



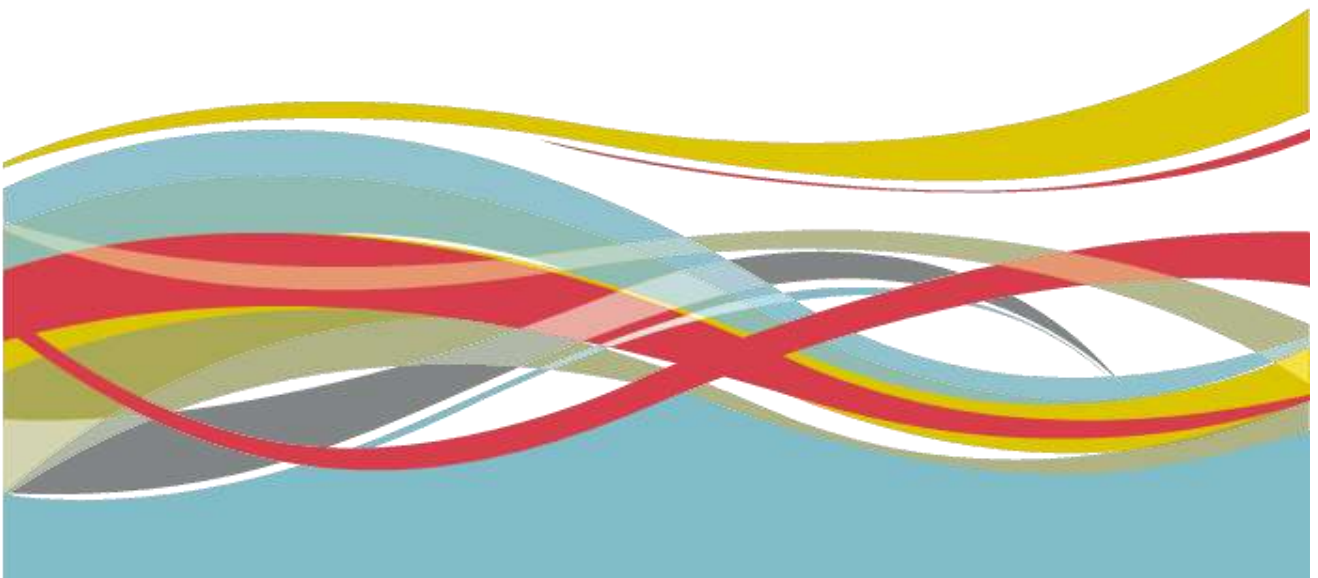
**muswellbrook
shire council**

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

SUPPLEMENTARY BUSINESS PAPER

30 JUNE 2020



Order of Business

ITEM	SUBJECT	PAGE NO
10	ENVIRONMENTAL SERVICES	3
10.9	DA 2020-40 - GEOTECHNICAL INVESTIGATIONS (EARTHWORKS AND BOREHOLES) AND VEGETATION CLEARING	3

10 ENVIRONMENTAL SERVICES

10.9 DA 2020-40 - GEOTECHNICAL INVESTIGATIONS (EARTHWORKS AND BOREHOLES) AND VEGETATION CLEARING

Responsible Officer:	Sharon Pope - Executive Manager - Environmental and Planning Services
Author:	Alisa Evans - Projects Planner
Community Plan Issue:	<i>Diversify the economy, facilitate the development of intensive agricultur and other growth industries, make the Shire a more attractive place to invest and do business</i>
Community Plan Goal:	<i>Facilitate the diversification of the Shire's economy and support growth of existing industry and business enterprise.</i>
Community Plan Strategy:	<i>Apply strategic planning and development assessment planning advice to support Council's economic diversification goals.</i>
Attachments:	A. DA 2020-40 - Site Plan B. DA 2020-40 - s4.15 Development Assessment report C. DA 2020-40 - draft conditions

Documents referred to in assessment not attached:

