



**muswellbrook
shire council**

Muswellbrook Shire Council
ORDINARY COUNCIL MEETING

BUSINESS PAPER
12 DECEMBER 2017



ORDINARY COUNCIL MEETING, 12 DECEMBER 2017

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
7 December, 2017

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the CHAMBERS, Administration Centre, Muswellbrook on **12 December, 2017** commencing at 6.00pm.

Steve McDonald
GENERAL MANAGER

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19.7	<p>CAPITAL EXPENDITURE REVIEW - REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE</p> <p><i>Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i></p>	

- 19.8 CAPITAL EXPENDITURE REVIEW - OLYMPIC PARK PRECINCT UPGRADE
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- 19.9 Councils Grant Application Program
Item 19.9 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
- 19.10 Planning and Regulatory Services
Item 19.10 is classified CONFIDENTIAL under the provisions of Section10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

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**MUSWELLBROOK SHIRE COUNCIL
ORDINARY COUNCIL MEETING**

**AGENDA
TUESDAY 12 DECEMBER 2017**

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

Moved: _____ **Seconded:** _____

- 4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING
RECOMMENDATION**

That the Minutes of the Ordinary Meeting **held on** 14 November 2017, and the Extra Ordinary Meeting **held on** 29 November 2017, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

Moved: _____ **Seconded:** _____

- 5 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST**

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

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

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

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

- Significant
- Less than significant

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

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

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

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

Nil

10 ENVIRONMENTAL SERVICES

10.1 DEVELOPMENT APPLICATION 72/2003 - SECTION 96(1A) - INCREASE HOURS OF OPERATION TO 24 HOURS.

Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Donna Watson - Development Planner
Community Plan Issue:	<i>Plan liveable and sustainable urban areas</i>
Community Plan Goal:	<i>Sustainable planning, design and regulation support community needs</i>
Community Plan Strategy:	<i>Plan for development that balances the needs of the community and allows for managed growth</i>
Attachments:	A. Supporting documents B. Submissions C. NSW Police Referral Response D. RMS Response

Documents reference to in the assessment but not attached:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Local Environmental Plan 2009
- Development Control Plan 2009
- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Noise Control) Regulation 2008
- NSW Environment Protection Authority Noise Policy

APPLICATION DETAILS

Applicant:	KDC Pty Ltd
Owner:	McDonalds Australia Limited
Proposal:	Section 96(1a) Amend Condition 1.11 to modify hours of operation to become 24 hours.
Location:	Lot 100 DP 793194 Corner of Thompson Maitland Street, Muswellbrook
Permissibility:	The proposed development is permissible as <i>Commercial Premises</i> within the B2 Local Centre Zone
Recommendation:	Refusal

RECOMMENDATION

That Council, as the consent authority, REFUSE Development Application No. 72/2003/2 proposing an amendment to Condition 1.11 to modify the hours of operation at Lot 100 DP 793194, Corner of Thompson and Maitland Street, Muswellbrook for the following reasons:

1. The proposed extension of trading hours is likely to have a significant impact on the amenity
-

of adjoining residential properties with respect to acoustic privacy, traffic, headlight intrusion, odour, security and safety.

2. The proposed amendment to trading hours does not adequately address potential adverse social impacts such as increases in anti-social behaviour, criminal activity and public order incidents.
3. The subject site is not considered to be suitable for the proposed amendment to trading hours given its location adjacent to an established residential area and motel development.
4. The proposal is not considered to be in the public interest given the likely social and amenity impacts on the locality.

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

EXECUTIVE SUMMARY

On 21 April 2017, Council received a Section 96(1a) modification application for DA 72/2003 seeking to a modify Condition 1.11 which currently limits hours of operation to:

*6.00 am to 10.00 pm Mondays to Thursday, Sunday and Public Holidays and
6.00 am to 11.00 pm Friday and Saturday.*

The modification is proposing to amend this condition to allow hours of operation of 24 hours, seven days a week. The same request for 24 hour trading was refused by Council in 2009 via DA 2008-332.

The proposed modification was exhibited for 14 days and during that time Council received 15 submissions of objection.

As a result of the submissions received, the applicant subsequently amended the proposed hours of operation to:

Day	Store Operation		Drive-Thru Operation	
	Approved Trading Hours	Proposed Trading Hours	Approved Trading Hours	Proposed Trading Hours
Sunday - Thursday	6:00am – 10:00pm	4:30am – Midnight	6:00am – 10:00pm	24/7
Friday & Saturday	6:00am – 11:00pm	4:30am – Midnight	6:00am – 11:00pm	24/7

The revised modification was again exhibited for 14 days and Council received 13 further objections in relation to the development. A number of concerns were raised in the submissions with the main concern being an unacceptable impact on the residential amenity due to increased noise and anti-social behaviour.

The application was referred to the NSW Police and Roads and Maritime Services for consideration.

Responses have been received from each of these agencies and will be discussed in detail later in the report.

The modification is being reported to Council due to the submissions received.

SITE DESCRIPTION

The site is known as Lot 100 DP 793194, 83 – 89 Maitland Street Muswellbrook and has an area of 6375m². The land is zoned B2 Local Centre under the Muswellbrook Local Environmental Plan 2009.

The site has been developed and operated as a McDonalds restaurant since the late 1980. The site contains one main building, which is used as the restaurant and a smaller building, which was previously used as the “party room”, but is currently used for storage. Complementary to the building, are a number of carparking spaces which are used by patrons of the premises.

The site is located on the southern side of Muswellbrook, on the corner of Thompson and Maitland Street (also known as the New England Highway).



Directly to the northwest of the site are a number of residential dwellings within the R1 General Residential zone. To the southeast of the site, fronting Maitland Street, is the John Hunter Motel and the Showground. To the north, across Maitland Street, is a forested area and to the south is a vacant commercially zone allotment.

HISTORY

A search of Council's records has found the following development applications lodged on the subject land. Please note Council's electronic records only date from 1995.

Year	Number	Part	Description	Determination	Determination Date
2003	72	2	S96(1a) Modification - Amend Condition 1.11 - Alter Hours Of Operation	Subject to this report	pending
2016	69	2	S96(1a) Modification - Increase Size Of Play Area	Under assessment	pending

2016	69	1	Internal Re-Fit – New Enclosed Play land – Update To Signage – External Works Including New Furniture And Infill Walls	Approved by Delegated Authority	05/09/2016
2012	77	1	Reconfiguration Of Car Parking And Conversion To Dual Lane Drive Through Facility	Approved by Delegated Authority	10/05/2012
2009	224	1	Shade Sails To Outdoor Dining Area And Playground	Approved by Delegated Authority	17/12/2009
2008	332	1	Extend Trading Hours Of McDonalds Restaurant To 5am To Midnight 7 Day S A Week, And Change Of Hours Of Drive Thru Facility To 24 Hours Per Day 7 Days A Week	Refused by Council at a Council	09/02/2009
2007	415	1	Internal & External Decor Upgrade	Approved	11/02/2008
2007	206	1	Drive Through Order Booth With Awning	Approved	17/07/2007
2004	168	1	Temporary Shipping Containers	Approved	28/05/2004
2003	72	1	Alterations/Additions To McDonalds Restaurant - McCafe	Approved	16/06/2003
1996	10137	1	Change Of Use - Existing Garage To Party Room	Approved	26/09/1996
1996	243	1	Change Of Use - Existing Garage To New Party Room	Approved Conditions	14/10/1996
1995	305	1	Shade Canopy, Pergola	Approved Conditions	22/11/1995

Development Application reference DA332/2008 is of significant relevance to this modification, as this application sought similar amendment / extension of the operating hours of the premises.

Due to multiple submissions and external agencies comments being received as part of the assessment process in 2008/2009, the application refused at the February 2009 Council meeting. Refer to resolution of Council at **Appendix D**.

PROPOSAL

The applicant lodged a Section 96(1a) modification on 21 April 2017. The modification lodged at that time proposed to amend Condition 1.11 of Development consent 72/2003.

No physical works are proposed to the building and the current delivery and waste collection hours will remain unchanged.

As a result of the initial public exhibition period and 15 submissions of objection being received, the applicant then revised the application, proposing hours of operation as follows;

Day	Store Operation		Drive-Thru Operation	
	Approved Trading Hours	Proposed Trading Hours	Approved Trading Hours	Proposed Trading Hours
Sunday - Thursday	6:00am – 10:00pm	4:30am – Midnight	6:00am – 10:00pm	24/7
Friday & Saturday	6:00am – 11:00pm	4:30am – Midnight	6:00am – 11:00pm	24/7

A copy of the applicant's supporting documentation is attached as **Appendix A**.

REFERRALS

Internal Referrals

The application was referred to Council's Environmental Health Officer (EHO). Comments received from the EHO indicated the Noise Assessment submitted with the modification is inadequate and an updated report should be requested.

The applicant was advised of this on 8 May 2017 and an updated noise report was submitted on 25 September. Further discussion regarding the Noise Assessment Report will be detailed later in the report.

NSW Police

The application was referred to the NSW Police for comment regarding safety and security issues. The following is an extract from the referral response from the NSW Police Force Hunter Valley Local Area Command, received on 24 May 2017. For full comments refer to **Appendix C**.

'A side effect of approving applications of the above nature, authorising hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behaviour onsite or within its immediate vicinity... Police anticipate significant increases in both vehicle and patron noise between 1200am and 0500am. Noise generated during these early hours generally carries further and impacts more on those it affects.

The McDonalds car park is already seen as a place to congregate by local youth and young driving enthusiasts outside of the restaurants existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass onsite, in particular intoxicated persons frequenting in search of their hang over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner.'

Whilst not directly stated, these comments by the Police clearly indicate a lack of support for the proposed modification, although recommended conditions are provided in the event of the application being approved by Council.

A search of Council's records did not locate any previous complaints from residences in the vicinity. The response from the Police did not detail the number of times they had received complaints or attended the site.

Roads and Maritime Services (RMS)

The modification was referred to the Roads and Maritime Services for comment regarding the potential impact of the business operating 24 hours on the intersection of Thompson and Maitland Street (New England Highway). The modification will not be altering any of the existing entrance / exit points to the site.

The response received from the RMS did not object to the development or require any upgrading of the intersection to Maitland Street. A copy of the RMS response is attached as **Appendix D**.

Public Notification

In response to Council's 2 notification periods, a total of 28 submissions were received.

The submissions received are attached as **Appendix B**.

Below is a table summarising the concerns raised in the submissions;

Name and address of submitter		Main issues																		
		noise	anti-social behaviour	increased traffic	Lack of sight distance on Thompson St	Lighting / security	Loss of amenity	Compensation	increase of on-street parking	potential increase in rubbish	Inadquate large vehicle parking area	pedestrian / vehicle conflict	increase in dust	Decrease in property values	disagree with Section 96 type	odour	out of date reports provided	loss vegetation / landscaping	early delivery times	no consultation with residents
Mr and Mrs Collard	18 Shaw Crescent																			
Mr and Mrs Jones	3 Shaw Crescent																			
Zoe Spiteri	79 Maitland Street																			
Mr and Mrs Morgan	9 Thompson Street																			
Beverley Farrell	77 Maitland Street																			
Bruce Brown	50 Thompson Street																			
Carmen Peploe	42 Eaton Avenue, Normanhurst																			
Jenny Fuller	Maitland Street																			
Mr and Mrs Monro	1 Thompson Street																			
Mrs D Scott	30 Tindale Street																			
Mr Druitt	7 Thompson Street																			
Mary-anne Uren	P O Box 2145, Emerald QLD																			
John Hunter Motel	91 Maitland Street																			
M & H Paul	5 Shaw Crescent																			
Mr and Mrs Konieczny	11A Thompson Street																			

A summary of the submissions is detailed below:

Noise

The extended trading hours will increase noise disturbance in the area. As discussed above an Acoustic Assessment was prepared for the proposed extension of hours dated July 2017. The assessment states that the use does meet the relevant Noise policy and can be managed to achieve acceptable noise amenity to the adjoining and adjacent properties.

Antisocial behaviour

The antisocial behaviour is of a concern to the locality and the wider community. This behaviour is seen as an existing problem, and the extension of hours is likely to increase its frequency. The matter of antisocial behaviour needs to be further mediated between all relevant stakeholders of the community (ie residents, law enforcement, premises operator and Council).

Increase in traffic

The traffic assessment does show there would be a significant increase in traffic to the site and local road network for the increase in opening times between 5am and 6am. The increase in traffic is seen as being undesirable to the locality and its residences.

Lack of sight distance on Thompson Street

The access to the sight has been assessed as having adequate sight distance along Thompson Street. The access arrangements are not affected by the proposed amendment.

Lighting and security

There are no proposed physical changes to the premises and the existing lighting. The nuisance caused by lighting and affecting the amenity of adjacent properties with the increased trading hours is likely to further exacerbate the impact of lighting. If Council was to consider approval, lighting arrangements would need to be reviewed and new conditions applied to ensure that lighting of the premises during the night could be better managed.

Loss of Amenity

A number of objections raise the loss of amenity to the local area. These include noise, odour, traffic, lighting and antisocial behaviour. It is likely that the cumulative impact to the amenity of the neighbourhood will be adverse and not conducive to the residences enjoyment of their properties.

Increase in Street Parking

Some submissions argue that the proposed extension of hours will increase street parking during the proposed periods. The proposed extension would not be in peak operating times and overflow to the street would be minimal.

Increase in rubbish

Concern was expressed about the potential increase in rubbish in the neighbourhood. The Plan of Management outlines daily cleaning and rubbish collection to manage the possible increase in rubbish. The proposed increase in rubbish with the increase in hours is unlikely to be significant.

Inadequate large vehicle parking area

There is a number of large vehicle parking areas on site. The proposed extension of hours is not within peak time and is not considered to be of significant concern.

Pedestrian and vehicle conflict

Access arrangements would remain unchanged. Any conflicts currently experienced would remain outstanding.

No consultation with residence

Some residents are concerned that the matter was not discussed with them. The application was notified twice in accordance with Muswellbrook Development Control Plan 2009 with adjoining properties given 14 days to respond. This consultation satisfied Council's DCP requirements.

Out of date reports

Submissions argue that the application was supported by out of date reports. This was the case with the Noise report but that has been updated during assessment of the application. The other reports including traffic and Plan of Management are current reports.

Decrease in Property values and Compensation

Decrease of property values and compensation are not matters for consideration for assessment.

In summary the objections raise a number of concerns with the proposed extension of opening hours. However a number of the concerns relate to the overall operation of the premises, which are outside of the scope for assessment for the proposed S96(1A).

PLANNING ASSESSMENT

The key issues relevant to Council's consideration of this application are as follows;

Potential Impact on Adjacent Properties

The proposed extended trading hours, if approved, are likely to have an increased impact on the amenity of adjacent properties with respect to acoustic privacy, traffic, headlight intrusion, odour, security and safety over the period of extended trading hours being sought. The neighbouring residents are elevated from the site and mitigation of noise impacts could accordingly be difficult.

As outlined in the response from the NSW Police Force (**Appendix C**) *"it is anticipated that a significant increase in both vehicle and patron noise being midnight and 5am will occur"*. The applicant has submitted a Noise Assessment Report, which will be discussed later in the report.

It is considered that the modification, if approved, may result in additional odour impacts on neighbouring properties as cooking odours would be emitted by the McDonalds restaurant at night and during the early hours of the morning. From a review of the submissions received, odour can be considered a minor matter.

Access, Transport and Traffic

The modification is not proposing any changes to the entry / exit points to the site or to the intersection of Thompson / Maitland Street intersection. The modification was referred to the RMS for consideration and comment. The response received from RMS did not raise any objection to the extension of operating hours or require the applicant to upgrade the intersection.

The traffic assessment includes a table, inserted below, which shows existing traffic volumes in the vicinity of the development site and models the potential increase in traffic volumes. It is noted that this table does not include any traffic counts / projections from traffic accessing the site between 11pm through to 5am.

Table 3: Existing two-way traffic flows plus development traffic					
Road	Location	Weekday (5-6am)		Weekday (10-11pm)	
		Existing	Plus Development	Existing	Plus Development
New England Highway	East of Thompson Street	230	(+25)	185	(+5)
	West of Thompson Street	240	(+90)	200	(+35)
Thompson Street	South of New England Highway	30	(+115)	35	(+40)
	South of McDonald's Access	30	(+30)	35	(+10)

The proposed extension of trading hours would see an increase in vehicular traffic in the area at night and early morning. The additional traffic generated at these times is not likely to have a significant impact on the existing road network and are unlikely to result in any potential traffic conflict. RMS have raised no objections.

The applicant has submitted a traffic assessment which considers the change in operating hours. This report concludes that the intersection will have a "level A / B service" which is a good level of service during the 10pm to 6am hours.

Waste

The application states that the current waste management procedures practiced on the site will continue to suffice for the proposed extension of trading hours for the drive thru. Current waste management practices include:-

- the provision of adequate number of bins within and outside the restaurant;
- responsible disposal of litter messages on all packaging;
- Undertaking regular litter patrols to collect rubbish.

Notwithstanding these current management practices, there is potential for additional litter to accumulate in the area at night and in the early hours of the morning, particularly if waste bins are not easily accessible to patrons.

Noise & Vibration

The noise assessment provides information regarding existing ambient noise levels in the area and considers potential noise sources associated with the development that may impact on neighbouring properties. The results of acoustic modelling undertaken as part of the assessment indicate that noise from existing mechanical plant on the site and transient people and vehicle activities associated with the use of the drive through facility will satisfy the assessment goals recommended by the Environment Protection Authority (EPA) and Industrial Noise Policy (INP) with no further control measures required.

Whilst the assessment has considered a range of noise sources including mechanical plant, motor vehicles, people speaking, use of the playground and operation of the drive thru facility, it does not consider the cumulative impact of these noise sources on residential amenity nor does it take into consideration unpredictable, uncontrollable and random sources of noise such as people shouting, car stereos, refrigeration units in trucks, hard acceleration of motor vehicles, horse floats, screeching of car tyres, car aerials scraping the underside of the drive thru roof etc. These types of incidents are likely to cause sleep disturbance for neighbouring residents.

It is noted that the original development consent for McDonalds did not prescribe any noise limits for the use of the site.

Safety, Security & Crime Prevention

As outlined in the NSW Police referral response received (**Appendix C**) there are a number of potential safety and security issues associated with the proposed extension of trading hours. It is likely that McDonalds may become a focal point for people late at night and will be open after the closing times of licensed premises. There are concerns that the site may attract intoxicated persons and could become a place for people to congregate and loiter. This could potentially see an increase in incidents of assault, malicious damage, anti-social behaviour and vandalism in the locality. The Police have indicated that these problems have occurred in the past with other late night food outlets.

In order to address these concerns, the applicant has prepared a Plan of Management plan in support of the development application. The security management plan outlines a range of measures to improve site safety and security including:-

- Use of closed circuit television (CCTV) within the premises to provide 24 hour surveillance,
- Passive surveillance of the site, in particular the car park, by employees and neighbouring residents,
- Intruder alarm system including perimeter protection, movement detection and access control. The alarm system would be monitored 24 hours per day and security would be able to respond to alarms swiftly,
- Lighting within the Premises,
- Provision of clear sightlines to maximise natural surveillance and minimisation of places of concealment.
- Segregation of public and restricted areas using physical barriers, signage and locking devices,
- Installation of signage which provides details of the Duty Manager should persons wish to make a complaint.

Notwithstanding these proposed measures, it is considered that the proposal may result in an increase in criminal activity and anti-social behaviour in the immediate locality.

Should the application be approved by Council, it is recommended that conditions recommended by the NSW Police (Appendix C) be imposed. If approved it would be appropriate to include a condition requiring a security guard be employed by McDonalds to monitor the site and adjacent area at night and the early hours of the morning to minimise the potential for public order incidents.

Social Impact on the Locality

It is considered that the proposal may have a number of positive social impacts including the provision of a 24 hours convenient food outlet for local residents, shift workers and visitors and the provision of a late night meeting places that encourages social interaction.

However, there is potential for a number of adverse social impacts associated with the extended trading hours, such as:

- The loss of residential amenity
- Increase in anti-social behaviour, criminal activity and public order incidents.
- Increase in traffic movements to and from the site.
- Light intrusion from headlights to the adjacent properties.
- Increase in noise pollution.

Suitability of the site for the development

Given the location of the subject site adjacent to a residential area and a motel, it is considered that the site is not suitable for the proposed extension of trading hours.

As discussed throughout the body of this report the modification is likely to have a significant impact on the amenity of adjacent properties with respect to acoustic privacy, traffic, headlight intrusion, odour, security and safety. These impacts would be not as relevant if the site was located within a commercial precinct away from residential development.

The current trading hours of the restaurant and drive-thru (i.e. 6.00am to 10.00pm Mondays to Thursday, Sunday and Public Holidays and 6.00am to 11.00pm Friday and Saturday) were originally imposed by Council as a condition in order to preserve the residential amenity of the area. As the character of the area has remained unchanged since the development consent was granted, it is considered that the approved trading hours should remain unaltered.

GROUND FOR REFUSAL

There are a number of concerns with the proposed extended trading hours which warrant a refusal of the application. The following assessment addresses these issues;

Impact on residential amenity

- The proposed trading hours are likely to result in an increase the general level of activity in the area at night and during the early hours of the morning with additional traffic movements, vehicles parking in Thompson Street and on the New England Highway, staff and customer activity and pedestrians moving to and from the site. This increase in activity is likely to have an adverse impact on the acoustic privacy of adjoining residents.
- The submitted Noise Assessment does not consider the cumulative impact of potential noise sources on residential amenity nor does it take into consideration unpredictable, uncontrollable and random sources of noise such as people shouting, car stereos, refrigeration units in trucks, hard acceleration of motor vehicles, horse floats, screeching of car tyres, car aerials scraping the underside of the drive thru roof etc. These types of incidents are likely to cause sleep disturbance for neighbouring residents.

- The proposal will exacerbate the existing impacts of vehicle headlight intrusion on neighbouring residents.
- Neighbouring properties would be subjected to continual odour impacts as cooking odours would be emitted by the McDonalds restaurant at night and during the early hours of the morning.
- The potential for vandalism, trespass and malicious damage to neighbouring properties will increase as people are likely to loiter in the area late at night and in the early hours of the morning.

Reason for refusal: The proposed extension of trading hours is likely to have a significant impact on the amenity of adjoining residential properties with respect to acoustic privacy, traffic, headlight intrusion, odour, security and safety.

Potential for unacceptable social impacts

- Notwithstanding the proposed security measures on the site, the proposal has significant potential to result in an increase in criminal activity (e.g. assaults, vandalism) and anti-social behaviour in the immediate locality, as the area will become a focal point for people late at night and the business will be trading after the closing times of licensed premises and other businesses in Muswellbrook.

Reason for refusal: The proposed development does not adequately address potential adverse social impacts such as increases in anti-social behaviour, criminal activity and public order incidents.

Unacceptable location for the extended trading hours

- The subject site is located approximately 30 metres from the nearest residential dwelling in Thompson Street and is immediately adjacent to the John Hunter Motel on the New England Highway. These premises would be adversely impacted by the proposal.

Reasons for refusal: The subject site is not considered to be suitable for the proposed development given its location adjacent to an established residential area and motel development.

Contrary to the public interest

- As the proposal may increase the likelihood of anti-social behaviour, criminal activity and public order incidents in the locality, the proposal is not in the interests of public safety.
- Allowing 24 hour operations adjacent to residential zones will have an adverse impact on the amenity of the adjoining residential areas and such outcomes are not considered to be in the public interest for the Muswellbrook community.

Reason for refusal: The proposal is not considered to be in the public interest given the likely social and amenity impacts on the locality.

CONCLUSION

The application has been assessed in accordance with the requirements of the relevant legislation. The application has also been placed on public exhibition and there have been 28 submissions of objection received in response.

The proposed extended trading hours have previously been considered by Council as potentially having an unacceptable impact on the neighbourhood and nothing is materially different at this time, nor is detailed in the proposed modification, as to justify amending Council's original assessment. Accordingly it is recommended that the application be refused.

Disclosure of Political Donations and Gifts:

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

SOCIAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

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

STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

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.

21 September 2017

Donna Watson
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOKE NSW 2333



PLANNING DEVELOPMENT PROPERTY

ABN 61 148 089 492
(02) 4940 0442
admin@kobydc.com.au
www.kobydc.com.au
Suite 2B, 125 Bull Street
Newcastle West NSW 2302

Dear Donna,

RE: S96 (1A) Modification to Development Consent DA 72/2003 – Supplementary Information for 83-89 Maitland Street, Muswellbrook
Our Ref: 16270

Please find enclosed the supplementary information for 83-89 Maitland Street, Muswellbrook. We trust that the information provided is sufficient however, if any clarification is needed or you require further information, please contact our office on (02) 4940 0442 and we will provide the additional information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Quinlan', is written over a faint, larger signature.

Patrick Quinlan
Senior Town Planner
KDC Pty Ltd

19 September 2017

The General Manager
Muswellbrook Shire Council
PO Box 122,
Muswellbrook NSW 2333



Re: s96(1A) Modification to Development Consent DA 72/2003 – Supplementary Information

1 Introduction

KDC Pty Ltd (KDC) acts on behalf of its client McDonald's Australia Limited in lodging this section 96 (1A) modification (s96) for an amendment to *Development Consent DA 72/2003* for the current McDonalds operation that is located at 83-89 Maitland Street, Muswellbrook, NSW 2333. This supplementary information document, including attachments, is in addition to the SEE previously provided dated 19 April 2017 and responds to issues raised by Council and clarifies discussions held on 20 June 2017. If there is any inconsistency between this document and the documents provided in April 2017, the information within this document prevails.

1.1 Consultation

On the 20th of June 2017, a formal meeting with Muswellbrook Shire Council's Mayor, General Manager and Director was held to discuss the proposal. During the meeting, Council raised concern regarding traffic, the Thompson Street and New England Highway intersection, truck and caravan parking arrangements, litter and recycling arrangements. It was decided that to accompany the proposal, a traffic study would be prepared and an acoustic report would need to be supplied.

Due to the further reports that have been undertaken and further consultation with the Police an amended proposal has been provided below. Consultation with the Police has indicated that they are generally supportive of the restricted hours provided to the inside of the McDonald's store.

2 Proposal

The proposal seeks to extend the approved trading hours of the existing McDonald's operation to extend trade to 4:30am – 12:00 Midnight, 7 days a week for the internal store operation and for a 24/7 operation of the drive-thru component.

Day	Store Operation		Drive-Thru Operation	
	Approved Trading Hours	Proposed Trading Hours	Approved Trading Hours	Proposed Trading Hours
Sunday - Thursday	6:00am – 10:00pm	4:30am – Midnight	6:00am – 10:00pm	24/7
Friday & Saturday	6:00am – 11:00pm	4:30am – Midnight	6:00am – 11:00pm	24/7

The extension in hours of operation does not include any changes to other aspects of the operation such as delivery times or waste collection.

It is noted that this change to the operation of the store is considered to have potential traffic and acoustic impacts on surrounding areas. Full details of the assessment of these impacts are provided below.



3 Environmental, Social and Economic Impacts

The proposed extended trading is in response to increased customer demand. The corner site is located along Maitland Street, also known as the New England Highway (A15), and provides services to local residences, employees working in the area, and to people travelling northbound towards Scone or southbound towards Singleton.

Amenity

The proposal is expected to cause minimal adverse impacts on the environment or amenity of the surrounding developments particularly given the building and operation are already established and the site is situated amongst other commercial land uses along Maitland Street. It is acknowledged that the site is adjacent to existing residential properties located to the north, on the opposite side of Thompson Street. Specific impacts such as noise and traffic have been reviewed in detail in the sections below.

Noise

A Noise Impact Assessment (NIA) has been prepared by Muller Acoustic Consultants (MAC) for the proposal and quantifies any changes to noise emissions at surrounding receivers as a result of the extension of the operating hours. The NIA has quantified potential operational noise emissions pertaining to customer vehicles from the car park, drive-thru, the customer ordering displays (CODs) and mechanical plant to surrounding residential receivers.

Recommendations included in the NIA include the following:

- The roof parapet that surrounds the rooftop mechanical plant will be retained; and
- The mechanical plant from the project will meet the specification outlined within the NIA, or have appropriate attenuation applied (ie enclosures or screens around plant) to meet the modelled sound power levels.

The results of the NIA demonstrate that the LAeq(15min) operational noise emissions from the proposed extension of trading hours would satisfy relevant criteria at all assessed receivers based on the current designs and any noise controls that have been established at the project site. Based on the NIA modelling results which considers the current design and layout of the project, compliance with the relevant EPA and sleep disturbance policies is expected.

The Noise Impact Assessment report is provided at Appendix A.

Traffic

A traffic impact assessment has been prepared by Colston Budd Rogers & Kafes Pty Ltd (enclosed at Appendix B) which analyses the traffic generating potential of the proposed extension in hours and the traffic impact on the Thompson Street and New England Highway intersection.

The traffic impact assessment concluded that the proposed variation to the trading hours was not likely to cause significant impacts on traffic movements on the surrounding road network, as it would not be considered a predetermined 'destination' for food during the extended hours, instead capturing passing trade along the New England Highway. The proposed modification would provide an opportunity for residents and visitors to access the McDonald's operation outside peak traffic hours.

Long Vehicle and Flowing Vehicle Parking

The site currently provides arrangements for 4 long vehicle parks on the site. This is considered to be suitable for the site.



Litter Control

Arrangements for the cleaning of surrounding public domain has been included within the provided Plan of Management at Appendix C.

The Duty Manager will ensure that the footpath, gutter, building entry and surrounds are kept clean and clear of litter at all times. Bins are located through-out the premises. This will help mitigate the potential litter impact upon the surrounding environment. Vandalism and graffiti will be removed (where possible) within 24 hours.

Litter patrols are to be undertaken at the following times:

- After Sunrise
- After the breakfast period (approximately 11am)
- After the lunch period (approximately 3pm)
- Before Sunset
- Additional litter patrols will be carried out on Saturdays and Sundays
- As weather permits

4 Conclusion

The proposed modification to the existing development consent DA 72/2003 is for an extension of trading hours to 4:30am – 12:00 Midnight, 7 days a week for the internal operation of the store and 24/7 operation of the drive-thru operation at the existing McDonald's operation located at 83-89 Maitland Street, Muswellbrook, NSW 2333.

As demonstrated in this report, the proposed extension to the current trading hours will have a minimal impact on the surrounding area. Furthermore, McDonald's Australia will continue to employ the existing management procedures for the premises to ensure that it is a safe, efficient, and pleasant environment in which to work and visit.

Through the proposals merits and in the absence of any significant adverse environmental impacts, the S96(1A) is considered to be in the public interest and recommended for Council's support subject to standard conditions of consent.

We trust that the information provided is sufficient for your purposes. Should you have any questions please do not hesitate to contact me on (02) 4940 0442.

Regards,

A handwritten signature in black ink, appearing to read 'P. Quinlan'.

Patrick Quinlan
Senior Planner
KDC Pty Ltd



Plan of Management

Extension of Hours at Existing McDonald's Operation
83-89 Maitland Street
MUSWELLBROOK NSW 2333

Prepared for McDonald's Australia Limited | September 2017



Plan of Management

Final

Prepared for McDonald's Australia Limited, Muswellbrook Operation | September 2017

Approved by	Dane Cameron
Title	Property Manager NSW/ACT, McDonald's Australia Ltd
Date	September 2017



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1 Introduction

1.1 Purpose of Plan of Management

This Plan of Management (PoM) has been prepared for the McDonald's Operation located at 83-89 Maitland Street, Muswellbrook, NSW 2333 in association with an application for a change to hours of operation. McDonald's Australia Limited (McDonald's) recognises the need to ensure the safety and security of customers, staff, workers, residents and the greater community in which the McDonald's Operation resides. The safety and security issues have been considered carefully to ensure the utmost safety of staff and patrons.

The PoM is consistent with the principles of *Crime Prevention through Environmental Design* (CPTED) as described in the Crime Prevention and the assessment of development applications guideline prepared by the former Department of Urban Affairs and Planning (now Department of Planning and Infrastructure).

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:

- Maximise risks 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, minimising or concealing crime attractors and rewards); and
- Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).

The policies and procedures outlined in this PoM will make the premises a safe, efficient, and pleasant environment in which to work and visit. Additionally, the safety and security issues addressed in this PoM have been devised to ensure the amenity of neighbouring properties is maintained at all times during the operation of the premises.

All staff at McDonald's Muswellbrook, will be required to be familiar with this Management Plan.



2 Security and Safety

The security and safety of employees and the general public are highly valued by the management of the premises.

2.1 Surveillance

2.1.1 CCTV Camera Systems

CCTV surveillance cameras are located within the premises in strategic places including (but not limited to) cashiers and service areas. This system has automated recording technology, longer video storage capacity, video motion detection and more advanced camera technology allowing greater video resolution and coverage.

All cameras will operate 24 hours a day. The surveillance videos will be kept for at least 60 days for viewing by the NSW Police as required. The quality of the images filmed will satisfy NSW Police requirements.

TV monitors are located within the premises and allow staff to monitor the activities on the camera. Management will ensure the system is maintained in good working order.

Management will also ensure that the coverage will be operated with due regard to the privacy and civil liberties of all persons within the development.

McDonald's employees and adjoining properties will be encouraged to assist with passive surveillance of all areas of the premises, by providing efficient reporting systems for any security or safety concerns on a 24-hour basis.

2.1.2 Intruder Alarm Systems

McDonald's Muswellbrook operates with an extensive intruder alarm system including perimeter protection, movement detection and access control. This system achieves an added sense of crime prevention and security. The system will allow monitoring of who is accessing what areas, better response to alarms and audit breaches of security in a timely and efficient manner.

2.1.3 Lighting

Lighting is provided within the premises to enable clear vision and has been designed in such a manner so as to prevent concealment and shadowing. The standard of lighting is designed to not only reduce the fear of crime in accordance with Australian lighting standards, but also serves to provide clear identification of activity using the high technology CCTV cameras.

Broken light fixtures and bulbs within the premises will be replaced within 24 hours.

2.1.4 Clear Sight Lines

The McDonald's Operation has been designed to take into account the need to maximise clear sight lines. The building incorporates the maximum use of natural surveillance and minimises potential obstructions such as physical barriers to ensure these clear sight lines.

2.2 Access Control

The McDonald's Operation utilises an intruder alarm, access control and CCTV systems to monitor access.



1.3.1 High Risk Areas

The McDonald's Operation was designed so as not to create a hostile environment. Access is restricted particularly in relation to nominated "secure areas" such as the kitchen / back of house areas, exits and the loading dock. The achievement of which is maintained by the installation of movement detectors and security hardware (locks, etc.).

2.2.2 Signage

Clearly identifiable signage has been installed in and around the McDonald's to indicate which areas are open to customers and members of the public and which areas are restricted.

Notice decals are placed at strategic locations are placed around the premises, at entry / exits to warn people of existing security measures.

A sign at the entry of the premises advising residents to forward any complaints regarding the operation of the premises to the Duty Manager will be provided. The sign will include a phone number and state that complaints can be made 24 hours a day / 7 days per week.

2.3 Space Management

2.3.1 Seating Design

The McDonald's Operation takes into account the need to provide seating and other comforts for persons visiting without interfering or disrupting pedestrian flows. This philosophy is designed to encourage increased use of the common areas to reduce the potential for security breaches by natural surveillance.

2.3.2 Toilets

Public toilets are clearly sign posted. The toilets are located in areas which maximise sight lines, are well lit and are in areas which engender an overall sense of safety to the user, particularly females, children and elderly.

2.4 Ejection of Patrons

The following procedure will apply to all staff and security personnel (if applicable) that are involved in the removal of a person from the premises who is intoxicated, drunk or disorderly:

- Verbal communication with the customer(s) will occur;
- The Duty Manager will be instructed to contact Police for assistance in removing any customer who exhibits anti-social or violent behaviour; and
- An Incident Report will be completed following an altercation and/or disturbance stating all the relevant information for reference purposes.
- The use of exclusion notices under the NSW Inclosed Lands Act is available if required to exclude people

2.5 Hold Up Procedure

2.5.1 In the Event of an Armed Robbery

The primary advice is to remain as calm as possible. Other advice is as follows:

- Activate alarm devices as soon as safe to do so;
- Try to remain calm and assess the situation;
- Unless otherwise ordered, "continually observe the offender making a mental note of their appearance";



- Pay particular attention to scars, tattoos, firearm or weapon, plus any unusual or prominent features;
- Note his / her conversations including any indecent language, accent, nicknames or speech peculiarities;
- Look to see if a motor vehicle is being used and note any occupants;
- Obey the instructions of the bandit;
- Move slowly. Only do this with safety. Advise of any sudden movements you have to make;
- Do not put up a fight;
- Do not discuss the incident with anyone other than the Police and Senior Management; and
- Observe the direction taken after the bandit leaves the premises.
- Maintain training modules on crime, violence, and dealing with difficult customers

2.6 Money Handling

An independent security company is employed to undertake all movement of cash to and from the premises. There will be no cash movements from the premises by the staff at any stage. There will be no movement of monies from the premises by Security Personnel at night. All appropriate safety alarms will be installed at the building including back to base security which involves the Intruder Alarm System being linked to the security company.

2.7 Theft

In the event that theft occurs involving a customer, every effort will be made to assist the customer in any way possible, i.e. forms, police report, telephone calls. All personal information must be recorded on the Incident Report Form in case any items are recovered at a future time.

Incidents involving staff members must also be documented on the Incident Report Form and any necessary policy reports must be completed. A list of all items missing must be recorded.

The theft of any property on the premises must be reported to the Police for insurance purposes. All thefts must be documented clearly and concisely on an Incident Report Form.

2.8 Weapons

Weapons of any type, i.e. knives, firearms, etc., will not be permitted at any time, unless in the hands of authorised security personnel or Police.



3 Operational Procedures

3.1 Communication

Staff training days will be held on a regular basis to reinforce safety and security procedures for the operation. Employees will be encouraged to report any suspicious activity or persons in and around the area to the Duty Manager and / or Local Police.

3.2 Incident Report

An Incident Report will be required to be completed on all incidents that necessitate action by an emergency service, fire brigade, Police and maintenance called in after hours. As well, the Duty Manager is required to be informed.

All incidents including vandalism and graffiti will be recorded, together with the response time taken to repair or remove the property affected or offending material. The frequency of incidents together with the respective response will be included in the regular site performance reviews to ensure the maintenance of acceptable standards.

3.3 Telephones

Telephones are to be pre-programmed with the emergency number '000'. Telephone lines are to be secured with an approved lock to avoid unlawful tampering.

3.4 Registering of Complaints

Any complaints received will be documented in a register and followed up by the Duty Manager. The register will include details of the complainant's name, the date the problem occurred, the nature of the complaint and outcome of the complaint.

3.5 Noise Management

The Duty Manager will closely monitor the following noise management procedures:

- The premises will comply with the relevant acoustics requirements in relation to noise emanating from the premises;
- The Duty Manager will ensure that customers keep noise to an appropriate level upon entering and leaving the premises. The Duty Manager will ask customers making in-appropriate noise to leave quietly and quickly and ask any customers loitering to move on (including the use of any horns in the drive thru);
- Security Notices will be placed at the points of exit requesting customers leave quietly and in a prompt manner so as not to cause any disturbance to the surrounding neighbourhood (in order to cease any yelling or screaming in the car park); and
- Portions of the carpark are will be chained off during night time periods to reduce the area required to be monitored by staff and reduce the potential for inappropriate activities to take place.

Reports of all noise complaints received by the Duty Manager will be documented in a register and 12 monthly reviews of this document to ensure that the operation of the business is not having an unacceptable impact on the area.



3/6 Cleaning of Surrounding Public Domain

The Duty Manager will ensure that the footpath, gutter, building entry and surrounds are kept clean and clear of litter at all times.

Bins are located through-out the premises. This will help mitigate the potential litter impact upon the surrounding environment.

Vandalism and graffiti will be removed (where possible) within 24 hours.

Litter Patrol Guidelines

Litter patrols are to be undertaken at the following times:

- After Sunrise
- After the breakfast period (approximately 11am)
- After the lunch period (approximately 3pm)
- Before Sunset
- Additional litter patrols will be carried out on Saturdays and Sundays
- As weather permits

A litter patrol path has been provided at Appendix A.



4 Consultation and Assessment

McDonald's are committed to ongoing consultation with adjoining property owners, Police and Council to foster a better understanding of relevant security issues at the site.



Appendix A – Litter Patrol Path

KDC Pty Ltd



Colston Budd Rogers & Kafes Pty Ltd

as Trustee for C & B Unit Trust
ABN 27 623 918 759

Our Ref: TR/10620/jj

13 September, 2017

McDonald's Australia Limited
PO Box 392
PENNANT HILLS NSW 2120

Transport Planning
Town Planning
Retail Studies

Attention: **Dane Cameron**
Email: dane.cameron@au.mcd.com

CC: **Patrick Quinlan**
PQuinlan@kobydc.com.au

Dear Sir,

RE: EXTENDED HOURS FOR McDONALD'S, MUSWELLBROOK

1. As requested, we have assessed the traffic aspects of the proposed extended hours for McDonald's at Muswellbrook. The McDonald's is located on the corner of the intersection of New England Highway and Thompson Street. It is proposed to extend the trading hours at the existing Muswellbrook McDonald's to 24 hours a day, 7 days a week operation. Currently the store trades from 6am to 10pm, 7 days a week. Our assessment is set out through the following sections:

- existing conditions;
- traffic flows;
- intersection operation;
- traffic generation and effects; and
- summary.

Existing Conditions

2. Muswellbrook McDonald's is located on the south-eastern corner of the intersection of New England Highway with Thompson Street. Access to the site is provided via separate entry and exit driveways from Thompson Street and an entry only driveway from New England Highway.

