



**muswellbrook
shire council**

Muswellbrook Shire Council
**EXTRA ORDINARY COUNCIL
MEETING**

BUSINESS PAPER
10 SEPTEMBER 2019



EXTRA ORDINARY COUNCIL MEETING, 10 SEPTEMBER 2019

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122

MUSWELLBROOK

11 September, 2019

Councillors,

You are hereby requested to attend the Extra Ordinary Council Meeting to be held in the CHAMBERS, Administration Centre, Muswellbrook on **10 September, 2019** commencing at 6.00PM.

Fiona Plesman
GENERAL MANAGER

Order of Business

ITEM	SUBJECT	PAGE NO
1	ACKNOWLEDGEMENT OF COUNTRY	4
2	CIVIC PRAYER	4
3	APOLOGIES AND LEAVE OF ABSENCE	4
4	DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST	4
5	PUBLIC PARTICIPATION	4
6	COMMUNITY INFRASTRUCTURE	5
6.1	AUGMENTATION OF CAR PARKING IN LOWER BROOK STREET, HUNTER TERRACE, AND LOWER WILLIAM STREET, MUSWELLBROOK	5
6.2	DA 11/2019 - ALTERATIONS AND ADDITIONS TO MUSWELLBROOK AQUATIC AND LEISURE CENTRE AND VARIATION TO GYMNASIUM OPERATING HOURS	11
6.3	MUSWELLBROOK BYPASS ADVISORY COMMITTEE	126
6.4	LIDDELL CLOSURE ADVISORY COMMITTEE	129
7	CORPORATE AND COMMUNITY SERVICES	131
7.1	EXHIBITION OF DRAFT MUSWELLBROOK COMMUNITY PARTICIPATION PLAN	131
7.2	MODEL CODE OF MEETING PRACTICE	177
7.3	INVESTMENT (FINANCIAL SECURITIES) POLICY REVIEW	217
7.4	AUSTRALIA DAY 2020	227
8	ADJOURNMENT INTO CLOSED COUNCIL	233
9.1	TERTIARY EDUCATION CENTRE - STAGE 2 AND COMMERCIAL AND EDUCATION BUILDING	
	<i>Item 9.1 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	
9.2	2018-2019-0368 PROVISION OF WET AND DRY HIRE OF PLANT, TRUCKS AND EQUIPMENT	
	<i>Item 9.2 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(l) of the local government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	
9	CLOSED COUNCIL	233
10	RESUMPTION OF OPEN COUNCIL	234
11	CLOSURE	234



MUSWELLBROOK SHIRE COUNCIL

AGENDA

1 ACKNOWLEDGEMENT OF COUNTRY

2 CIVIC PRAYER

3 APOLOGIES AND LEAVE OF ABSENCE

RECOMMENDATION

The apologies for inability to attend the meeting submitted by Cr. B. Woodruff be ACCEPTED and the necessary Leave of Absence be GRANTED.

Moved: _____ **Seconded:** _____

4 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.

5 PUBLIC PARTICIPATION

6 COMMUNITY INFRASTRUCTURE

6.1 AUGMENTATION OF CAR PARKING IN LOWER BROOK STREET, HUNTER TERRACE, AND LOWER WILLIAM STREET, MUSWELLBROOK

Attachments:	A. 2019-007 Admin CBD Parking V02
Responsible Officer:	Derek Finnigan - Director - Community Infrastructure
Author:	Imelda Williams - Technical Officer - Traffic & Roads
Community Plan Issue:	<i>Genuine and well informed community participation in decision making</i>
Community Plan Goal:	<i>Enhance Council's consultation and communication with the community to build awareness and understanding of Council's activities and community needs.</i>
Community Plan Strategy:	<i>Establish a community panel engagement process.</i>
	<i>Local Traffic Committee at its meeting on 21 May 2019 resolved that the matter be deferred to the meeting to be held on 18 June 2019.</i>

PURPOSE

The report seeks endorsement to implement the car parking restrictions and line marking plan attached to the report.

OFFICER'S RECOMMENDATION

Council endorse the civic augmentation parking plan to enable public consultation to be carried out with businesses and residents.

Moved: _____ **Seconded:** _____

BACKGROUND

Council is in the process of preparing to relocate its Administration Centre to the Campbells Corner building within the Muswellbrook Central Business District (CBD). An important aspect of the relocation is the requirement to provide additional parking spaces in order to appropriately manage increased parking demand for staff.

CONSULTATION

Consultation with staff has been widespread and ongoing. Consultation is proposed to be carried out with the residents and affected businesses who will have increased parking spaces made available through additional line marking outside their property.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Council's Relocation Steering Committee included the Mayor, Councillor Martin Rush, the Deputy Mayor, Councillor Rod Scholes, and the Councillor Spokesperson for Infrastructure, Councillor Woodruff.

REPORT

Council is in the process of relocating its Administration Centre to the Campbells Corner building in the Muswellbrook CBD. The relocation of up to eighty (80) staff to this building will require additional car parking in the Muswellbrook civic precinct. Council does not wish to impact upon the number of car parking spaces available to retail and other business in the civic precinct. The attached line marking plan proposes approximately an additional 150 parking spaces along Lower Brook Street, Hunter Terrace, and Lower William Street.

An additional benefit of implementing angled parking and the additional parking created by this is that parking associated with funeral and other services conducted at St Alban's Church will not be impacted. A number of spaces will be specifically reserved for use of St Albans.

Additional parking signage will also be installed in order to appropriately complement the line marking works.

It is proposed to replace three (3) of the existing 1 hour parking spaces on the southern side of Brook Street west of the Bridge Street intersection with 3 x 15 minute parking spaces. This will allow a high turnover of parking for users to access the banks and cafes within the immediate area. It will also replace the previous 15 minute parking that was removed when the Brook Street upgrade works were recently undertaken. It is not proposed to apply any time limit to the additional parking spaces as shown on the plan.

OPTIONS

The plan is presented to Council to provide endorsement to allow for public consultation to be undertaken. Following the consultation period the plan will go before the Local Traffic Committee for consideration and any recommendations will come back to Council to use its delegated authority to approve the changes to the parking zones.

CONCLUSION

It is considered to be critically important that, due to the imminent relocation of Council's administration centre to the civic precinct, additional car parking spaces are required to accommodate not only staff parking needs but those of additional visitors to the Muswellbrook civic precinct. The line marking augmentation plan attached to this report proposes an economically viable and effective means of introducing additional car parking spaces to the civic precinct. It is therefore considered that the line marking strategy attached to the report be endorsed to allow public consultation to be undertaken.

SOCIAL IMPLICATIONS

Additional car parking spaces will benefit not only Council staff who will be relocated to the new administration centre, but will provide increased parking capacity for employees of businesses in the CBD, visitors and those conducting business in the Muswellbrook civic precinct.

FINANCIAL IMPLICATIONS

The cost of the line marking will be funded through the relevant operational budget.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

The regulatory parking signage will allow enforcement under the Road Rules.


OPERATIONAL PLAN IMPLICATIONS

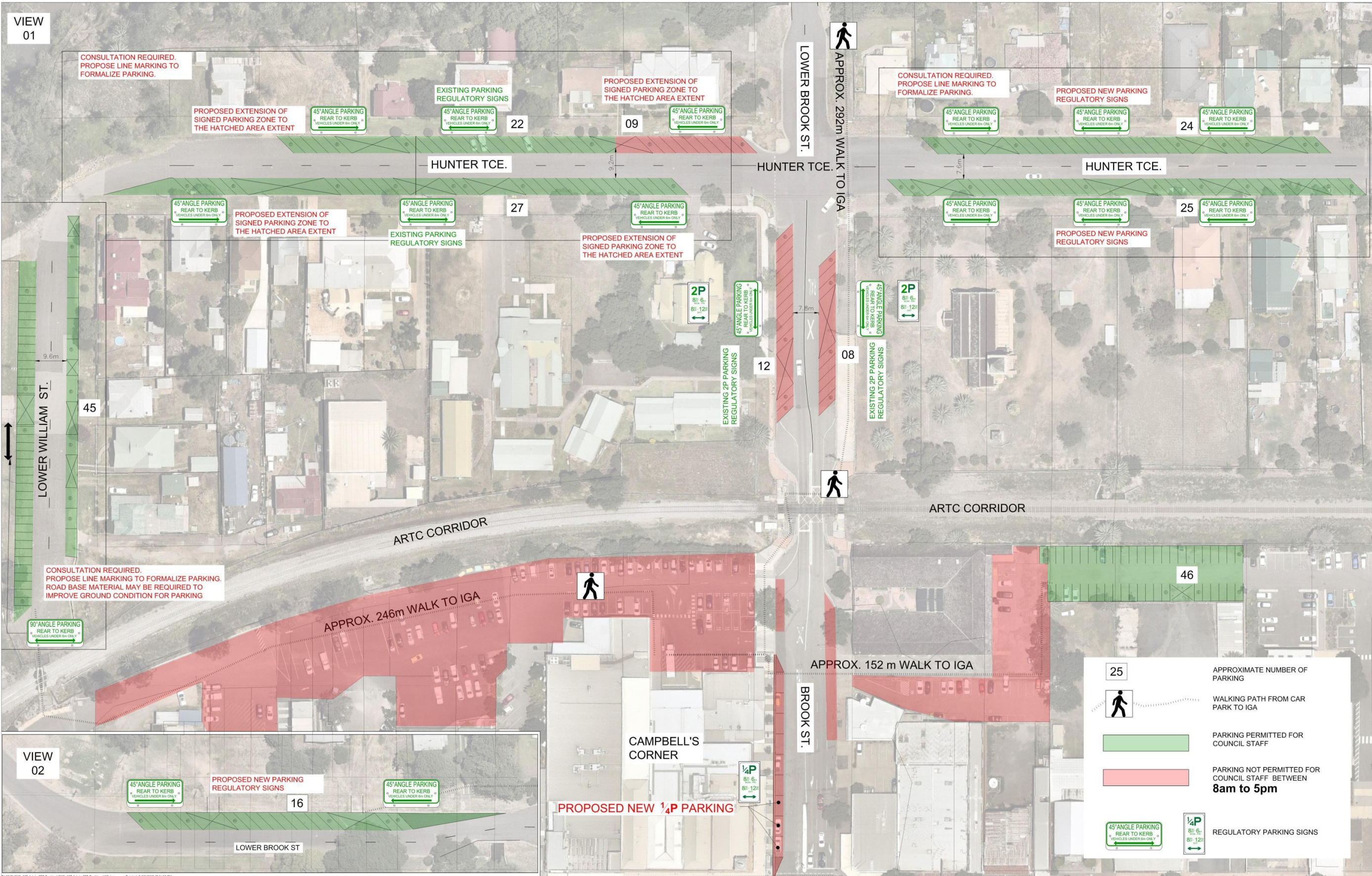
The submission of the report complies with Council's decision to relocate Council's administration centre to the CBD of Muswellbrook, and broadly complies in principle with section 4.01.1 of the Operational Plan: 'Review Council's Parking Study 2010 and develop a comprehensive parking strategy for Muswellbrook and Denman taking into account Council's endorsed strategies for both town centres'.

RISK MANAGEMENT IMPLICATIONS

The facilitation of additional car parking spaces in the Muswellbrook civic precinct will assist to manage any risk to Council's reputation as a responsible corporate citizen, and will eliminate the risk of a reduction in available car parking spaces for those carrying out retail or other business in the Muswellbrook civic precinct.



No.		Revision		Date	Survey		CLIENT MUSWELLBROOK SHIRE COUNCIL				PROJECTS NAME: ADMINISTRATION BUILDING RELOCATION	DRAWING TITLE: PROPOSED PARKING OPTIONS	Approved By: _____		Rev.				
					Datum:- AHD		Scale: 1:1000						Designed Drawn Checked Approved		AM AM IW DF		Drawing No. 201-007/C01		03
03		DRAFT		07/05/19															
02		FOR REVIEW		08/02/19															
01		FOR REVIEW		04/02/19													CategoryR&D		A1



No.		Revision	Date	Survey	CLIENT		PROJECTS NAME:		DRAWING TITLE:		Approved By:	Rev.
				Datum:-	MUSWELLBROOK SHIRE COUNCIL		ADMINISTRATION BUILDING RELOCATION		PROPOSED PARKING OPTIONS AND RESTRICTIONS		Drawing No.	
				AHD	Scale:						2019-007/C02	01
01		FOR REVIEW	07/05/19		CUSTOM		Designed AM				Category R&D	A1
							Drawn AM					
							Checked KS					
							Approved KS					

6.2 DA 11/2019 - ALTERATIONS AND ADDITIONS TO MUSWELLBROOK AQUATIC AND LEISURE CENTRE AND VARIATION TO GYMNASIUM OPERATING HOURS

Responsible Officer:	Fiona Plesman - General Manager
Author:	Sharon Pope - Assistant Director - Environment & Community Services
Community Plan Issue:	<i>Support Job Growth</i>
Community Plan Goal:	<i>Facilitate the expansion of and establishment of new industries and business.</i>
Community Plan Strategy:	<i>Provide advice in relation to strategic land use planning and development control and assessment to support the work of the Economic Development and Innovation function.</i>
Attachments:	A. s.4.15 Assessment DA 11/2019 Aquatic Centre
	B. Recommended conditions of consent DA 11/2019 Muswellbrook Aquatic Centre
	C. Amended Statement of Environmental Effects
	D. Aquatic Centre Plans
	E. Hunter Valley Police Response

PURPOSE

This report has been prepared to inform Council in determining Development Application No. 11/2019. This Development Application has been assessed by an External Planning Consultant with a Section 4.15 Assessment Report and recommended conditions of Consent attached for Council's information (Attachments A and B).

Delegations issued to the General Manager include a limitation on the General Manager determining matters under the *Environmental Planning and Assessment Act 1979* (EP&A Act):

"....in which the capital investment value of the development specified in the development application exceeds \$750,000"

The delegations issued to the Development Assessment Committee are subject to a similar limitation. This proposal has a project value of \$4.99 million. Accordingly, the determination of the development application rests with Council. This report has been prepared to inform Council in its determination of the development application.

RECOMMENDATION

Council approve Development Application No. 11/2019, involving alterations and additions to the Muswellbrook Aquatic and Leisure Centre and change to operating hours at Lot 1 DP 9038390, Lot 7010 DP 93327, Lot 11 DP 1058170 and Lot 1 DP 364120, subject the conditions in Appendix B to the report.

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 alterations and additions to the Muswellbrook Aquatic and Leisure Centre (see Attachment C and D). The site is zoned RE1 Public Recreation under the *Muswellbrook Local Environmental Plan 2009* ('MLEP 2009'). The site is located within the open space Precinct of Fitzgerald/Olympic Park. The proposed land use is a *Recreation Facility (indoor)* and is permitted in the zone with consent.

The development application includes works located within 40 metres of Muscle Creek and is therefore *integrated development* under Section 4.46 of the EP&A Act as an Activity approval under Section 91 of the *Water Management Act 2000* ('WM Act') is required. In an email dated 3 June 2019, the Natural Resources Access Regulator (NRAR) informed Council that, following review of the relevant documents, that for the purposes of the WM Act, a controlled activity approval is not required and no further assessment by this agency is necessary. Accordingly, there are no conditions required to be imposed and no further action in relation to the proximity to Muscle Creek.

The proposal involves an extension to the existing indoor pool hall structure with the addition of a new indoor heated pool to contain a splash park and program pool, replacing the existing outdoor pool and toddler pools which are to be demolished. Partial demolition of the existing entry area of the existing amenities building is also proposed.

The new works include the new indoor pool, a new sauna/spa area and a new entry, kiosk, viewing lounge and party room as an extension to the existing building on the site. New access is also proposed to the existing amenities and office building and to the existing gymnasium. Integration of this new addition to form one building will also be achieved. New storerooms and plant rooms to the west of the proposed new pool hall including heat pump storage area and tanks below plant and storage room (on the lower concourse) are also proposed. The proposal is illustrated in **Figure 1**.

The proposal also involves the use of the gymnasium on a 24 hour basis, seven (7) days a week. This aspect was included in the application on 3 July 2019 and was re-advertised and renotified following this amendment.

The proposal will result in an improved and integrated Centre, which will increase services to the community through additional learn-to-swim classes and other age group requirements. There are no changes proposed to the existing 50m outdoor pool or the car parking area on the site.

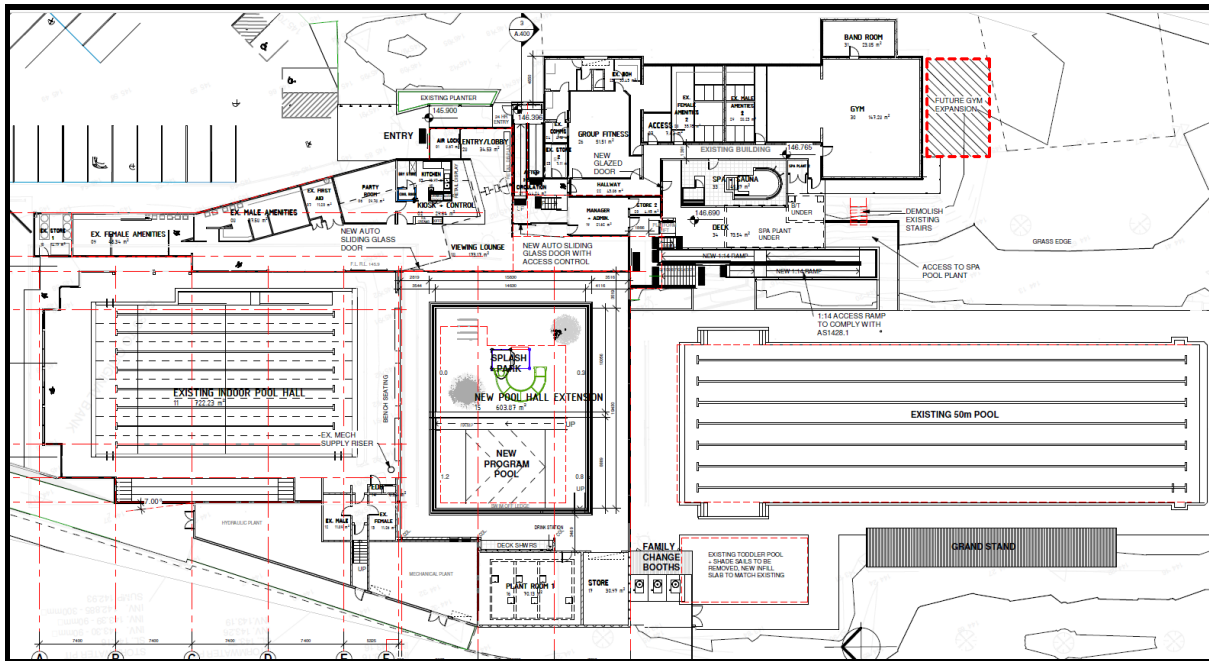


Figure 1: The Proposed Development (Source: Facility Design Group, 22 January 2019)

ASSESSMENT SUMMARY

The development application has been assessed under the relevant heads of consideration pursuant to Section 4.15 of the EP&A Act. The Section 4.15 Assessment is provided in Attachment A. The result of the assessment is that it is recommended 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 proposal is in accordance with the relevant provisions of the *Muswellbrook Local Environmental Plan 2009* (MLEP 2009).
- The proposal was considered against the provisions of the relevant State Environmental Planning Policies (SEPPs) and there are no inconsistencies which would prevent Council from granting development consent to the proposal.
- The proposal is generally in accordance with the requirements of the MDCP 2009, with the exception of car parking which is considered satisfactory in this instance notwithstanding the shortfall in car parking as discussed in the report.
- The 24 hour operation of the gymnasium requires additional security measures within the car park and building to ensure safety of patrons.
- The proposal was not considered to have any significant environmental impacts.
- The proposal was referred internally to a number of Council Officers and externally to the NSW Police, NSW Health and NSW Water for comment. There were no objections to development consent being granted to the proposal and there are no General Terms of Approval pursuant to the Integrated Development Approval required in this instance given the advice from the NRAR.

COMMUNITY CONSULTATION

The proposal was publically advertised and notified in accordance with the requirements of the MDCP 2009. There were no submissions received by Council following this notification and exhibition.

Comments were received from the Roads and Maritime Services and Hunter Valley Police. Hunter Valley Police have asked for additional security measures for the 24/7 gym operation (see Attachment E), and this response has informed the recommended conditions of consent.

OPTIONS

Council may:

- A. Grant development consent to the proposed development subject to the recommended conditions of consent in Attachment B,
- 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 at the Land and Environment Court.

CONCLUSION

DA 11/2019 has been reported to Council for determination as the development involves works *with a capital investment value of the development specified in the development application which exceeds \$750,000* and it is outside the delegations of Council Officers and the Development Assessment Committee to determine the development application.

A Section 4.15 Assessment has been completed in relation to the proposed development. It is recommended that Council grant consent to DA 11/2019, subject to conditions of consent outlined in Attachment B.

Attachment A: DEVELOPMENT ASSESSMENT REPORT

ADDRESS:	1 & 3 Wilkinson Avenue, Sydney Street and Haydon Street Muswellbrook (Lot 1 DP 903839, Lot 7010 DP 93327, Lot 11 DP 1058170 and Lot 1 DP 364120)
APPLICATION No:	11/2019
PROPOSAL:	Alterations and Additions to Muswellbrook Aquatic and Leisure Centre
PLANS REF:	Drawings Prepared by Facility Design Group (Job No W268) dated 22 January 2019 received by Council on 11 February 2019 comprising the following: <ul style="list-style-type: none"> • A.010 - Site Plan • A.011 – Gross Floor Area Plan • A.012 – Room Schedule Plan • A.100 – L00 Lower Concourse Plan • A.101 - L01 Upper Concourse Plan • A.102 – Roof Plan • A.300 - Reflected Ceiling Plan • A.400 – Sections Plan • A.500 – Elevations Plan • A.1010 – External Finishes Plan • A.1011 – Perspectives Plan
OWNER:	Muswellbrook Shire Council
APPLICANT:	Facility Design Group Pty Ltd PO Box 82 CAMBEWARRA NSW 2540
AUTHOR:	Kim Johnston (Consultant Planner)
DATE LODGED:	11 February 2019
ADD. INFO REC'D:	February 2019 and July 2019
DATE OF REPORT:	20 August 2019

SUMMARY

ISSUES:	Contaminated land, car parking, flooding, fire safety and operating hours.
SUBMISSIONS:	No submissions were received.
RECOMMENDATION:	Approval subject to conditions

1.0 BACKGROUND

The subject site is known as the Muswellbrook Aquatic and Leisure Centre, which is utilised by the Community for learn to swim programs and other swimming pool based activities for other age groups. The subject site currently contains an indoor heated pool and two (2) outdoor pools, along with associated facilities including a kiosk, first aid room, change rooms and amenities, a gymnasium, spectator areas and an office as well as car parking. The facility is also used for school swimming carnivals throughout the summer months.

The subject site is part of a larger open space precinct known as Fitzgerald Park/Olympic Park, which comprises various sporting facilities including a football oval, velodrome, a croquet club and tennis courts. The Precinct comprises a mix of Council land and Crown land managed by Council and includes various internal roads and car parking areas.

Numerous development consents have been issued for various improvements on the site:

- Indoor pool added in 2002 (DA 267/01).
- An extension to the existing building on the site was undertaken in 2004 (DA 386/04) for the kiosk and first aid room,
- Shade cover and BBQ facilities were added in 2007 (DA 396/06).
- Alterations and additions to the indoor swim centre were undertaken (DA 277/10).

The existing facilities are in need of enhancement and refurbishment to update the physical condition and appearance of the asset and ensure its continued service to the community. This application proposes an additional indoor heated pool, which will assist in meeting the demand for learn to swim classes as well as recreational areas for children including a splash zone area. Upgrading of some of the internal areas of the existing building is also proposed, as well as approval to operate the gym on a 24/7 basis.

Future upgrading works to the existing 50 metre outdoor pool may be undertaken in the future; however, such works do not form part of this application.

2.0 SITE AND LOCALITY DESCRIPTION

The subject site is located on the southern side of Wilkinson Avenue in Muswellbrook and is part of a larger public open space area known as Fitzgerald Park/Olympic Park. The subject site is legally described as Lot 1 DP 903839, Lot 7010 DP 93327, Lot 11 DP 1058170 and Lot 1 DP 364120 and is known as the Muswellbrook Aquatic and Leisure Centre (the site). The location of the site is illustrated in **Figure 1**.

The site is bounded to the east by an integrated living development 'Boronia Building' and to the west and south by Muscle Creek. Wilkinson Avenue is located to the north which connects with Sydney Street/New England Highway to the north-east of the site. Muswellbrook Railway Station is located to the east of the site while the other facilities within Olympic Park are located to the south. Beyond Muscle Creek, to the west, is low density residential development. Beyond the railway line and station to the east comprises a small commercial/light industrial area.

The site has a gentle slope down to Muscle Creek in the western portion, while the eastern portion of the site is relatively flat, and comprises the existing car parking area. A relatively steep incline exists on the eastern side adjacent to the existing outdoor 50 metre pool. The central portion of the site consists of the current pool facilities with some changes in slope between the existing buildings hence the need for ramps and stairs to gain access throughout the separate site buildings. The site is illustrated in **Figures 2, 3 and 4**.

The site currently contains an indoor pool hall, a separate building comprising office, amenities and a gymnasium and three (3) outdoor pools, comprising a smaller program pool, toddler pool and a 50m outdoor pool. A car parking area with 65 spaces as well as access stairs and ramps and concrete concourses also exist in the site. The area is within a public open space precinct with railway infrastructure to the east, Muscle Creek to the south and west and various car parking and sporting infrastructure to the south.

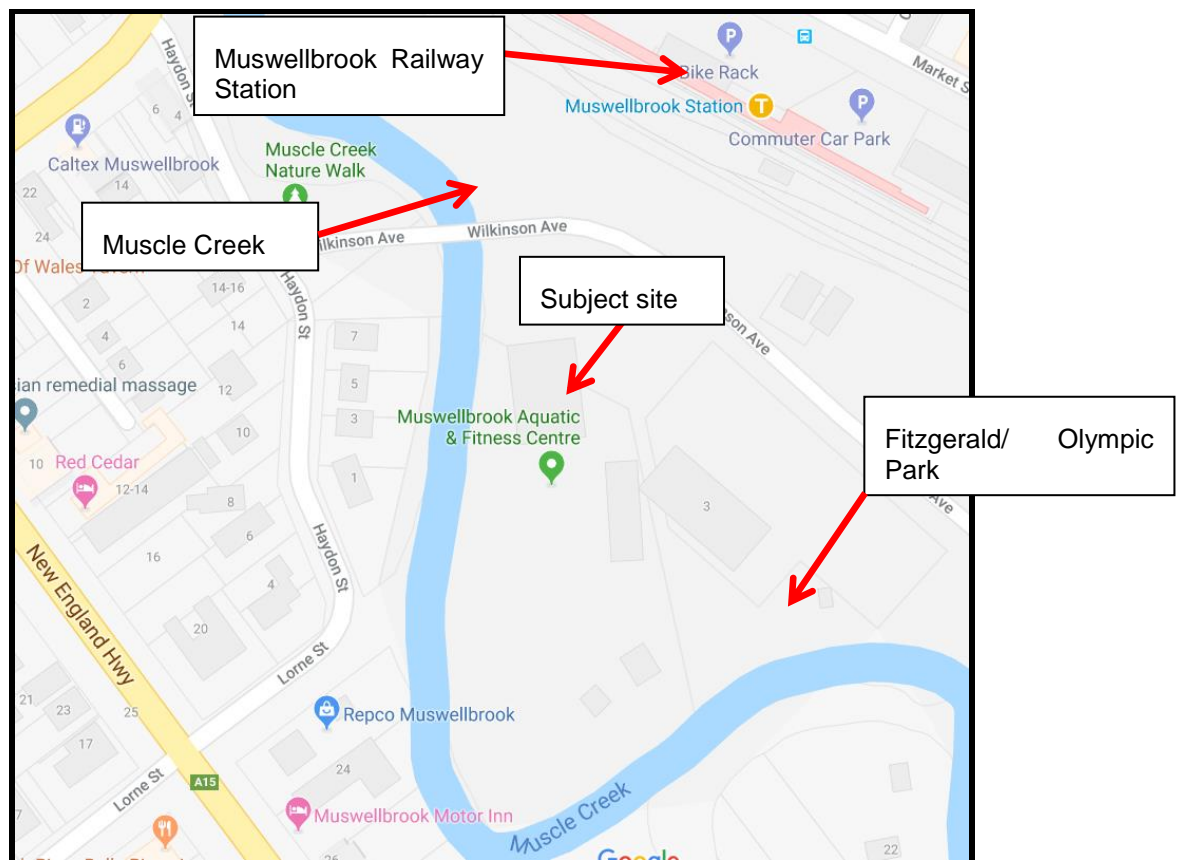


Figure 1: Site Location (Source: Google Maps)



Figure 2: The site looking south towards entry from the car park



Figure 3: Existing outdoor pool and toddler pool in background to be demolished



Figure 4: Existing office/amenities building - ramps and stairs to be removed with this building to be integrated within the proposed new pool hall

3.0 DESCRIPTION OF PROPOSAL

The proposal is for alterations and additions to the existing Muswellbrook Aquatic and Leisure Centre. The proposal involves works to the existing community aquatic facility and includes an extension to the existing indoor pool hall structure with the addition of a new indoor heated pool, replacing the existing outdoor splash pool and removal of other structures no longer required. The proposal is designed to update and improve the facility to allow more services to be provided to the local community.

The proposal includes the following:-

- Demolition of the existing toddler pool and shade structure along the western boundary and reinstate area to match existing concourse levels;
- Demolition of the front portion of existing entry area of the building (existing front entry and kiosk area); and
- Construction of:-
 - A new entry, kiosk, viewing lounge and party room as an extension to the existing building on the site. New access (ramp and stairs) to the existing amenities and office building and integration of this new addition to form one building and refurbishment of the control/kiosk and administration area;

- A new indoor heated pool comprising a splash park and program pool and new enclosing hall to adjoin the existing indoor pool hall with solar rooftop collectors;
- A new storeroom and plant room to the west of the proposed new pool hall including heat pump storage area and tanks below plant and storage room (on the lower concourse);
- A new disabled ramp access to the existing office/administration building and gym;
- A new sauna/spa area, deck and associated plant area below adjoining the western side of the existing office/administration building; and
- A new BBQ area and awning to the south of the existing 50 metre outdoor pool.

The proposed new pool hall will be integrated with the existing indoor pool hall; however, the roof of the proposed addition will be higher than the existing roof as outlined in Attachment C. The proposed external colours and materials for the proposal are to match existing finishes and include the following:

- FC expressed joint sheeting walls with colorbond metal louvres;
- Aluminium framed windows with energy efficient glazing;
- Aluminium framed glazed doors, with metal lined solid doors to external; and
- Colorbond metal roof sheeting with R 3.2 insulation.

The application notes the following key design issues:

- Ensure comfortable access to the facility by people with disabilities;
- Provide a much needed modernisation and upgrade of the existing amenities and social areas that support the complex – demonstrating 'best practice' intentions. The revised building form is also a demonstration that Council is pursuing 'best practice' planning to reduce operational costs and maximise potential income both directly and indirectly;
- Provide a multi-faceted facility that will better service the needs of the local community;
- Design of a facility which provides a continued and improved identifiable presence in the community, which offers a welcoming character with the vitality deserving of such a complex; and
- To ensure the local environment is not negatively impacted by the redevelopment.

For the majority of the leisure centre, comprising the indoor pool areas, the proposed hours of operation are to remain generally consistent with the approved hours which comprise the following:

- Monday to Fridays: 6:00am - 7:00pm;
- Saturdays: 8:30am - 7:00pm;
- Sundays: 10:00am - 7:00pm; and
- Public holidays: 9:00am - 4:00pm.

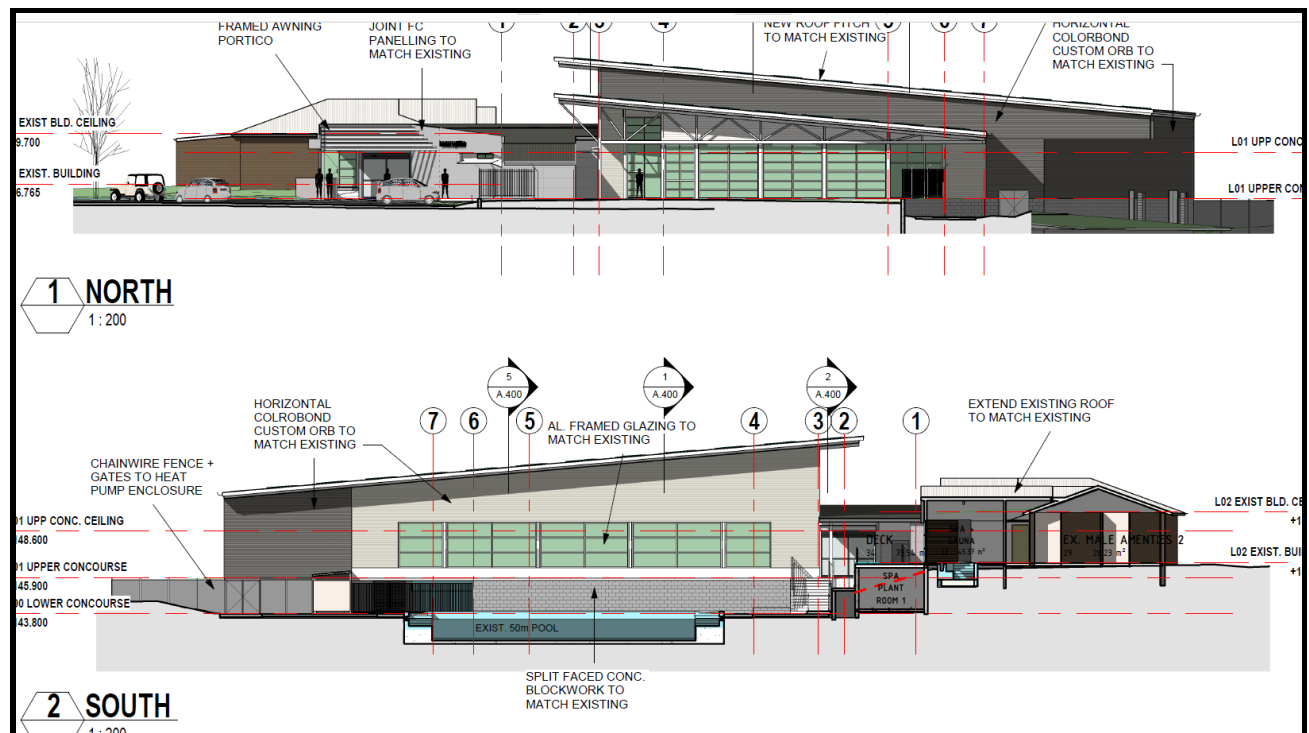


Figure 6: Proposed North and South Elevations (Source: Facility Design Group dated 22/1/2019)

4.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, the plans and other documentation submitted with the Application, the applicant has provided adequate information to enable an assessment of the Application. Additional information was submitted more recently to justify the 24 hour gymnasium operation.

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

- Statement of Environmental Effects prepared by Facility Design Group – Architects dated December 2018;
- Architectural Plans prepared by Facility Design Group – Architects dated 22 January 2019, Job No W268;
- Civil Engineering Plans prepared by Eclipse Consulting Engineers dated January 2019, Project No 9642;
- Parking Demand Assessment prepared by Positive Traffic: Engineering and Planning dated 19 March 2019;
- Statement of Compliance: Access for People with a Disability prepared by Accessible Building Solutions dated 18 February 2019;
- Detailed Site Contamination Assessment prepared by RCA dated May 2019, Ref 14202-301/0;
- Section 13 of DCP Flood Consideration Letter prepared by Eclipse Consulting Engineers dated 7 February 2019 Ref No 9642-002-fpl;
- Flood Impact Assessment prepared by Royal Haskoning DHV Ref No PA2033-RHD-00-FL-RP-D-0001 dated 26 April 2019;
- Noise Impact Assessment prepared by Noise and Sound Services dated January 2019, Ref No nss 22946 – Final;
- Quantity Surveyor's Report (Template) signed by Greg Seib dated 25 January 2019;
- Water Supply Assessment Report prepared by M.J Harvey and Associates Pty Ltd dated 30 July 2019; and
- Plan of Management for 24 hour Gymnasium prepared by Facility Design Group – Architects dated January 2019

5.0 SPECIALIST COMMENTS

5.1 Internal Referrals

The application was referred to Council's Building Section, Environmental Health Officer, Water and Waste, community Infrastructure, Community Services and Council's Heritage Advisor. Each section reviewed the proposal and recommended conditions to be placed on the development consent should the application be approved. The relevant issues are considered in Section 6 (Assessment) of this report.

5.1.1 Building Surveyor

The Building referral raised some concerns in relation to fire safety in that the existing water supply to the centre is inadequate for a fire hydrant system to comply with the relevant Australian Standards and Building Code of Australia requirements. A report was provided with the application, '*Proposed Water Supply Upgrade: Muswellbrook Aquatic Centre*' prepared by M.J Harvey & Associates Pty Ltd Hydraulic and Fire Protection Engineers dated 30 July 2019 which demonstrated a number of ways the water supply could be augmented to comply. This Report appears to have rejected these measures due to cost and disruption to the local road system.

The report recommended that to ensure an adequate level of fire safety, the following was required:

- (i) *Engage a suitably qualified Level One fire engineer to develop a Performance Based Engineering Brief for submission to Fire & Rescue NSW for comment; and*
- (ii) *Prepare preliminary designs indicating how the system would be constructed and operated.*

Planning Response

These recommendations will be enforced on any development consent issued given the requirement for a Construction Certificate application which will assess the proposal's compliance with the Building Code of Australia/National Construction Code. Detailed design drawings demonstrating compliance with the BCA will be required to be submitted with this Construction Certificate application and if a performance based solution is to be proposed for the hydrant system, such a solution will need authorisation from NSW Fire & Rescue.

Accordingly, the report from a suitably qualified fire engineer to develop a performance based engineering brief for submission to Fire and Rescue NSW for comment will be required prior to the issue of a Construction Certificate via the condition requiring compliance with the Building Code of Australia.

5.1.2 Manager Community Services

In regard to the fire safety issues that have been raised, the Manager of Community Services has advised:

As the operator and not the asset owner I provide the following advice:

1. *It is likely that;*
 - *If the 25 meter pool is 'empty' then the 50 metre pool would be available for use.*

- *However, as the 50 metre pool is on a different level to the 25 meter pool there would have to be some engineered solution to achieving enough water pressure from the 25 metre pool to the associated infrastructure at higher levels.*
 - *If this solution is accepted as part of the DA approval, the Emergency Management Plan for the evacuation of facility will need to be modified to reflect this change in operations.*
2. *In the highly unlikely event that both bodies of water are unavailable;*
- *The Aquatic Centre would be closed including the Gymnasium area.*
 - *This would be reflected in the Emergency Management Plan for the evacuation of the facility...*

In regard to safety issues that may arise from the 24/7 gym operation, the Manager of Community Services has advised:

Council already has a movement sensitive alarm system at the Aquatic Centre, that if activated is directly linked back to a local security firm. This system activates a local patrol and/or police, if the security firm does not respond. This security system is similar to the operations of another 24/7 hour gym that within Muswellbrook Shire.

In addition membership of the gymnasium involves the issuing of a swipe fob system, which excludes non-members of the gym who might attempt access at any time during the day or night. This same fob, will link to the membership database and collect data on the use of the gym area by each member. If Memberships aren't current the fob will be disabled until such time as the membership is renewed or cancelled by the members or council. The door to the gymnasium will lock after patron entry and can only be reopened by the patrons who are already using the gym area i.e. other members. A camera will be placed at the entry of the gym to ensure that only members are accessing the area, this will provide similar controls to the other 24/7 gym in Muswellbrook.

A duress alarm will be available for patrons of the gym within the gymnasium itself. If patrons feel unsafe, this alarm will again link back to Council's local security firm. A security guard or police will be notified and a security guard dispatched. If a patron felt unsafe as they were leaving the gym, they could return to the locked area and use the internal duress alarm to notify security from there. There will also be random security checks by Council's security firm.

Outside sensor lighting is intended on the exterior entrances to the Aquatic Centre and Gymnasium. This lighting will turn on and off for a period of 15 minutes to allow safe entry and access to the gym. Another sensor flood light will be attached to an existing exterior wall of the car park at the entry point of the gymnasium to ensure safe access to and from parked vehicles.

A cc/tv system will be installed at suitable locations in the car park and the gym, this system will replicate that systems that Council has installed at library locations. This footage is available for review by police and the General Manager of Council if required. The footage is logged and available for one week after any 'reported incident'.