- Local Environmental Plan 2009
- Development Control Plan 2009

APPLICATION DETAILS

Applicant:	SMEC Australia Pty Ltd
Owner:	Muswellbrook Coal Company Pty Ltd
Proposal:	Geotechnical Investigation (earthworks) and Vegetation Clearing
Location:	Lot 61 DP 1113302, Lot 1 DP184481, Lot 180 DP 627509, Lot 1 DP 1004305, Lot 1 DP 723294 and Lot 59 & 60 DP 752484 Limestone Road Muswellbrook
Permissibility:	The proposed development is permissible as earthworks ancillary to electricity generating works within the RU1 and E3 zone in accordance with State Environmental Planning Policy (Infrastructure) 2007
Recommendation:	Approval

RECOMMENDATION

Council approve Development Application No. 2020-40 ,being for Geotechnical Investigation (earthworks) and Vegetation Clearing at Lot 61 DP 1113302, Lot 1 DP184481, Lot 180 DP 627509, Lot 1 DP 1004305, Lot 1 DP 723294 and Lot 59 & 60 DP 752484, Limestone Road Muswellbrook, subject to the conditions in Attachment C.

Moved: _____ Seconded: _____

<input type="checkbox"/> Cr J. Ledlin	<input type="checkbox"/>	<input type="checkbox"/> Cr G. McNeill
<input type="checkbox"/> Cr J. Foy	<input type="checkbox"/>	<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

An application has been lodged seeking consent for geotechnical investigation (earthworks) and vegetation clearing to inform a feasibility study for a possible pumped hydro energy storage scheme. The land is currently used for an open cut mine operation known as Muswellbrook Coal.

The proposal involves two (2) boreholes (with possible 3 sites being identified) and associated works. A detailed site plan is provided in Attachment A. The supporting documentation list the following works as part of the development:

- Site mobilisation works and laydown area creation;
- Augmentation of existing access tracks to facilitate site access;
- Filling around existing culverts where the existing ground has eroded;
- Borehole creation using a drilling rig, reaching depths of around 200m-300m below ground surface, with water supplied by truck mounted water carts;
- Placement of clean rock fill over an ephemeral drainage line to avoid equipment becoming bogged;
- Storage of excess drilling water and cuttings in a temporary waste skip bin to be removed offsite by the contracted waste manager (Cleanaway);
- Rock core transportation and storage offsite;
- Drill stem testing at the completion of drilling whilst the drill rig is still in position;
- Insitu stress measuring, undertaken progressively down the borehole whilst the drill rig is still in position, with resin left to set in place overnight;
- Borehole imaging, undertaken by a specialist sub-contractor, including optical and acoustic imaging and a sonic logging profile;
- Borehole decommissioning within 28 days of completing the works, either by installing a fully grouted vibrating wire piezometer and data logger, or fully grouted backfilling; and
- Site rehabilitation works, including:
 - o Reinstating areas where a cut/fill bench was created;
 - o Re-seeding access tracks; and
 - o Removing all equipment and environmental controls.



Extract from SOEE Figure 3-1 Aerial View of Site (showing potential borehole locations and access track)

ASSESSMENT SUMMARY

Council Officers have assessed the development application under the relevant heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. A copy of the Section 4.15 Assessment is provided in Attachment B. The proposed development application would comply with relevant requirements of the *Muswellbrook LEP 2009*.

Key findings of the section 4.15 assessment include:

- The proposed development was considered against provision of *Muswellbrook LEP 2009* and there are no provisions which would prevent Council from granting development consent to the proposed development.
- The proposed development was considered against the provisions of relevant State Environmental Planning Policies (SEPP's) and there are no provisions which would prevent Council from granting development consent to the proposed development.
- The proposed development was considered against the requirements of the *Muswellbrook Development Control Plan 2009* (DCP) and is in accordance with the requirements of the DCP.
- It was considered that the proposed development was unlikely to have any significant adverse environmental impacts.

COMMUNITY CONSULTATION

The proposed development was notified from 11 May 2020 until 5 June 2020. No submissions were received from the public in relation to the proposed development.