Suite 1801/Tower A, Zenith Centre, 821 Pacific Highway, Chatswood NSW 2067
P.O. Box 5186 West Chatswood NSW 1515 Tel: (02) 9411 2411 Fax: (02) 9411 2422
Directors - Geoff Budd - Stan Kafes - Tim Rogers - Joshua Hollis ACN 002 334 296
EMAIL: cbhk@cbhk.com.au

Colston Budd Rogers & Kafes Pty Ltd

3. The road network in the vicinity of the site comprises New England Highway and Thompson Street. The New England Highway is a major link between Tamworth in the north and Newcastle to the south, where it connects with the Pacific Highway forming a main travel route to/from Sydney. In the vicinity of the site New England Highway provides a four lane divided carriageway with two lanes in each direction. Major intersections are signalized with additional lanes for turning traffic. New England Highway provides an entry only access to the McDonald's site east of its intersection with Thompson Street.
4. Thompson Street is a primary collector road that travels between New England Highway and Fitzgerald Avenue. It generally provides for one traffic lane and one parking lane in each direction, clear of intersections. Thompson Street forms a priority controlled 'T' intersection with the New England Highway and provides separate entry and exit driveways to McDonald's.
5. Council has raised concerns over the impact the proposed extended trading hours will have on the operation of the intersection of New England Highway with Thompson Street.
6. Regarding this concern it is noted that no change is proposed during the existing hours of operation between 6am and 10pm. Therefore the greatest effect of the extension in trading hours will occur in the hour before (5-6am) and the hour after (10-11pm) the existing trading hours. Between 11pm and 5am traffic generation of McDonald's and background traffic flows are lower.

Traffic Flows

7. In order to gauge traffic conditions, traffic counts were undertaken during weekday morning (5-6am) and evening (10-11pm) periods at the intersection of New England Highway with Thompson Street. The results of the survey are summarized in Table 1.

Table 1: Existing two-way (sum of both directions) traffic flows			
Road	Location	Weekday (5-6AM)	Weekday (10-11PM)
New England Highway	East of Thompson Street	230	185
	West of Thompson Street	240	200
Thompson Street	South of New England Highway	30	35
	South of McDonald's Access	30	35

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8. Table 1 shows that New England Highway carried traffic flows of some 185 to 240 vehicles per hour (two-way). Traffic flows on Thompson Street were lower at some 30 to 35 vehicles per hour two-way during the surveyed period.
9. Counts of the McDonald's Thompson Street access driveways were undertaken during the weekday morning (6-7am) and evening (9-10pm) to determine existing McDonald's traffic generation at Thompson Street nearest to its existing opening and closing hours. The results of the survey are summarized in Table 2.

Table 2: Existing two-way (sum of both directions) traffic flows			
Road	Location	Weekday (6-7am)	Weekday (9-10pm)
McDonald's Thompson Street Accesses	Total at Thompson Street Access	145	50
	Via New England Highway	115	40

10. Table 2 shows that the McDonald's Thompson Street accesses generated some 50 to 145 vehicles per hour (two-way) during the surveyed period, of which some 40 to 115 vehicles passed through the New England Highway/Thompson Street intersection.

Intersection Operation

11. The operation of the intersection of New England Highway with Thompson Street, has been analysed using the SIDRA program during the 5-6am and 10-11pm morning and night time hours.
12. SIDRA simulates the operations of intersections to provide a number of performance measures. The most useful measure provided is average delay per vehicle expressed in seconds per vehicle. Based on average delay per vehicle, SIDRA estimates the following levels of service (LOS):

ρ For traffic signals, the average delay per vehicle in seconds is calculated as delay/(all vehicles), for roundabouts the average delay per vehicle in seconds is selected for the movement with the highest average delay per vehicle, equivalent to the following LOS:

0 to 14	=	"A"	Good
15 to 28	=	"B"	Good with minimal delays and spare capacity
29 to 42	=	"C"	Satisfactory with spare capacity

Colston Budd Rogers & Kafes Pty Ltd

43 to 56	=	"D"	Satisfactory but operating near capacity
57 to 70	=	"E"	At capacity and incidents will cause excessive delays. Roundabouts require other control mode.
>70	=	"F"	Unsatisfactory and requires additional capacity

- p For give way and stop signs, the average delay per vehicle in seconds is selected from the movement with the highest average delay per vehicle, equivalent to following LOS:

0 to 14	=	"A"	Good
15 to 28	=	"B"	Acceptable delays and spare capacity
29 to 42	=	"C"	Satisfactory but accident study required
43 to 56	=	"D"	Near capacity and accident study required
57 to 70	=	"E"	At capacity and requires other control mode
>70	=	"F"	Unsatisfactory and requires other control mode

13. It should be noted that for roundabouts, give way and stop signs, in some circumstances, simply examining the highest individual average delay can be misleading. The size of the movement with the highest average delay per vehicle should also be taken into account. Thus, for example, an intersection where all movements are operating at a level of service A, except one which is at level of service E, may not necessarily define the intersection level of service as E if that movement is very small. That is, longer delays to a small number of vehicles may not justify upgrading an intersection unless a safety issue was also involved.
14. The analysis found that the priority controlled intersection of New England Highway with Thompson Street is operating with average delays for the highest delayed movement (right turn out of Thompson Street) of less than 15 seconds per vehicle during the 5-6am and 10-11pm periods. This represents a level of service A/B, a good level of service. SIDRA movement summaries are attached to this letter.

Traffic Generation and Effects

15. Traffic generated by the proposed extended trading hours of the existing McDonald's will have its greatest effects during the period immediately before and after its current hours of operation when it combines with other traffic on the surrounding road network. It is noted that this traffic will not coincide with the peak periods of the surrounding road network.

Colston Budd Rogers & Kafes Pty Ltd

16. Traffic generated by McDonald's at 5-6am and 10-11pm would likely be less than the traffic surveyed at 6-7am and 9-10pm. However the existing generation during the surveyed times has been conservatively adopted for this assessment.
17. The additional traffic has been assigned to the road network based on existing traffic distribution. Existing traffic flows plus the additional McDonald's traffic is summarized in Table 3. Traffic increases on New England Highway would be some 5 to 90 vehicles per hour two-way. Traffic increases on Thompson Street (in the short section between the McDonald's access and New England Highway) would be some 40 to 115 vehicles per hour two-way. South of the McDonald's access increases would be much lower at some 10 to 30 vehicles per hour two-way.

Table 3: Existing two-way traffic flows plus development traffic					
Road	Location	Weekday (5-6am)		Weekday (10-11pm)	
		Existing	Plus Development	Existing	Plus Development
New England Highway	East of Thompson Street	230	(+25)	185	(+5)
	West of Thompson Street	240	(+90)	200	(+35)
Thompson Street	South of New England Highway	30	(+115)	35	(+40)
	South of McDonald's Access	30	(+30)	35	(+10)

18. We have assessed the operation of the New England Highway/Thompson Street intersection with the additional development traffic flows, using SIDRA. The analysis found that the intersection would continue to operate with average delays for the highest delayed movement (right turn out of Thompson Street) of less than 15 seconds per vehicle during the periods immediately before and after existing trading hours. This represents a level of service A/B, a good level of service. SIDRA movement summaries are attached to this letter.
19. The road network will therefore be able to cater for the additional traffic from the proposed extended operating hours.

Colston Budd Rogers & Kafes Pty Ltd

Summary

20. In summary the assessment of the traffic aspects of the proposed extended hours for McDonald's at Muswellbrook has found that it would have minimal traffic effects as:
- traffic generated will not coincide with the peak periods of the surrounding road network; and
 - the intersection of New England Highway with Thompson Street will continue to operate with level of service of A/B, a good level of service during the period 10pm to 6am.
21. We trust the above provides the information you require. If you should have any queries, please do not hesitate to contact us.

Yours faithfully,

COLSTON BUDD ROGERS & KAFES PTY LTD

A handwritten signature in black ink, appearing to read 'Tim Rogers', with a stylized flourish at the end.

Tim Rogers
Director

MOVEMENT SUMMARY

Site: 101 [AM (Ex): New England Highway - Thompson Street]

Weekday Morning 5-6AM Existing Traffic
Giveaway / Yield (Two-Way)

Movement Performance - Vehicles											
Mov. ID	CG Mov	Demand Flow Ints/veh/h	Flow HV %	Delay 30th v/c	Average Delay sec	Level of Service	15% Back of Queue Vehicles -veh	Distance -m	Prop. Queued	Effective Stop Rate per veh	Average Speed -km/h
South: Thompson Street											
1	L2	10	1.0	0.016	4.8	LOS A	0.1	0.4	0.16	0.51	43.4
3	R2	5	1.0	0.016	6.7	LOS A	0.1	0.4	0.16	0.51	45.8
Approach		15	1.0	0.016	5.4	LOS A	0.1	0.4	0.16	0.51	44.5
East: New England Highway											
4	L2	5	1.0	0.003	4.6	LOS A	0.0	0.0	0.00	0.53	46.3
5	T1	120	5.0	0.032	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
Approach		125	4.6	0.032	0.2	NA	0.0	0.0	0.00	0.02	49.6
West: New England Highway											
11	T1	100	5.0	0.026	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
12	R2	10	1.0	0.011	5.2	LOS A	0.0	0.3	0.23	0.52	43.1
Approach		110	4.6	0.026	0.5	NA	0.0	0.3	0.02	0.05	49.5
All Vehicles		250	4.5	0.032	0.6	NA	0.1	0.4	0.02	0.06	49.4

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

Site: 101 [PM (Ex): New England Highway - Thompson Street]

Weekday Evening 10-11PM Existing Traffic
 Giveaway / Yield (Two-Way)

Movement Performance - Vehicles											
Mov ID	CG Mov	Demand Flow Ints/veh/h	Flow HV %	Delay 30th v/c	Average Delay sec	Level of Service	15% Back of Queue Vehicles	Back of Queue Distance m	Prop Queue	Effective Stop Rate per veh	Average Speed km/h
South: Thompson Street											
1	L2	10	1.0	0.016	4.7	LOS A	0.1	0.4	0.11	0.51	43.6
3	R2	5	1.0	0.016	6.3	LOS A	0.1	0.4	0.11	0.51	45.9
Approach		15	1.0	0.016	5.2	LOS A	0.1	0.4	0.11	0.51	44.6
East: New England Highway											
4	L2	5	1.0	0.003	4.6	LOS A	0.0	0.0	0.00	0.53	46.3
5	T1	75	5.0	0.020	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
Approach		80	4.6	0.020	0.3	NA	0.0	0.0	0.00	0.03	49.7
West: New England Highway											
11	T1	100	5.0	0.026	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
12	R2	15	1.0	0.016	5.0	LOS A	0.1	0.4	0.18	0.51	43.3
Approach		115	4.5	0.026	0.7	NA	0.1	0.4	0.02	0.07	49.3
All Vehicles		210	4.3	0.026	0.8	NA	0.1	0.4	0.02	0.09	49.2

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

Site: 101 [AM (Ex+McDonald's): New England Highway - Thompson Street]

Weekday Morning 5-6AM Existing plus McDonald's (6-7AM) Access Traffic
Giveaway / Yield (Two-Way)

Movement Performance - Vehicles											
Mov ID	CG Mov	Demand Flow Ints/veh	Flow HV %	Delay 30th V/c	Average Delay sec	Level of Service	15% Back of Queue Vehicles veh	Distance m	Prop Queue	Effective Stop Rate per veh	Average Speed km/h
South: Thompson Street											
1	L2	50	1.0	0.057	4.8	LOS A	0.2	1.4	0.15	0.51	43.6
3	R2	10	1.0	0.057	7.2	LOS A	0.2	1.4	0.15	0.51	45.9
Approach		60	1.0	0.057	5.2	LOS A	0.2	1.4	0.15	0.51	44.2
East: New England Highway											
4	L2	5	1.0	0.003	4.6	LOS A	0.0	0.0	0.00	0.53	46.3
5	T1	120	5.0	0.032	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
Approach		125	4.8	0.032	0.2	NA	0.0	0.0	0.00	0.02	49.8
West: New England Highway											
11	T1	100	5.0	0.026	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
12	R2	40	1.0	0.045	5.3	LOS A	0.1	1.1	0.23	0.54	43.0
Approach		140	3.9	0.045	1.5	NA	0.1	1.1	0.07	0.15	48.4
All Vehicles		325	3.7	0.057	1.7	NA	0.2	1.4	0.06	0.17	48.3

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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MOVEMENT SUMMARY

Site: 101 [PM (Ex+McDonald's): New England Highway - Thompson Street - Copy]

Weekday Evening 10-11PM Existing Plus McDonald's (9-10PM) Access Traffic
 Giveaway / Yield (Two-Way)

Movement Performance - Vehicles											
Mov. ID	CG Mov	Demand Flow Ints./veh/h	Flow HV %	Delay 30th v/c	Average Delay sec	Level of Service	15% Back of Queue Vehicles -veh	Distance -m	Prop. Queued	Effective Stop Rate per veh	Average Speed km/h
South: Thompson Street											
1	L2	30	1.0	0.039	4.7	LOS A	0.1	1.0	0.11	0.51	43.7
3	R2	10	1.0	0.039	6.5	LOS A	0.1	1.0	0.11	0.51	46.0
Approach		40	1.0	0.039	5.2	LOS A	0.1	1.0	0.11	0.51	44.5
East: New England Highway											
4	L2	5	1.0	0.003	4.6	LOS A	0.0	0.0	0.00	0.53	46.3
5	T1	75	5.0	0.020	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
Approach		80	4.8	0.020	0.3	NA	0.0	0.0	0.00	0.03	49.7
West: New England Highway											
11	T1	100	5.0	0.026	0.0	LOS A	0.0	0.0	0.00	0.00	50.0
12	R2	30	1.0	0.032	5.0	LOS A	0.1	0.7	0.18	0.52	43.2
Approach		130	4.1	0.032	1.2	NA	0.1	0.7	0.04	0.12	48.7
All Vehicles		250	3.8	0.039	1.5	NA	0.1	1.0	0.04	0.15	48.5

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Minor Road Approach LOS values are based on average delay for all vehicle movements.

NA: Intersection LOS and Major Road Approach LOS values are Not Applicable for two-way sign control since the average delay is not a good LOS measure due to zero delays associated with major road movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

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Noise Impact Assessment

Proposed Modification to Operating Hours

McDonald's, Muswellbrook, NSW.

Prepared for : KDC Pty Ltd
July 2017



Document Information

Noise Impact Assessment

Proposed Modification to Operating Hours

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1 Introduction

Muller Acoustic Consulting Pty Ltd (MAC) has been commissioned by KDC Pty Ltd (KDC) to prepare a Noise Impact Assessment (NIA) to quantify noise emissions associated with the proposed modification of trading hours for the existing McDonald's Restaurant (the 'project') at 83 - 89 Maitland Road, Muswellbrook, NSW.

The NIA has been prepared to accompany the Development Application (DA) for the project and quantifies any change to noise emissions at surrounding receivers as a result of the project.

The assessment has been undertaken in accordance with the following documents:

- Environment Protection Authority (EPA) 2000, NSW Industrial Noise Policy (INP);
- Standards Australia AS 1055:1997 - Acoustics - Description and measurement of environmental noise; and
- International Standard ISO 9613:1993 - Acoustics - Attenuation of sound during propagation outdoors.

A glossary of terms, definitions and abbreviations used in this report is provided in **Appendix A**.

1.1 Proposal

Current trading hours of the project are between 8am to 10pm Monday to Sunday. Approval is being sought to extend trading hours to 24 hours, seven days.

The NIA has quantified potential operational noise emissions pertaining to customer vehicles from the car park and drive-thru, the customer ordering displays (CODs) and mechanical plant to surrounding residential receivers.

It is noted that delivery/collection vehicles remain unchanged as part of the project, therefore have not been included in this assessment.



2 Project Description

2.1 General

The project is located at 83 – 89 Maitland Road, Muswellbrook, NSW. This locality comprises primarily of residential land uses, with commercial and active recreation receivers situated to the north and east of the project. The John Hunter Motel is located on the south eastern boundary of the project. It is noted that the commercial and active recreation receivers are not anticipated to be affected as a result of the project as they will be unoccupied during the night assessment period.

An undeveloped site is situated south west, adjacent to the project site and has been included in the assessment to account for potential hypothetical future residential developments.

2.2 Receptor Review

A review of residential receivers in close proximity to the project has been completed. For simplicity, the most affected position adjacent to each receiver has been adopted in this assessment. The receptor ID, MGA(55) coordinates and approximate distance to the project are summarised in **Table 1**. **Figure 1** provides a locality plan identifying the position of these receivers in relation to the project.



Table 1 Receiver Locations

Receiver	Category	Easting	Northing	Approximate Distance to Project Boundary(m)
R01	Residential	301734	6427109	45
R02	Residential	301735	6427092	25
R03	Residential	301711	6427051	27
R04	Residential	301708	6427029	22
R05	Residential	301700	6427014	25
R06	Residential	301690	6426997	40
R07	Residential	301696	6426984	50
R08	Residential	301681	6426967	60
R09	Residential	301671	6426950	84
R10	Residential	301657	6426959	91
R11	Residential	301633	6426989	97
R12	Residential	301645	6427005	61
R13	Residential	301650	6427021	61
R14	Residential	301662	6427033	72
R15	Residential	301672	6427050	64
R16	Residential	301688	6427062	55
R17	Residential	301625	6427072	115
R18	Residential	301633	6427087	115
R19	Residential	301639	6427105	115
R20	Residential	301657	6427108	105
R21	Residential	301674	6427105	85
R22	Residential	301698	6427100	55
M01A	Motel (Ground Floor)	301610	6426972	3
M01B	Motel (First Floor)	301610	6426972	3
M02A	Motel (Ground Floor)	301781	6426929	45
M02B	Motel (First Floor)	301781	6426929	45
FD1	Future Development	301744	6426972	25

Table 1: Approximate distances to project site locations



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3 Noise Policy and Criteria

3.1 General Objectives of the INP

The EPA released the NSW INP in January 2000, the INP provides a process for establishing noise criteria for consents and licences that will enable the EPA to regulate premises that are scheduled under the Protection of the Environment Operations Act 1997.

The specific policy objectives are:

- to establish noise criteria that would protect the community from excessive intrusive noise and preserve amenity for specific land uses;
- to use the criteria as the basis for deriving project specific noise levels;
- to promote uniform methods to predict, quantify and assess noise impacts, including a procedure for evaluating meteorological effects;
- to outline a range of mitigation measures that could be used to minimise noise impacts;
- to provide a formal process to guide the determination of feasible and reasonable noise limits for consents or licences that reconcile noise impacts with the economic, social and environmental considerations of industrial development; and
- to carry out functions relating to the prevention, minimisation and control of noise from premises scheduled under the Act.

3.1.1 Assessing Amenity

The amenity assessment methodology is based on noise criteria relevant to a specific land use or locality. The criteria relate only to limiting cumulative or combined levels of industrial noise in a locality. Where existing industrial noise approaches the criterion value, then noise levels from proposed industries need to meet the INP amenity limits so that cumulative noise or 'industrial-creep' is minimised. The amenity assessment methodology takes into consideration areas of high traffic noise when assessing ambient industrial noise.

Residential receivers situated around the project have been classified under the EPA's suburban amenity category. This criterion is used in conjunction with the intrusiveness criteria to determine the limiting criteria. The residential amenity criteria for the project are presented in **Table 2**.



Table 2 Amenity Criteria

Location	Period	Recommended LAeq Noise Level dBA		Amenity Criteria (LAeq(period))
		Acceptable	Recommended Maximum	
Residential Receivers	Day	55	60	55
	Evening	45	50	45
	Night	40	45	40

Notes: 1. Monitor on Saturday, Day (am to 1pm, Evening (pm to 10pm, Night (11pm to 7am, On (Sunday) and Public Holidays; Day (am to 10am), Evening (pm to 10pm), Night (11pm to 7am).

3.1.2 Assessing Intrusiveness

The intrusiveness assessment methodology restricts the equivalent continuous noise level (LAeq) of a project to no more than 5dB above the existing rating background level (RBL) in any assessment period. Therefore, when assessing intrusiveness, the background noise needs to be measured.

Background noise levels used to derive criteria in accordance with the INP intrusive methodology were monitored at the southern boundary of the project site adjacent to the John Hunter Motel and at the south-western corner of the project site along Thompson Street. Measurements were conducting using one Class 1, SVANTEK 971 environmental noise logger and one Class 1, SVANTEK 977 environmental noise logger. The logger locations were selected pending access and security at the monitoring site. The logging location is generally representative of ambient background noise levels for the catchment surrounding the project site and during the night period data was recorded in the absence of the noise of the restaurant.

The noise survey was conducted at the monitoring location in general accordance with the procedures described in Australian Standard AS 1055 (1997, "Acoustics - Description and Measurement of Environmental Noise".

Observations on-site identified the surrounding locality typical of a suburban environment with traffic and suburban hum dominant. Calibration of all instrumentation was checked using a Class 1, SVANTEK SV-33 calibrator, prior to and following measurements. Drift in calibration did not exceed ± 0.5 dBA. All equipment carried appropriate and current NATA (or manufacturer) calibration certificates.



Data affected by adverse meteorological conditions has been excluded from the results in accordance with methodologies provided in the INP. Additionally, a night time RBL and LAeq for the period between 11pm to 5am has been calculated to establish noise levels in the absence of the project (which currently operates from 6am to 10pm). A summary of measured background noise levels and derived intrusive criteria are summarised in **Table 3** and plotted in graph format in **Appendix B**.

Table 3 Summary of Existing Ambient Background Noise Levels, dBA

Location	Assessment Period ¹	Rating Background Level (RBL), LA90	LAeq(15-min)
L1 – Thompson Street Boundary (R1 –R22, FD1)	Day	54	58
	Evening	54	57
	Night	38 (38) ²	55 (53) ²
L2 – John Hunter Mbtel Boundary (M01A/B, M02A/B)	Day	49	55
	Evening	47	54
	Night	36 (38) ²	51 (49) ²

Note 1: Monday to Saturday: Day 6am to 6pm; Evening 6pm to 10pm; Night 10pm to 7am; On Sundays and Public Holidays: Day 6am to 6pm; Evening 6pm to 10pm; Night 10pm to 5am.

Note 2: Background noise levels RBL, LAeq(15min) 11pm to 5am shown are predicted noise levels.

3.2 Project Specific Noise Levels

The project-specific noise level (PSNL) is generally the lower of the calculated intrusive or amenity level. However, in accordance with the INPs application notes, where the amenity criteria are marginally lower than the intrusive criteria, both may be applied. This is due to the amenity being assessed over several hours while the intrusive is assessed over a fifteen-minute period. The PSNL for night has been adopted as the limiting criteria for this assessment which is relevant to the proposed extension of operating hours for the project. The night period PSNL is summarised in **Table 4**.

Table 4 Project Specific Noise Levels

Location	Period	RBL	Intrusiveness Criteria LAeq(15min), dBA	Amenity Criterion LAeq(period), dBA	PSNL, dBA
L1 (R1 –R22, FD1)	Night	38	43	45	43
L2 (M01A/B, M02A/B)	Night	36	43	40	40

Note 1: Monday to Saturday: Day 6am to 6pm; Evening 6pm to 10pm; Night 10pm to 7am; On Sundays and Public Holidays: Day 6am to 6pm; Evening 6pm to 10pm; Night 10pm to 5am.

Note 2: Background noise levels RBL, LAeq(15min) 11pm to 5am shown are predicted noise levels.



3.3 Sleep Disturbance Criterion

The most important impact of intermittent noise would be to potentially disturb the sleep of nearby residents. The EPA provides guidance on assessing sleep disturbance for industrial and commercial sites. The EPA nominates that a screening criterion of background noise level (LA90) plus 15dB shall apply to maximum noise level events from the site which are to be calculated to the nearest residential properties. Where noise levels have been calculated above the screening criterion, additional analysis should be undertaken, referencing guidance on maximum noise levels and sleep disturbance listed in the Road Noise Policy (RNP) (Department of Environment, Climate Change and Water, DECCW, 2011). This guidance states:

- maximum internal noise levels below 50 to 55dB are unlikely to wake sleeping occupants; and
- one or two noise events per night, with maximum internal noise levels of 65 to 70dBA, are not likely to affect the health and wellbeing of occupant's significantly.

It is commonly accepted by acoustic practitioners and regulatory bodies that a partially open window will reduce external noise levels by 10dBA. Therefore, external noise levels in the order of 60 to 65dBA calculated at the facade of a residence are unlikely to cause sleep disturbance affects at worst case (ie with windows open). Similarly, the World Health Organisation (WHO, 1999) suggests that levels below 45dBA inside homes are unlikely to wake sleeping occupants. The descriptors L_{max} and L_{A1} are considered interchangeable by the EPA. If noise levels over the screening criterion were identified, then additional analysis would consider factors such as:

- how often the events would occur;
- the time the events would occur (between 10pm and 7am); and
- whether there are times of day when there is a clear change in the noise environment (such as during early morning shoulder periods).

The project proposes to operate between 10pm and 7am, therefore, sleep disturbance has been considered in this assessment.

Table 5 provides the sleep disturbance criterion for the nearest residential receivers.



Table 5 Sleep Disturbance Noise Criterion

Location	Period	Rating Background Level (RBL), LA90 dBA	Sleep Disturbance Noise Criterion LAmax, dBA
L1 (R1 -R22, F01)	Night	38	53
L2 (M01A/B, M02A/B)	Night	38	53

Note 1: Monday to Saturday: Day/Evening from 06:00am to 06:00pm; Night from 10:00pm to 06:00am. On Sunday and Public Holidays: Day from 06:00am to 06:00pm; Evening from 06:00pm to 10:00pm; Night from 10:00pm to 06:00am.



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4 Noise Assessment Methodology

A computer model was developed to determine the acoustic impacts of project emissions to neighbouring receivers. Brüel and Kjær Predictor Type 7810 (Version 11.10) noise modelling software was used to assess potential noise impacts associated with the project. The model incorporated three-dimensional ground contours and buildings within the project site and the surrounding locality. Noise sources were modelled at various locations and heights, representative of realistic operating conditions for assessed scenarios.

The model calculation method used to predict noise levels was in accordance with ISO 9613-1 'Acoustics - Attenuation of sound during propagation outdoors. Part 1: Calculation of the absorption of sound by the atmosphere' and ISO 9613-2 'Acoustics - Attenuation of sound during propagation outdoors. Part 2: General method of calculation'.

4.1 Sound Power Levels

Table 6 presents the sound power levels for the noise sources modelled in this assessment. It is noted that sound power levels were sourced from manufacturer's specifications or from the MAC database from in-field measurements for similar project sites. The sound power levels have been adjusted to account for duration over a fifteen-minute period.

Table 6 Acoustically Significant Sources - Sound Power Levels (re 10 ⁻¹² Watts)		
Operational Noise - 15 minutes Sound Power Levels, LAeq(15-min)	Individual Plant SWL, dBA	Total Fleet SWL dBA
Car idle-start up and/or drive off (x11)	73	83
Customer Ordering Displays (x2)	75	78
Fan CGD404 (x1)	77	77
AC Plant PCG153U (x2)	70	73
AC Plant PCG203U (x1)	71	71
AC Plant PCG290LR (x1)	78	78
AC Plant PCA260U (x1)	75	75
AC Plant PKY620T-6Q1 (x1)	81	81
Sleep Disturbance - Maximum Sound Power Levels, LAmax dBA	SWL, dBA	
Car Door Slam	85	



4.2 Modelling Assumptions

The noise model adopted or incorporated the following assumptions:

- The roof parapet that surrounds the rooftop mechanical plant will be retained; and
- The mechanical plant from the project will meet the specification listed in Table 6, or have appropriate attenuation applied (ie enclosures or screens around plant) to meet the modelled sound power levels.



5 Assessment of Noise Impacts

5.1 Operational Noise Results

This assessment has quantified noise levels from the project to nearby residential receivers. **Table 7** presents the single point calculation results. It is noted that predictions are representative of fifteen-minute periods during typical night operations.

Table 7 Predicted Operational Noise Levels - LAeq(15min), dBA

Location	Period	Predicted Noise Level, LAeq(15min) dBA	PSNL LAeq(15min) dBA	Compliant
R01	Night	36	43	✓
R02	Night	38	43	✓
R03	Night	39	43	✓
R04	Night	41	43	✓
R05	Night	39	43	✓
R06	Night	36	43	✓
R07	Night	37	43	✓
R08	Night	35	43	✓
R09	Night	<35	43	✓
R10	Night	<35	43	✓
R11	Night	<35	43	✓
R12	Night	<35	43	✓
R13	Night	<35	43	✓
R14	Night	<35	43	✓
R15	Night	<35	43	✓
R16	Night	<35	43	✓
R17	Night	<35	43	✓
R18	Night	<35	43	✓
R19	Night	<35	43	✓
R20	Night	<35	43	✓
R21	Night	<35	43	✓
R22	Night	<35	43	✓
M01A	Night	39	40	✓
M01B	Night	40	40	✓
M02A	Night	35	40	✓
M02B	Night	36	40	✓
FD1	Night	40	43	✓

Note: 1) Monday or Saturday; Day (7am to 5pm); Evening (5pm to 10pm); Night (10pm to 7am); 2) for Runways and Taxiway (estimate); 3) for Taxiway (estimate); Evening (4pm to 10pm); Night (10pm to 6am)



MAC170483RP1

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Model results identify that project noise levels are predicted to satisfy relevant night noise criteria.

5.2 Sleep Disturbance Results

In assessing sleep disturbance, typical L_{Amax} noise levels from elevated voices from car park bays were assessed to surrounding residential receivers. The use of the L_{Amax} noise level provides a worst-case prediction since the L_{A1}(*minute*) noise level of a noise event is likely to be less than the L_{Amax}. For the sleep disturbance assessment, a sound power level of 85dBA L_{Amax} was adopted and is representative of car door slam associated with customers parking cars in the bays nearest to receivers.



Predicted noise levels from L_Amax events from the project are presented in **Table 8**. Results identify that the sleep disturbance criteria will be satisfied at all assessed receivers.

Table 8 Sleep Disturbance Noise Levels

Location	Period	Predicted L _A max noise levels, dBA	Sleep Disturbance	Compliant
			Noise Criterion L _A max, dBA	
R01	Night	<40	53	✓
R02	Night	42	53	✓
R03	Night	46	53	✓
R04	Night	49	53	✓
R05	Night	45	53	✓
R06	Night	40	53	✓
R07	Night	41	53	✓
R08	Night	40	53	✓
R09	Night	<40	53	✓
R10	Night	<40	53	✓
R11	Night	<40	53	✓
R12	Night	<40	53	✓
R13	Night	<40	53	✓
R14	Night	<40	53	✓
R15	Night	<40	53	✓
R16	Night	<40	53	✓
R17	Night	<40	53	✓
R18	Night	<40	53	✓
R19	Night	<40	53	✓
R20	Night	<40	53	✓
R21	Night	<40	53	✓
R22	Night	<40	53	✓
M01A	Night	49	53	✓
M01B	Night	49	53	✓
M02A	Night	41	53	✓
M02B	Night	43	53	✓
FD1	Night	45	53	✓

Note: 1) Monday to Saturday: Day: 7am to 6pm; Evening: 6pm to 10pm; Night: 10pm to 7am. On Sundays and Public Holidays: Day: 8am to 6pm; Evening: 6pm to 10pm; Night: 10pm to 8am.



6 Conclusion

Muller Acoustic Consulting Pty Ltd (MAC) has completed a Noise Impact Assessment (NIA) to quantify emissions from the proposed 24hr operations of McDonald's Restaurant at 83 – 89 Maitland Road, Muswellbrook, NSW.

The results of the NIA demonstrate that the $L_{Aeq}(15min)$ operational noise emissions from the proposed extension of trading hours would satisfy relevant criteria at all assessed receivers based on the current designs and any noise controls that have been established at the project site.

Based on the NIA modelling results which considers the current design and layout of the project, compliance with the relevant EPA and sleep disturbance policies is expected.

Based on the Noise Impact Assessment results, there are no noise related issues which would prevent Council approving the proposed project. Additionally, the results of the assessment show compliance with the relative EPA guidelines and criteria, accordingly, no additional ameliorative measures to those already implemented would be required.



Appendix A – Glossary of Terms



MACS POSITION 1

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Table A1 provides a number of technical terms have been used in this report.

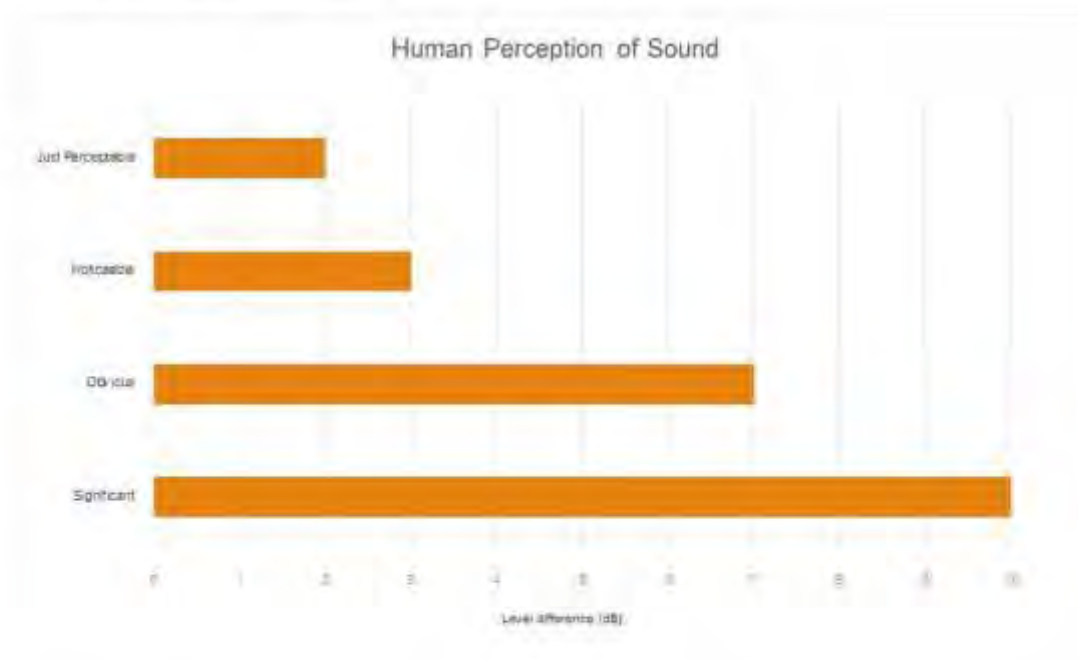
Table 1A Glossary of Terms	
Term	Description
1/3 Octave	Single octave bands divided into three parts.
Octave	A division of the frequency range into bands, the upper frequency limit of each band being twice the lower frequency limit.
ABL	Assessment Background Level (ABL) is defined in the INP as a single figure background level for each assessment period (day, evening and night). It is the tenth percentile of the measured LA90 statistical noise levels.
Adverse Weather	Weather effects that enhance noise (that is, wind and temperature inversions) that occur at a site for a significant period of time (that is, wind occurring more than 30% of the time in any assessment period in any season and/or temperature inversions occurring more than 30% of the nights in winter).
Ambient Noise	The noise associated with a given environment. Typically a composite of sounds from many sources located both near and far where no particular sound is dominant.
A Weighting	A standard weighting of the audible frequencies designed to reflect the response of the human ear to noise.
dBA	Noise is measured in units called decibels (dB). There are several scales for describing noise, the most common being the 'A-weighted' scale. This attempts to closely approximate the frequency response of the human ear. In some cases the overall change in noise level is described in dB rather than dBA, or dBZ which relates to the weighted scale.
dB(Z)	Linear Z-weighted decibels.
Hertz (Hz)	The measure of frequency of sound wave oscillations per second - 1 oscillation per second equals 1 hertz.
LA10	A noise level which is exceeded 10 % of the time. It is approximately equivalent to the average of maximum noise levels.
LA90	Commonly referred to as the background noise, this is the level exceeded 90 % of the time.
LAeq	The summation of noise over a selected period of time. It is the energy average noise from a source, and is the equivalent continuous sound pressure level over a given period.
L _{Amax}	The maximum root mean squared (rms) sound pressure level received at the microphone during a measuring interval.
RBL	The Rating Background Level (RBL) is an overall single figure background level representing each assessment period over the whole monitoring period. The RBL is used to determine the intrusiveness criteria for noise assessment purposes and is the median of the ABL's.
Sound power level (LW)	This is a measure of the total power radiated by a source. The sound power of a source is a fundamental location of the source and is independent of the surrounding environment. Or a measure of the energy emitted from a source as sound and is given by : $= 10 \log_{10} (W/W_0)$ Where : W is the sound power in watts and W ₀ is the sound reference power at 10 ⁻¹² watts.



Table A2 provides a list of common noise sources and their typical sound level.

Table A2 Common Noise Sources and Their Typical Sound Pressure Levels (SPL), dBA	
Source	Typical Sound Level
Threshold of pain	140
Jet engine	130
Hydraulic hammer	120
Chainsaw	110
Industrial workshop	100
Lawn-mower (operator position)	90
Heavy traffic (footpath)	80
Elevated speech	70
Typical conversation	60
Ambient suburban environment	40
Ambient rural environment	30
Bedroom (night with windows closed)	20
Threshold of hearing	0