Existing street lighting is available in this area and is on all night. Council is considering smart lighting in the current Olympic Park precinct.

As a shift working community, there is anecdotal evidence that a second 24/7 hour gymnasium would be successful in Muswellbrook. The demand for a second gym in

competition to the existing one has been investigated. There are three different user groups that Council has focused on at the Aquatic Centre and Gym as this facility already has strong Corporate Memberships. These memberships are supported by local Mines. Memberships are capped at ten visits per month and paid for by the employer as a part of staff health and wellbeing programs. It is these patrons that are seeking longer hours of operation at the existing gym to allow their use prior to and following the opening and closing times of the pool. It is expected that use between 11pm and 4am will be limited and security system will be increased during this time period.

Planning Response

Comments have been noted and appropriate conditions recommended, ensuring safety of patrons using the gym 24/7.

5.2 External Referrals

5.2.1 Roads and Maritime Services

Roads and Maritime Services (RMS) considered the application, and in correspondence dated 25 March 2019, recommended that the traffic impact be assessed if the facility was being upgraded in a way that it created additional trip generation and that a Traffic Impact Statement be provided as part of the SEE. The RMS considered that this Statement should include current traffic counts for the New England Highway at Haydon Street (both intersections), the distribution of the trips generated by the proposed development and a traffic analysis of the intersections using Sidra. Identification of any upgrades required to mitigate the impact of the development on the intersections with the New England Highway should also be provided.

Planning Response

The applicant provided a Parking Assessment which considered the proposal in the context of likely additional trips to be generated by the Centre. This Report concluded that there would be minimal additional trips generated by the proposal given the limited additional pool areas proposed. This is considered satisfactory as outlined in the MDCP 2009 assessment contained in this report.

The RMS also considered that Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity and that there is appropriate sight line distances for the location of the proposed driveway.

Planning Response

A Traffic Management Plan for construction is recommended to be imposed as a consent condition (in Attachment B) and the proposal involves the retention of the existing vehicle access driveway from Wilkinson Avenue. The issues raised by the RMS have been considered in this assessment.

5.2.2 Department of Primary Industries - Water

The application is integrated development pursuant to Section 4.46 of the EP&A Act as an Activity approval under Section 91 of the *Water Management Act 2000* is required. In an email dated 3 June 2019 from Natural Resources Access Regulator (NRAR), the following advice was received by Council:

The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then the NRAR should be notified.

Planning Response

There are no conditions required to be imposed and no further action in relation to the proximity to Muscle Creek.

5.2.3 NSW Police

The alterations and additions to the existing Muswellbrook Aquatic and Leisure Centre were referred to the NSW Police, however, no comments were received.

The proposal to extend the hours of operation of the gymnasium to 24 hours, seven (7) days a week, was also referred to the NSW Police. The following comment was provided:

In April 2001 the NSW Minister for Planning introduced Crime Prevention Guidelines to Section 79C of the Environment Planning and Assessment Act, 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community.

Valley Police do not object to the propose development and believe that the proposed alterations, upgrading and additions will not pose an unmanageable increase of the risk of crime. A copy of the full response from Valley Police is provided in Attachment E . The following comments are made for consideration:

Surveillance

- The continued use of Surveillance equipment (CCTV) to enhance the physical
- security of the business's and assist in the identification of people involved in anti-social or criminal behaviour.
- A CCTV camera be located outside facing the carpark area near the front
- entrance, to cover the afterhours entry as well as the car spaces near the front, where after hours gym users should be encouraged to park.
- Appropriate warning signs to be displayed advising patrons of CCTV in use.
- Consideration for a live feed monitor of the entrance area for after hour gym users to view before they exit. This will allow them to check for any persons loitering near the centre.

Lighting

- High quality, vandal resistant lamps are less likely to require replacement or maintenance.
- Security /Sensor lighting for areas not in use after dark can detect movement
- and highlight unwanted activity. This increases the risk to offenders being detected.

Landscaping

- Matured vegetation should allow clear sight lines “to see and be seen”. Shrubs should not provide easy concealment.

Design for Access Control

- There is one entry/exit for hours where the centre is staffed. This allows for surveillance of patrons and visitors.
- There is a separate entry/exit for patrons using the gym outside of staffed hours, which is swipe card activated.
- Fire exit doors in the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.
- Access control should be set in place to exclude unauthorized access to restricted areas, particularly to the office/ kiosk area.
- Clear signs and the use of lighting at night, encourages people to move in authorized areas only.

Space/Activity Management.

- To include a bicycle rack in a well supervised area.

Planning Response

Conditions of consent have been recommended to incorporate recommendations from Valley Police. Comments from the Manager Community Services indicate compliance with conditions is achievable.

5.2.4 NSW Health

The application was referred to the NSW Health; however, no comments were received.

5.2.5 Department of Planning and Environment

The application was referred to the Planning Panels Secretariat at the Department of Planning and Environment to clarify whether the proposal was to be considered as *regionally significant development*. This clarification was sought since further works on the site may be envisaged in the future, which would increase the capital investment value of the project beyond \$5 million. Including such future (potential) works would therefore likely include the project within *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP).

The Department considered, however, that such works were not proposed at this stage and therefore the matter cannot be considered by the Panel under the provisions of the SRD SEPP.

6.0 ASSESSMENT

This report provides an assessment of the material presented in the Application against the relevant State and local planning legislation and policy pursuant to Section 4.15 of the EP&A Act.

Section 4.15 Matters for Consideration

Section 4.15(1)(a)(i) The provisions of any Environmental Planning Instrument (EPI)

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

1. **Muswellbrook Local Environmental Plan 2009 (MLEP 2009)**

Land Use Zone and Permitted Land Use

The site is zoned RE1 Public Recreation pursuant to Clause 2.2 of the *Muswellbrook Local Environmental Plan 2009* ('MLEP 2009'). The proposal is most appropriately classified as a *recreation facility (indoor)*, which is defined in the Dictionary to the MELP 2009 as (emphasis added):

*"...a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, **indoor swimming pool**, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club".*

The proposal is predominantly for the addition of a new indoor pool hall and accordingly, a *recreation facility (indoor)* is the most appropriate land use classification for the proposal. The remaining aspects of the proposal are considered to be ancillary to the main use as a *recreation facility (indoor)*. A *recreation facility (indoor)* is permissible with consent in the RE1 zone pursuant to Clause 2.3 of the MLEP 2009.

The objectives of the RE1 zone include:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.*
- *To identify land that is suitable for future public recreation use and that can be brought into public ownership as a consequence of development contributions.*
- *To provide linked open space for ecosystem continuity, local community recreation, off-road transport and waterway protection.*
- *To provide space for integrated stormwater treatment devices for flow and water quality management, whilst enhancing urban and rural amenity.*

The proposal is considered to be consistent with these zone objectives as it will provide for an improved community facility which will allow greater recreational opportunities for the community. The proposal will provide an additional indoor pool which is more suited to the area's needs in relation to learn to swim and other water based activities for other age groups.

The proposal is considered to be compatible with adjoining and surrounding land uses given its location within an open space and sporting precinct and will not result in any significant amenity loss for nearby residential development. It is also considered that the proposal will not adversely impact on the natural environment given the proposed works are to be undertaken within the footprint of the existing facility and will not result in the removal of any natural vegetation or change the natural contours of the site significantly.

The proposal allows the development of public open spaces in a way that addresses the community's diverse recreation needs in that greater resources are being provided which are

more suitable for the community. The proposal continues to allow the linking of open space areas for ecosystem continuity, local community recreation and waterway protection by confining the proposed works to within the footprint of the existing centre. The proposal will provide for integrated stormwater treatment on the site to protect the surrounding area. Accordingly, the proposal is considered to be consistent with the zone objectives, is permissible in the zone and is therefore consistent with Clauses 2.3 and 2.3 of the MLEP 2009.

Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009

The relevant clauses of the MLEP 2009 to the proposal are considered below in **Table 1**. The proposal is considered to be consistent with these controls.

Table 1: Consideration of the relevant clauses of the MLEP 2009

<i>Part 1 Preliminary</i>	
<i>1.1 Name of Plan</i>	Muswellbrook Local Environmental Plan 2009
<i>1.1AA Commencement</i>	The MLEP 2009 was gazetted on 17 April 2009.
<i>1.2 Aims of Plan</i>	Noted
<i>1.3 Land to which Plan applies</i>	The MLEP 2009 applies to the whole of Muswellbrook Local Government Area.
<i>1.4 Definitions</i>	Noted
<i>1.5 Notes</i>	Noted
<i>1.6 Consent authority</i>	The consent authority for this development is Muswellbrook Shire Council.
<i>Part 2 Permitted or prohibited development</i>	
<i>2.1 Land use zones</i>	See above
<i>2.2 Zoning of land to which Plan applies</i>	See above
<i>2.3 Zone objectives and Land Use Table</i>	See above
<i>2.7 Demolition requires development consent</i>	Demolition is proposed and shall be carried out in accordance with standard conditions. Complies.
<i>Part 3 Exempt and complying development</i>	
<i>Part 4 Principal development standards</i>	
<i>4.3 Height of buildings</i>	MLEP 2009 specifies a maximum building height of 12 metres in relation to the site. The proposal involves a maximum overall height of the new pool hall of 8.2 metres. Complies.
<i>4.4 Floor space ratio</i>	MLEP 2009 does not specify a floor space ratio in relation to the land. The proposal involves 872m ² of additional floor space on the site. Complies.
<i>Part 5 Miscellaneous provisions</i>	
<i>5.10 Heritage conservation</i>	The Clause requires consideration of the conservation of environmental heritage, the heritage significance of heritage items/conservation areas, archaeological sites and aboriginal objects and aboriginal places of heritage significance. Council's Heritage Advisor has provided the following comments:

	<p><i>Muswellbrook Aquatic Centre is located in the vicinity of an identified local heritage item on the Muswellbrook LEP 2019: Fitzgerald Olympic Park Gates item No 124.</i></p> <p><i>The Muswellbrook Aquatic and fitness Centre is not identified as a heritage item. The gates are located within the recreational precinct which comprises the Fitzgerald Olympic Park Gates item No 124. It is noted that there will be no physical intrusion on the heritage item and it is intended that landscaping will be included to buffer the aquatic centre development.</i></p> <p><i>The proposed upgrade and refurbishment works to the existing Aquatic facility will have no impact upon the locally heritage listed Fitzgerald Olympic Park Gates. Heritage matters have been satisfied with the inclusion of information on heritage within the Statement of Environmental Effects.</i></p> <p>The proposal is consistent with this clause. Complies.</p>
Part 6 Urban release areas	
Part 7 Additional local provisions	
7.1 Terrestrial biodiversity	<p>The subject site is not identified as 'biodiversity' by Council's Biodiversity Mapping.</p> <p>Not applicable.</p>
7.6 Earthworks	<p>The relevant objectives of this clause are:</p> <p><i>'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'.</i></p> <p>The proposed development would involve minimal earthworks involved with the footings of the new building and pool. This would not be detrimental to the impact of environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. A Geotechnical Report has been provided which concludes that the proposal is acceptable subject to further detailed design and reporting. The proposal is considered to</p>

	be generally consistent with this Clause. Complies
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State Environmental Planning Policy No. 55 – Remediation of Land

Pursuant to Clause 7 of *State Environmental Planning Policy No.55 – Remediation of Land* (SEPP 55), a consent authority is required to consider whether a proposed development site is affected by soil or other contaminants before granting consent. The site is currently zoned, and used, for public recreation.

In accordance with the *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land*, prepared by Department of Urban Affairs and Planning in 1998, the history of land use needs to be considered as an indicator of potential contamination as well as other past activities on the site, including land filling.

Previous assessments undertaken on the site identified contamination at the site with the primary source considered to be associated with historical filling with ash type materials from the former Muswellbrook Gasworks. Accordingly, consideration of potential contamination was required in this instance as gas works are a listed activity in Table 1 to the *Planning Guidelines*.

A *Detailed Site Contamination Assessment*, prepared by RCA Australia dated May 2019, has been provided which analysed available site history records, reviewed prior investigations, inspected the site and analysed new soil samples from the site. This report concluded the following:-

RCA's site history assessment identified that fill was placed at the site from the former Muswellbrook Gasworks. The fill from the gasworks was primarily comprised of an ash type material. Analysis of samples in previous investigations indicated that the ash fill had a strong correlation to PAH contamination at the site.

A site inspection and field work did not indicate any visual or olfactory evidence of contamination at the site.

The assessment identified one (1) location where two (2) surface samples were analysed in previous investigations in excess of the human health and ecological criteria for recreational use. There is potential that these soils were capped and contained as part of previous remediation work. If the soils still remain, they are not considered to pose a risk to the proposed development once complete. However, there will be risks during the construction phase which will require management.

Whilst no ash was identified during the current investigation, there is potential for it to be encountered during construction. It is recommended that an unexpected finds protocol be implemented and any ash that may be disturbed as part of the project be stockpiled separately in a bunded area for waste classification and disposal to a licensed waste facility.

RCA considers that any potential contamination is unlikely to pose a risk to human health and the environment following the construction of the proposed development. RCA considers that the site is suitable for current and proposed recreational upgrade.

Following review of this Contamination Report, it is considered that the issue of contaminated land report, a number of conditions of consent are recommended to ensure there is no risk to human health arising from land contamination during construction. Such conditions a condition requiring an 'Unexpected Finds Protocol' to be implemented and the provision of a Remedial Action Plan ('RAP') to be provided.

This is considered necessary given there is potential for contaminated ash material to be encountered during construction and two (2) of the sampling locations demonstrated surface soil concentrations of benzo(a)pyrene in excess of the ecological criteria and carcinogenic PAH in excess of the human health criteria (previous test pits TP03 and TP03A undertaken by HLA in 2002). A previous test pit (TP01 also from HLA, 2002) also exhibited concentrations of nickel above the recommended guidelines.

The RAP will be required to outline how such material will be managed if encountered during the construction of the proposal, including for it to be stockpiled separately in a bunded area for waste classification and disposal to a licensed waste facility. Subject to these conditions, the site is considered suitable for current and proposed recreational upgrade and the proposal is consistent with SEPP 55.

2. Other State Environmental Planning Policies

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

- *State Environmental Planning Policy No.64 – Advertising and Signage* - The proposal does not involve any additional signage and therefore SEPP 64 is not relevant in the assessment of the application.
- *State Environmental Planning Policy (infrastructure) 2007* – The proposal does not trigger a referral to the RMS under Clause 104 – Traffic generating Developments as it does not satisfy the criteria under Schedule 3; and
- *State Environmental Planning Policy (State and Regional Development) 2011* – The proposal is not classified as *regionally significant development* pursuant to Clause 20 of this SEPP as the capital investment value is less than \$5 million (Clause 3 of Schedule 7).

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

There are no draft EPIs relevant to the subject Application.

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

The *Muswellbrook Development Control Plan 2009* (MDCP 2009) was gazetted on 9 April 2009 and applies to all land within the Muswellbrook Shire local government area, including the proposal. The relevant provisions of the MDCP 2009 to the proposal are considered below.

Section 3 – Site Analysis

It is considered that the documentation provided with the Development Application satisfies the provisions of Section 3 of the MDCP 2009.

Section 4 – Notification

In accordance with the provisions of Section 4 of the MDCP 2009, the application was notified for a period of not less than thirty (30) days from 20 February 2019 to 21 March 2019. A notice was also placed in the local newspaper, the *Hunter Valley News*, at the commencement of the notification period. The proposal were re-advertised and re-notified in accordance with the initial notification between 17 July 2019 and 8 August 2019 following an

amended application being received, which encompassed the operating hours for the gymnasium being extended to 24 hours, seven (7) days a week.

There were no submissions received following either of these notification and exhibition periods.

Section 13 – Flood Prone Land

The site is located adjoining Muscle Creek, located along the western boundary of the site. The *Muscle Creek Flood Study* was prepared by Royal Haskoning DHV ('RHDHV') in 2017 (the Flood Study') as part of the Hunter River (Muswellbrook to Denman) Flood Risk Management Study (FRMS). The key objective of the Flood Study was to assess flooding within the township of Muswellbrook that occurs from runoff from the Muscle Creek Catchment.

The *Muswellbrook Floodplain Risk Management Study and Plan* (FRMS&P) is currently in draft form and has been prepared (among other reasons) to reduce risk to life and property and documents flooding behaviour (as per the Muscle Creek Flood Study), property inundation assessment, consideration of floodplain management options and response modification measures. One of these measures is a flood warning system for Muscle Creek, which would encompass the Muswellbrook Aquatic & Leisure Centre site.

While the MDCP 2009 does not currently indicate that the site is flood prone, this Flood Study indicates that the site is affected by the 1 in 100 year flood event and therefore this Chapter of the DCP is required to be considered in further detail for this proposal.

The Flood Study shows the majority of the site as being inundated by the 1 in 100 year event, illustrated in **Figure 7**. This inundation is largely along the northern and western portions of the site, including the proposed new pool hall footprint, but does not extend to the eastern side of the site where the existing car parking area is located.

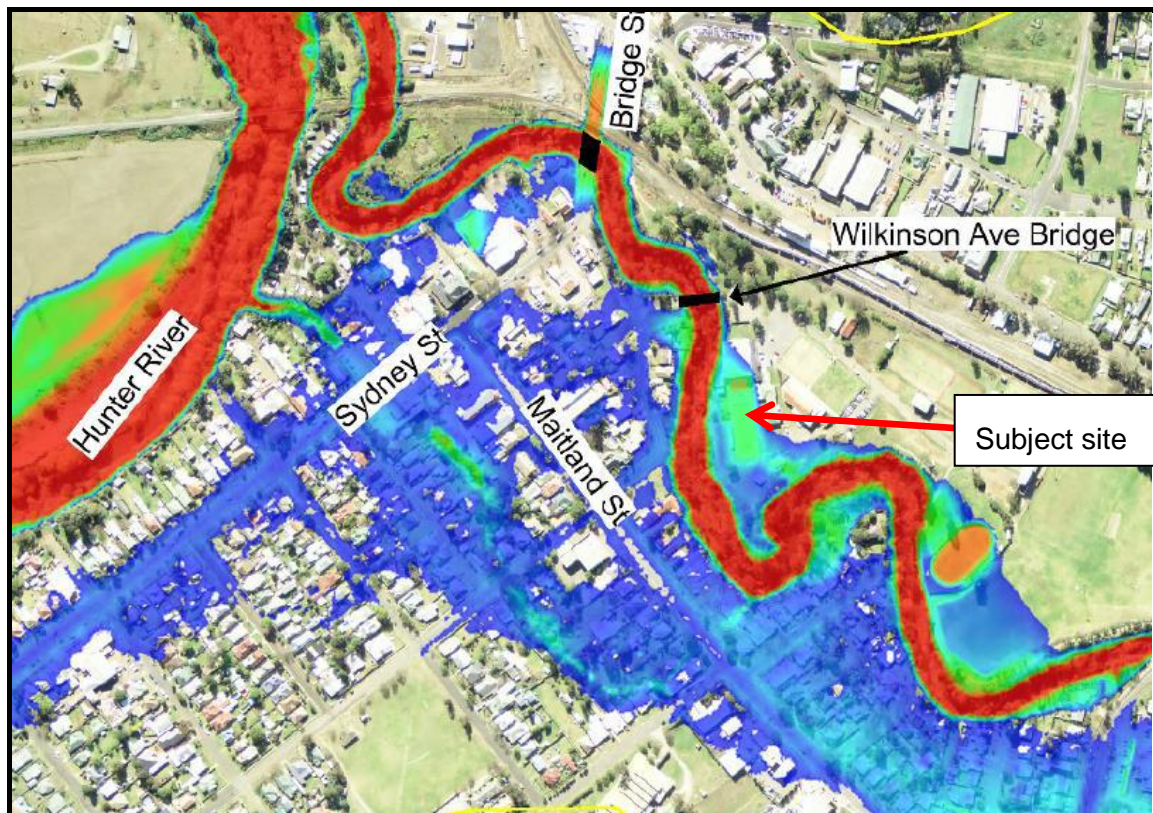


Figure 7: 1 in 100 Year Flood Levels for the site (Source: FIA prepared by Royal Haskoning DHV dated 26 April 2019 adapted from Flood Study prepared by Royal Haskoning DHV, December 2016)

A Flood Impact Assessment report, also prepared by Royal Haskoning DHV dated 26 April 2019 ('FIA'), has been provided to further consider the potential impact of flooding for the proposal. The objective of this FIA was to identify whether the proposed additions and alterations were likely to have a significant impact on flood behaviour, or if they have the potential to increase the flood affectation of neighbouring properties. A *Review of Section 13 of MDCP 2009* letter report has also been provided with the application, prepared by Eclipse Consulting Engineers dated 7 February 2019.

The FIA considered that, based on the existing ground levels and the location of existing stormwater drainage, the site would first become inundated around the swimming pools via backwater flooding through the site's internal drainage system. Inundation of the site due to overtopping of the eastern bank of Muscle Creek would first occur adjacent to the existing pump rooms. It was also noted that the majority of the site is affected by the 1% AEP flood event while the entire site would be inundated in the Probable Maximum Flood (PMF) event.

Section 13.4 of the MDCP 2009 contains controls for non-residential development and in particular for development in the RE1 zone. These controls are considered below in the context of the proposal:

- a) *The floor level of all habitable areas of the proposed development shall be at least 0.5m above the 1% AEP flood level, except in the case of a change of use of an existing building.*

Applicant's response: *The proposed development does not incorporate habitable areas; therefore this control does not apply. It is noted that the 1% AEP flood depth at the proposed building is approximately 1.4 metres above the Lower Concourse Level (RL 143.8), and approximately 1.6 metres below the existing Amenities / Office Building.*

Community Infrastructure comment: The 1 in 100 year flood level at the site is RL 145.20m AHD (Section 4.4.2 and Table 3 of the FIA) and therefore the minimum floor level for the proposal is required to be above RL 145.70m AHD (1% level plus 500mm freeboard). In this instance, the proposed new pool hall is to be at the same level as the existing indoor pool hall on the site and the lower level of the existing administration/amenities building which are both at RL 145.90m AHD (as per the plans). The upper level of this existing administration/amenities building containing the existing gym and the proposed new sauna and spa is located at RL 146.765m. Accordingly, in this case, the proposal is consistent with this control with all new development located above the 1 in 100 year flood level (plus 500mm freeboard).

- b) *The development will not result in increase flood hazard or flood damage to other properties or increase afflux by more than 0.1m.*

Applicant's response: *As presented in the flood mapping included in Appendix A, the proposed development will not result in increased flood hazard or damage to other properties. Flood afflux due to the proposed building extensions would be no greater than 2cm.*

Community Infrastructure comment: Based on the FIA, it is considered that there will be minimal additional impact on flooding for adjoining properties as a result of the proposal.

- c) *The construction methods and materials for that part of the development below the 1%AEP flood levels shall conform with the flood proofing code.*

Applicant's response: *The construction methods and materials are addressed in documentation prepared by Facility Design Group and Eclipse Consulting Engineers that has been lodged with the DA.*

Community Infrastructure comment: The footings and other building structures below the flood level are required to be consistent with Section 13.8 of the MDCP 2009. This requirement shall be imposed as a condition of consent (Attachment B).

- d) *The proposed development can withstand the force of flowing floodwaters, including debris and buoyancy forces.*

Applicant's response: *Structural design requirements for the proposed building extensions are addressed in the letter report prepared by Eclipse Consulting Engineers dated 7 February 2019.*

Community Infrastructure comment: Refer above, to be addressed in conditions (Attachment B).

- e) *Provision shall be made for the safe storage and/or timely removal of goods, material, plant and equipment in the event of a flood.*

Applicant's response: *It is understood that there will be no storage of toxic or corrosive materials below the 1% AEP flood level within the site. Where practical, all critical plant and equipment shall be stored at or above the 1% AEP flood level (RL 145.2), or provision shall be made in a site specific Operation Management Plan to remove plant and equipment in the event of a flood warning being received (NB: a flood warning system for Muscle Creek was identified as one of the potential flood mitigation measures in the Muscle Creek Flood Study).*

Planning Response: This requirement shall be imposed as a condition of consent prior to the issue of the Occupation Certificate (Attachment B).

- f) *A report be provided by a suitably qualified Consulting Engineer stating that the requirements outlined in (a) - (e) above have been incorporated in the design of the development.*

Planning Response: This requirement shall be imposed as a condition of consent prior to the issue of the Occupation Certificate (Attachment B).

- g) *An evacuation plan for users of the development is prepared (to the satisfaction of Council) and maintained throughout the life of the development.*

This requirement shall be imposed as a condition of consent prior to the issue of the Occupation Certificate (Attachment B). This has been considered in the FIA and the FRMS&P and will need to a site-specific plan for this site as required by the recommended conditions.

Planning Response: The proposal is considered to be consistent with Section 13 of the MDCP 2009, subject to imposition of relevant conditions of consent.

Section 15 – Heritage Conservation

The heritage provisions of this section of the MDCP 2009 have been considered in the MLEP 2009 assessment above. This application was referred to Council's Heritage Advisor for review and based on this review it has considered that the proposal is satisfactory. The proposal is consistent with Section 15 of the MDCP 2009.

Section 16 – Car Parking and Access

This Section provides the controls for car parking and access. The existing car parking area on the site, comprising 65 car parking spaces, and the existing vehicle access point from Wilkinson Avenue, are to be retained by the proposal.

Section 16.3 provides controls for non-residential development, which are considered below in the context of the current proposal including the following:

- (i) *Car parking is provided on site in accordance with the requirements of 16.6 of this section of the DCP* – This is considered below;
- (ii) *On-site parking facilities are designed and constructed to comply with the provisions of AS2890.1/AS2890.2* – There are no changes to the existing car parking on the site. A condition is recommended to be imposed requiring certification that the car parking complies with AS 2890.1 (Attachment B); and
- (iii) *To ensure that traffic movements into and out of a site are made, whenever possible, in a forward direction. If a site layout does not permit forward movement for delivery vehicles, then the developer, owner or occupier must provide a risk management plan, to the satisfaction of Council, detailing the measures required to ensure that traffic movements are carried out in an adequate and safe manner* – Vehicles can enter and leave the site in a forward direction.

Section 16.5 provides qualifications and exceptions to parking standards with Section 16.5.2 for extensions/additions to existing development stating the following (emphasis added):-

“Where existing premises are being extended to create additional gross floor area, the **additional parking requirement shall be calculated in accordance with the parking standards contained in this code on the basis of the increased floor space**”.

In this respect, the proposal involves 872m² of additional gross floor area (GFA) as per the definition contained in the MLEP 2009 (which excludes plant rooms, basement storage (undercroft) areas and vertical circulation areas such as lifts and stairs. Of this, the proposed indoor pool hall comprises 608m² and the proposed new sauna/spa area comprises 59m². The proposed additions to the existing amenities and office building, consisting of the viewing area, comprise 205m².

Of these new areas, it is considered that, in terms of the potential for additional traffic and car parking generation, the indoor pool (604m²) and spa/sauna (45m²) areas may contribute to additional car parking and should be considered in this car parking calculation. The additional areas to the existing office building (205m²) is unlikely to generate additional car parking given the existing development, comprising the existing indoor pool hall and the 50 metre outdoor pool, generally require these facilities in their current form and therefore do not contribute to the need for additional car parking. Accordingly, there is an additional **649m²** of GFA for car parking calculation purposes pursuant to the MDCP 2009 and MLEP 2009 definitions.

However, this calculation needs to factor in that the proposed new indoor pool hall replaces two (2) existing pools, comprising an existing outdoor program pool (204m²) and the existing outdoor toddler pool (72m²) which will both be demolished under this proposal. The total area of these existing pools to be removed is approximately **276m²**. These are outdoor pools and therefore the GFA of these areas are smaller given they are not contained within a pool hall. Accordingly, based on the relevant definitions, the proposal would result in a net **additional 373m² of GFA.**

Section 16.6 of the DCP provides the car parking requirements for various land uses, with the relevant uses to this application outlined below. The proposal is considered to be a Recreation Facility (indoor) as outlined above in the MLEP 2009 assessment. The car parking rates for this use is outlined below. The existing outdoor pools to be demolished are likely to have been categorised as Recreation facility (outdoor) as the pools are outdoor pools.

The DCP does not have a standard car parking rate for such a use as it is to be assessed on a site by site basis and based on the traffic generating capacity and design of the proposed area. It would have required the submission of a parking study to substantiate proposed car parking provisions.

Table 2: Car Parking Rates - MDCP 2009

Controls	Required	Provided
Recreation Facility (indoor) - 1 space per 25m ² of gross floor area, PLUS 1 space per 2 employees –	15 car parking spaces (based on additional GFA of 373m ²); No additional staff proposed.	No additional car parking spaces

A *Parking Demand Assessment* prepared by Positive Traffic Engineering and Planning dated 19 March 2019 ('the Parking Report') accompanies the development application. The Parking Report analysed patronage demands of the centre for a typical week during summer and winter. It noted that there were various school carnivals held at the centre over summer and that there was a greater usage of the centre during summer months than in winter, which is expected. It further noted that there was a peak during the later afternoon periods in summer due to learn-to-swim classes.

The Parking Report applied an assumed vehicle occupancy rate of 1.25 persons per vehicle and based on parking surveys undertaken, the report estimated that operationally during summer, the parking demand would be in the order of 12-21 vehicles. The Parking Report stated that since the existing car parking area contained **65** spaces, that there would be sufficient capacity within the existing car parking area to cater for the average hourly patronage demands for the proposal.

The Parking Report stated the following in relation to the car parking shortfall:

Future Patronage Demand Assessment

As stated above the main component of the development which could generate additional patronage / parking demands at the centre is the expansion of the indoor learn to swim pool. The expansion of 16m² is assumed to provide an additional hourly class of up to 6 students.

Allowing for the same vehicle occupancy rate of 1.25 persons per vehicle plus one staff member, there is the potential that the works would generate the need for a further 5 parking spaces.

As the existing car park of 65 parking spaces more than caters for typical hourly operational demands of centre, the potential 6 additional vehicles would not result in adverse parking conditions in and around the centre and would be catered for within the existing car park.

Traffic Impacts

As stated above it has been assumed that the only change as part of the proposal which could generate additional patronage would be the small expansion of the learn to swim pool resulting in one (1) additional swim class.

As shown above this potential additional class would generate a further six (6) vehicle trips which would have a negligible impact on the surrounding road network and operation of intersections.

Overall, the traffic impacts are considered acceptable.

Consideration of car parking provision

A strict interpretation of MDCP 2009 indicates that there is a parking shortfall of around 15 car parking spaces. The Parking Report indicates that there is sufficient capacity in the current car parking area for the proposed additions since the car park is currently under-utilised. The Parking Report also justifies this lack of additional car parking being provided on the basis that the proposed additions result in only 16m² of additional pool space, which would equate to only one (1) additional learn to swim class containing approximately 6 students.

Based on their occupancy rate of 1.25 persons per vehicle, the report indicates that this would result in only 5 additional spaces. The Parking Report also states that there is currently additional car parking areas provided within the Fitzgerald Park/Olympic Park Precinct which could act as overflow car parking areas in the event that the 65 car parking spaces on this site were to be utilised at any given peak time.

In terms of the usable pool area, which is the traffic generating aspect of the proposal, the proposed new indoor program pool has a GFA of 306.52m² which results in an additional **30.52m² of pool area** (after subtracting the area of the two existing outdoor pools which are to be demolished (276m²)). Under the DCP controls, this would require only 1.2 car parking spaces to be provided on the site.

Taking into consideration all of the above, there is a shortfall of between 1 and 15 car parking spaces on the site according to the DCP controls. However, it is considered that the majority of the time the Centre is open, it is likely that, based on current calculations, there would be capacity within the existing car parking area even with the proposed additions.

While it is likely that the proposed upgrade works would result in greater visitation of the Centre by the Community, particularly initially, these additional car parking requirements are likely to be capable of being accommodated within the existing car park. In the event that there was a demand for car parking above this existing provision, there are numerous car parking facilities provided in the Precinct which have been provided for the open space uses in the area. These car parking areas include 23 spaces adjoining the tennis courts and 75 spaces on the southern side of Wilkinson Avenue adjoining the entrance to the oval and velodrome within the Precinct. These car parking areas are illustrated in **Figures 8 and 9**.

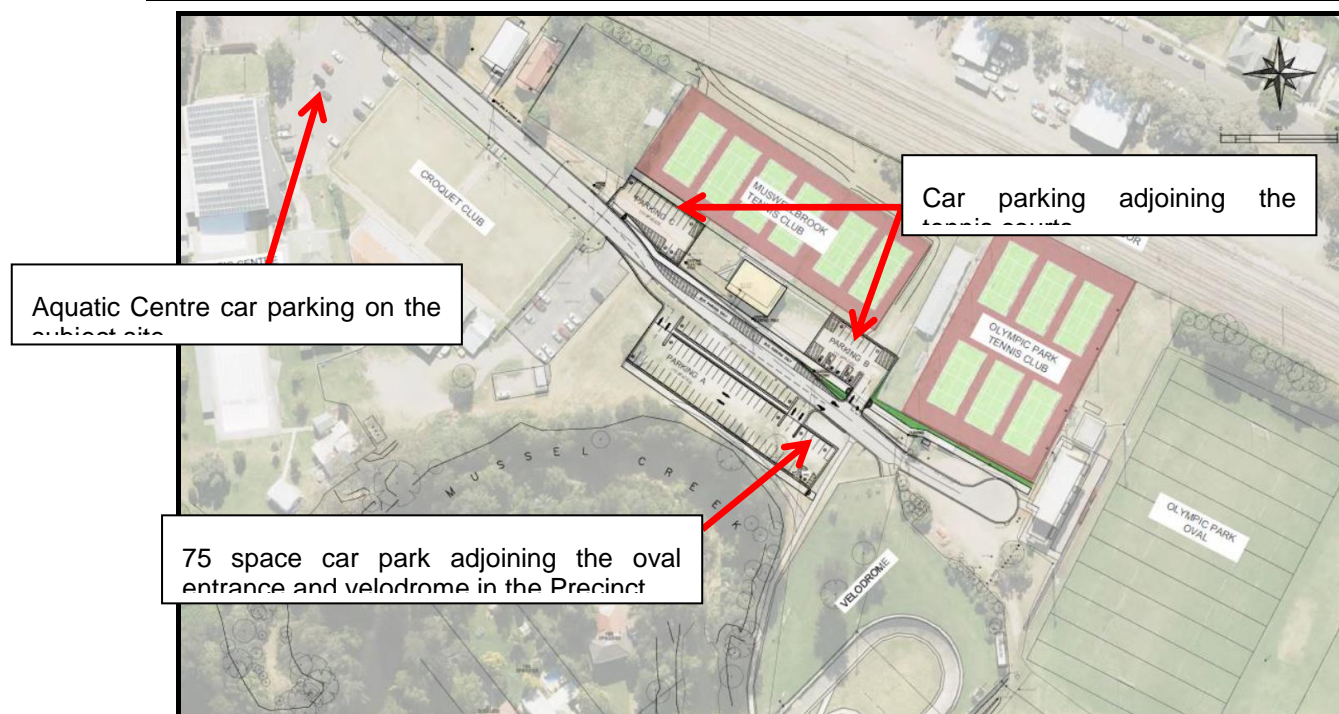


Figure 8: Car Parking Areas within the Fitzgerald Park/Olympic Park Precinct

The objectives of Section 16.3 of MDCP 2009 for car parking for non-residential development state:

- a) *To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network.*
- b) *To ensure a consistent and equitable basis for the assessment of parking provisions.*
- c) *To ensure the design of parking areas, loading bays and access driveways which function efficiently.*
- d) *To ensure that parking areas are visually attractive and constructed, designed and situated so as to encourage their safe use.*
- e) *To ensure that all traffic generating developments are generally in accordance with those sections of the Traffic Authority of NSW Policies and Guidelines, for traffic generating developments as adopted by this Code.*

The proposal is considered to be consistent with these objectives notwithstanding the shortfall in car parking under the DCP given there is considered to be adequate car parking provided on the site as the existing parking is currently under-utilised. There is likely to be capacity in the current car parking area given the car park is rarely used to its capacity under current operating conditions.



Figure 9: Existing Car Parking adjoining the oval and velodrome within the precinct looking North towards the site

It is also considered that the proposal involves a relatively minor increase to the usable pool area, which is the traffic generating aspect of the proposal, when considering the removal of the existing outdoor program pool and toddler pool at the site.

Furthermore, there is capacity within the larger open space Precinct, within which the site is located, to cater for additional car parking if there is a shortfall of car parking for a particular event (such as a school swimming carnival) or other peak times at the Centre.

The proposal has been assessed according to the DCP controls and objectives and it is considered that the retention of the existing car park ensures that the design of parking areas, and access driveways, will function efficiently. The existing car park is also considered to be visually attractive and constructed, designed and situated so as to encourage their safe use during the day. In these ways, the proposal is considered to be consistent with the objectives of the controls for car parking under MDCP 2009.

Section 16.5.9 of the DCP provides that Council's Contribution Plan may make provision for a contribution to be payable where there is a shortfall of parking spaces that can be provided on site to service a development as required by this section of the DCP. In this instance, the proposal is not subject to contributions and accordingly Council's Contribution Plan is not applicable.

Accordingly, it is considered that the current car parking provision of 65 car parking spaces provided on the site is sufficient for the proposal and the application is generally consistent with Section 16 of the MDCP 2009. A variation to the car parking provision should be granted in this instance for the reasons outlined above.

Section 20 – Erosion and Sediment Control

The relevant objective of this section states:

‘to demonstrate through the preparation of an Erosion and Sediment Control Plan or Strategy for developments over 250m² of disturbance that appropriate controls are planned to be installed’.

An Erosion and Sediment Control Plan has been provided as part of the civil plans prepared by Eclipse Consulting Engineers dated January 2019. The proposal is considered to be consistent with Section 20 of the MDCP 2009 subject to imposition of relevant conditions of consent (Attachment B).

Section 21 – Contaminated land

Contaminated land has been considered in the SEPP 55 assessment above. The proposal is considered to be consistent with Section 21 of the MDCP 2009 subject to imposition of relevant conditions of consent (Attachment B).

Section 24 – Waste Management

A *Site Waste Minimisation and Management Plan* ('SWMMP') has been prepared by Facility Design Group for the proposal. This Plan is satisfactory and compliance with the plan will be imposed as a condition of consent (Attachment B). The proposal is considered to be consistent with Section 24 of the MDCP 2009.

Section 25 – Stormwater Management

The proposal involves diverting the stormwater from the new roof areas to the existing stormwater system on the site. A 5000L rainwater tank is also proposed to be used for water reuse on the site. The existing stormwater pipes discharge to a single outlet to Muscle Creek at approximately RL 140.92, located approximately 25 metres west of the children's pool.

Community Infrastructure staff consider that the proposed stormwater management for the site is satisfactory given the Stormwater Plan shows the proposed pool hall extending into the existing play pool area (concrete) and therefore there is no additional impervious area being added. Furthermore, the roof area will drain to the rainwater tank with the overflow outlet then connecting to an existing stormwater pit which eventually outlets into the Muscle creek. The addition of the rainwater tank will improve the drainage on the site and will decrease the discharge rate to the existing system. The proposal is considered to be consistent with Section 25 of the MDCP 2009 subject to the recommended conditions of consent (Attachment B).

The pipe end draining to Muscle Creek terminates with minimal erosion protection for the creek bank. A condition of consent is recommended to provide erosion protection works.

Section 94A Contributions Plan 2009

Pursuant to Clause 1.2 of this Plan, the proposal is not subject to the provisions of this Plan.

The proposal is considered to be generally consistent with the MDCP 2009 as outlined above.

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 8 of the *Environmental Planning and Assessment Regulation 2000* applies to the proposal in relation to the determination of development applications. In particular, Clause 92 (Additional matters that consent authority must consider) and Clause 94 (Consent authority may require buildings to be upgraded) are applicable to this assessment.

Clause 92(1)(b) requires the consent authority, in the case of a development application for the demolition of a building, to have regard for the provisions of *AS 2601 - 1991: The Demolition of Structures*. The proposal will be required to be undertaken in accordance with AS 2601 as a condition of consent. Clause 94 requires the consent authority to consider whether it is appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia, where development involves the rebuilding, alteration, enlargement or extension of an existing building.

In this case, this issue will be considered as part of the Construction Certificate application. Relevant conditions are to be imposed to ensure the building is compliant with the BCA (see Attachment B).

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

Potential impacts related to the proposal have been considered in response to the relevant SEPPs, MLEP 2009 and MDCP 2009 controls above and considered acceptable. As outlined in the assessment above, the proposed development will not have any significant adverse impacts in the locality and it is considered that given the recommended conditions to be imposed in this report (Attachment B), there will be minimal impacts on the amenity of the built environment.