OPTIONS

The Council may:

- A) Grant development consent to the proposed development subject to the recommended conditions of consent,
- B) Grant development consent to the proposed development subject to different conditions of consent, or
- C) Refuse modification to development consent to the proposed development and nominate reasons for refusal.

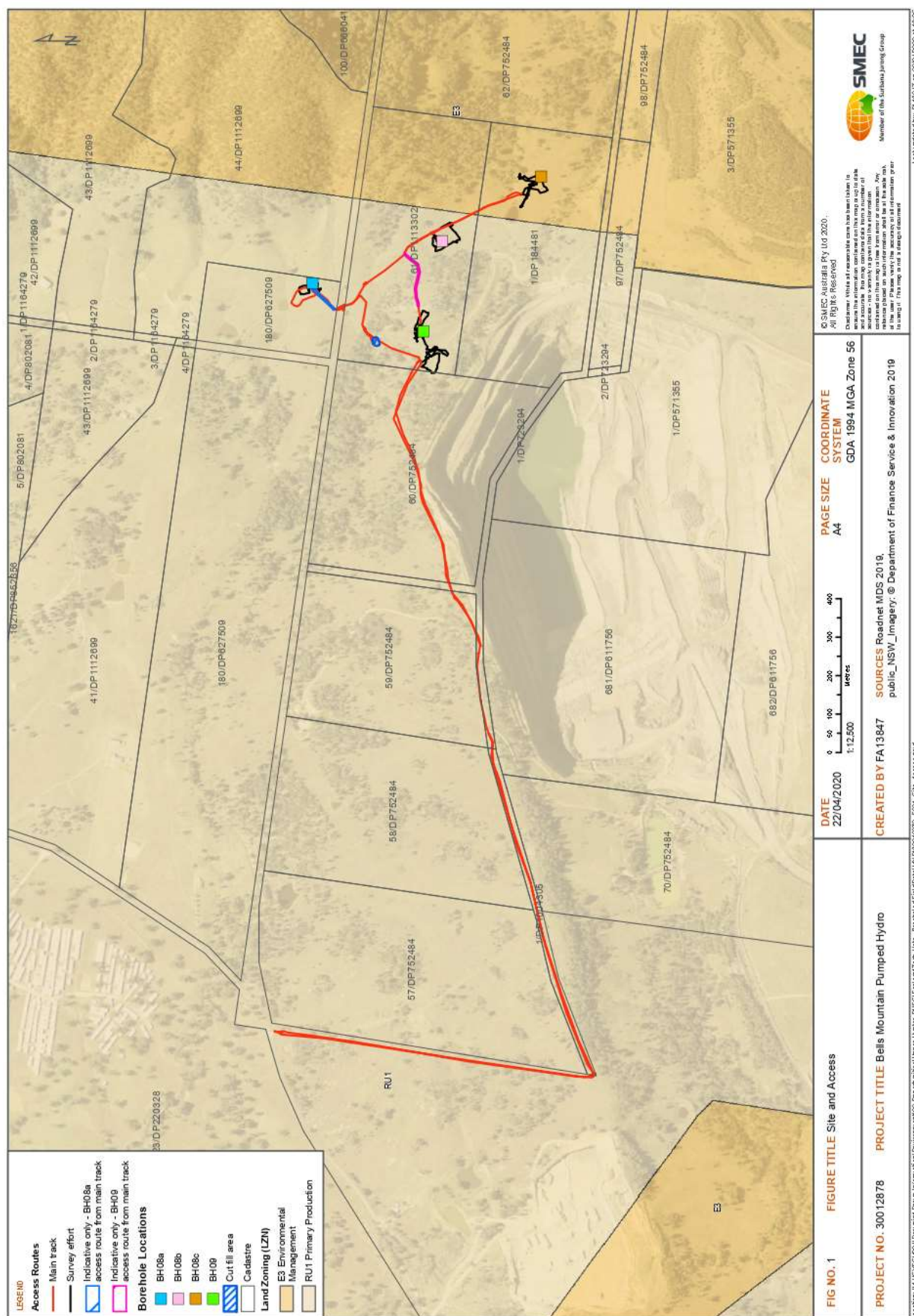
LEGAL IMPLICATIONS

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 2020-40 has been reported to Council for determination as the development proposal relates to electricity generating works.