Figure A1 – Human Perception of Sound

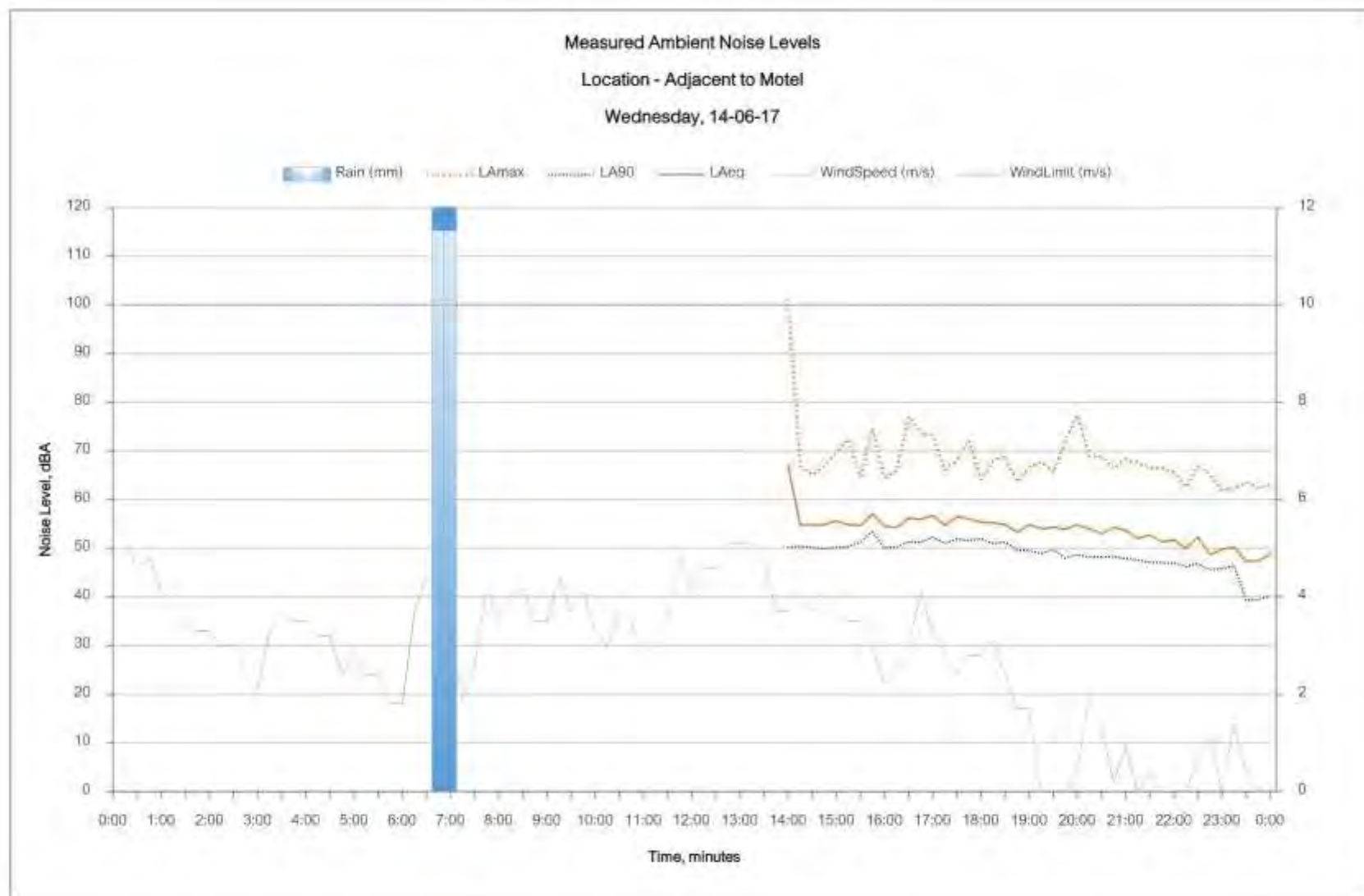


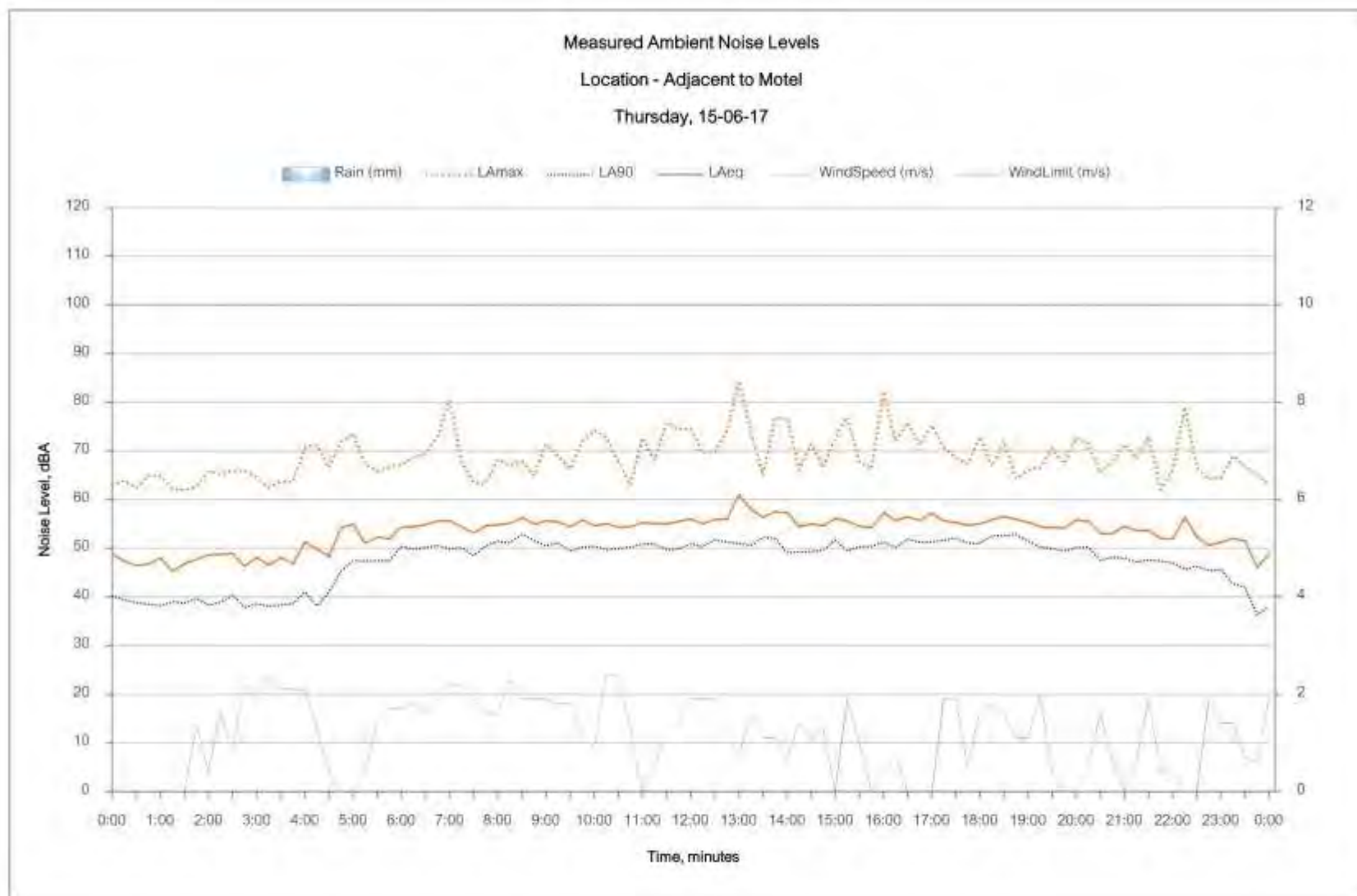
Appendix B – Noise Logging Charts

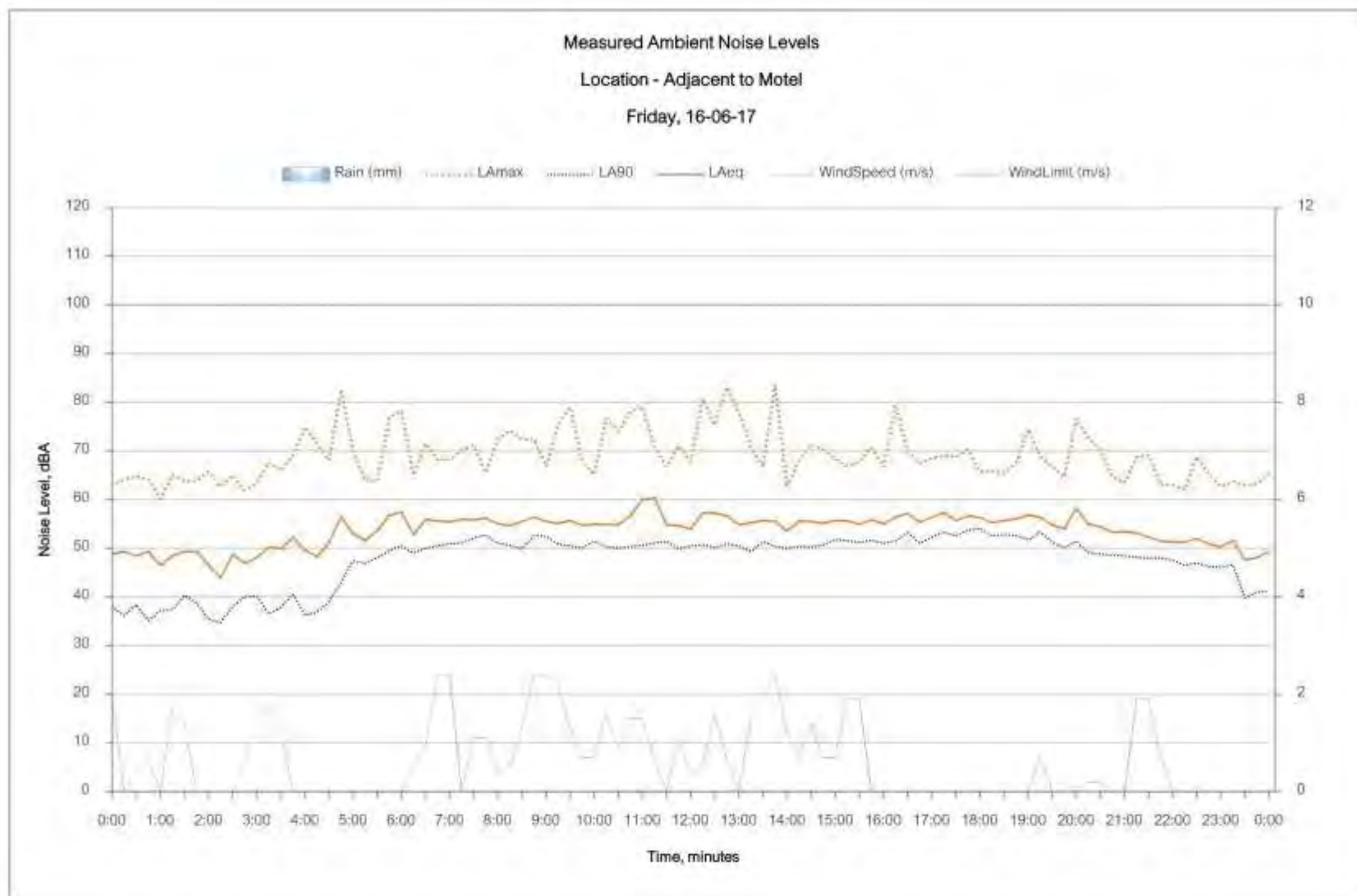


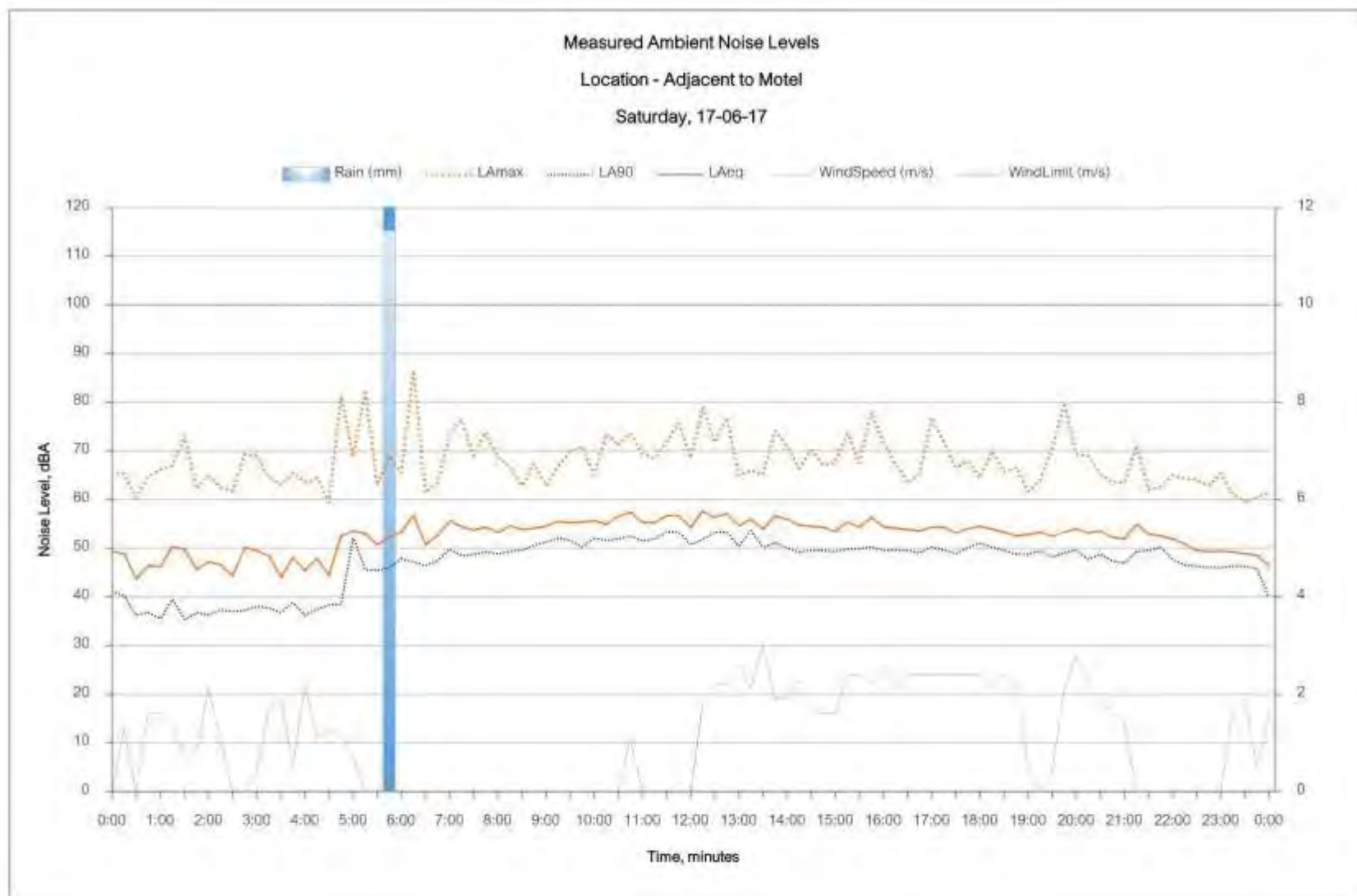
MAC POLYGRAPH

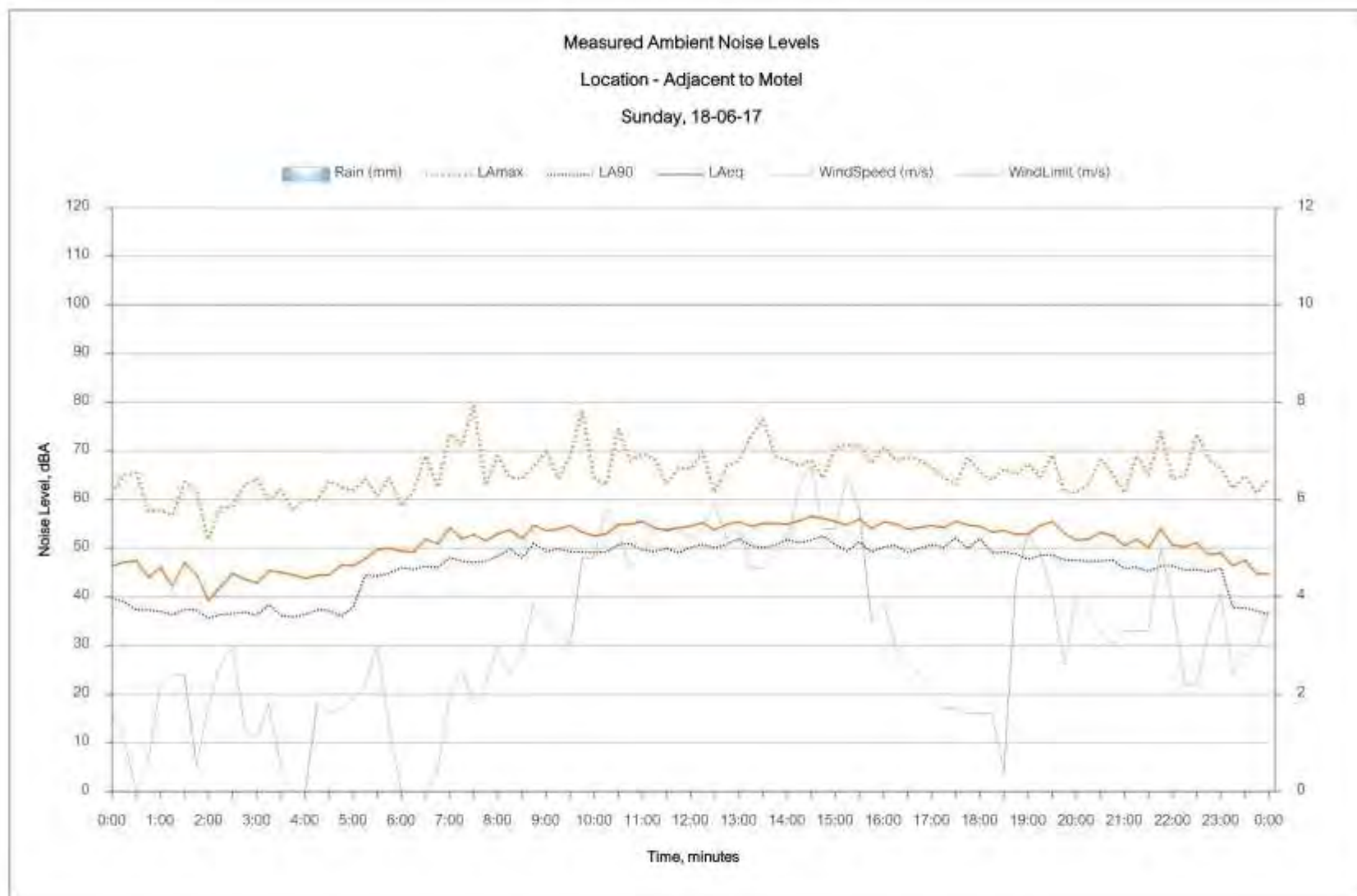
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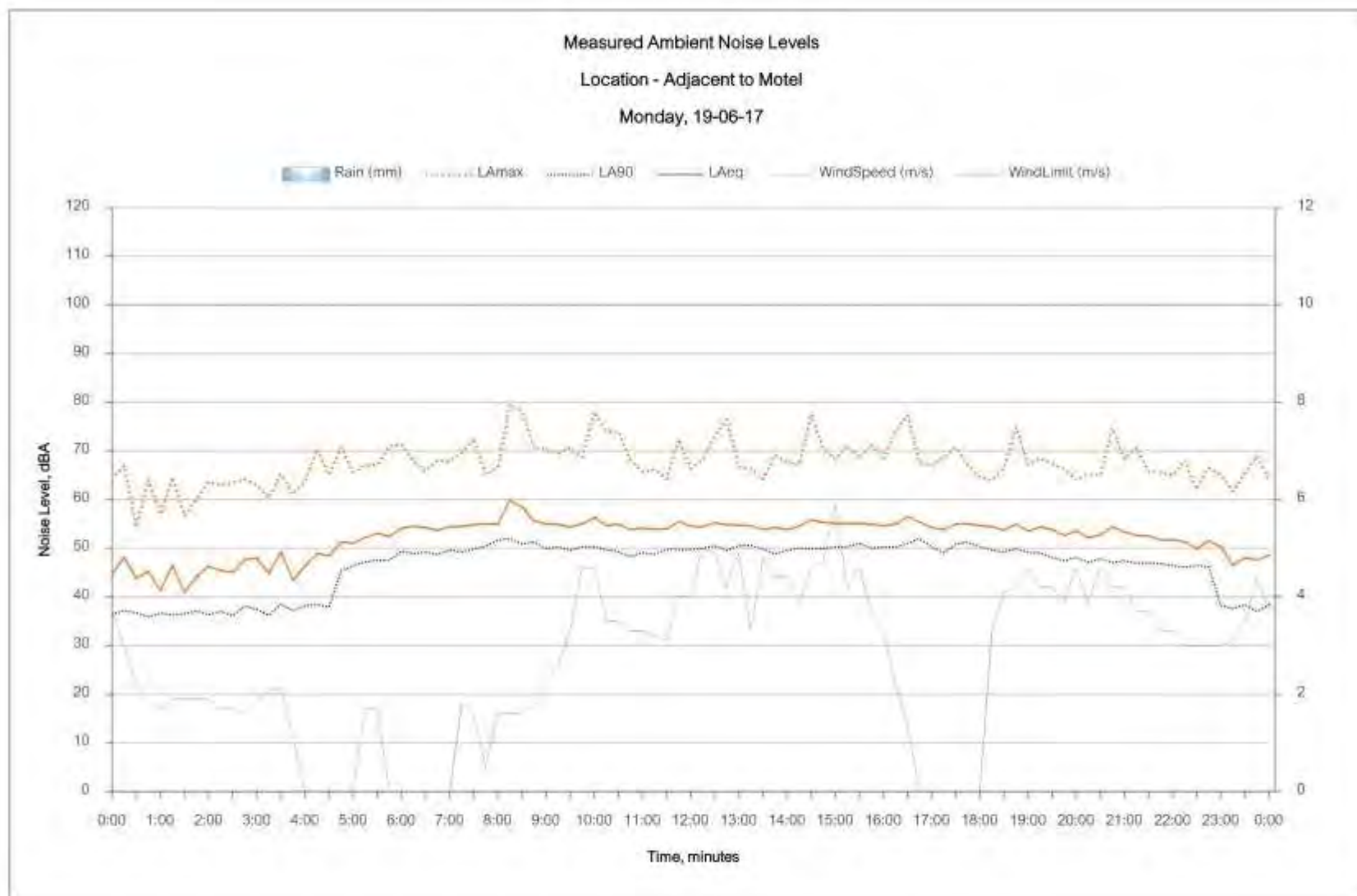