Other considerations include:

- Context and setting – The proposal has been designed to be a compatible addition to the existing Centre and the locality and is of an appropriate size and density to the surrounding development. The proposal will be a positive contribution to the existing open space Precinct within which the site is located being of a contemporary design and located a sufficient distance from residential dwellings.

There is likely to be minimal adverse impacts on the adjoining properties in terms of privacy loss or acoustic impacts given the proposal is orientated away from adjoining properties and the proposal is unlikely to adversely impact the local acoustic environment as outlined in the Noise Assessment Report. There will be no view loss arising from the proposal and there are no overshadowing impacts.

- Noise generation – The potential for noise generation from the proposal has been adequately considered in the submitted Noise Impact Assessment, which concluded that the proposal will not adversely impact on nearby residential dwellings. Relevant conditions are recommended to be imposed in this regard.
- Access, Traffic and Transport – There is sufficient car parking provided within the site as discussed in this report and the level of traffic generated from the proposal would be readily absorbed by the adjacent road network with minimal impact, in terms of traffic flow efficiency, road safety and residential amenity. Public transport is located in close proximity of the site comprising the bus stop and railway station to the east. Vehicles can enter and leave the site in a forward direction.
- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas.

- Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.
- Heritage – The proposal will not adversely affect any heritage items in the vicinity of the site as outlined in this report.
- Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned and cleared for development and there are no significant healthy trees being removed. All construction will be undertaken having regard to best practice sediment and erosion control techniques as outlined in the recommended conditions of consent (Attachment B).
- Built environment - In relation to potential impacts on the built environment, it is considered that there is adequate articulation of the built form and that the bulk and scale of the proposal is compatible with existing development in the area being located within an established open space Precinct. It is considered that the proposal is likely to have a positive impact on the built environment.
- Social impact – In relation to potential social impacts, the proposal will allow for increased patronage of an existing community asset and will allow people to come together and socialise and exercise. The proposal also provides for more appropriate and updated facilities which are likely to result in an increased use of the facility by various sections of the Community. Accordingly, the improvements to the indoor pool area and the associated improvements to the leisure centre are likely to have a positive social impact.

The site is located within a recreational precinct which is not generally utilised at night. The location of the area separated from residential development by Muscle Creek, and the general lack of any activity past the evening hours, is a major concern in that there is limited active or passive surveillance of the area late at night. There is limited passing traffic and there is unlikely to be any pedestrian traffic in the area at this time of the night. This is likely to limit the availability of any assistance in the event of any security concerns both within and external to the gymnasium. The lack of any immediate assistance is a significant adverse social impact in terms of the safety of the community using this facility late at night.

While it is acknowledged that there is Fitness Industry 'Code of Practice' attempts to address issues of people exercising on their own late at night, a number of conditions are recommended to reduce safety concerns of people using the gym as well as when entering and exiting the facility late at night, particularly from the car park.

- Economic Impact - In relation to economic impacts, it is considered that the proposal will assist the local economy and resident population by providing additional services in close proximity to residents. In the short term, the proposal will provide additional construction jobs. Accordingly, it is considered that the proposal will have a positive economic Impact.
- Site design and internal design – The proposed development is appropriately set out within the site to minimise adverse impacts on adjoining properties as outlined in this report.
- Construction – The proposed development will be constructed in accordance with the requirements of the *Building Code of Australia* (Attachment B).

- Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the proposal generally complies with the zone objectives and development standards, with some exceptions which are justified, and controls as outlined in this report.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development on the site.

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

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

Section 4.15(1)(d) any submissions made

The development application was notified from 20 February 2019 until 21 March 2019. An advertisement was placed in the *Hunter Valley News* on 20 February 2019. Further notification was undertaken between 17 July 2019 and 8 August 2019 for the extended gymnasium hours. There were no submissions received during these notification periods.

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

The proposal will result in a more modern and integrated design for the Centre and will result in the addition of more indoor pool facilities which are more appropriate for the area. This will allow greater use of the pool year round. The proposal is well located, being within the existing open space Precinct of Fitzgerald/Olympic Park. . It is considered that the proposal is in the public interest.

7.0 CONCLUSION

The application has been assessed in accordance with the legislation listed at the beginning of the report. The application has also been notified to neighbouring property owners in accordance with the provisions of the MDCP 2009.

The proposal has been assessed against the relevant heads of consideration of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. As outlined above it is considered that the proposal is in accordance with the relevant planning provisions. However, the 24 hour, seven (7) days a week operation of the gymnasium is not supported.

Accordingly, it is recommended the application be approved subject to conditions of consent.

RECOMMENDATION

Pursuant To Section 4.16 of *Environmental Planning and Assessment Act 1979* (as amended) that Council as the consent authority, grant development consent to DA 11/2019 subject to standard conditions of consent and the conditions of consent recommended by this 4.15 Assessment.

Signed by:

Kim Johnston
Consultant Planner

Sharon Pope
Assistant Director Environment and Community
Services

Date: 20 August 2019

2 Sept 2019

Disclosure of Political Donations and Gifts:

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

DA 11/2019 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 and reports referenced below, and endorsed with Council's approval stamp, except where amended by the following conditions.

Drawing No/Report	Drawn/Prepared by	Date	Received
A.010 - Site Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.011 – Gross Floor Area Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.012 – Room Schedule Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.100 – L00 Lower Concourse Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.101 - L01 Upper Concourse Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.102 – Roof Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.300 - Reflected Ceiling Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.400 – Sections Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.500 – Elevations Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.1010 – External Finishes Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
A.1011 – Perspectives Plan	Facility Design Group (Job No W268)	22 January 2019	11 February 2019
Survey Plan	Fyfe Surveying	3 April 2017	11 February 2019
C01-A – General Notes (Engineering Plans)	Eclipse Consulting Engineers (Project No 9642)	January 2019	11 February 2019
C02-A – Sediment & Erosion Control Plan	Eclipse Consulting Engineers (Project No 9642)	23 January 2019	11 February 2019

C03-A - Stormwater Drainage Plan	Eclipse Consulting Engineers (Project No 9642)	23 January 2019	11 February 2019
C04-A - Roof Catchment Area Plan & Details	Eclipse Consulting Engineers (Project No 9642)	23 January 2019	11 February 2019
Statement of Environmental Effects	Facility Design Group – Architects	December 2018	15 February 2019
Parking Demand Assessment	Positive Traffic Engineering and Planning	19 March 2019	26 March 2019
Flood Impact Assessment	Royal Haskoning DHV (Ref: PA2033-RHD-00-FL-RP-D-0001)	26 April 2019	7 June 2019
Review of Section 13 of MDCP 2009 (Flooding)	Eclipse Consulting Engineers	7 February 2019	February 2019
Noise Impact Assessment	Noise and Sound Services (Ref: nss 22946 – Final)	January 2019	11 February 2019
Statement of Compliance Access for People with a Disability	Accessible Building Solutions (Job No: 218324)	18 February 2019	February 2019
Detailed Site Contamination Assessment Muswellbrook Aquatic & Leisure Centre	RCA Australia (Ref: 14202-301/0)	May 2019	May 2019
Geotechnical Investigation	Asset Geo (Ref No: 5255-R1)	31 January 2019	11 February 2019
Waste Minimisation Plan	Facility Design Group – Architects	-	3 July 2019
<i>Proposed Water Supply Upgrade: Muswellbrook Aquatic Centre'</i>	M.J Harvey & Associates Pty Ltd Hydraulic and Fire Protection Engineers	30 July 2019	7 August 2019

(2) Scope of Approved Development and Inconsistencies

Should there be any inconsistencies between the development approved under this development application and any development consent previously issued in relation to the site, this development consent and its conditions of consent shall prevail over the extent of any inconsistency.

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

(3) Commencement of Work

The consent given does not imply that works can commence until such time that: -

- (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - (i) The consent authority; or
 - (ii) An accredited certifier; and
- (b) The person having the benefit of the development consent: -
 - (i) Has appointed a principal certifying authority; and,
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

(4) Building Code of Australia

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

(5) Carrying out of demolition work

All demolition work shall be carried out in accordance with the relevant provisions of *Australian Standard 2601:2001: Demolition of Structures*.

(6) Access to premises standard

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

(7) Construction Certificate Requirement

No works shall commence on site until such time as a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works it must cover the works being undertaken onsite.

(8) Long Service Levy

If the construction work is to be undertaken by contractors and not the Council, a Long Service Levy is payable under Section 34 of the *Building and Construction*

Industry Long Service Payments Act 1986. The Long Service Levy is payable at 0.35% of the total cost of the development (inclusive is GST), however this is a State Government Fee and can change without notice.

(9) Dial Before You Dig

Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

(10) Structural Adequacy of Existing Structures

A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the existing structures and their ability to withstand the proposed additional, or altered structural loads shall be submitted to the Certifying Authority for approval with the Construction Certificate.

(11) Structural Adequacy of Proposed Structures

A certificate and detailed drawings issued by an appropriately qualified structural engineer are to be submitted to the Certifying Authority with the Construction Certificate application, which certifies that the design and construction of the structural elements will be structural adequate for its intended purpose.

(12) Adequacy for Flooding

A certificate and detailed drawings issued by a qualified practising Consulting Engineer stating that the structure has been designed to withstand the flood pressures, including debris and buoyancy forces, imposed in the event of a 1% AEP flood and that the structure will not sustain unacceptable damage from the impact of floodwater and debris is to be submitted to the Certifying Authority for approval with the Construction Certificate. This report must certify that the approved development will be constructed in accordance with the requirements of Section 13.8 of the *Muswellbrook Development Control Plan 2009*.

(13) Stormwater

All roof and sealed areas shall be drained directly to the existing stormwater system for the Centre. Details are to be provided prior to the issue of the Construction Certificate.

(14) Discharge of Wastewater

Evidence of a permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. Where a permit or consent is not required, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Muswellbrook Shire Council.

(15) Remediation Work

A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.

(16) Food Preparation Areas

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of:-

- (a) The Food Act 2003 (as amended);
- (b) The Food Regulation (as in force);
- (c) AS 4674 (Design, Construction and Fit-Out of Food Premises);
- (d) Muswellbrook Water & Waste Section;
- (e) AS 1668 Part 2;
- (f) The Protection of the Environment Operations Act; and
- (g) The Building Code of Australia;

The relevant matters to be taken into account under this approval relate to:-

- (i) construction, materials and finishes;
- (ii) installation of fixtures, fittings and equipment;
- (iii) washing facilities, other facilities and special requirements;
- (iv) mechanical ventilation and exhaust discharges; and
- (v) temperature control

Detailed plans and specification of work showing that these design requirements have been met shall be submitted to, and approved by, the Certifying Authority prior to the issue of a Construction Certificate.

(17) Noise Report

All construction work shall be undertaken in accordance with the recommendations of the approval Noise Impact Assessment. Details are to be provided prior to the issue of the Construction Certificate.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT
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(18) Construction Certificate

No works shall commence on the 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.

(19) 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.

(20) 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.

(21) Site Facilities

- (a) If the development involves building work or demolition work that would be carried out in a public place with the potential to impact public safety or pedestrian movement 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.

(22) 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.

(23) Asbestos

Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- (a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- (b) *Protection of the Environment Operations Act 1997.*
- (c) *Protection of the Environment Operations (Waste) Regulation 2014.*
- (d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

(24) Construction Traffic Management Plan

A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Wilkinson Avenue during construction shall be prepared and submitted to the relevant road authority (Council) for approval. The plan shall:

- (i) be prepared by a RMS accredited consultant,
- (ii) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- (iii) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK
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(25) 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; and
 - (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.

(26) Out of Hours Work Permits

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to written permission on each occasion from Council. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Failure to obtain a permission for work outside of the approved hours will result in fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

It is recommended that applications be lodged as early as possible to allow sufficient time for determination by Council and to avoid disruption or delay due to conflicting priorities.

(27) 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.

(14) Site Waste Minimisation

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

- Optimise adaptive reuse opportunities of existing building/structures.
- Maximise reuse and recycling of materials.

- Minimise waste generation.
- Ensure appropriate storage and collection of waste.
- Minimise environmental impacts associated with waste management.
- Avoid illegal dumping.
- Promote improved project management.

(28) Excavated Materials

All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) *Waste Classification Guidelines (2014)* prior to being disposed of to a NSW approved landfill or to a recipient site.

(29) Imported Fill

To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- (a) Office of Environment and Heritage (OEH) approved guidelines; and
- (b) *Protection of the Environment Operations Act 1997*; and
- (c) *Protection of the Environment Operations (Waste) Regulation 2014*.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

(30) Waste Management Plan

The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site, except where amended by this consent.

(31) Erosion and Sediment Controls

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 and must be maintained in a functional condition throughout the construction activities until the site is stabilised. Any sediment that escapes from the site shall be cleaned, collected and disposed of at Council's waste management facility or the sediment shall be returned to the subject site on a daily basis.

(32) Demolition and Excavation

- (a) Demolition must be carried out in accordance with AS 2601–1991, *Demolition of structures*.
- (b) Demolition materials must not be burnt or buried on the work site.
- (c) A person having the benefit of this certificate must ensure that all vehicles leaving the work site carrying demolition materials, have their loads covered and do not track soil or waste material onto the road.
- (d) If demolition work obstruct or inconvenience pedestrians or vehicular traffic on an adjoining public road or reserve, a separate application must be made to council to enclose the public place with a hoarding or fence.
- (e) The work site must be left free of waste and debris when work has been

- completed.
- (f) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - (g) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
 - (h) The builder is to ensure that persons working on the site comply with the requirements of SafeWork NSW.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

(33) Occupation Certificate

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.

(34) Accessibility

Provision shall be made, and certification from an appropriately qualified consultant provided, for access to and within the building on the site for persons with a disability in accordance with the provisions of *AS 1428 Part 1* prior to the issue of any Occupation Certificate.

(35) Validation Report

A Site Validation Report shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- (a) NSW Office of Environment and Heritage (OEH) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*';
- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the *Contaminated Land Management Act 1997*; and
- (c) *State Environmental Planning Policy 55 (SEPP 55) – Remediation of Land*.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

(36) Site Audit Statement

To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site

Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Modification Application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

(37) Mechanical Exhaust System

The mechanical exhaust system shall be installed in accordance with AS1668, and be operated in such a way so as to minimise/prevent the creation of odours, fumes and excessive noise which may adversely affect the amenity, or interfere unreasonably with the comfort or repose of occupants of the building and adjoining premises.

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with AS1668, prior to completion and the issue of any Occupation Certificate.

(38) Waste Disposal Receipts

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

(39) Sewer System Connection

The premises shall be connected to the sewer system in accordance with the *Australian Standard 3500*. 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.

(40) Trade waste

Evidence of a permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent is not required, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Muswellbrook Shire Council.

(41) Stormwater Certification

Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

Erosion protection is to be provided in the Muscle Creek bank where the stormwater pipe discharges. The documentation from a practising civil engineer shall be certifying that the erosion protection works are adequate to protect and maintain the Creek bank.

(42) Flood Evacuation Plan

Prior to the issue of an Occupation Certificate, a Flood Evacuation Plan for the site must be provided. The evacuation plan shall detail measures to be implemented in the event of a flood to ensure the safety of users of the swim centre. The evacuation plan is to be maintained throughout the life of the development.

(43) Flooding Certification

Prior to the issue of the Occupation Certificate, certification from a qualified practising Consulting Engineer shall be submitted to the Principal Certifying Authority certifying that the structure/s have been constructed to withstand the flood pressures, including debris and buoyancy forces, imposed in the event of a 1% AEP flood and that the structure will not sustain unacceptable damage from the impact of floodwater and debris. This Certification must clearly state that the construction satisfies the requirements of Section 13.8 of the *Muswellbrook Development Control Plan 2009*.

(44) Acoustic Certification

Prior to the issue of the Occupation Certificate, documentation from a practising acoustic engineer shall be submitted to the Principal Certifying Authority certifying that the recommendations of the approved acoustic report have been constructed generally in accordance with all relevant standards.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

(45) Stormwater Disposal

All stormwater from the development including all hard standings and overflows from rainwater tanks is to be collected and disposed of via Council's existing drainage system.

(46) Trade Waste

Trade waste water shall be disposed of in accordance with the requirements of the trade waste agreement between the Owner and Muswellbrook Shire Council.

(47) Noise

Noise from the operation of the centre shall not exceed 5dB(A) above the established background level at the property boundary of the centre at any time throughout the year.

(48) Hours of Operation

Hours of operation for the Aquatic Centre are:

- Monday to Fridays (inclusive) - 6:00am to 7:00pm;
- Saturdays - 8:30am to 7:00pm;
- Sundays - 10:00am to 7:00pm;
- Public holidays - 9:00am to 4:00pm.

Hours of operation for the gymnasium are 24 hours, seven days per week.

(49) Pool Water

Pool water is to be disposed of by directly connecting to the sewer.

(50) Amenity of the Area

The implementation of this development shall not adversely affect the amenity of the neighbourhood by reason of the emission or discharge of noise, odour, vibration, fumes, vapour, steam, smoke, soot, ash, dust, wastewater, waste products, grit, oil or other harmful products during both construction and subsequent operation of the development.

(51) Waste Storage Area

The external waste storage area shall be located behind the building and screened from public view by means of fencing, mounding or other approved means.

(52) Hazardous Waste

A storage area shall be provided for hazardous chemicals and waste which must be fully bunded. Appropriate signage needs to be erected for all proposed chemical storage within the centre in accordance with SafeWork Australia.

There shall be no storage of toxic or corrosive materials below the 1% AEP flood level within the site. All critical plant and equipment shall be stored at or above the 1% AEP flood level (RL 145.2).

(53) Car Parking Area

A car parking area containing a minimum of 65 car parking spaces is to be maintained on the site. This car parking area must comply with *AS 2890.1:2004 - Parking facilities; Part 1: Off-street car parking*.

All vehicles shall enter and leave the site in a forward direction.

(54) Bicycle parking

A bicycle rack is to be provided in well supervised area of the car park.

(55) External Security – Valley Police Requirements

The continued use of Surveillance equipment (CCTV) is required to enhance the physical security of the business's and assist in the identification of people involved in anti-social or criminal behaviour:

- A CCTV camera being located outside, facing the carpark area from near the front entrance, to cover the after-hours entry as well as the car spaces near the front, where after hours gym users should be encouraged to park.
- Appropriate warning signs to be displayed advising patrons of CCTV in use.
- A live feed monitor of the entrance area for after hour gym users to view before they exit. This will allow them to check for any persons loitering near the centre.

Installation of Security sensor lighting for areas not in use after dark to detect movement, and a sensor flood light attached to an existing exterior wall at the entry point of the gymnasium, to ensure safe access to and from parked vehicles. Lighting is to be programmed to turn on for a period of 15 minutes to allow safe entry and exit to and from the gym and the car park.

Matured vegetation should allow clear sight lines from the car park to the front entry. Shrubs should not provide easy concealment.

(56) Internal Security – Valley Police

There is one entry/exit for hours where the centre is staffed. This allows for surveillance of patrons and visitors. There is a separate entry/exit for patrons using the gym outside of staffed hours, which is swipe card activated.

Fire exit doors in the development are fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.

Access control should exclude unauthorized access to restricted areas from the gymnasium, particularly to the office/ kiosk area, after hours.

A duress alarm is to be available for patrons of the gym within the gymnasium itself. This alarm will again link back to Council's local security firm. If a patron felt unsafe as they were leaving the gym, they must be able to return to the locked area and use the internal duress alarm to notify security from there.



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AMENDED STATEMENT OF ENVIRONMENTAL EFFECTS

For:

Lot 1 DP 903839

A Redevelopment comprising alterations, addition & the refurbishment
of the existing Muswellbrook Aquatic & Leisure Centre
Wilkinson Avenue, Muswellbrook

Prepared for:

MUSWELLBROOK SHIRE COUNCIL

JULY 2019

Prepared by:

FACILITY DESIGN GROUP – ARCHITECTS

Ph: (02)4446 0777 Fax: (02)4446 1077

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CONTENTS

- 1.0 OVERVIEW
 - 1.1 SUMMARY
 - 1.2 CONSENT AUTHORITY
 - 1.3 SCOPE OF WORKS
 - 1.4 PLANNING ASSESSMENT
- 2.0 THE SITE
 - 2.1 LOCALITY DESCRIPTION
 - 2.2 PLANNING CONTROLS
- 3.0 PROJECT DESCRIPTION
 - 3.1 DEVELOPMENT PROPOSAL
 - 3.2 ARCHITECTURAL & URBAN DESIGN
 - 3.3 MATERIALS & FINISHES
 - 3.4 DISABLED ACCESS
 - 3.5 SAFER BY DESIGN
 - 3.6 OVERSHADOWING & GLARE
 - 3.7 NOISE
 - 3.8 BUILDING CONSIDERATIONS
 - 3.9 CONNECTION TO UTILITY SERVICES & WASTE WATER DISPOSAL
 - 3.10 STORMWATER DRAINAGE
 - 3.11 ECOLOGY
 - 3.12 GYMNASIUM - 24/7 OPERATING HOURS
- 4.0 PLANNING CONTROLS
 - 4.1 APPROVAL PROCESS
 - 4.1.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
 - 4.2 STATE LEGISLATION
 - 4.2.1 PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997
 - 4.2.2 SEPP 55 – CONTAMINATED LAND
 - 4.3 MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 (AS AMENDED)
 - 4.4 MUSWELLBROOK DEVELOPMENT CONTROL PLAN 2009
 - 4.5 DEVELOPMENT CONSTRAINTS
 - 4.6 BUILDING REQUIREMENTS
 - 4.7 AMENITY
 - 4.8 VISUAL IMPACT
 - 4.9 IMPACT ON NATURAL ENVIRONMENT
 - 4.10 IMPACT ON BUILT ENVIRONMENT

AQUATIC



SPORTS



LEISURE



CIVIC



PROJECT MANAGEMENT

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- 4.11 SOCIAL IMPACTS
- 4.12 ECONOMIC IMPACTS
- 5.0 ENVIRONMENTAL EFFECTS
 - 5.1 SECTION 4.15 MATTERS FOR CONSIDERATION
 - 5.2 THE LIKELY IMPACTS OF THE DEVELOPMENT, INCLUDING ENVIRONMENTAL IMPACTS ON BOTH THE NATURAL & BUILT ENVIRONMENTS AND SOCIAL & ECONOMIC IMPACTS ON THE LOCALITY
 - 5.3 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT
 - 5.4 ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS
 - 5.5 THE PUBLIC INTEREST
- 6.0 CONCLUSION

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1.0 OVERVIEW

1.1 Summary

This Statement of Environmental Effects has been prepared for Muswellbrook Shire Council as trustee of the Muswellbrook Aquatic & Fitness Centre – “White Memorial Swimming Centre”, to assess the proposal to carry out a redevelopment comprising alterations, addition & refurbishment works to the existing Centre including a new indoor splash pad/program pool, new store, plant & family change and the refurbishment of existing facilities.

Council is proposing the redevelopment and refurbishment to the Muswellbrook Aquatic & Fitness Centre. Estimated cost of these works has been budgeted at a maximum spend of \$4.99 million. This proposal is yet to gain a Development Approval and Construction Certificate.

The current asset has been assessed as requiring upgrade and refurbishment. The proposed indoor pool addition will occupy the same land titles as the current asset replacing the existing wade pool and splash pool. The nature and condition of the existing Centre indicates that while the premises has a number of strengths there is a need for works which will enhance and update the physical condition and appearance of the asset and ensure its continued service to the community.

The existing building arrangement is proposed to be redeveloped to provide better use of the Centre’s facility. The proposed redevelopment will not only provide an upgraded modern contemporary facility, but it is felt that these necessary changes will greatly benefit the community, providing more versatility and a year round facility catering to all ages.

In preparing this proposal all urban design and planning controls outlined in the various planning instruments have been considered.

The statement examines the details, by taking into account the relevant matters for consideration under Section 4.15 of the Environmental Planning Act 1979 (as amended) including:

- Muswellbrook Local Environmental Plan 2009(as amended);
- Muswellbrook Development Control Plan 2009;
- The Environmental Planning and Assessment Act (as amended) 1979;
- The Environmental Planning and Assessment Regulation 2000 (updated January 2002);

This statement should be read in conjunction with the following supporting documents:

- Architectural Plans prepared by Facility Design Group.
- Stormwater Drainage Concept Plan by Eclipse Consulting Engineers.

1.2 Consent Authority

This report forms part of the Development Application to Muswellbrook Shire Council, the determining authority.

The report describes in detail, together with assessments of impact as required under the Environmental Planning and Assessment Act, as amended, the two (2) staged redevelopment comprising alterations, addition and refurbishment works to the Muswellbrook Aquatic & Fitness Centre, Wilkinson Avenue, Muswellbrook.

1.3 Scope of Works

The proposed re-development is to include the following:

Stage 1:

- New entry + kiosk + viewing Lounge + party room
- New indoor splashpad/program pool + enclosing hall;
- New undercroft storage;
- New storeroom;

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- New plant;
- New disabled ramp access to existing gym;
- Refurbishment of control/kiosk, administration;
- New sauna/spa area + deck + plant
- Relocated BBQ area
- 24/7 Fitness Gymnasium

1.4 Planning Assessment

The key planning issues relevant to this DA are:

- Traffic and Parking;
- Compliance with BCA requirements;
- Stormwater Management;

These matters and others are addressed in this report. Our assessment concludes that these issues can be appropriately managed and that the proposed development represents a positive development outcome for the community. The project is in the public interest and will provide social and economic benefits to the region. It will:

- Generate local employment opportunities during construction and the ongoing operational phases of the development.
- Increase the productive use of recreational zoned land.
- Maximise the use of existing site infrastructure.
- Increase the available multi purpose sporting/community opportunities within the Muswellbrook locale.

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2.0 THE SITE

2.1 LOCALITY DESCRIPTION

The subject site is identified as the Muswellbrook Aquatic & Fitness Centre, Wilkinson Avenue, Muswellbrook. The site has street frontage to Wilkinson Avenue (main entrance). The Muswellbrook Aquatic & Fitness Centre – “White Memorial Swimming Centre” forms part of a broader recreational and community precinct, Fitzgerald Park, Olympic Park, Muswellbrook Bowling Club, tennis courts and adjoins Ron King Velodrome. The Centre is currently operated by Council.



The footprint of the Muswellbrook Aquatic & Fitness Centre will occupy the same land title as the current asset being:

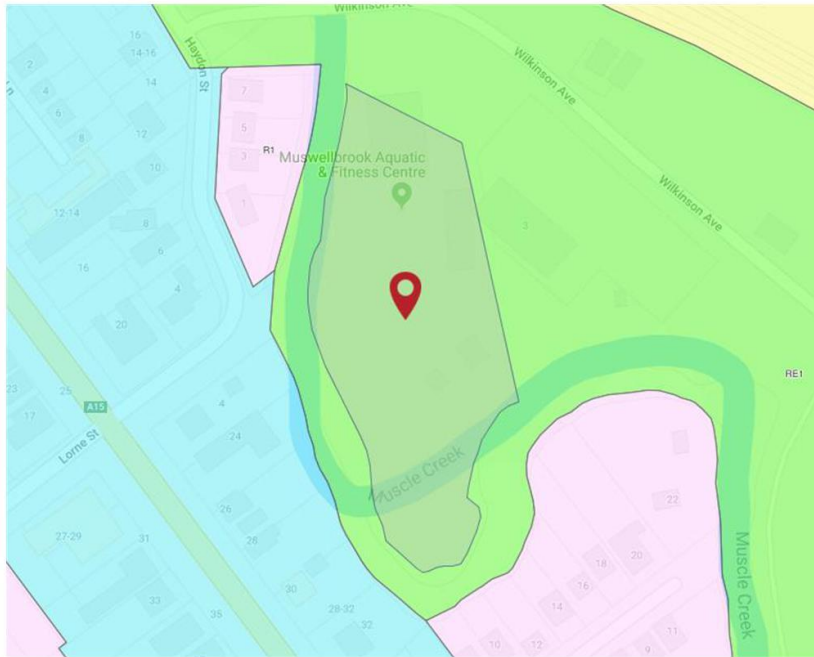
- Lot 1 DP 903839



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The site is zoned RE1 Public Recreation pursuant to the Muswellbrook LEP 2009. The redevelopment of the existing facility including the proposed alterations, addition and refurbishment works, are permitted including its subsequent use subject to Council's consent.



There are no known land title, ownership or zoning impediments to the proposed works. Information obtained from Council identifies that the property is not subject to mine subsidence or road widening, does not contain critical habitat or environmentally sensitive land, is not located within the designated coastal zone, nor has the site been identified as bushfire prone on Council's Bushfire Prone Land Map, is not located within a conservation area, does not comprise an identified heritage item and is not flood prone.

2.2 Planning Controls

Relevant Statutory planning controls affecting the site include the provisions of:

- Muswellbrook Local Environmental Plan 2009 (as amended);
- Muswellbrook Development Control Plan 2009;
- The Environmental Planning and Assessment Act (as amended) 1979;
- The Environmental Planning and Assessment Regulation 2000 (updated January 2002).

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3.0 PROJECT DESCRIPTION

3.1 Development Proposal

The Proposal

This Development Application seeks approval to carry out re-development and upgrade works, in two (2) stages comprising alterations, additions and refurbishment works to the existing Muswellbrook Aquatic & Fitness Centre.

The proposed works are to incorporate the following;

- New entry + kiosk + viewing Lounge + party room
- New indoor splashpad/program pool + enclosing hall;
- New undercroft storage;
- New storeroom;
- New plant;
- New disabled ramp access to existing gym;
- Refurbishment of control/kiosk, administration;
- New sauna/spa area + deck + plant
- Relocated BBQ area
- New 24/7 Access to the existing gymnasium including the Installation of a high tech security systems preventing gym patrons from accessing the aquatic centre after hours.

The existing hours of the pool operation are to remain the same being;

Summer	Mon - Thurs	Friday	Saturday	Sunday
Pool	6am – 7pm	6am – 7pm	8.30am – 7pm	10am – 7pm
Winter				
Pool	6am – 7pm	6am – 7pm	8.30am – 4pm	10am – 4pm

The gymnasium is proposed to be open 24 hours a day, 7 days a week including holidays.

No change is proposed to the existing site access arrangements.

No change is proposed to existing off street carpark, comprising sixty five (65) spaces.

No change is proposed to existing staff numbers (approximately 12 permanent staff, plus casual and part time staff).

3.2 Architectural and Urban Design

The total planned re-development will make the Muswellbrook Aquatic & Fitness Centre a revitalised and modern facility that is in line with modern community expectation. It will provide a multitude of opportunities for the Muswellbrook community. In essence it seeks to provide a more contemporary form of development where the choice of facilities is upgraded and the public have the potential to experience a community/recreational facility that contributes to the environment of the locale. The form and use of the site will remain unaltered but the facility itself will be re-developed and enhanced to ensure its continued service to the community.

In general, the physical appearance of the aquatic centre has been designed to ensure that it is compatible with the existing and likely future character, bulk and scale of adjoining development in the area and will contribute in a positive manner to the existing spatial context of the locality.

Key Design Issues

The key design issues are noted as follows:

- Ensure comfortable access to the facility by people with disabilities.

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- Provide a much needed modernisation and upgrade of the existing amenities and social areas that support the complex – demonstrating ‘best practice’ intentions. The revised building form is also a demonstration that Council is pursuing ‘best practice’ planning to reduce operational costs and maximise potential income both directly and indirectly.
- Provide a multi-faceted facility that will better service the needs of the local community.
- Design of a facility which provides a continued and improved identifiable presence in the community, which offers a welcoming character with the vitality deserving of such a complex.
- To ensure the local environment is not negatively impacted by the redevelopment.

3.3 Materials and Finishes

External Materials of Proposed Extension

Walls: FC expressed joint sheeting, colorbond metal louvres.

Windows: Aluminium framed energy efficient glazing.

Doors: Aluminium framed galzed doors, metal lined solid doors to external.

Roof: Colorbond metal roof sheeting with R 3.2 insulation

To match existing finishes.

The proposal is considered to be a positive contribution to the existing recreational/community precinct and will provide a clearly identifiable presence with its contemporary forms and modern colour scheme.

The proposal will have minimal adverse impact upon the surrounding environment as it is wholly contained within the subject site and is substantially remote from any residential development.

3.4 Disabled Access

Access has been carefully considered in the design of the proposed redevelopment works. The new addition will provide total accessibility throughout for wheelchairs. Internal amenities provision for disabled and ambulant people has also been incorporated into the design.

3.5 Safer by Design

Crime Prevention

Development should be designed to deter crime and vandalism and facilitate:

- personal and property security;
- casual surveillance of public areas;
- activity and interaction within public spaces and movement networks.

Safer by design, and Crime Prevention Through Environmental Design (CPTED) principles have been considered in the design of the development. The design responds to crime reduction and prevention issues through the use of the four principles for CPTED which include surveillance, access control, territorial reinforcement and space management.

These principles are addressed below:

Surveillance: the site is located within an existing recreational precinct having workers during daylight hours providing passive surveillance of the proposal.

Access control: Only one entry/egress point for pedestrians is provided. Security lighting will be provided in key locations and will be sufficient for good visibility at night.

Territorial reinforcement: The provision of a fence along the sites boundary delineates the public and private areas in and around the site.

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Space management: The development's design and internal layout have considered potential safety problems such as locations for entrapment and hiding. Straight lines of travel have been incorporated into the design of pathways which limit opportunities for hiding areas.

The design of the development optimises safety and security, both internal to the development and from the public domain. The safety of the public is also enhanced by the design of the proposal which improves casual surveillance of the street during the day and night. The entrance area, landscaping and public domain areas maintain clear sight lines and will be well lit. The proposed hours of operation and active use of the site will further improve the safety aspects of the proposal particularly within this recreational location of Muswellbrook. Furthermore, the safety and security issues addressed have been devised to ensure the quiet amenity of neighbouring properties is maintained at all times during the operation of the premises.

Gymnasium Safety and Security

The gym facility will incorporate a state-of-the-art security system to maximise the safety of users. The security system is a fully integrated priority access system which connects the member check-in software with onsite security systems including closed circuit television (CCTV) and tailgate detection for entry doors.

To enter the gym, a member will be required to swipe a valid access card which triggers a release mechanism in the door. If another person enters at the same time an alarm is triggered by a tailgate system which alerts members and management. The member will exit the premises through the same doors via a free-exit mechanism. The exit mechanism will not prevent a member from leaving the premises in the event of a fire or other emergency.

A CCTV system will also be utilised and will include 24-hour digital video recording, a high-resolution camera positioned by the entrance and a number of other cameras strategically located around the gym to ensure that supervision is maximised. As shown, the coverage of the cameras is thorough both internally and externally and will provide excellent surveillance of the premises for the safety of the gym users as well as the community.

Each patron further has access to a personal emergency button on a lanyard that when utilised will result in the security monitoring company immediately contacting the police and subsequently the gym manager.

Fixed emergency buttons will also be located in appropriate locations inside the gym. A first aid-kit, "in case of emergency" signage with instructions, and an Automated External Defibrillator will be located in appropriate locations throughout the gym.

3.6 Overshadowing & Glare

The proposed building envelope will have no impact on the local amenity with regard to overshadowing or glare from building structures.

3.7 Noise Control

The key sources of potential adverse noise impacts from the proposed development are associated with plant/equipment and carpark (people and vehicles).

The site is located within a designated "recreational/community precinct", and as such it is considered it will not result in any significant noise impact from that already experienced. To ensure minimal adverse impact upon the adjoining neighbours, the following design consideration has been incorporated into the proposal:

- all new mechanical plant as proposed is state of the art with built in noise attenuation measures.

As a result, it is considered that there will be minimal impact upon adjacent residential areas and the surrounding locale.

Noise generation during construction will be ameliorated by adopting a number of measures during the construction period.

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Working hours:

- 7.00am till 5.00pm Monday to Friday;
- 8.00am to 1.00pm Saturdays;
- 8.00am to 4.00pm on Saturdays if work is internal and inaudible (no power tools permitted);
- No work on Sundays or public holidays.

All equipment to be in good working order;

- all contractors to be advised to avoid excess noise and use *work friendly* practices; and
- contractor trucks and cars to be adequately muffled.

3.8 Building Considerations

The proposed design of this development has taken into account the BCA. AS 1428 has also been referenced in order to provide as accessible a facility as possible. All accessible amenities are provided with fully complying fit out according to the latest Premises Standard. The CC documentation will detail all accessible amenities, ramps and associated stairs and handrails.

3.8.1 Regulations

The building will be designed in accordance with the requirements of the Building Code of Australia (BCA).

Class of Building	9b
Rise in Storeys	One
Construction Type Required	Type B

In accordance with the provisions of Section E of the BCA, the following services and equipment will be installed to serve the facility:

- Fire hydrant system – existing coverage from road system.
- Fire Hose Reels – additional hose reels will be added to comply with BCA
- Portable fire extinguishers – to be dispersed throughout facility & plant rooms.
- Emergency lighting.
- Exit signs.
- Paths of Travel Stairways, Passages , Ramps

3.8.2 Access for People with Disabilities

A mandatory design parameter is the requirement to comply with the BCA and Access Codes. This facility has been designed to provide very equitable access for people with disabilities. The requirements of AS 1428 Part 1 are incorporated as well as the enhanced requirement of Part 2 for paths of travel and toilets.

The following issues are given consideration in the design:

- Lighting levels will be suitable for visitors with visual impairment.
- The site of the complex is made to be totally accessible for the public .
- Family change/accessible amenities have been provided within the facility.

3.9 Connection to Utility Services & Waste Water Disposal

All required services such as electricity, stormwater, gas and telecommunications are available to the site. Any issues that need addressing will be resolved at Construction Certificate stage.

3.10 Stormwater Drainage

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A Stormwater Concept Design & Sedimentation Control Plan have been provided by GR Consulting Engineers. These drawings form part of this DA submission.

3.11 Ecology

The site is unconstrained by ecology and is considered to be suitable for development. The site is currently used for recreational/community purposes and has largely been cleared of vegetation. Flora and fauna investigations have confirmed that the proposed development will not impact on threatened/endangered species, communities and/ or habitats.

3.12 Gymnasium - 24/7 Operating Hours

The extended trading hours of the proposed facility contributes to the lower demand in carparking when compared to other more traditional gymnasiums of similar size and design. As the facility never closes the door to active members with a unique swipe card, members do not have to rush to access the facility before it closes, and do not have to wait in the morning for the gymnasium to open.

This creates a situation where members will access the gym at all hours and not just on the way to or from work like most gymnasiums operate, lessening the peak usage times during the typical rush hours.

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4.0 PLANNING CONTROLS

4.1 Approval Process

4.1.1 Environmental Planning & Assessment Act 1979

The NSW Environmental Assessment and Planning framework is established by the EP&A Act and relevant planning instruments. The EP&A Act controls development in NSW, and Environmental Planning Instruments impose restrictions on the types of development that may be carried out on land. Under the EP&A Act development is assessed in three main categories – Part 3A, Part 4 and Part 5.

Relevance to proposed development

Part 4 of the EP&A Act applies to the development which requires development consent under an Environmental Planning Instrument (e.g. a Local Environment Plan). Development under Part 4 requires the applicant (either private or public) to lodge a development application (DA) with the relevant consent authority (generally the local Council). The consent authority will then assess the impacts of the proposed development taking into account the matters for consideration stipulated under Section 4.15 of the EP&A Act. Part 4 applies to development that is not assessed under Part 3A or Part 5 of the EP&A Act.

4.2 STATE LEGISLATION

A review of the relevant State Environmental Planning Instruments, namely the State Environmental Planning Policies (SEPPs), is provided in the following sections.

4.2.1 INTEGRATED DEVELOPMENT

4.2.1 *Water Management Act 2000*

The *Water Management Act 2000* (Water Management Act) replaced the provisions of the *Rivers and Foreshores Improvement Act 1948* coming into effect from February 2008. The Water Management Act provides for the protection of river and lakeside land in NSW and aims to provide for the sustainable management of the water sources throughout NSW.

The Water Management Act provides for the granting of various licenses and approvals, including for the use of water and water supply works. Generally speaking the following approvals may be required under the Water Management Act:

- *a water access licence – which entitles the holder to a share of available water in a river or aquifer (groundwater body)*
- *water use approval – which authorises use of water on land for a particular purpose at a particular location, or*
- *water management works approval – which authorise construction and use of water supply works such as bores, pumps, dams and channels.*

Relevance to proposed development

The proposal includes redevelopment and upgraded works all to be fully compliant with EPA requirements, and as the works are located within 40m of Muscle River it is likely that the proposed development will require the consent of the Office of Water under the provisions of the Water Management Act.