The application has been assessed by Council Officers in accordance with the relevant provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. This assessment report has been included as Attachment B. Staff recommend that Council grant development consent to the proposed development in accordance with the conditions of consent outlined in Attachment C.



DEVELOPMENT ASSESSMENT REPORT

Attached: Site Plan

REPORT TO THE GENERAL MANAGER

ADDRESS:	Lot 61 DP 1113302; Lot 1 DP 184481; Lot 180 DP 627509; Lot 1 DP 1004305; Lot 1 DP 723294; Lot 59 DP 752484; and Lot 60 DP 752484 Limestone Road MUSWELLBROOK, Sandy Creek Road MUSWELLBROOK			
APPLICATION No:	40/2020			
PROPOSAL:	Geotechnical Investigations (Earthworks) and Vegetation Clearing			
PLANS REF:	Drawings no.	Drawn by	Date	Received
OWNER:	Muswellbrook Coal Company Pty Ltd			
APPLICANT:	SMEC Australia Pty Ltd 74 Hunter Street NEWCASTLE NSW 2300			
AUTHOR:	Ms A J Evans			
DATE LODGED:	27/04/2020			
AMENDED:				
ADD. INFO REC'D:	Ongoing			
DATE OF REPORT:	23 June 2020			

SUMMARY

ISSUES: Control Activity Approval (Water), Crown Road (Access) and Subsidence Advisory NSW

SUBMISSIONS: No submissions received

RECOMMENDATION: Approval subject to conditions

1.0 SITE AND LOCALITY DESCRIPTION

The proposed site is part of the Muswellbrook Coal Company mining lease. The land is zoned RU1 Primary Production and E3 Environmental Management. The land is partly cleared and has several natural watercourse and drainage diversion channels to control stormwater on the site. Access is off Limestone Road (Crown Road) via Sandy Creek road, Muswellbrook.

The subject land is formally identified as:

- Lot 61 DP 1113302;
- Lot 1 DP 184481;
- Lot 180 DP 627509,
- Lot 1 DP 1004305;
- Lot 1 DP 723294;
- Lot 59 DP 752484; and
- Lot 60 DP 752484.

The surrounding land is utilised for agricultural, quarry and mining activities. The image below identifies the subject land and its locality.



2.0 DESCRIPTION OF PROPOSAL

An application has been lodged seeking consent for geotechnical investigation (earthworks) and vegetation clearing to inform a feasibility study for a possible pumped hydro energy storage scheme on the land.

The proposal is for two (2) boreholes (with a possible 3rd site being identified) and associated works. The supporting documentation list the following works that are being undertaken to facilitated the development:

- Site mobilisation works and laydown area creation;
- Minor augmentation of existing access tracks to facilitate site access;
- Minor filling around existing culverts where the existing ground has eroded;
- Borehole creation using a drilling rig, reaching depths of around 200m-300m below ground surface with water supplied by truck mounted water carts;

- Placement of clean rock fill over an ephemeral drainage line to avoid equipment becoming bogged;
- Storage of excess drilling water and cuttings in a temporary waste skip bin to be removed offsite by the contracted waste manager (Cleanaway);
- Rock core transportation and storage offsite;
- Drill stem testing at the completion of drilling whilst the drill rig is still in position;
- Stress measuring, undertaken progressively down the borehole whilst the drill rig is still in position, with resin left to set in place overnight;
- Borehole imaging, undertaken by a specialist sub-contractor, including optical and acoustic imaging and a sonic logging profile;
- Borehole decommissioning within 28 days of completing the works, either by installing a fully grouted vibrating wire piezometer and data logger, or fully grouted backfilling; and
- Site rehabilitation works, including:
 - o Reinstating areas where a cut/fill bench was created
 - o Re-seeding access tracks
 - o Removing all equipment and environmental controls.