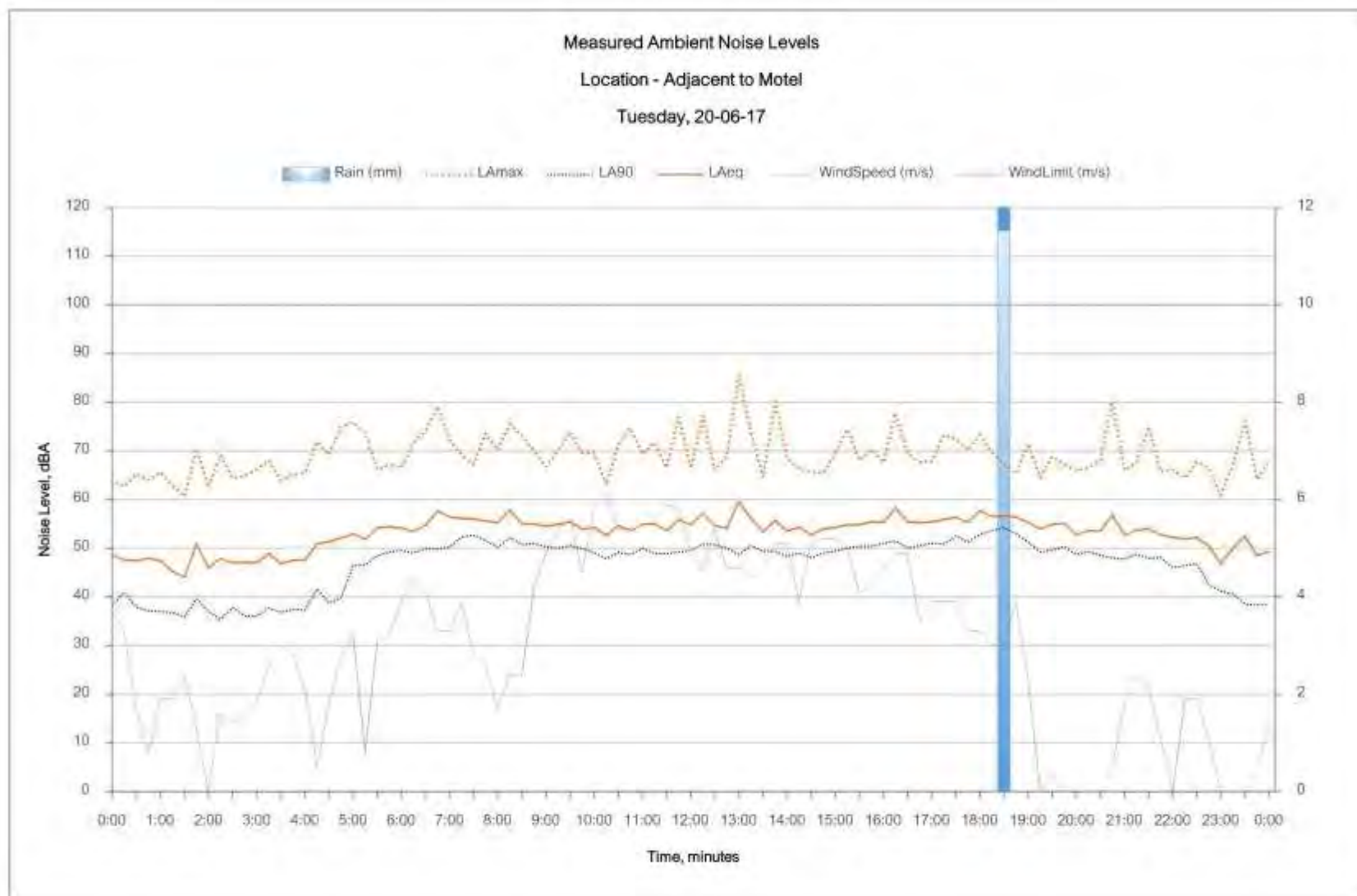


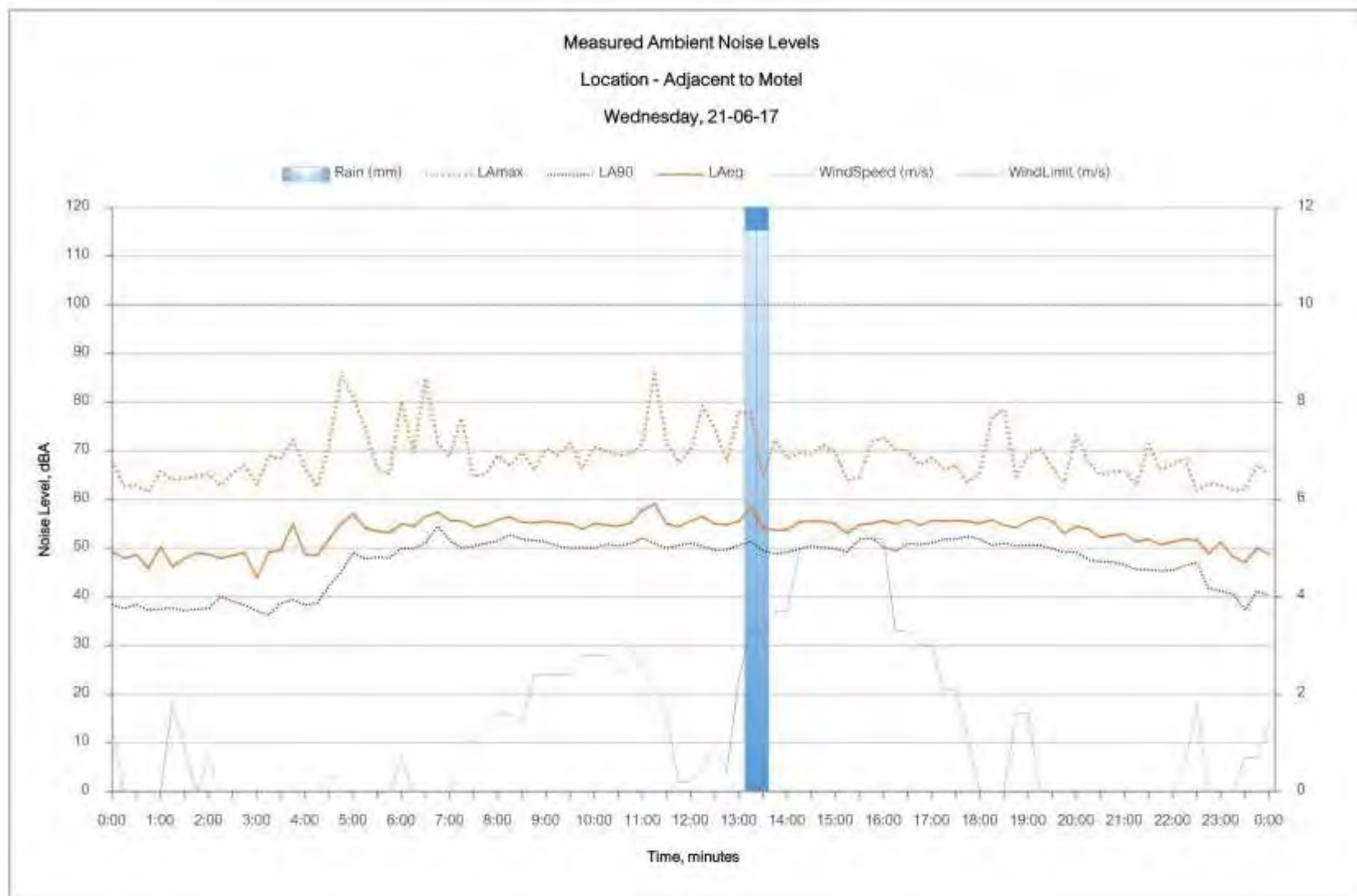


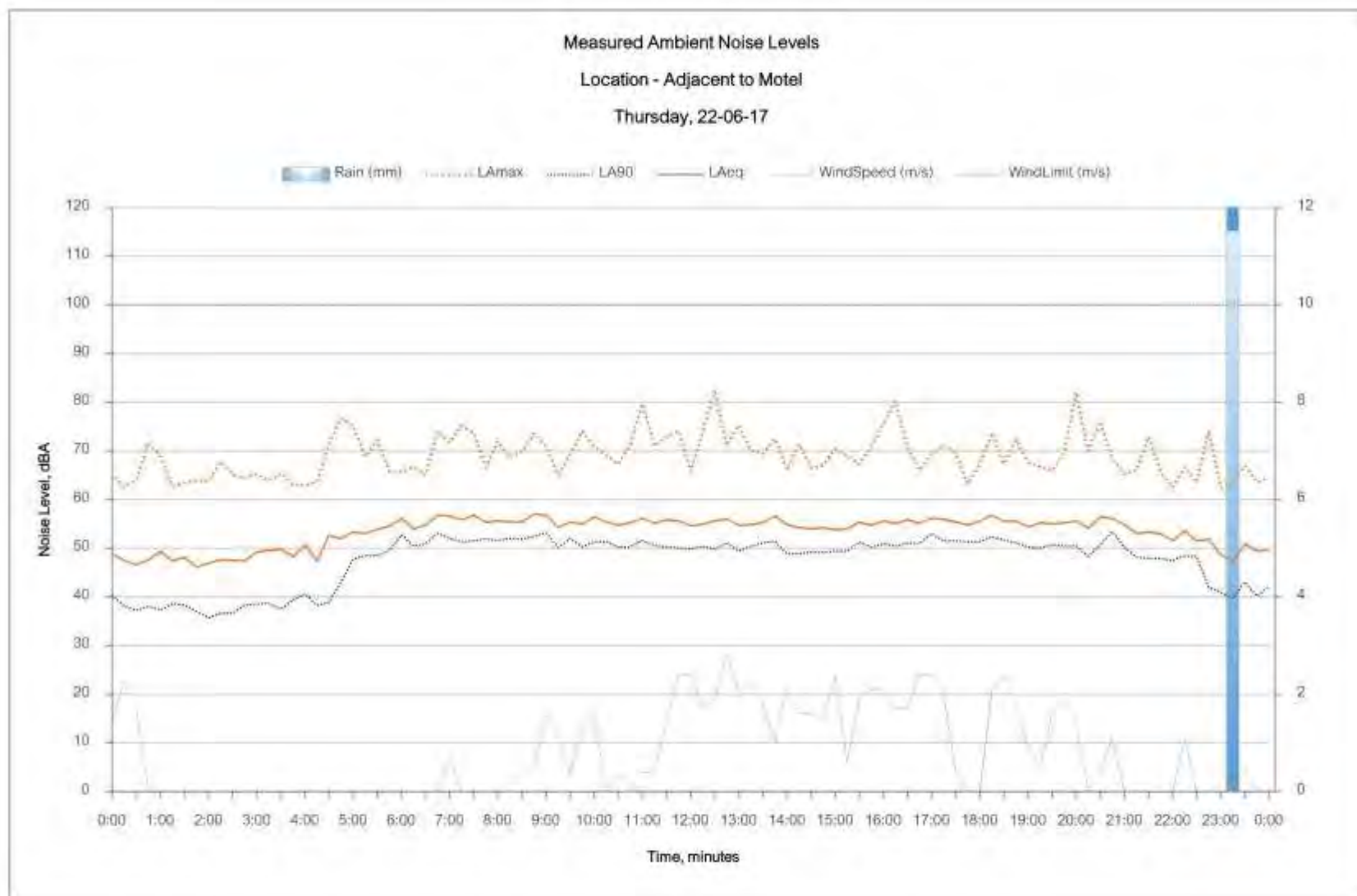


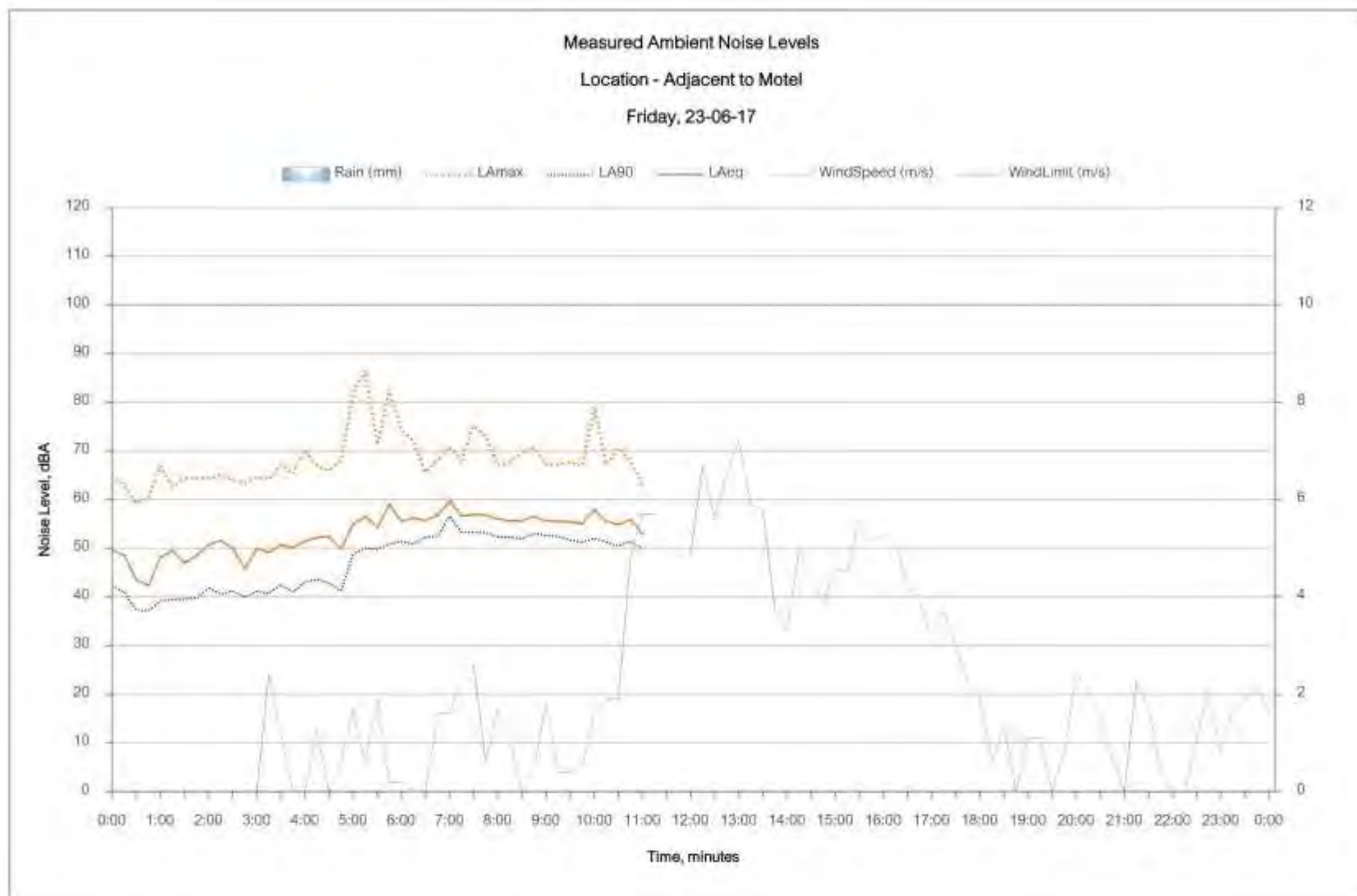


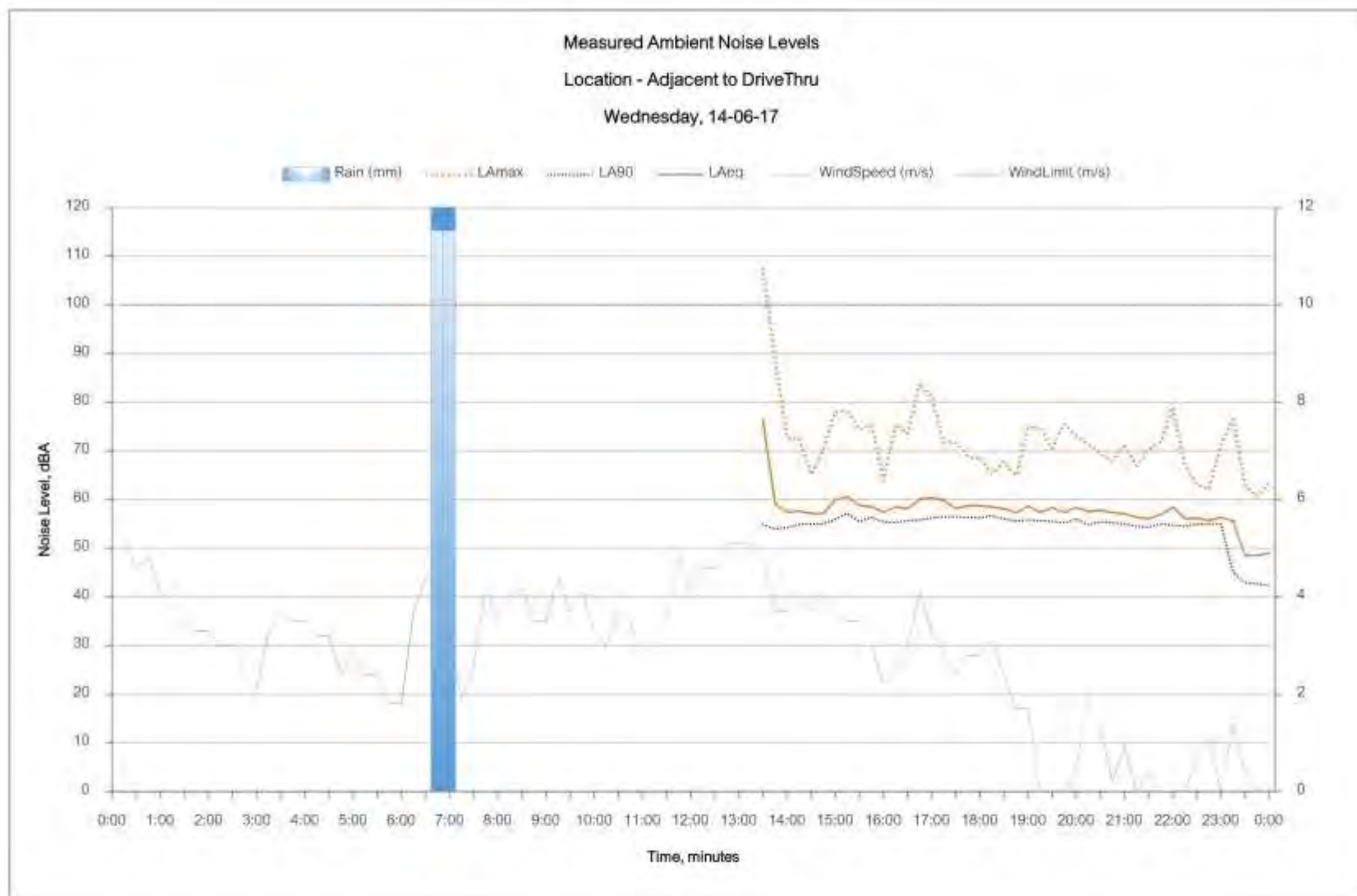


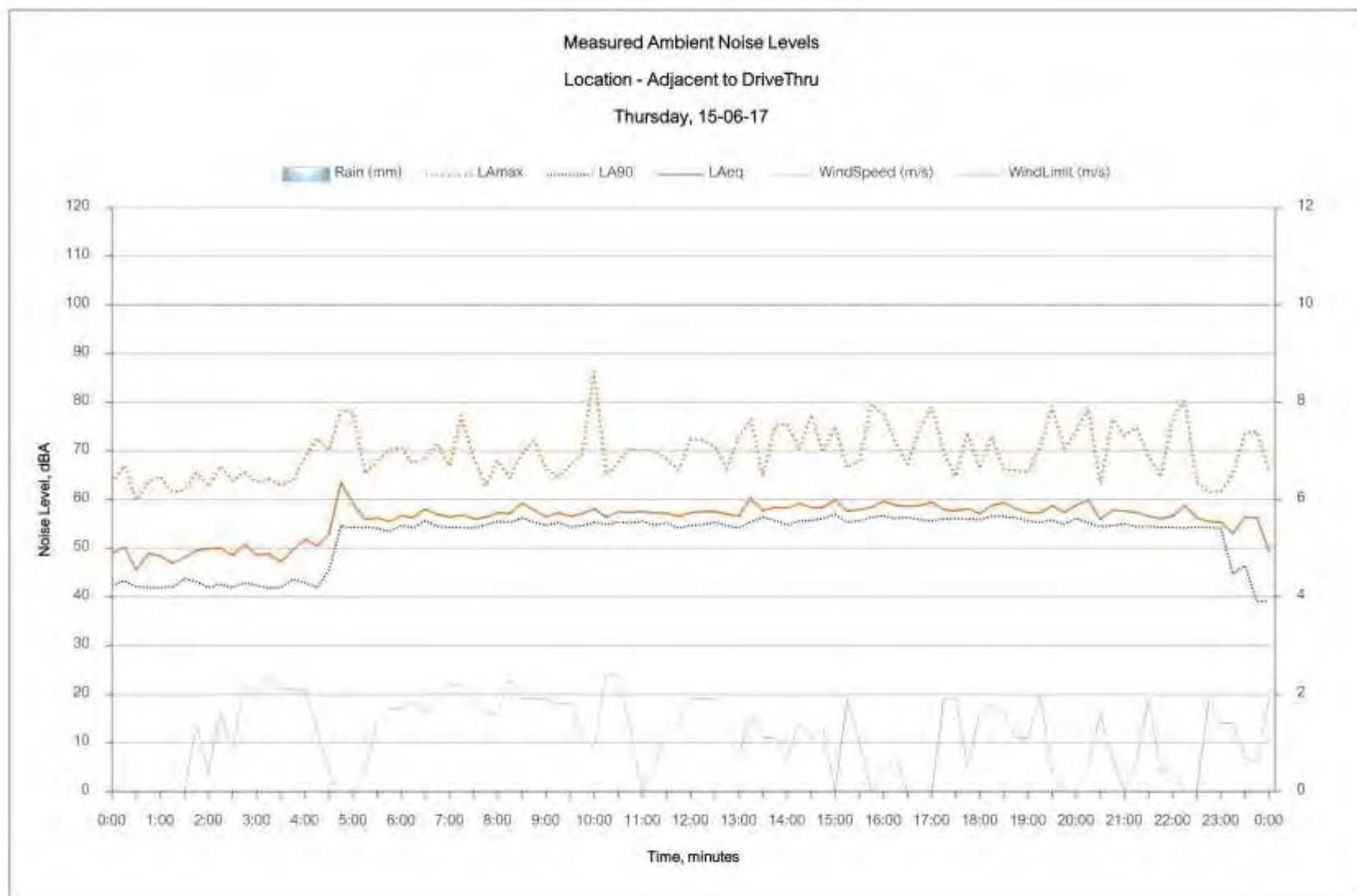


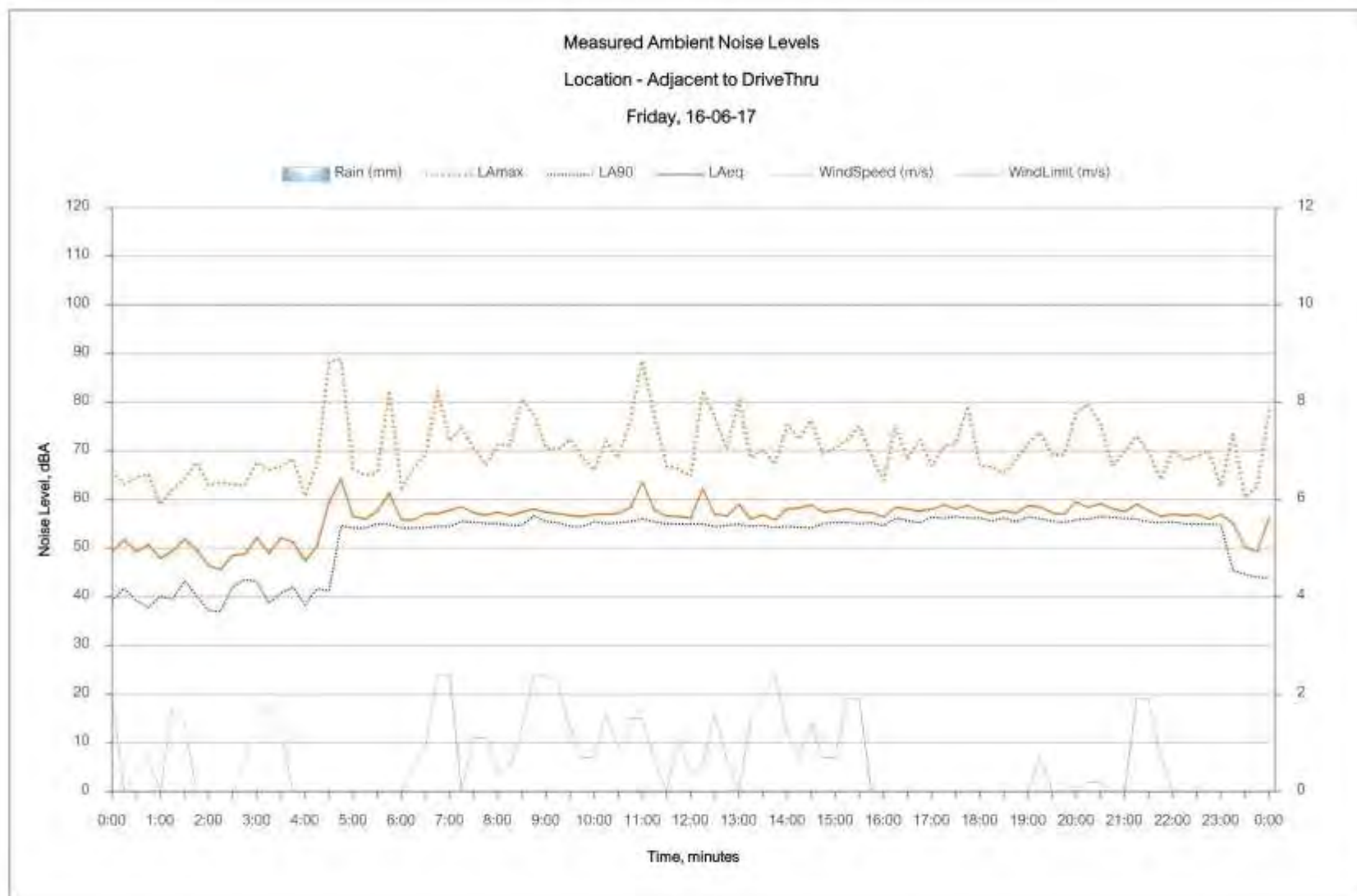


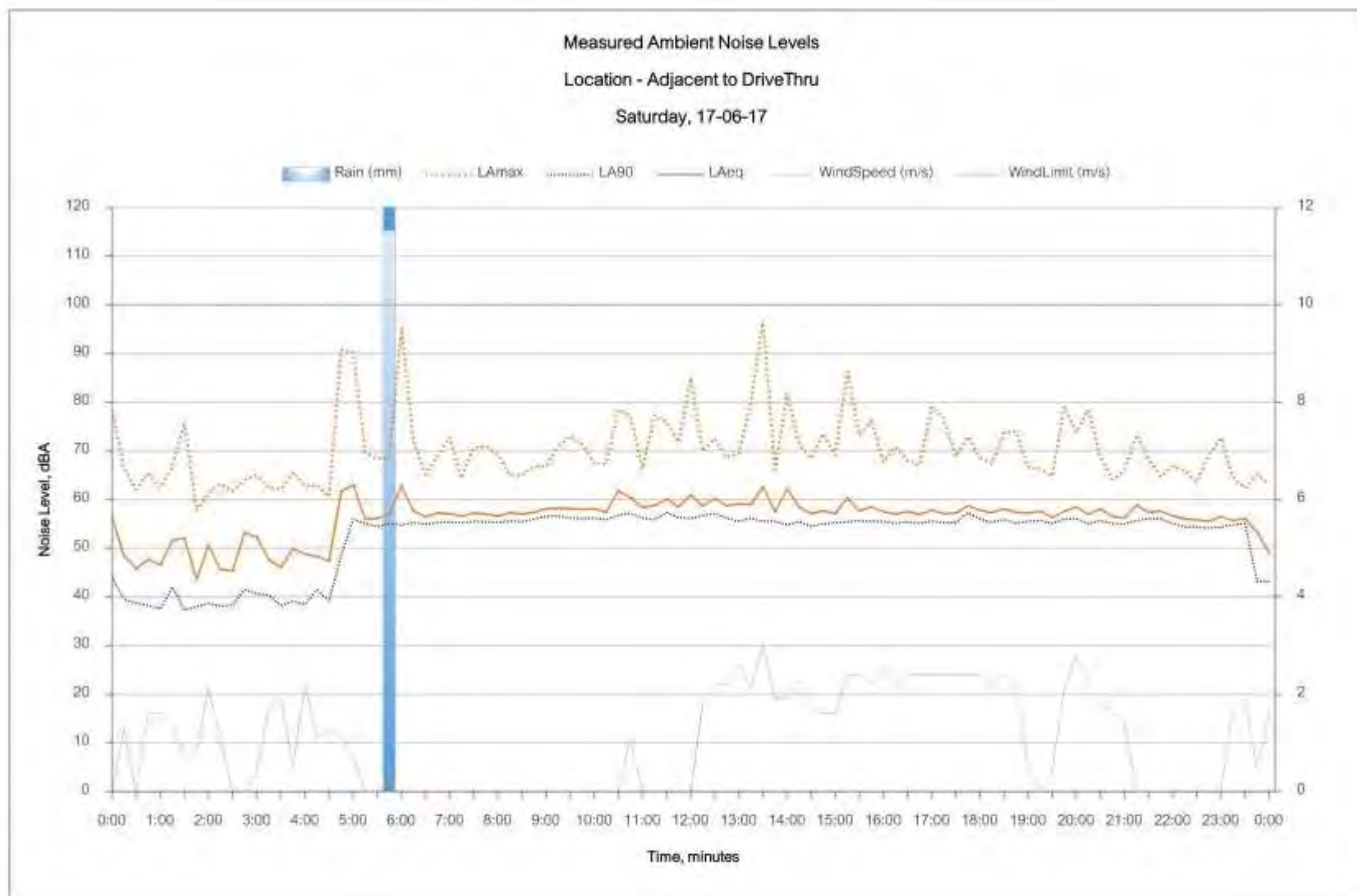


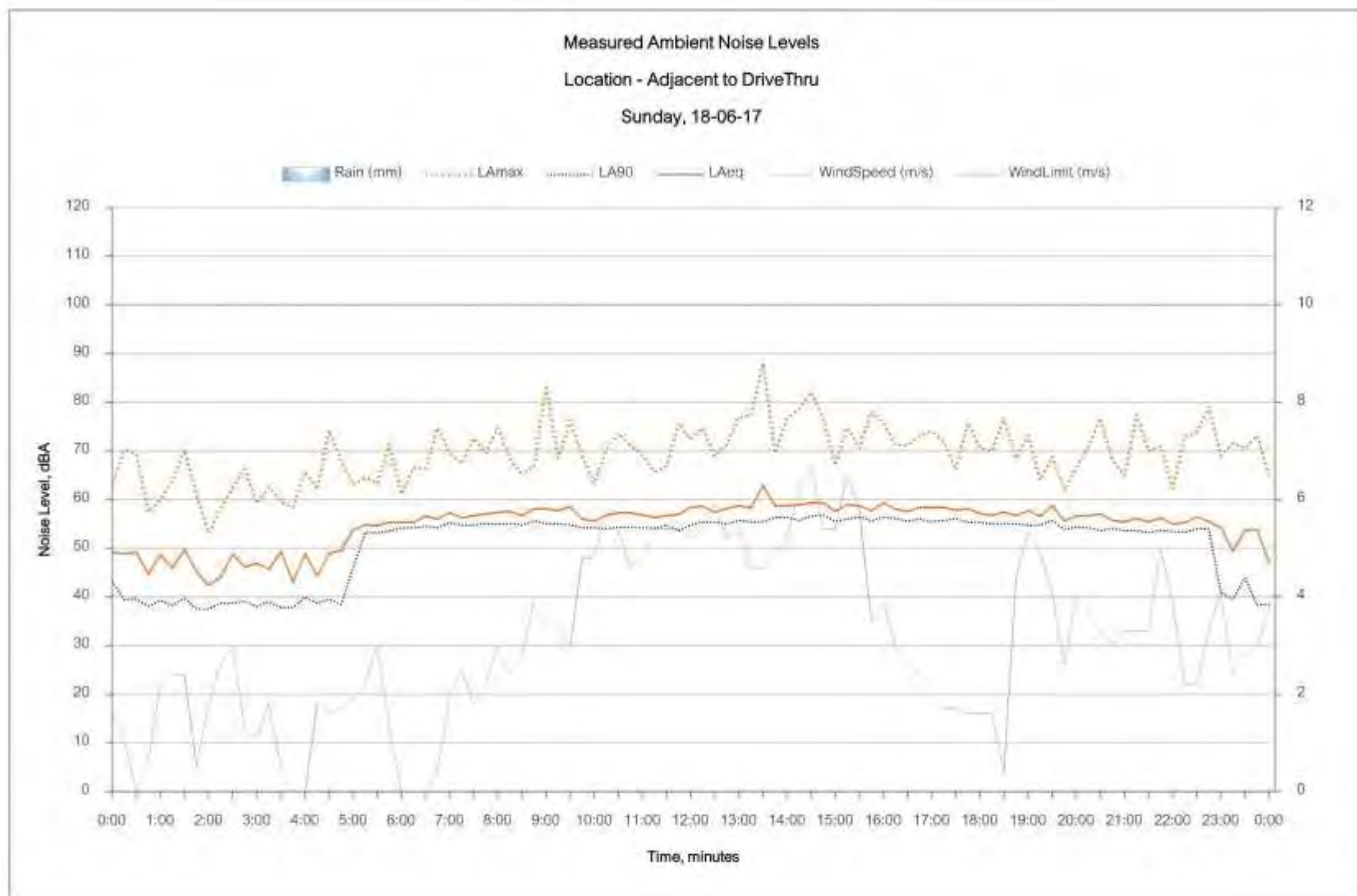


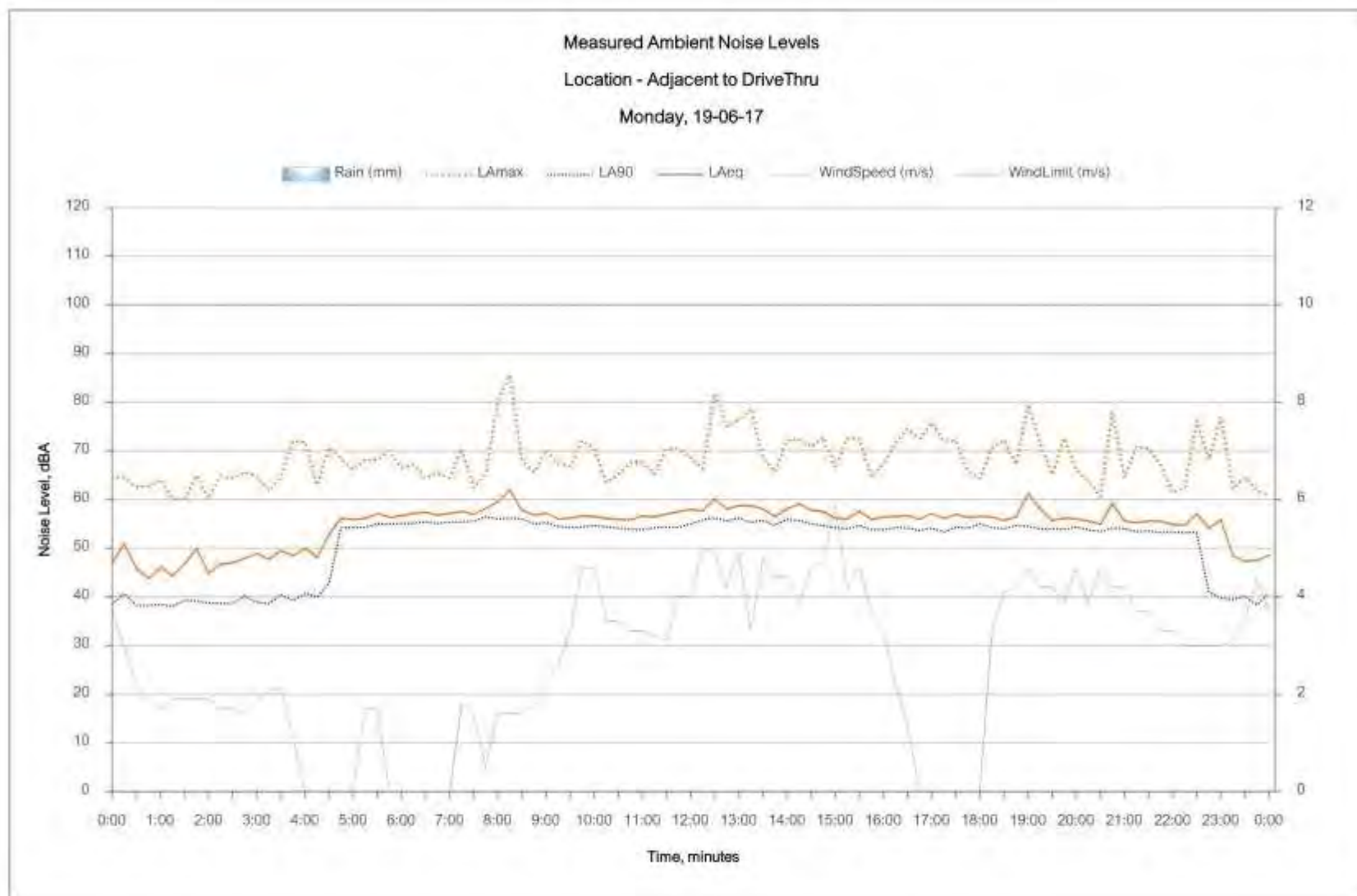


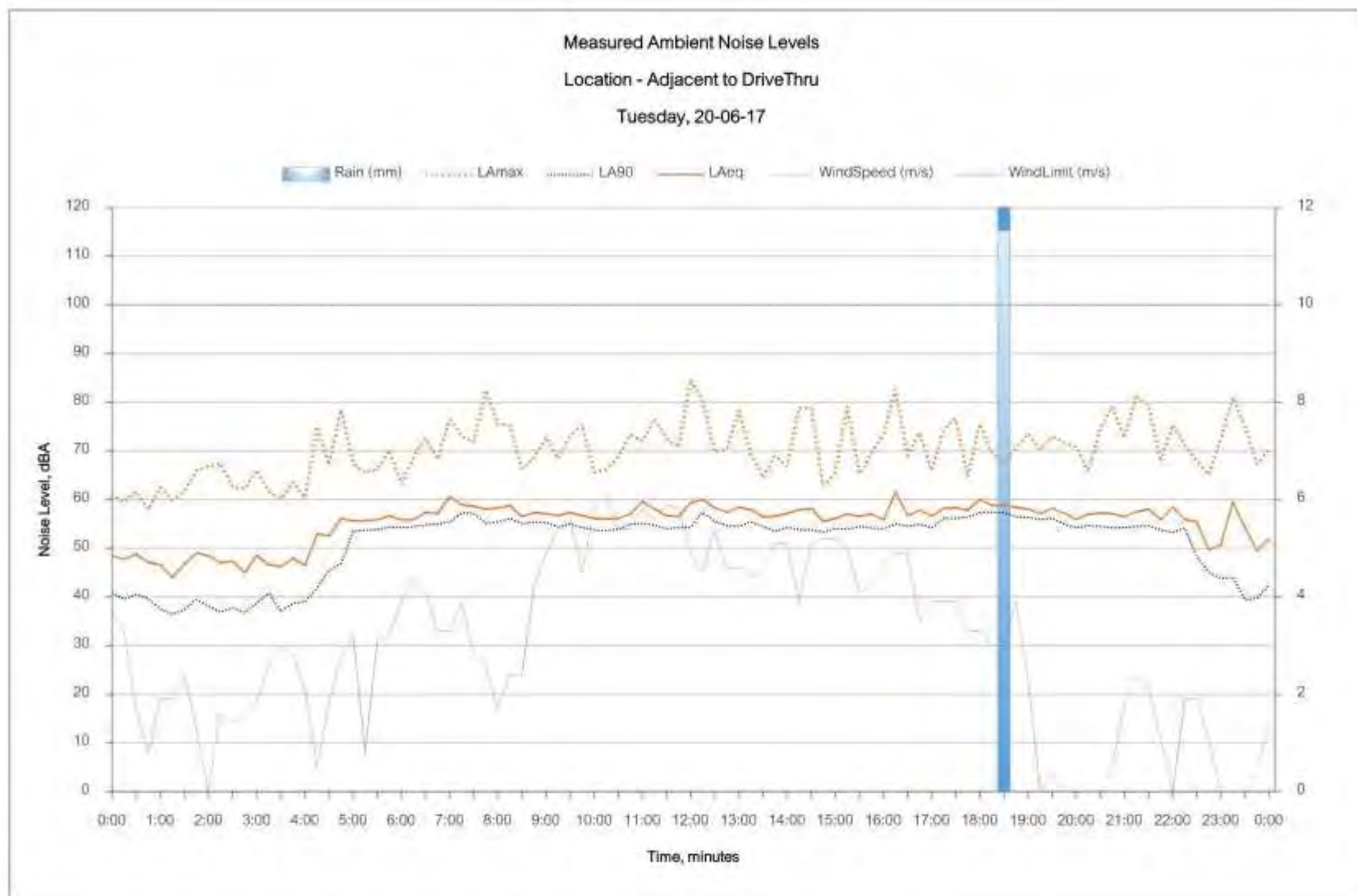


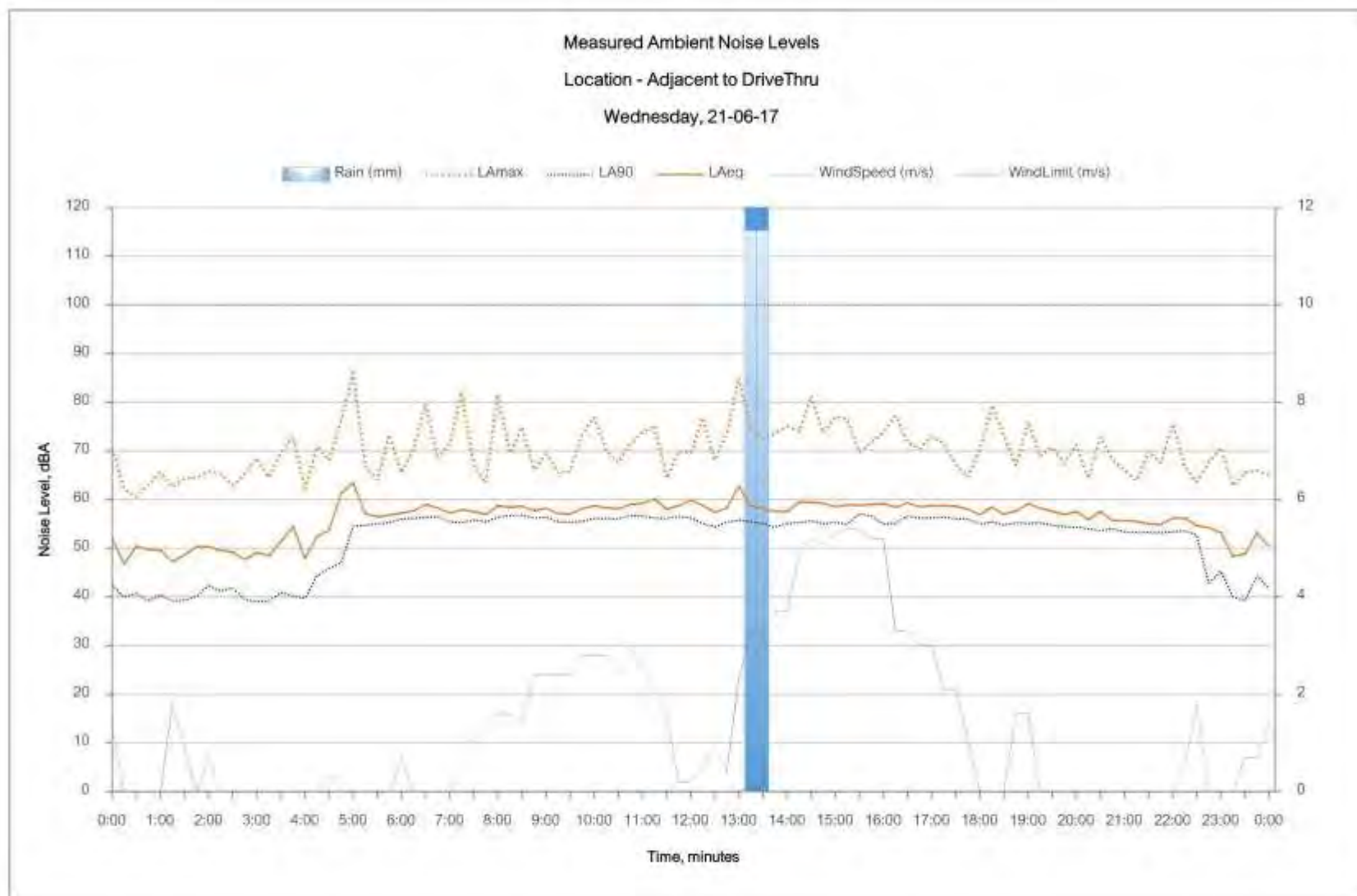




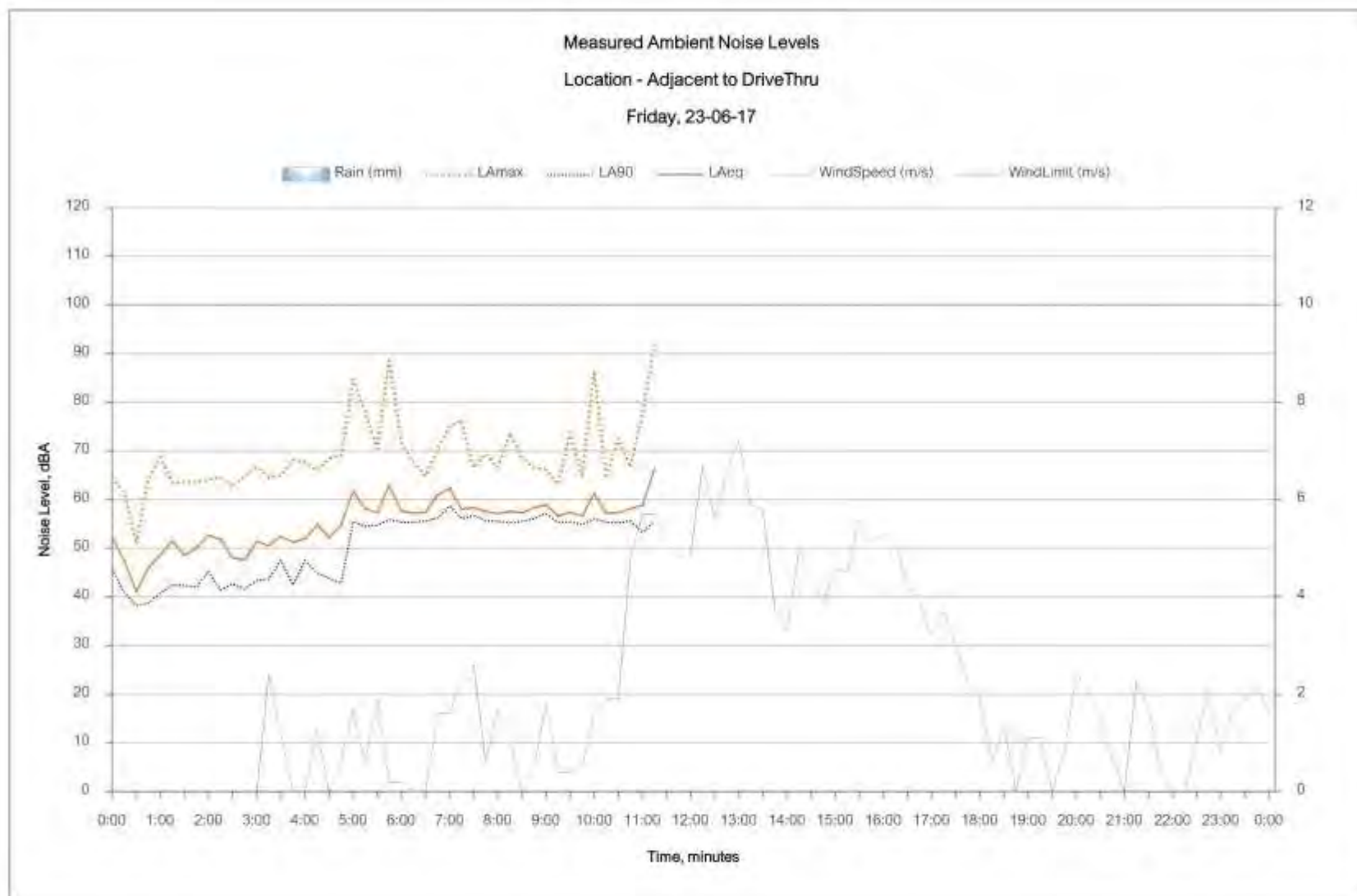


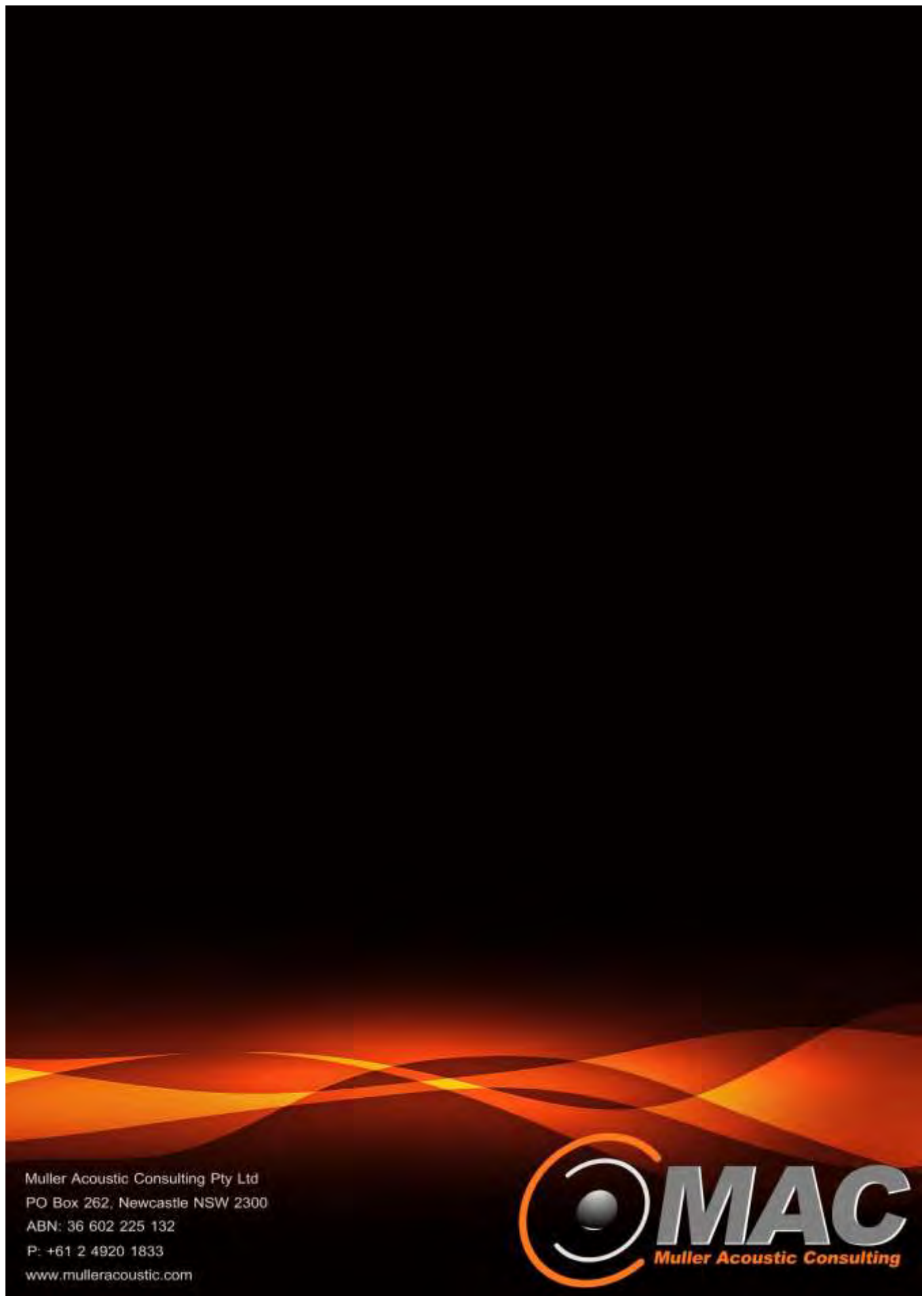












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Bruce Brown
50 Thompson Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

14 May 2017

RECEIVED BY
MUSWELLBROOK
SHIRE COUNCIL

17 MAY 2017

DOCUMENT ID

Re: Application: Section 96 Application (72/2003/2)

Description: S96 (1a) Modification - Amended Condition 1.11 – Alter Hours of Operation
83 – 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)

Applicant: KDC Pty Ltd

Dear General Manager

I wish to note by way of written submission that I strongly object to the application of alter hours of operation (24/7) at Mc Donald's Muswellbrook made by KDC Pty Ltd.

Objection reasons are

1. **Noise from vehicles** - Traffic entering and exiting the car park or pulling back onto the Maitland Street/New England Hwy accelerate rapidly squealing tyres, often intentionally with no consideration to residents now during the current operating hours so opening 24/7 will intensify the noise problem for residents even later at night and wee hours of the morning.
2. **Loitering along with hoon activity** – young and older persons' are continually loitering and hooning in the McDonald's car park during current business operating hours of close of business of 10pm so extending the operating hours will only contribute to the ongoing problem of disturbance for residents that live in the area the entire night.

A number of residents who live close have confided to me of how they have made numerous phone calls to the police time and time again, especially at night about the unacceptable social behaviour and noise of young persons' loitering in Mc Donald car park and they have been advised that with minimal police on duty, in Muswellbrook that police may not attend, deal with the issue, they often do not even attend at the time of the incident.

1. **Rubbish** - Some customers park in Thompson Street opposite McDonalds and discard their rubbish on the foot path or in the gutter, with the rubbish blowing all around the neighbourhood with it ending up blocking drains. So extended the

business hours and under the cover of darkness this is a definite yes that the rubbish problem will escalate for all concerned, residents and for McDonalds.

2. **In adequate large vehicle parking** – In Thompson Street just past McDonalds Exit on the left is unsealed area with no curb and guttering that is full of pot holes. Heavy vehicles and recreational vehicles, along with vehicles with horse float or trailers etc park in this area as there is NO adequate parking for large vehicles other than buses so if this application was to be approved this would contribute to noise for residents with truckies talking, UHF banta, noise from engine brakes, rattling and bumping trailer noises) with trucks stopping all through the night and early hours of the morning.
3. **Safety Issue for pedestrian and road user** – With heavy vehicles parking in Thompson Street on the unsealed area to the left of McDonald's Exit even now pedestrian are at risk of being injury or killed as pedestrian need to walk among or around large vehicles to enter McDonald and with heavy/ large vehicle parked in this area it narrows the road space for through traffic travelling along Thompson Street and
4. **Dust** - Heavy vehicles, recreational vehicle along with vehicles with horse floats and trailers park in Thompson Street on the unsealed area to the left of McDonald's Exit which stirs up dust causing dust clouds these dust clouds effect residents in a number of ways , one would be being limiting them when they able to open the windows but for the elderly along Thompson with minimal mobility they are often unable sitting out the front of their homes to watch the world go by so to speak as the dust exacerbates their breathing problem and can trigger an asthma attack so altering McDonald's business hour to stay open 24/7 will limit residents even more on the warmer/summer night if wanting to sit out on their veranda's with heavy vehicle stirring up the dust when parking late into the evening to purchase McDonald's.
5. **Low lighting** – There is no lighting where the heavy vehicles park in Thompson Street on the unsealed area to the left of McDonald's Exit and with heavy vehicle needing to use park lights/ clearance lights this also will effect resident during the night and earlier hours of the morning if McDonald's operational hours are extended.
6. **Heavy vehicle noise** - More deliveries of product will be needed which will contributed even more noise problem for residents whom already deal with vehicle noise from trucks making deliveries.

I live further along Thompson Street and there is a lot of traffic, be it vehicle or pedestrians walking through that come from a certain area of town that use or deal drugs and it is common knowledge that McDonalds car park is the dealing place.

I use Thompson Street to access the Highway on a regular basis as I work down past the Power Stations and I have seen and had to deal with issues mentioned when I go past McDonalds. I also have an elderly friend that lives opposite McDonalds whom I see on a regular basis to help with shopping, appointment and emotional support and have seen what I have mentioned personally.

Bottom line is I'm strongly against this application by KDC Pty Ltd to alter of operation hours of McDonald's Muswellbrook for these reason listed and more.

Regards

A handwritten signature in black ink, appearing to read 'B. Brown', with a long horizontal flourish extending to the right.

Bruce Brown.

9 Thompson Street Muswellbrook 2333

Phone 0265431483—E—Mail gary.morgan9@bigpond.Au

General Manager, Muswellbrook Shire Council

10/5/2017

Dear Sir

We wish to put in a submission concerning D/A 72/2003 which we received notification of.

We went through this process in 2008-2009 and it was refused then D/A332/2008

Some of have lived here up to twenty three years before McDonalds came to Muswellbrook. Most of the residents in the area are retirees and this would be the last thing we need at our age

Once again we find McDonalds are deceptive by not coming straight out and saying it was McDonalds but stated the applicant was KDC Pty Ltd .Did they think we were too old and would not notice this. We also believe up until this letter was written the motel did not receive notification.

Once again this shows McDonalds arrogance towards their neighbour's. Ever since day one they have never made contact with the people that their establishment effects.

Below are reasons this D/A should not be approved

Lighting

- When McDonalds began operations we had to purchase at our own cost block out curtains to block out the light from the establishment. The original D/A stated no light should encroach on nearby residents Now they want to install more lights which totally contravenes the original D/A.

Noise

- Because of noise created by hooners doing burnouts, having their car doors open and their radios up to maximum levels, swearing and

generally being anti-social. Lately we have observed drag racing on the highway between Bell Street and Rutherford Street

- Mine vehicles passing through the drive thru scrape their aerials on the underside of the roof, the full length of the building
- A large number of horse floats visit the establishment and all we hear are horses kicking the sides of their floats
- Large trucks parking outside our houses, leave their motors running and their refrigeration units running. The practice of trucks parking in our street has become more prevalent since the DMR have banned parking near the Forestry Commission
- Coaches returning from concerts in the vineyards use the area in front of our residents as pickup and drop-off points. You can imagine the noise they generate after several hours drinking wine
- McDonalds were given strict guidelines of times they could receive deliveries, but once again they are flaunting the rules One delivery truck arrives any time and then begins unloading with a great amount of noise
- We now have a group of three motorbikes who do laps of McDonalds and the surrounding streets at any time of the night or morning
- Sometimes the staff are noisy after they finish their shift, sitting outside and talking and carrying on

These points may seem trivial to some people who do not live in the area but if they lived here 24/7 they would have a different opinion.

We already have noise coming from coal trains running 24/7 highway traffic

And McDonalds any extension of hours would make it very hard to live here

We would totally lose our enmity, we would lose sleep time and one would question our mental health

All these noise problems will expand with more opening hours

McDonalds claim they did a noise survey in 2008. That is 9 years ago, things have certainly changed since then. They claim that they did a noise survey at 1 Shaw Crescent and 9 Thompson Street. I would refute this as no one has carried out a noise survey at our residence. Besides that everyone knows figures can be moved around to suit the purpose.

Compensation

If McDonalds are desperate for extra hours maybe they could buy us out as the mines do or they may pull out all our windows and replace them with double glazed windows

Police

It has been well documented through the media that police numbers in Muswellbrook are down on what they should be Residents have often rang police because of disturbances in the corner of Thompson Street and the New England Highway We do not have positive proof but there is talk on the street that drug dealing takes place in this corner

Surely with all this going on no more added pressure should be placed on the police

Parking

Even after council placed no parking signs between the entrance and exit Inconsiderate motorists continue to park there This is a safety issue and needs to be addressed. We have found the crosses placed in our drive ways seems to be working well Perhaps council may consider doing that in the no parking area. Coaches still reversing into the exit area a totally unacceptable practice

WOULD YOU BE ABLE TO EXPLAIN THE FOLLOWING QUESTIONS

- Why do applicants of a D/A have the right to dictate to council who receives notifications concerning that D/A
- Why are there blank pages in the submission Have they got something to hide
- Informal consultation was held with councils Town planner on 5/4/2017 prior to lodgement of D/A and she could see no major concerns
-

Q. A. Morgan

M. J. Morgan

24-hour trading concern

By **DAMON CRONSHAW**
Lake Macquarie Reporter

MCDONALD'S wants to introduce 24-hour trading at its restaurant on the Pacific Highway, Belmont, but residents fear the plan will attract drunks and hoons.

McDonald's has applied to Lake Macquarie City Council to vary its 6am to 11pm trading hours to 24-hour trading.

The council approved a redevelopment of the restaurant in January, which included McDonald's retaining its trading hours.

But in September, the fast-food giant made a new application for 24-hour trading.

Resident Dean Griffiths said in a submission to the council that 24-hour trading would lead to the McDonald's car park becoming "a place where all the drunks from the hotels and clubs will congregate".

Another objection said residents had to deal with revving

cars, loud music, youths fighting, rubbish in the street and "constant inconsideration from McDonald's employees".

Resident Tony Salaris said vandalism and unruly behaviour were serious problems in the area.

Residents are angry that the council did not inform them about the original redevelopment application.

A council spokeswoman said it was compulsory to notify adjoining neighbours.

She said neighbours were not notified because "a road runs between their properties and McDonald's, so they are not strictly adjoining".

The residents were informed about the 24-hour trading plan because it had the potential to increase noise.

TELL US WHAT YOU THINK

Phone (02) 4979 5980

Fax (02) 4979 5986

Email letters@theherald.com.au

Food for thought

Chain's extra hours bid

By **MATT CARR**

THE Kurri Kurri outlet of a fast-food chain is seeking to extend its trading hours before it has opened for business.

Opening hours for the new McDonald's store, which is due to start trading before Christmas, were restricted by Cessnock City Council after residents raised concerns over 24-hour trade.

However, the restaurant has applied to open for an extra 90 minutes daily.

If the new hours are approved, the restaurant will open at 5am.

There is no application for later closing times.

Insite Planning social planner James Marshall spoke to councillors on behalf of the restaurant on Tuesday night, saying the business would miss out on morning trade under the existing opening times.

But several councillors were concerned that McDonald's was seeking to extend its hours even before it opened.



Cr Neil Gorman said the proposal changed the restaurant's approval.

"The objections withdrawn by neighbours back in July may not have been withdrawn," Cr Gorman said.

"If that had happened, you may not have gotten your [approval] through."

An application for 24-hour trading at Cessnock McDonald's was also rejected at the meeting.

Kurri Kurri District Business Chamber president Rod Doherty said the new trading hours could place pressure on existing businesses.

Councillors will vote on the amended hours at their next meeting.

Fast-food bunfight

All-hours restaurant hits a snag

By **DAMON CRONSHAW**
Lake Macquarie Reporter

McDONALD'S wants to introduce 24-hour trading at its restaurant on the Pacific Highway, Swansea, but residents fear it will attract anti-social behaviour, drunks and hoons.

A 50-signature petition opposing the plan has been presented to Lake Macquarie City Council.

Swansea McDonald's trades from 6am to 10pm, but the multinational company said strong demand had prompted it to apply for 24-hour trading for its restaurant and drive-through services.

Resident John Payne, who lives near the restaurant, said extended trading hours would increase vandalism, trespassing and malicious damage to neighbouring properties.

Mr Payne strongly rejected the restaurant's claim that the plan would not affect surrounding properties.



TROUBLE AHEAD: John Payne, second from left in back row, says 24-hour trading is bad news. — Picture by Natalie Grono

In submissions to the council, residents said vehicles coming and going from McDonald's often made noise from burn-outs, car stereos, horn-blowing and speeding.

They claimed drug use and drunken behaviour occurred in the car park and groups of youths loitered there.

McDonald's said the car park area was well-lit and "does not present an area for loitering or concealment of undesirable activities", and closed-circuit television monitored the area.

Resident Rob Harvie said nearby homes and businesses "have had property

destroyed, letterboxes wrecked and bins burnt".

"Letterboxes have been destroyed and had milkshake and drink poured into them," Mr Harvie said.

"Packaging, cups, milkshake containers, part-eaten meals and drinks, particularly on weekends, are scat-

tered over the area of the Pacific Highway and Wood Street."

Karen Shepherdson, of the nearby BlackSwan Waterfront Motel, said Swansea had "very little police presence and the operation of a 24-hour McDonald's will only drag more problems to the area".

Bite put on fast food

ASHFIELD

A COUNCIL will ban drive-through restaurants from one of Sydney's busiest roads following a two-year fight with fast food giant McDonald's.

Ashfield Council tried to stop a 24-hour McDonald's drive-through opening on Parramatta Rd in Haberfield but last month lost the case in the Land and Environment Court when the fast-food chain challenged the council's decision.

The council was so incensed at the ruling, it has proposed tough new development restrictions that are almost im-

“It's about making sure that the signs can't be seen from the side streets

possible for drive-throughs to meet, effectively banning them.

New drive-throughs cannot be located “on a corner block” or be “visible from an adjacent streetscape”.

The council had tried for two years to block McDonald's from opening amid concerns it would detract from the heritage value of Haberfield and be a gross “intensification of use” of the area.

On Tuesday night it agreed to put the new anti drive-through policy on public exhibition. It states the council has “resolved to prohibit these types of outlets ... along Parramatta Rd”.

Greens Councillor Patrick Kelso said the plan was about



Ashfield Council proposes tough new restrictions on fast food drive-through restaurants on Parramatta Rd

ensuring that people living near Parramatta Rd didn't have to see the outlets.

“Parramatta Rd might be an ideal place for these (outlets) ... but immediately behind Parramatta Rd, the whole suburb is heritage

listed,” Cr Kelso said. “So it's about making sure that when people are looking out at this lovely outlook, they don't have the Golden Arches staring at them.”

He disputed critics' claims that council had created

restrictions that applicants could not meet.

“They can have signs that are visible from Parramatta Rd but it's about making sure they can't be seen from the side streets,” Cr Kelso said.

However, he conceded that

the ultimate goal was to ban new fast food drive-throughs.

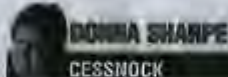
“Yes, that is what the council decided,” he said.

A McDonald's spokeswoman declined to comment, saying the proposal wasn't “relevant to us at this time”.

-24-hour 'drunk haven'

RESIDENTS whose homes surround Cessnock's McDonald's restaurant have told councillors they are sick of living in an area where their yards are used as toilets, vandalism is rife and streets are littered with rubbish.

They were protesting against an application for McDonald's Cessnock to operate 24 hours a day, a move residents said



DONNA SWANPE
CESSNOCK

would turn their already intolerable problems into an around-the-clock nightmare.

Linda Carter, who spoke on behalf of residents, told councillors last night that, if approved, the site would become a haven for "drunks"

walking home from hotels and would attract antisocial behaviour, noise and cars.

She said residents already put up with drunks fighting, smashing bottles, damaging gardens and vomiting.