As a result, the proposal is deemed to be classified as Integrated Development.

The proposed development will not impact on Muscle River nor pose any negative impact upon its tributaries. It is therefore assumed the proposal will have no impact on the quality of water to be discharged from the site as a

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whole. The proposal involves works within the existing subject site – therefore not increasing the impact of storm water run off.

Due care has been taken in the design of this proposal to ensure minimal adverse impact will occur upon the existing site.

The proposed development is consistent with the Aims of the Act and is considered capable of fulfilling the statutory requirements. It is considered that the proposed development would not result in any negative impact in this regard and that appropriate conditions of consent would be applied to any approval, as required.

4.2.2 Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (POEO Act) consolidates the key pollution statutes relating to air, water, noise, pollution and environmental offences and establishes a duty to notify either the Environmental Protection Authority or the local council where incidents are likely to cause material harm to the environment. In addition, the Act provides for an integrated environmental licensing arrangement for scheduled activities.

Under the POEO Act an environmental protection license is required for scheduled activities in Schedule 1 of the Act. The Department of Environment, Climate Change and Water (DECCW) is responsible for administering the Act.

Relevance to proposed development

The subject site does not fall within any current licenses for operations under the POEO Act. However, the general provisions of the POEO Act in relation to pollution of the environment will apply throughout the proposed development on the site such as the need to consider general requirements during the proposed development in relation to the control of environmental issues such as noise, dust, emissions and any run-off which may be discharged from the site.

4.2.3 State Environmental Planning Policy No.55 Remediation of Land

SEPP 55 requires Council to consider whether the subject land of any rezoning or development application is contaminated. If the land requires remediation to ensure that it is made suitable for a proposed use or zoning, Council must be satisfied that the land can and will be remediated before the land is used for that purpose. SEPP 55 further requires the preparation of a report specifying the findings of a preliminary investigation of the land concerned, carried out in accordance with the contaminated land planning guidelines, to be considered by the consent authority before determining an application for consent to carry out development that would involve a change of use of that land.

The site has not been subject to any known contaminating uses. Prior to this proposed redevelopment the site has been used for recreational/community purposes. The potential for contamination is considered to be low. No evidence of contamination has been detected.

4.3 Muswellbrook Local Environmental Plan 2009

This proposal is in accordance with all relevant general aims and objectives of this plan in particular:

Clause 1.2 (2) Aims of the Plan:

- "(a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving:*
- (i) productive agricultural land, and*
 - (ii) timber, minerals, soils, water and other natural resources, and*
 - (iii) areas of significance for nature conservation, and*
 - (iv) areas of high scenic or recreational value, and*
 - (v) places and buildings of archaeological or heritage significance,*

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- (b) to manage the urban areas of **Muswellbrook** by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,
- (c) to promote ecologically sustainable urban and rural development,
- (d) to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,
- (e) to enhance the urban amenity and habitat for flora and fauna,
- (f) to protect and conserve:
 - (i) soil stability by controlling development in accordance with land capability, and
 - (ii) remnant native vegetation, and
 - (iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,
- (g) to provide a secure future for agriculture by expanding **Muswellbrook's** economic base and minimising the loss or fragmentation of productive agricultural land,
- (h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.

The proposed upgrade and redevelopment of the Muswellbrook Aquatic & Fitness Centre will provide a more modern updated and useable design. It is considered to be of benefit not only to the immediate locality providing a recreational community facility. The proposal is also consistent with the above nominated key objectives, in encouraging the proper management and continued use of facilities to meet the demand generated by changing demographic and household needs whilst improving the amenity of the local recreational/community precinct.

The proposal is consistent with the general Aims of the Local Environmental Plan and the following specific clauses:

Part 2 Permitted or prohibited development

Clause 2.1 Land Use zones – RE1 Public Recreation

Under the provisions of Part 2 the subject site is zoned Part RE1 Public Recreation.

Under the provisions of the RE1 Public Recreation zone, the objectives of the zone are noted as follows:

- "To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.
- To identify land that is suitable for future public recreation use and that can be brought into public ownership as a consequence of development contributions.
- To provide linked open space for ecosystem continuity, local community recreation, off-road transport and waterway protection.
- To provide space for integrated stormwater treatment devices for flow and water quality management, whilst enhancing urban and rural amenity."

Under the provisions of the RE1 Public Recreational zone, development permissible with consent within the zone includes:

Development for the purpose of:

"Air transport facilities; Aquaculture; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Educational establishments; Emergency services facilities; Entertainment facilities; Flood

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mitigation works; Food and drink premises; Function centres; Information and education facilities; Kiosks; Markets; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Roads; Sewage reticulation systems; Signage; Water recycling facilities; Water supply systems."

The proposed redevelopment of the existing Muswellbrook Aquatic & Fitness Centre is permissible within the zone, within the definition of a Recreation facility (indoor) and Recreational Facility (outdoor) and is permitted with the consent of Council.

The proposal is of positive benefit to the local area and community as a whole.

OTHER RELEVANT CLAUSES FROM THE LOCAL ENVIRONMENT PLAN

Part 4 – Principal development standards

CLAUSE 4.3 HEIGHT OF BUILDINGS

The objectives of this clause are noted 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.*

The proposal has been designed taking into consideration the existing centre and adjoining structures as a whole and is contained wholly within the subject site - RE1 Public Recreation zone. The maximum height limit as nominated is 12m.

The proposed addition to the Centre is to have a maximum height of 8.2m to the roof ridge.

The proposal is in accordance with the existing height of the adjoining structure.

Part 5 Miscellaneous provisions

CLAUSE 5.6 ARCHITECTURAL ROOF FEATURES

The objectives of this clause are noted as follows:

- "(a) to allow for minor departures from applicable height controls, and*
- (b) to ensure that architectural roof features do not result in adverse visual and amenity impacts upon adjoining premises, and*
- (c) to ensure that architectural roof features are considered in the design of buildings and form an integral part of the building design."*

The new addition to the existing facility provides an appropriate design solution to the proposed roof form in keeping with the existing indoor pool hall.

The proposed works are compatible with the surrounding environment and respond sympathetically to the existing form, massing, setbacks, scale of existing development.

CLAUSE 5.10 HERITAGE CONSERVATION

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The objectives of this clause are noted 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."*

The subject structure itself being the Muswellbrook Aquatic & Fitness Centre is not identified as a heritage item, however, it is located within the recreational precinct which comprises an identified Local Item, as noted within Council's LEP being (I124) Fitzgerald/Olympic Park Gates.

The Statement of Significance notes:

"The gates have historical and social significance for recording the relative status of an eminent local in the early 20th Century and for being significant to all descendants of the locally famous Keys Family."



In accordance with the guidelines issued by the State Heritage Office of NSW the following issues are required to be addressed when a new development is proposed

adjacent to an item of local heritage significance.

5.10.1 How is the impact of the new building on the heritage significance of the item to be minimised?

- There is no physical intrusion on the heritage listed element of the property as the proposed development is located over 200 metres away.
- Landscaping and the existing built form will reduce the visual impact of the new building and provide a complimentary setting.

5.10.2 Why is the new development required to be adjacent to a heritage item?

- To retain the integrity of the listed heritage item, the proposed redevelopment of the Muswellbrook Aquatic & Fitness Centre is located well away from the nominated heritage item.
- The existing building arrangement is proposed to be redeveloped to provide better use of the facility providing a modern contemporary facility that will enhance and update the physical condition and appearance of the asset and ensure its continued service to the community.

5.10.3 How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?

- The siting of the proposed works is well outside the physical and visual curtilage of the nominated Heritage item.
- The redevelopment of the Muswellbrook Aquatic & Fitness Centre addition will have no impact upon the nominated Heritage item.

5.10.4 How does the new development affect views to, and from, the heritage item?

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- No significant views will be impacted by the proposed redevelopment of the Aquatic Centre.

5.10.5 *Are the additions sited on any known or potentially significant archaeological deposits?*

- No archaeological investigation has been carried out. Presently there are no known significant archaeological deposits in the area of the proposed re-development.

5.10.6 *Are the additions sympathetic to the heritage sites?*

- The design of the proposed works is sympathetic to the existing Gate structure and will have minimal impact upon the adjoining heritage items.

5.10.7 *Will the additions tend to visually dominate the heritage item?*

- The Muswellbrook Aquatic & Fitness Centre is located some 200 metres away from the nominated heritage item, which will limit the impact it will have upon the heritage item.
- As the proposed works abutt existing structures, it is considered that these elements will limit any visual dominance to the heritage item.

5.10.8 *Will the public and users of the items still be able to view and appreciate its significance?*

- The redevelopment of the Muswellbrook Aquatic & Fitness Centre will not limit public access to the adjoining nominated heritage item.

As such it is considered that the proposed upgrade and refurbishment works to the existing Aquatic facility will have no impact upon the adjacent listed local heritage item.

Part 7 – Additional local provisions

Clause 7.6 Earthworks

The objective of this clause is:

- "(a) 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,
(b) to allow earthworks of a minor nature without requiring separate development consent.."*

The addition to the existing Centre is to be excavated with the approval of Council. This excavation will be encapsulated within a concrete structure – leaving no opportunities for erosion in the future. All levels will be brought back to match the existing indoor pool hall finished floor level.

As such it is considered that the proposed earthworks will not have a detrimental impact upon the subject site.

No other provisions as nominated within the LEP apply to this application.

4.4 Muswellbrook Development Control Plan 2009

The proposed redevelopment of the Muswellbrook Aquatic & Fitness Centre is considered to be greatly needed but also compatible with the surrounding environment whilst responding sympathetically to the existing form, massing, setbacks, scale of existing development. The proposed alterations and addition are considered to be of high quality which will not only improve the amenity of the Centre but encourage year round usability whilst expanding the sites attractiveness to the environment of the recreational/community precinct as a whole.

Relevant clauses from the Muswellbrook DCP 2009 that apply to the subject site/proposal include the following:

SECTION 16 – CAR PARKING AND ACCESS

Aims & Objectives

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- a) to provide a guide for developers of Council's minimum requirements for off street vehicular parking.
- b) to ensure that adequate off-street vehicular parking is provided for traffic generating developments.
- c) to ensure adequate car parking facilities are provided in association with developments;
- d) to ensure each development proposal is assessed consistently and equitably in relation to the provision of off-street vehicular parking;
- e) to ensure vehicular parking areas are designed in such a manner as to be functional, aesthetically pleasing in terms of landscaping, and safe for motorists and pedestrians; and
- f) to ensure all vehicles entering or leaving properties are driven in a forward direction.

Clause 16.3 Non Residential Development

Objectives

- a) To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network.
- b) To ensure a consistent and equitable basis for the assessment of parking provisions.
- c) To ensure the design of parking areas, loading bays and access driveways which function efficiently.
- d) To ensure that parking areas are visually attractive and constructed, designed and situated so as to encourage their safe use.
- e) To ensure that all traffic generating developments are generally in accordance with those sections of the Traffic Authority of NSW Policies and Guidelines, for traffic generating developments as adopted by this Code.

Development controls

- I. Car parking is provided on site in accordance with the requirements of 16.6 of this section of the DCP.
- II. On site parking facilities are designed and constructed to comply with the provisions of AS2890.1/AS2890.2.
- III. To ensure that traffic movements into and out of a site are made, whenever possible, in a forward direction. If a site layout does not permit forward movement for delivery vehicles, then the developer, owner or occupier must provide a risk management plan, to the satisfaction of Council, detailing the measures required to ensure that traffic movements are carried out in an adequate and safe manner.

It is noted that the adequate provision of off street parking is important to the economic viability of local facilities and that adequate on-site parking can also have significant benefits to the local community by ensuring an appropriate level of access is provided.

The existing formalised car park is accessed from Wilkinson Avenue and provides a total of sixty five (65) off- street spaces.



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It is identified that all new development shall provide off-street parking in accordance with the parking requirement table 16.6 of the respective developments in this Part.

Council's DCP identifies the provision of the following:

Land Use	Parking Requirements
Recreational Facility (outdoor)	To be assessed on a site by site based on the traffic generating capacity and design of the proposed area. Submit parking study to substantiate proposed car parking provisions.
Recreational facilities (indoor)	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,

The proposed upgrade and refurbishment works including the addition of the new program pool in essence replaces existing pool infrastructure in order to create a more versatile facility and one that can be used year round.

In accordance with the numeric requirements to the existing centre the following off street parking provision as identified would be required:

	Floor area	Required Carparking	Provided off street parking
Existing Indoor Pool Hall	880.1sqm	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,	Existing = 63 spaces
Existing Gym/Amenities/Entertainment Area	412sqm		
Existing wade pool/splash pad area	584.17sqm		
Existing Total	1876.27sqm	Total Required: 75 + 6 = 81 spaces	Total Existing 65 spaces
Existing New Entrance	1292.1sqm	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,	
New Indoor Pool extension (replacing wade pool/splash)	198sqm		
New Spa/Sauna	609sqm		
	58.2sqm		
Total	2157.3sqm	Total Required: 86	Total existing 65 spaces

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		+ 6 = 92 spaces	
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The existing off street carpark provides sixty-five (65) spaces including three (3) dedicated disabled spaces. The existing parking area falls short in meeting Council's current car parking provisions by sixteen (16) off-street spaces. The provision for the upgraded facility numerically would require 92 off-street spaces, a shortfall of twenty-seven (27) spaces. As the proposal seeks the upgrade and refurbishment of the existing facility the existing parking arrangements for the aquatic facility are to remain the same. No change is proposed.

It is noted that the adequate provision of off street parking is important to the economic viability of local business and adequate on site parking can also have significant benefits to the local community by maintaining existing levels of service and safety on road networks.

The objectives of the DCP relevant to this proposal are noted as follows:

"To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network"

The intent of the Clause is to provide convenient and adequate parking for employees, clients, visitors and servicing groups that meets the needs of the development and to ensure the provision of parking areas in terms of safety, amenity and integration with surrounding areas.

The existing carpark is located off Wilkinson Avenue and is one of a number of off street parking areas provided for the various recreation facilities within the Precinct. Furthermore, Wilkinson Avenue has the capability of providing in excess of fifty (50) on-street parking spaces.

As such, it is considered that the aquatic facility supports Council's balanced approach to nominated parking provisions, as it ensures that the amenity of neighbouring properties and adjoining recreational community precinct is maintained at all times whilst the streetscape and existing road network will be able to adequately cater for the traffic generated by the proposed alterations and addition to the existing facility.

It is therefore concluded that the overall potential traffic and transport impacts of the proposal, as a result of the new works would be minimal and would be able to operate within the capability of the existing road network and existing site conditions without impacting on current efficiency and safety.

As such it is considered that:

- the existing parking provision is appropriate;
- is in keeping with Council's policies;
- access arrangements for maintenance and emergency vehicles are appropriate;
- the surrounding road network will be able to cater for the traffic generated by the proposed development now and in the future.

Furthermore, during construction, the proposed redevelopment is not expected to have any measurable negative impact on the road network surrounding the site or on the local community. However, a number of traffic management measures are proposed in order to ensure traffic safety standards are maintained. Mainly:

- Signposting clearly displayed throughout and adjacent to the site;
- 40km/h speed limit is recommended around the curtilage of the site;
- Signs shall be installed along Church Street prior to the main site access to warn traffic of possible heavy vehicle movements entering and exiting the site.
- A Traffic Management Plan will be formed by the Project Management Team prior to construction commencing – when all major building components are known.
- The proposal is considered to be consistent with the objectives and the requirements of the DCP.

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SECTION 20 – EROSION & SEDIMENT CONTROL

The Objectives of this Section of the DCP are noted as follows:

- a) *"To apply appropriate erosion and sedimentation controls on individual development sites;*
- b) *To demonstrate through the preparation of an Erosion and Sediment Control Plan or Strategy for developments over 250sqm of disturbance that appropriate controls are planned to be installed;*
- c) *To identify all aspects of site disturbance, erosion and sediment control and address with appropriate control measures;*
- d) *To stage works as required to reduce potential for erosion and sedimentation to occur;*
- e) *To remove existing vegetation only as required;*
- f) *To address site rehabilitation for the duration of the project;*
- g) *To provide a mechanism for any remaining exposed soil to be treated and for ongoing site maintenance;*
- h) *To cover the contingency of change or delay in the project implementation, activity or work scope. "*

Sedimentation control during construction of the building works will comply with Council's requirements and will be approved by Council's Officers after on site up front assessment of the issues.

Standard soil and water management controls will be implemented onsite as part of the construction stage, these are to include:

- sediment fences down slope of all disturbed or bare soil areas;
- minimise the disturbance of soil;
- diversion of onsite run-on water by the construction of diversionary bunds;
- and stabilisation of disturbed soil as soon as practical after construction.

Dust during construction is proposed to be managed through the following measures:

- regularly wetting down all exposed surfaces;
- cease construction activities if weather conditions are adverse.

As such it is considered that the proposed works will not have a detrimental impact upon the subject site and are in accordance with Council's requirements.

SECTION 24 – WASTE MINIMISATION & MANAGEMENT

The Objectives of this Section of the DCP are noted as follows:

- *To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources.*
- *To encourage building designs, construction and demolition techniques in general which minimise waste generation.*
- *To maximise reuse and recycling of household waste and industrial/commercial waste.*
- *To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.*
- *To provide guidance in regards to space, storage, amenity and management of waste management facilities.*
- *To ensure waste management systems are compatible with collection services.*
- *To minimise risks associated with waste management at all stages of development.*

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The storage of waste will be managed in accordance with Council's Waste Minimisation and Management Guidelines. Waste will be collected under the existing regime – as it is not expected that any meaningful increase in waste will occur.

Waste will be managed in accordance with the following objectives:

- Maximise recovery of resources from waste;
- Minimise greenhouse gas emissions from waste disposal, collection and processing;
- Maximise gas capture from disposal of waste at landfill sites.

SECTION 25 – STORMWATER

The Aims of this Section of the DCP are noted as follows:

- *Ensure stormwater is controlled in a way that minimises nuisances and damage to the adjoining properties*
- *Manage natural drainage lines and water bodies to sustainably protect the health of the receiving waterway.*
- *Mitigate pollutants from entering waterways.*
- *Ensure appropriate easements are provided over existing drainage systems on private property.*
- *Assist in the efficient use of water.*

The proposed works will not impact on Muscle River. It is also therefore assumed the proposal will have no impact on the quality of water to be discharged from the site as a whole. The proposal involves works to the existing community aquatic facility the proposed new indoor pool hall structure being located within the existing site, replacing the existing splash pad and wade pool will therefore not increase the impact of storm water run off.

The Engineering drawings detail how stormwater run-off will be managed within and external to the site. The addition of rainwater harvesting and re-use will improve the run off impact on the current stormwater systems of the complex.

Given these measures, no significant impacts on storm water are anticipated.

A Water Savings Solutions Plan has also been incorporated and sets out technical measures to be implemented in the construction and use of the development in order to reduce consumption of potable water. These measures relate to tap water, toilet flushing and irrigation and include specifications of water efficient fixtures and fittings, methods of rainwater harvesting and landscaping.

Due care has been taken in the design of this proposal to ensure minimal adverse impact will occur upon the existing site. The proposal is in accordance with Council's requirements.

The proposal is in accordance with Council's nominated requirements.

4.5 Development Constraints

ADVISORY (Based on S149 advice)	YES/NO	COMMENT
Is the land identified as being possibly contaminated?	No	No issue
Is the land identified as being Flood Prone?	No	No issue
Is the land identified as being Bush Fire Prone?	No	No Issue
Is a Traffic Impact Assessment Required?	No	No Issue

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Are there Flora and Fauna, Threatened Species or Native Vegetation Issues?	No	None identified
Are there Aboriginal Significance Issues?	No	Not to Council's knowledge
Are there Heritage Issues?	No	No issue
Is the land identified as being potentially affected by Salinity?	No	No issue
Is the land identified as being potentially affected by Acid Sulphate Soils?	No	No issue
Is the land identified as being potentially affected by Mine Subsidence?	No	Not within declared Mine Subsidence District

4.6 Building Requirements

The design of the proposed alterations, addition and refurbishment works satisfy the requirements of the BCA for structural adequacy, health, amenity and fire safety.

4.7 Amenity

The proposal is considered to be a positive contribution to the Muswellbrook recreational locale and more importantly the existing Centre. It is considered to be an ancillary component being of benefit not only to the locality but the existing region as a whole. It is considered that the proposal will have minimal adverse impact upon the surrounding environment as it only relates to the subject site.

4.8 Visual Impact

The proposed development will not negatively impact upon the visual amenity and character of the surrounding area in that:

- the design of the proposal is unique to the site and addresses public entry and building scale at the main entrance;
- it is situated within the recreational/community precinct;
- it is surrounded by other recreational/community uses and therefore will not give rise to any adverse impacts in the surrounding locality;
- the design constitutes a single storey addition of high quality finishes and generally low scale proportions set within an recreational landscape;
- it is sufficiently separated from adjoining residential properties.

4.9 Impact on Natural Environment

The proposed works are not considered to have any significant impacts on the natural environment. The proposal uses functional and environmentally attractive materials that are consistent with the streetscape and environmental quality of the area.

4.10 Impact on Built Environment

The proposal is considered to be a positive contribution to the locality. The scale and character of the proposal is not out of context and complies with Council's requirements and objectives.

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The Muswellbrook Aquatic & Fitness Centre is not a nominated Local Heritage Item. The sympathetic design ensures that the proposal fits into the existing streetscape and is consistent with development contemplated by the zoning and controls.

The design and scale of the proposed works are an appropriate response to the existing site constraints.

The proposed works are sympathetic and will ensure its continued service to the community.

4.11 Social Impacts

The social benefits that grow from these facilities are numerous and actually provide economic benefits to the community as a whole. Healthier youngsters, families and elderly people will inevitably contribute to an improved social landscape within the community. The potential for a greater social interaction at the Centre complex is substantially increased with the greater range of recreational/community opportunities. Interaction between the differing age groups that will be attracted by the range of facilities will have a positive impact on the age divide.

The enhanced development will have a contemporary modern range of facilities, this modernisation will put new vigor into the existing aquatic facility. The proposed re-development of the Centre will improve the amenity of the recreational precinct and use of the facility for the community as a whole. It is considered to be of benefit not only to the immediate locality but the Muswellbrook locale as a whole.

No adverse social impacts are expected from the proposed works. It is noted that the type of experience these facilities offer have positive implications for community welfare, well-being and health and can result in reduced social problems. The proposed addition and upgrade to the existing Centre will provide a more modern updated and useable design. It is considered to be of benefit not only to the immediate locality as it will provide a year round commercial/cultural facility.

The proposal is consistent with the Council's provisions and the proposed works are generally in accordance with Council's controls.

4.12 Economic Impacts

The economic impact will be a net gain in terms of attracting greater use of the site with a wider benefit of capital being injected into the local economy. The positive impacts of redevelopment and modernisation for this vital facility are clear. The Council would not have undertaken this upgrade if positive outcomes were not envisaged.

Furthermore, the proposal will have positive impacts in terms of employment associated with the construction of the development. Beyond this, there will also be positive impacts in terms of making better use of existing infrastructure and services within the locality on a year round basis.

5.0 ENVIRONMENTAL EFFECTS

5.1 Section 4.15 Matters for Consideration

Under the provisions of Section 4.15 of the EP&A Act 1979 (as amended) 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.

The provisions of:

- Any environmental planning instrument, and
- Any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
- Any development control plan, and
- Any matters prescribed by the regulations,

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- that apply to the land to which the development application relates.

The relevant Planning Instrument is Muswellbrook Local Environmental Plan 2009. This proposal is in accordance with all relevant aims and objectives of this plan in particular:

- "(a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving:*
- (i) productive agricultural land, and*
 - (ii) timber, minerals, soils, water and other natural resources, and*
 - (iii) areas of significance for nature conservation, and*
 - (iv) areas of high scenic or recreational value, and*
 - (v) places and buildings of archaeological or heritage significance,*
- (b) to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts...."*

5.2 The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts on the locality.

SECTION 79C(1) - LIKELY IMPACTS OF THAT DEVELOPMENT	RESPONSE
Context and Setting	<p>Relationship to local context:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposal comprises alterations & addition to the existing aquatic facility, the impact on scenic qualities and landscape features will be nil; <input type="checkbox"/> The proposal is proportional, contextual and appropriate in terms of scale, form, character and design in the local area. <p>Potential impacts on adjacent properties:</p> <ul style="list-style-type: none"> <input type="checkbox"/> There will be no adverse shadow impacts; <input type="checkbox"/> There will be no adverse impacts on visual and acoustic privacy; <input type="checkbox"/> There will be no adverse impacts on views and vistas of adjacent properties.
Access, Transport & Traffic	<ul style="list-style-type: none"> <input type="checkbox"/> There will be no impact on travel demands; <input type="checkbox"/> Public transport availability remains unchanged within the local area.
Public Domain	<p>The proposal:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Will not impact on public recreational opportunities; <input type="checkbox"/> No impact on amount, location, design, use and management of public space around the site; <input type="checkbox"/> No impact on pedestrian linkages.
Utilities	Proposal does not generate additional demand for utilities.
Heritage	Not applicable
Other Land Resources	Not applicable
Water	It is envisaged that there will be no increase in run-off. No increase in water needs for the development.
Soils	Not applicable
Air & Microclimate	Not applicable
Flora & Fauna	Not applicable
Waste	Not applicable.
Energy	Conserve energy and energy efficiency:
Noise & Vibration	The proposal will not generate any additional noise from that currently experienced in the local area.
Natural Hazards	Proposal will not cause any risks in the natural environment.
Technological Hazards	Not applicable
Safety, Security & Crime Prevention	Not applicable
Social Impact in Locality	The proposal is a positive contribution for the local community.
Economic Impact in Locality	<p>Economic costs and benefits:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employment generation for local area; <input type="checkbox"/> Positive impact on surrounding businesses; <input type="checkbox"/> Positive contribution for the local community; <input type="checkbox"/> The proposal will provide economic growth for the local area.
Site Design and Internal Design	Development design sensitivity to environmental conditions and site attributes. The proposal has been designed to comply with BCA and associated codes.

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Construction	Not applicable
Cumulative Impact	No cumulative impacts are envisaged as a result of the development.

5.3 The suitability of the site for the development

As described in Section 4.15, the subject site is considered suitable for the proposed works to be carried out. The proposal makes suitable and efficient use of the subject site. The proposal will not result in any adverse amenity impacts for neighbouring/surrounding properties, which confirms the suitability of the site.

In particular, in Section 4.15 under context and setting, the site is appropriate and acceptable for the proposed works and the landscape and scenic quality of the locality will not be impacted upon by the proposal.

5.4 Any submissions made in accordance with this Act or regulations

We welcome the opportunity to respond to any submissions received by Council as a result of any public notification or exhibition.

5.5 The public interest

As the proposal is for the redevelopment of the existing Aquatic & Fitness Centre, it is considered to be a positive contribution to the local area. Amenity impacts are negligible and the proposal is considered to result in a positive contribution to the built environment. The proposal has acceptable design and amenity impacts and therefore does not negatively impact on the public interest.

6.0 CONCLUSION

The proposal is considered to be of an appropriate form and will maintain the character of the existing recreational precinct, while being compatible with the scale and character of the surrounding environs.

The proposed development is satisfactory when assessed under the matters of consideration of Section 4.15 of the Environmental Planning and Assessment Act, as amended. No adverse environmental impacts have been identified.

The beneficial effects of the proposal include:

- Complies fully with the objectives and standards of the relevant Muswellbrook LEP 2009.
- The new addition to the Centre and external elements will provide a much more functional and useable facility.
- The present complex is vital to the existing recreational precinct.
- Will provide Muswellbrook with an upgraded recreational/community facility – providing for an improved social outcome.
- Does not impede on any adjoining properties in terms of overshadowing, acoustic or visual aspects and, due to its positioning and scale, and the fact that it is upgrading an existing facility, provides a low level of impact on the existing local amenity.
- A positive contribution to the locality;
- An appropriate development of the land.

The proposal has been developed with a view to upgrading the site and producing a form of development that is consistent with Council's nominated objectives and design principles.

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The proposal will produce an attractive and notable contribution to the site and locality in general with improved environmental impact upon the surrounding environment due to its compliance with BCA Guidelines.

The proposed addition has been designed to minimise any adverse or unreasonable amenity impacts on surrounding properties in terms of visual, acoustic privacy, overshadowing and view loss. The works will allow for a more contemporary functional facility that better utilises the site and its features. The new addition to the existing aquatic centre represents a vast improvement in terms of aesthetics and internal layout and use of the facility as a whole.

The proposal is consistent with the character of the area and will have no negative environmental or urban design impacts. It is consistent with the objectives of the Environmental Planning and Assessment Act which includes:

"The proper management.... And conservation of man made resources for the purpose of promoting the economic welfare of the community and a better environment via promotion... of the orderly and economic use and development of the land."

The proposed alterations, addition and redevelopment of the existing Centre will address the site and its context, retains existing form of the area and will generally upgrade the image of the recreational/community precinct.

Approval of the proposed development is therefore recommended.

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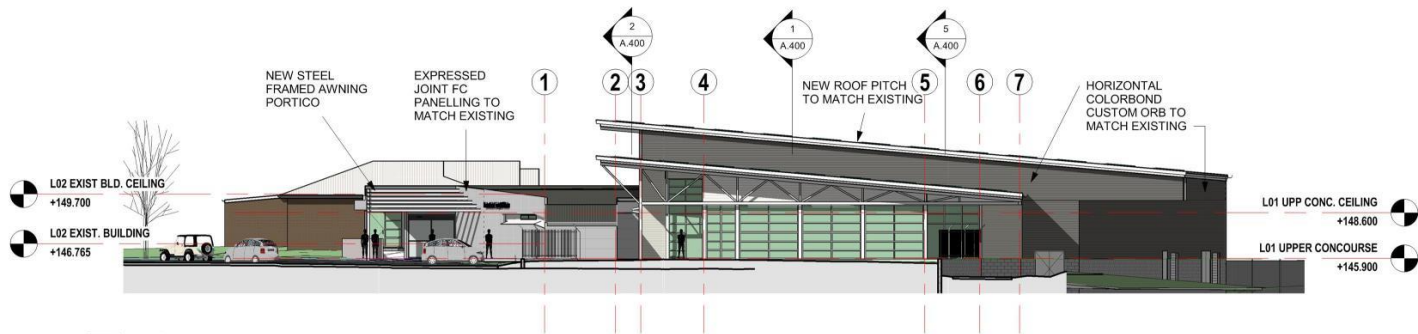
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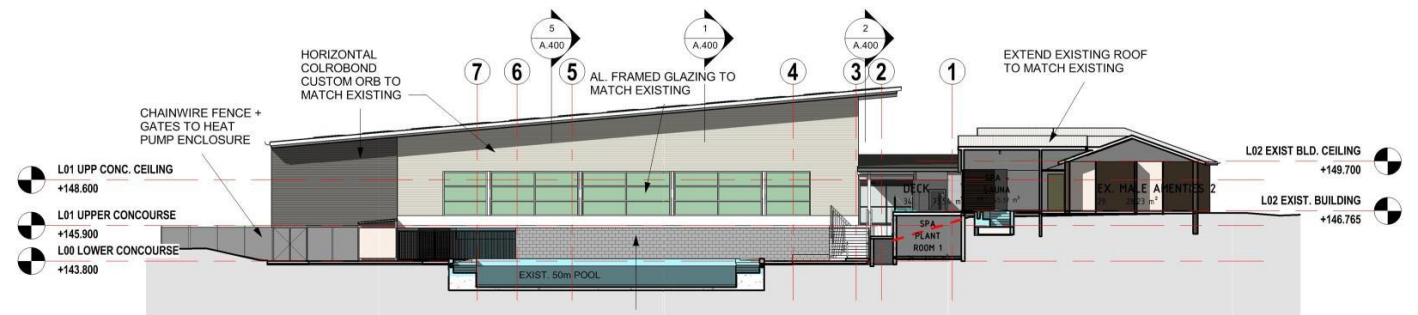
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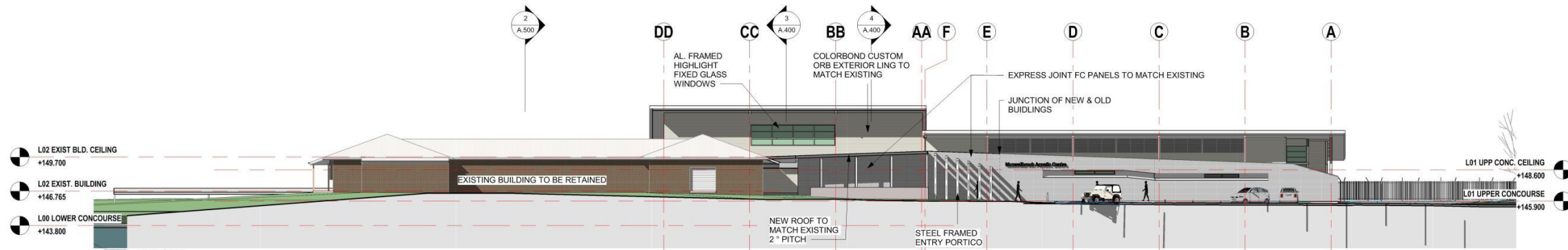
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Rev	Description	Date



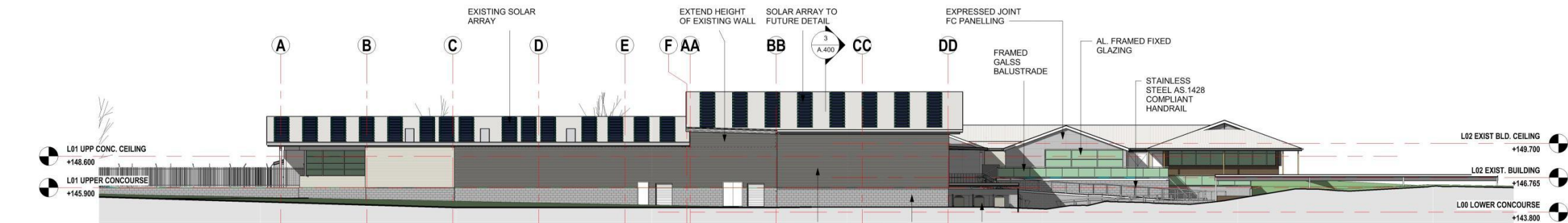
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2 SOUTH
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3 EAST
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4 WEST
1:200

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CLIENT:
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PROJECT NAME:
MUSWELLBROOK AQUATIC + LEISURE CENTRE UPGRADE

Preliminary
PROJECT ADDRESS:
WILKINSON AVENUE, MUSWELLBROOK

DRAWING TITLE:
ELEVATIONS

B1 PRINT SIZE
SHEET ISSUE DATE: 01/09/19
REVISION DATE:
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JOB NO.: W268
DRAWN BY: Author
CHECKED BY: S. JOHANSSON

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A.500

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Rev	Description	Date
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1 L01 UPPER CONCOURSE - ROOM SCHEDULE
1 : 200

L00 LOWER CONCOURSE		
35	SPA BALANCE TANK	8 m²
36	SPA PLANT ROOM 1	31 m²
37	SPLASHPAD CIP TANK	12 m²
38	FILTER WASTE TANK	11 m²
39	PROGRAM POOL BT	17 m²
40	POOL BLANKET STORE	27 m²
41	DIESEL GENERATOR	16 m²
42	FAMILY CHANGE 1	4 m²
43	FAMILY CHANGE 2	4 m²
44	FAMILY CHANGE 3	4 m²
45	EX POOL PLANT	75 m²
46	EX MECHANICAL PLANT	68 m²
47	HEAT PUMP PLANT	31 m²
		309 m²

L01 UPPER CONCOURSE		
01	AIR LOCK	9 m²
02	KIOSK + CONTROL	30 m²
03	KITCHEN	11 m²
04	DRY STORE	5 m²
05	COOL ROOM	2 m²
06	PARTY ROOM	30 m²
07	EX FIRST AID	11 m²
08	EX MALE AMENITIES	38 m²
09	EX FEMALE AMENITIES	45 m²
10	EX STORE 1	14 m²
11	EXISTING INDOOR POOL HALL	722 m²
12	EX MALE	12 m²
13	EX FEMALE	11 m²
14	EDB	1 m²
15	NEW POOL HALL EXTENSION	604 m²
16	PLANT ROOM 1	70 m²
17	STORE	31 m²
18	VIEWING LOUNGE	173 m²
20	STORE 2	5 m²
21	AFTER HOURS CIRCULATION	44 m²
23	EX STORE 2	7 m²
24	EX COMMS	4 m²
25	EX BOH	53 m²
28	ENTRY/LOBBY	35 m²
32	SPA PLANT 2	2 m²
33	SPA + SAUNA	45 m²
		2014 m²

L02 EXIST. BUILDING		
19	MANAGER + ADMIN.	22 m²
22	HALLWAY	44 m²
26	GROUP FITNESS	52 m²
27	ACCESS	7 m²
28	EX FEMALE AMENITIES 2	36 m²
29	EX MALE AMENITIES 2	28 m²
30	GYM	147 m²
31	BAND ROOM	24 m²
34	DECK	74 m²
		433 m²

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CLIENT:
muswellbrook shire council

PROJECT NAME:
MUSWELLBROOK AQUATIC + LEISURE CENTRE UPGRADE

Preliminary
PROJECT ADDRESS:
WILKINSON AVENUE, MUSWELLBROOK

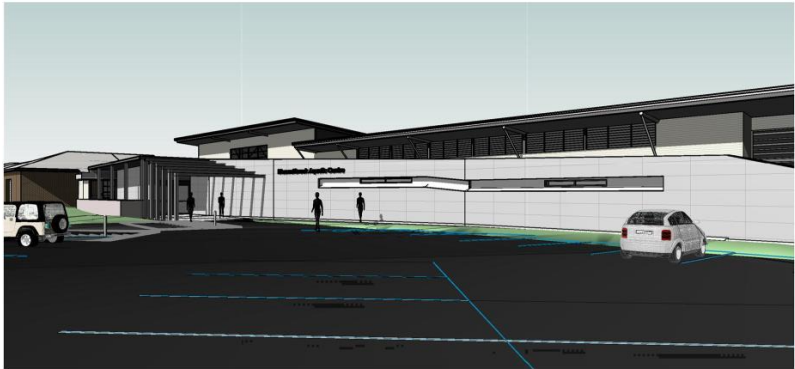
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REVISION DATE:
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JOB NO.: W268

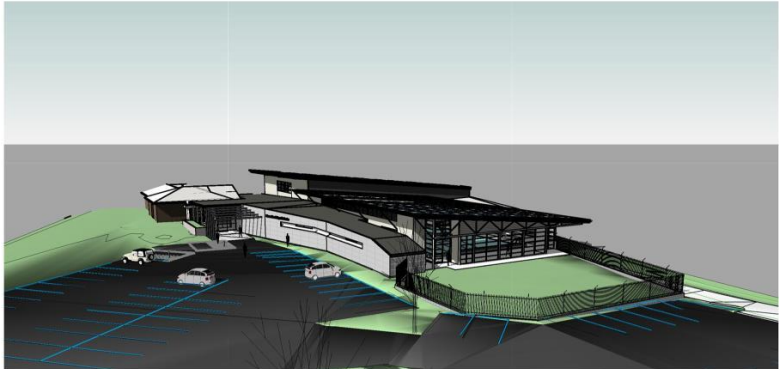
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A.012

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2 NORTH 2



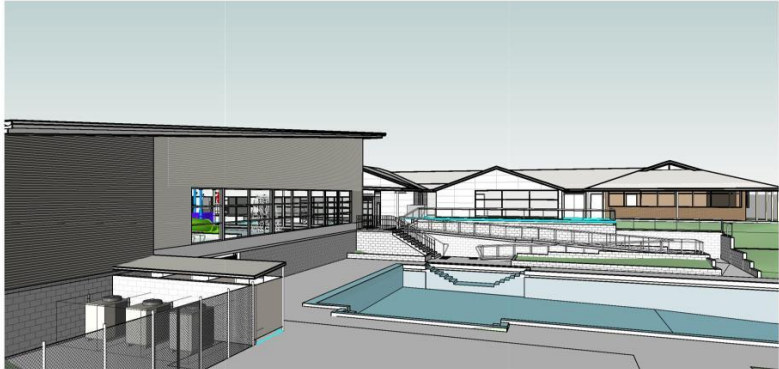
3 SOUTH 1



4 SOUTH 2



5 EAST



6 WEST



7 INTERIOR POOL HALL 1
1:1



8 INTERIOR POOL HALL 2
1:1

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Owner: muswellbrook shire council

PROJECT NAME:
MUSWELLBROOK AQUATIC + LEISURE CENTRE UPGRADE
FOR DA
PROJECT ADDRESS:
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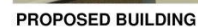
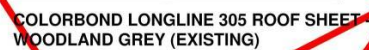
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CLIENT:



muswellbrook
shire council

PROJECT NAME:
**MUSWELLBROOK AQUATIC +
LEISURE CENTRE UPGRADE**

FOR DA
PROJECT ADDRESS:
WILKINSON AVENUE, MUSWELLBROOK

DRAWING TITLE:

EXTERNAL FINISHES

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23/01/2019 6:10:19 AM

Muswellbrook Shire Council
PO Box 122
Muswellbrook. NSW 2333

15/08/2019

Attention: Sharon Pope
Assistant Director Environment and Community Services

RE: Development Application No. 11/2019 – Alterations and Additions To
Muswellbrook Aquatic And Leisure Centre and change to operating hours of gym to
24/7
Lot: 1 DP: 903839 Res:570025, Lot: 7010 DP:93327 Res: 570025, Lot:1 DP:364120
– 1 Wilkinson Avenue Muswellbrook, 3 Wilkinson Avenue Muswellbrook, Haydon
Street Muswellbrook.

