategies. These are **surveillance, access control, territorial re-enforcement and space/activity management**.

Surveillance

Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space. Technical/mechanical Surveillance is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels. Technical/mechanical surveillance is commonly used as a 'patch' to supervise isolated, higher risk locations. Formal (or organised) surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors at higher risk locations.

Comments

- Entry points have been designed so as to maximise surveillance opportunities to and from these areas from both inside as well as outside.



- Use of Closed Circuit Television (CCTV) will assist in detecting crime and act as a deterrent to would be offenders (in both buildings and the car park).
- Any CCTV be of a standard that prevents lighting, or natural lighting, from interfering with the quality captured on the system.
- The placement and orientation of common entry areas will maximise opportunities for natural supervision by caretakers, tenants and other guardians.
- It is anticipated that the major crime issues affecting this development will involve steal from unattended motor vehicles, stolen motor vehicles, malicious damage (graffiti) and stealing from retail store (Shop lifting). The measures proposed will assist in this regard.
- Height of internal shelving should be considered to allow staff surveillance opportunities of potential shoplifters.
- Over use of promotional material on commercial premises windows should be discouraged. This allows natural surveillance by non patrons being able to see inside the service station and restaurant.
- All car parking directly surrounding the building towards the building should be nose in, increasing external surveillance.

Lighting

There is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. Good lighting can assist in increasing the usage of an area. There is no information with the plans, which were reviewed to indicate the lighting proposals for the development.

Comments

- Lighting should be designed and installed to the Australian and New Zealand Lighting Standards 1158.
- Lighting must be maintained in good working order at all times.
- The exit alcoves are to be lit to minimise concealment opportunities.
- It is recommended to ensure all pedestrian pathways, car parks and other related areas are appropriately lit.

Landscaping

Landscaping can be used to enhance the appearance of the development and assist in reducing opportunities for vandalism. However, landscaping can also provide concealment or entrapment areas for people involved in criminal behaviour.



Comments

- Some predatory offenders seek pockets and enclosures created by vegetation/landscaping. When selecting and maintaining vegetation, consideration should be given to the possibility of areas becoming entrapment sites in the future.
- A safety convention is to have 3 - 5 metres of cleared space on either side of pathways and bicycle routes. Thereafter, vegetation is stepped back in height to maximise sightlines.
- A safety convention for vegetation is: lower tree limbs should be above average head height (approx. 210cm), and shrubs should not provide easy concealment (approx. 60cm).
- The proposed landscaping should be subject to regular maintenance to ensure that site lines are maintained.
- Landscaping close to the building should be regularly maintained to ensure branches cannot act as a natural ladder to gain access to higher parts of the building.

Territorial Re-enforcement

Criminals rarely commit crime in areas where the risk of detection and challenge are high. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it. Territorial Re-enforcement uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/not be and what activities are appropriate.

Comments

- The boundaries of the development are reasonably well defined and re-enforced by fencing or walls.
- Confusion resulting from vague entry design can legitimise exploration, trespassing and excuse making by opportunistic criminals. Entries should be legible and inviting.
- Car park design and definitional legibility can help (or hinder) way finding. Knowing how and where to enter, exit and find assistance can impact perceptions of safety, victim vulnerability and crime opportunity. Signage should reinforce (not be an alternative to) effective design.
- Signage also needs to be provided at entry/exit points and throughout the development to assist users and warn intruders they will be prosecuted.



- Signage needs to be provided within the car park to provide way finding to users of these areas.
- Signage also needs to be provided on the fire exit doors warning users that the doors are to be used for emergency purposes only.

Environmental Maintenance

All space, even well planned and well-designed areas need to be effectively used and maintained to maximize community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

Comments

- A graffiti management program should be adopted, whereby any graffiti on the building or site is removed immediately.
- As malicious damage (graffiti) is often an offence caused to such developments strong consideration must be given to the use of graffiti resistant materials, particularly on the fences, ground floor and areas which are accessible by other structures to reduce such attacks or assist in the quick removal of such attacks. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally with a forty-eight hour period.

Space/Activity Management

Space/Activity management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

Comments

- It is more than likely that pedestrian access to the area would more than likely be low. Nearby residents may walk to the area to purchase products from the fast food/service station outlets, however it is envisaged that the majority of business will come from persons attending the area in or on various types of motor transport.
- The number of entry/exit points to unauthorized areas should be restricted.
- Clear and concise signage designating staff only at entrances to areas not to be accessed by the public. I.e. staff, cash and loading bay areas.
- Shelving should be a maximum 1.5 metres high.