"These issues will worsen if there is an extension of the trading hours," Mrs Carter said. "We are already subject to unacceptable antisocial behav-

iour with people congregating in the McDonald's car park, bus shelters and nearby streets.

"If people leaving the local hotels know this will be open after hotels close it will attract drunks wanting to get served."

McDonald's Cessnock owner Tom Hannah said his business had operated since 1990 and employed over 200 people with a payroll of about \$3 million.

"We put a lot back into the local community," he said.

Mr Hannah said the extension proposal was not for the entire restaurant but only for drive-through. He said he wanted to work with his neighbours to address any issues.

The application was recommended for refusal but councillors deferred the matter for investigation.

Fresh late-night claims in fast-food fight

By **DAMON CRONSHAW**

LAKE Macquarie City Council will investigate allegations McDonald's at Swansea has breached development conditions by opening until midnight.

Deputy mayor Garry Edwards said residents alleged the restaurant had opened until midnight instead of its approved closing time of 10pm.

Council development

manager Stephen Brown said council staff would investigate.

The allegation came amid concern over McDonald's application to the council to extend its trading hours to midnight.

McDonald's has approval to operate its restaurant and drive-through from 6am to 10pm.

A McDonald's statement said the restaurant had consent to trade until midnight in its original

development approval.

But the council had approved alterations to the restaurant last year with a condition restricting trading hours to 10pm.

McDonald's said its acoustic report showed trading until midnight would not cause unacceptable noise for nearby residents.

McDonald's withdrew an application to the council last year for 24-hour trading at Swan-

sea, following a public outcry.

Residents and businesses are unhappy at anti-social behaviour at and around the restaurant.

A submission to the council said youths vandalised fences, gardens and letterboxes "on their way to and from McDonald's".

Security lights and windows were regularly smashed, outdoor furniture damaged and

stolen and vehicles broken into and vandalised.

Other residents lamented a lack of police in the area and large amounts of McDonald's rubbish.

Speeding cars "entering and leaving McDonald's at all hours with horns blowing", burnouts and noisy patrons were problems.

Residents also experienced "extensive tyre and exhaust noise from vehicles coming and going from McDonald's".

Dread of gangs defeats McDonald's

Amy Dale

MCDONALD'S has lost a court battle to build a 24-hour restaurant at East-lakes after a council argued it would increase local crime.

The fast food giant and Botany Bay Council have been fighting in the Land and Environment Court since October over the potential opening of a new

24-hour McDonald's on Gardeners Rd. When council objected, McDonald's offered to shut the restaurant no later than 1am on weekends and leave only the drive-through open all night—but this too was argued against.

During a hearing, lawyers for Botany Bay Council cited complaints from residents about an increase in crime by "gangs of teenagers" when a previous

McDonald's was there. Since the "old McDonald's" closed, they noted the adverse impacts had ceased.

Refusing the development application yesterday, Commissioner Annelise Tuor said that, despite offers from McDonald's to amend its plans, "the cumulative and overall effect of the amendments do not change the nature of the development".



Denied: McDonald's

Beverley Farrell
77 Maitland Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand



Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 -
Alter Hours of Operation
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP:
793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections
to the alterations of hours of operation at Mc Donald's
Muswellbrook made by KDC Pty Ltd.

My objection concerns:

- 1) Heavy traffic on Maitland Street with noise from slowing
down because of speed and late hour Hoon activity turning in
front of vehicle/large vehicles causing them to use their horn
and engine brakes/exhaust brakes.
- 2) Criminal activity, vandalism, after closing hours from Hotels,
Clubs etc along with additional young people up and down
Maitland Street all night,

Please accept this as a view which is going to happen if this
development is allowed to advance.

Regards *Beverley Farrell*

PTO

Zoe Spiteri

79 MAITLAND STREET

MUSWELLBROOK NSW 2333

RECEIVED BY
MUSWELLBROOK
SHIRE COUNCIL

17 MAY 2017

GENERAL MANAGER

MUSWELLBROOK SHIRE COUNCIL

PO Box 122

MUSWELLBROOK NSW 2333

DOCUMENT ID

16 MAY 2017

DELIVERED BY HAND

RE: Application. Section 96 Application (72/2003/2)

Description: S96 (1a) Modification - Amended Condition 1.11 -

ALTER HOURS OF OPERATION

83-89 MAITLAND STREET MUSWELLBROOK NSW 2333

(LOT100 DP 793194)

APPLICANT: KDC PTY LTD

Dear Sir

I wish to note by way of written submission my strong objections to the alterations of hours of operation at McDonald's McDonald's Muswellbrook made by KDC Pty Ltd

My objection concerns:

1) Heavy traffic on Maitland Street with noise from slowing down because of speed and late hour hoon activity turning in front of vehicle/large vehicles causing them to use their horn and engine brakes/exhaust brakes

2) Criminal activity, vandalism, after closing hours from Hotels, Clubs etc along with additional young people up and down Maitland Street all night.

pto

Please accept this as a view which is going to happen if this development is allowed to advance.

Yours Sincerely
Zoe Spitem

Mrs Dee Scott
30 Tindale Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 - Alter Hours of Operation
(24hours - 7days a week)
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections to the alterations of hours of operation at Mc Donald's Muswellbrook made by KDC Pty Ltd.

My reasons are as follows

Thompson Street is my route to and from work at all hours. With conditions on Thompson and exiting traffic in and out of both entry and exit access to McDonald's and ever increasing traffic from new subdivision. I have had three near misses because of this untruly traffic flow. This will only get worse with 24/7.

I visit residents and rate payers in Thompson Street and Shaw Crescent, up to 9.00pm - 10.00pm evenings. The noise from Hoon activity, squealing tyres, beaming lights, sounding of horns, abusive language is unbelievable and cannot be controlled now.

That is why I object to 24/7hours operation of McDonald's on Maitland Road.

Regards



Mrs Dee Scott



Jenny Fuller
Maitland Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand



Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 – Alter Hours of Operation
83 – 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections to the alterations of hours of operation at Mc Donald's Muswellbrook made by KDC Pty Ltd.

My objection concerns:

- 1) Heavy traffic on Maitland Street with noise from slowing down because of speed and late hour Hoon activity turning in front of vehicle/large vehicles causing them to use their horn and engine brakes/exhaust brakes.
- 2) Criminal activity, vandalism, after closing hours from Hotels, Clubs etc along with additional young people up and down Maitland Street all night.

Please accept this as a view which is going to happen if this development is allowed to advance.

Regards


Jenny Fuller

Mr George and Mrs Phyllis Monro
1 Thompson Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333



15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 - Alter Hours of Operation
(24hours - 7days a week)
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I acknowledge receipt of a notification letter in relation to Development Application
(72/2003/2) dated 27 April 2017.

I wish to note by way of written submission my strong objections to the alteration of hours
of operation of Mc Donald's Muswellbrook made by applicant KDC Pty Ltd.

My reasons are as follows

1. Section 96 (1a) Refers to modification involving minimal environmental impact. I
TOTALLY! Disagree.
2. Existing flow of traffic on the New England Hwy - Thompson Street - Shaw Crescent as
well as entry and exit points to McDonald's car park which has three in total, are being
used for both entry and exit. This causes major traffic flow problems especially when my
wife and I try to enter or exit our driveway.
3. I am constantly phoning police for criminal activity, squealing tyres from cars and motor
bikes along Maitland Street and in McDonald's car park, plus vandalism. There is fowl
language, fights, lights coming and going all hours, after hours mostly with drug
dealings in the car park by way of
 1. Hand to hand
 2. Small packets thrown from cars travelling down Maitland Street and believe it or
not 15 - 16 year olds on push bikes picking these up. Most of Muswellbrook know
this or have heard of this.

4. Along with

1. Noise from air conditioning units
2. Strong foul food cooking odours
3. Noise from large trucks having to apply air horn and engine breaks to avoid hitting hoons running all over Maitland Street after closing hours, from Hotel and clubs.

5. Before hours deliveries to McDonald's

Most residents and ratepayers in Thompson Street are retired and were living at their residents before McDonald's was built.

We have no objection to the extension to the children's play area but as stated we strongly object to the application to alter operation hours of Mc Donald's Muswellbrook,

Regards

H. J. Monro
Phyllis J. Monro

George and Phyllis Monro

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

16 May 2017

RECEIVED BY
MUSWELLBROOK
SHIRE COUNCIL

17 MAY 2017

DOCUMENT ID

Ref: Development Application 69/2016 and 72/2003

To the General Manager

I am writing in response to two notices of proposed development that I recently received, Development Application 69/2016 and 72/2003. Both refer to the McDonald's site across the road from my investment property at 1 Shaw Crescent, Muswellbrook.

I am opposed to both applications as each would be detrimental and effect both my property and Muswellbrook Shire as a community. Listed below are the reasons why the developments should not go ahead.

- Noise levels will increase especially during the night, effecting my tenants and the surrounding houses.
- Crime will increase if McDonald's is open 24 hours due to the nature of people congregating there for a meal after the pubs and clubs in the area close. This will affect my tenants, the surrounding houses, and the community in general.
- The property value of the houses surrounding the area will decrease which will not only effect property owners but also deter people from moving to the area.

If these applications were to be successful, the only people to get advantage would be the McDonald's corporation and the owner of McDonald's Muswellbrook. Muswellbrook as a community will get little long term positive outcomes and many long term negative outcomes.



Kind Regards

Carmen Peploe

Maureen Mislov
John Hunter Motel
91 Maitland Street
MUSWELLBROOK NSW 2333

15 May 2017

The General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333



*Hand Delivered – by Leslie Peter Druitt on behalf of
Maureen Mislov*

Dear Sir/Madam

**S96(1a) MODIFICATION – AMEND CONDITION 1.11 –
ALTER HOURS OF OPERATION TO 24 HOURS A
DAY, 7 DAYS A WEEK – PREMISES LOT: 100 DP
793194 – 83-89 MAITLAND STREET,
MUSWELLBROOK – DEVELOPMENT APPLICATION
NO. 72/2003 – APPLICANT: KDC PTY LTD**

I write this letter to express my views on Development Application No. 72/2003. I wish to note **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant KDC Pty Ltd.

I own and operate the John Hunter Motel at 91 Maitland Street Muswellbrook adjacent to McDonalds Muswellbrook.

I note my strong objection to the application for extended hours to 24 hours a day 7 days a week based on the following:

- **Acoustics** – at present the motel, and particularly myself (my bedroom is directly above the McDonalds restaurant) endures excess noise, particularly on Thursday, Friday and Saturday nights with yelling, swearing (anti-social behaviour) and screeching tyres – when it rains the screeching tyres increase dramatically.
- **Lighting** – the motel and myself are continually impacted by the light and noise of vehicles through the carpark but


also the drive thru. If the drive thru were to go 24/7 this would impact the amenity of the patrons to the motel and their ability to have quiet enjoyment of the premises during their stay.

- **Smell** - the smell which emanates from the fast food restaurant is constant requiring doors and windows to remain closed.

I can only imagine what additional impact a 24/7 operation would have on the amenity of the area, given that the current issues of amenity are not appropriately addressed nor dealt with and also the impact it will have on my business.

I would urge Muswellbrook Shire Council to consider the substantial impacts that McDonalds Muswellbrook (through its applicant KDC Pty Ltd) already has on the neighbouring and adjacent residents before making its decision on the 24/7 operation.

Yours faithfully

Maureen Mislov 

Mary-Anne Uren
PO Box 2145
Emerald Qld 4720

15 May 2017

The General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333



***Hand Delivered – by Leslie Peter Druitt on behalf of Mary-Anne Uren (nee Druitt)
(original copy to follow by post)***

Dear Sir/Madam

**S96(1a) MODIFICATION – AMEND CONDITION 1.11 – ALTER HOURS OF OPERATION TO 24 HOURS
A DAY, 7 DAYS A WEEK – PREMISES LOT: 100 DP 793194 – 83-89 MAITLAND STREET,
MUSWELLBROOK – DEVELOPMENT APPLICATION NO. 72/2003 – APPLICANT: KDC PTY LTD**

I write this letter to express my views by way of written submission on the proposed alteration of hours of operation of McDonalds Muswellbrook by the applicant KDC Pty Ltd. My submission is by way of support of my father, Leslie Peter Druitt, 7 Thompson Street, Muswellbrook, as I have had cause to do previously on 13th September 2008 when this matter was before Council for consideration.

Since McDonald's 2008 application to extend trading hours, my mother has passed away (in 2010). Since that time, I have spent the majority of my holiday time with my father at his residence in Muswellbrook. My father has suffered ill health and has under gone significant heart surgery and his health has continued to deteriorate.

On each of my visits spent in Muswellbrook the level of distress and effect on residential amenity is clearly evident during in the current hours of operation of McDonalds Muswellbrook (KDC Pty Ltd). This distress and effect on residential amenity is caused by:

- continued light and noise of vehicles;
- the volume of disturbance experienced during the evenings and late into the night by groups of young individuals in cars congregating in the McDonalds carpark which is extremely invasive to the neighbouring residents (noise of screeching tyres, loud music and obscene language which can be easily heard by residential properties late in the evening);
- the need to regularly call on police in an attempt to move on the groups of youths (which is often not successful as the police are dealing with more important matters); and
- the smell which emanates from the fast food restaurant.

I can only imagine what additional impact a 24/7 operation would have on the residential amenity of the area, given that the current issues of amenity are not appropriately addressed nor dealt with.

On each trip to Muswellbrook, where I have driven down from Queensland and had a 13+ hour drive back, it is always on the back of little sleep due to the disruption caused by the clientele in the latter hours of operation at McDonalds. I dread to think of how much more of my sleep will be impacted if

the operation were to be a 24 hour 7 day a week operation. It may be that, in future, I will not be able to stay at my own family home when I visit in the future. Nor would I be able to stay at the motel close by, next to McDonalds due to the same noise impacts.

I would urge Muswellbrook Shire Council to consider the substantial impacts that McDonalds Muswellbrook (through its applicant KDC Pty Ltd) already has on the neighbouring residents and consider placing further security and noise controls on the current operation conditions rather than allowing the approval of a 24/7 operation which will only exacerbate the already intolerable impacts neighbouring residents.

Yours faithfully



Mary-Anne Uren, LLB, BB (C.Sturt), JP Qual.

Leslie Peter Druitt
7 Thompson Street
Muswellbrook NSW 2333

0265 411187

15 May 2017

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333



Delivered by hand

Dear Sir/Madam

**S96(1a) MODIFICATION – AMEND CONDITION 1.11 –
ALTER HOURS OF OPERATION TO 24 HOURS A
DAY, 7 DAYS A WEEK – LOT 100 DP 793194 – 83-89
MAITLAND STREET, MUSWELLBROOK –
DEVELOPMENT APPLICATION NO. 72/2003 –
APPLICANT – KDC PTY LTD**

I acknowledge receipt of a notification letter in relation to Development Application No. 72/2003 dated 27 April 2017. I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant KDC Pty Ltd. My reasons for my strong objection are articulated below.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I note that the noise assessment provided with the

2017 Application for modification of hours by KDC Pty Ltd for McDonalds was undertaken in September 2008. I fail to see how a noise assessment conducted over 8 years ago could possibly be relevant to an application in 2017. Surely a noise assessment of what is experienced by the residential neighbours during the hours they are trying to sleep (and one conducted over a period of more than 9 days) would clearly demonstrate that a 24/7 operation was not viable adjacent to a residential area.

Additionally, I note that since the 2008 noise survey was conducted, the air conditioning on the McDonalds Muswellbrook restaurant has been replaced and or upgraded which generates significantly more noise than the previous air conditioning system. If this was to be run 24 hours 7 days a week, this would further impact the amenity of the nearby residents and myself. Further, all of the bushes, trees and shrubs around the McDonalds facility which provided a buffer for the noise have been heavily cut back, which no longer provides any means of filtering any of the noise between McDonalds and the neighbouring residences.

I will first put forward my objections in relation to the proposed trading hours and then address the further material submitted by KDC Pty Ltd on behalf of McDonalds Muswellbrook.

Grounds put forward in support of strong objection:

Patrons – the type of patrons that would potentially be accessing a 24/7 food establishment would potentially be from local hotels and clubs as they closed, or from mine vehicles which have high aerial flags which flick along underneath the roofing of the drive through area. Additionally, heavy vehicles tend to park along the New England Highway parallel to the golf course (in no standing areas) causing further unwanted noise pollution from vehicles stopping and starting and engine and brake noise – exacerbated by the late night and early mornings.

Lighting and security – the angle of the drive through lights from vehicles shine directly into my bedroom and lounge room windows – increased hours mean at no time will this light intrusion cease. In fact, it will increase not only from car lights but the increased lighting proposed to deter criminal

activity and anti-social behaviour noted in the application.

Noise – as already stated, excess heavy vehicle noise and increased trade from the closure of hotels, clubs etc, will further impact what noise is already experienced. Patrons will potentially drive through and frequent the parking lot, which will increase noise from loud music, pollution from waste, bad language, shouting and fights. Existing records of uncontrolled McDonald's car park reports can be sourced from Muswellbrook Police Station – residents call the police on regular basis to address the noise and anti-social behaviour issues experienced on an ongoing basis. Any further extension of trading hours will only see the impact on the Police Service increased by the number of complaints and call outs received. I presently have to sleep with all of my windows closed due to the noise which emanates from McDonalds. This causes me to have to have the air conditioning on extended hours which increases my cost of living - due to the adverse impacts caused by McDonalds.

Delivery times – deliveries are currently received between 4.30 and 5.15 am which has noise impacts on adjoining neighbours.

Traffic congestion – larger vehicles or vehicles under tow utilise the vacant block next to McDonalds on Thompson Street to park. When this happens, and vehicles are parked on the residential side of Thompson Street, the street is reduced to one lane traffic. This is a very common occurrence.

Additionally, although the entrance to McDonalds from the New England Highway is marked as an entrance only, it is also used as an exit, causing traffic issues.

Smell – cooking causes an odour which carries across the neighbouring properties which is unrelenting. It requires, again, all windows and doors to be closed if you wish to avoid the constant smell, driving up the electricity bill and cost of living and inability to live comfortably in your own home.

I would now like to make comment on the Safety and Security Statement provided by KDC Pty Ltd to Muswellbrook Shire Council dated 19th April 2017. The first item addressed in the Safety and Security Statement is that of Crime Opportunity. It is noted that the increased hours to 24 hours, 7 days a week provides increased opportunity for crime and anti-social

behaviour (eg. Vandalism, theft, graffiti, litter and excessive noise) to occur at the site, particularly during night time hours.

It is noted that both the drive thru and the internal dining is proposed to trade 24/7.

Firstly, neighbouring residents are already subject to the excessive noise and anti-social behaviours of particular patrons of McDonalds. There is little faith that McDonalds will address the behaviour with extended hours – especially as in the conclusion to the Safety and Security Statement the claim is made that there are already a number of security features and mitigation measures aimed at reducing crime risk at the site in place – the effects of which are obviously not evident and non-effective.

Additionally, at no time have McDonalds approached the neighbouring residents to facilitate a conversation around the effects or impacts of noise and/or anti-social behaviours by its patrons on the ongoing amenity of the residents.

Secondly, the Crime Prevention Through Environmental Design (CPTED) strategies quoted as being key to the application for 24/7 operations.

Point 1 – Surveillance - any reasonable person would have assumed that both employees and neighbours already report suspicious behaviour. In fact, I regularly report suspicious behaviour to police without the incorporation of 24/7 trading. Has my regular reporting to Police had an impact or effect on the number of incidents I have needed to report – the simple answer is no.

If CCTV is presently provided on site, has this CCTV footage been provided to police to assist in reducing the currently unacceptable amount of anti-social behaviour which is impacting the amenity of the residents? If so, it has not had an impact on the number of times I have had to report to police anti-social behaviour and noise from McDonalds Muswellbrook, which continues to impact the amenity and enjoyment by my family and myself of our home.

I also notice that lighting is promoted as a primary means of preventing crime. Whilst that is a helpful for crime prevention, it has an inordinate impact on the ability of residents to sleep – that is on top of the lights of vehicles

coming out of the exit directly opposite my house which shine directly into my bedroom and lounge room.

Point 2 - Access Control Area in the Safety and Security Statement – I would like to enquire if the carpark areas that will be open to the public during the extended hours would be those that can be seen from inside the restaurant? If that is the case, it will be the car parks directly across from the residents (who will be trying to sleep) again impacting further the amenity and quiet enjoyment of our residential properties.

Point 3 -Territorial Reinforcement (Community Ownership) - refers to increased lighting to facilitate delineation of spaces – once again impacting neighbouring residents. Enforcing security for patrons but detracting for reasonably expected amenity of neighbouring residents.

In summary, the Safety and Security Statement, whilst addressing issues of concern caused by the proposed increased hours, also serves to exponentially increase the loss of amenity and quiet enjoyment of the neighbouring residents.

I will now make comment on the Plan of Management dated April 2017, made as part of the submission of KDC Pty Ltd.

In Point 2 of the Plan of Management – Security and Safety - 2.1.1 - CCTV Camera Systems - In addition to the point made above in relation to the Safety and Security Statement on CCTV footage, the Plan of Management makes the statement that “McDonald’s employees and adjoining properties will be encouraged to assist with passive surveillance of all areas of the premises, by providing efficient reporting systems for any security or safety concerns on a 24 hour basis”.

Firstly, at no stage have McDonalds made any attempt to consult with residents in relation to the Plan of Management or worked with residents in relation to the passive surveillance of the premises or the impacts of the current operations on the amenity of the residents.

McDonalds should provide security guards to ensure minimal impacts to the neighbouring residents and to fulfil their corporate obligations. Neighbours should not be having to monitor or report noise disturbances and anti-social behaviour of patrons to their facilities. This is

McDonalds commercial and social responsibility. There should be no impact from McDonalds current operations on neighbouring residents. McDonalds were committed to ensuring good relations with neighbours they would be aware of the current impacts caused by their present operations and have adequate security and processes in place to prevent the issues – not making empty commitments in a Plan of Management to ensure a successful application.

2.1.3 Lighting

Increased lighting equals increased disturbance to the amenity and quiet enjoy by the neighbouring residents of their properties.

2.1.4 Clear sight lines

The clear sight lines provide clear line of sight to the car parks which have the biggest impact of noise, lighting and disturbance to the neighbouring residents. Great for crime prevention, not so great for residential amenity.

2.2.2 Signage

Signage advising residents that the Duty Manager number will be provided for complaints to be made 24 hours 7 days per week - If McDonalds were addressing their corporate and social responsibility, there should not be a need for this signage. As stated above, if McDonalds were currently managing the noise and anti-social behaviour with the current trading hours there would be no need for reporting.

The duty manager should be preventing any issues before they arise. An example of this would be as the groups of youths begin to congregate, make noise, use obscene language and squeal their tyres in the carpark the Security Guard would approach them and request them to leave the premises and/or call the police to do is if they refuse – thus taking the onus of the neighbouring residents to continue to report matters to police.

3.5 Noise Management

If these processes are presently in place, they are not working. The suggestion that all noise complaints will be documented in a register and reviewed on a 12 monthly basis is hardly acceptable. If noise complaints are allowed to continue for a period of 12 months without be

adequately addressed there will continue to be substantial impact to residential amenity.

4 Consultation and Assessment

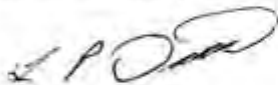
This item suggests that McDonald's are committed to ongoing consultation with adjoining property owners to foster a better understanding of relevant security issues at the site – at no stage have McDonalds made any contact with the neighbouring residents to ascertain any concerns in relation to relevant security issues or the impact of noise or amenity their facility has on the residents.

In summary, as a resident directly across the road from the McDonalds facility in Muswellbrook, the Plan on Management provides no level of comfort that any of the current issues of noise control or anti-social behaviour, traffic congestion or smell would be addressed – let alone if the facility were to be granted an extended trading hour application.

I vehemently argue that there will be heightened adverse impacts to the adjoining residents of McDonalds, in relation to noise, increased and prolonged traffic noise, prolonged lighting use, litter and safety and security issues if the application to extend hours were granted.

I would challenge those that prepared the report and support the application to spend even one weekend in a residence adjoining McDonalds to see the detrimental effect the operations in their current form have on the quite enjoyment of our properties, let alone if the restaurant is granted the additional hours it is seeking. The current public order incidents that occur at McDonalds now are not effectively monitored, dealt with or policed. Increasing the hours of operation will only exacerbate an already uncontrolled environment.

Yours faithfully



Leslie Peter Druitt

Attachment

SKETCH A HIGHLIGHTS THE BOTTLE NECK CREATED IN THOMPSON STREET.

Also the flow of traffic from all angles and the additional problems with an increase in traffic flow. This sketch shows all traffic flow set out in points and the additional problems caused by different situations.

Points

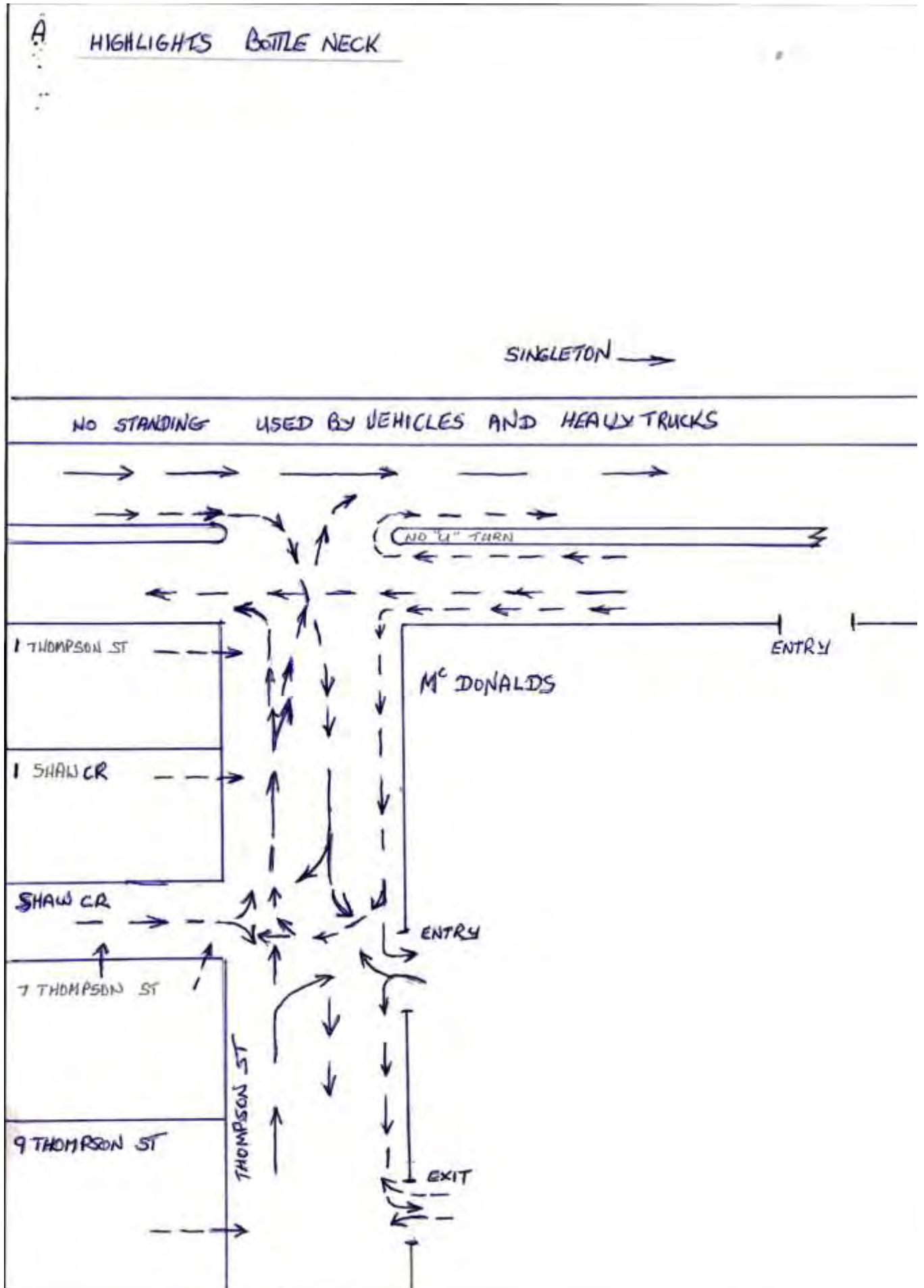
- 1 No U turn sign on New England highway is being ignored, this has and will create major accidents. Those who obey the no U turn, turn left coming from Singleton into Thompson Street and complete their U turn on the corner of Thompson and Shaw Cres.
- 2 This same traffic flow once in Thompson Street may decide to a) travel up the street, b) turn right into Shaw Cres. c) turn left into McDonalds entry.
- 3 Traffic making a right hand turn from New England Highway into Thompson St. may a) make left turn into McDonalds entry, b) travel up Thompson c) turn right into Shaw Cres. d) sometimes due to traffic congestion will make a U turn on the corner of Thompson and Shaw Cres. to left turn back to CBD.
- 4 Traffic entering and exiting McDonalds entry only. a) traffic from highway turns into entry, b) traffic from Thompson Street turns right into entry c) traffic making right hand turn on Highway (in a Singleton direction) turning in the entry only sign at McDonalds d) traffic also exits McDonalds entry only to travel either up or down Thompson Street.
- 5 McDonalds Exit a) traffic exiting either left or right into Thompson b) heavy delivery vehicles entering the exit c) coaches reversing into the exit.

Residents of Thompson and Shaw Cres. (1,7,9 Thompson and 1 Shaw Cres.) especially 1 and 9 Thompson and 1 Shaw Cres. have major difficulties to access onto Thompson and any increased traffic would make this impossible.

Accidents – Since the U turn sign has been erected on the Highway the traffic doing a left turn into Thompson and proceeding to do a U turn at the intersection of Thompson and Shaw Cres. there has been one vehicle accident which resulted in the vehicle involved being pushed into the driveway of 1 Shaw Cres.

Long weekends and school holidays and when the railway is down (coaches) these entire above situation add to the existing bottle neck. Vehicles and Coaches parked both sides of Thompson, this in turn makes it near impossible for traffic exiting McDonalds, unless they move halfway across the street to get a clear view.

Noise – Thompson Street is being used a speedway. Horn sounding and squealing tyres are an ongoing annoyance. Heavy vehicle parking in "No Stranding" zone on the Golf Club side of the New England Highway, especially when they are empty and running over the many pot holes. Coaches and Heavy vehicles (even a B double) entering Thompson Street from the Highway, parking in Thompson for a meal at McDonalds then doing the loop around Shaw Cres. To again enter the Highway.



18 Shaw Crescent
Muswellbrook.
8/5/2017

General Manager
Muswellbrook Shire Council

Dear Sir
We wish to comment on the application
No 72/2003 Lot 100 DP 793194 83-89 Maitland
Street Muswellbrook.

Having lived at 18 Shaw Crescent for
49 years we have witnessed great growth in South
Muswellbrook generating more & more traffic in
Thompson Street to & from the New England Highway.
We are opposed to the application hours of operation
24 hours 7 days per week. Noise & general disturbances
affecting residents along with anti social behaviour
are of our major concern.

We trust Council see fit
to reject this application due to matters raised.

Thanking You
Yours Faithfully.

Brian Ballard
Lynette Ballard.

P & A Jones
3 Shaw Crescent
Muswellbrook, NSW, 2333

Attn: Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook, NSW, 2333

12th May 2017

Dear Sir/Madam,

RE: DA No: 72/2003
Premises Lot: DP 793194 83-89 Maitland Street Muswellbrook

We would like to place a response in writing regarding a current submission for approval regarding the extension of trading hours for McDonalds, 83-89 Maitland Street Muswellbrook. Whilst we did not receive a letter regarding this submission we believe given that we are two houses up from the premises and that the business impacts on us that we are entitled to voice our concerns.

The current noise pollution that we are subjected to on a nightly basis is becoming out of control this increases greatly with wet weather also. For hours on end we have to put up with loud motorbikes entertaining themselves in the premises car park, groups of motor vehicles parked within the carpark play loud and often obscene music well past close of trade and into early hours of the morning using the carpark as their own personal party location which can also lead to abusive arguments and fights within these parties. Noise can be that abusive and loud on many occasions it has kept us awake and even woken our young children up.

There is also a major problem with traffic within the area. Not only do you have general residential traffic but you have vehicles turning into McDonalds, vehicles using the entry to exit from and at times this will include larger vehicles towing such things as horse floats, it becomes even more dangerous for us to exit our street in high peak times of the year as Thompson street will be lined with buses with some even parked within the no stopping signed area, trucks and cars towing caravans, as well as people using Shaw crescent to complete U-Turns in. The road area is a disaster waiting to happen.

Listed above are two of the major reasons in which we do not wish to see this application approved by council and ask that you think about the people and their families and how this will have a major impact on their day to day lives.

Regards

Peter Jones



Amy-Louise Jones



11 A Thompson St
Muswellbrook NSW 2333

16th May 2017

The General Manager
Muswellbrook Shire council

Re: D/A No72/2003
Proposal : Operation to 24 hours a day 7 days a week.
Applicant: KDC Pty. Ltd.

Dear Sir / Madam

We hereby make a strong objection to the above mentioned D/A.

1. Litter

Every day Thompson Street and the surrounding area is used as a dumping ground by some Mc Donalds customers. In their submission they have said that the duty manager will ensure that surrounds are kept clean and clear of litter at all times.

We can advise that this is not done.

Every day litter can be seen in Thompson Street, and often the same litter can be there for days.

2. Noise: From 6am in the morning vehicles are already parking in Thompson Street, utes, large trucks, horse floats and cars towing caravans. When these type of vehicles are parking in Thompson Street between 10pm – 6am, because the drivers are going to Mc Donalds the level of noise would be exacerbated.

: Cars and motorbikes accelerate as they leave Mc Donalds and roar up the street.

: People in the car park, yelling and swearing, do not realize how loud they are. If the above is carried out between the extended hours, this would be unbearable. Most people living in this street are retirees and should be able to have a decent night sleep.

They advise us that the proposed 24 hour trading is in response to increased customer demand. As we have to express our views by way of written expression would the applicant advise us with:

1. Copies of their customers submissions or
2. The number of submissions they have received.

Mc Donalds premises have been in the news many times over the years because of anti social behavior, particularly during the night hours.

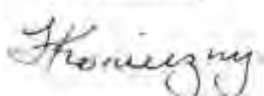
Do we want this for Muswellbrook? No

Yours faithfully

Edward Konieczny



Fay Konieczny



Name of Objector **BEVERLEY FAARELL**Address **77 MAITLAND RD**
Muswellbrook NSW 2333Phone Number
0265434089Insert date **17/10/17**General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333*Delivered by hand*

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11****ALTER HOURS OF OPERATION****PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET****MUSWELLBROOK****DEVELOPMENT APPLICATION NO. 72/2003**I acknowledge receipt of the notification letter in relation to
Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

Beverly Farnell

Beverley Farrell
77 Maitland Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 -
Alter Hours of Operation
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP:
793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections
to the alterations of hours of operation at Mc Donald's
Muswellbrook made by KDC Pty Ltd.

My objection concerns:

- 1) Heavy traffic on Maitland Street with noise from slowing
down because of speed and late hour Hoon activity turning in
front of vehicle/large vehicles causing them to use their horn
and engine brakes/exhaust brakes.
- 2) Criminal activity, vandalism, after closing hours from Hotels,
Clubs etc along with additional young people up and down
Maitland Street all night.

Please accept this as a view which is going to happen if this
development is allowed to advance.

Regards

Beverley Farrell

PSO



Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.



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ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

...

The McDonald's care park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
RSL Club	Unrestricted Trading Hours (24/7)
Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
Shamrock Hotel	Mon-Sat 5am to 12 am, Sun 10am to 10pm
The Railway Hotel	Mon-Sat 5am to 3am, Sun 10am to 10pm
Muswellbrook Hotel	Mon-Sat 5am to 3am, Sun 10am to 12am
Valley Hotel	Mon-Sun 10pm.
Workers Club	Tue-Sat 12am, Sun - Mon 10pm.
The Prince Hotel	Mon-Thu 5am to 12am, Sat 5am to 3am.
Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location.

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) [(1991) 72 LGRA 44] and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully,



Belinda Charlton
Senior Lawyer

J. FULLER

Name of Objector

MAITLAND ST Address

Muswellbrook NSW 2333

18.10.17

Phone Number

654 25250

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194

83-89 MAITLAND STREET**MUSWELLBROOK****DEVELOPMENT APPLICATION NO. 72/2003**

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

Phillips.

Jenny Fuller
Maitland Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 - Alter Hours of Operation
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections to the alterations of hours of operation at Mc Donald's Muswellbrook made by KDC Pty Ltd.

My objection concerns:

- 1) Heavy traffic on Maitland Street with noise from slowing down because of speed and late hour Hoon activity turning in front of vehicle/large vehicles causing them to use their horn and engine brakes/exhaust brakes.
- 2) Criminal activity, vandalism, after closing hours from Hotels, Clubs etc along with additional young people up and down Maitland Street all night.

Please accept this as a view which is going to happen if this development is allowed to advance.

Regards


Jenny Fuller





Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au


Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

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The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

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Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

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It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
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Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
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The Railway Hotel	Mon-Sat 5am to 3am, Sun 10am to 10pm
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Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location.

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecarbee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

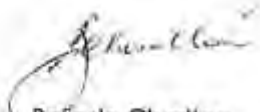
In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector

Address

Muswellbrook NSW 2333

Phone Number

Insert date 13/10/17

0477433299

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

**PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET**

**MUSWELLBROOK
DEVELOPMENT APPLICATION NO. 72/2003**

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name



P & A Jones
3 Shaw Crescent
Muswellbrook, NSW, 2333

Attn: Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook, NSW, 2333

12th May 2017

Dear Sir/Madam,

RE: DA No: 72/2003
Premises Lot: DP 793194 83-89 Maitland Street Muswellbrook

We would like to place a response in writing regarding a current submission for approval regarding the extension of trading hours for McDonalds, 83-89 Maitland Street Muswellbrook. Whilst we did not receive a letter regarding this submission we believe given that we are two houses up from the premises and that the business impacts on us that we are entitled to voice our concerns.

The current noise pollution that we are subjected to on a nightly basis is becoming out of control this increases greatly with wet weather also. For hours on end we have to put up with loud motorbikes entertaining themselves in the premises car park, groups of motor vehicles parked within the carpark play loud and often obscene music well past close of trade and into early hours of the morning using the carpark as their own personal party location which can also lead to abusive arguments and fights within these parties. Noise can be that abusive and loud on many occasions it has kept us awake and even woken our young children up.

There is also a major problem with traffic within the area. Not only do you have general residential traffic but you have vehicles turning into McDonalds, vehicles using the entry to exit from and at times this will include larger vehicles towing such things as horse floats, it becomes even more dangerous for us to exit our street in high peak times of the year as Thompson street will be lined with buses with some even parked within the no stopping signed area, trucks and cars towing caravans, as well as people using Shaw crescent to complete U-Turns in. The road area is a disaster waiting to happen.

Listed above are two of the major reasons in which we do not wish to see this application approved by council and ask that you think about the people and their families and how this will have a major impact on their day to day lives.

Regards

Peter Jones



Amy-Louise Jones



Our Ref: LL100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.



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Profession Uniform Law (NSW)

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under the Professional Standards Legislation

PRINCIPAL: GRANT LONG LLB, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

...
The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

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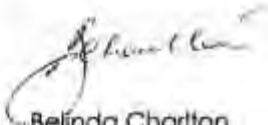
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We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector *MRS M. MORGAN*Address *9 THOMPSON ST*
Muswellbrook NSW 2333Phone Number *0265431483.*Insert date *14.10.17*

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION**PREMISES: LOT: 100 DP: 793194****83-89 MAITLAND STREET****MUSWELLBROOK****DEVELOPMENT APPLICATION NO. 72/2003**

I acknowledge receipt of the notification letter in relation to
Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

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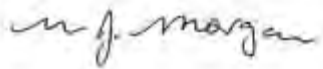
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Yours faithfully

Objector name

MARGARET MORGAN



9 Thompson Street Muswellbrook 2333

Phone 0265431483---E-Mail gary.morgan@bigpond.au

General Manager, Muswellbrook Shire Council

10/5/2017

Dear Sir

We wish to put in a submission concerning D/A 72/2003 which we received notification of.

We went through this process in 2008-2009 and it was refused then D/A332/2008

Some of have lived here up to twenty three years before McDonalds came to Muswellbrook. Most of the residents in the area are retirees and this would be the last thing we need at our age

Once again we find McDonalds are deceptive by not coming straight out and saying it was McDonalds but stated the applicant was KDC Pty Ltd ,Did they think we were too old and would not notice this. We also believe up until this letter was written the motel did not receive notification.

Once again this shows McDonalds arrogance towards their neighbour's. Ever since day one they have never made contact with the people that their establishment effects.

Below are reasons this D/A should not be approved

Lighting

- When McDonalds began operations we had to purchase at our own cost block out curtains to block out the light from the establishment. The original D/A stated no light should encroach on nearby residents Now they want to install more lights which totally contravenes the original D/A

Noise

- Because of noise created by hoons doing burnouts, having their car doors open and their radios up to maximum levels, swearing and

- generally being anti-social. Lately we have observed drag racing on the highway between Bell Street and Rutherford Street
- Mine vehicles passing through the drive thru scrape their aerials on the underside of the roof, the full length of the building
 - A large number of horse floats visit the establishment and all we hear are horses kicking the sides of their floats
 - Large trucks parking outside our houses, leave their motors running and their refrigeration units running. The practice of trucks parking in our street has become more prevalent since the DMR have banned parking near the Forestry Commission
 - Coaches returning from concerts in the vineyards use the area in front of our residents as pickup and drop-off points. You can imagine the noise they generate after several hours drinking wine
 - McDonalds were given strict guidelines of times they could receive deliveries, but once again they are flaunting the rules One delivery truck arrives any time and then begins unloading with a great amount of noise
 - We now have a group of three motorbikes who do laps of McDonalds and the surrounding streets at any time of the night or morning
 - Sometimes the staff are noisy after they finish their shift, sitting outside and talking and carrying on

These points may seem trivial to some people who do not live in the area but if they lived here 24/7 they would have a different opinion.

We already have noise coming from coal trains running 24/7 highway traffic

And McDonalds any extension of hours would make it very hard to live here

We would totally lose our enmity, we would lose sleep time and one would question our mental health

All these noise problems will expand with more opening hours

McDonalds claim they did a noise survey in 2008. That is 9 years ago, things have certainly changed since then. They claim that they did a noise survey at 1 Shaw Crescent and 9 Thompson Street. I would refute this as no one has carried out a noise survey at our residence. Besides that everyone knows figures can be moved around to suit the purpose.