Dear Sharon,

A copy of the Development Application, with amended Statement of Environmental
Effects and the Plan of Management for the 24 hour Gym access were forwarded to
Hunter Valley Police for comment.

In April 2001 the NSW Minister for Planning introduced Crime Prevention Guidelines
to Section 79C of the Environment Planning and Assessment Act, 1979. These
guidelines require consent authorities to ensure that development provides safety
and security to users and the community. 'If a development presents a crime risk, the
guidelines can be used to justify modification of the development to minimise crime
risk, or, refusal of the development on the grounds that crime risk cannot be
appropriately minimised.'

Crime Prevention Through Environmental Design (CPTED)

Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.

Predatory offenders often make cost-benefit assessments of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:

- Maximize risk to offenders (increasing the likelihood of detection, challenge and apprehension).
- Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime)
- Minimise the actual and perceived benefits of crime (removing, minimizing or concealing crime attractors and rewards) and
- Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalization of inappropriate behaviour)

Site Description

The proposed development site is the Muswellbrook Aquatic and Fitness Centre and currently has varying operating hours each day depending on the season. It is located within an area mostly used for recreational activities and its carpark is accessed from Wilkinson Avenue and this road terminates at Olympic Park. There is residential housing to the west of the location which is separated by the Muscle Creek. Integrated Living Services Building is located next to the development site and operates within Business hours. The recreational facilities and other buildings in Wilkinson Avenue has previously been the subject of malicious damage (graffiti) and there has been several Break and enters offences. There is a walking path that runs from Bell Street along Muscle Creek and people also use the Olympic Park to cut through to Wilkinson Ave to move towards the CBD. Sometimes the lack of activities and supervision in the area after dark can attract antisocial behaviour.

I have perused the plans and documents supplied by Muswellbrook Council. Hunter Valley Police do not object to the propose development and believe that the proposed alterations, upgrading and additions will not pose an unmanageable increase of the risk of crime. The following comments are made for consideration.

1. 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.

The boundaries of the development are well defined.

- Effective signage and directions will provide guidance to visitors/customers in locating main areas and keep them away from restricted areas.
- Signs can also assist in controlling activities and movements throughout the premises.
- Crime risk can be reduced for late night users by encouraging easily accessed and well-lit car spaces.

2. 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.

General Comments in Design for Surveillance:

- The placement and orientation of common entry areas should maximize opportunities for natural supervision by staff and other guardians. Laminated glass walls and windows facilitate supervision of common entry areas.
- Good sightlines with limited areas for concealment
- There is currently CCTV operating in and around the centre.
- Small increase in crime opportunities posed to vehicles in carpark outside normal hours of supervision in relation to 24-hour gym use.

Recommendations for Surveillance:

- The continued use of Surveillance equipment (CCTV) to enhance the physical security of the business's and assist in the identification of people involved in anti-social or criminal behaviour.
- * A CCTV camera be located outside facing the carpark area near the front entrance, to cover the afterhours entry as well as the car spaces near the front, where after hours gym users should be encouraged to park.
- Appropriate warning signs to be displayed advising patrons of CCTV in use.
- * Consideration for a live feed monitor of the entrance area for after hour gym users to view before they exit. This will allow them to check for any persons loitering near the centre.

Lighting

- High quality, vandal resistant lamps are less likely to require replacement or maintenance.
- Security /Sensor lighting for areas not in use after dark can detect movement and highlight unwanted activity. This increases the risk to offenders being detected.

Landscaping

- Matured vegetation should allow clear sight lines. "to see and be seen"
Shrubs should not provide easy concealment.

3. 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.

General Comments in Design for Access Control:

- There is one entry/exit for hours where the centre is staffed. This allows for surveillance of patrons and visitors.
- * There is a separate entry/exit for patrons using the gym outside of staffed hours, which is swipe card activated.
- Fire exit doors in the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.
- Access control should be set in place to exclude unauthorized access to restricted areas, particularly to the office/ kiosk area.
- Clear signs and the use of lighting at night, encourages people to move in authorized areas only.

4. 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 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.

General Comments in Design for Space/Activity Management:

- There is currently some street activity in the area after dark from people using other recreational venues like football training at Olympic parks but when these sports finish there is minimal natural supervision from other locations. . Wilkinson Avenue terminates at Olympic Park so there is no passing traffic. The walk way along Muscle Creek has pedestrian traffic but mainly during daylight hours.

On a positive, the patrons using the gym after hours could provide passive surveillance and deter some anti-social behaviour. It is noted in the Plan of Management that there is protocol for dealing with malicious damage like Graffiti. Quick removal is proven to reduce the likelihood of a repeat attack and assist with the public feeling safe.

- The carpark is sealed and maintained.
- Police do not anticipate this development will generate increased noise levels from vehicular and pedestrian (patrons) traffic. The use of a TV/ music video playing in the gym, should not affect residence on the western side of Muscle Creek due to the distance and vegetation along the creek.
- No bike rack indicated on plans
- Police support the installation of 'Help buttons' and the use of a personal emergency button on a lanyard. All after hours users should be encouraged to wear these.

Recommendations for Space/Activity Management.

- To include a bicycle rack in a well supervised area.

Conclusion

The New South Wales Police have a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this evaluation, any person who does so acknowledges that:

1. It is not possible to make areas evaluated by the NSWSP absolutely safe for members of the community or their property
2. It is based upon the information provided to the NSWSP at the time the evaluation was made,

3. The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only,
4. The contents of this evaluation are not to be copied or circulated otherwise that for the purposes of the consent authority or organization referred to on page 1.

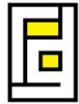
The NSW Police hopes that by using the recommendations contained in this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that all risks have been identified, or that the area evaluated will be free from criminal activity if its recommendations are followed.

We would like to thank you for the opportunity of inspecting the plans for this development and should you require further information on the subjects mentioned within this report feel free to contact Senior Constable Sheree Gray, Crime Prevention Officer, Hunter Valley Police District, Phone 6542-6999.

Yours faithfully



Steven Benson
Detective Acting Inspector
Acting Crime Manager
Hunter Valley Police District



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AMENDED STATEMENT OF ENVIRONMENTAL EFFECTS

For:

Lot 1 DP 903839

A Redevelopment comprising alterations, addition & the refurbishment
of the existing Muswellbrook Aquatic & Leisure Centre
Wilkinson Avenue, Muswellbrook

Prepared for:

MUSWELLBROOK SHIRE COUNCIL

JULY 2019

Prepared by:

FACILITY DESIGN GROUP – ARCHITECTS

Ph: (02)4446 0777 Fax: (02)4446 1077

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CONTENTS

- 1.0 OVERVIEW
 - 1.1 SUMMARY
 - 1.2 CONSENT AUTHORITY
 - 1.3 SCOPE OF WORKS
 - 1.4 PLANNING ASSESSMENT
- 2.0 THE SITE
 - 2.1 LOCALITY DESCRIPTION
 - 2.2 PLANNING CONTROLS
- 3.0 PROJECT DESCRIPTION
 - 3.1 DEVELOPMENT PROPOSAL
 - 3.2 ARCHITECTURAL & URBAN DESIGN
 - 3.3 MATERIALS & FINISHES
 - 3.4 DISABLED ACCESS
 - 3.5 SAFER BY DESIGN
 - 3.6 OVERSHADOWING & GLARE
 - 3.7 NOISE
 - 3.8 BUILDING CONSIDERATIONS
 - 3.9 CONNECTION TO UTILITY SERVICES & WASTE WATER DISPOSAL
 - 3.10 STORMWATER DRAINAGE
 - 3.11 ECOLOGY
 - 3.12 GYMNASIUM - 24/7 OPERATING HOURS
- 4.0 PLANNING CONTROLS
 - 4.1 APPROVAL PROCESS
 - 4.1.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
 - 4.2 STATE LEGISLATION
 - 4.2.1 PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997
 - 4.2.2 SEPP 55 – CONTAMINATED LAND
 - 4.3 MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 (AS AMENDED)
 - 4.4 MUSWELLBROOK DEVELOPMENT CONTROL PLAN 2009
 - 4.5 DEVELOPMENT CONSTRAINTS
 - 4.6 BUILDING REQUIREMENTS
 - 4.7 AMENITY
 - 4.8 VISUAL IMPACT
 - 4.9 IMPACT ON NATURAL ENVIRONMENT
 - 4.10 IMPACT ON BUILT ENVIRONMENT

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- 4.11 SOCIAL IMPACTS
- 4.12 ECONOMIC IMPACTS
- 5.0 ENVIRONMENTAL EFFECTS
 - 5.1 SECTION 4.15 MATTERS FOR CONSIDERATION
 - 5.2 THE LIKELY IMPACTS OF THE DEVELOPMENT, INCLUDING ENVIRONMENTAL IMPACTS ON BOTH THE NATURAL & BUILT ENVIRONMENTS AND SOCIAL & ECONOMIC IMPACTS ON THE LOCALITY
 - 5.3 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT
 - 5.4 ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS
 - 5.5 THE PUBLIC INTEREST
- 6.0 CONCLUSION

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1.0 OVERVIEW

1.1 Summary

This Statement of Environmental Effects has been prepared for Muswellbrook Shire Council as trustee of the Muswellbrook Aquatic & Fitness Centre – “White Memorial Swimming Centre”, to assess the proposal to carry out a redevelopment comprising alterations, addition & refurbishment works to the existing Centre including a new indoor splash pad/program pool, new store, plant & family change and the refurbishment of existing facilities.

Council is proposing the redevelopment and refurbishment to the Muswellbrook Aquatic & Fitness Centre. Estimated cost of these works has been budgeted at a maximum spend of \$4.99 million. This proposal is yet to gain a Development Approval and Construction Certificate.

The current asset has been assessed as requiring upgrade and refurbishment. The proposed indoor pool addition will occupy the same land titles as the current asset replacing the existing wade pool and splash pool. The nature and condition of the existing Centre indicates that while the premises has a number of strengths there is a need for works which will enhance and update the physical condition and appearance of the asset and ensure its continued service to the community.

The existing building arrangement is proposed to be redeveloped to provide better use of the Centre’s facility. The proposed redevelopment will not only provide an upgraded modern contemporary facility, but it is felt that these necessary changes will greatly benefit the community, providing more versatility and a year round facility catering to all ages.

In preparing this proposal all urban design and planning controls outlined in the various planning instruments have been considered.

The statement examines the details, by taking into account the relevant matters for consideration under Section 4.15 of the Environmental Planning Act 1979 (as amended) including:

- Muswellbrook Local Environmental Plan 2009(as amended);
- Muswellbrook Development Control Plan 2009;
- The Environmental Planning and Assessment Act (as amended) 1979;
- The Environmental Planning and Assessment Regulation 2000 (updated January 2002);

This statement should be read in conjunction with the following supporting documents:

- Architectural Plans prepared by Facility Design Group.
- Stormwater Drainage Concept Plan by Eclipse Consulting Engineers.

1.2 Consent Authority

This report forms part of the Development Application to Muswellbrook Shire Council, the determining authority.

The report describes in detail, together with assessments of impact as required under the Environmental Planning and Assessment Act, as amended, the two (2) staged redevelopment comprising alterations, addition and refurbishment works to the Muswellbrook Aquatic & Fitness Centre, Wilkinson Avenue, Muswellbrook.

1.3 Scope of Works

The proposed re-development is to include the following:

Stage 1:

- New entry + kiosk + viewing Lounge + party room
- New indoor splashpad/program pool + enclosing hall;
- New undercroft storage;
- New storeroom;

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- New plant;
- New disabled ramp access to existing gym;
- Refurbishment of control/kiosk, administration;
- New sauna/spa area + deck + plant
- Relocated BBQ area
- 24/7 Fitness Gymnasium

1.4 Planning Assessment

The key planning issues relevant to this DA are:

- Traffic and Parking;
- Compliance with BCA requirements;
- Stormwater Management;

These matters and others are addressed in this report. Our assessment concludes that these issues can be appropriately managed and that the proposed development represents a positive development outcome for the community. The project is in the public interest and will provide social and economic benefits to the region. It will:

- Generate local employment opportunities during construction and the ongoing operational phases of the development.
- Increase the productive use of recreational zoned land.
- Maximise the use of existing site infrastructure.
- Increase the available multi purpose sporting/community opportunities within the Muswellbrook locale.

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2.0 THE SITE

2.1 LOCALITY DESCRIPTION

The subject site is identified as the Muswellbrook Aquatic & Fitness Centre, Wilkinson Avenue, Muswellbrook. The site has street frontage to Wilkinson Avenue (main entrance). The Muswellbrook Aquatic & Fitness Centre – “White Memorial Swimming Centre” forms part of a broader recreational and community precinct, Fitzgerald Park, Olympic Park, Muswellbrook Bowling Club, tennis courts and adjoins Ron King Velodrome. The Centre is currently operated by Council.



The footprint of the Muswellbrook Aquatic & Fitness Centre will occupy the same land title as the current asset being:

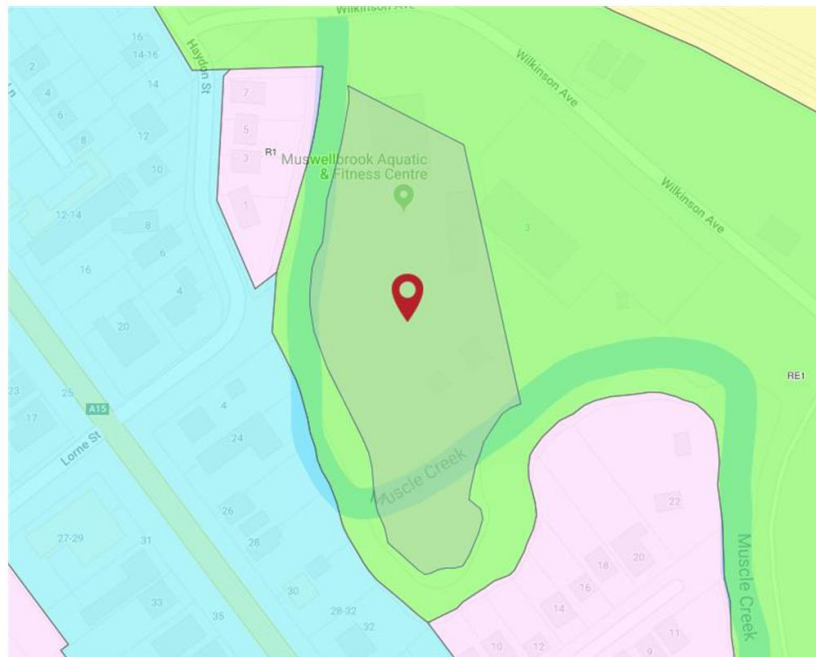
- Lot 1 DP 903839



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The site is zoned RE1 Public Recreation pursuant to the Muswellbrook LEP 2009. The redevelopment of the existing facility including the proposed alterations, addition and refurbishment works, are permitted including its subsequent use subject to Council's consent.



There are no known land title, ownership or zoning impediments to the proposed works. Information obtained from Council identifies that the property is not subject to mine subsidence or road widening, does not contain critical habitat or environmentally sensitive land, is not located within the designated coastal zone, nor has the site been identified as bushfire prone on Council's Bushfire Prone Land Map, is not located within a conservation area, does not comprise an identified heritage item and is not flood prone.

2.2 Planning Controls

Relevant Statutory planning controls affecting the site include the provisions of:

- Muswellbrook Local Environmental Plan 2009 (as amended);
- Muswellbrook Development Control Plan 2009;
- The Environmental Planning and Assessment Act (as amended) 1979;
- The Environmental Planning and Assessment Regulation 2000 (updated January 2002).

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3.0 PROJECT DESCRIPTION

3.1 Development Proposal

The Proposal

This Development Application seeks approval to carry out re-development and upgrade works, in two (2) stages comprising alterations, additions and refurbishment works to the existing Muswellbrook Aquatic & Fitness Centre.

The proposed works are to incorporate the following;

- New entry + kiosk + viewing Lounge + party room
- New indoor splashpad/program pool + enclosing hall;
- New undercroft storage;
- New storeroom;
- New plant;
- New disabled ramp access to existing gym;
- Refurbishment of control/kiosk, administration;
- New sauna/spa area + deck + plant
- Relocated BBQ area
- New 24/7 Access to the existing gymnasium including the Installation of a high tech security systems preventing gym patrons from accessing the aquatic centre after hours.

The existing hours of the pool operation are to remain the same being;

Summer	Mon - Thurs	Friday	Saturday	Sunday
Pool	6am – 7pm	6am – 7pm	8.30am – 7pm	10am – 7pm
Winter				
Pool	6am – 7pm	6am – 7pm	8.30am – 4pm	10am – 4pm

The gymnasium is proposed to be open 24 hours a day, 7 days a week including holidays.

No change is proposed to the existing site access arrangements.

No change is proposed to existing off street carpark, comprising sixty five (65) spaces.

No change is proposed to existing staff numbers (approximately 12 permanent staff, plus casual and part time staff).

3.2 Architectural and Urban Design

The total planned re-development will make the Muswellbrook Aquatic & Fitness Centre a revitalised and modern facility that is in line with modern community expectation. It will provide a multitude of opportunities for the Muswellbrook community. In essence it seeks to provide a more contemporary form of development where the choice of facilities is upgraded and the public have the potential to experience a community/recreational facility that contributes to the environment of the locale. The form and use of the site will remain unaltered but the facility itself will be re-developed and enhanced to ensure its continued service to the community.

In general, the physical appearance of the aquatic centre has been designed to ensure that it is compatible with the existing and likely future character, bulk and scale of adjoining development in the area and will contribute in a positive manner to the existing spatial context of the locality.

Key Design Issues

The key design issues are noted as follows:

- Ensure comfortable access to the facility by people with disabilities.

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- Provide a much needed modernisation and upgrade of the existing amenities and social areas that support the complex – demonstrating ‘best practice’ intentions. The revised building form is also a demonstration that Council is pursuing ‘best practice’ planning to reduce operational costs and maximise potential income both directly and indirectly.
- Provide a multi-faceted facility that will better service the needs of the local community.
- Design of a facility which provides a continued and improved identifiable presence in the community, which offers a welcoming character with the vitality deserving of such a complex.
- To ensure the local environment is not negatively impacted by the redevelopment.

3.3 Materials and Finishes

External Materials of Proposed Extension

Walls: FC expressed joint sheeting, colorbond metal louvres.

Windows: Aluminium framed energy efficient glazing.

Doors: Aluminium framed galzed doors, metal lined solid doors to external.

Roof: Colorbond metal roof sheeting with R 3.2 insulation

To match existing finishes.

The proposal is considered to be a positive contribution to the existing recreational/community precinct and will provide a clearly identifiable presence with its contemporary forms and modern colour scheme.

The proposal will have minimal adverse impact upon the surrounding environment as it is wholly contained within the subject site and is substantially remote from any residential development.

3.4 Disabled Access

Access has been carefully considered in the design of the proposed redevelopment works. The new addition will provide total accessibility throughout for wheelchairs. Internal amenities provision for disabled and ambulant people has also been incorporated into the design.

3.5 Safer by Design

Crime Prevention

Development should be designed to deter crime and vandalism and facilitate:

- personal and property security;
- casual surveillance of public areas;
- activity and interaction within public spaces and movement networks.

Safer by design, and Crime Prevention Through Environmental Design (CPTED) principles have been considered in the design of the development. The design responds to crime reduction and prevention issues through the use of the four principles for CPTED which include surveillance, access control, territorial reinforcement and space management.

These principles are addressed below:

Surveillance: the site is located within an existing recreational precinct having workers during daylight hours providing passive surveillance of the proposal.

Access control: Only one entry/egress point for pedestrians is provided. Security lighting will be provided in key locations and will be sufficient for good visibility at night.

Territorial reinforcement: The provision of a fence along the sites boundary delineates the public and private areas in and around the site.

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Space management: The development's design and internal layout have considered potential safety problems such as locations for entrapment and hiding. Straight lines of travel have been incorporated into the design of pathways which limit opportunities for hiding areas.

The design of the development optimises safety and security, both internal to the development and from the public domain. The safety of the public is also enhanced by the design of the proposal which improves casual surveillance of the street during the day and night. The entrance area, landscaping and public domain areas maintain clear sight lines and will be well lit. The proposed hours of operation and active use of the site will further improve the safety aspects of the proposal particularly within this recreational location of Muswellbrook. Furthermore, the safety and security issues addressed have been devised to ensure the quiet amenity of neighbouring properties is maintained at all times during the operation of the premises.

Gymnasium Safety and Security

The gym facility will incorporate a state-of-the-art security system to maximise the safety of users. The security system is a fully integrated priority access system which connects the member check-in software with onsite security systems including closed circuit television (CCTV) and tailgate detection for entry doors.

To enter the gym, a member will be required to swipe a valid access card which triggers a release mechanism in the door. If another person enters at the same time an alarm is triggered by a tailgate system which alerts members and management. The member will exit the premises through the same doors via a free-exit mechanism. The exit mechanism will not prevent a member from leaving the premises in the event of a fire or other emergency.

A CCTV system will also be utilised and will include 24-hour digital video recording, a high-resolution camera positioned by the entrance and a number of other cameras strategically located around the gym to ensure that supervision is maximised. As shown, the coverage of the cameras is thorough both internally and externally and will provide excellent surveillance of the premises for the safety of the gym users as well as the community.

Each patron further has access to a personal emergency button on a lanyard that when utilised will result in the security monitoring company immediately contacting the police and subsequently the gym manager.

Fixed emergency buttons will also be located in appropriate locations inside the gym. A first aid-kit, "in case of emergency" signage with instructions, and an Automated External Defibrillator will be located in appropriate locations throughout the gym.

3.6 Overshadowing & Glare

The proposed building envelope will have no impact on the local amenity with regard to overshadowing or glare from building structures.

3.7 Noise Control

The key sources of potential adverse noise impacts from the proposed development are associated with plant/equipment and carpark (people and vehicles).

The site is located within a designated "recreational/community precinct", and as such it is considered it will not result in any significant noise impact from that already experienced. To ensure minimal adverse impact upon the adjoining neighbours, the following design consideration has been incorporated into the proposal:

- all new mechanical plant as proposed is state of the art with built in noise attenuation measures.

As a result, it is considered that there will be minimal impact upon adjacent residential areas and the surrounding locale.

Noise generation during construction will be ameliorated by adopting a number of measures during the construction period.

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Working hours:

- 7.00am till 5.00pm Monday to Friday;
- 8.00am to 1.00pm Saturdays;
- 8.00am to 4.00pm on Saturdays if work is internal and inaudible (no power tools permitted);
- No work on Sundays or public holidays.

All equipment to be in good working order;

- all contractors to be advised to avoid excess noise and use *work friendly* practices; and
- contractor trucks and cars to be adequately muffled.

3.8 Building Considerations

The proposed design of this development has taken into account the BCA. AS 1428 has also been referenced in order to provide as accessible a facility as possible. All accessible amenities are provided with fully complying fit out according to the latest Premises Standard. The CC documentation will detail all accessible amenities, ramps and associated stairs and handrails.

3.8.1 Regulations

The building will be designed in accordance with the requirements of the Building Code of Australia (BCA).

Class of Building	9b
Rise in Storeys	One
Construction Type Required	Type B

In accordance with the provisions of Section E of the BCA, the following services and equipment will be installed to serve the facility:

- Fire hydrant system – existing coverage from road system.
- Fire Hose Reels – additional hose reels will be added to comply with BCA
- Portable fire extinguishers – to be dispersed throughout facility & plant rooms.
- Emergency lighting.
- Exit signs.
- Paths of Travel Stairways, Passages , Ramps

3.8.2 Access for People with Disabilities

A mandatory design parameter is the requirement to comply with the BCA and Access Codes. This facility has been designed to provide very equitable access for people with disabilities. The requirements of AS 1428 Part 1 are incorporated as well as the enhanced requirement of Part 2 for paths of travel and toilets.

The following issues are given consideration in the design:

- Lighting levels will be suitable for visitors with visual impairment.
- The site of the complex is made to be totally accessible for the public .
- Family change/accessible amenities have been provided within the facility.

3.9 Connection to Utility Services & Waste Water Disposal

All required services such as electricity, stormwater, gas and telecommunications are available to the site. Any issues that need addressing will be resolved at Construction Certificate stage.

3.10 Stormwater Drainage

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A Stormwater Concept Design & Sedimentation Control Plan have been provided by GR Consulting Engineers. These drawings form part of this DA submission.

3.11 Ecology

The site is unconstrained by ecology and is considered to be suitable for development. The site is currently used for recreational/community purposes and has largely been cleared of vegetation. Flora and fauna investigations have confirmed that the proposed development will not impact on threatened/endangered species, communities and/ or habitats.

3.12 Gymnasium - 24/7 Operating Hours

The extended trading hours of the proposed facility contributes to the lower demand in carparking when compared to other more traditional gymnasiums of similar size and design. As the facility never closes the door to active members with a unique swipe card, members do not have to rush to access the facility before it closes, and do not have to wait in the morning for the gymnasium to open.

This creates a situation where members will access the gym at all hours and not just on the way to or from work like most gymnasiums operate, lessening the peak usage times during the typical rush hours.

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4.0 PLANNING CONTROLS

4.1 Approval Process

4.1.1 Environmental Planning & Assessment Act 1979

The NSW Environmental Assessment and Planning framework is established by the EP&A Act and relevant planning instruments. The EP&A Act controls development in NSW, and Environmental Planning Instruments impose restrictions on the types of development that may be carried out on land. Under the EP&A Act development is assessed in three main categories – Part 3A, Part 4 and Part 5.

Relevance to proposed development

Part 4 of the EP&A Act applies to the development which requires development consent under an Environmental Planning Instrument (e.g. a Local Environment Plan). Development under Part 4 requires the applicant (either private or public) to lodge a development application (DA) with the relevant consent authority (generally the local Council). The consent authority will then assess the impacts of the proposed development taking into account the matters for consideration stipulated under Section 4.15 of the EP&A Act. Part 4 applies to development that is not assessed under Part 3A or Part 5 of the EP&A Act.

4.2 STATE LEGISLATION

A review of the relevant State Environmental Planning Instruments, namely the State Environmental Planning Policies (SEPPs), is provided in the following sections.

4.2.1 INTEGRATED DEVELOPMENT

4.2.1 *Water Management Act 2000*

The *Water Management Act 2000* (Water Management Act) replaced the provisions of the *Rivers and Foreshores Improvement Act 1948* coming into effect from February 2008. The Water Management Act provides for the protection of river and lakeside land in NSW and aims to provide for the sustainable management of the water sources throughout NSW.

The Water Management Act provides for the granting of various licenses and approvals, including for the use of water and water supply works. Generally speaking the following approvals may be required under the Water Management Act:

- *a water access licence – which entitles the holder to a share of available water in a river or aquifer (groundwater body)*
- *water use approval – which authorises use of water on land for a particular purpose at a particular location, or*
- *water management works approval – which authorise construction and use of water supply works such as bores, pumps, dams and channels.*

Relevance to proposed development

The proposal includes redevelopment and upgraded works all to be fully compliant with EPA requirements, and as the works are located within 40m of Muscle River it is likely that the proposed development will require the consent of the Office of Water under the provisions of the Water Management Act.

As a result, the proposal is deemed to be classified as Integrated Development.

The proposed development will not impact on Muscle River nor pose any negative impact upon its tributaries. It is therefore assumed the proposal will have no impact on the quality of water to be discharged from the site as a

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whole. The proposal involves works within the existing subject site – therefore not increasing the impact of storm water run off.

Due care has been taken in the design of this proposal to ensure minimal adverse impact will occur upon the existing site.

The proposed development is consistent with the Aims of the Act and is considered capable of fulfilling the statutory requirements. It is considered that the proposed development would not result in any negative impact in this regard and that appropriate conditions of consent would be applied to any approval, as required.

4.2.2 Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (POEO Act) consolidates the key pollution statutes relating to air, water, noise, pollution and environmental offences and establishes a duty to notify either the Environmental Protection Authority or the local council where incidents are likely to cause material harm to the environment. In addition, the Act provides for an integrated environmental licensing arrangement for scheduled activities.

Under the POEO Act an environmental protection license is required for scheduled activities in Schedule 1 of the Act. The Department of Environment, Climate Change and Water (DECCW) is responsible for administering the Act.

Relevance to proposed development

The subject site does not fall within any current licenses for operations under the POEO Act. However, the general provisions of the POEO Act in relation to pollution of the environment will apply throughout the proposed development on the site such as the need to consider general requirements during the proposed development in relation to the control of environmental issues such as noise, dust, emissions and any run-off which may be discharged from the site.

4.2.3 State Environmental Planning Policy No.55 Remediation of Land

SEPP 55 requires Council to consider whether the subject land of any rezoning or development application is contaminated. If the land requires remediation to ensure that it is made suitable for a proposed use or zoning, Council must be satisfied that the land can and will be remediated before the land is used for that purpose. SEPP 55 further requires the preparation of a report specifying the findings of a preliminary investigation of the land concerned, carried out in accordance with the contaminated land planning guidelines, to be considered by the consent authority before determining an application for consent to carry out development that would involve a change of use of that land.

The site has not been subject to any known contaminating uses. Prior to this proposed redevelopment the site has been used for recreational/community purposes. The potential for contamination is considered to be low. No evidence of contamination has been detected.

4.3 Muswellbrook Local Environmental Plan 2009

This proposal is in accordance with all relevant general aims and objectives of this plan in particular:

Clause 1.2 (2) Aims of the Plan:

- "(a) to encourage the proper management of the natural and human-made resources of **Muswellbrook** by protecting, enhancing or conserving:*
- (i) productive agricultural land, and*
 - (ii) timber, minerals, soils, water and other natural resources, and*
 - (iii) areas of significance for nature conservation, and*
 - (iv) areas of high scenic or recreational value, and*
 - (v) places and buildings of archaeological or heritage significance,*

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- (b) to manage the urban areas of **Muswellbrook** by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,
- (c) to promote ecologically sustainable urban and rural development,
- (d) to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,
- (e) to enhance the urban amenity and habitat for flora and fauna,
- (f) to protect and conserve:
 - (i) soil stability by controlling development in accordance with land capability, and
 - (ii) remnant native vegetation, and
 - (iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,
- (g) to provide a secure future for agriculture by expanding **Muswellbrook's** economic base and minimising the loss or fragmentation of productive agricultural land,
- (h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.

The proposed upgrade and redevelopment of the Muswellbrook Aquatic & Fitness Centre will provide a more modern updated and useable design. It is considered to be of benefit not only to the immediate locality providing a recreational community facility. The proposal is also consistent with the above nominated key objectives, in encouraging the proper management and continued use of facilities to meet the demand generated by changing demographic and household needs whilst improving the amenity of the local recreational/community precinct.

The proposal is consistent with the general Aims of the Local Environmental Plan and the following specific clauses:

Part 2 Permitted or prohibited development

Clause 2.1 Land Use zones – RE1 Public Recreation

Under the provisions of Part 2 the subject site is zoned Part RE1 Public Recreation.

Under the provisions of the RE1 Public Recreation zone, the objectives of the zone are noted as follows:

- "To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.
- To identify land that is suitable for future public recreation use and that can be brought into public ownership as a consequence of development contributions.
- To provide linked open space for ecosystem continuity, local community recreation, off-road transport and waterway protection.
- To provide space for integrated stormwater treatment devices for flow and water quality management, whilst enhancing urban and rural amenity."

Under the provisions of the RE1 Public Recreational zone, development permissible with consent within the zone includes:

Development for the purpose of:

"Air transport facilities; Aquaculture; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Educational establishments; Emergency services facilities; Entertainment facilities; Flood

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mitigation works; Food and drink premises; Function centres; Information and education facilities; Kiosks; Markets; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Roads; Sewage reticulation systems; Signage; Water recycling facilities; Water supply systems."

The proposed redevelopment of the existing Muswellbrook Aquatic & Fitness Centre is permissible within the zone, within the definition of a Recreation facility (indoor) and Recreational Facility (outdoor) and is permitted with the consent of Council.

The proposal is of positive benefit to the local area and community as a whole.

OTHER RELEVANT CLAUSES FROM THE LOCAL ENVIRONMENT PLAN

Part 4 – Principal development standards

CLAUSE 4.3 HEIGHT OF BUILDINGS

The objectives of this clause are noted 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.*

The proposal has been designed taking into consideration the existing centre and adjoining structures as a whole and is contained wholly within the subject site - RE1 Public Recreation zone. The maximum height limit as nominated is 12m.

The proposed addition to the Centre is to have a maximum height of 8.2m to the roof ridge.

The proposal is in accordance with the existing height of the adjoining structure.

Part 5 Miscellaneous provisions

CLAUSE 5.6 ARCHITECTURAL ROOF FEATURES

The objectives of this clause are noted as follows:

- "(a) to allow for minor departures from applicable height controls, and*
- (b) to ensure that architectural roof features do not result in adverse visual and amenity impacts upon adjoining premises, and*
- (c) to ensure that architectural roof features are considered in the design of buildings and form an integral part of the building design."*

The new addition to the existing facility provides an appropriate design solution to the proposed roof form in keeping with the existing indoor pool hall.

The proposed works are compatible with the surrounding environment and respond sympathetically to the existing form, massing, setbacks, scale of existing development.

CLAUSE 5.10 HERITAGE CONSERVATION

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The objectives of this clause are noted 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."*

The subject structure itself being the Muswellbrook Aquatic & Fitness Centre is not identified as a heritage item, however, it is located within the recreational precinct which comprises an identified Local Item, as noted within Council's LEP being (I124) Fitzgerald/Olympic Park Gates.

The Statement of Significance notes:

"The gates have historical and social significance for recording the relative status of an eminent local in the early 20th Century and for being significant to all descendants of the locally famous Keys Family."



In accordance with the guidelines issued by the State Heritage Office of NSW the following issues are required to be addressed when a new development is proposed

adjacent to an item of local heritage significance.

5.10.1 How is the impact of the new building on the heritage significance of the item to be minimised?

- There is no physical intrusion on the heritage listed element of the property as the proposed development is located over 200 metres away.
- Landscaping and the existing built form will reduce the visual impact of the new building and provide a complimentary setting.

5.10.2 Why is the new development required to be adjacent to a heritage item?

- To retain the integrity of the listed heritage item, the proposed redevelopment of the Muswellbrook Aquatic & Fitness Centre is located well away from the nominated heritage item.
- The existing building arrangement is proposed to be redeveloped to provide better use of the facility providing a modern contemporary facility that will enhance and update the physical condition and appearance of the asset and ensure its continued service to the community.

5.10.3 How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?

- The siting of the proposed works is well outside the physical and visual curtilage of the nominated Heritage item.
- The redevelopment of the Muswellbrook Aquatic & Fitness Centre addition will have no impact upon the nominated Heritage item.

5.10.4 How does the new development affect views to, and from, the heritage item?

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- No significant views will be impacted by the proposed redevelopment of the Aquatic Centre.

5.10.5 *Are the additions sited on any known or potentially significant archaeological deposits?*

- No archaeological investigation has been carried out. Presently there are no known significant archaeological deposits in the area of the proposed re-development.

5.10.6 *Are the additions sympathetic to the heritage sites?*

- The design of the proposed works is sympathetic to the existing Gate structure and will have minimal impact upon the adjoining heritage items.

5.10.7 *Will the additions tend to visually dominate the heritage item?*

- The Muswellbrook Aquatic & Fitness Centre is located some 200 metres away from the nominated heritage item, which will limit the impact it will have upon the heritage item.
- As the proposed works abutt existing structures, it is considered that these elements will limit any visual dominance to the heritage item.

5.10.8 *Will the public and users of the items still be able to view and appreciate its significance?*

- The redevelopment of the Muswellbrook Aquatic & Fitness Centre will not limit public access to the adjoining nominated heritage item.

As such it is considered that the proposed upgrade and refurbishment works to the existing Aquatic facility will have no impact upon the adjacent listed local heritage item.

Part 7 – Additional local provisions

Clause 7.6 Earthworks

The objective of this clause is:

- "(a) 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,
(b) to allow earthworks of a minor nature without requiring separate development consent.."*

The addition to the existing Centre is to be excavated with the approval of Council. This excavation will be encapsulated within a concrete structure – leaving no opportunities for erosion in the future. All levels will be brought back to match the existing indoor pool hall finished floor level.

As such it is considered that the proposed earthworks will not have a detrimental impact upon the subject site.

No other provisions as nominated within the LEP apply to this application.

4.4 Muswellbrook Development Control Plan 2009

The proposed redevelopment of the Muswellbrook Aquatic & Fitness Centre is considered to be greatly needed but also compatible with the surrounding environment whilst responding sympathetically to the existing form, massing, setbacks, scale of existing development. The proposed alterations and addition are considered to be of high quality which will not only improve the amenity of the Centre but encourage year round usability whilst expanding the sites attractiveness to the environment of the recreational/community precinct as a whole.

Relevant clauses from the Muswellbrook DCP 2009 that apply to the subject site/proposal include the following:

SECTION 16 – CAR PARKING AND ACCESS

Aims & Objectives

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- a) to provide a guide for developers of Council's minimum requirements for off street vehicular parking.
- b) to ensure that adequate off-street vehicular parking is provided for traffic generating developments.
- c) to ensure adequate car parking facilities are provided in association with developments;
- d) to ensure each development proposal is assessed consistently and equitably in relation to the provision of off-street vehicular parking;
- e) to ensure vehicular parking areas are designed in such a manner as to be functional, aesthetically pleasing in terms of landscaping, and safe for motorists and pedestrians; and
- f) to ensure all vehicles entering or leaving properties are driven in a forward direction.

Clause 16.3 Non Residential Development

Objectives

- a) To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network.
- b) To ensure a consistent and equitable basis for the assessment of parking provisions.
- c) To ensure the design of parking areas, loading bays and access driveways which function efficiently.
- d) To ensure that parking areas are visually attractive and constructed, designed and situated so as to encourage their safe use.
- e) To ensure that all traffic generating developments are generally in accordance with those sections of the Traffic Authority of NSW Policies and Guidelines, for traffic generating developments as adopted by this Code.

Development controls

- I. Car parking is provided on site in accordance with the requirements of 16.6 of this section of the DCP.
- II. On site parking facilities are designed and constructed to comply with the provisions of AS2890.1/AS2890.2.
- III. To ensure that traffic movements into and out of a site are made, whenever possible, in a forward direction. If a site layout does not permit forward movement for delivery vehicles, then the developer, owner or occupier must provide a risk management plan, to the satisfaction of Council, detailing the measures required to ensure that traffic movements are carried out in an adequate and safe manner.

It is noted that the adequate provision of off street parking is important to the economic viability of local facilities and that adequate on-site parking can also have significant benefits to the local community by ensuring an appropriate level of access is provided.

The existing formalised car park is accessed from Wilkinson Avenue and provides a total of sixty five (65) off- street spaces.



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It is identified that all new development shall provide off-street parking in accordance with the parking requirement table 16.6 of the respective developments in this Part.

Council's DCP identifies the provision of the following:

Land Use	Parking Requirements
Recreational Facility (outdoor)	To be assessed on a site by site based on the traffic generating capacity and design of the proposed area. Submit parking study to substantiate proposed car parking provisions.
Recreational facilities (indoor)	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,

The proposed upgrade and refurbishment works including the addition of the new program pool in essence replaces existing pool infrastructure in order to create a more versatile facility and one that can be used year round.