Extract from SOEE Figure 3-1 Aerial View of Site (showing potential borehole locations and access track)

3.0 SPECIALIST COMMENTS

5.1 Internal Referrals

The application was referred to Council's, Environmental Health Officer, Community Infrastructure, and Biodiversity and Sustainability sections. Each section reviewed the proposal and recommended conditions to be placed on the development consent should the application be approved.

The proposed conditions included are in relation to vegetation removal, noise mitigation approval for use of Limestone Road (a Crown Road) as Council is not the Road Authority in relation to the use of the road and approval for improvements and repairs.

3.1 External Referrals

3.1.1 Department of Industries – Water Regulation

The application was lodged as Integrated Development under Water Management Act 2000.

Email confirmation was received Thursday 25 June 2020 (Doc ID 1119433) advising that the works are exempt.

3.1.2 Subsidence Advisory NSW

It was identified during the assessment that the proposal was integrated as it triggers s.22 of Coal Mine Subsidence Compensation Act 2016, accordingly the application is referred to Subsidence Advisory NSW for General Terms of Approval to be obtained.

Email correspondence was received from Subsidence Advisory NSW on Friday 26 June 2020 (Doc ID 1120095) outlining there are no requirements for this proposal but noting any further development for a pumped hydro scheme would require assessment and advice from the agency.

4.0 ASSESSMENT

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

Section 4.15 Matters for Consideration

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

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

1. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)

Land Use Zone and Permitted Land Use

The development site is zoned RU1 Primary Production and E3 Environmental Management pursuant to MLEP 2009. The proposal is defined as earthworks, and is permitted with consent in the subject zones, under State Environmental Planning Policy (Infrastructure) 2007, as it is intended for an electricity generating works.

Objectives of the RU1 Primary Production

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect the agricultural potential of rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.*
- *To maintain the rural landscape character of the land in the long term.*
- *To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not—*
 - (a) *destroy or impair the agricultural production potential of the land or, in the*

- case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or
- (b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or
- (c) visually intrude into its surroundings, except by way of suitable screening.
- To protect or conserve (or both)—
 - (a) soil stability by controlling development in accordance with land capability, and
 - (b) trees and other vegetation, and
 - (c) water resources, water quality and wetland areas, and their catchments and buffer areas, and
 - (d) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.

Objectives of the E3 Environmental Management

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To maintain, or improve in the long term, the ecological values of existing remnant vegetation of significance including wooded hilltops, river valley systems, major scenic corridors and other local features of scenic attraction.
- To limit development that is visually intrusive and ensure compatibility with the existing landscape character.
- To allow agricultural activities that will not have an adverse impact on the environmental and scenic quality of the existing landscape.
- To promote ecologically sustainable development.
- To ensure that development in this zone on land that adjoins land in the land zoned E1 National Parks and Nature Reserves is compatible with the objectives for that zone.

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

Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009

<i>Part 1 Preliminary</i>	
<i>1.1 Name of Plan</i>	Muswellbrook Local Environmental Plan 2009
<i>1.1AA Commencement</i>	The MLEP 2009 was gazette 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>1.7 Maps</i>	Noted.
<i>1.8 Repeal of planning instruments applying to land</i>	Noted.
<i>1.8A Savings provision relating to pending development applications</i>	Noted
<i>1.9 Application of SEPPs</i>	Noted
<i>1.9A Suspension of covenants, agreements and instruments</i>	Noted
<i>Part 2 Permitted or prohibited development</i>	
<i>2.1 Land use zones</i>	Noted