Compensation

If McDonalds are desperate for extra hours maybe they could buy us out as the mines do or they may pull out all our windows and replace them with double glazed windows

Police

It has been well documented through the media that police numbers in Muswellbrook are down on what they should be Residents have often rang police because of disturbances in the corner of Thompson Street and the New England Highway We do not have positive proof but there is talk on the street that drug dealing takes place in this corner

Surely with all this going on no more added pressure should be placed on the police

Parking

Even after council placed no parking signs between the entrance and exit inconsiderate motorists continue to park there This is a safety issue and needs to be addressed. We have found the crosses placed in our drive ways seems to be working well Perhaps council may consider doing that in the no parking area. Coaches still reversing into the exit area a totally unacceptable practice

WOULD YOU BE ABLE TO EXPLAIN THE FOLLOWING QUESTIONS

- Why do applicants of a D/A have the right to dictate to council who receives notifications concerning that D/A
- Why are there blank pages in the submission Have they got something to hide
- Informal consultation was held with councils Town planner on 5/4/2017 prior to lodgement of D/A and she could see no major concerns
-

Get Morgan

U



Our Ref:LL100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au


Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Drufft and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

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The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

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The current Consent Condition 1.14 states:

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Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
RSL Club	Unrestricted Trading Hours (24/7)
Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
Shamrock Hotel	Mon-Sat 5am to 12 am, Sun 10am to 10pm
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Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location,

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee.

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector**Address**

Muswellbrook NSW 2333

Phone Number**Insert date**

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

EDWARD + FAY KONIECZNY
11A THOMPSON ST.
65433086
18-10-17

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

**PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET**

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

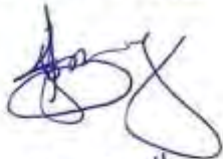
Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

EDWARD KONIECZNY

FAY KONIECZNY



F. Konieczny

NOTE!!

JUST RECENTLY, ABOUT 9^{PM}, A CAR LEAVING M'DONALD'S AND TURNING LEFT INTO THOMPSON ST ACCELERATED HALF IN THE DIRT AND HALF ON THE ROAD.

YOUNG DRIVERS DO THIS ALOT AS THEY THINK THIS IS FUN.

THE RESULT THIS TIME WAS THAT HE HIT A TELEGRAPH POLE AND CUT POWER TO ALL THE HOMES ON THAT LINE.

POWER WAS OUT UNTIL THE EARLY HOURS THE NEXT DAY. THE POLICE ATTENDED THE SCENE.

F. KONIECZNY



11 A Thompson St
Muswellbrook NSW 2333

16th May 2017

The General Manager
Muswellbrook Shire council

Re: D/A No72/2003
Proposal : Operation to 24 hours a day 7 days a week.

Applicant: KDC Pty Ltd.

Dear Sir / Madam

We hereby make a strong objection to the above mentioned D/A.

1. Litter

Every day Thompson Street and the surrounding area is used as a dumping ground by some Mc Donalds customers. In their submission they have said that the duty manager will ensure that surrounds are kept clean and clear of litter at all times.

We can advise that this is not done.

Every day litter can be seen in Thompson Street, and often the same litter can be there for days.

2. Noise: From 6am in the morning vehicles are already parking in Thompson Street, utes, large trucks, horse floats and cars towing caravans. When these type of vehicles are parking in Thompson Street between 10pm – 6am, because the drivers are going to Mc Donalds the level of noise would be exacerbated.

: Cars and motorbikes accelerate as they leave Mc Donalds and roar up the street.

:People in the car park, yelling and swearing, do not realize how loud they are. If the above is carried out between the extended hours, this would be unbearable. Most people living in this street are retirees and should be able to have a decent night sleep.

They advise us that the proposed 24 hour trading is in response to increased customer demand. As we have to express our views by way of written expression would the applicant advise us with:

1. Copies of their customers submissions or
2. The number of submissions they have received.

Mc Donalds premises have been in the news many times over the years because of anti social behavior, particularly during the night hours.

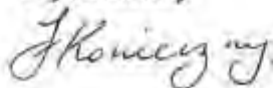
Do we want this for Muswellbrook? No.

Yours faithfully

Edward Konieczny



Fay Konieczny





Our Ref:LL100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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an incorporated legal practice under the Legal
Profession Uniform Law (NSW)

Liability limited by a scheme, approved
under the Professional Standards Legislation



PRINCIPAL: GRANT LONG LLB, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

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We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Mary-Anne L Uren
47 Bridgeman Street
Emerald Qld 4720

0414 846 953

15 October 2017

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

PROPOSAL: SECTION 96(1a) MODIFICATION – AMEND CONDITION 1.11
ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

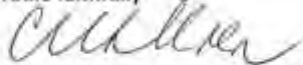
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Yours faithfully



Mary-Anne Uren, LLB, BB, JP, Qual.



Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Drutt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.



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Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
RSL Club	Unrestricted Trading Hours (24/7)
Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
Shamrock Hotel	Mon-Sat 5am to 12 am, Sun 10am to 10pm
The Railway Hotel	Mon-Sat 5am to 3am, Sun 10am to 10pm
Muswellbrook Hotel	Mon-Sat 5am to 3am, Sun 10am to 12am
Valley Hotel	Mon-Sun 10pm.
Workers Club	Tue-Sat 12am, Sun - Mon 10pm.
The Prince Hotel	Mon-Thu 5am to 12am, Sat 5am to 3am.
Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location.

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Leslie Peter Druitt
7 Thompson Street
Muswellbrook NSW 2333

0265 411187

12 October 2017

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11 –**

ALTER HOURS OF OPERATION

**PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET**

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook. My reasons for my strong objection are articulated below.

Firstly, I reiterate my concerns relayed in my submission to council dated 15 May 2017 and *attach* a copy of my letter to the General Manager, Muswellbrook Shire Council for ease of reference. I will not redress all the matters raised in that letter, but all of the items raised in that submission remain an issue.

Secondly, I *attach* a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by my lawyers Long Legal on behalf of myself and other objectors to Development Application No. 72/2003. To date no response has been received by myself or my lawyers in relation to this email, despite several

follow up enquiries. I submit the aforementioned email as part of this my written submission and **strong objection** to the application herein for extended trading hours at McDonalds Muswellbrook under Development Application No. 72/2003. I would draw your attention to the following paragraphs of the letter from Long Legal to the General Manager Muswellbrook Shire Council dated 19 June 2017, which forms the context and content of my written submission and objection herein:

- Paragraph 1 page 2 – the original application was indicated for recommendation for refusal by the development planner, due mainly to unacceptable social impacts. The applicant withdrew the matter and there is now an amended proposal for a reduction in operating hours for the restaurant from the initial application however 24/7 on the drive-through operation. No consultation has been undertaken with the residents by the applicant in relation to the proposed amended proposal. If the applicant was serious about working with the residents consultation about the concerns and impacts raised in the previous objections would have led the applicant to understand the daily social impacts experienced by the residents.
- Paragraph 5 page 2 – at least 15 submissions were received to this development application on the previous occasion from people who live closest to the operation. The submissions raised serious issues concerning the manner in which the current operation is managed and the devastating social impacts it has on the neighbouring residents. To date, nothing has been done to address the concerns raised by the residents in their previous submission in relation to the current level of operations, let alone any proposed increased level of activity.
- Paragraph 6 page 2 – the merit issues raised by the previous submissions and reiterated in this submission include the inadequacy of local surrounding infrastructure in relation to parking for patrons, issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thompson Street and Shaw Crescent,

utilisation of the vacant adjoining land for unauthorised overflow parking and large vehicles.

More recently a complaint was lodged with both McDonalds and Muswellbrook Shire Council in relation to a truck business operating from the car park at McDonalds which was impacting the quiet enjoyment by the residents of their properties. Photos were sent to both organisations to demonstrate the impact. The response received from Muswellbrook Shire Council is *attached* for your reference. A copy of the truck and where it was parked is included in Annexure photos to this submission demonstrating various impacts imposed on the residents by the current operation. Again, no consideration of the impact on residents of Thompson Street and Shaw Crescent.

- Paragraph 7 page 2 indicates the NSW Police position in relation to the proposed increase in hours in relation to negative impacts of offences, assaults, malicious damage and anti-social behaviour.
- Paragraph 2 page 3 draws attention to the applicant's documentation supporting the section 96(1A) application as being grossly inadequate due to the background noise report being conducted ten years ago, rendering the data and findings useless. No updated noise report has been provided by the applicant. Noise has been raised as a significant issue of concern by the objectors to the application and the residents in general in the letter from Long Legal and in all previous submissions on this application.
- Paragraph 3 page 3 Crime Prevention Through Environmental Design ("CPTED") report does little more than state the objectives and does nothing to address the current concerns raised by the objectors, let alone future concerns of further impacts due to increased hours.
- Paragraph 4 page 3 refers to the current Plan of Management ("POM") which is not sufficient to manage the current operations in a sufficiently proactive or successful manner as to abate anti-social behaviour that

occurs on site when there is already a duty manager present. The amendment of the application to provide for less restaurant hours than the initial application and a 24/7 drive through operation provides no comfort that any additional hours would be managed differently.

- Paragraph 5 page 3 quotes the current Consent Condition 1.14 which states:

- “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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development.”

Whereby the written statements received from 15 objectors previously as Police indicate the ongoing failure of McDonalds to comply with this current condition.

- Paragraph 7 page 3 refers to the Statement of Environmental Effects (“SOEE”) not containing the detail of the particular condition proposed to be modified. There is no request to amend other conditions of consent in the SOEE in relation to reduced parking particularly referred to in Consent Condition 1.10.
- Paragraph 2 page 4 draws attention to the failure of the applicant in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and have no way demonstrated they have considered the ten licensed premises in relative proximity to the operation.
- Paragraph 6 Page 4 points out that with the current operating hours of McDonalds, there is a limited window of opportunity of patrons from licensed establishments to frequent McDonalds. Even with this limited window the impact on the residents is intolerable. The increase proposed in the amended application will have a significant impact on that window of opportunity for increased detriment to

amenity of the residents.

- Paragraph 7 page 4 the applicant has not addressed any of the potential changes by increased hours in either their CPTED report or their POM other than to state that anti-social behaviour beyond that capable of being managed by the duty manager is the responsibility of the NSW Police.

Case law referred to in the letter from Long Legal to the General Manager Muswellbrook Shire Council dated 19 June 2017, which forms part of the content of this submission highlights the following:

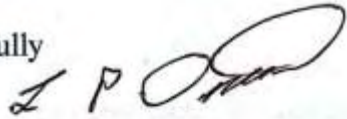
- In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96(1A) of the EPAA being of minimal environmental impact.

The main issue the Court dealt with were the failure of the applicant to provide a proper noise assessment that considered impacts on the neighbours.

As stated in the letter from Long Legal, it is clear that the purpose and use of s.96(1) of the EPAA is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to adjoining properties and are not confined to the boundary of the premises upon the development sits. Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community.

I would challenge those that prepared the report and support the application to spend even one weekend in a residence adjoining McDonalds to see the detrimental effect the operations in their current form have on the quiet enjoyment of our properties, let alone if the restaurant is granted the additional hours it is seeking. The current public order incidents that occur at McDonalds now are not effectively monitored, dealt with or policed. Increasing the hours of operation by any amount will only exacerbate an already uncontrolled environment.

Yours faithfully



Leslie Peter Druitt
Encs.



Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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an incorporated legal practice under the Legal
Profession Uniform Law (NSW)

Liability limited by a scheme, approved
under the Professional Standards Legislation



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ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

*...
The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside*

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

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If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

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In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Joe Spiteri
Name of Objector
79 MAITLANDS Address
Muswellbrook NSW 2333

0411 94 436
Phone Number

16 OCTOBER 2017

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION -
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194

83-89 MAITLAND STREET

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

JS

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Zoe Spiteri
Objector name



Our Ref: LL100049

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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under the Professional Standards Legislation



PRINCIPAL: GRANT LONG LL.B, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 29 1929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

*...
The McDonald's car park is already seen as a place to
congregate by local youth and young driving enthusiasts outside*

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
RSL Club	Unrestricted Trading Hours (24/7)
Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
Shamrock Hotel	Mon-Sat 5am to 12 am, Sun 10am to 10pm
The Railway Hotel	Mon-Sat 5am to 3am, Sun 10am to 10pm
Muswellbrook Hotel	Mon-Sat 5am to 3am, Sun 10am to 12am
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Workers Club	Tue-Sat 12am, Sun - Mon 10pm.
The Prince Hotel	Mon-Thu 5am to 12am, Sat 5am to 3am.
Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location.

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ([1991] 72 LGRA 44) and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Zoe Spiteri

79 MAITLAND STREET

MUSWELLBROOK NSW 2333

GENERAL MANAGER

MUSWELLBROOK SHIRE COUNCIL

PO BOX 122

MUSWELLBROOK NSW 2333

16 MAY 2017

DELIVERED BY HAND

RE: Application Section 96 Application (T2/2003/2)

Description: S96 (1a) Modification - Amended Condition 11 -

ALTER HOURS OF OPERATION

83-89 MAITLAND STREET MUSWELLBROOK NSW 2333

(LOT100 DP 793194)

APPLICANT: KDC PTY LTD

Dear Sir

I wish to note by way of written submission my strong objections to the alterations of hours of operation at McDonald's McDonald's Muswellbrook made by KDC Pty Ltd

My objection concerns

1) Heavy traffic on Maitland Street with noise from slowing down because of speed and late hour moon activity turning in front of vehicle/large vehicles causing them to use their horn and engine brakes/exhaust brakes

2) Criminal activity, vandalism after closing hours from Hotels, Clubs etc along with additional young people up and down Maitland Street all night.

p10

Please accept this as a view which is going to happen if this development is allowed to advance

Yours Sincerely
Zoe Spalen

Name of Objector *Leina Sam*
Address *30 Tindale St*
Muswellbrook NSW 2333 *Muswellbrook*

Phone Number *0265482410*

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194

83-89 MAITLAND STREET

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is **attached** and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

Karina Scott
[Signature]

Mrs Dee Scott
30 Tindale Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 – Alter Hours of Operation
(24hours – 7days a week)
83 – 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I wish to note by way of written submission my strong objections to the alterations of hours of operation at Mc Donald's Muswellbrook made by KDC Pty Ltd.

My reasons are as follows

Thompson Street is my route to and from work at all hours. With conditions on Thompson and exiting traffic in and out of both entry and exit access to McDonald's and ever increasing traffic from new subdivision, I have had three near misses because of this unruly traffic flow. This will only get worse with 24/7.

I visit residents and rate payers in Thompson Street and Shaw Crescent, up to 9.00pm – 10.00pm evenings. The noise from Hoon activity, squealing tyres, beaming lights, sounding of horns, abusive language is unbelievable and cannot be controlled now.

That is why I object to 24/7hours operation of McDonald's on Maitland Road.

Regards



Mrs Dee Scott





Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au


Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

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Profession Uniform Law (NSW)

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under the Professional Standards Legislation

PRINCIPAL: GRANT LONG LLB, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

...
The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

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Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

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Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent,"

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

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board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector M+H Paul
Address 5 Shaw Cres
Muswellbrook NSW 2333

Phone Number

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

**PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET**

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

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P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

MICHAEL JOHN PAUL

HELEN PAUL

M. Paul

M & H Paul
5 Shaw Cres
Muswellbrook NSW 2333

17th May 2015

RE: DA 72/2003 Premises Lot: DP 793194 83-89 Maitland Street Muswellbrook

To the Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

Dear Sir/Madam

We would like to place our response in writing regarding the current submission for approval regarding the extension of trading for McDonalds Muswellbrook.

However we were not notified regarding this submission we believe given that we are 3 homes up from the business we are entitled to voice our concerns.

Noise pollution -
Large groups gather within the car park
Drunken behaviour with offensive language
Loud music which continues well after trading hours
Vehicles and motorcycles doing burn outs

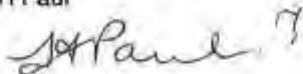
Traffic issues -
Vehicles doing U-Turns
Buses, trucks and large vehicles parking in no stopping areas
Vehicles exiting through the entry
Unsafe for all pedestrians especially school children
Lights from drive through shine into homes on Shaw Crescent

We have placed above our main concerns with this application and we ask that consider the neighbourhood and the families that live here and the major negative impact this will have on us all.

Regards



M & H Paul



RECEIVED BY
MUSWELLBROOK
SHIRE COUNCIL

17 MAY 2017

DOCUMENT ID:



Our Ref: LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.



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*...
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of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

The Crime Prevention Through Environmental Design ("CPTED") report, does little more than simply state the objectives that are required to be addressed. It fails in any substantive way to address any of the likely impacts.

Similarly, the Plan of Management ("POM") is cursory at best and appears to rely solely upon McDonald's current operational processes, their current alarm and burglary systems, their current CCTV and on the operational skills of the relevant duty manager to rope off sections of the car park and deal with delinquents inside and outside of the premises. The Objectors and the Police confirm that current operations are not being managed in a sufficiently proactive or successful manner, as to abate anti-social behaviour, that occurs on-site when there is already a duty manager present.

The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that, there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

The NSW Police have confirmed the following ten (10) premises as having the following trading hours:

Venue	Trading Hours
RSL Club	Unrestricted Trading Hours (24/7)
Eaton's Hotel	22 hours per day
The Royal Hotel	Mon 10pm, Tues 8.30pm, Wed-Thurs 11pm, Fri-Sat 12am.
Shamrock Hotel	Mon-Sat 5am to 12 am, Sun 10am to 10pm
The Railway Hotel	Mon-Sat 5am to 3am, Sun 10am to 10pm
Muswellbrook Hotel	Mon-Sat 5am to 3am, Sun 10am to 12am
Valley Hotel	Mon-Sun 10pm.
Workers Club	Tue-Sat 12am, Sun - Mon 10pm.
The Prince Hotel	Mon-Thu 5am to 12am, Sat 5am to 3am.
Golf Club	Unrestricted (24/7)

With a further six (6) Bottle Shops trading until 11.00pm within the Muswellbrook town location,

When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecaribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

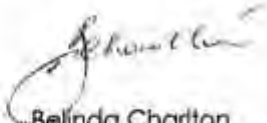
In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector **BRUCE BROWN**Address **50 THOMPSON ST**
Muswellbrook NSW 2333

Phone Number

0265432829

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194

83-89 MAITLAND STREET**MUSWELLBROOK****DEVELOPMENT APPLICATION NO. 72/2003**

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal


P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

BRUCE BROWN 
50 THOMPSON STREET MUSWELLBROOK 2333.

Bruce Brown
50 Thompson Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333



14 May 2017

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 - Alter Hours of Operation
83 - 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear General Manager

I wish to note by way of written submission that I strongly object to the application of alter hours of operation (24/7) at Mc Donald's Muswellbrook made by KDC Pty Ltd.

Objection reasons are

1. **Noise from vehicles** - Traffic entering and exiting the car park or pulling back onto the Maitland Street/New England Hwy accelerate rapidly squealing tyres, often intentionally with no consideration to residents now during the current operating hours so opening 24/7 will intensify the noise problem for residents even later at night and wee hours of the morning.
2. **Loitering along with hoon activity** - young and older persons' are continually loitering and hooning in the McDonald's car park during current business operating hours of close of business of 10pm so extending the operating hours will only contribute to the ongoing problem of disturbance for residents that live in the area the entire night.

A number of residents who live close have confided to me of how they have made numerous phone calls to the police time and time again, especially at night about the unacceptable social behaviour and noise of young persons' loitering in Mc Donald car park and they have been advised that with minimal police on duty, in Muswellbrook that police may not attend, deal with the issue, they often do not even attend at the time of the incident.

1. **Rubbish** - Some customers park in Thompson Street opposite McDonalds and discard their rubbish on the foot path or in the gutter, with the rubbish blowing all around the neighbourhood with it ending up blocking drains. So extended the

business hours and under the cover of darkness this is a definite yes that the rubbish problem will escalate for all concerned, residents and for McDonalds.

2. **In adequate large vehicle parking** – In Thompson Street just past McDonalds Exit on the left is unsealed area with no curb and guttering that is full of pot holes. Heavy vehicles and recreational vehicles, along with vehicles with horse float or trailers etc park in this area as there is NO adequate parking for large vehicles other than buses so if this application was to be approved this would contribute to noise for residents with truckies talking, UHF banta, noise from engine brakes, rattling and bumping trailer noises) with trucks stopping all through the night and early hours of the morning.
3. **Safety Issue for pedestrian and road user** – With heavy vehicles parking in Thompson Street on the unsealed area to the left of McDonald's Exit even now pedestrian are at risk of being injury or killed as pedestrian need to walk among or around large vehicles to enter McDonald and with heavy/ large vehicle parked in this area it narrows the road space for through traffic travelling along Thompson Street and
4. **Dust** - Heavy vehicles, recreational vehicle along with vehicles with horse floats and trailers park in Thompson Street on the unsealed area to the left of McDonald's Exit which stirs up dust causing dust clouds these dust clouds effect residents in a number of ways , one would be being limiting them when they able to open the windows but for the elderly along Thompson with minimal mobility they are often unable sitting out the front of their homes to watch the world go by so to speak as the dust exacerbates their breathing problem and can trigger an asthma attack so altering McDonald's business hour to stay open 24/7 will limit residents even more on the warmer/summer night if wanting to sit out on their veranda's with heavy vehicle stirring up the dust when parking late into the evening to purchase McDonald's.
5. **Low lighting** – There is no lighting where the heavy vehicles park in Thompson Street on the unsealed area to the left of McDonald's Exit and with heavy vehicle needing to use park lights/ clearance lights this also will effect resident during the night and earlier hours of the morning if McDonald's operational hours are extended.
6. **Heavy vehicle noise** - More deliveries of product will be needed which will contributed even more noise problem for residents whom already deal with vehicle noise from trucks making deliveries.

I live further along Thompson Street and there is a lot of traffic, be it vehicle or pedestrians walking through that come from a certain area of town that use or deal drugs and it is common knowledge that McDonalds car park is the dealing place.

I use Thompson Street to access the Highway on a regular basis as I work down past the Power Stations and I have seen and had to deal with issues mentioned when I go past McDonalds. I also have an elderly friend that lives opposite McDonalds whom I see on a regular basis to help with shopping, appointment and emotional support and have seen what I have mentioned personally.

Bottom line is I'm strongly against this application by KDC Pty Ltd to alter of operation hours of McDonald's Muswellbrook for these reason listed and more.

Regards

A handwritten signature in black ink, appearing to read 'B. Brown', with a long horizontal flourish extending to the right.

Bruce Brown.



Our Ref:LL:100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Drutt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

Long Legal Pty Ltd is
an incorporated legal practice under the Legal
Profession Uniform Law (NSW)

Liability limited by a scheme, approved
under the Professional Standards Legislation



PRINCIPAL: GRANT LONG LLB, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

We were originally advised that the matter was likely to go to the Council last Tuesday with the development planner's recommendation for refusal, due mainly to unacceptable social impacts. We were requested to address the Council at that meeting on behalf of Mr Peter Druitt and a further fifteen (15) other residents of Thomson Street and Shaw Crescent, that are currently negatively impacted by the McDonalds Muswellbrook development.

We were subsequently advised that, at the request of the Applicant, the matter was to be deferred to the 11 July 2017 meeting.

We are instructed to write to you to raise a number of matters pertaining to this application, which you may not be aware, prior to your meeting this afternoon.

The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

...
The McDonald's care park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

Additionally, the applicant's documentation supporting the s.96(1A) is grossly inadequate. The background noise report was conducted almost ten years ago, which renders its data and findings as useless.

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Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated that they have even turned their mind to that fact that there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

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If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

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In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

GEORGE PAPHIS MONRO
1 THOMPSON ST

Name of Objector

Address

Muswellbrook NSW 2333

Phone Number

0265432968

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION –
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

PREMISES: LOT: 100 DP: 793194

83-89 MAITLAND STREET

MUSWELLBROOK

DEVELOPMENT APPLICATION NO. 72/2003

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal

P.T.O.

but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

Objector name

Phyllis J. Monro.
1 THOMPSON ST
Muswellbrook 2333: 0263 432 968

Hugh J. Monro.
1 Thompson ST
Muswellbrook 2333 65432968

Mr George and Mrs Phyllis Monro
1 Thompson Street
Muswellbrook NSW 2333

General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333



15 May 2017

Delivered by hand

Re: Application: Section 96 Application (72/2003/2)
Description: S96 (1a) Modification - Amended Condition 1.11 – Alter Hours of Operation
(24hours – 7days a week)
83 – 89 Maitland Street, Muswellbrook NSW 2333 (Lot 100 DP: 793194)
Applicant: KDC Pty Ltd

Dear Sir /Madam

I acknowledge receipt of a notification letter in relation to Development Application
(72/2003/2) dated 27 April 2017.

I wish to note by way of written submission my strong objections to the alteration of hours
of operation of Mc Donald's Muswellbrook made by applicant KDC Pty Ltd.

My reasons are as follows

1. Section 96 (1a) Refers to modification involving minimal environmental impact. I
TOTALLY! Disagree.
2. Existing flow of traffic on the New England Hwy – Thompson Street – Shaw Crescent as
well as entry and exit points to McDonald's car park which has three in total, are being
used for both entry and exit. This causes major traffic flow problems especially when my
wife and I try to enter or exit our driveway.
3. I am constantly phoning police for criminal activity, squealing tyres from cars and motor
bikes along Maitland Street and in McDonald's car park, plus vandalism. There is fowl
language, fights, lights coming and going all hours, after hours mostly with drug
dealings in the car park by way of
 1. Hand to hand
 2. Small packets thrown from cars travelling down Maitland Street and believe it or
not 15 - 16 year olds on push bikes picking these up. Most of Muswellbrook know
this or have heard of this.

4. Along with

1. Noise from air conditioning units
2. Strong foul food cooking odours
3. Noise from large trucks having to apply air horn and engine breaks to avoid hitting hoons running all over Maitland Street after closing hours, from Hotel and clubs.

5. Before hours deliveries to McDonald's

Most residents and ratepayers in Thompson Street are retired and were living at their residents before McDonald's was built.

We have no objection to the extension to the children's play area but as stated we strongly object to the application to alter operation hours of Mc Donald's Muswellbrook.

Regards

H. G. Monroe
Phyllis J. Monroe

George and Phyllis Monroe



Our Ref: LL-100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au


Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Druitt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

In consultation with planning staff, the Objectors were informed that you are conducting a meeting today between yourself, the Mayor and representatives of the Applicant, in order to discuss their application. The Objectors were also made aware that the proposed meeting does not involve planning staff.

Long Legal Pty Ltd is
an incorporated legal practice under the Legal
Profession Uniform Law (NSW)



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under the Professional Standards Legislation

PRINCIPAL: GRANT LONG LLB, B URB. REG. PLAN
ACCREDITED SPECIALIST PLANNING & ENVIRONMENT LAW
LEVEL 1, 140 KING STREET NEWCASTLE NSW 2300
T: 02 49 291929
ABN 65 167 821 981

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The Objectors are of the belief that the application made by McDonald's is an unacceptable intensification of the approved use, in so far as, it proposes an increase of an additional fifty-four (54) operational hours per week.

Council has before it at least 15 submissions objecting to the development from the people who live closest to the current operation. The objections raise serious issues concerning the manner in which the current operation is managed and the devastating social impacts that the residents in Thomson Street, Shaw Crescent and the adjoining Motel development live with on a daily basis.

The objections raise many merit issues about the inadequacy of the local surrounding infrastructure, particularly in relation to parking options for patrons of the development. They raise issues about odour, light spill, noise, traffic, littering, anti-social behaviour, deliveries occurring out of consented hours, crime being committed in the parking area, coaches using the McDonald's site as an unauthorised pick up for concert and travel purposes, parking of coaches and refrigerated trucks with engines still running in Thomson Street and Shaw Crescent, loading and unloading of passengers in those locations, reversing and manoeuvring of those coaches and trucks in and out of Thomson Street and Shaw Crescent, utilisation of vacant adjoining land for unauthorised overflow parking, particularly for vehicles under tow, including horse floats and all the while this is currently occurring for the majority of time during the 114 hours in which McDonald's is currently authorised to operate each week.

Additionally, the NSW Police have made it clear that they too are opposed to the increase in operating hours, stating:

"A side effect of approving applications of the above nature, authorizing hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behavior on-site or within its immediate vicinity.

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The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside

of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner."

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The current Consent Condition 1.14 states:

"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, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development."

Council has written statements from 15 objectors which include the Objectors and Police of the on-going failure of McDonalds to comply with this condition.

Further, the Statement of Environmental Effects ("SOEE") does not contain the detail of the particular condition proposed to be modified and where there is a reference to the operating hours, these are disclosed as being for less hours than the approved hours detailed in the conditions of consent.

There is also no request to amend any of the other conditions of consent, that the SOEE appears to inherently want to modify, particularly in relation to the reduced on-site parking area, which is contrary to and otherwise prohibited by the operation of consent condition 1.10.

Consent Condition 1.10 states:

"On-site parking accommodation is to be provided for a minimum of sixty-five (65) vehicles and such, in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of this consent."

It is difficult for The Objectors to have confidence that this condition will be complied with by adding an additional 54 hours to the operation, when it is apparent that McDonalds are unable to comply with the conditions of consent during its approved operating hours, without negatively impacting on the surrounding neighbourhood.

The Applicant has further failed in its SOEE, CPTED and POM to consider and appropriately address the cumulative impacts of its development proposal and has in no way demonstrated, that they have even turned their mind to that fact that there are ten (10) licensed premises in relative proximity to it, including directly adjacent to it. The two closest operations being the Muswellbrook RSL, which has a liquor trading licence that is unrestricted so that it can therefore serve alcohol at any time in a 24 hour period. Similarly, the Eaton's hotel has a licence to trade for 22 hours per day. The Eaton Hotel, currently remains open until midnight most nights if busy, which means that those patrons dispersing from that location at that time, are presently unlikely to be attracted to relocate to McDonalds but may well be so motivated, if it was still trading at that time.

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When you look at the current closing hours for McDonalds, being 10pm Sunday -Thursday and 11pm Friday and Saturday, it reduces the likelihood of movement from patrons from the licenced premises at closing time, to only a relatively small window of opportunity, thus reducing the attractiveness for patrons from licenced premises to move to McDonalds as a secondary venue.

If McDonalds hours are increased, the position is likely to significantly change, as has been seen in the case of King Street McDonalds in Newcastle. McDonalds in King Street Newcastle, is now identified as a hot spot for violent altercations particularly once localised licenced premises cease trading. The applicant has failed to address any of these possibilities in either their CPTED report or their POM, other than to state that anti-social behaviour beyond

that capable of being managed by the duty manager at the time, is the responsibility of the NSW Police, which may well amount to an unreasonable diversion of Police resources.

The applicant has also failed to justify the necessity to increase its hours, other than to simply indicate that it is due to demand. The applicant has not provided any detail about this demand, including the source of the demand.

In *Burgess v Gunnedah Shire Council* [2010] NSWLEC 97, Pepper J, in considering an Appeal relating to an application to alter operating hours of premises by an application made pursuant to s.96(1A) of the EPAA, found that the Consent granted by the Council which contained deferred commencement conditions, including the need for a proper noise assessment was invalid and awarded costs against the Council because it was evident that the application was not appropriately an application pursuant to s.96 (1A) of the EPAA being of minimal environmental impact.

The main issues the Court dealt with were the failure of the applicant to provide a proper noise assessment that appropriately considered the noise impacts on adjoining neighbours and that the report provided did not identify the remediation treatment required for each affected dwelling in order for there to be compliance with the relevant Australian Standard. The Court found that the modifications sought, increasing the operating hours of the approved operation, would have potentially negatively impacted upon the amenity of adjoining owners through increased noise. The Court held that it was therefore not open to the Council to properly conclude in granting the consent, that the modifications would result in "minimal environmental impact" (s 96(1A)(a) of the EPAA).

The Court of Appeal decision in *North Sydney v Michael Standley & Associates* (1987) 97 LGERA 443 indicates that a consent authority, or the Court on appeal, is required to consider the totality of development and take into consideration any relevant matters under s 79C of the *Environmental Planning and Assessment Act 1979*. Over ten years later the same parties were in the Supreme Court, where Stein JA held that the applicant for modification bears the onus of showing that the modified development is substantially the same. His honour referred to the cases of *Seaforth Services Pty. Ltd. v Byron Shire Council* (No. 2) ((1991) 72 LGRA 44) and *C.S.R. v Wingecarribee Shire Council* (No. 2) (Unreported 17 December 1991).

In any event, it is clear that the purpose and use of s.96(1A) of the EPAA, is to facilitate modifications that involve substantially the same development that are of minimal environmental impact. Environmental impacts include amenity issues related to the adjoining properties and are not confined to the boundary of the premises upon which the development sits.

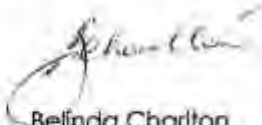
In determining this application, the Council must consider social, environmental and amenity issues that significantly and directly affect the lives of people in their community who are, or have been prior to retirement, nurses, miners, bankers, engineers, manufacturers, security personnel, club and motel operators, members of Rotary, the Muswellbrook show committee,

board of returned services club, volunteers in aged care, members of the red door community kitchen, volunteers in local schools, shift foremen, weapons trainers and business owners. These people you will no doubt agree, have formed and continue to form a daisy chain of professional and volunteers community members within your local community and deserve to have their legitimate concerns considered as part of this process.

The Council's duly qualified development planner, has in our view, correctly recommended refusal of the development, which is abundantly clear from their draft business paper report. Any attempt by the Applicant to have this matter re-assessed would be completely inappropriate.

We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

Name of Objector**Address**

Muswellbrook NSW 2333

12-10-17

Phone Number

0265 434477

Insert date

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

John Hunter Motel
P.O. Box 587
Muswellbrook NSW 2333

Delivered by hand

Dear Sir/Madam

**PROPOSAL: SECTION 96(1a) MODIFICATION -
AMEND CONDITION 1.11**

ALTER HOURS OF OPERATION

**PREMISES: LOT: 100 DP: 793194
83-89 MAITLAND STREET**

MUSWELLBROOK**DEVELOPMENT APPLICATION NO. 72/2003**

I acknowledge receipt of the notification letter in relation to Development Application No. 72/2003 dated 3 October 2017.

I wish to note, by way of written submission, **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant. My reasons for my strong objection are articulated in my previous submission, a copy of which is *attached* and remain my current and remaining concerns and objections to the amended proposal.

Firstly, I note that Section 96(1a) refers to Modifications involving minimal environmental impact (eg. Changes to windows, materials or details etc.) I would **strongly debate** that the impact of extended trading hours on the neighbouring residents to McDonalds Muswellbrook would be seen by them as a minimal environmental impact.

Secondly, I attach a copy of a letter sent to Mr Steve McDonald, General Manager Muswellbrook Shire Council by email on 19 June 2017 by Long Legal on behalf of Leslie Peter Druitt of 7 Thompson Street Muswellbrook and the other objectors, of which I am one. I do not propose to redress all the items referred to in the letter from Long Legal



P.T.O.

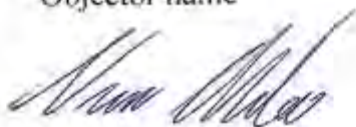
but reiterate the concerns raised therein and reiterate that the concerns raised in my prior submission resubmitted herewith and the matters raised in the letter by Long Legal remain unaddressed by the applicant and no response has been received to date from Council to counter any of the concerns raised.

Any extension of to the hours of operation will exacerbate the currently experienced intolerable social impacts by neighbouring residents. I note this as my objection to the amended proposal.

Yours faithfully

VINCE KISLOV

Objector name



Maureen Mislov
John Hunter Motel
91 Maitland Street
MUSWELLBROOK NSW 2333

15 May 2017

The General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333



*Hand Delivered – by Leslie Peter Druitt on behalf of
Maureen Mislov*

Dear Sir/Madam

**S96(1a) MODIFICATION – AMEND CONDITION 1.11 –
ALTER HOURS OF OPERATION TO 24 HOURS A
DAY, 7 DAYS A WEEK – PREMISES LOT: 100 DP
793194 – 83-89 MAITLAND STREET,
MUSWELLBROOK – DEVELOPMENT APPLICATION
NO. 72/2003 – APPLICANT: KDC PTY LTD**

I write this letter to express my views on Development Application No. 72/2003. I wish to note **my strong objection** to the alteration of hours of operation of McDonalds Muswellbrook made by the Applicant KDC Pty Ltd.

I own and operate the John Hunter Motel at 91 Maitland Street Muswellbrook adjacent to McDonalds Muswellbrook.

I note my strong objection to the application for extended hours to 24 hours a day 7 days a week based on the following:

- **Acoustics** – at present the motel, and particularly myself (my bedroom is directly above the McDonalds restaurant) endures excess noise, particularly on Thursday, Friday and Saturday nights with yelling, swearing (anti-social behaviour) and screeching tyres – when it rains the screeching tyres increase dramatically.
- **Lighting** – the motel and myself are continually impacted by the light and noise of vehicles through the carpark but

also the drive thru. If the drive thru were to go 24/7 this would impact the amenity of the patrons to the motel and their ability to have quiet enjoyment of the premises during their stay.

- **Smell** - the smell which emanates from the fast food restaurant is constant requiring doors and windows to remain closed.

I can only imagine what additional impact a 24/7 operation would have on the amenity of the area, given that the current issues of amenity are not appropriately addressed nor dealt with and also the impact it will have on my business.

I would urge Muswellbrook Shire Council to consider the substantial impacts that McDonalds Muswellbrook (through its applicant KDC Pty Ltd) already has on the neighbouring and adjacent residents before making its decision on the 24/7 operation.

Yours faithfully

Maureen Mislov





Our Ref: LL 100349

19 June 2017

Mr Steve McDonald
The General Manager
Muswellbrook Shire Council

Via email: council@muswellbrook.nsw.gov.au

Dear Steve,

s.96(1A) proposed modification to Development Consent
DA72/2003 – McDonalds Muswellbrook

We act for Mr Peter Drutt and other objectors ("Objectors") in relation to the proposal for McDonalds Muswellbrook ("Applicant") to modify their consent in order to trade 24 hours per day, 7 days per week.

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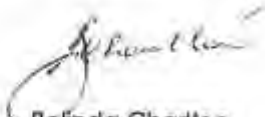
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We look forward to hearing the outcome of your meeting at your earliest convenience.

Yours faithfully



Belinda Charlton
Senior Lawyer

**NSW POLICE FORCE****HUNTER VALLEY
LOCAL AREA COMMAND**

Muswellbrook Police Station
26 William Street,
Muswellbrook NSW
Tel: (02) 6542 6999
Fax: (02) 6542 6911

Donna WATSON
Development Planner
Muswellbrook Shire Council
157 New England Hwy
Muswellbrook NSW 2333
(02) 6549 3700

DA: Development Application 72/2003
Applicant: McDonald's Australia
Site: Lot 100 DP793194 83-89 Maitland Street, Muswellbrook
Proposal: Amend Condition 1.11 Alter Hours of Operation

Dear Sir/Madam,

In accordance with the Development Application protocol between New South Wales Police and Muswellbrook Shire Council facilitating Crime Prevention through Environmental Design (CPTED) principles, the Hunter Valley Local Area Command has been invited to make comment in relation to the above development;

A side effect of approving applications of the above nature, authorising hours of trade after 1200am and before 0500am, is the increase in rates of noise (noise complaints), crime and/or anti-social behaviour on-site or within its immediate vicinity.

Increased trading hours = Increased noise; Police anticipate significant increases in both vehicle and patron noise between 1200am and 0500am. Noise generated during these early hours generally carries further and impacts significantly more on those it affects.

The McDonald's car park is already seen as a place to congregate by local youth and young driving enthusiasts outside of the restaurant's existing hours of trade. Police suggest the proposed extension will see larger and more diverse groups amass on-site, in particular intoxicated persons frequenting in search of their hang-over cure, only to negatively impact by committing offences i.e. driving offences, drink driving, assaults, malicious damage or behave in an anti-social manner.

(MANAGEMENT)

A copy of the premise's Development Approval shall be kept on-site at all times and immediately produced to Council Inspector and/or Police upon request.

(HOURS OF OPERATION)

'Hours of Operation' shall be reviewable after six (6) and twelve (12) months of the premise operating 24/7.

Consideration should be given to trialling 24/7 drive-thru only for a period of six (6) month - limiting dining to standard hours, thus allowing the impacts of 24/7 trade to be adequately assessed.

(SECURITY)

At the direction of Council and/or the Local Area Commander, or their representative, the consent holder must implement an adequate 'SECURITY MANAGEMENT PLAN' ensuring public safety, crowd control and/or traffic concerns are addressed.

Where a 'SECURITY MANAGEMENT PLAN' is put in place, the consent holder must operate at all times in accordance with it. The 'SECURITY MANAGEMENT PLAN' can only be varied in/after consultation with the Local Area Commander, or their representative.

(SURVEILLANCE)

The proposed premise should be fitted with an alarm system equivalent or exceeds;

- internal movement/motion detectors, and
- the entire premises must be monitored and have separate multiple programmable zones, and
- duress 'panic button' alarms, and
- Entry keypad with inbuilt duress codes and panic buttons, and
- Any remote controls must also have panic buttons, and
- The control panel box must have back up battery power, and
- A line cut system or similar which arms the system if the phone line is cut, and
- All components fitted with anti-tamper switches, and
- Off-site 24 hour monitoring.

Closed Circuit Television (CCTV) enhances physical security & greatly assists in the identification of people involved in anti-social or criminal behaviour. The proposed premise should be fitted with a CCTV system equivalent or exceeds;

Condition:

'CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:

- *All principal entrance/s and exits (including fire doors)*
- *All areas within the premises occupied by the public (excluding toilets)*
- *The area within 50m radius external to the public entrance/s to the premises.*
- *Approved outdoor area(s) (including car parks)'*

Condition:

'CCTV recording equipment video tapes, discs and/or hard drive recordings shall be retained for minimum of 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the video tape, disc or hard drive. Video tapes and or disc must be handed to Council, Police or Special Inspectors upon request. Recordings must include the premise's CCTV software.'

Condition:

'All video equipment and cameras be of high-grade digital quality so as to facilitate identification and adjudication of patrons, offenders and incidents occurring within the subject premise.'

Condition:

'All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Owner/Licensee shall record this daily checking activity in the premises incident register or book that meets the standards required by Council and/or Police.'