In accordance with the numeric requirements to the existing centre the following off street parking provision as identified would be required:

	Floor area	Required Carparking	Provided off street parking
Existing Indoor Pool Hall	880.1sqm	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,	Existing = 63 spaces
Existing Gym/Amenities/Entertainment Area	412sqm		
Existing wade pool/splash pad area	584.17sqm		
Existing Total	1876.27sqm	Total Required: 75 + 6 = 81 spaces	Total Existing 65 spaces
Existing New Entrance	1292.1sqm	1 space per 25 m ² of gross floor area, PLUS 1 space per 2 employees,	
New Indoor Pool extension (replacing wade pool/splash)	198sqm		
New Spa/Sauna	609sqm		
	58.2sqm		
Total	2157.3sqm	Total Required: 86	Total existing 65 spaces

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		+ 6 = 92 spaces	
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The existing off street carpark provides sixty-five (65) spaces including three (3) dedicated disabled spaces. The existing parking area falls short in meeting Council's current car parking provisions by sixteen (16) off-street spaces. The provision for the upgraded facility numerically would require 92 off-street spaces, a shortfall of twenty-seven (27) spaces. As the proposal seeks the upgrade and refurbishment of the existing facility the existing parking arrangements for the aquatic facility are to remain the same. No change is proposed.

It is noted that the adequate provision of off street parking is important to the economic viability of local business and adequate on site parking can also have significant benefits to the local community by maintaining existing levels of service and safety on road networks.

The objectives of the DCP relevant to this proposal are noted as follows:

"To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network"

The intent of the Clause is to provide convenient and adequate parking for employees, clients, visitors and servicing groups that meets the needs of the development and to ensure the provision of parking areas in terms of safety, amenity and integration with surrounding areas.

The existing carpark is located off Wilkinson Avenue and is one of a number of off street parking areas provided for the various recreation facilities within the Precinct. Furthermore, Wilkinson Avenue has the capability of providing in excess of fifty (50) on-street parking spaces.

As such, it is considered that the aquatic facility supports Council's balanced approach to nominated parking provisions, as it ensures that the amenity of neighbouring properties and adjoining recreational community precinct is maintained at all times whilst the streetscape and existing road network will be able to adequately cater for the traffic generated by the proposed alterations and addition to the existing facility.

It is therefore concluded that the overall potential traffic and transport impacts of the proposal, as a result of the new works would be minimal and would be able to operate within the capability of the existing road network and existing site conditions without impacting on current efficiency and safety.

As such it is considered that:

- the existing parking provision is appropriate;
- is in keeping with Council's policies;
- access arrangements for maintenance and emergency vehicles are appropriate;
- the surrounding road network will be able to cater for the traffic generated by the proposed development now and in the future.

Furthermore, during construction, the proposed redevelopment is not expected to have any measurable negative impact on the road network surrounding the site or on the local community. However, a number of traffic management measures are proposed in order to ensure traffic safety standards are maintained. Mainly:

- Signposting clearly displayed throughout and adjacent to the site;
- 40km/h speed limit is recommended around the curtilage of the site;
- Signs shall be installed along Church Street prior to the main site access to warn traffic of possible heavy vehicle movements entering and exiting the site.
- A Traffic Management Plan will be formed by the Project Management Team prior to construction commencing – when all major building components are known.
- The proposal is considered to be consistent with the objectives and the requirements of the DCP.

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SECTION 20 – EROSION & SEDIMENT CONTROL

The Objectives of this Section of the DCP are noted as follows:

- a) *"To apply appropriate erosion and sedimentation controls on individual development sites;*
- b) *To demonstrate through the preparation of an Erosion and Sediment Control Plan or Strategy for developments over 250sqm of disturbance that appropriate controls are planned to be installed;*
- c) *To identify all aspects of site disturbance, erosion and sediment control and address with appropriate control measures;*
- d) *To stage works as required to reduce potential for erosion and sedimentation to occur;*
- e) *To remove existing vegetation only as required;*
- f) *To address site rehabilitation for the duration of the project;*
- g) *To provide a mechanism for any remaining exposed soil to be treated and for ongoing site maintenance;*
- h) *To cover the contingency of change or delay in the project implementation, activity or work scope. "*

Sedimentation control during construction of the building works will comply with Council's requirements and will be approved by Council's Officers after on site up front assessment of the issues.

Standard soil and water management controls will be implemented onsite as part of the construction stage, these are to include:

- sediment fences down slope of all disturbed or bare soil areas;
- minimise the disturbance of soil;
- diversion of onsite run-on water by the construction of diversionary bunds;
- and stabilisation of disturbed soil as soon as practical after construction.

Dust during construction is proposed to be managed through the following measures:

- regularly wetting down all exposed surfaces;
- cease construction activities if weather conditions are adverse.

As such it is considered that the proposed works will not have a detrimental impact upon the subject site and are in accordance with Council's requirements.

SECTION 24 – WASTE MINIMISATION & MANAGEMENT

The Objectives of this Section of the DCP are noted as follows:

- *To minimise resource requirements and construction waste through reuse and recycling and the efficient selection and use of resources.*
- *To encourage building designs, construction and demolition techniques in general which minimise waste generation.*
- *To maximise reuse and recycling of household waste and industrial/commercial waste.*
- *To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.*
- *To provide guidance in regards to space, storage, amenity and management of waste management facilities.*
- *To ensure waste management systems are compatible with collection services.*
- *To minimise risks associated with waste management at all stages of development.*

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The storage of waste will be managed in accordance with Council's Waste Minimisation and Management Guidelines. Waste will be collected under the existing regime – as it is not expected that any meaningful increase in waste will occur.

Waste will be managed in accordance with the following objectives:

- Maximise recovery of resources from waste;
- Minimise greenhouse gas emissions from waste disposal, collection and processing;
- Maximise gas capture from disposal of waste at landfill sites.

SECTION 25 – STORMWATER

The Aims of this Section of the DCP are noted as follows:

- *Ensure stormwater is controlled in a way that minimises nuisances and damage to the adjoining properties*
- *Manage natural drainage lines and water bodies to sustainably protect the health of the receiving waterway.*
- *Mitigate pollutants from entering waterways.*
- *Ensure appropriate easements are provided over existing drainage systems on private property.*
- *Assist in the efficient use of water.*

The proposed works will not impact on Muscle River. It is also therefore assumed the proposal will have no impact on the quality of water to be discharged from the site as a whole. The proposal involves works to the existing community aquatic facility the proposed new indoor pool hall structure being located within the existing site, replacing the existing splash pad and wade pool will therefore not increase the impact of storm water run off.

The Engineering drawings detail how stormwater run-off will be managed within and external to the site. The addition of rainwater harvesting and re-use will improve the run off impact on the current stormwater systems of the complex.

Given these measures, no significant impacts on storm water are anticipated.

A Water Savings Solutions Plan has also been incorporated and sets out technical measures to be implemented in the construction and use of the development in order to reduce consumption of potable water. These measures relate to tap water, toilet flushing and irrigation and include specifications of water efficient fixtures and fittings, methods of rainwater harvesting and landscaping.

Due care has been taken in the design of this proposal to ensure minimal adverse impact will occur upon the existing site. The proposal is in accordance with Council's requirements.

The proposal is in accordance with Council's nominated requirements.

4.5 Development Constraints

ADVISORY (Based on S149 advice)	YES/NO	COMMENT
Is the land identified as being possibly contaminated?	No	No issue
Is the land identified as being Flood Prone?	No	No issue
Is the land identified as being Bush Fire Prone?	No	No Issue
Is a Traffic Impact Assessment Required?	No	No Issue

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Are there Flora and Fauna, Threatened Species or Native Vegetation Issues?	No	None identified
Are there Aboriginal Significance Issues?	No	Not to Council's knowledge
Are there Heritage Issues?	No	No issue
Is the land identified as being potentially affected by Salinity?	No	No issue
Is the land identified as being potentially affected by Acid Sulphate Soils?	No	No issue
Is the land identified as being potentially affected by Mine Subsidence?	No	Not within declared Mine Subsidence District

4.6 Building Requirements

The design of the proposed alterations, addition and refurbishment works satisfy the requirements of the BCA for structural adequacy, health, amenity and fire safety.

4.7 Amenity

The proposal is considered to be a positive contribution to the Muswellbrook recreational locale and more importantly the existing Centre. It is considered to be an ancillary component being of benefit not only to the locality but the existing region as a whole. It is considered that the proposal will have minimal adverse impact upon the surrounding environment as it only relates to the subject site.

4.8 Visual Impact

The proposed development will not negatively impact upon the visual amenity and character of the surrounding area in that:

- the design of the proposal is unique to the site and addresses public entry and building scale at the main entrance;
- it is situated within the recreational/community precinct;
- it is surrounded by other recreational/community uses and therefore will not give rise to any adverse impacts in the surrounding locality;
- the design constitutes a single storey addition of high quality finishes and generally low scale proportions set within an recreational landscape;
- it is sufficiently separated from adjoining residential properties.

4.9 Impact on Natural Environment

The proposed works are not considered to have any significant impacts on the natural environment. The proposal uses functional and environmentally attractive materials that are consistent with the streetscape and environmental quality of the area.

4.10 Impact on Built Environment

The proposal is considered to be a positive contribution to the locality. The scale and character of the proposal is not out of context and complies with Council's requirements and objectives.

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The Muswellbrook Aquatic & Fitness Centre is not a nominated Local Heritage Item. The sympathetic design ensures that the proposal fits into the existing streetscape and is consistent with development contemplated by the zoning and controls.

The design and scale of the proposed works are an appropriate response to the existing site constraints.

The proposed works are sympathetic and will ensure its continued service to the community.

4.11 Social Impacts

The social benefits that grow from these facilities are numerous and actually provide economic benefits to the community as a whole. Healthier youngsters, families and elderly people will inevitably contribute to an improved social landscape within the community. The potential for a greater social interaction at the Centre complex is substantially increased with the greater range of recreational/community opportunities. Interaction between the differing age groups that will be attracted by the range of facilities will have a positive impact on the age divide.

The enhanced development will have a contemporary modern range of facilities, this modernisation will put new vigor into the existing aquatic facility. The proposed re-development of the Centre will improve the amenity of the recreational precinct and use of the facility for the community as a whole. It is considered to be of benefit not only to the immediate locality but the Muswellbrook locale as a whole.

No adverse social impacts are expected from the proposed works. It is noted that the type of experience these facilities offer have positive implications for community welfare, well-being and health and can result in reduced social problems. The proposed addition and upgrade to the existing Centre will provide a more modern updated and useable design. It is considered to be of benefit not only to the immediate locality as it will provide a year round commercial/cultural facility.

The proposal is consistent with the Council's provisions and the proposed works are generally in accordance with Council's controls.

4.12 Economic Impacts

The economic impact will be a net gain in terms of attracting greater use of the site with a wider benefit of capital being injected into the local economy. The positive impacts of redevelopment and modernisation for this vital facility are clear. The Council would not have undertaken this upgrade if positive outcomes were not envisaged.

Furthermore, the proposal will have positive impacts in terms of employment associated with the construction of the development. Beyond this, there will also be positive impacts in terms of making better use of existing infrastructure and services within the locality on a year round basis.

5.0 ENVIRONMENTAL EFFECTS

5.1 Section 4.15 Matters for Consideration

Under the provisions of Section 4.15 of the EP&A Act 1979 (as amended) 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.

The provisions of:

- Any environmental planning instrument, and
- Any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
- Any development control plan, and
- Any matters prescribed by the regulations,

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- that apply to the land to which the development application relates.

The relevant Planning Instrument is Muswellbrook Local Environmental Plan 2009. This proposal is in accordance with all relevant aims and objectives of this plan in particular:

- "(a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving:*
- (i) productive agricultural land, and*
 - (ii) timber, minerals, soils, water and other natural resources, and*
 - (iii) areas of significance for nature conservation, and*
 - (iv) areas of high scenic or recreational value, and*
 - (v) places and buildings of archaeological or heritage significance,*
- (b) to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts...."*

5.2 The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts on the locality.

SECTION 79C(1) - LIKELY IMPACTS OF THAT DEVELOPMENT	RESPONSE
Context and Setting	<p>Relationship to local context:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposal comprises alterations & addition to the existing aquatic facility, the impact on scenic qualities and landscape features will be nil; <input type="checkbox"/> The proposal is proportional, contextual and appropriate in terms of scale, form, character and design in the local area. <p>Potential impacts on adjacent properties:</p> <ul style="list-style-type: none"> <input type="checkbox"/> There will be no adverse shadow impacts; <input type="checkbox"/> There will be no adverse impacts on visual and acoustic privacy; <input type="checkbox"/> There will be no adverse impacts on views and vistas of adjacent properties.
Access, Transport & Traffic	<ul style="list-style-type: none"> <input type="checkbox"/> There will be no impact on travel demands; <input type="checkbox"/> Public transport availability remains unchanged within the local area.
Public Domain	<p>The proposal:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Will not impact on public recreational opportunities; <input type="checkbox"/> No impact on amount, location, design, use and management of public space around the site; <input type="checkbox"/> No impact on pedestrian linkages.
Utilities	Proposal does not generate additional demand for utilities.
Heritage	Not applicable
Other Land Resources	Not applicable
Water	It is envisaged that there will be no increase in run-off. No increase in water needs for the development.
Soils	Not applicable
Air & Microclimate	Not applicable
Flora & Fauna	Not applicable
Waste	Not applicable.
Energy	Conserve energy and energy efficiency:
Noise & Vibration	The proposal will not generate any additional noise from that currently experienced in the local area.
Natural Hazards	Proposal will not cause any risks in the natural environment.
Technological Hazards	Not applicable
Safety, Security & Crime Prevention	Not applicable
Social Impact in Locality	The proposal is a positive contribution for the local community.
Economic Impact in Locality	<p>Economic costs and benefits:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employment generation for local area; <input type="checkbox"/> Positive impact on surrounding businesses; <input type="checkbox"/> Positive contribution for the local community; <input type="checkbox"/> The proposal will provide economic growth for the local area.
Site Design and Internal Design	Development design sensitivity to environmental conditions and site attributes. The proposal has been designed to comply with BCA and associated codes.

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Construction	Not applicable
Cumulative Impact	No cumulative impacts are envisaged as a result of the development.

5.3 The suitability of the site for the development

As described in Section 4.15, the subject site is considered suitable for the proposed works to be carried out. The proposal makes suitable and efficient use of the subject site. The proposal will not result in any adverse amenity impacts for neighbouring/surrounding properties, which confirms the suitability of the site.

In particular, in Section 4.15 under context and setting, the site is appropriate and acceptable for the proposed works and the landscape and scenic quality of the locality will not be impacted upon by the proposal.

5.4 Any submissions made in accordance with this Act or regulations

We welcome the opportunity to respond to any submissions received by Council as a result of any public notification or exhibition.

5.5 The public interest

As the proposal is for the redevelopment of the existing Aquatic & Fitness Centre, it is considered to be a positive contribution to the local area. Amenity impacts are negligible and the proposal is considered to result in a positive contribution to the built environment. The proposal has acceptable design and amenity impacts and therefore does not negatively impact on the public interest.

6.0 CONCLUSION

The proposal is considered to be of an appropriate form and will maintain the character of the existing recreational precinct, while being compatible with the scale and character of the surrounding environs.

The proposed development is satisfactory when assessed under the matters of consideration of Section 4.15 of the Environmental Planning and Assessment Act, as amended. No adverse environmental impacts have been identified.

The beneficial effects of the proposal include:

- Complies fully with the objectives and standards of the relevant Muswellbrook LEP 2009.
- The new addition to the Centre and external elements will provide a much more functional and useable facility.
- The present complex is vital to the existing recreational precinct.
- Will provide Muswellbrook with an upgraded recreational/community facility – providing for an improved social outcome.
- Does not impede on any adjoining properties in terms of overshadowing, acoustic or visual aspects and, due to its positioning and scale, and the fact that it is upgrading an existing facility, provides a low level of impact on the existing local amenity.
- A positive contribution to the locality;
- An appropriate development of the land.

The proposal has been developed with a view to upgrading the site and producing a form of development that is consistent with Council's nominated objectives and design principles.

AQUATIC



SPORTS



LEISURE



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PROJECT MANAGEMENT

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The proposal will produce an attractive and notable contribution to the site and locality in general with improved environmental impact upon the surrounding environment due to its compliance with BCA Guidelines.

The proposed addition has been designed to minimise any adverse or unreasonable amenity impacts on surrounding properties in terms of visual, acoustic privacy, overshadowing and view loss. The works will allow for a more contemporary functional facility that better utilises the site and its features. The new addition to the existing aquatic centre represents a vast improvement in terms of aesthetics and internal layout and use of the facility as a whole.

The proposal is consistent with the character of the area and will have no negative environmental or urban design impacts. It is consistent with the objectives of the Environmental Planning and Assessment Act which includes:

"The proper management.... And conservation of man made resources for the purpose of promoting the economic welfare of the community and a better environment via promotion... of the orderly and economic use and development of the land."

The proposed alterations, addition and redevelopment of the existing Centre will address the site and its context, retains existing form of the area and will generally upgrade the image of the recreational/community precinct.

Approval of the proposed development is therefore recommended.

AQUATIC



SPORTS



LEISURE



CIVIC



PROJECT MANAGEMENT

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6.3 MUSWELLBROOK BYPASS ADVISORY COMMITTEE

Attachments:	Nil
Responsible Officer:	Aleksandar Mitreski - Policy Officer
Author:	Joshua Brown - Manager - Integrated Planning & Governance
Community Plan Issue:	<i>Support Job Growth</i>
Community Plan Goal:	<i>Facilitate the expansion of and establishment of new industries and business.</i>
Community Plan Strategy:	<i>Provide advice in relation to strategic land use planning and development control and assessment to support the work of the Economic Development and Innovation function.</i>

PURPOSE

To consider the establishment of a Muswellbrook Bypass Advisory Committee of the Council.

OFFICER'S RECOMMENDATION

1. Council establish a Muswellbrook Bypass Advisory Committee with the function of facilitating community feedback on the design of a Muswellbrook Bypass and building upon the opportunities created by the Bypass.
2. For the purposes of such Committee:
 - (i) the Committee be constituted by:
 - a. The President, for the time being, of the Muswellbrook Business Chamber (as Chair);
 - b. An impacted business which is not a member of the Muswellbrook Business Chamber (by expression of interest);
 - c. The Mayor;
 - d. Deputy Mayor;
 - e. The General Manager (or representative);
 - f. the Director of Infrastructure (or representative);
 - g. The State Member or his or her representative;
 - h. The Federal Member or his or her representative;
 - i. A representative of the RMS;
 - j. A representative of each of the Area Commander of the NSW Police.
 - (ii) the Committee meet at such times and at such places as it may determined; and
 - (iii) the Committee may invite such persons to participate in its processes as it may determine most efficiently and effectively allows it to discharge its function.

Moved: _____ Seconded: _____

BACKGROUND

The NSW Government has committed to the construction of a Muswellbrook bypass of the New England Highway. It allocated \$4M in its 2019/20 budget for further planning, with an addition \$7M earmarked for further planning over the three forward estimates. This report recommends the establishment of a Council advisory committee as a key consultative initiative for the project.

CONSULTATION

Director Community Infrastructure

Muswellbrook Chamber of Commerce

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Mayor

REPORT

As Roads and Maritime Services (RMS) moves towards the design of the Muswellbrook bypass of the New England Highway, it is critical that the community's input be considered on its needs and expectations. It is understood that in past major road construction projects this has been a weakness in the consultation processes of the RMS. The establishment of the Committee as recommended will also provide a forum in which opportunities arising from the Muswellbrook bypass can be explored.

OPTIONS

Councillors may determine to establish the Committee and its terms of reference as recommended, establish the Committee with different terms of reference and membership, or not establish such a Committee.

CONCLUSION

It is recommended that the Advisory Committee be established in the terms proposed.

SOCIAL IMPLICATIONS

The Advisory Committee will enhance the consultation processes for the community and the Roads and Maritime Services, who are responsible for the project.

FINANCIAL IMPLICATIONS

No known financial implications.

POLICY IMPLICATIONS

There are no known policy implications.

STATUTORY IMPLICATIONS

The establishment of such a committee is consistent with the *Local Government Act 1993*.

LEGAL IMPLICATIONS

There are no known legal implications.

OPERATIONAL PLAN IMPLICATIONS

There are no known Operational Plan implications.

RISK MANAGEMENT IMPLICATIONS

There are no known Risk Management implications.

6.4 LIDDELL CLOSURE ADVISORY COMMITTEE

Attachments:	Nil
Responsible Officer:	Aleksandar Mitreski - Policy Officer
Author:	Joshua Brown - Manager - Integrated Planning & Governance
Community Plan Issue:	<i>Support Job Growth</i>
Community Plan Goal:	<i>Facilitate the expansion of and establishment of new industries and business.</i>
Community Plan Strategy:	<i>Provide advice in relation to strategic land use planning and development control and assessment to support the work of the Economic Development and Innovation function.</i>

PURPOSE

To consider the establishment of a Liddell Closure Advisory Committee of the Council.

OFFICER'S RECOMMENDATION

1. Council establish a Liddell Closure Advisory Committee with the function of providing advice to Council on how it should assist in the orderly closure of the Liddell Power Station.
2. For the purposes of such Committee:
 - (i) the Committee be constituted by:
 - a. The Council Spokesperson for Innovation and Industry (as Chair);
 - b. The General Manager (or representative);
 - c. A representative of each of the CFMMEU, ETU and PSA;
 - d. Two representatives from AGL Energy;
 - e. A representative of Muswellbrook Chamber of Commerce;
 - f. A representative of Singleton Council;
 - g. A representative of the Australian Transitions Academy; and
 - h. The Hunter Region Employment Facilitator, Department of Employment, Skills, Small and Family Business;
 - (ii) the Committee meet at such times and at such places as it may determined; and
 - (iii) the Committee may invite such persons to participate in its processes as it may determine most efficiently and effectively allows it to discharge its function.

Moved: _____ Seconded: _____

BACKGROUND

AGL announced the planned closure of its Liddell Power Station. The NSW Government has committed to the construction of a Muswellbrook bypass of the New England Highway. It allocated \$4M in its 2019/20 budget for further planning, with an additional \$7M earmarked for further planning over the three forward estimates. This report recommends the establishment of a Council advisory committee as a key consultative initiative for the project.

CONSULTATION

General Manager

CONSULTATION WITH COUNCILLOR SPOKESPERSON

The Councillor Spokesperson for Innovation and Industry has asked the General Manager to consider establishing the committee as part of his consultation obligations as the Councillor Spokesperson.

REPORT

As AGL Energy prepares for the closure of its Liddell Power Station, it is recommended that the Liddell Closure Advisory Committee be established to provide recommendations as to what initiatives Council might deploy in order to ensure a just transition for workers and for the wider community.

OPTIONS

Councillors may determine to establish the Committee and its terms of reference as recommended, establish the Committee with different terms of reference and membership, or not establish such a Committee.

CONCLUSION

It is recommended that the Advisory Committee be established in the terms proposed.

SOCIAL IMPLICATIONS

The Advisory Committee will enhance the consultation processes for the community.

FINANCIAL IMPLICATIONS

No known financial implications.

POLICY IMPLICATIONS

There are no known policy implications.

STATUTORY IMPLICATIONS

The establishment of such a committee is consistent with the *Local Government Act* 1993.

LEGAL IMPLICATIONS

There are no known legal implications.

OPERATIONAL PLAN IMPLICATIONS

There are no known Operational Plan implications.

RISK MANAGEMENT IMPLICATIONS

There are no known Risk Management implications.

7 CORPORATE AND COMMUNITY SERVICES

7.1 EXHIBITION OF DRAFT MUSWELLBROOK COMMUNITY PARTICIPATION PLAN

Attachments:	A. Draft Muswellbrook Community Participation Plan B. Frequently asked questions about community participation plans
Responsible Officer:	Fiona Plesman - General Manager
Author:	Sharon Pope - Assistant Director - Environment & Community Services
Community Plan Issue:	<i>Genuine and well informed community participation in decision making</i>
Community Plan Goal:	<i>Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community.</i>
Community Plan Strategy:	<i>Undertake a comprehensive community consultation program as per the Community Engagement Strategy.</i>

PURPOSE

To seek Council endorsement to place the Draft Muswellbrook Community Participation Plan on exhibition for 28 Days. The draft Plan outlines how and when Muswellbrook Shire Council will engage with the community for matters under the Local Government Act 2003, planning functions under the Environmental Planning and Assessment Act 1979, and various other matters that require input from the community. A final Plan is required to be endorsed by Council by 1 December 2019.

OFFICER'S RECOMMENDATION

Council

- 1. Places the Draft Community Participation Plan (Attachment A) on exhibition for a period of 28 days; and**
- 2. Receives a report back following the public exhibition period, unless no public submissions are received, in which case the Plan is to be finalised and adopted as exhibited.**

Moved: _____ **Seconded:** _____

BACKGROUND

Under the recent NSW planning reforms and amended planning legislation, Council is required to prepare a Community Participation Plan (CPP) by 1 December 2019. The Draft CPP must be placed on public exhibition for a period of 28 days prior to its adoption.

The Draft CPP details how and when Council will engage with the community across the planning functions it performs under the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*. Planning functions include preparing and amending local strategic planning statements, local environmental plans, development control plans, development contribution plans, and making decisions on development applications. Council has the option of incorporating other notification performed under the local Government Act and other legislation as well, and this is the option that has been taken by staff in preparing the draft CPP.

The Draft CPP sets out minimum public exhibition timeframes for planning projects, plans and applications. Some of the minimum exhibition timeframes are set by the *Environmental Planning and Assessment Regulation 2000*. Others have been guided by Council's current *Community Engagement Strategy 2016* and the *Notification* section of *Muswellbrook DCP 2009*. It is proposed to limit the number of applications that are advertised in a local newspaper, with written letters to adjoining landowners being more effective for small proposals such as carports and sheds.

CONSULTATION

An internal staff workshop was held on 8 August 2019 to discuss the requirements for councils to prepare a CPP and seek feedback on what should be included.

The Draft CPP is required to be placed on public exhibition for a minimum of 28 days. Public exhibition will notices in the local newspaper and on Council's website.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

There has been no consultation with Councillors.

REPORT

CPPs are a new requirement under the *EP&A Act 1979*. This requirement came into effect on 1 July 2018, and are intended to make it easier for the community to understand how they may participate in planning matters and be informed on how planning decisions have been made. The Dept of Planning, Industry and Environment have prepared a FAQs sheet to guide preparation of CPPs. This can be viewed at Attachment B.

OPTIONS

Option 1

Council resolves to exhibit the draft CPP. This is the recommended option as it is in line with legislation.

Option 2

Council resolves not to place the Draft CPP on public exhibition. Due to the legislation timeframes for completion of the Plan, this is not the recommended option.

CONCLUSION

Preparation of a draft CPP has allowed staff to bring information about community participation in council matters into a single document. All Councils are required to have a CPP in place by 1 December 2019, and the draft CPP must be exhibited for a minimum of 28 days before it is adopted. It is proposed that Council places the draft CPP in Attachment A on exhibition.

SOCIAL IMPLICATIONS

There are currently many ways, and many issues, that Council engages the community on. In some cases it is simply to inform, and at times it is to seek feedback. The draft CPP sets this information out in a single document, and identifies that the community can commence the dialogue with council as well.

FINANCIAL IMPLICATIONS

Engagement on the draft CPP will occur within current allocated work programs and budget. The proposal will see fewer applications advertised in the local newspapers. The fees payable for development applications may reduce slightly where advertisements in the paper are no longer required.

POLICY IMPLICATIONS

Section 4 of the Muswellbrook DCP 2009 currently sets out Council's requirements for notification of development proposals. This section will no longer be required upon adoption of the CPP. The legislation states that once a CPP is adopted it overrides the DCP provisions.

STATUTORY IMPLICATIONS

All final CPPs will be published on the NSW Planning Portal and will be considered valid if the CPP has not been challenged in proceedings commenced in the Land and Environment Court within three months of it being published on the NSW Planning Portal.

LEGAL IMPLICATIONS

All Councils are required to have a CPP in place by 1 December 2019. CPPs must include the minimum exhibition timeframes set in the *EP&A Act* and *Regulations*, but there are instances where councils can increase exhibition timeframes. The CPP can also clarify that exhibition may mean written notification rather than advertisements in the local newspaper.

OPERATIONAL PLAN IMPLICATIONS

The Draft CPP aligns with the following strategic direction: Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community.

RISK MANAGEMENT IMPLICATIONS

The Draft CPP has been prepared in accordance with the *EP&A Act 1979*. Adherence to the relevant legislation reduces risks associated with community participation in plan and decision making.

Muswellbrook Shire Council Community Participation Plan

Table of Contents

Part 1 – Background	3
1.0 Purpose and Objectives	3
1.1 Guiding Principles.....	4
Part 2 - Community Strategic Plan and Resourcing Strategy	5
2.1 Community Engagement Activities	5
2.2 Community Panel	5
2.3 Community Strategic Plan (10 year horizon)	6
2.4 Resourcing Strategy, made up of long term financial plan, workforce management plan and strategic asset management plan (10 year horizon)	6
2.5 Delivery Program (Four year horizon)	7
2.6 Operational Plan (one year horizon)	7
Part 3 – Matters under the Environmental planning and Assessment Act (EP&A Act) 1979...	8
3.1 What Legislation Governs Planning in NSW?.....	8
3.2 What are the exhibition and notification requirements?	8
3.3 Land Use Strategy and Policies	9
3.4 Proposed Development	9
3.5 Proposed modifications of development approvals.....	15
Part 4 – Other Engagement.....	16
Part 5 – Providing feedback on decisions	19
5.1 Public notification of development decisions and reasons for the decisions	19
Part 6 –Community Initiating Contact with Council.....	20
6.1 Feedback	20
6.2 How to lodge a Compliment, Comment, Service Request or Complaint	21
6.3 Confidentiality.....	22
6.4 Unreasonable Customer Conduct.....	22
6.4 Accountability	23
6.5 The Right to Attend Council Meetings.....	25
Part 7 – Other Key Points	26
Part 8 - Definitions.....	27
Part – 9 Accessibility.....	29
9.1 Improving Accessibility in electronic communication	29

9.1 Improving Accessibility in written information.....	29
Appendix A - Planning Tool for Community Participation	31

Muswellbrook Shire Council Community Participation Plan

Part 1 – Background

This draft Community Participation Plan has been prepared in accordance with Sections 2.21(2), 2.23(2), and Schedule 1 of the Environmental Planning & Assessment Act 1979, and is guided by:

- The current Environment Community Engagement Strategy 2016. This draft Community Participation Plan, if adopted, will rescind the current Strategy.
- Section 4 Notifications - Muswellbrook Development Control Plan 2009. The draft Community Participation Plan will replace Section 4 of the Development Control Plan.
- Council's internal engagement practices.
- The Local Government Act 1993.

The Muswellbrook Community Strategic Plan 2017-2027 (CSP) identifies Collaborative Leadership: Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community", as one of its strategic directions.

Council recognises the value to be gained by engaging with the community beyond statutory requirements.

1.0 Purpose and Objectives

Muswellbrook Shire Council recognises our residents, workforce, business owners and visitors as valuable partners in Council decisions.

The purpose of the Community Participation Plan is to involve the community in decision making and maintain a two way flow of communication between Council and the Muswellbrook Shire community.

The objectives are to:

- Increase understanding between Council and the community;
- Ensure that Council services are provided in a way that is consistent with the community's values and priorities;
- Improve the decision making capacity of Council;
- Increase accountability and transparency to the community for Council decisions; and
- Encourage and provide opportunities for the community to participate in the decision making process.

1.1 Guiding Principles

Council recognises and supports the following principles when engaging with the community:

- Create an environment of clear, honest and timely communication when engaging with the community about projects and activities;
- Commit to establishing clear processes and allocating the resources required to help assist with better planning and decision making;
- Processes be inclusive and seek to connect all in the community including those in the community who are hardest to reach;
- Respect the feedback we receive;
- Act in the best interests of the whole community;
- Keep people informed of progress and outcomes.

The scope and method of community participation will depend on the particular project or issue. Minimum communication standards for regular activities of Council are provided in:

Part 2 – Community Strategic Plan and Resourcing Strategy;

Part 3 – Matters under the Environmental Planning and Assessment Act 1979; and

Part 4 – Other Engagement.

At times the scope for participation may be increased due to the complexity of the issue or likely level of community interest. For exceptional or complex activities a detailed communication strategy will be required that involves relevant stakeholders. More detailed information on developing a communication strategy is located in Appendix 1 (Planning Tool for a Community Participation Process).

Part 2 - Community Strategic Plan and Resourcing Strategy

Council's strategic planning documents sit within the Integrated Planning Framework and include:

- The Community Strategic Plan (10 year horizon)
- Resourcing Strategy which is made up of the long term financial plan, workforce management plan and strategic asset management plan (10 year horizon)
- Delivery program (Four year horizon)
- Operational Plan (One year horizon)

Under NSW Integrated Planning & Reporting (IP&R) legislation, a newly elected Council is required to endorse its new 10-year Community Strategic Plan and Resourcing Strategy within six months following a local government election. The Community Strategic Plan is actioned through the Delivery Program.

2.1 Community Engagement Activities

-
- Media releases
- Council newsletter
- Listening Posts
- Community Surveys
- Website feedback forum
- Submissions

Feedback received from individuals and groups from across the Shire will be presented to Council and may be considered by the Muswellbrook Shire Community Panel when in session.

2.2 Community Panel

When appropriate, Council will convene a Community Panel to make recommendations to Council regarding community priorities. A Panel of up to 35 randomly selected, demographically representative participants will be recruited from a database of self-nominated local community members. The invitation list will be informed by Council's Community Satisfaction Surveys, which ask respondents to indicate if they would be willing to participate in ongoing community engagement.

The Panel will be facilitated using a 'deliberative democracy' process, which provides the opportunity for considered discussion by a representative community group that is informed by detailed and accurate information. Discussion and contrary views are encouraged. The participants should be willing to talk and listen, with civility and respect. All views are to be considered sincerely on their merits, and all points of view held by significant portions of the population should receive attention.

The five characteristics of deliberative democracy that will be employed by Council's Community Panel are:

- **Information:** Accurate and relevant data is made available to all participants

- **Substantive balance:** Different positions are compared based on their supporting evidence
- **Diversity:** All major positions relevant to the matter are considered
- **Conscientiousness:** Participants sincerely weigh all arguments
- **Equal consideration:** Views are weighed based on evidence, not on who is advocating a particular view

He Panel's views will be reported to Council, and members of the Panel may also be invited to brief Council on that report.

2.3 Community Strategic Plan (10 year horizon)

Document	Exhibition Timeframe	Requirements
The Community Strategic Plan is an overview document that identifies the community's main priorities and aspirations for the future. It covers a minimum time frame of 10 years and is reviewed every four years at the commencement of each Council term.	28 days	<p>The Community Strategic Plan will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.</p>

2.4 Resourcing Strategy, made up of long term financial plan, workforce management plan and strategic asset management plan (10 year horizon)

Document	Exhibition Timeframe	Requirements
The Resourcing Strategy demonstrates how Council will resource achievement of the Community Strategic Plan and Delivery Program. Council does not have full responsibility for implementing or resourcing all the community aspirations, state agencies, non-government organisations, community groups and individuals also have a role to play in delivering these outcomes. The Resourcing Strategy consists of three components:	28 days	<p>The draft Resourcing Strategy (Long Term Financial Plan, Work Force Management Plan and Asset Management Plan) will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.</p>

<ul style="list-style-type: none"> • Long Term Financial Plan • Workforce Management Plan • Asset Management Plan. 		
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2.5 Delivery Program (Four year horizon)

Document	Exhibition Timeframe	Requirements
The Delivery Program is a four-year plan. It is the point of reference for all activities undertaken by the Council during its term of office, in working towards the realisation of the Community's priorities and aspirations as outlined in the Community Strategic Plan.	28 days	<p>The draft Delivery Program will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.</p>

2.6 Operational Plan (one year horizon)

Document	Exhibition Timeframe	Requirements
The Operational Plan is a sub-plan of the Delivery Program. It directly addresses the strategies outlined in the Delivery Program and identifies actions, programs and activities Council will be undertaking within the current financial year. The Operational Plan also allocates responsibilities for each action or set of actions and it identifies suitable performance measures for determining the effectiveness of the activities undertaken. Adopted before the beginning of each financial year, the annual Operational Plan includes the Statement of Revenue Policy (Annual Budget and Fees & Charges).	28 days	<p>The draft Operational Plan will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.</p> <p>The exhibition will be accompanied by a map showing where the various rates will apply within the local government area.</p> <p>The council will accept and consider any submissions made on the draft Operational Plan before adopting the Operational Plan.</p> <p>The Operational Plan will include a detailed budget for the activities to be undertaken in that year.</p> <p>The council must post a copy of its</p>

		Operational Plan on the council's website within 28 days after the plan is adopted.
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Part 3 – Matters under the Environmental planning and Assessment Act (EP&A Act) 1979

Opportunities to participate in the planning and assessment process will respond to the nature, scale and likely impact of the proposal/development or project being considered or assessed.

A regular and valuable way for communities to participate in the process is by making a submission on a planning policy or development proposal during the formal exhibition stage. Submissions can highlight positive aspects of a plan to be encouraged or raise areas of concern that may require further attention. During public exhibition we make available relevant documents that may include a draft of the policy, plan or proposed development that we are seeking community input on.

3.1 What Legislation Governs Planning in NSW?

Planning in NSW is largely governed by the following pieces of legislation:

- Environmental Planning and Assessment Act 1979 (EP&A Act).
- Environmental Planning and Assessment Regulation 2000.
- Local Government Act 1993 (LG Act).
- The National Parks and Wildlife Act 1974.

3.2 What are the exhibition and notification requirements?

This section outlines the exhibition and notification requirements under the EP&A Act. It supersedes the notification and advertising requirements in Muswellbrook DCP 2009.

The notification timeframes provided in the following tables are minimums; there may be circumstances that require extension of the notification timeframes. Council officers with delegated authority will consider the following matters in deciding to increase notification timeframes or broaden the method of notification:

- Significant public interest demonstrated through the number of submissions or interactions between Council and the community;
- Formal requests for extension with justification for the extension; and
- The scale of the development and scope of potential impact.