Item 10.9 - Attachment B DA 2020-40 - s4.15 Development Assessment report

2.2 Zoning of land to which Plan applies	See above
2.3 Zone objectives and Land Use Table	See above
2.4 Unzoned land	Not applicable
2.5 Additional permitted uses for particular land	NA
2.6 Subdivision—consent requirements	NA
2.7 Demolition requires development consent	NA
2.8 Temporary use of land	NA
Part 3 Exempt and complying development	
3.1 Exempt development	NA
3.2 Complying development	NA
3.3 Environmentally sensitive areas excluded	NA
Part 6 Urban release areas	
6.1 Arrangements for designated State public infrastructure	Not applicable
6.2 Public utility infrastructure	Not applicable
6.3 Development control plan	Not applicable
6.4 Relationship between Part and remainder of Plan	Not applicable
Part 7 Additional local provisions	
7.6 Earthworks	<p>Under the provisions of the Clause earthworks are required to gain consent but only if Council has considered the following under 7.6 (3):</p> <ul style="list-style-type: none"> a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, (b) the effect of the proposed development on the likely future use or redevelopment of the land, (c) the quality of the fill or of the soil to be excavated, or both, (d) the effect of the proposed development on the existing and likely amenity of adjoining properties, (e) the source of any fill material or the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area. <p>Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.</p> <p>After reviewing the submitted documentation the earthworks are unlikely to adversely impact the site and its future development potential or adjoining land.</p>

2. State Environmental Planning Policy (Primary Production and Rural Development) 2019

The development proposal is not contrary to the aims of the SEPP.

3. State Environmental Planning Policy (Infrastructure) 2007

As discussed previously the earthworks are considered ancillary to an electricity generating works and is permissible on the land. The development will inform an assessment of the feasibility of the site for a pumped hydro scheme.

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

There are no draft EPIs relevant to the subject Application.

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

Section 3 – Site Analysis

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

Section 8 – Rural and Environmental Zone development

The proposed earthworks are within the RU1 and E3 zones. The works will be managed to reduce the significant impacts of remnant vegetation on site as required by this Chapter of the DCP. In considering the application and the surrounding land uses, it is deemed that the impacts are not detrimental to the remnant vegetation.

Section 20 – Erosion and Sediment Control

The application is consistent with the provisions of the DCP. Section 6.9 of the SOEE details erosion and sediment controls that will be implemented during the works and will further detailed with the Environmental Management Plan.

Section 24 – Waste Management

Waste Management Plan was submitted with the application and was amended 19/6/2020 and additional information is detailed in SOEE. The application is consistent with the provision of the DCP.

Section 94A Contributions Plan 2009

A s.7.12 developer contribution will apply to the proposed development should the Application be approved.

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

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

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

There are no planning agreements relevant to the subject Application.

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

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

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

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

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

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

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

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

It is considered that the development is not detrimental to the site and surrounding land uses and site characteristics, subject to consent conditions.

Section 4.15(1)(d) any submissions made

No submissions were received during the notification period.

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

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

NSW Legislation

State Environmental Planning Policy (Primary Production and Rural Development) 2019 and State Environmental Planning Policy (Infrastructure) 2007 is the relevant legislation that needs to be considered. The assessment has considered these pieces of legislation.

Council Adopted and Draft Policies

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

D7/1	Development Cost Estimating
D25/1	Rivers and Drainage Channels
S28/1	Street Trading Policy
D6/1	Demolition Policy
C20/1	Contaminated Land Policy
S15/1	Building Over Existing Sewer Policy

SOCIAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

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

STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

This matter has no specific legal implications for Council.

OPERATIONAL PLAN IMPLICATIONS

This matter has no specific Operational Plan implications for Council.

RISK MANAGEMENT IMPLICATIONS

This matter has no specific risk management implications for Council.

5 CONCLUSION

The application has been assessed in accordance with State Environmental Planning Policy (Primary Production and Rural Development) 2019 and State Environmental Planning Policy (Infrastructure) 2007. The application has also been placed on public exhibition for a minimum of twenty-one (21) days, in accordance with the Community Participation Plan, and no submissions were received.

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

Signed by:

Alisa Evans
Project Planner

Date: 28 June 2020

Disclosure of Political Donations and Gifts:

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

IDENTIFICATION OF APPROVED PLANS

1. Development in Accordance with Plans

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

Document Description	Revision	Prepared by	Date	Received
Statement of Environmental Effects	-	SMEC	27/04/2020	29/04/2020
Site and Access	-	SMEC	22/04/2020	18/06/2020

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT

2. Section 7.12 Contributions

Pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$10,332.00 shall be paid to Muswellbrook Shire Council.