Condition:

'All CCTV recording devices and cameras shall be operated 24 hours per day 7 days per week or all trading hours plus one (1) hour after closure of the premise if it does not trade 24 hours per day.'

(NOISE EMISSIONS)**Condition:**

'The sound generated by the premise shall be controlled so that any emitted noise is not audible in any premises and is at such a level so as not to create 'offensive noise' as defined in the Protection of the Environment Operation Act 1997'

Condition:

'The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.'*

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.'

The Hunter Valley Local Area Command again thanks you for the opportunity to make comment on the proposed development. Should you require further information please do not hesitate to contact the Command - (02) 6542-6999.

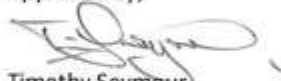
Yours Faithfully

Derek HAIN

Licensing

Hunter Valley Local Area Command

Approved by;



Timothy Seymour

Detective Chief Inspector

Crime Manager

Hunter Valley Local Area Command

Disclaimer

NSW Police has a vital interest in ensuring the safety of members of the community and their property. By using recommendations contained within this document, any person who does so acknowledges that:

- *It is not possible to make areas evaluated by NSW Police absolutely safe for the community and their property.*
- *Recommendations are based upon information provided to, and observations made by NSW Police at the time the document was prepared.*
- *The evaluation/report is a confidential document and is for use by the person/organization referred to on page one.*
- *The contents of this evaluation/report are not to be copied or circulated otherwise than for the purposes of the person/organization referred to on page one.*

NSW Police hopes that by using the recommendations contained within 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.



Transport
Roads & Maritime
Services

27 June 2017

SF2016/162752

CR2017/001771

PW

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Attention: Donna Watson

NEW ENGLAND HIGHWAY (A15): SECTION 96(1A) MODIFICATION – AMEND CONDITION 1.1
– ALTER HOURS OF OPERATION, 83-89 MAITLAND STREET, MUSWELLBROOK (DA 72/2003)

I refer to Council's letter dated 8 May 2017 regarding the subject development application forwarded to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime understands the section 96 modification to be for the extension of approved trading hours of the existing McDonald's, which currently operates from 6am to 10pm, to enable trade 24 hours a day, 7 days a week. The current delivery and waste collection hours for the site remain the same. It was further noted that no site works will be required to implement the proposal.

Roads and Maritime Response

Roads and Maritime has reviewed the information provided and has no objections to or requirements for the proposed development as it is considered that there will not be a significant impact on the classified (State) road network.

Advice to Council

- Roads and Maritime has no proposal that requires any part of the property.


Roads and Maritime Services

Level 8, 266 King Street, Newcastle NSW 2300 |
Locked Bag 2030, Newcastle NSW 2300 |

www.rms.nsw.gov.au | 13 22 13

On Council's determination of this matter, please forward a copy of the Notice of Determination to Roads and Maritime for record and / or action purposes. Should you require further information please contact Hunter Land Use on 4908 7688 or by email at development.hunter@rms.nsw.gov.au

Yours sincerely



David Collaguazo
A/Manager Land Use Assessment
Hunter Region

11 COMMUNITY INFRASTRUCTURE

11.1 BROOK STREET BUS STOP LOCATIONS

Attachments:	A. Brook Street Muswellbrook - Southern Side Bus Stop - Sparke Helmore Lawyers - Request to Relocate Bus Stop B. Aerial Brook Street C. Brook Street NRMA Submission Bus Stop
Responsible Officer:	Neil Pope - Director, Community Infrastructure
Author:	Imelda Williams - Traffic & Roads Status Officer
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
Community Plan Strategy:	<i>Investigate and recommend appropriate management treatments for road safety and traffic management.</i>

PURPOSE

To consider the relocation of the Brook Street (southern side) bus stop.

OFFICER'S RECOMMENDATION

The Bus Stop in Brook Street (on southern side) be relocated back to the permanent location existing prior to the temporary relocation during the construction project.

Moved: _____ Seconded: _____

BACKGROUND

During the Brook Street upgrade the bus stop locations were temporarily relocated to the eastern end of Brook Street to facilitate the road works. Various businesses in the vicinity wrote to Council requesting that the bus stops be permanently moved for various reasons as outlined in their submissions. The relocation of the Brook Street bus stop on the southern side was discussed at the September 2017 meeting of the Local Traffic Committee to address the concerns raised by some of the businesses within the vicinity. The following recommendation was approved by Council at the October 2017 Ordinary meeting:

Make further consultation and investigations into the feasibility for the bus stop to be located between the Catholic Church driveway and the access to the Brook Street car park on the southern side of Brook Street.

Extensive consultation as part of the CBD stage 6 upgrade took place in order to have the works undertaken prior to the Beersheba Commemorative Ceremony which in effect have commenced the trial of the new bus stop location. At the time it was deemed that the recommendation made at the September meeting of the Local Traffic Committee and approved at the October Ordinary meeting of Council gave effect to the relocation of the bus stop. Hence the consultations and subsequent implementation decisions were made to relocate the bus stop to facilitate the Beersheba Ceremony.

CONSULTATION

NRMA Office, Curtis Gant Irving Solicitors, Sparke Helmore, Osborn Bus Service, Catholic Church, Roads & Drainage, Technical Services

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Not applicable.

REPORT

Following consultation with the various stakeholders involved, it was thought a trial of the bus stop on the eastern side of the Catholic Church driveway should be considered subject to Council approval. Stakeholders from NRMA Office, Sparke Helmore expressed a strong desire to relocate the bus stop (See Attached submissions).

The large overhanging limbs of the fig trees have limited the suitability of various sites in Brook Street to allow the bus to sufficiently pull in close enough to the kerb to safely allow passengers to board and alight from the bus. Following consultation with the local town bus provider it was thought appropriate to trial the proposed location for a period of 6 months to assess the suitability of the site.

The site will be more centrally located and is the closest stop for passengers to access the Marketplace and Brook Medical Centre via the central median stairs. However, the change in location does have disadvantages in that it encourages pedestrians to cross the road remote from the traffic signals which provide a suitable safe phase for crossing Brook Street and reduces parking availability. The bus company has advised that passengers can choose to remain on the bus to do the loop and then can get off at the stop on the northern side of the road if this is their destination. This option is a preferred option particularly for those with mobility issues and in more extreme weather conditions as the bus is air conditioned.

The new pedestrian fencing installed as part of the Brook Street upgrade now prevents pedestrians from "shortcutting" through the garden median. The only central access point now is via the central stairs. The central stairs provided a shorter access route to the Marketplace and Doctors Surgery from the bus stop on the southern side of the road even in its former location, however it involved an uphill walk and negotiating the stairs and traffic. For those passengers unable to negotiate the stairs and choose to use the pedestrian crossing at the signals it would mean a further 70m for them to walk to the new location.

In addition a one car space "No Parking" zone could be considered on the western side of the Council car park access adjacent to Curtis Gant Irving Solicitors Office. This zone will service the businesses in this location for passengers to be dropped off and picked up with minimal disruption to traffic.

The proposed new parking arrangements will remove 5 on street car parking spaces but will allow 1 "drop off" No Parking space.

Observations at the site do indicate that the former location of the bus stop closer to the traffic signals (adjacent to NRMA and Solicitors) does cause congestion. In a one hour block traffic queued at the lights to turn left and right on 12 occasions had to wait for an additional phase of the traffic signals to undertake the turn. In the afternoon from 3 to 4pm there is up to 11 cars queued at the intersection.

The bus company provided the following information in relation to the passengers using the southern side of Brook Street stop.

- End destination for passengers is Brook Medical Centre, IGA, Marketplace
- Average time spent at the stop is 2-5 minutes depending on the number of passengers
- Average number of passengers depends on which bus route it is and the time of day but can be 2-30 passengers
- Peak passengers between 8:30am-12:30pm
- Complaints received from passenger no shelter, no seating, too far to walk, cars parked in bus zone, bus having to double park.

Council has recently been offered a grant to part fund a bus stop at this location. The shelter and seating may help with the businesses' concerns.

The stop is well used. Apart from the businesses listed above, the intersection is where most of the banks are located and these are destinations for many bus passengers doing business in the CBD. The intersection has flat gradients and signalised crossing.

The impact on traffic of 2 – 5 minutes in an hour is considered minimal and is very common with bus-stops in busy centres. The existing stop is a fair way from the intersection, and with the low level of bus traffic, it is rarely an issue and then only for a short period.

There are other impacts from relocation the stop a further 70m eastward:

- Bus stop location will lead to inconvenience for bus travel, which we are trying to encourage;
- The extra distance for walking up hill and stairs compared with safe crossing at the signalised intersection; and to banks etc.;
- The shelter proposed may ameliorate the people sitting in, or on, the business shop fronts;
- Businesses come and go, and we should not be moving bus stops to accommodate a business;
- The loss of parking; in this case 5 spaces;
- The sight distance will be restricted for traffic exiting the Council Carpark when the bus stops;

OPTIONS

Option 1: The bus stop to return to the previous location in Brook Street adjacent to the Solicitors Offices; or

Option 2: The bus stop to remain further east on Brook Street adjacent to the Catholic Church and assess the site after the 6 month trial period.

CONCLUSION

The assessment of the best location for the bus stop needs to balance the business concerns about waiting passenger behaviours against the functionality of the bus stop. Council is encouraging the utilisation of public transport and with the aging population, issues around distance and mobility need additional focus.

On balance, it is concluded that the bus stop is best located at the original location.

SOCIAL IMPLICATIONS

The assessment attempts to balance the business concerns against the functionality of the bus stop. Council is encouraging the utilisation of public transport and with the aging population, issues around distance and mobility need additional focus.

FINANCIAL IMPLICATIONS

The cost of relocation of the signs can be undertaken within the current allocated budget.

POLICY IMPLICATIONS

Consistent with the objectives of the Muswellbrook Town Centre Strategy.

STATUTORY IMPLICATIONS

The changes to the Bus Zone, No Parking Zone and No Stopping Zone will require Council's delegation through the Local Traffic Committee.

LEGAL IMPLICATIONS

“Bus Zone” and “No Parking Zone” signs are regulatory signage and are enforceable under the Road Rules.

OPERATIONAL PLAN IMPLICATIONS

The Muswellbrook Town Centre Strategy has identified that the development of a Regional Transport Hub at the Railway Station and a bus and taxi hub in the town centre are both priorities.

RISK MANAGEMENT IMPLICATIONS

Not applicable.



13 September 2017

The Traffic Committee
c/- Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

Dear Committee,

Brook Street, Muswellbrook - Bus Stop – Southern Side

I write to make a suggestion about the permanent improvement of traffic arrangements pertaining to the above which has arisen in the context of the current works being undertaken by Council in Brook Street.

During the works, the bus stop has been relocated easterly to a location in front of the Roman Catholic Church (Church Location). I have spoken to numerous people who operate businesses on the Southern (high) side of Brook street (east of Bridge Street) about this and they have all agreed that the idea of permanently relocating the bus stop to the Church Location is good. I have **attached** a plan of the street showing the old location (Bridge Street Location) and the Church Location.

There are a number of reasons for the suggestion:

- a) The Bridge Street Location is a high congestion location being the confluence of the pedestrian access to the Council carpark at southern side of Brook Street. The crowds waiting for the bus add to that congestion. The Church Location has no such congestion.
- b) The shopping trolleys commonly left behind at the bus stop also create risk and congestion in this area. The current temporary location would not have such a significant impact from the leaving of shopping trolleys.
- c) There is no shade in the Bridge Street Location whereas the Church Location is well served by shade from the fig trees thus making waiting for the bus safer and more comfortable for bus patrons.
- d) Short term carparks could be re-established at the Bridge Street Location providing drop off points for frail or elderly customers of the various businesses located along the area. There are no such businesses and therefore no such requirement in Church Location. This would also result in no net loss of carparks but instead redeployment of more appropriate carparking along the street.
- e) The traffic congestion caused by the bus stopping so close to the intersection with Bridge Street (the main intersection in Muswellbrook – where westerly heading traffic queues to go in 3 directions) is dangerous. Having the bus at the Church Location (before the traffic has divided into 3 streams) is far more sensible because it creates much less congestion.

Muswellbrook

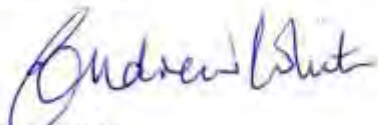
57 Brook St, Muswellbrook NSW 2333
PO Box 266, Muswellbrook NSW 2333
t: +61 2 6542 4000 | f: +61 2 6542 4096 | DX 7341 Muswellbrook | www.sparke.com.au
adelaide | brisbane | canberra | melbourne | newcastle | perth | sydney | upper hunter

ASW/R17B4444

Sparke Helmore Lawyers

I hope that the Traffic Committee will agree with the above points and permanently relocate the bus stop on the southern side of Brook Street to the Church Location as it is universally accepted by the people who occupy the south side of Brook Street in this area as being the most appropriate solution.

Yours faithfully



Andrew White

Partner

t: 02 6542 4007

e: andrew.white@sparke.com.au



Aerial of location



Imelda Williams

From: SC_Kristine Smith <SC_Kristine.Smith@iag.com.au>
Sent: Thursday, 14 September 2017 11:49 AM
To: Muswellbrook Shire Council
Subject: attention Traffic Committee

Dear Traffic committee,

We the management and staff at NRMA Muswellbrook would like to strongly recommend that the Brook Street bus stop be permanently left up near the Catholic Church where it currently has been relocated.

- We have had a lot of feedback from our customers loving that the bus stop is up further, they/we feel a lot safer and now gives a safe clear passage to the front door, as most days of the week we have a group of bus travellers sitting on the window sill and standing around the front entry to NRMA .
- smoking, drinking, shouting, some come in to find out the bus times(which we have no idea) and others come in to sit down out of the weather (the sitting in the office is for customer use). Asking them to leave is always worrying and some of their behaviour is a danger to our staff and customers.
- The shopping trolleys are a massive ongoing problem, there is usually half a dozen left every week, they are pushed into people, traffic, shop windows and left scattered from the phone booth to end of the solicitor's near parking entry. They are constantly left rarely picked up then left again and again.
- If the car parking is an issue, keep the bus stop up where it is now near the church and make a few 15 minute carparks near solicitor's and NRMA for ill or elderly customers

Hoping you look into our concerns and welfare. Thankyou

Kristine Smith
Office Manager
Muswellbrook & Scone CSC
A Distributor of NRMA Insurance

T 02 65413232
F 02 65413233
E SC_Kristine.Smith@iag.com.au

NRMA Insurance is a member of Insurance Australia Group (IAG)

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The message may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance

11.2 ACCELERATED DEPLOYMENT OF LED STREET LIGHTS ON RESIDENTIAL STREETS

Attachments:	A. CEFC Finance for SSROC Streetlighting Project 2017-11-20
Responsible Officer:	Neil Pope - Director, Community Infrastructure
Author:	Edi Ediriwickrama - Manager, Roads & Drainage
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Maintain and continually improve community infrastructure across the Shire.</i>
Community Plan Strategy:	<i>Implement prioritised (but responsive) rolling works program of maintenance.</i>

PURPOSE

This report provides details of Ausgrid's proposed program to replace 1194 Ausgrid street lights on residential roads within Council's Local Government Area with energy efficient LED's over the next three years.

OFFICER'S RECOMMENDATION

Council

1. **Agree to the Ausgrid proposal of accelerated replacement of pre 2009 street lights with LED lights;**
2. **Delegate authority to the General Manager to negotiate internal/external loan funding arrangements for the capital required to implement the accelerated replacement of the above lights.**

Moved: _____ **Seconded:** _____

CONSULTATION

Director Community Infrastructure

Chief Financial Officer

Coordinator Sustainability Unit

SSROC Street Lighting Improvement Program Manager

REPORT

Ausgrid owns and maintains 1717 street lights within Council's area which Council pays for. These lights include 1194 pre-2009 lights on residential streets that can be cost-effectively replaced by newer, more efficient and more reliable LED lights.

With the support of Councils, Ausgrid is proposing to replace all of these lights as part of a large 'Lighting the Way' program that aims to deploy up to 104,000 LEDs on residential roads across 33 councils replacing all fifteen remaining types of pre-2009 roadway luminaires (excludes decorative and main road lighting at this stage). A few post-2009 luminaires that are considered obsolete are also included in the proposed replacement program.

The only types of standard street lighting that would be present on residential roads if this proposal is

fully implemented are compact fluorescent lights (considered reasonably energy efficient and installed from 2009-13) and LEDs (considered highly energy efficient and installed from 2013 onwards).

The street lighting costs consist of the network charges, energy component and the capital and maintenance cost components of the street lighting infrastructure. The current annual cost of the pre-2009 street lights are estimated as \$ 161,400. If these lights are replaced with new energy efficient LED lights, the annual cost would be about \$ 120,300. However Council will have to pay the residual value of about \$ 35,600 for the early removal of those pre- 2009 street lighting assets. The installation of the energy efficient lights will allow Council to create NSW Energy Savings Scheme credit to an approximate value of \$ 56,000, which can be used to pay for the early removal of the street lighting assets.

Ausgrid and the SSROC Street Lighting Improvement Program (of which Council is a member along with 29 other councils) have worked jointly for over six months on a detailed business case for each council and for the project as a whole. Overall the business case for Council is strongly positive with a net present value of at least \$ 186,357 over the next ten years if Ausgrid finances the lighting replacement as per the current practice.

However if the external funding can be sourced to fund the initial investment of \$ 571,268 required for the replacement of the above street lights, the net present value of the savings over 10 years is about \$ 246,370.

Based on current costs, the resulting annual energy savings will be \$ 43390 per year and the resulting annual maintenance cost savings will be \$ 15400 per year. In simple payback terms, the overall project for council pays for itself in about 5.22 years. The cost comparison is based on the current energy prices. If the LED lights are installed any price increase of the energy will have a comparatively lower impact on overall street lighting costs.

Further to the above cost savings, the new LED lighting will also provide the following benefits:

- a. provide the community with more effective lighting that is better distributed in the road reserve and, in many cases, will substantially improve standards compliance outcomes;
- b. provide the community with high quality white light which makes people feel safer using the roads at night and has road safety benefits;
- c. deliver a 77% reduction in greenhouse gas emissions (a total GHG saving of 317 t/CO₂/yr);
- d. significantly reduce light pollution to the night sky (by more than 90%); and
- e. eliminate and ensure safe recycling of mercury-containing lamps.

CAPITAL COST DISCOUNT MECHANISM

Ausgrid and SSROC have agreed on a benefit sharing mechanism that could reduce capital costs for Council by up to 10% below the figures contained in this report. Some efficiency and volume-related savings are expected from the program but are challenging to quantify at this stage. Ausgrid has therefore agreed to rebate half of all capital expenditure savings to councils each year where actual capital expenditure is below the approved capital cost in the pricing determination of the Australian Energy Regulator. This discount mechanism will only apply if Council or 3rd party financing is used and not if Ausgrid funds the replacements.

OPTIONS

- 1 Council not agree to accelerated replacement of pre-2009 street lights; or
- 2 Council agree to accelerated replacement of pre – 2009 street lights.

CONCLUSION

Considering the benefit of the accelerated replacement of the legacy street lights with LED lights, Council should accede to the Ausgrid proposal.

SOCIAL IMPLICATIONS

Not applicable

FINANCIAL IMPLICATIONS

Council has two options to consider funding of the accelerated deployment of LED lights.

- a) The first option is to have Ausgrid fund the replacement program using the tariff approach adopted in early 2017 for LEDs where Ausgrid funds the replacement lights with Council paying on-going capital charges for the replacement lights for ten years and no capital charges thereafter (commonly called 'Rate 1' tariffs). Other key aspects of this option are that:
 - i. As with all other Ausgrid street lights, Council would pay on-going maintenance tariffs to Ausgrid and electricity costs to its electricity retailer;
 - ii. Capital cost tariffs are subject to resetting at each five-year regulatory pricing review by the Australian Energy Regulator so are not locked in beyond 30 June 2019; and
 - iii. A capital cost discount mechanism described above does not apply to this this option.
- b) The second option is for Council to fund the cost of the program from its reserves or via third party financing (commonly called 'Rate 2' tariffs). Other key aspects of this option are that:
 - i. As with all other Ausgrid street lights, Council would pay on-going maintenance tariffs to Ausgrid and electricity costs to its electricity retailer;
 - ii. If financed by a third party, capital costs could be fixed and would not be subject to resetting at each five-year regulatory review so would offer greater budget certainty;
 - iii. The estimated additional benefit for Council of using its own funds or third-party financing is about \$ 30,000;
 - iv. A capital cost discount mechanism applies to this option but has not been assumed in modelling as a potential benefit;

This option is considered to provide best value for money for Council as Council's own cost of funds or that of 3rd party funders is lower than the cost of capital embedded in Ausgrid's AER-approved tariff described in the first option above.

It may be possible for Council to source the capital investment through the Clean Energy Finance Corporation (CEFC) SSROC is actively working on facilitating a loan for interested Councils through CEFC. A copy of a presentation from CEFC is attached to the report as Attachment A.

Irrespective of the funding option, the accelerated replacement of pre 2009 street lights would provide cost savings to Council.

POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Not applicable

OPERATIONAL PLAN IMPLICATIONS

Not applicable

RISK MANAGEMENT IMPLICATIONS

Not applicable

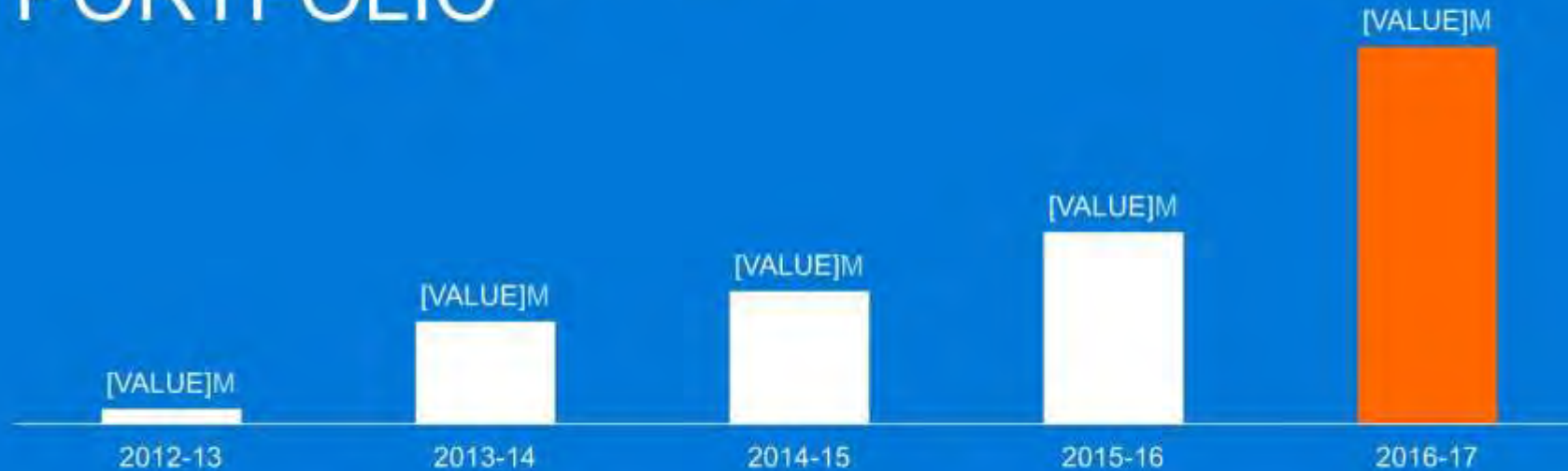
FINANCING CLEAN ENERGY FOR LOCAL GOVERNMENT



CEFC MISSION

To accelerate **Australia's transformation** towards a more **competitive economy** in a carbon constrained world, by acting as a **catalyst to increase investment in emission reduction.**

CEFC INVESTMENT PORTFOLIO



\$3.4B

of current investment commitments*



79 direct projects since inception

in project value

\$11B



7 co-finance and aggregation programs that have delivered over **\$250m** in finance to more than **2,000** smaller projects and businesses across Australia

*After allowing for new investments in each year, minus loans fully amortised, repaid or exited, and expired or cancelled undrawn commitments, at June 30 2017.

CEFC
CLEAN ENERGY FINANCE CORP

INVESTING IN THE DECARBONISATION PATHWAYS

CEFC INVESTMENT COMMITMENTS FY17

1 

Renewables, retailers,
network service providers

\$844M

CEFC

\$3.3B

TOTAL PROJECT VALUE

2 

Property, infrastructure,
manufacturing, agriculture

\$1.1B

CEFC

\$2.8B

TOTAL PROJECT VALUE

3 

Transport

\$102M

CEFC

\$382M

TOTAL PROJECT VALUE

ESTIMATED ANNUAL ABATEMENT **5M** TCO_{2-e}

CEFC
CLEAN ENERGY FINANCE CORP

INVESTING ACROSS THE ECONOMY

Low carbon
electricity



Large
scale solar



Wind



Waste, bioenergy
and agriculture



Grid and storage
solutions

Energy
efficiency

Transport

INVESTING ACROSS THE ECONOMY

Low carbon
electricity



Large
scale solar



Wind



Waste, bioenergy
and agriculture



Grid and storage
solutions

Energy
efficiency



Local
govt and
universities



Community
housing



Property



Infrastructure



Manufacturing
and industry



Agriculture

Transport

INVESTING ACROSS THE ECONOMY

Low carbon electricity



Large
scale solar



Wind



Waste, bioenergy
and agriculture



Grid and storage
solutions

Energy efficiency



Local
govt and
universities



Community
housing



Property



Infrastructure



Manufacturing
and industry



Agriculture

Transport



Biofuels



Vehicles

Clean energy opportunities for local government

A market report by the
Clean Energy Finance Corporation

June 2016

CEFC
CLEAN ENERGY FINANCE CORPORATION

Councils are **major providers of infrastructure and services** and face material (and rising) energy costs

Councils can **generate renewable energy locally** and **improve the energy efficiency of council facilities and services**

Investing in clean energy allows councils to **renew their infrastructure, save energy costs, and meet sustainability objectives**

CEFC
CLEAN ENERGY FINANCE CORP



OPPORTUNITIES FOR COUNCILS



Energy from waste

- to create an energy source from council waste, reducing both landfill and energy costs



Rooftop solar PV on council buildings

- to provide a renewable energy source using the council's own assets



Street lighting upgrades

- to reduce energy, operating and maintenance costs, cut greenhouse gas emissions, and improve urban amenity and safety



Building upgrades

- to improve energy efficiency through a broad range of options, reducing energy costs



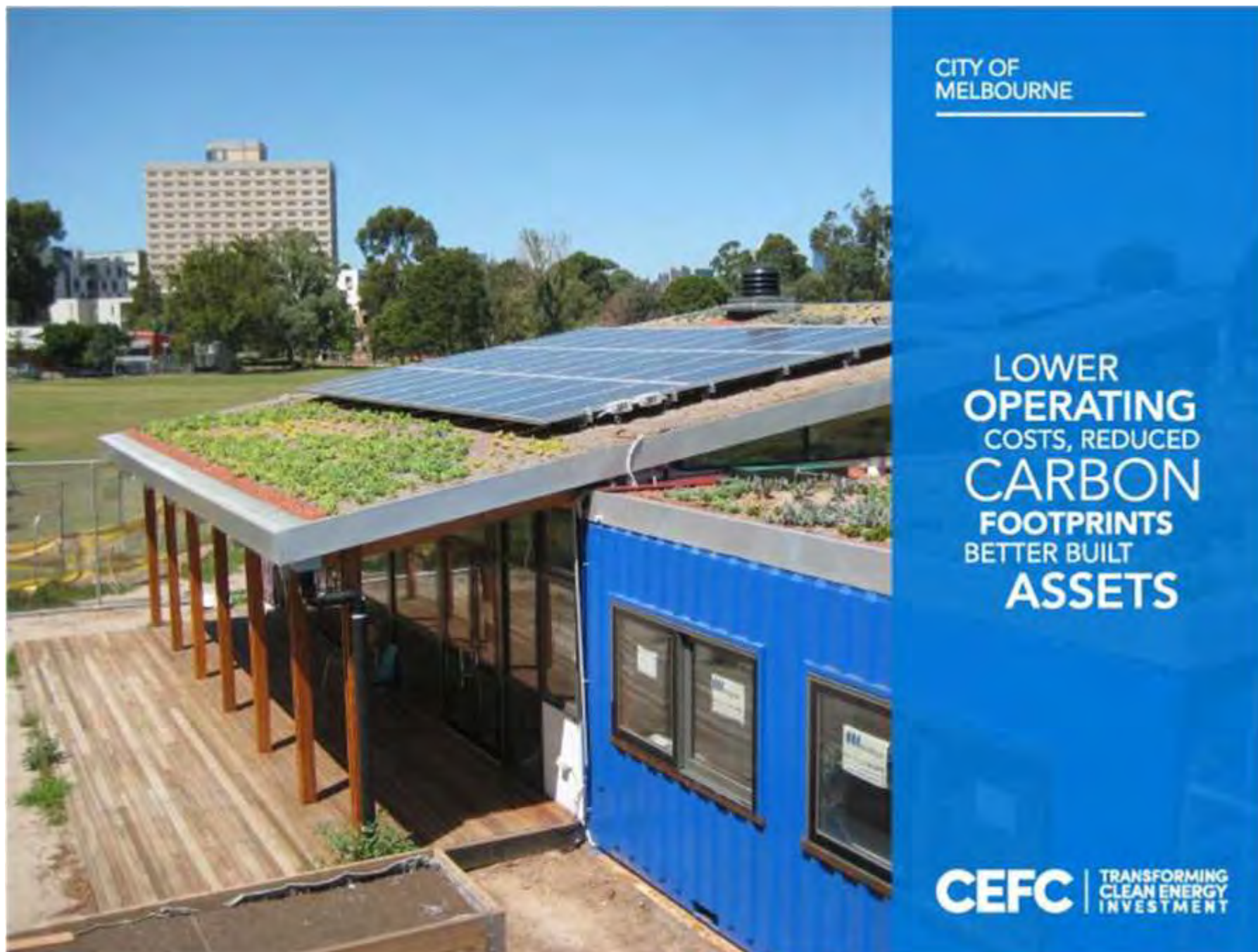
Leisure and Aquatic Centres

- to address these high energy users, with better heating, ventilation and air conditioning solutions and renewable energy resources



Electric and low emissions vehicles

- to lower council fuel bills at the same time as lowering emissions; can include related infrastructure such as charging stations



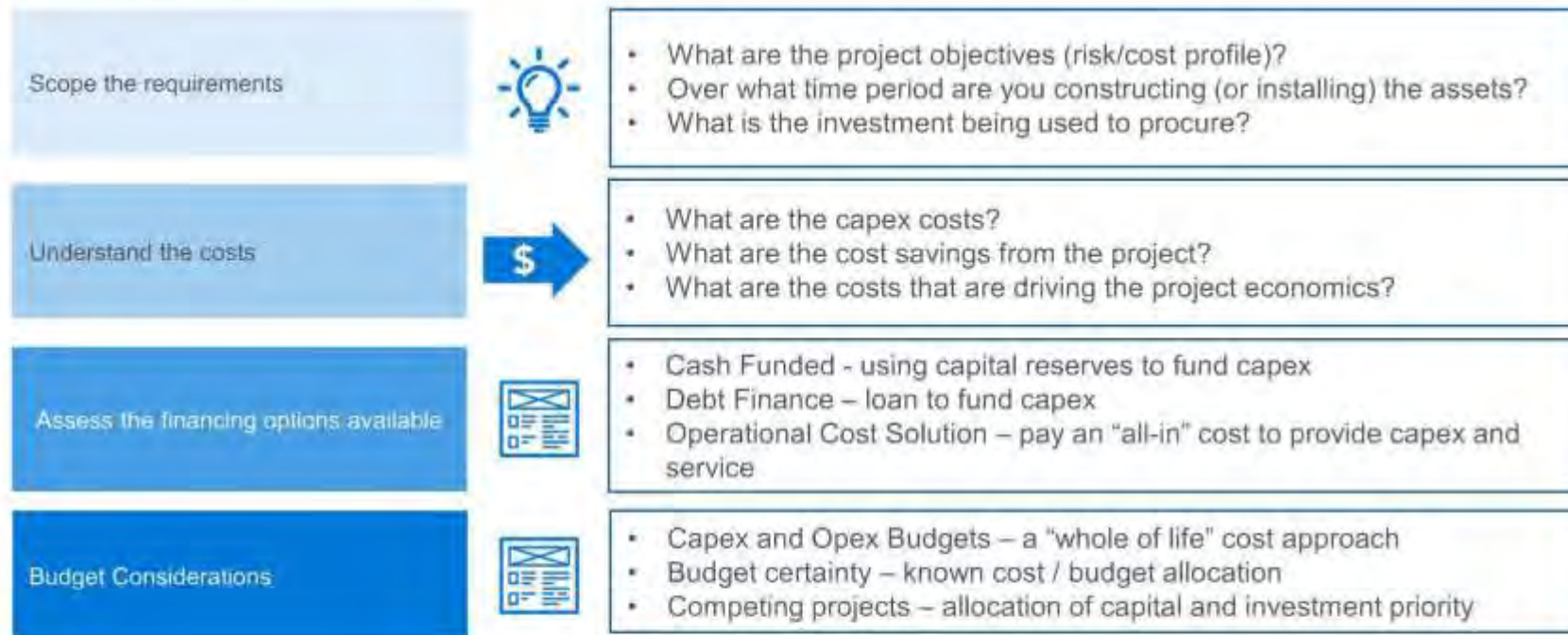
THINXTRA

WORLD-LEADING
LPWAN TECHNOLOGY
TO UNLOCK
AUSTRALIAN POTENTIAL
IN THE
INTERNET OF THINGS

CEFC | TRANSFORMING
CLEAN ENERGY
INVESTMENT

CEFC
CLEAN ENERGY FINANCE CORP.

ASSESSING CLEAN ENERGY INVESTMENTS



WHY USE DEBT?

CAPITAL FUNDING	Debt provides the upfront capital funding, and stretches the repayment out over a period of years
CASHFLOW NEUTRAL	Debt (P+I) often repaid from the forecast cost savings
HISTORICALLY LOW BASE RATES	Good time to take advantage of debt while rates are low and can be fixed for the long term
LIABILITY MATCHING	Cost reduction benefits continue after the debt is repaid

STEPS TO DEBT FINANCING



BARRIERS TO DEBT FUNDING

ACCESS TO OTHER SOURCES OF CAPITAL	<ul style="list-style-type: none"> • Access to cash reserves • Targeting grant funding programs <p>However, there is an opportunity cost to consider – either in use of council funds (is the use economic?) or is a project being delayed or not implemented to its full potential because of limited upfront capital available?</p>
LACK OF WILLINGNESS TO USE DEBT FINANCE	<ul style="list-style-type: none"> • Historically low levels of debt • Debt is sometimes considered “bad” • Loan obligations tend to be longer term <p>Using debt for “economic” projects that generate a revenue or cost saving and provides a long term asset can be a good use of debt finance</p>
WHOLE OF LIFE COST ANALYSIS	<ul style="list-style-type: none"> • Capex and Opex budgets need to be considered together – particularly for energy efficiency projects • Life of the asset being funded by debt – does it match or even extend beyond debt term?
PROJECT SIZE	<ul style="list-style-type: none"> • There are costs involved with debt funding, need a certain scale to make the time an cost investment to establish a debt facility worthwhile

STREET LIGHTING UPGRADES MAKE SENSE

CEFC is able to support streetlighting projects

- Single largest source of local governments' greenhouse gas emissions
- Typically accounting for 30 to 60 per cent of council emissions

BENEFITS OF UPGRADING

- | | |
|---|---|
| ✓ | Reduced energy costs |
| ✓ | Reduced greenhouse gas emissions |
| ✓ | Improved urban amenity and safety |
| ✓ | Smart Controls – enabling the cities for the future |
| ✓ | Reduced operating and maintenance costs |



FINANCE FOR SSROC PROJECT

Drawdown	Single Drawdown for total capex amount at start of loan term
Availability Period	Up to 1 year – for the implementation period of LED Lights. Interest Only period.
Loan Term	11 years (1 year plus 10)
Repayment Profile	Credit Foncier (equal P+I)
Interest Rate	Competitive, commercial rate based on the loan profile and counterparty Fixed at time of contractual close for the loan term
Security	Secured against general rates revenue
Information Covenants	Quarterly reporting on project progress
Negative Pledge Covenants	Covenants which require the Borrower NOT to do something. Eg: a covenant on the level of further financial indebtedness that can be taken on by the Borrower during the term of the loan
Ranking of Security	Pari passu with the secured creditors of the Borrower
Documentation	Simple corporate loan documentation, consistent across all borrowers.

CEFC FINANCE IS DESIGNED TO BE

Simple	<ul style="list-style-type: none">• Consistent terms and conditions and documentation to be applied to each council• Simple loan documentation – c. 40 page facility agreement• Single drawdown for project capex
Efficient	<ul style="list-style-type: none">• Single CEFC legal counsel for loan process for all councils• Legal costs shared amongst all borrowers• Standardised reporting for all councils for consistency of approach.
Accessible	<ul style="list-style-type: none">• Available to all councils in SSROC project (subject to a minimum \$20m total loan size for project)
Tailored to the SSROC project	<ul style="list-style-type: none">• Debt terms that match the streetlight assets• Finance package specifically for SSROC project

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12 CORPORATE AND COMMUNITY SERVICES

12.1 FLYING FOX CAMP MANAGEMENT PLAN

Attachments:	A. Muswellbrook Flying Fox CMP v8
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Tracy Ward - Sustainability Officer – Projects
Community Plan Issue:	<i>Enhance native vegetation connectivity across the Upper Hunter</i>
Community Plan Goal:	<i>Support Landcare initiatives and programs to enhance native vegetation connectivity across the Upper Hunter.</i>
Community Plan Strategy:	<i>Undertake native area restoration works along Muscle Creek and Karoola Wetlands to improve native vegetation and vegetation connectivity across the Upper Hunter.</i>

PURPOSE

Council has been working with Hunter Councils to prepare a Flying Fox Camp Management Plan for the Shire's Grey Headed Flying Fox population. The Flying Fox Camp Management Plan has been developed in order for council to respond immediately to a significant increase in Grey Headed Flying Foxes to reduce impacts upon residents in the affected zones. The report went out on public exhibition for 28 days from 18th September 2017.

OFFICER'S RECOMMENDATION

Council adopt the Flying Fox Camp Management Plan.

Moved: _____ **Seconded:** _____

BACKGROUND

In 2016 Council agreed to work with Hunter Councils in a regional effort to produce a Camp Management Plan for Grey Headed Flying Foxes. The regional project also developed Flying Fox Camp Management Plans for Central Coast Council, Mid Coast Council, Singleton Council, Port Stephens Council and Upper Hunter Shire Council.

Muswellbrook Shire has been subject to an influx of flying foxes on a number of occasions since 2005, with the most recent influx seeing 32,000 animals roosting in trees along the Hunter River and Muscle Creek in August 2015.

Residents' main concerns about the flying fox camp were disease, odour, noise and faecal matter. Several studies have found that the disease concern is unwarranted for residents living in the general vicinity of the camp and education can allay these fears. Odour, noise and faecal matter can impact upon a resident's amenity. A 20 year review has shown that attempts to relocate flying foxes are ineffective and expensive so it is important that residents and flying foxes can coexist. The Camp Management Plan is now finalised and ready for public exhibition.

At the September Council meeting Council resolved to place the Flying Fox Camp Management Plan on public exhibition for a period of 28 days.

CONSULTATION

The following were involved with the development of the camp management plan.

Eva Twaroski – Hunter Councils

Bradley Nolan – Hunter Councils

Ian Kowalke – GIS Officer

Mark Scandrett – Sustainability Coordinator

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Rod Scholes

REPORT

The Flying Fox Camp Management Plan was placed on public exhibition from 18 September, 2017 to 19 October, 2017. No submissions were received. A copy of the Flying Fox Camp Management Plan is attached.

A budget of \$42,000 was also endorsed by Council at the September Council Meeting to implement the Flying Fox Camp Management Plan. This will provide resources for initial community response when there is an influx of flying foxes, which includes funding for car, swimming pool and washing line covers and a gurney that Council will offer for hire for the removal of bat faeces. A dollar value was assigned to all covers and multiplied by the number of occurrences in the possible affected zone. This does not include funding that may be required to assist individuals with large scale mitigation measures recommended in the plan such as tree removal in the affected zones.

OPTIONS

Adopt the Flying Fox Camp Management Plan

CONCLUSION

The Grey Headed Flying Fox is listed as a vulnerable species and has been recorded visiting the Muswellbrook Shire since 2005. The last influx saw 32,000 animals roosting along the Hunter River and Muscle Creek in April 2015. Residents in the affected zone main complaints were about odour, noise and bat droppings. Property modification as detailed in the camp management plan is seen as the most cost effective way of reducing the negative impacts of flying foxes upon residents in the affected zones.

SOCIAL IMPLICATIONS

Residents in the affected zone could feel that their health and wellbeing is at risk. If Council can be well prepared when the next influx occurs, residents will feel that Council is concerned for their health and wellbeing. Education packages are already prepared so that residents are well informed about the very low risk to health from flying foxes.

FINANCIAL IMPLICATIONS

G.I.S was used to ascertain the number of houses, washing lines, cars and swimming pools in the possible affected zone. The camp management plan requires \$42,500 for initial community response of influx of flying foxes. This includes funding for car, swimming pool and washing line covers and a gurney that Council will offer for hire for removal of bat faeces. A dollar value was assigned to all covers and multiplied by the number of occurrences in the possible affected zone.

IMPORTANT NOTE: A budget bid has been submitted for the 17/18 financial year as a budget of \$42,000 was also endorsed by Council at the September Council Meeting.

POLICY IMPLICATIONS

Sustainability Policy

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Biodiversity Conservation Act, 2016 – Part Four. As a species classed as vulnerable, the protection of the grey headed flying fox falls under this act.

OPERATIONAL PLAN IMPLICATIONS

Item 12.1.3 Undertake native area restoration works along Muscle Creek and Karoola Wetlands.

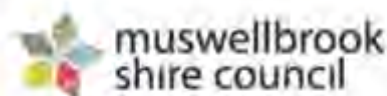
Restoration works in these areas may encourage flying foxes away from residential areas.