3.3 Land Use Strategy and Policies

Document	Timeframe	Requirements
Draft Community Participation Plan	28 Days	<p>Advertisement in a local newspaper, on Council's website, and, if the document relates to a specific site (not the whole Shire), adjoining owners and occupiers will also be notified in writing.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A short summary or explanatory statement of the documents and its intended purpose; • A description or plan showing the locations affected by the document; • The name of the organisation, person or company who initiated the document; • Advice on where the full document and supporting or related documents may be viewed
Draft Local Strategic Planning Statements	28 Days	
Planning Proposals	14 Days – unless otherwise specified in the Gateway Determination	
Draft Development Control Plans (DCP) and Amendments	28 Days	
Draft Contribution Plans and Amendments	28 Days	
Planning Agreement	28 Days	
Planning Policy or Guidelines	28 Days	
Town Centre Master Plans, Parking Strategies, Local Character Statements and the like	28 Days	
Re-exhibition of any matter referred to above	As per the original exhibition period	

3.4 Proposed Development

Document	Timeframe	Requirements
Exempt and Complying Development	No notification	
<p>Type A Local Development</p> <p>This applies to applications for relatively small scale development that is expected to have minimal impact, and Council is the determining authority.</p> <p>Type A development includes:</p> <ul style="list-style-type: none"> • Boundary adjustments and Strata subdivision. • Farm buildings less than 6m in height, less than 250m² in area and more than 10m from a property boundary. • Single storey dwelling-houses setback 900mm or more from 	No notification	

Document	Timeframe	Requirements
<p>side and rear boundaries.</p> <ul style="list-style-type: none"> • Ground-floor alterations or additions to an existing dwelling, where the addition is setback 900mm or more from side and rear boundaries. • Single storey garages, carports or other residential outbuildings that are setback 900mm or more from side and rear boundaries, are 50m² or less in area and 3m or less in height. • Swimming pools and retaining walls more than 1000 mm from side and rear boundaries. 		
<p>Type B Local Development</p> <p>This applies to applications for relatively small scale development that may have minor impact on neighbouring properties, and Council is the determining authority.</p> <p>Type B development includes:</p> <ul style="list-style-type: none"> • Alterations or additions to commercial or industrial buildings or uses within a business or industrial zone (respectively). • Advertising Structures and signs. • Amusement centres; • Painting a heritage item or a building in a heritage conservation area; • Farm buildings more than 6m in height, between 250m² and 500m² in area, or less than 10m from a property boundary. • Changes of use within a business or industrial zone, except if the proposed use involves sex industry-related activities or a premises selling alcohol. • Child care centres; • Funeral homes; • Single storey dwellings closer than 900mm to side to rear 	14 Days	<p>Notification by letter or email to owners of neighbouring properties and to authorities Council considers applicable.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A clear and legible A4 sized plan of the development that depicts its height, external configuration and siting; • A description of the proposed development; • The address of the development; • Name of the applicant; • Name and contact details of the Development Assessment Officer; • Advice on where the plans may be inspected, free of charge, during business hours; • The closing date for submissions; • Reference to political donations form if relevant. <p>As a guide, Council will limit neighbour notification to adjoining properties affected by the proposed development, as well as properties separated by a walkway, driveway or laneway. The Officer with delegated authority may extend the notification distribution or timeframe at their discretion.</p>

Document	Timeframe	Requirements
<p>boundaries.</p> <ul style="list-style-type: none"> • ground-floor alterations or additions to an existing dwelling that are closer than 900mm to side or rear boundaries • Two storey dwelling-houses and second storey alterations and additions. • Single storey garages, carports or other residential outbuildings that are closer than 900mm to a side or rear boundary, larger than 50m² or more than 3m in height. • Swimming pools and retaining walls closer than 1000 mm to a boundary. • Secondary dwellings • Dual occupancies • Subdivisions creating two to five lots. • New development in an Industrial zone that adjoins residential land, or the hours of operation extend outside the hours of 7:00am to 7:00pm; • Any local development not identified as Type A or Type C Development. 		
<p>Type C Local Development</p> <p>This applies to applications for development that may have potential impacts on a broader scale, and Council is the determining authority.</p> <p>Type C development includes (as new development, and alterations and additions):</p> <ul style="list-style-type: none"> • Attached dwellings (3 or more dwellings) • Boarding Houses • The alterations, additions or demolition of a heritage items or a building in a heritage conservation area; • Group Homes; 	<p>14 days</p>	<p>An advertisement in a locally circulating newspaper, notification by letter or email to owners of neighbouring properties, and to authorities Council considers applicable.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A clear and legible A4 sized plan of the development that depicts its height, external configuration and siting; • A description of the proposed development; • The address of the development; • Name of the applicant; • Name and contact details of the Development Assessment Officer; • Advice on where the plans may be inspected, free of charge, during

Document	Timeframe	Requirements
<ul style="list-style-type: none"> • Hostels • Multi dwelling housing (3 or more dwellings) • Residential Flat Building and Shop Top Housing; • Seniors Housing • Hotel or Motel accommodation; • Services Apartments; • Public Entertainment Facilities; • Registered Clubs; • Pubs • Restricted Premises; • Sex services premises • Educational establishments; • Hospitals • Community facilities; • Places of Public Workshop; • Recreational Areas and Major Recreational facilities; • Subdivisions of five or more lots; • Non-residential development in a residential zone; • New development in a business zone; • Tourist or Visitor accommodation; • Hazardous or Offensive Development (SEPP 33); • Any Local Development that might normally be considered Type B development but, in the opinion of the officer with delegation, is likely to have an impact on a broader scale. 		<p>business hours;</p> <ul style="list-style-type: none"> • The closing date for submissions; • Reference to political donations form if relevant. <p>As a guide, neighbour notification will be limited to adjoining properties affected by the proposed development, as well as properties separated by a walkway, driveway or laneway. The Officer with delegated authority may extend the notification distribution or timeframe at their discretion.</p>
Integrated Development	21 Days	<p>An advertisement in a locally circulating newspaper, notification by letter or email to owners of neighbouring properties, and to authorities Council considers applicable.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A clear and legible A4 sized plan of the development that depicts its height, external configuration and siting; • A description or of the proposed development; • The address of the development; • Name of the applicant; • Name and contact details of the Development Assessment Officer; • Advice on where the plans may be

Document	Timeframe	Requirements
		<p>inspected, free of charge, during business hours;</p> <ul style="list-style-type: none"> • The closing date for submissions; • Reference to political donations form if relevant. <p>As a guide, neighbour notification will be limited to adjoining properties affected by the proposed development, as well as properties separated by a walkway, driveway or laneway. The Officer with delegated authority may extend the notification distribution or timeframe at their discretion.</p>
Designated Development	42 Days	<p>An advertisement in a locally circulating newspaper and at a minimum notification by letter or email to owners and occupiers of neighbouring properties, and to authorities Council considers applicable.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A clear and legible A4 sized plan of the development that depicts its height, external configuration and siting; • A description of the proposed development; • The address of the development; • Name of the applicant; • Name and contact details of the Development Assessment Officer; • Advice on where the plans may be inspected, free of charge, during business hours; • The closing date for submissions; • Reference to political donations form if relevant. <p>In addition to neighbours, the Officer with delegated authority will extend the notification distribution to other property owners where the likely to be impacted by the development.</p>
Statement of Environmental Effects 5.1 or Division 5.2	28 days	<p>Notification by letter or email to owners of neighbouring properties and to authorities Council considers applicable.</p> <p>The notification will include:</p> <ul style="list-style-type: none"> • A clear and legible A4 sized plan

Document	Timeframe	Requirements
		<p>of the development that depicts its height, external configuration and siting;</p> <ul style="list-style-type: none">• A description or of the proposed development;• The address of the development;• Name of the applicant;• Name and contact details of the Development Assessment Officer;• Advice on where the plans may be inspected, free of charge, during business hours;• The closing date for submissions;• Reference to political donations form if relevant. <p>As a guide, Council will limit neighbour notification to adjoining properties affected by the proposed development, as well as properties separated by a walkway, driveway or laneway. The Officer with delegated authority may extend the notification distribution or timeframe at their discretion.</p>

3.5 Proposed modifications of development approvals

Document	Timeframe	Requirements
Applications to modify development consent under s 4.55(1) of the EP&A Act	No notification	
Applications to modify development consent under s 4.55(1A) of the EP&A Act	14 days	Notification by letter or email to neighbouring property owners and any person who made a submission to the original application (if Council still has their contact details).
Applications to modify development consent under s 4.55(2) of the EP&A Act	14 days	Notification by advertisement and/or letter or email, in the same manner as the original development application was advertised or notified, and notification by letter or email to any person who made a submission to the original application (if Council still has their contact details).

Part 4 – Other Engagement

Document	Exhibition Timeframe	Requirements
Alcohol Free Zones – existing being extended in time	14 days	The continuation of an Alcohol Free Zone will be publicly exhibited on Council's website and in hardcopy at Council's Administration via paid newspaper advertising and on social media.
Alcohol Free Zones - new	28 days	The proposed Alcohol Free Zone will be publicly exhibited on Council's website and in hardcopy at Council's Administration via paid newspaper advertising and on social media.
Annual Budget (included as part of the annual Operational Plan) Council must have an annual Operational Plan, adopted before the beginning of each financial year, outlining the activities to be undertaken that year, as part of the Delivery Program. The Operational Plan will include the Statement of Revenue Policy.	28 days	The draft Operational Plan will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches. Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.
Annual Financial Statements (included as part of the Annual Report) The council must prepare an annual report within five months of the end of the financial year. The report will outline the council's achievements in implementing its Delivery Program. The report must contain the council's audited financial statements and notes and any information required by the Regulation or the Guidelines.	No notification	A copy of the report must be posted on the council's website and provided to the Minister.
Bin collection and bulk waste collection	No notification	Advice posted on Council website. Council may promote via paid newspaper advertising and/or on social media.
Bushfire Hazard maps	28 days	Newly certified Bushfire Hazard Maps

		<p>will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on Council's website and social media.</p>
<p>Council Policies - external</p> <p>These policies may have a direct impact on the community, and individual or business.</p>	28 days	<p>The draft Policy will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and/or on social media.</p>
<p>Council policies – internal</p> <p>These policies guide how council operates and don't have a direct impact on the community, and individual or business.</p>	No notification	
Emergency service repairs	No notification	Advice posted on Council website and on social media. Media release if expected to take more than 4 hours to repair.
<p>Fees and Charges (included as part of the annual Operational Plan)</p> <p>The council must have an annual Operational Plan, adopted before the beginning of each financial year, outlining the activities to be undertaken that year, as part of the Delivery Program. The Operational Plan will include the Statement of Revenue Policy (which includes proposed Fees & Charges).</p>	28 days	<p>The draft Operational Plan will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council may promote the public exhibition period via paid newspaper advertising and on social media.</p>
Flood Studies	28 Days	<p>Draft Flood Studies and Flood Risk Management Plans will be publicly exhibited on Council's website and in hardcopy at Council's Administration Centre and Library branches.</p> <p>Council will promote the public exhibition period via paid newspaper advertising and on social media.</p>
Mine blast notices	No notification by Council	Advice posted on the Blast Notification Portal on Council website.

The relevant mine/quarry may be required to contact people directly as a condition of consent.		
Planned Service repairs	No notification	Advice posted on Council website and on social media. Media release if expected to take more than 4 hours to repair the service.
Planned road works	7 days	Notification by letter or email to owners and residents of adjoining properties, and to authorities Council considers applicable, seven days before works commence. Advice posted on Council website and on social media. Media release if expected to take more than 2 days to complete works.
Revenue Policy (included as part of the annual Operational Plan). The Revenue Policy determines the rates and charges for the financial year, beginning 1st July each year and the deadline for making the rates each year is 1st August.	28 days	During the period of public exhibition, Council has available at its office a map showing the parts of its area to which each category and sub-category of rates applies. Council publishes on its website a copy of the operational plan within 28 days after the plan is adopted. A rate notice may be served at any time after 1 July in the year for which the rate or charge is made or in a subsequent year.

Part 5 – Providing feedback on decisions

5.1 Public notification of development decisions and reasons for the decisions

- the determination of an application for development consent (other than for designated development) will be available on Council's website and notified in writing to any person who made a submission;
- the determination of an application for development consent for designated development will be advertised, will be available on Council's website and notified in writing to any person who made a submission;
- the determination of an application for the modification of a development consent (being an application that was advertised or notified), will be available on Council's website and will in writing to any person who made a submission;
- The granting of an approval, or the decision to carry out development, by a determining authority, where an environmental impact statement was publicly exhibited under Division 5.1 of the EP&A Act, will be notified in writing to any person who made a submission.

(2) The notification will provide information on:

- (a) The decision, and
- (b) The date of the decision, and
- (c) The reasons for the decision (having regard to any statutory requirements applying to the decision), and
- (d) How community views were taken into account in making the decision.

Part 6 –Community Initiating Contact with Council

Council employs various mechanisms for collecting community feedback, including a community satisfaction survey.

We realise that sometimes a member of the community would like to initiate the process of making a suggestion, requesting that something be fixed, or, despite our best efforts, making a complaint.

Anyone who has contact with Council staff, our facilities, or utilises any of our services is eligible to make a complaint. This may be a visitor, a resident, our stakeholders or any external contractor.

6.1 Feedback

Council encourages feedback and links it to improving its service. Feedback may range from letters and/or cards expressing gratitude or suggestions on improvement, through to comments or suggestions about the services provided by Council and its staff.

Feedback (comments, compliments, complaints and suggestions) may be given directly to a member of staff, or by completing the feedback form on the Council's website.

If you provide your contact details with your comments, compliment, complaint or suggestions we will be able to contact you to clarify something with you, and to provide you with a response.

6.1.1 Service Guarantee

Council understands the importance of receiving community feedback and commits to the following principles:

- we will accept your feedback courteously with a view to improving our service;
- we will handle your feedback in accordance with these guidelines and its documented procedures;
- we will publicise how residents, businesses and members of the community can provide feedback to the Council;
- we will provide a clear review mechanism for complaint handling, including referral to an external body where a complaint cannot be resolved internally;
- we will regularly report publicly on feedback received and the outcomes to ensure confidence in the Council's services;
- wherever possible, complaints will be resolved quickly;
- outcomes of investigations will be used to inform prevention and education programs so that incorrect practices and disputes are reduced in the future;

- Council regards complaints as an opportunity to improve its services and processes and complainants will be helped and supported where applicable.

6.1.2 Compliments

Council will regularly monitor compliments about its services and staff to ensure best practice is celebrated and promoted. All compliments will be logged in the Council's Corporate Record System.

Staff who consistently demonstrate excellent customer service will be recognised through regular performance feedback.

6.1.3 Complaints

A complaint is an expression of dissatisfaction with the council's decisions, policies, procedures, charges, employees, agents or the quality of the services it provides. A complaint may relate to a specific incident or issue involving the Shire or to matters of a more general nature.

Dissatisfaction can be expressed in relation to:

- Failure to achieve specified standards of service
- Delay in responding
- Behaviour or attitude of employees
- A Council decision or policy and/ or
- Withdrawal or reduction of service.

What is not a complaint

- a request for works or services to be provided (this is a service request);
- requests for information or explanations of policy or procedure;
- Reports of damaged or faulty infrastructure (e.g. road pothole etc.);
- reports of hazards (e.g. fallen tree branch);
- reports concerning neighbours or neighbouring property (e.g. noise or unauthorised building works);
- Complaints about the Council's policies or procedures that are required by law to be in place;
the lodgement of an appeal or objection in accordance with a standard procedure or policy *e.g. objection to a development application, comments on a Policy on Exhibition.*

6.2 How to lodge a Compliment, Comment, Service Request or Complaint

We will respond to feedback, including anonymous complaints. It may be necessary for the Council to request that a complaint be provided in writing if it requires an internal or external investigation.

Interpreter services are provided for people from non-English speaking backgrounds and to people with disability where possible.

Feedback can be made:

Write to us at: PO Box 122 Muswellbrook NSW 2333

Phone us on: (02) 6549 3700

Email us at: council@muswellbrook.nsw.gov.au

On our website: www.muswellbrook.nsw.gov.au/feedback

Customers who have a hearing or speech impairment

Muswellbrook Shire Council welcomes calls made through the National Relay Service (NRS). The NRS is a government sponsored initiative that allows people who are deaf or have a hearing or speech impairment to make phone calls in the same way as anyone else. This service is available 24 hours a day, 365 days a year.

National Relay Service (NRS)

Tel: 1800 555 677

Web: www.relayservice.gov.au

- **Voice/Text phone users**
To make a call dial: 133 677 (24 hours 7 days per week).
- **People who have speech/communication impairment only (do not have a hearing impairment)**
Speak and Listen Service (SSR) on 1300 555 727

Translating and Interpreting Services (TIS National)

Council offers a Translating and Interpreting Service (TIS) and can be accessed by calling 13 14 50 (24 hours 7 days per week).

6.3 Confidentiality

All personal and health information collected by Council in connection with a complaint will be handled in accordance with all applicable privacy laws and will only be used for the purpose of investigating the complaint.

6.3.1 Anonymous Complaints

Sometimes, people are more comfortable making an anonymous complaint as confidentiality is guaranteed. Council will do its best to review anonymous complaints. However, it can be very difficult to resolve these issues, or to enforce legislation, without the ability to thoroughly investigate and gather evidence and witness information. If there is sufficient information in the complaint, the complaint will be investigated.

6.4 Unreasonable Customer Conduct

While the majority of customers have legitimate concerns and genuinely seek resolution, a small proportion of customers demonstrate unreasonable concerns and unreasonable behaviour.

When customers behave unreasonably in their dealings with staff, their conduct can significantly affect the Council's performance. Because of this, the Council will take immediate action to manage customer conduct that negatively and unreasonably affects the organisation, and support staff to do the same.

Unreasonable Customer Conduct (UCC) is any behaviour by a customer which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the Council, staff, other service users and customers or the customer himself / herself.

Strategies for managing unreasonable customers

Council may decide to deal with unreasonable customer conduct in one or more of the following ways:

- a) Who they contact** - Where a customer demonstrates unreasonable persistence or demands, it may be appropriate to restrict their access to a single staff member (a sole contact point).

This staff member will exclusively manage their complaint(s) and interactions. This will ensure they are dealt with consistently and will minimise the chances for misunderstandings, contradictions and manipulation.

- b) What they can raise** - Where customers continue to engage in unreasonable conduct about issues that have already been comprehensively considered and/or reviewed (at least once), restrictions may be applied to the issues/subject matter the customer can raise with Council.

- c) When and how they can have contact** - A customer's telephone, written or face-to-face contact with Council may place an unreasonable demand on time or resources because it affects the health, safety and security of staff and it may also be behaviour that is persistently rude, threatening, abusive or aggressive. Council may limit when and/or how the customer can interact with Council in this circumstance.

6.4 Accountability

Council's complaint handling system is open to scrutiny by the community, staff, the NSW Ombudsman and any other reviewing body.

There are periodic audits of the complaints handling system and appropriate action plans formulated to address any deficiencies.

6.4.1 Referral to External Agencies

There are a number of accountability/complaint bodies established by the NSW Government that receive and investigate complaints:

The **Division of Local Government** can investigate pecuniary interest matters, political donations disclosure matters, councillor misbehaviour and protected disclosures relating to serious and substantial waste. The Division also deals with complaints that indicate a serious breakdown in council operations or serious flaws in council processes.

The **NSW Ombudsman** has jurisdiction to investigate complaints alleging maladministration by councils, Councillors and council staff.

The **Independent Commission Against Corruption (ICAC)** has jurisdiction to investigate complaints alleging corrupt conduct by councils, Councillors and council staff.

The **Information and Privacy Commission** can investigate and review council determinations made under NSW Privacy legislation. You can make a complaint to the Information Commission about the way council acts (or fails to act) when exercising its functions under the GIPA Act.

The **NSW Small Business Commissioner** is an independent statutory officer. The role of the Office of the Small Business Commissioner in helping small businesses is laid out in the Small Business Commissioner Act, 2013. The Office offers a service to help small business talk to Councils about their problems, and work towards a solution through negotiation, communication and mediation, rather than litigation.

6.4.2 Statutory Obligations to Refer to External Agencies

Council has a statutory obligation to refer certain matters to external agencies:

Duty to refer corrupt conduct to ICAC - under section 11 of the Independent Commission against Corruption Act 1988, the CEO must report to ICAC a matter where there is a reasonable suspicion that corruption has occurred.

Obligation to refer pecuniary interest matters to the Office of Local Government - the Pecuniary Interest Guidelines, issued by the Office of Local Government in June 2006, make it clear that the CEO has an obligation to refer allegation of breaches of the pecuniary interest provisions of the Local Government Act to the department.

Obligation to refer political donations matters to the Office of Local Government - under section 328B of the Local Government Act 1993, where a CEO reasonably suspects that a councillor has not complied with the provisions of the code of conduct relating to the disclosure of political donations or the manner of dealing with any perceived conflict of interest in relation to political donations, the CEO is to refer the matter to the Director-General of the Division of Local Government.

Obligation to refer allegations of child abuse - under section 25C of the Ombudsman Amendment (Child Protection and Community Services) Act 1998, the CEO is required to

notify the NSW Ombudsman within 30 days of being made aware of a disclosure or allegation of child abuse or a conviction against a current employee.

The Ombudsman advises that child abuse means:

- assault (including sexual assault) of a child;
- ill treatment or neglect of a child; or
- Exposing or subjecting a child to behaviour that psychologically harms the child.

6.4.3 Complaints about Privacy Breaches

Council is a public sector agency for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA). Under that Act, a person may seek an internal review by a council of the following conduct:

- a breach of any information protection principles applying to the council;
- a breach of the Privacy Code of Practice for Local Government;
- disclosure of personal information held on a public register in a manner inconsistent with that permitted under the Privacy Code of Practice for Local Government;
- a breach of a health privacy principle under the Health Records and Information Privacy Act 2002 (HRIPA) that applies to the council;
- A breach of a health privacy code of practice that applies to the council.

Council conduct internal reviews in response to allegations of breaches in accordance with the PPIPA and HRIPA, and with strict adherence to the process/checklist prescribed by the Privacy Commissioner. The Privacy Commissioner will oversight internal reviews conducted.

6.4.4 Competitive Neutrality Complaints

Competitive neutrality seeks to ensure that competition between public and private businesses happens on a fair basis. Competitive neutrality requires that public sector business activities that are in competition with the private sector should not have competitive advantages or disadvantages simply by virtue of their government ownership or control.

Under the principles of national competition policy, all levels of government must establish an effective system to deal with complaints relating to competitive neutrality in respect of their business. Complaints regarding competitive neutrality must be referred to the Director Environment and Community Services.

6.5 The Right to Attend Council Meetings

Members of the public have a right under section 10 of the Local Government Act 1993, to attend Council meetings and Committee meetings (unless the meeting has been closed to the public under section 10A).

The right of members of the public to attend Council and Committee meetings does not confer a right to address the meeting; however, Council allows public participation in certain

meetings and has rules that guide the exercise of this discretion. Further information can be found on the Meetings page of the Council's website.

Part 7 – Other Key Points

7.1 Timeframes are in calendar days and include weekends. Council may resolve to extend the timeframe to accept late submissions.

7.2 If the exhibition period is due to close on a weekend or a public holiday Council may extend the exhibition to finish on the first available work day.

7.3 The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.

7.4 Submissions received from the same person will be considered as a single submission.

7.5 With respect to lots within a Strata Scheme, a written notice to the Owners Corporation is taken to be a written notice to the owner or occupier of each lot within the Strata Scheme.

7.6 If the Owners Corporation of a strata subdivided property consents to the lodgement of a development application relating to that strata subdivided property, the owner or occupier of each lot within the Strata Scheme will not be notified of the application. It is the responsibility of the Owners Corporation to set internal decision making processes to include advising lot owners or occupier of each lot.

7.7 Petitions will be considered as a single submission to an application, irrespective of the number of signatories on a petition.

7.8 Any notification of State Significant projects is completed by the State and not subject to this plan.

7.9 Persons that lodge a submission will receive an acknowledgement letter from Council and be advised when the application is determined.

7.10 Submissions are not confidential and will be placed with documents relating to the application on Council's website. Personal information from submissions will be removed in accordance with the Information and Privacy Commission's (IPC) guidelines. A submitter's name and property address are not defined as personal information.

7.11 During the relevant submission period, any person may inspect the development application and any accompanying information, and any person may make written submissions to the consent authority with respect to the development application.

7.12 Submissions must be lodged with Council by 5pm on the final day of the exhibition period. Consideration of late submissions will be at the discretion of Council.

- write to us at PO Box 122 Muswellbrook NSW 2333
- phone us on (02) 6549 3700
- council@muswellbrook.nsw.gov.au

Part 8 - Definitions

Advertised: Means a notice will be published in a newspaper circulating in the local area

Collaborate – Work with local groups, individuals or organisations on scoping the project or issue at hand (informal or formal meetings, forums, committees, surveys, etc.);

Community member: refers to the people who have a stake and interest in the Canterbury-Bankstown Local Government Area (LGA) and includes people who:

- live, work, study or conduct business in the LGA.
- Visit, use or enjoy the services, facilities and public places located within the LGA.

Community panel: means a group of people /citizens demographically representative selected who meet over a period of time to be briefed and then deliberate on an issue and provides Council with feedback.

Community participant: a community member who is working with Muswellbrook Shire Council in any capacity (e.g. on a Committee). This can refer to once-off or ongoing work.

Consult – Inform, listen and acknowledge issues raised. Provide feedback on how input influences decision

Contribution Plan: a plan developed by Council for the purpose of gaining financial contributions from new development towards the cost of new and upgraded public amenities and/or services required to accommodate the new development.

Council: means the elected Muswellbrook Shire Council

Deliberative Democracy: This involves small(ish) groups of demographically representative citizens who meet several times to deliberate on an issue. Demographic representativeness underpins this process so that the forum represents a microcosm of the wider population.

Development Applications: a formal application for development that requires consent under the EP&A Act 1979. It consists of a standard application form and technical reports and plans.

Development Control Plan (DCP): a plan that provides detailed planning and design guidelines to support the planning controls in a Local Environmental Plan.

Designated development: refers to developments that are potentially high impact development (e.g. may generate pollution or are located near a sensitive environmental area).

Empowerment – Engage local groups, organisations or individuals to take on the responsibility of a Council project or issue.

Engagement or public participation: includes all aspects of identifying problems and opportunities, developing alternatives and making decisions. Council will employ the following forms of engagement for different projects, policies or reports:

- Deliberative Democracy
- Inform
- Consult
- Involve
- Collaborate
- Empowerment

Gateway Determination: is issued by the Department of Planning, Industry and Environment (DPIE) following an assessment if the strategic merit of a proposal to amend or create an LEP and allows for the proposal to proceed to public exhibition.

Inform – Use Council's Newsletter, social media or local newspapers to inform of upcoming project;

Involve – Inform local groups, organisations or interested individuals of the issue or problem (mail out, advertisement, face to face meetings etc.) and ask for their involvement to resolve if further community participation is necessary;

Local Environmental Plan (LEP): is an environmental planning instrument developed by a planning authority, generally a council. A Local Environmental Plan sets out the planning framework for the Council area.

Period of exhibition: The period where Council will accept submissions on a proposal. The notification or advertisement will identify the dates of the exhibition period, and will be noted in any notification or advertisement. The minimum periods of exhibition noted in this document will be increased so that the period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.

Planning agreement: also referred to as a voluntary planning agreement, is an offer by a developer to Council to dedicate land, make monetary contributions, or provide and material public benefit, to be used for or applied toward a public purpose.

Planning Proposal: is a document that explains the intended effect of a proposed change to an LEP, or a new LEP, and sets out the justification for the plan.

Public Exhibition: is a formal exhibition period, when the public can make formal comment for consideration in finalising the proposal or plan.

Notified electronically: A notice will be placed on Council's application tracking site, Council's website, in social media, and/or relevant community newsletters.

Notified in Writing: Written advice, via a letter or email, directly to an individual or company.

Part – 9 Accessibility

Muswellbrook Shire Council is committed to ensuring that the information provided to the community is accessible to everyone, regardless of the technology or sense used to access the material.

9.1 Improving Accessibility in electronic communication

Council will endeavour to do this using:

High contrast design - Providing a high enough contrast, and large enough text, for text to be readable is critical to providing a satisfying web experience for any user with partial or low vision. The preference is for black text on a white background.

Allowing Navigation using headings - Visitors to Council's website can navigate through our page content using headings.

Allow the user to change the size of the text – Council's website has been designed to allow visitors to change the size of the text within content.

Text layout - Blocks of text on the website avoid the use of full justification and are spaced with a large line-height in an effort to avoid variable spacing between words which can create visual patterns of white space. These patterns are difficult to ignore and are sometimes termed "rivers of white" running down the page making it extremely difficult to read.

Abbreviations and acronyms - Many internet browsers will display the meaning of abbreviations and acronyms found within web page content if the author of the content has provided the definitions. These expanded definitions are often displayed in the form of "tooltips" when the mouse is hovered over the item. Assistive browsers will usually read the meaning of the abbreviation.

We have strived to provide these definitions for all abbreviations and acronyms within our content.

Skip links - are beneficial to many groups, including those with mobility problems. They can also improve the usability of other devices, including mobile devices that can be cumbersome to use when the user is presented with a large list of links.

Whenever possible, links are written to make sense out of context.

All links can be followed in any browser, even if scripting is turned off. If a link is going to open in a new window, readers are provided with a warning to this effect.

9.1 Improving Accessibility in written information

Text layout - Blocks of text on the website avoid the use of full justification and are spaced with a large line-height in an effort to avoid variable spacing between words which can create visual patterns of white space. These patterns are difficult to ignore and are

sometimes termed "rivers of white" running down the page making it extremely difficult to read.

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Appendix A - Planning Tool for Community Participation

Process Step 1 - Define the process (or issue or problem?)

- Scope this issue or project and identify the decision to be made. This includes undertaking preliminary research, e.g. previous reports, media coverage, data (technical, economic, statutory, environmental and social).
- Give an understanding of how complex the issue is and whether the issue is likely to be controversial.
- Consider criteria for who should be involved and how to use public input.
- Identify who should be involved in a project team to manage the issue or project. If external consultants are used to undertake a community participation process, then the contract of engagement needs to ensure that the participation process is consistent with this policy
- This step should determine whether or not we need to engage the community.

Step 2 - Identify who to involve

- Identify people/groups likely to be affected and their interest. Include all groups both internally within Council and externally with an interest in the issue or project. Ensure all groups considered and be clear about selection process.
- Access relevant data, e.g., socioeconomic profile of the community to help determine who should be involved
- Ensure Council hears from the broadest possible range of voices and views aiming for balance and equity.
- Aim to include citizens not usually heard from e.g. those people who are not members of a stakeholder group regularly consulted with

Step 3 - Develop participation strategies and techniques

- Identify the most appropriate participation strategies and techniques for the issue or project.
- The strategies/methods include:

Deliberative democracy – invites a group of randomly selected citizens to be briefed and make recommendations on an important matter

Inform – Use Council's Newsletter or local newspaper to inform of upcoming project;

Consult – Inform, listen and acknowledge issues raised. Provide feedback on how input influences decision

Involve – Inform local groups, organisations or interested individuals of the issue or problem (mail out, advertisement, face to face meetings etc.) and ask for their involvement to resolve if further community participation is necessary;

Collaborate – Work with local groups, individuals or organisations on scoping the project or issue at hand (informal or formal meetings, forums, committees, surveys, etc.);

Empowerment – Engage local groups, organisations or individuals to take on the responsibility of a Council project or issue.

- Consider as many ideas as possible and ensure all options are identified. Select the option of how people are to be involved that best matches criteria and resources.
- Take into account what level of information, what types, depth and frequency of involvement do they require.
- Consider issues including:

Timing – is it convenient or appropriate?

Place – is venue appropriate?

Age profile;

Literary and general understanding of issue, e.g. ensure written communication is in plain and simple English.

Step 4 - Identify communication strategies (internal and external)

- The tone of the public participation process will be set through the style of the communication techniques chosen.
- Select appropriate communication techniques from the tool box (Appendix 3).

Step 5 - Resourcing the process

- Identify the resources required to undertake the process.
- Prepare budget including costs of consultation/communication including printing, mail outs, media strategy, distribution, internal consultants. Check against available funds. Obtain help from alternative sources on provision of in-kind, voluntary support.

Step 6 – Implementation

- Implement the actions of the project or plan.
- Schedule regular meetings with consultation project team to review and monitor progress and respond to emerging issues. Identify risks and manage accordingly.
- Facilitate community acceptance for decisions and actions taken.

Step 7 - Produce reports, provide feedback and evaluation

- Prepare reports on consultation to link in with Council's workshops and meetings.
- Report back to people so they are able to see what happened to their input and are informed of the status of the project.
- If proposed action not consistent with consultation findings, Council should explain reasons in sufficient detail to enable the rationale for the decision to be understood and the course of action to be taken

Community Participants

All community participants should be provided with a clear role description. This will ensure all involved have a shared understanding of a community participant's role.

All community participants should be asked if they have accessibility, literacy, dietary, family, religious or other needs, which should then be accommodated.

Recruiting community participants to positions that are ongoing or involve a high degree of responsibility should follow a pre-determined recruitment process.

Community participants should be offered and provided with any reasonable support to fulfil their role. Support that can be offered includes:

- Orientation
- Briefing and debriefing practical aspects of their role, and emotional support
- Training and professional development
- Supervision or mentoring.

It is the responsibility of staff working with the community participant to ensure that appropriate support is discussed and provided.

Community participants should be reimbursed for their time when they provide a specific service that will benefit Council, at the request of Council. Reimbursements should be budgeted for and approved by a line manager.

Feedback and recognition

Community participants should be provided with both feedback and recognition for their input.

Community members who participate in any <organisation> activity should be provided with feedback on the result of their input. This is a simple communication about what was achieved, how they made a difference or similar. It is important to help 'close the loop' of information and falls under Inform on the Spectrum of Public Participation. Examples include providing a workshop report, a copy of the resource they contributed to or a follow-up phone call.

Community participants who partner with Council in an ongoing role should be provided with regular project updates regarding their role where possible.

Recognition means acknowledging and thanking a community participant for their contributions to a project or activity. It is important to recognise community participants' contributions. This can be done in many ways, e.g. an email to project stakeholders, a thankyou card, and acknowledgement in a project report or morning tea during the final project meeting.

FAQs – Community Participation Plan (CPP)

March 2019

This table of frequently asked questions on Community Participation Plans (CPPs) has been composed in response to questions put to the Department of Planning and Environment (the Department). This document will be updated as new questions arise.

Community FAQs

No.	Question	Answer
General Questions		
1	What is a CPP?	<p>A CPP is intended to make it easier for the community to understand how to participate in planning matters in NSW. The requirement to prepare a CPP applies to relevant planning authorities under the Environmental Planning and Assessment Act 1979 (EP&A Act).</p> <p>A CPP must set out how and when a planning authority will engage with its community on the planning functions it performs. A CPP must also set out the minimum public exhibition timeframes relevant to the planning authority that are provided in Schedule 1 to the EP&A Act. All other requirements for a CPP are set out in Division 2.6 of the EP&A Act.</p> <p>It is important to note that a CPP should describe at a high-level, how and when a planning authority engages in its planning functions. It does not need to outline specific engagement strategies for each type of planning proposal or project.</p>
2	What is the status of the Department's CPP?	The Department exhibited a draft CPP on behalf of the Planning Minister and Planning Secretary between October and December 2018. Feedback on the draft was received through community workshops, one-on-one engagement and formal submissions. This feedback is being considered with a view to finalising the Department's CPP.
3	Does the Department's draft CPP cater to the different stages of all projects and proposals?	The Department's CPP describes how and when it engages the community at all stages of the planning process for its planning functions.
4	How can the community get involved in the CPP?	<p>The community can get involved in the development of the Department's CPP and implementation of the measure across NSW by:</p> <ul style="list-style-type: none"> – Emailing the team at legislativeupdates@planning.nsw.gov.au. – Calling the hotline on 1300 305 695 and asking to speak to a CPP project team member. – Contacting your local council or other NSW planning authorities. – Visiting any Service NSW centre where staff will answer any questions you have or connect you to an appropriate officer who can.



FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
5	How will the Department monitor and evaluate their engagement against the CPP?	<p>The Department intends to monitor and evaluate its engagement activities by reference to the measurable actions outlined for the five community participation objectives in the Department's draft CPP. It is intended that the community will also be able to use these actions to measure and assess the Department's community participation initiatives.</p> <p>Section 2.24(3) of the EP&A Act states that a CPP will be reviewed periodically.</p>
6	What is the Department's role in the implementation of the CPP measure?	In addition to the development of our own CPP, which other planning authorities can use as a template, the Department will assist councils and other planning authorities through an implementation program to develop their CPPs before the deadline of December 2019.
CPP minimum requirements		
7	What are the minimum requirements for a CPP?	<p>The minimum requirements for a CPP include:</p> <ul style="list-style-type: none"> – Detail how and when a planning authority will undertake community participation when exercising relevant planning functions as specified in section 2.21 (2) of the EP&A Act. – Have regard to the community participation principles outlined in section 2.23 (2) of the EP&A Act. – Set out the minimum mandatory public exhibition timeframes and notification requirements for the planning authorities relevant planning functions as per Schedule 1 of the EP&A Act and acknowledge that there are mandatory notification requirements provided in the regulations, the EP&A Act and potentially a CPP. – Be publicly exhibited for a minimum of 28 days. – Be published on the NSW planning portal by 1 December 2019
8	Who needs to prepare a CPP?	<p>Section 2.21(1) of the EP&A Act states that the following planning authorities must prepare a CPP and are subject to the community participation requirements:</p> <ul style="list-style-type: none"> – The Minister for Planning, – The Planning Secretary, – The Greater Sydney Commission, – The Independent Planning Commission,



FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
		<ul style="list-style-type: none"> – a Sydney district or regional planning panel (See question 9), – a council, – a local planning panel (See question 9), – a determining authority under Part 5, – a public authority. <p>Note: For many public authorities, except councils, the need to prepare a CPP is only triggered where they prepare an environmental impact statement (EIS) under Part 5 of the EP&A Act. This is only likely to occur when another party/body is proposing to carry out the development as in most cases these activities will be State significant infrastructure and dealt with as such under the EP&A Act. Public authorities may still wish to prepare a CPP in case such a situation should arise.</p>
9	Will a separate CPP need to be prepared for local planning panels, Sydney district or regional planning panels?	<p>We note councils undertake the majority of community participation initiatives on behalf of local and regional planning panels and their CPP will address these functions.</p> <p>This is similar to the way that the Planning Secretary's CPP outlines community participation initiatives that the Department undertakes on behalf of the Planning Secretary and the Planning Minister. For this reason, the Department is considering whether a regulation should be made to remove the obligation for these panels to prepare a CPP.</p> <p>If this occurs then the relevant council's CPP will apply to those panels.</p>
10	Can councils include engagement for planning functions not listed in 2.21(2) of the EP&A Act in their CPP?	<p>In addition to the minimum requirements for a CPP, as per 2.22(2) of the EP&A Act, a CPP may also prescribe additional mandatory requirements for community participation.</p> <p>Councils may also wish to outline consultation processes for planning functions that have no mandatory requirement for public exhibition. These could include planning policy initiatives or complying development where consultation is undertaken by the Department in developing the code and not for subsequent complying projects.</p>
11	Do all development applications need to be exhibited for 14 days?	<p>No. Schedule 1 of the EP&A Act states that development application's be exhibited for 14 days unless a planning authority sets a different timeframe in its CPP or states in its CPP that for specified development applications no public exhibition is required for.</p> <p>For example, councils may state in their CPP that no public exhibition is required where a proposal fully complies with their controls.</p>



Department of Planning and Environment

Page 3

FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
12	How can councils have regard to the Community Participation Principles?	<p>When developing a CPP planning authorities demonstrate that they have regard to the community participation principles in Section 2.23(2) of the EP&A Act. The principles are:</p> <ul style="list-style-type: none"> a) The community has a right to be informed about planning matters that affect it. b) Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning. c) Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning. d) The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered. e) Community participation should be inclusive and planning authorities should actively seek views that are representative of the community. f) Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made. g) Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account). h) Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development. <p>These principles are consistent with the model for engagement set by the International Association for Public Participation and represent best practice engagement for planning matters. The Department's exhibition draft CPP can be used as a template for how to demonstrate regard to the principles in the EP&A Act.</p>



FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
13	What are the different ways that councils can prepare a CPP?	<p>Councils can meet the CPP requirements in two ways.</p> <p>Option 1 – Rely on or update an existing plan (strategy) under section 402 of the Local Government Act (LG Act)</p> <p>To reduce the need for multiple community documents, councils have the option to use an existing Community Strategic Plan (CSP) or Community Engagement Strategy (CES) under section 402 of the LG Act to satisfy the requirements of a CPP.</p> <p>In most instances it is likely that councils existing CSP or CES will need to be updated to meet the CPP requirements as outlined in Question [3].</p> <p>When amending a CSP or CES to meet the requirements of a CPP it is recommended that a council state in the amended plan or strategy that it has been prepared to satisfy the requirements of a CPP under the EP&A Act and acknowledge which sections are being used to meet the CPP requirements. It is also important that an existing CSP or CES makes it clear that either the entirety or part of the document has been prepared to satisfy the legislative requirements for a CPP and is to be treated as such.</p> <p>The amendments to either the CSP or CES (which will collectively become known as the CPP) must then be exhibited for 28 days in accordance with the minimum public exhibition requirements for a draft CPP in Schedule 1 to the EP&A Act.</p> <p>Option 2 – Prepare a standalone CPP</p> <p>Councils can prepare a standalone CPP and are encouraged to use the Department's exhibition draft CPP as a template.</p> <p>Councils may contact the legislative updates team with any questions in relation to Option 1 and 2.</p> <p>The Department has worked closely with the Office of Local Government's community engagement team who are briefed on the CPP requirements. Councils may also consider speaking with their Office of Local Government community engagement representatives for support on their overall engagement strategy.</p>
14	Can councils use their Development Control Plan (DCP) to meet the requirements of a CPP?	<p>No. A DCP cannot be used as a CPP even where a DCP sets out the minimum mandatory exhibition timeframes.</p> <p>Where councils have a DCP or part of a DCP that deals with community participation for their planning functions this material can be used their CPP. In these circumstances once the CPP is made council would then be able to amend that part of the DCP as community participation requirements will be set out in the CPP.</p>



Department of Planning and Environment

Page 5

FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
15	What are the options for non-council planning authorities to prepare their CPP?	All non-council planning authorities that are required to prepare a CPP must prepare a standalone CPP and are encouraged to use the Department's exhibition draft CPP as a template.
16	Will the form, content and procedures for CPPs be prescribed in the regulations?	There is legislative scope to prescribe regulations to set the form, content and procedures for making and publishing CPPs, their amendment and reporting on their implementation. At this stage it is not intended to make any regulations in relation to the form, content and procedures.
CPP engagement and finalisation		
17	What are the exhibition requirements for CPPs?	Draft CPPs, or amendments made to existing plans or strategies prepared under section 402 of the LG Act to meet the CPP requirements, must be exhibited for 28 days as set out in Schedule 1 of the EP&A Act.
18	How do public exhibition requirements in a CPP interact with public consultation conditions in a gateway determination?	<p>A CPP sets out the mandatory minimum public exhibition periods for relevant planning functions. A planning proposal subject to a gateway determination must be exhibited for a minimum period of 28 days or:</p> <ol style="list-style-type: none"> If a different period of public exhibition is specified in the gateway determinations for the proposal – the period so specified, or If the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal – no public exhibition. <p>Some community consultation requirements may be determined for a planning proposal at a gateway determination. In some circumstances this may be limited to the period of public exhibition. It is recommended planning authorities set out their community consultation approach for planning proposals in their CPP but note these may be subject to the requirements of the gateway determination.</p>
19	When should councils and other planning authorities start preparing their CPP?	<p>All community participation plans must be in place and published on the ePlanning portal by 1 December 2019.</p> <p>The Department recommends commencing development of CPP's in the first half of 2019. This will allow time for their finalisation noting the need to publicly exhibit draft CPPs for a minimum period of 28 days.</p>
20	Does the Department need to endorse or approve a planning authority's CPP?	<p>No. Once a planning authority has developed their finalised CPP it must be published on the NSW planning portal.</p> <p>A CPP will be considered valid if the plan has not been challenged in proceedings commenced in the Land and Environment Court (LEC) within 3 months of it being published on the NSW planning portal.</p>



Department of Planning and Environment

Page 6

FAQs – Community Participation Plan (CPP)

March 2019

No.	Question	Answer
21	How will the Department monitor and evaluate a councils CPP?	To ensure compliance and consistency, the Department will undertake a review and audit of CPP's in 2020. Additionally, consideration is being given to the creation of regulations to set requirements for reporting on implementation.