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

3. Environmental Management Plan

An Environmental Management Plan is to be submitted for approval by Council prior to works commencing. The EMP is to be prepared in accordance with NSW Department of Planning, Industry and Environment guidelines ensuring that appropriate environmental management practices are followed during the earthworks and for site remediation after decommissioning.

Note: the EMP is to contain procedures for unforeseen events that may occur in when earthworks (boreholes) are proceeding.

4. Sediment and Erosion Control

Where excavation activity requires the disturbance of the soil surface and existing vegetation, adequate measures for erosion and sediment control shall be provided. As a minimum, control techniques are to be in accordance with 'The Blue Book' provisions on Erosion and Sediment Control, or a suitable effective alternative method.

All required sedimentation control 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.

5. Section 138 Application

Prior to commencing of any works, a permit must be obtained from Council, under Section 138 of the Roads Act 1993 for a Traffic Management Plan.

6. 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.

7. Site Facilities

- (a) The borehole sites must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) Any such hoarding or fence should only be removed after the boreholes have been remediated and declared safe.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The provision of toilet facilities must be completed before any other work is commenced.
- (g) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

CONDITIONS THAT MUST BE COMPLIED WITH DURING WORK

8. Operational Hours

- (a) Subject to this clause, all works are to be carried out during the following hours:
 - i. between Monday to Friday (inclusive)—7.00am to 6.00pm
 - ii. on a Saturday—8.00am to 1.00pm
- (b) Works must not be carried out on a Sunday or a public holiday.
- (c) 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.

9. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during 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.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

10. Noise Mitigation

Noise management and mitigation measures for the works are to be implemented in accordance with those recommended in the Noise Assessment prepared by "Resonate" dated 24/4/2020, REF S200035RP1 Rev C.

11. Ecological Mitigation

The proposed mitigation measures outline on page 21 of *'Ecological assessment for Geotechnical Investigations in Muswellbrook, NSW'*, Project Number 30012878, dated 31 March 2020, are to be implemented and in place for duration of the works to ensure the proposal does not have a significant impact as defined by the Biodiversity Conservation Act.

12. Rehabilitation Plan

Rehabilitation work must be carried out in accordance with a rehabilitation plan prepared in accordance with the Environmental Management Plan. The plan is to be approved by Council and the works completed within 6 weeks of excavation of boreholes being finalised.

13. Archaeological Material or Relics

If archaeological or suspected archaeological material or relics are uncovered during works, works are to cease, and the area cordoned off. The material is to be inspected by relevant qualified consultant and works are only to recommence once clearance and management approval has been gained from the consultant and NSW Department of Planning, Industry and Environment.

REASON FOR IMPOSITION OF CONDITIONS:

The reason for the imposition of the following conditions is to ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

- (a) To encourage:
 - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, for the purpose of promoting the social and economic welfare of the community and a better environment;
 - (ii) The protection, provision, and co-ordination of communication and utility services;
 - (iii) The provision and co-ordination of community services and facilities;
 - (iv) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats; and
 - (v) Ecologically Sustainable Development; and
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.

ADVICE:

- Where indicated by specific reference in a condition above, approval is also granted for Section 68 of the Local Government Act 1993 to carry out sewer drainage, water supply work and stormwater drainage.
- Limestone Road is a Crown Road. The applicant is to consultant and gain the required consent to use the road for the purpose of the application and any future works/development applications.
- You are advised that changes to the site layout or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act, 1979. Any such changes may need to be the subject of a separate Development Application.
Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

- This document is a development consent only and does not authorise construction or subdivision works to commence. Prior to commencing any building, subdivision or associated construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.7 of the Act.
 - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6(1) of the Act.
 - (iii) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 6.6(2) of the Act.
- The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.
- Failure to comply with any of the above requirements is an offence under the provisions of the Act, and may result in enforcement action being taken by Council if these requirements are not complied with.