- The shelving should be positioned to allow the store attendants uninterrupted views of the interior of the store.

Access Control

Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations.

Access control is used to increase the time and effort required to commit crime and to increase the risk to criminals. Natural access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. Technical/Mechanical access control includes the employment of security hardware and Formal (or Organised) access control includes on-site guardians such as employed security officers.

Comments

- Traffic and access controls are well addressed in the Statement of Environmental Effects, Traffic Report and development plans in relation to the development.
- Natural ladders are building features, trees or nearby structures that can help a criminal to climb to balconies, rooftops, ledges and windows.
- Reinforced glazing should be considered on the exterior display windows on the fit out along with reinforced glazing on the main entry sliding doors to discourage break ins through these areas.
- Bollards or appropriate planter boxes should be considered in front of the premises entrance to discourage ram raid type offences.
- Reinforced glazing should be considered on the exterior display windows, along with reinforced glazing on the main entry sliding doors to discourage break ins through these areas.
- A monitored intruder alarm system (in accordance with the Australian Standard) should be installed to enhance the physical security of the proposal.
- A floor or wall safe subject to Australian Standards should be considered.
- Consideration should also be given to enhancing the staff access control treatments with electronic access control equipment to enhance physical security.

Social & Economic Impacts

There will be positive impacts as a result of the investment of funds into the local Muswellbrook economy. There will be job creation in both the construction and operational phases (it is likely that the proposal will have 6 Full time employees and 8-10 casual employees).



Waste Management

Operationally, any waste will be collected either by Council or a waste contractor on a regular basis.

Shielded waste collection areas for each building have been identified and will be kept in a clean and tidy manner.

Construction

Construction work will be undertaken as outlined in the Proposal Section of this report.

Construction impacts are not anticipated to have an adverse impact on the locality. Works would occur during daytime hours, thus not impacting on the local amenity. The site would have temporary containment fencing erected and signage to warn and exclude the public from entering the site during the construction phase.

Erosion and sedimentation control measures would be implemented during construction to minimise any erosion and sedimentation at the site.

All waste generated during construction would be taken and disposed of at Council's Waste Disposal Facility (any potential contaminated soil would need to be tested and remediated if necessary).

Construction activities would be tailored to minimise the impact on site, with all disturbed areas rehabilitated as soon as practical. All construction machinery would be fitted with appropriate muffling devices to limit noise generation during construction. The construction period would be for a limited period, and thus any impacts would be limited to that time frame.

Cumulative Impacts

It is considered there will be no identified negative cumulative impacts as a result of the proposed development.



Suitability of the site for the development

Does the proposal fit in the locality?

- There are no constraints posed by surrounding development to render the proposal prohibitive;
- The proposal is complimentary to the surrounding land use pattern and zoning;
- It is considered that the proposal will not create any unmanageable access or transport concerns in the locality;
- No impact on public spaces will eventuate as a result of the proposal proceeding;
- The development can be connected to the available services;
- There are no issues in relation to air quality and microclimate; and
- There are no identified conflicting land uses or activities.

Are the site attributes conducive to development?

It is considered that the site is conducive to the development based on the following:

- The site is not affected by any known natural hazards;
- There are no implications upon heritage items as a result of this proposal;
- There is no known soil characteristics that would render the proposal prohibitive; and
- There are no flora and fauna considerations that will have an impact on the proposal.

Any submissions

Council may notify the proposal to surrounding landowners for comment.



The Public Interest

The proposal is considered to be in the public interest as it will deliver a number of public, social and economic benefits with minimal adverse impacts.

It is considered that the proposed development, with appropriate conditions of consent, will not have any negative impacts on the amenity of the general public. The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts.



5. CONCLUSION

This SOEE has assessed the potential impacts arising from the proposal on surrounding properties including traffic and access, noise, odour, dust, visual amenity, water management and contamination. Where necessary, mitigation measures are proposed to minimise impact and reduce potential risk associated with the development.

Based upon the investigations of the proposal it can be concluded that:

- The proposed development is permissible with the consent of Council;
- There are no natural hazards affecting the land;
- The proposed development will not create adverse impacts upon the environment or surrounding development;
- The amenity of the area will not be adversely affected; and
- The proposal is generally consistent with the objectives and provisions of Councils LEP and DCP.

The proposal is considered to be acceptable in terms of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and potential impacts are expected to be manageable.

Accordingly it is recommended that the Development Application be approved subject to appropriate standard conditions.