Department of Planning and Environment

Page 7

7.2 MODEL CODE OF MEETING PRACTICE

Attachments:	A. Reviewed Code of Meeting Practice
Responsible Officer:	Aleksandar Mitreski - Policy Officer
Author:	Joshua Brown - Manager - Integrated Planning & Governance
Community Plan Issue:	<i>Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community</i>
Community Plan Goal:	<i>Enhanced collaboration with Council's community and stakeholders to ensure Council and its elected arm is best placed to make decisions in the best interest of the community.</i>
Community Plan Strategy:	<i>Implement and maintain a diverse range of communication channels between Council and community stakeholders..</i>

PURPOSE

This report provides Councillors with details of a suggested minor amendment to the Code of Meeting Practice to reflect a resumption of the previous arrangements for public participation..

OFFICER'S RECOMMENDATION

- 1. Council endorse the revised Code of Meeting Practice as attached as Appendix A for public exhibition for a period of 28 days.**
- 2. Council adopt the revised Code of Meeting Practice on an interim basis until consideration of any public submissions.**
- 3. That future ordinary meetings of Council commence at 6.00PM.**

Moved: _____ **Seconded:** _____

BACKGROUND

Council adopted the new Model Code of Meeting Practice in June 2019, which includes provision for public forums as a replacement for public participation.

CONSULTATION

The Model Code of Meeting Practice was subject to public exhibition for a period of 42 days and has been discussed with relevant Council staff and MANEX. The Office of Local Government has been consulted on the revised changes and raised no objection.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Councillors received a briefing on the Model Code of Meeting Practice on 12 February 2019.

REPORT

The Model Code of Meeting Practice provides for the convening of Public Forums prior to both Ordinary and Extraordinary Meetings. Part 4 of the Code details the format of the Public Forums, which was adopted in June 2019 to replace Public Participation. In order to facilitate this new provision, Public Forums have been scheduled thirty minutes prior to each Ordinary and Extraordinary meeting. Public Forums are only to be held as required upon receipt of a request to address Council by a member of the public.

Since the adoption of the Public Forums provision, no requests to participate in a Public Forum have been received by Council. It is probable that a specific forum for public participation has discouraged community members for speaking directly to councillors at meetings for two principal reasons. Firstly, the formal nature of the forum may be intimidating to some members of the community; and secondly, the considerable delay between speaking and the commencement of the meeting may discourage people from participating. In discussions with the Office of Local Government, it was conceded that the Public Forum is more likely suitable for larger metropolitan councils with large populations and a greater range of contentious issues.

It is recommended that Council consider the reinstatement of the Public Participation provisions of the previous Code of Meeting Practice, which have been incorporated in to the attached revised Code of Meeting Practice which Council is asked to endorse for a period of public exhibition. In order to better facilitate the participation of the community with immediate effect, it is also recommended that Council adopt the revised Code on an interim basis.

OPTIONS

Council may agree to the changes to the Model Code of Meeting Practice as recommended in this report or keep the Code as adopted in June 2019.

CONCLUSION

It is recommended that the revised Code of Meeting Practice be endorsed for public exhibition and agreed to on an interim basis in the meantime.

SOCIAL IMPLICATIONS

The Model Code of Meeting Practice provides for the opportunity for community members to participate in Council decision making. The recommended amendments will enhance this opportunity above that prescribed by the Office of Local Government by retaining existing public participation arrangements as currently provided for by Council's existing Model Code of Meeting Practice.

FINANCIAL IMPLICATIONS

There are no known financial implications.

POLICY IMPLICATIONS

There are no known policy implications.

STATUTORY IMPLICATIONS

The recommended adoption of the Model Code of Meeting Practice aligns with the requirements of the *Local Government (General) Regulation 2005*.

LEGAL IMPLICATIONS

There are no known legal implications.

OPERATIONAL PLAN IMPLICATIONS

There are no known Operational Plan implications.

RISK MANAGEMENT IMPLICATIONS

There are no known Risk Management Implications.



**muswellbrook
shire council**

MODEL CODE OF MEETING PRACTICE

Adopted by Council:

Date: 11/06/2019

Minute No. 326

Table of Contents

1	INTRODUCTION	3
2	MEETING PRINCIPLES.....	3
3	BEFORE THE MEETING	3
4	PUBLIC FORUMS.....	8
5	COMING TOGETHER	10
6	THE CHAIRPERSON	13
7	MODES OF ADDRESS	14
8	ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS.....	14
9	CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS.....	15
10	RULES OF DEBATE.....	17
11	VOTING	20
12	COMMITTEE OF THE WHOLE.....	21
13	DEALING WITH ITEMS BY EXCEPTION	21
14	CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC	22
15	KEEPING ORDER AT MEETINGS.....	26
16	CONFLICTS OF INTEREST	29
17	DECISIONS OF THE COUNCIL	29
18	TIME LIMITS ON COUNCIL MEETINGS.....	31
19	AFTER THE MEETING	32
20	COUNCIL COMMITTEES	33
21	IRREGULARITIES	36
22	DEFINITIONS	36

1 INTRODUCTION

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

2 MEETING PRINCIPLES

2.1 Council and committee meetings should be:

Transparent: Decisions are made in a way that is open and accountable.

Informed: Decisions are made based on relevant, quality information.

Inclusive: Decisions respect the diverse needs and interests of the local community.

Principled: Decisions are informed by the principles prescribed under Chapter 3 of the Act.

Trusted: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

Respectful: Councillors, staff and meeting attendees treat each other with respect.

Effective: Meetings are well organised, effectively run and skilfully chaired.

Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

3 BEFORE THE MEETING

Timing of ordinary council meetings

3.1 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A of the Act.

Extraordinary meetings

3.2 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

Note: Clause 3.2 reflects section 366 of the Act.

Notice to the public of council meetings

- 3.3 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

Note: Clause 3.3 reflects section 9(1) of the Act.

- 3.4 For the purposes of clause 3.3, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 3.5 For the purposes of clause 3.3, notice of more than one (1) meeting may be given in the same notice.

Notice to councillors of ordinary council meetings

- 3.6 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Note: Clause 3.6 reflects section 367(1) of the Act.

- 3.7 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

Note: Clause 3.7 reflects section 367(3) of the Act.

Notice to councillors of extraordinary meetings

- 3.8 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

Note: Clause 3.8 reflects section 367(2) of the Act.

Giving notice of business to be considered at council meetings

- 3.9 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted by 9am, 7 business days before the meeting is to be held.
- 3.10 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

- 3.11 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 3.12 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:
- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
 - (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

Questions with notice

- 3.13 A councillor may, by way of a notice submitted under clause 3.9, ask a question for response by the general manager about the performance or operations of the council.
- 3.14 A councillor is not permitted to ask a question with notice under clause 3.13 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.15 The general manager or their nominee may respond to a question with notice submitted under clause 3.13 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Agenda and business papers for ordinary meetings

- 3.16 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.17 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
 - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and

- (d) any business of which due notice has been given under clause 3.10.
- 3.18 Nothing in clause 3.17 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.19 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.20 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
 - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.20 reflects section 9(2A)(a) of the Act.

- 3.21 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

Availability of the agenda and business papers to the public

- 3.22 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

Note: Clause 3.22 reflects section 9(2) and (4) of the Act.

- 3.23 Clause 3.22 does not apply to the business papers for items of business that the general manager has identified under clause 3.20 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.23 reflects section 9(2A)(b) of the Act.

- 3.24 For the purposes of clause 3.22, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

Note: Clause 3.24 reflects section 9(3) of the Act.

- 3.25 A copy of an agenda, or of an associated business paper made available under clause 3.22, may in addition be given or made available in electronic form.

Note: Clause 3.25 reflects section 9(5) of the Act.

Agenda and business papers for extraordinary meetings

- 3.26 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 3.27 Despite clause 3.26, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
- (a) a motion is passed to have the business considered at the meeting, and
 - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 3.28 A motion moved under clause 3.27(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.29 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.27(a) can speak to the motion before it is put.
- 3.30 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.27(b) on whether a matter is of great urgency.

Pre-meeting briefing sessions

- 3.31 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.32 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.33 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.34 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.

- 3.35 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

4 PUBLIC PARTICIPATION

- 4.1 No automatic right exists to address Council. It is at the absolute discretion of the Council or a Committee of the Council to determine whether or not a member of the public who has requested permission to address a meeting of the Council or Committee of the Council is permitted to do so.
- 4.2 Total time allowed for Public Participation at each Ordinary Meeting or Ordinary Committee meeting will be 15 minutes unless Council otherwise extends such time. The number of speakers in each Public Participation Session will be divided into 15 and each allowed equal time for the address, unless Council or the Committee otherwise extends such time.
- 4.3 Any person may utilise the Public Participation Session to address Council or a Committee of the Council on any matter in accordance with the provisions of this Code.
- 4.4 Any person may make a request to the General Manager either in writing, using the standard form or other electronic means for permission to address a meeting of the Council or Committee of the Council on the following basis:
- (a) Up to 12.00 noon on the day of the meeting if the item the person wishes to address the Council or Committee of the Council is on the agenda as part of the order of business for the meeting.
 - (b) If the item, the subject of the address, is not to be included on the agenda for the upcoming meeting, as part of the business for the meeting, then the details will be taken and council advised of the request at the next available ordinary meeting. Council will then determine whether the request will be granted and whether a report is required to be presented at the same meeting at which the address will be heard.
 - (c) The Council or Committee of the Council may, notwithstanding the requirements of clause 4.4 above, allow a person to address the meeting if it considers that the situation warrants such action.
- 4.5 Any person wishing to address a meeting of the Council or Committee of the Council has to provide the General Manager the following:
- (a) Name
 - (b) Organisation or group represented (if applicable)

- (c) Details of the issue to be addressed and the item number in the business paper
 - (d) A clear statement as to whether the person is for (supports) or against (opposes) the recommendation in the business paper.
 - (e) The interest of the speaker (e.g. affected person, neighbour, applicant, applicant's spokesperson, and interested citizen).
 - (f) A written copy of any questions asked by the person addressing the meeting, in order that responses to those questions could be provided in due course.
 - (g) Copies of any material the person addressing the meeting wishes to be distributed to Councillors.
- 4.6 The number of speakers on any one item is to be limited to three in support of any proposal and three in opposition.
- 4.7 Speakers should be informed that they should not make insulting or defamatory statements and to take care when discussing other people's personal information (without their personal consent), that their submission will be electronically recorded and that permission to speak may be withdrawn should they make inappropriate comments.
- 4.8 A person addressing Council or a Committee of the Council will be informed that they should be prepared to answer questions from Councillors following their address.
- 4.9 Where an address made in public participation raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.10 When addressing the council, speakers in public participation must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.11 If the chairperson considers that a speaker in public participation has engaged in conduct of the type referred to in clause 4.10, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.12 Clause 4.11 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.

- 4.13 Where a speaker engages in conduct of the type referred to in clause 4.10, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.14 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

5 COMING TOGETHER

Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.
- 5.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.6 reflects section 234(1)(d) of the Act.

- 5.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

The quorum for a meeting

- 5.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 5.8 reflects section 368(1) of the Act.

- 5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.9 reflects section 368(2) of the Act.

- 5.10 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
 - (b) within half an hour after the time designated for the holding of the meeting, or
 - (c) at any time during the meeting.
- 5.11 In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson, or
 - (b) in the chairperson's absence, by the majority of the councillors present, or
 - (c) failing that, by the general manager.
- 5.12 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.
- 5.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 5.14 Where a meeting is cancelled under clause 5.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

Entitlement of the public to attend council meetings

- 5.15 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 5.15 reflects section 10(1) of the Act.

- 5.16 Clause 5.15 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.17 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 5.17 reflects section 10(2) of the Act.

Webcasting of meetings

- 5.18 All meetings of the council and committees of the council are to be webcast on the council's website.
- 5.19 All meetings of the council are to be recorded and audio recordings of meetings uploaded on the council's website at a later time.
- 5.20 Clause 5.18 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for 6 months. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

Attendance of the general manager and other staff at meetings

- 5.23 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

Note: Clause 5.23 reflects section 376(1) of the Act.

- 5.24 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

Note: Clause 5.24 reflects section 376(2) of the Act.

- 5.25 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

Note: Clause 5.25 reflects section 376(3) of the Act.

- 5.26 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

6 THE CHAIRPERSON

The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

Note: Clause 6.1 reflects section 369(1) of the Act.

- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Note: Clause 6.2 reflects section 369(2) of the Act.

Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

- 6.4 The election of a chairperson must be conducted:

- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

- 6.6 For the purposes of clause 6.5, the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
- (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
 - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

7 MODES OF ADDRESS

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS

- 8.1 The general order of business for an ordinary meeting of the council shall be:
- 1. Acknowledgement of Country
 - 2. Civic Prayer
 - 3. Apologies
 - 4. Confirmation of Minutes
 - 5. Disclosure of any Pecuniary or Non-Pecuniary Interests
 - 6. Mayoral Minute
 - 7. Public Participation
 - 8. Business Arising (from previous meetings)
 - 9. Business (Specific Reports)
 - 10. Correspondence
 - 15. Minutes of Committee Meetings
 - 17. Notices of Motion
 - 19. Councillors Reports
 - 20. Written Questions
 - 21. Questions for Next Meeting
 - 22. Closed Council
- 8.2 The order of business as fixed under clause 8.1 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.
- 8.3 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.2 may speak to the motion before it is put.

9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.9, and
 - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.6 in the case of an ordinary meeting or clause 3.8 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
 - (b) is the election of a chairperson to preside at the meeting, or
 - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
 - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
 - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it

is adopted by the council, a resolution of the council.

- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

Staff reports

- 9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.9 and 3.13.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

10 RULES OF DEBATE

Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.9 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.9 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
 - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer

consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed

motions cannot be considered until all foreshadowed amendments have been dealt with.

Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

11 VOTING

Voting entitlements of councillors

11.1 Each councillor is entitled to one (1) vote.

Note: Clause 11.1 reflects section 370(1) of the Act.

11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

Note: Clause 11.2 reflects section 370(2) of the Act.

11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

Voting at council meetings

11.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

11.5 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

11.6 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

11.7 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

11.8 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

11.9 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

Voting on planning decisions

11.10 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed

(or are taken to have opposed) the decision.

- 11.11 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.12 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.13 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

Note: Clauses 11.10–11.13 reflect section 375A of the Act.

Note: The requirements of clause 11.10 may be satisfied by maintaining a register of the minutes of each planning decision.

12 COMMITTEE OF THE WHOLE

- 12.1 The council may resolve itself into a committee to consider any matter before the council.

Note: Clause 12.1 reflects section 373 of the Act.

- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

Note: Clauses 10.20–10.30 limit the number and duration of speeches.

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

13 DEALING WITH ITEMS BY EXCEPTION

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak

on.

- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of

Aboriginal significance on community land,

- (i) alleged contraventions of the council's code of conduct.

Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Note: Clause 14.2 reflects section 10A(3) of the Act.

Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Note: Clause 14.3 reflects section 10B(1) of the Act.

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:

- (a) are substantial issues relating to a matter in which the council or committee is involved, and
- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice.

Note: Clause 14.4 reflects section 10B(2) of the Act.

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

Note: Clause 14.5 reflects section 10B(3) of the Act.

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
 - (i) cause embarrassment to the council or committee concerned, or

- to councillors or to employees of the council, or
- (ii) cause a loss of confidence in the council or committee.

Note: Clause 14.6 reflects section 10B(4) of the Act.

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

Note: Clause 14.7 reflects section 10B(5) of the Act.

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
 - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

Note: Clause 14.8 reflects section 10C of the Act.

Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Note: Clause 14.9 reflects section 10A(4) of the Act.

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by 12 noon of the day of the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.

- 14.13 No more than 8 speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than 8 speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed 2 minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Information to be disclosed in resolutions closing meetings to the public

- 14.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the

matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Note: Clause 14.20 reflects section 10D of the Act.

Resolutions passed at closed meetings to be made public

- 14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.

15 KEEPING ORDER AT MEETINGS

Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or any regulation in force under the Act or this code, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.
- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
 - (c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded

with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

Expulsion from meetings

- 15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.
- 15.15 Clause 15.14, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- 15.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

Use of mobile phones and the unauthorised recording of meetings

- 15.20 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.21 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.22 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.

- 15.23 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

16 CONFLICTS OF INTEREST

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

17 DECISIONS OF THE COUNCIL

Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

Note: Clause 17.1 reflects section 371 of the Act.

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.9.

Note: Clause 17.3 reflects section 372(1) of the Act.

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

Note: Clause 17.4 reflects section 372(2) of the Act.

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.9.

Note: Clause 17.5 reflects section 372(3) of the Act.

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

Note: Clause 17.6 reflects section 372(4) of the Act.

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 17.7 reflects section 372(5) of the Act.

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 17.8 reflects section 372(7) of the Act.

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.10 with the consent of all signatories to the notice of motion.
- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than 12.00 noon, 2 days after the meeting at which the resolution was adopted.
- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 17.11 reflects section 372(6) of the Act.

- 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:
- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
 - (b) a motion to have the motion considered at the meeting is passed, and
 - (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.
- 17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

Recommitting resolutions to correct an error

- 17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:
- (a) to correct any error, ambiguity or imprecision in the council's resolution,

- or
 - (b) to confirm the voting on the resolution.
- 17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.
- 17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.
- 17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.
- 17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.
- 17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

18 TIME LIMITS ON COUNCIL MEETINGS

- 18.1 Meetings of the council and committees of the council are to conclude no later than 9.00 pm.
- 18.2 If the business of the meeting is unfinished at 9.00 pm, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at 9.00 pm, and the council does not resolve to extend the meeting, the chairperson must either:
 - (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
 - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
 - (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
 - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

19 AFTER THE MEETING

Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 19.1 reflects section 375(1) of the Act.

- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment was passed or lost, and
- (d) such other matters specifically required under this code.

- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

Note: Clause 19.3 reflects section 375(2) of the Act.

- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 19.5 reflects section 375(2) of the Act.

- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

Note: Clause 19.8 reflects section 11(1) of the Act.

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 19.9 reflects section 11(2) of the Act.

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 19.10 reflects section 11(3) of the Act.

- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 19.12 reflects section 335(b) of the Act.

20 COUNCIL COMMITTEES

Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
 - (b) if the council has not decided a number – a majority of the members of the committee.

Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:

- (a) the time, date and place of the meeting, and
- (b) the business proposed to be considered at the meeting.

20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at committee meetings

20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:

- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
- (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

Non-members entitled to attend committee meetings

20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting.

Chairperson and deputy chairperson of council committees

20.11 The chairperson of each committee of the council must be:

- (a) the mayor, or
- (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
- (c) if the council does not elect such a member, a member of the committee elected by the committee.

20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if

any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of committee meetings to the public

- 20.18 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.19 during a part of the meeting that is webcast.

Disorder in committee meetings

- 20.21 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Minutes of council committee meetings

- 20.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment was passed or lost, and

- (d) such other matters specifically required under this code.
- 20.23 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.24 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.25 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.26 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.27 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

21 IRREGULARITIES

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
 - (b) a failure to give notice of the meeting to any councillor or committee member, or
 - (c) any defect in the election or appointment of a councillor or committee member, or
 - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
 - (e) a failure to comply with this code.

Note: Clause 21.1 reflects section 374 of the Act.

22 DEFINITIONS

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is

the Act	means the Local Government Act 1993
	observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but

the Act	means the <i>Local Government Act 1993</i>
	not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2005</i>
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

7.3 INVESTMENT (FINANCIAL SECURITIES) POLICY REVIEW

Attachments:	A. Policy I20-1 - Investment (Financial Securities) Policy
Responsible Officer:	Aleksandar Mitreski - Policy Officer
Author:	Joshua Brown - Manager - Integrated Planning & Governance
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>Work towards the achievement of a sustainable Operating Budget result in the General Fund.</i>

PURPOSE

The purpose of this report is to submit to Council two updated policies to be adopted.

OFFICER'S RECOMMENDATION

- Council endorses the reviewed Investment (Financial Securities) Policy to be placed on public exhibition for a period of 28 days.**
- In the event that no substantive objections are received at the conclusion of the period of public exhibition, the Investment (Financial Securities) Policy be adopted.**

Moved: _____ **Seconded:** _____

BACKGROUND

The following report is in line with Council's commitment to financial accountability and the considered management of financial risk.

CONSULTATION

The reviewed policy has been discussed with relevant Council staff and councillors.

REPORT

Records Management Policy

The objectives of the Investment (Financial Securities) Policy is to provide for the investment of Council funds in a manner that addresses the following considerations:-

- Compliance with legislation and regulations, as well as the 'Prudent Person' test
- Independence and transparency of advice and costs
- Ensuring the security of the capital invested including the management of credit risk.
- The management of cash flow, ensuring that Council can meet its financial obligations in a timely manner.
- The allowing for the investment of funds to act as a hedge against changing borrowing costs.
- The generation of a monthly return that exceeds the 90 Day Bank Bill Swap Rate.

The changes in the policy document are highlighted.

OPTIONS

Option 1: Council endorses the policy for public exhibition and adoption.

Option 2: Council does not approve the policy for public exhibition and adoption. This is not recommended.

CONCLUSION

It is suggested that Council endorses the updated policies.

SOCIAL IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

Not applicable.

Investment (Financial Securities) Policy I20/1

Table of Contents

Policy Objective.....	3
Policy Statement	3
Prudent Person Standard	3
Ethics and Conflicts of Interest	3
Allowed Investments.....	3
Investment Security	3
Investment Advisor	4
Valuation.....	4
Security Trading	5
Return Benchmarking.....	5
Reporting and Reviewing of Investments.....	5
Policy Review	5
Delegations	5
Legislation	5
Associated Council Documentation	5
Authorisation Details	6
Details History	6
Text of Ministerial Investment Order as at 11 February 2011.....	7

Policy Objective

To provide for the investment of Council funds in a manner that addresses the following considerations:-

- Compliance with legislation and regulations, as well as the 'Prudent Person' test
- Independence and transparency of advice and costs
- Ensuring the security of the capital invested including the management of credit risk.
- The management of cash flow, ensuring that Council can meet its financial obligations in a timely manner.
- The allowing for the investment of funds to act as a hedge against changing borrowing costs.
- The generation of a monthly return that exceeds the 90 Day Bank Bill Swap Rate.

Policy Statement

Prudent Person Standard

The investment of funds will be managed with the care, diligence and skill that a prudent person would exercise in the investment of public monies. As such, the principle of preservation of capital is to take precedence over the generation of return. The main aim of this policy is to prevent the investment of Council's funds in any speculative manner.

Borrowing to invest (leverage) is considered speculative. However, nothing will limit Council from short-term investment of loan proceeds, where a single loan is raised for a specific purpose but then staged payments made.

Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. The policy requires officers to disclose any conflict of interest to the General Manager. Advisors are to certify their compliance with the Office of Local Government's guidelines, as well as certifying that they do not take any conflicted remuneration from sources other than Council.

Allowed Investments

Investments are limited to those allowed by the current Ministerial Investment Order as issued by the New South Wales Minister for Local Government. (Copy attached). Council may invest in the full range of securities allowed under the Order. No security or instrument that is not allowed under the Order will be acquired by Council. In addition council can make internal investments, lending funds to meet council borrowing requirements, providing the appropriate guidelines are followed.

Investment Security

It is accepted that if the twin principles of capital security and the generation of a worthwhile return are to be achieved, Council will need to invest in securities with a range of credit ratings. Council may only invest in financial organisations that are authorised deposit taking organisations in Australia. These are regulated by the Australian Prudential Regulation Authority and subject to Australian banking legislation, and this, of itself provides a high level of security for Council's capital. However, Council will take further steps to ensure a level of capital security that is also commensurate with an acceptable rate of return. As such, Council will invest in a range of securities that comply with order and in accordance with a range of credit ratings (as assessed by Standard and Poor's) as outlined below:-

Credit Rating	Minimum Holding of Securities with this Credit Rating	Maximum Holding of Securities Up to This Credit Rating
AA category or higher; and / or Australian major banks*	10%	100%
A category	0%	70%
BBB category	0%	30%
Unrated**	0%	10%

In the acquisition of each security, Council will ensure that the counter party, or the group that is ultimately responsible for the payment of revenue and the security of capital amounts is clearly identified. In order to minimise the risk of the failure of a counter party to pay, causing a major capital loss, Council will limit its exposure to counter parties as outlined below:

Counter Party's Credit Rating	Maximum Holding of Securities Issued by single Counter Parties with this Credit Rating
AA category or higher; and / or Australian major banks*	30%
A category	20%
BBB category	10%
Unrated**	5%

* Regardless of any future downgrades, during the term of this Policy, major banks will be eligible for inclusion in the highest category. These are defined as ANZ, Commonwealth, National Australia and Westpac banks, as well as any subsidiaries or brands (such as St George, UBank etc).

** Unrated securities must still comply with all the other requirements outlined in the Order.

Where a downgrade by S&P would take Council's investments outside the range of the current Policy, but this is not supported by other agencies Moody's and Fitch Ratings ("split ratings"), then it will be sufficient for Council to be advised of the affected holdings. Council can continue to invest in the affected institutions on the basis of the other agencies' ratings.

Investment Advisor

The Council's investment advisor must be licensed by the Australian Securities and Investment Commission. The advisor must be independent and have no actual or potential conflict of interest in relation to investment securities being recommended, either for sale or acquisition.

The advisor's role will remain to advise and recommend. The advisor may not transact on Council's behalf. Council retains the obligation to make decisions in regard to the sale or acquisition of securities.

Valuation

Council has periodically sold securities where prudent and beneficial to do that. In such a case, "amortised cost" treatment is no longer available.

Council will value securities on the basis of "Fair Value" accounting at year end, but can for convenience report amortised cost basis for unaudited monthly reporting.

All valuations will be conducted in accordance with the relevant and applicable Australian Accounting Standards.

Security Trading

As outlined above, Council's general intention is to hold a security until maturity; however, in order to meet liquidity requirements or to take advantage of a significant opportunity for profit, Council may choose to sell an investment. However, Council will not acquire securities with aim of generating a short term capital return.

Return Benchmarking

Council is aiming to generate an annual return from its assets that exceeds the 90 Day Bank Bill Swap Rate.

Reporting and Reviewing of Investments

Documentary evidence must be held for each investment and a listing of currently held securities maintained in the investment register. Documentary evidence must provide Council with evidence of Council's legal title to the investment.

Certificates must be obtained from the financial institutions confirming the face value and holding of investments on Council's behalf as at 30 June each year and reconciled to the Investment Register.

All investments are to be appropriately recorded in Council's financial records and reconciled on a monthly basis.

A monthly report will be provided to Council. The report will list the current holdings and performance of the portfolio.

Policy Review

The policy will be reviewed upon the issue of a new or amended Ministerial Investment Order, or in any case at least every **three years**.

Delegations

Authority for implementation of the Investment Policy is delegated to the General Manager in accordance with the Local Government Act 1993. In turn, this authority has been delegated to the Responsible Accounting Officer.

Legislation

Local Government Act 1993

Local Government (General) Regulation 2005

Ministerial Investment Order **2011**

Local Government Code of Accounting Practice and Financial Reporting.

Australian Accounting Standards

Office of Local Government Circulars

Associated Council Documentation

Ministerial Investment Order as at 11 February 2011

Authorisation Details

Authorised by:	Council
Minute No:	334
Date:	23 August 2019
Review timeframe:	Earliest of Alteration of relevant Ministerial Investment Order, or 36 months
Department:	Finance
Document Owner:	Chief Finance Officer

Details History

Version No.	Date changed	Policy type	Modified by	Amendments made
V1	23/08/19		Chief Finance Officer	

Text of Ministerial Investment Order as at 11 February 2011

LOCAL GOVERNMENT ACT 1993

Investment Order

(Relating to Investments by Councils)

I, the Hon. BARBARA PERRY, M.P., Minister for Local Government, in pursuance of section 625 (2) of the Local Government Act 1993 and with the approval of the Treasurer, do, by this my order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- a) Any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- b) Any debentures or securities issued by a council (within the meaning of the Local Government Act 1993 (NSW));
- c) Interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined by the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations;
- d) Any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- e) A deposit with the New South Wales Treasury Corporation or investments in an Hour Glass Investment facility of the New South Wales Treasury Corporation.

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- i. Subject to paragraph (ii) nothing in this order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.

Paragraph (i) only applies to these investments made before the date of this order and does not apply to any restructuring or switching of investments or any reinvestment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in the form of an investment notified by this order unless it also complies with an investment policy of council adopted by resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th Day of January 2011

The Hon. BARBARA PERRY, M.P.

Minster for Local Government

7.4 AUSTRALIA DAY 2020

Attachments:	Nil
Responsible Officer:	Carolyn O'Brien - Manager - Community Services
Author:	Michelle Sandell-Hay - PA to the General Manager Mellanie Meadows - PA to the Mayor Ruaan Van Der Wath - Tourism & Events Officer Carolyn O'Brien - Manager - Community Services
Community Plan Issue:	<i>Progressive leadership</i>
Community Plan Goal:	<i>That Muswellbrook Shire is well led and managed</i>
Community Plan Strategy:	<i>Improve the Council's image</i>

PURPOSE

This report outlines the location, nominations received and event order of the 2019 Australia Day Ceremony as well as the location and preliminary event program for the 2020 Australia Day Ceremony.

RECOMMENDATION

1. **Muswellbrook Shire Council host an Awards Ceremony, on Saturday 25 January 2020, in the Memorial Hall, Ogilvie Street, Denman to present the following awards:**
 - Young Citizen School achiever,
 - Young Citizen; and,
 - Citizen of the year

The Awards Ceremony to commence at 6:00pm. The awards ceremony will be a ticketed event, tickets will be distributed to the nominees and their families, as well as official guests.

2. **The 2020 Australia Day Ceremony be held in Memorial Hall, Ogilvie Street, Denman on Sunday, 26 January 2020. The ceremony will include a presentation of the following awards:**
 - Junior Sports person,
 - Senior Sports person,
 - Services to Sport,
 - Youth Cultural Award,
 - Cultural Contributor Award,
 - Northoak Award for Primary Production,
 - Environmental Award,
 - Education Award; and,
 - Social Inclusion Award

The Official Ceremony to commence at 9:00am and include a citizenship ceremony, presentation of awards and various performances from local groups. The Wakagetti Dance Group be invited to open the ceremony with a performance.

3. All invitations are to include a dress code of “Smart Casual” for the events.
4. The Denman Rotary and Denman Lions Clubs be invited to host a free BBQ Lunch at the Denman Aquatic Centre;
5. Muswellbrook Apex Club be invited to jointly host a family fun afternoon be held at the Muswellbrook Aquatic Centre;
6. The Wanaruah Land Council be invited to make presentation of the Aboriginal Flag to the new Australian Citizen;
7. Council register for the 2020 ambassador program;
8. The recipients of the 2019 Citizen and Young Citizen of the Year Award, be invited to give an address at the 2020 Official Australia Day Ceremony;
9. Council liaise with Brooke Boney regarding availability to act as the Master of Ceremonies for the 2020 Awards Ceremony on 25 January, 2020.
10. Council liaise with XXXX regarding availability to act as the Master of Ceremonies for the 2020 Official Australia Day Ceremony;
11. A Nominations Committee be established consisting of 2 Councillors, and such Staff as appointed by the General Manager;
12. A 2020 Australia Day Sunset committee be established consisting of 2 councillors, a representative from the Wanaruah Land Council and such staff as appointed by the General Manager;
13. An allocation of \$25,000 be considered as part of the 2019/2020 Budget;
14. The draft program outlined in the report be endorsed.

Moved: _____ Seconded: _____

BACKGROUND

Each year Council holds an Australia Day Ceremony which includes a Citizenship Ceremony, community performances, presentation of various awards and an address by the Australia Day Ambassador. The 2019 Australia Day Ceremony was held at the Muswellbrook Indoor Sports Centre.

The following awards were presented at the 2019 Australia Day Ceremony:

- Young Citizen of the Year – a total of 5 nominations were received this year
- Young Citizen School Achiever - a total of 1 nomination was received this year
- Citizen of the Year – a total of 4 nominations were received this year
- Senior Sportsperson of the Year – a total of 4 nominations were received for this category
- Junior Sportsperson of the Year – a total of 4 nominations were received this year
- Services to Sport Award – a total of 2 nominations were received this year
- Youth Cultural Award – a total of 1 nomination was received this year
- Cultural Contributor Award – a total of 2 nominations were received this year
- Northoak Award - 0 nominations were received this year
- Environment Award - a total of 2 nominations were received this year
- Education Award - a total of 1 nomination was received this year
- Social Inclusion Award - a total of 2 nominations were received this year

A Citizenship Ceremony was conducted at the 2019 Australia Day Ceremony, where a total of 9 candidates become new Australia Citizens.

The ceremony included a performance by the Muswellbrook Town Concert Band. This performance showcased the talents of our local Town Band members.

In addition an estimated 400 local community members attended the 2018 Australia Day Event, which was made up of the Official Party, nominees, band and the audience. The events cost \$22,171.00

CONSULTATION

General Manager

Aunty Jean Hands (Wanaruah Lands Council).

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Cr Martin Rush

REPORT

It is proposed that an Awards Ceremony be held on Thursday 25 January 2020, in the Denman Memorial Hall from 6:00pm where the following awards will be presented:

- Citizen of the Year;
- Young Citizen of the Year.
- Young Citizen of the Year, school achiever.

Muswellbrook Shire Council to invite the Muswellbrook Town Band or Alternative Band to perform at the Awards Ceremony.

Muswellbrook Shire Council invite 2019 Citizen of the Year, Len Kelman to give an address at the Awards Ceremony.

The awards ceremony will be an invitation only event, tickets will be issued to the nominees and a set number will be distributed to the families of the nominees. Tickets will also be issued to Official Guests and the media will be invited to cover the event.

Item
Official Ceremony, Welcome to Country, Anthem and nomination certificates presented to nominees
Address by the 2019 Citizen of the Year, Len Kelman
Presentation of the 2019 Citizen and Young Citizen Awards
Conclusion – followed by drinks and canapes at the Conservatorium

It is also proposed that the official ceremony on 26 January, will commence at 9:00am and that the following award categories will be presented at the ceremony:

- Junior Sportsperson of the Year Award
- Senior Sportsperson of the Year
- Services to Sport
- Youth Cultural Contributor Award
- Cultural Contributor Award
- Northoak Award for Primary Production
- Environmental Award
- Education Award

- Social Inclusion Award

Draft Programme, 26 January 2020 commencing at 9:00am:

Item
Official Ceremony, Welcome to Country, Smoking/Brushing Ceremony, Anthem, Citizenship Ceremony and nomination certificates presented to nominees
Cultural (including Education and Social Inclusion)
Performance – to be chosen
Sports Awards, Northoak and Environmental Awards
Performances by the Muswellbrook Town Concert Band
Address by the 2019 Citizen and Young Citizen
Performance
Participants Presentation
Conclusion

Muswellbrook Shire council invite a representative from Wanaruah to conduct the welcome to Country and undertake a Smoking/Brushing Ceremony.

It is proposed that Council liaise with Brook Boney and invite her to participate in the 2020 Awards Ceremony as the Master of Ceremonies.

It is also proposed that Council liaise with **XXXX** and invite them to participate in the 2020 Official Australia Day Ceremony at the Denman Aquatic Centre as the Master of Ceremonies.

It is also proposed that Muswellbrook Shire Council does not register for the 2019 Ambassador Program. This will equate to a cost saving of approximately \$300.00.

Muswellbrook Shire Council liaise with the Wanaruah Lands Council with regard to their involvement in the Citizenship Ceremony and other events.

It is also proposed that Muswellbrook Shire Council develop a clear and precise marketing campaign for the 2020 Australia Day Event to reduce the overall cost of advertising. We plan to use the power of social media and Muswellbrook Shire Council's website. It is anticipated that a small percentage of our budget will be spent on radio advertising to capture all audiences.

OPTIONS

Option 1

Muswellbrook Shire Council hosts an Awards Ceremony, on 25 January 2020, in the Denman Memorial Hall to present the Citizen and Young Citizen of the Year awards.

The Awards Ceremony to commence at 6:00pm with canapes served throughout the evening. The awards ceremony will be a ticketed event, tickets will be distributed to the nominees and their families, as well as official guests.

The 2020 Australia Day Ceremony is held at Denman Memorial Hall on 26 January 2020. The Ceremony will include a presentation of the following awards:

- Young Citizen School achiever,
- Junior Sportsperson,
- Senior Sportsperson,
- Services to Sport,
- Youth Cultural Award,
- Cultural Contributor Award,

- Northoak Award for Primary Production,
- Environmental Award,
- Education Award; and,
- Social Inclusion Award

The Official Ceremony to commence at 9:00am and include a citizenship ceremony, presentation of awards and performance by the Muswellbrook Town Band

The Denman Rotary and Denman Lions Clubs be invited to host a free BBQ Lunch at the rear of Denman Aquatic Centre and Muswellbrook Apex Club be invited to jointly host a family fun afternoon be held at the Muswellbrook Aquatic Centre.

Free entry to the Muswellbrook and Denman Aquatic Centre will be available on the day.

Option 2

The 2020 Australia Day Ceremony is held at the Denman Indoor Sports Centre. The Official Ceremony to commence at 9:00am on Saturday 26 January 2020. The event will include a Citizenship Ceremony, presentation of Awards, a performance from the Muswellbrook Shire Town Concert Band performances from various other local groups.

A free BBQ breakfast be held in conjunction with the Denman Lions and Denman Rotary Club (consultation still to occur), from 8:00am.

A family fun afternoon to be held at the Muswellbrook Aquatic Centre, held in conjunction with the Apex Club (consultation still to occur) to commence at 12 noon. This will include a jumping castle, petting zoo and inflatable water slide. (Weather permitting).

Free entry also be made available to the Community at the Denman Pool and Muswellbrook Pools.

Option 3

The Committee may consider alternative arrangements to the proposed program for the 2020 Australia Day ceremony.

CONCLUSION

Not Applicable

SOCIAL IMPLICATIONS

Australia Day is an opportunity to engage the community and encourage participation in volunteering and community events.

FINANCIAL IMPLICATIONS

The 2018 Australia Day budget was \$22,171 and it is proposed to an increase to the budget allocation up to the amount of \$25,000 for the 2020 Australia Day Event. This increased allocation will allow an enhancement in the quality of the activities for families before, during and after the ceremony as well as cater for any price increases over the next financial year. This figure may also need to be taken into consideration if major changes are made to the event. It is recommended that the allocation of \$25,000 to be considered as part of the preparation of the 2018/19 Budget.

POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Not applicable

OPERATIONAL PLAN IMPLICATIONS

Not applicable

RISK MANAGEMENT IMPLICATIONS

Not applicable

8 ADJOURNMENT INTO CLOSED COUNCIL

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

RECOMMENDATION

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

9.1 TERTIARY EDUCATION CENTRE - STAGE 2 AND COMMERCIAL AND EDUCATION BUILDING

Item 9.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

9.2 2018-2019-0368 PROVISION OF WET AND DRY HIRE OF PLANT, TRUCKS AND EQUIPMENT

Item 9.2 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(i) of the local government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Moved: _____ Seconded: _____

9 CLOSED COUNCIL

10 RESUMPTION OF OPEN COUNCIL

11 CLOSURE