RISK MANAGEMENT IMPLICATIONS

Risk Type	Risk	Mitigation
Environmental	Residents removing roosting trees without permission to remove flying foxes.	Have plan in place to assist residents in affected zones.
Social	Poor public perception	Ensure that council is seen as caring for local resident's wellbeing by having plan in place.
	Creating false alarm.	Ensure that residents are aware that a plan exists for periods of flying fox influx
Financial	The absence of a plan or poorly implemented plan can lead to significant expense in response to flying fox issues such as those experienced in a number of regional towns.	A robust plan with an associate budget with several different mitigation methods that does not rely on relocation of the camp is recommended.



Prepared by The Hunter Joint Organisation of Councils for Muswellbrook Shire Council



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Disclaimer

This document has been compiled in good faith, exercising all due care and attention. Strategic Services Australia does not accept responsibility for inaccurate or incomplete information. The basis of the document has been developed from the NSW Office of Environment and Heritage "Flying-fox Camp Management Plan Template 2016".

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Ellen Saxon – Hunter Councils Environment Division

Bradley Nolan – Hunter Councils Environment Division

We acknowledge the broader input received from Local Council Officers undertaking similar Flying Fox Camp Management Plans in the Hunter Region, as their efforts may have influenced the creation of this Camp Management Plan (CMP).

We acknowledge input by the NSW Office of Environment and Heritage, and consultants Ecosure, in developing the template on which this Camp Management Plan was based. Peggy Eby also provided advice which was included in the template.

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Acronyms and Abbreviations

ABLV	Australian bat lyssavirus
BFF	black flying-fox (<i>Pteropus alecto</i>)
DoE	Commonwealth Department of the Environment
DPI	Department of Primary Industries (NSW)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
EPA	Environment Protection Authority (NSW)
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)
GHFF	grey-headed flying-fox (<i>Pteropus poliocephalus</i>)
the Guideline	Referral guideline for management actions in grey-headed and spectacled flying-fox camps 2015 (Commonwealth)
HeV	Hendra virus
LGA	local government area
LGNSW	Local Government NSW
LRFF	little red flying-fox (<i>Pteropus scapulatus</i>)
MNES	matters of national environmental significance
NPW Act	<i>National Parks and Wildlife Act 1974</i> (NSW)
NPWS	National Parks and Wildlife Service (NSW)
OEH	Office of Environment and Heritage (NSW)
PEPs	protection of the environment policies
the Plan	Camp Management Plan
POEO Act	<i>Protection of the Environment Operations Act 1997</i> (NSW)
the Policy	Flying-fox Camp Management Policy 2015 (NSW)
SEPPs	State Environmental Planning Policies
SIS	species impact statement
TEC	threatened ecological community
TSC Act	<i>Threatened Species Conservation Act 1995</i> (NSW)

Executive Summary

In 2005, flying-foxes established a camp at Muscle Creek and a section of the Hunter River. Historically the camp has been occupied by the threatened grey-headed flying-fox (GHFF) with the population varying seasonally over time. In recent years, Little Red Flying-foxes (LRF) have also been occupying the site. The land occupied by the main camp area is owned by Council, Department of Infrastructure - Lands and Australian Rail Track Corporation (ARTC).

The Muswellbrook flying-fox Camp is located close to residential areas and unoccupied land zone RU1. The Camp's proximity to a caravan park and public facilities including walkways, recreational areas, sporting fields, clubs, hotels and the local hospital are the main areas of concern for the community and conflict increases when the number of flying foxes increase.

Grey-headed flying-foxes are listed as threatened species under both NSW and Commonwealth legislation, and disturbance to flying foxes and their habitat is limited by legislative requirements. This species is highly mobile and camp populations vary widely over time due to food resource availability.

The Muswellbrook flying-fox Camp Management Plan provides a tool to ensure appropriate management of the camp. This management plan outlines the issues of concern to the community caused by the presence of flying-foxes, and measures that will be taken to manage the land and reduce conflict with the local community. This approach may guide Council's approach in other locations in the local government area if flying-fox issues arise.

Experience in other areas has shown that attempts to move camps are generally unsuccessful, expensive, and likely to result in relocation of problems to neighbouring areas. Therefore, management actions proposed at Muswellbrook are primarily to reduce the impact of flying-foxes roosting close to residential dwellings and to reduce the risk of disease transmission to the local equine industry.

Preparation of the Plan included a community survey of residents throughout the community, and consultation with the NSW Office of Environment and Heritage.

The Camp Management Plan provides the framework for guiding Council's management actions on the land, and in responding to concerns of nearby residents.

Given the mobility of flying-foxes and the expected variability of the population of the camp over time, the focus of implementation actions is on:

- Providing residents with car covers and/or pool covers and/or clothesline covers, where they are directly affected by roosting Flying-foxes.
- Providing residents with access to a high powered water guernsey where they are directly impacted by roosting flying foxes.
- Education and awareness programs.

In the event that the flying-foxes no longer occupy the site or are present in low numbers, then many of the actions identified in the Plan may not be required. Alternatively, if the number of individuals at the camp increases, then it may be necessary to review actions.

1 Overview

1.1 Background

This Camp Management Plan has been developed as part of a Hunter Regional project that has developed Flying-fox Camp Management Plans for Central Coast Council, Mid Coast Council, Muswellbrook Shire Council, Singleton Council, Port Stephens Council and Upper Hunter Shire Council. Participating in this project has enabled strong alignment with the actions of other Councils and the creation of active working relationships with these Councils, so that if any management action undertaken affects the roosting behaviours or Flying-foxes in one jurisdiction, a network of land management / ecology specialists can notify neighbouring Councils of any possible increased Flying-fox movements.

The plan has been prepared to identify actions that are available to reduce the impact of flying foxes on residents, particularly adjacent to the land occupied by the camp, while maintaining suitable habitat on the site to support the population of the grey-headed flying-fox, a listed threatened species. The plan also provides general guidance throughout the Muswellbrook local government area for flying-fox camps.

The purpose of this plan is to identify the various Flying-fox management activities to be undertaken at the Camp. If approved by OEH (in combination with other relevant license applications and legislative requirements), this plan will enable appropriate management of the Flying-fox habitat to reduce human/bat conflict. Included actions pose little to no direct impact to flying-foxes, and Council already has a s91 Licence as it is currently undertaking riparian management activities in the area. The plan operates for a period of 5 years.

Map 1: Flying-fox Camps in Muswellbrook LGA



1.2 Objectives

Mid Coast Shire Council has developed this Flying-fox Camp Management Plan to provide Council, and the community a clear framework for the management of the Muswellbrook Flying-fox Camp.

The objectives of this Camp Management Plan (the Plan) are to:

- minimise impacts to the community, while conserving flying-foxes and their habitat
- enable land managers and other stakeholders to use a range of suitable management responses to sustainably manage flying-foxes

The following Plan provides details on the Camp site, Flying-fox species, community inputs, management opportunities and an agreed Management Plan designed to achieve the above stated objectives.

The objectives of the plan are consistent with the Office of Environment and Heritage Flying-fox Camp Management Policy (OEH 2015).

1.3 Roles and Responsibilities

There are a number of organisations that have either a responsibility or role, in the management of issues related to the Muswellbrook Flying Fox Camp.

1.3.1 Muswellbrook Shire Council

The flying-fox camp at times extends onto Muswellbrook Shire Council managed land, and as the representative organisation of the local community Council plays an active role in developing management actions for the site. The Muswellbrook Flying-fox Camp Management Plan is being facilitated by Council on behalf of the Land Managers.

1.3.2 NSW Department of Industry - Lands

The NSW Department of Industry - Lands is a land owner of portions of Crown Land on which the Muswellbrook Flying-fox Camp is located, subsequently decisions about how to manage the flying-fox Camp should be made in conjunction with this agency.

1.3.3 NSW Office of Environment and Heritage

The Office of Environment and Heritage (OEH) is responsible for administering the Threatened Species Act 1995, and for ensuring the impact of any action affecting threatened species is properly assessed. Any application by DPI-Lands to disrupt the flying-foxes roosting site (the camp) is assessed by OEH Regional Operations Group Hunter Central Coast (ROG-HCC), Planning and Ecosystems and Threatened Species teams.

1.3.4 Wildlife Care Group

Injured or distressed flying-foxes are rescued and cared for by licenced wildlife rehabilitators.

2 Context

2.1 Local Context

2.1.1 Muswellbrook Flying-fox Camp and Surrounds

Grey-Headed Flying-foxes started visiting the Muswellbrook site in 2005 and typically roost in trees in the riparian zone surrounding Muscle Creek. Since 2011, Flying-foxes have predominantly roosted in trees near the caravan park at the junction of the Hunter River and Muscle Creek. A smaller roost site is also known to be commonly occupied adjacent to the Muswellbrook Aquatic Centre.

In August 2015, the population of grey-headed flying-foxes peaked at approximately 32,000 animals, they were observed roosting from Scott Street in the north to the Hunter River immediately west of the Caravan Park. Flying Foxes were also roosting on Muscle Creek between residential properties from Wilkinson Street to Wilder Street (Refer to Map 2). Flying Foxes were observed roosting on both sides of the creek, with the majority roosting along the eastern side of Muscle Creek.

Map 2: Muswellbrook Flying-fox Camp location and extent



2.1.2 Land Tenure, Land Use and Zoning

The Muswellbrook Flying-fox Camp is predominantly located on either Council Land, or Crown Land under the care and control of Council. Portions of the Camp also occur on land managed by Department of Industry – Lands, and ARTC. Land directly to the east of the camp is private residential, with land to the West of the River utilised for farming. Details of the land tenure surrounding the camp are shown in Map 3.

Map 3: Land tenure of the Muswellbrook Flying-fox Camp and surrounds



In addition to residential dwellings, a number of public facilities, services and businesses are located close to the Camp; these are a school, caravan park, disability services building, hotel, aquatic centre and other sporting facilities. Details of the land zoning surrounding the Flying-fox Camp are included in Map 4.

Map 4: Zoning of Land surrounding the Muswellbrook Flying-fox Camp



2.1.3 Flying-fox Population & Statistics

Scientific Committee Recommendation for Listing as a Nationally Vulnerable Species

Advice to the Federal Minister for the Environment and Heritage from the Threatened Species Scientific Committee (TSSC) on Amendments to the list of Threatened Species under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) recommended Grey Headed Flying-foxes should be listed as Vulnerable due to the decline in the National Population over the preceding years¹.

The Committee noted population size data obtained by fly-out count surveys contain a degree of error that is difficult to quantify (related to the survey methodology; and the comparability of the survey results for the purpose of calculating trends in population size or species abundance). Fly-out counts are acknowledged by the scientific community to be the best method currently available of obtaining reliable and reproducible estimates of abundance (if not actual population counts) for flying-foxes. The available data for 1989 and 1998-2001 has been obtained using the same survey techniques that are widely acknowledged to be appropriate for estimating the abundance of this species.

The data available from the fly-out counts conducted should be regarded as estimates of abundance, rather than precise population counts.

¹ <http://www.environment.gov.au/biodiversity/threatened/conservation-advice/pteropus-poliocephalus>, accessed 27 March 2017.

The surveys of 1998-2001 have been much more comprehensive than the 1989 survey in terms of the number of roosts and extent of geographical range included. Despite the significantly increased knowledge of the species roost sites and survey effort, the estimates of abundance obtained indicate a decline in the abundance of the species. Using the maximum estimate from the 1998-2001 surveys (400,000) and the minimum estimate of abundance in 1989 (566,000), the rate of decline since 1989 has been in the order of 30%.

A number of experts commented that the projected habitat clearance in northern NSW is the primary ongoing threat to Grey-headed Flying-foxes. One expert stated that annually reliable winter resources are limited in distribution to a narrow coastal strip in northern NSW and Queensland. These coastal areas are targeted for intensive residential development to cater for a projected 25% increase in the human population over the next decade. It was this argument that convinced the Editorial Panel of the Bat Action Plan to identify Grey-headed Flying-foxes as vulnerable, although the Editorial Panel was not unanimous in its decision.

Flying Fox Population at the Muswellbrook Flying Fox Camp

According to the CSIRO census, August is the peak month for flying-fox activity in Muswellbrook (see **Error! Not a valid bookmark self-reference.**). Anecdotal evidence from residents suggest that flying foxes have been observed at the site much longer than the census data suggests, and that typically the majority of animals are present during May – June with Flying-foxes typically leaving the camp in July, the population observation in August 2015 was an aberration from previous years.

Table 1: Flying-fox population data (source: CSIRO National Flying-fox census).

	Nov-12	Feb-13	May-13	Aug-13	Nov-13	Feb-14	May-14	Aug-14	Nov-14	Feb-15	May-15	Aug-15	Nov-15	Feb-16	May-16	Aug-16
Hunter Camps	15,387	131,788	44,519	23,649	15,172	97,769	27,533	7,681	130,269	335,279	105,926	112,624	138,593	309,962	176,703	66,784
Muswellbrook Camp GHFF	0	0	0	0	0	0	0	0	0	0	0	32000	1000	800	-	-
Muswellbrook Camp LRFF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Muswellbrook Camp BFF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% of Hunter Region FF in Muswellbrook	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	28.4%	0.7%	0.3%	0%	0%

GHFF = Grey Headed Flying-fox; LRFF = Little Red Flying-fox; BFF = Black Flying-fox

Figure 1 provides a graphical presentation of the Flying-fox population data collected by the CSIRO census (presented Table 1).

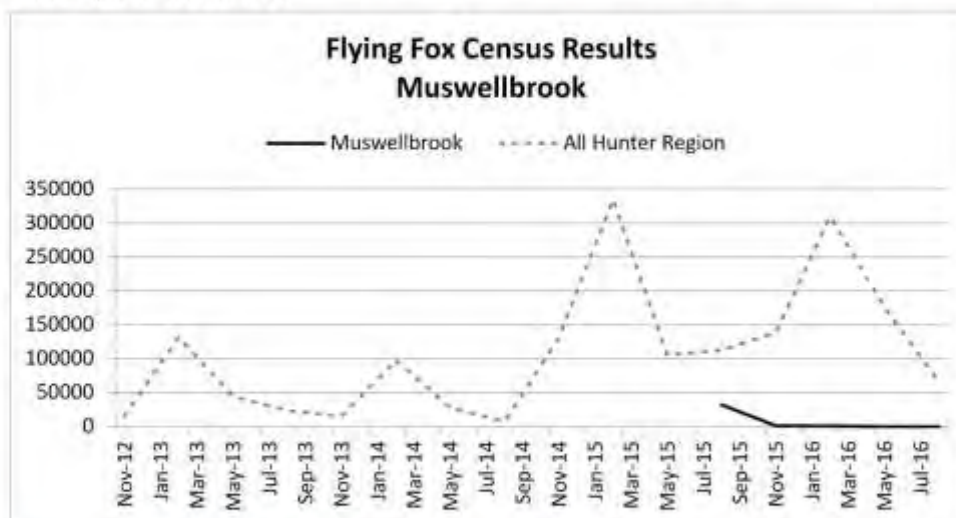


Figure 1: Graph of Flying-fox census results for the Muswellbrook Flying-fox Camp (source: CSIRO National Flying-fox census)

The location and extent of the camp has changed over time, see Map 5 for details on camp extent during census surveys.

Map 5: Camp extent boundaries as noted during CSIRO Flying-fox census activities



2.1.4 Community Interests and Issues Related to the Camp

Flying-foxes have been a constant issue discussed in local papers and media over the years, details of recent media coverage regarding Flying-foxes is included in Appendix 3: Media Coverage of Flying Foxes in the Hunter Region

The following list is a collation of the issues related to the camp that have been reported by the community. The list has been compiled from information collected via a range of reporting and consultation methods. Further discussion about community engagement efforts and outcomes can be found in Section 3.

Reported issues include:

- noise as flying-foxes depart or return to the camp
- faecal drop on outdoor areas, cars and washing lines
- odour
- Flying-foxes feeding on residential fruit trees at night
- fear of disease
- reduced general amenity
- impacts on businesses

The Office of Environment & Heritage has received limited complaints about the Muswellbrook Flying-fox Camp, whilst Council has only received a total of six complaints in the past three years. Despite the limited number of official complaints to Council there were a very large number of complaints on social media local community pages which cannot be recorded.

2.1.5 Management Response to Date

To date Council has monitored flying fox numbers and health of the population.

Council has undertaken a community consultation and education program and has distributed education brochures to residents in the affected zone. These education brochures are available on Council's website

Council is currently undertaking large scale revegetation works along Muscle Creek including weed removal and plantation of habitat and food trees.

There are further plans for a flying fox habitat restoration project at Muswellbrook Common which will include planting of food trees, roosting trees and weed removal away from residential areas.

2.2 Ecological Values of Flying Foxes, the Camp and Surrounding Areas

2.2.1 Flying-fox Species Profiles

There are two species of Flying-foxes that have been recorded utilising the Muswellbrook Flying-fox Camp. Details on these species follow.

Grey-headed flying-fox (*Pteropus poliocephalus*)



Figure 2: Grey-headed flying-fox indicative species distribution, adapted from OEH 2015a

The Grey-Headed Flying-fox (Figure 2) is found throughout eastern Australia, generally within 200 kilometers of the coast, from Finch Hatton in Queensland to Melbourne, Victoria (OEH 2015d). This species now ranges into South Australia and has been observed in Tasmania (DoE 2016a). It requires foraging resources and camp sites within rainforests, open forests, closed and open woodlands (including melaleuca swamps and banksia woodlands). This species is also found throughout urban and agricultural areas where food trees exist and will raid orchards at times, especially when other food is scarce (OEH 2015a).

All the Grey-Headed Flying-fox in Australia are regarded as one population that moves around freely within its entire national range (Webb & Tidemann 1996; DoE 2015). GHFF may travel up to 100 kilometers in a single night with a foraging radius of up to 50 kilometers from their camp (McConkey et al. 2012). They have been recorded travelling over 500 kilometers over 48 hours when moving from one camp to another (Roberts et al. 2012). Grey-Headed Flying-fox generally show a high level of fidelity to camp sites, returning year after year to the same site, and have been recorded returning to the same branch of a particular tree (SEQ Catchments 2012). This may be one of the reasons flying-foxes continue to return to small urban bushland blocks that may be remnants of historically-used larger tracts of vegetation.

The Grey-Headed Flying-fox population has a generally annual southerly movement in spring and summer, with their return to the coastal forests of north-east NSW and south-east Queensland in winter (Ratcliffe 1932; Eby 1991; Parry-Jones & Augee 1992; Roberts et al. 2012). This results in large fluctuations in the number of Grey-Headed Flying-fox in NSW, ranging from as few as 20% of the total population in winter up to around 75% of the total population in summer (Eby 2000). They are widespread throughout their range during summer, but in spring and winter are uncommon in the south. In autumn they occupy primarily coastal lowland camps and are uncommon inland and on the south coast of NSW (DECCW 2009).

There is evidence the GHFF population declined by up to 30% between 1989 and 2000 (Birt 2000; Richards 2000 cited in OEH 2011a). There is a wide range of ongoing threats to the survival of the Grey-Headed Flying-fox, including habitat loss and degradation; deliberate destruction associated with the commercial horticulture industry; conflict with humans; infrastructure-related mortality (e.g. entanglement in barbed wire fencing and fruit netting, power line electrocution, etc.). For these reasons it is listed as vulnerable to extinction under NSW and federal legislation.

Little red flying-fox (*Pteropus scapulatus*)

Figure 3: Little red flying-fox indicative species distribution, adapted from OEH 2015a

The Little Red Flying-fox (Figure 3) is widely distributed throughout northern and eastern Australia with populations occurring across northern Australia and down the east coast into Victoria.

The Little Red Flying-fox forages almost exclusively on nectar and pollen, although will eat fruit at times and occasionally raids orchards (Australian Museum 2010). Little Red Flying-fox often move sub-continental distances in search of sporadic food supplies. The Little Red Flying-fox has the most nomadic distribution, strongly influenced by availability of food resources (predominantly the flowering of eucalypt species) (Churchill 2008), which means the duration of their stay in any one place is generally very short.

Habitat preferences of this species are quite diverse and range from semi-arid areas to tropical and temperate areas, and can include sclerophyll woodland, melaleuca swamplands, bamboo, mangroves and occasionally orchards (IUCN 2015). Little Red Flying-fox are frequently associated with other *Pteropus* species. In some colonies, Little Red Flying-fox individuals can number many hundreds of thousands and they are unique among *Pteropus* species in their habit of clustering in dense bunches on a single branch. As a result, the weight of roosting individuals can break large branches and cause significant structural damage to roost trees. In addition to elevating soil nutrient levels through faecal material (SEQ Catchments 2012).

Throughout its range, populations within an area or occupying a camp can fluctuate widely. There is a general migration pattern in Little Red Flying-fox, whereby large congregations of over one million individuals can be found in northern camp sites (e.g. Northern Territory, North Queensland) during key breeding periods (Vardon & Tidemann 1999). Little Red Flying-fox travel south to visit the coastal areas of south-east Queensland and NSW during the summer months. Outside these periods Little Red Flying-fox undertake regular movements from north to south during winter–spring (July–October) (Milne & Pavey 2011).

2.2.2 Muswellbrook Flying-fox Camp Description

Flying-foxes have predominantly roosted in trees near the caravan Park at the junction of the Hunter River and Muscle Creek. A smaller roost site is also known to be commonly occupied adjacent to the Community Swimming Centre (see Map 2).

Muscle Creek is adjacent to residential areas, parkland, a Caravan Park, Bowling Club and a Public Swimming pool. The vegetation along Muscle Creek has been extensively cleared and modified. Noxious weeds, environmental weeds and garden escapees dominate the riparian zone - there are extensive areas where the weed infestations cover 90 - 100% of the riparian Zone, however there are pockets of native canopy species, of River Oak (*Casuarina cunninghamiana*), Rough-barked Apple (*Angophora floribunda*) and White Cedar (*Melia azedarach*), as shown in Photograph 1.

In the main Flying-fox Camp area (see Map 5) the ground cover, shrub layer and vines are dense and weed infested. When the Flying-fox population increases, they roost in trees along the water course to the north, south and east of the core Camp area. There does not appear to be any known roosting sites outside of the vegetated riparian zone, however properties adjacent to the River may experience flying-foxes nearby when numbers peak.

The tree canopy in the core area is dominated by Willow, a number of native River Oak and Eucalypt species present (see Photograph 2). Willow trees provides a good lower to upper canopy foliage for the flying-foxes to roost in, and appears to be the most favoured roosting tree at this Camp. The Willow and River Oak are typically about 20m high with Eucalypts averaging 25m high, all trees provide significant roosting space and protection from heat.

The camp is a known breeding Camp for Grey-headed Flying-foxes.



Photograph 1: Main Flying-fox Camp Area (ARTC Land)



Photograph 2: Main Flying Fox Camp area

2.2.3 Ecological role of Flying Foxes

Flying-foxes, along with some birds, make a unique contribution to ecosystem health through their ability to move seeds and pollen over long distances (Southerton et al. 2004). This contributes directly to the reproduction, regeneration and viability of forest ecosystems (DoE 2016a). It is estimated that a single flying-fox can disperse up to 60,000 seeds in one night (ELW&P 2015). Some plants, particularly *Corymbia* spp., have adaptations suggesting they rely more heavily on nocturnal visitors such as bats for pollination than daytime pollinators (Southerton et al. 2004).

Grey-headed flying-foxes may travel 100 km in a single night with a foraging radius of up to 50 km from their camp (McConkey et al. 2012), and have been recorded travelling over 500 km in two days between camps (Roberts et al. 2012). In comparison bees, another important pollinator, move much shorter foraging distances of generally less than one kilometre (Zurbuchen et al. 2010).

Long-distance seed dispersal and pollination makes flying-foxes critical to the long-term persistence of many plant communities (Westcott et al. 2008; McConkey et al. 2012), including eucalypt forests, rainforests, woodlands and wetlands (Roberts et al. 2006). Seeds that are able to germinate away from their parent plant have a greater chance of growing into a mature plant (EHP 2012). Long-distance dispersal also allows genetic material to be spread between forest patches that would normally be geographically isolated (Parry-Jones & Auger 1992; Eby 1991; Roberts 2006). This genetic diversity allows species to adapt to environmental change and respond to disease pathogens. Transfer of genetic material between forest patches is particularly important in the context of contemporary fragmented landscapes.

Flying-foxes are considered 'keystone' species given their contribution to the health, longevity and diversity among and between vegetation communities. These ecological services ultimately protect the long-term health and biodiversity of Australia's bushland and wetlands. In turn, native forests act as carbon sinks, provide habitat for other fauna and flora, stabilise river systems and catchments, add value to production of hardwood timber, honey and fruit (e.g. bananas and mangoes; Fujita 1991), and provide recreational and tourism opportunities worth millions of dollars each year (EHP 2012; ELW&P 2015).

2.2.4 Flying Fox Habitat

Vegetation Communities

Vegetation assessments undertaken at the at Wilder Street, Wilkinson Street, Mill Street and Brook Street roosting sites identified the dominant tree, shrub and ground cover species within a 20 by 20 metre area. Overall, there was limited native species diversity identified within the rapid assessment sites, which is a result of past extensive clearing of the riparian zone, displaced by exotic species.

Threatened Species & Endangered Ecological Communities

The Muswellbrook Flying-fox Camp contains potential habitat for *Eucalyptus camaldulensis* an endangered population in the Hunter Catchment. The Camp also contains habitat for Hunter Floodplain Red Gum Woodland, listed as an Endangered Ecological Community under the TSC Act. No other threatened species or populations were recorded during the site assessment. It is recommended that a detailed Flora and Fauna assessment be undertaken to identify location and extent of any threatened flora and fauna species which are likely to utilise the riparian habitats.

A list of threatened species known to occur within 10 km of the site and are likely to be found on site is provided in Table 2.

Table 2: Threatened species and ecological communities that are likely to occur at the site²

Species Name	Common Name	NSW Status	Commonwealth Status
Fauna			
<i>Falsistrellus tasmaniensis</i>	Eastern False Pipistrelle	V,P	
<i>Pteropus poliocephalus</i>	Grey-headed Flying-fox	V,P	V
<i>Chalinolobus dwyeri</i>	Large-eared Pied Bat	V,P	V
<i>Hieraaetus morphnoides</i>	Little Eagle	V,P	
<i>Anthochaera phrygia</i>	Regent Honeyeater	E1A,P	CE
<i>Myotis macropus</i>	Southern Myotis	V,P	
<i>Circus assimilis</i>	Spotted Harrier	V,P	
<i>Dasyurus maculatus</i>	Spotted-tailed Quoll	V,P	V
<i>Saccolaimus flaviventris</i>	Yellow-bellied Shearwater-tail-bat	V,P	
Flora			
<i>Eucalyptus camaldulensis</i>	Eucalyptus camaldulensis population in the Hunter catchment	E2	
EEC			
Endangered: Hunter Floodplain Redgum Forest Woodland in the Sydney Basin and New South Wales North Coast Bioregions		E3	

V= Vulnerable, P= Protected, E1A= Critically Endangered, CE, Critically Endangered, E2 = Endangered Population, E3= Endangered Ecological Community.

² Source: Atlas of Living in Australia 08/11/2016

Foraging Areas

Within the Camp

A mature stand of River Redgum (*Eucalyptus camaldulensis*), is located just north of Wilder Street, extending approximately 150m along Muscle Creek, .. River Redgums extend onto ARTC land north of the Caravan Park, and on Muscle Creek at the end of Gyarran Road, south west of Wilder Street (see Photograph 3) and within the Caravan Park grounds at Mill Street. River Redgum occurs intermittently along Muscle Creek, the extent and distribution of this species along the entire camp has not been comprehensively mapped.

Other suitable foraging species include Silky Oak (*Grevillea robusta*) Forest Redgum (*Eucalyptus tereticornis*) and Blakely's Redgum (*Eucalyptus blakelyi*) and Prickly-leaved Paperbark (*Melaleuca stypheloides*) which occur intermittently as scattered mature trees or small stands along Muscle Creek (see Photograph 3).

Flying-foxes are also known to feed on environmental weeds such as Small-leaved Privet, which is widespread at the Brook Street site.



Photograph 3: River Redgum an Endangered Population in the Hunter Catchment – preferred Flying Fox foraging habitat at Muscle Creek, near Wilder Street

Within 1km of the Camp

Populations of River Redgum occur within the golf course south west of the Flying Fox Camp.

Flying Foxes may opportunistically forage on species which occur in backyards including Silky Oaks, Cocos Palms and Broad-leaved Paperbark (*Melaleuca quinquenervia*). Suitable foraging habitat is less evident within residential areas closest to the business district. Flying Foxes will opportunistically feed on planted fruit trees when available.

Several small stands of remnant White Box, Narrow-leaved Ironbark (*Eucalyptus crebra*), Broad-leaved Ironbark (*Eucalyptus fibrosa*), Grey-Box (*Eucalyptus moluccana*), Forest Redgum and Rough-barked Apple occur in residential areas to the south and north of the creek that are likely to attract foraging Flying-foxes.

Within 6km of the Camp

There are a number of remnant native vegetation communities within 6km of the Camp which are known food sources for Flying-foxes, these are:

- Narrow-leaved Ironbark - Grey Box grassy woodland of the central and upper Hunter and associated with the Listed EPBC Act, Critically endangered: Central Hunter Valley eucalypt forest and woodland (Part)
- White Box - Narrow-leaved Ironbark - Blakely's Red Gum shrubby open forest of the central and upper Hunter and associated with the Listed TSC Act Endangered White Box Yellow Box Blakely's Red Gum Woodland (Part).
- Lower Hunter Valley Dry Rainforests - TSC Act Endangered Ecological Community
- Hunter Floodplain Redgum Woodland - TSC Act Endangered Ecological Community
- Central Hunter Ironbark-Spotted Gum-Grey Box Forest -TSC Act Endangered Ecological Community (Peake 2006).

Surrounding the Camp (20km)

The number of flying-foxes present in a camp is primarily driven by the amount and quality of food available in the local area, relative to that available within migration distance (Tidemann 1999; Eby 1991; Roberts et al 2012). Flying-foxes typically feed within 20 km of their roost (Tidemann 1999), and digital maps of feeding habitat for Grey-headed Flying-foxes have been used to summarise feeding resources within 20 km of the Muswellbrook camp (Eby and Law 2008).

The area surrounding the Muswellbrook camp has been heavily cleared for agriculture and mining. Approximately 17% of land within 20 km of the site supports native forests and woodlands, primarily in small remnant patches. While some dry rainforest occurs in the area, it is rare and rainforest fruits provide sparse food resources for flying-foxes during late summer and autumn.

Approximately 90% of forested land within 20km of Muswellbrook contains flowering trees visited by flying-foxes. In total, 10 species of trees in the flower diet of Grey-headed flying-foxes occur within feeding range of the Muswellbrook camp (Table 3). They vary considerably in the amount of nectar they secrete, the frequency and duration of flowering, their seasonal flowering schedules and their area of distribution. Interactions between these characteristics determine the influence they have on the presence of flying-foxes in the Muswellbrook camp and the size of the population. Species with restricted distributions or that produce relatively low volumes of nectar are likely to have a minor influence on the number of flying-foxes feeding in the area.

Three highly productive species are likely to have a substantial influence (Table 3): Spotted Gum, White Box and Grey Ironbark. Remnant vegetation immediately surrounding Muswellbrook and to the north contains box-ironbark grassy woodlands dominated by White Box. To the south and west lie woodlands dominated by Spotted Gum and Grey Ironbark.

The irregular influxes of flying-foxes to the Muswellbrook camp appear to be driven by flowering of Spotted Gum and White Box. Influxes in 2012 and 2015 were associated with significant flowering of White Box during late autumn and winter; a mass flowering of Spotted Gum coincided with the 2012 event. A resource bottleneck for Grey-headed flying-foxes occurs during winter and flowering of Spotted Gum and White Box are particularly attractive to Grey-headed Flying-foxes. The length of time the camp is occupied is likely to extend to spring and summer in years when Grey Ironbark flowers well.

Table 3: Characteristics of flowering trees in the diet of Grey-headed Flying-foxes that occur within 20 km of the Muswellbrook camp. Nectar abundance is scored in 4 categories from 0 to 1; the approximate frequency of flowering is also scored in 4 categories relating to % of years; duration of flowering is scored in months. Species likely to play a significant role in determining the number of flying-foxes present in the camp, as assessed by nectar abundance and area of distribution, are highlighted in grey. Species found in <1% of native vegetation have been excluded. See Eby and Law (2008) for further details

Species	Common Name	% area of native vegetation	flowering characteristics			bi-monthly flowering schedule					
			nectar abundance	frequency (% yrs)	duration (mth)	Dec-Jan	Feb-Mar	Apr-May	Jun-Jul	Aug-Sep	Oct-Nov
<i>Corymbia maculata</i>	Spotted Gum	25%	1	0.25	4-6			X	X		
<i>Eucalyptus albens</i>	White Box	20%	0.7	0.4	4			X	X	X	
<i>E. siderophloia</i>	Grey Ironbark	15%	1	0.7	2	X					X
<i>Angophora floribunda</i>	Rough-barked Apple	5%	0.5	0.4	1	X					
<i>E. acmenoides</i>	White Mahogany	10%	0.3	0.7	1	X					X
<i>E. fibrosa</i>	Broad-leaved Ironbark	10%	0.7	0.4	2	X					
<i>E. moluccana</i>	Grey Box	50%	0.3	0.7	2		X				
<i>E. propinqua</i>	Small-fruited Grey Gum	5%	0.5	0.4	2	X	X				
<i>E. punctata</i>	Large-fruited Grey Gum	20%	0.3	0.7	1	X	X				
<i>E. tereticornis</i> (inland)	Forest Red Gum	15%	0.5	0.4	2	X					X
						7	3	2	2	1	3

Roosting Areas

In August 2015, the population of grey-headed flying-foxes peaked at approximately 32,000 animals, they were observed roosting from Scott Street in the north to the Hunter River immediately west of the Caravan Park. Flying Foxes were also roosting on Muscle Creek between residential properties from Wilkinson Street to Wilder Street (Refer to **Error! Reference source not found.**). Flying Foxes were observed roosting on both sides of the creek, with the majority roosting along the eastern side of Muscle Creek.

This significant increase in Flying Foxes coincided with the widespread and abundant flowering of Spotted Gums (*Corymbia maculata*). It is likely that an expansion of the Camp will occur again during major flowering events.

During the November 2016 site assessments, Flying Foxes were only roosting in discrete locations areas along the Hunter River and Muscle Creek. (see Map 6). These areas were confined to:

- Wilder Street just south of the Public Swimming Pool,
- In the core Roosting area, west of the Caravan Park,

Map 6: November 2016 site inspections near Wilder Street



At the Wilder Street site, Flying-foxes were roosting in the very tops of River Oak trees. At the Caravan Park and on the ARTC land, Flying-foxes exclusively roosted in Willow Trees.

Between the Wilder Street and the Wilkinson sites, the native canopy and mid-storey species are open, and dominated by River Oak and River Redgum, which are known roosting habitat. Both Muscle Creek and the Hunter River contain widespread Willows, River Oak, providing suitable roosting habitat.

Potential Overflow Roosting Areas

The riparian zone throughout the Muswellbrook township is prime Flying-fox roosting habitat (see **Error! Reference source not found.**). There appears to be limited possible overflow areas within the township, other than along the riparian zone. It is possible however that there may be some large planted trees within the township that may be suitable enough for flying foxes to roost in if there were Camp capacity pressures or other reasons why they may feel they have to move camp e.g. disturbance at main Camp. Other potential overflow sites may continue further to the north of the camp and also towards Bell Street. Within this area the species and density of the vegetation is consistent with the existing roost area.

Map 7: Potential Flying-fox Camp overflow areas



2.2.5 Flying-foxes in Urban Areas

Flying-foxes appear to be roosting and foraging in urban areas more frequently. There are many possible drivers for this, as summarised by Tait et al. (2014):

- loss of native habitat and urban expansion -
- opportunities presented by year-round food availability from native and exotic species found in expanding urban areas
- disturbance events such as drought, fires, cyclones
- human disturbance or culling at non-urban roosts or orchards
- urban effects on local climate
- refuge from predation
- movement advantages e.g. ease of maneuvering in flight due to the open nature of the habitat or ease of navigation due to landmarks and lighting.

The vegetation along Muscle Creek is dominated by densely infested and widespread noxious and environmental weeds, providing suitable habitat for Flying-foxes. Further north, south and west of the camp, riparian vegetation is absent, making the riparian zone in Muswellbrook township the only reliable roosting habitat in the immediate vicinity.

The following threats and hazards to the Muswellbrook Flying-fox Camp have been identified:

- Natural food shortages – due to land clearing in combination with poor flowering seasons
- Fruit tree netting – females with young have been observed trapped in netting (2017)
- Limited potential roosting areas – may have to roost in less desirable areas if population grows.
- Heat events – recent heat waves have seen animal deaths throughout the region.
- Disturbance from local residents.
- Barbed wire – fencing across dams in particular poses a 'death-trap' to Flying-foxes
- Powerlines – when there are food shortages, Flying-foxes are more likely to forage in urban areas and there is therefore an increased risk of electrocution.
- Fireworks – Wildlife Rehabilitators often get calls to attend injured animals after fireworks have been set off

2.2.6 Flying-foxes Under Threat

Flying-foxes roosting and foraging in urban areas more frequently can give the impression that their populations are increasing; however, the grey-headed flying-fox is in decline across its range and in 2001 was listed as vulnerable by the NSW Government through the TSC Act.

At the time of listing, the species was considered eligible for listing as vulnerable as counts of flying-foxes over the previous decade suggested that the national population may have declined by up to 30%. It was also estimated that the population would continue to decrease by at least 20% in the next three generations given the continuation of the current rate of habitat loss and culling.

The main threat to grey-headed flying-foxes in NSW is clearing or modification of native vegetation. This threatening process removes appropriate roosting and breeding sites and limits the availability of natural food resources, particularly winter-spring feeding habitat in north-eastern NSW. The urbanisation of the coastal plains of south-eastern Queensland and northern NSW has seen the removal of annually-reliable winter feeding sites, and this threatening process continues.

There is a wide range of ongoing threats to the survival of the Grey Headed Flying-fox, including:

- habitat loss and degradation
- conflict with humans (including culling at orchards)
- infrastructure-related mortality (e.g. entanglement in barbed wire fencing and fruit netting, power line electrocution, etc.)
- predation by native and introduced animals
- exposure to extreme natural events such as cyclones, drought and heat waves.

Flying-foxes have limited capacity to respond to these threats and recover from large population losses due to their slow sexual maturation, small litter size, long gestation and extended maternal dependence (McIlwee & Martin 2002).

2.2.7 Flying-foxes and Heat Stress

Heat stress affects flying-foxes when temperatures reach 42°C or more. Over the past two decades, a number of documented heat stress events have resulted in significant flying-fox mortality.

When ambient temperatures rise above 35°C flying-foxes tend to alter their behaviour to reduce

While there is conflicting advice about how or whether to intervene during a heat stress event at a flying-fox camp, it should be noted that human presence in a camp at such times can increase the stress and activity levels of flying-foxes present, potentially leading to greater harm. Any response to a heat stress event should be undertaken as an organised and monitored response. It is recommended that data is collected after the heat stress event and provided to scientists able to analyse the data and to help the Office of Environment and Heritage share best practice management techniques as they are developed. The data collected will help improve future advice on intervention during these events.

exposure to heat. A range of behaviours may be exhibited, depending on multiple variables in their environment. The impacts of heat stress events are likely to vary site by site, and can depend on conditions in the preceding days. Ambient temperature alone may thus not be a sound indicator of a heat stress event, and flying-fox behaviour may provide more reliable information. As flying-foxes experience heat stress, they are likely to exhibit a series of behaviours indicating progressive impact of that stress, including:

- clustering or clumping,
- panting,
- licking wrists and wing membranes
- descending to lower levels of vegetation or to the ground.

Some of these behaviours may occur outside of heat stress events.

The March 2016 Heat Wave saw temperatures exceed 46.8°C in Cessnock, but there were no recorded Flying-fox deaths at the East Cessnock Camp, most likely due to the condition of the Camp, and the ability for the Flying-fox population to move closer to the ground and seek cover in the thick mid and lower stories of vegetation on site.

Black Flying-foxes tend to start dying above ~42°C, and Grey-headed Flying-foxes above ~43°C.

2.2.8 Human and Animal Health

Flying-foxes, like all animals, carry bacteria and other microorganisms in their guts, some of which are potentially pathogenic to other species. Direct contact with faecal material should be avoided and general hygiene measures taken to reduce the low risk of gastrointestinal and other disease.

Contamination of water supplies by any animal excreta (birds, amphibians and mammals such as flying-foxes) poses a health risk to humans. Household tanks should be designed to minimise potential contamination, such as using first flush diverters to divert contaminants before they enter water tanks. Trimming vegetation overhanging the catchment area (e.g. the roof of a house) will also reduce wildlife activity and associated potential contamination. Tanks should also be appropriately maintained and flushed, and catchment areas regularly cleaned to remove potential contaminants.

Public water supplies are regularly monitored for harmful microorganisms, and are filtered and disinfected before being distributed. Management plans for community supplies should consider whether any large congregation of animals, including flying-foxes, occurs near the supply or catchment area. Where they do occur, increased frequency of monitoring should be considered to ensure early detection and management of contaminants.

Flying-foxes, like all animals, carry pathogens that may pose human health risks. Many of these are viruses which cause only asymptomatic infections in flying-foxes themselves but may cause significant disease in other animals that are exposed. In Australia the most well-defined of these include Australian bat lyssavirus (ABLV), Hendra virus (HeV) and Menangle virus. Specific information on these viruses is provided in Appendix 5.

Outside of an occupational cohort, including Wildlife Rehabilitators and vets, human exposure to these viruses is extremely rare and similarly transmission rates and incidence of human infection are very low. In addition, HeV infection in humans apparently requires transfer from an infected intermediate equine host and direct transmission from bats to humans has not been reported. Thus despite the fact that human infection with these agents can be fatal, the probability of infection is extremely low and the overall public health risk is judged to be low (Old Health 2016).

More detail on diseases and Flying-foxes can be accessed through Muswellbrook Shire Council.

2.3 Legislative and Regulatory Context

The Grey-Headed Flying-fox (*Pteropus poliocephalus*) is listed as a vulnerable species under the *Federal Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and is therefore considered a 'Matter of National Environmental Significance' and is therefore protected under federal law.

It is recognised that at the time of developing this Camp Management Plan, the NSW State Government was preparing to overhaul environmental protection legislation and some of the references below are likely to change post July 2017.

There are numerous State based legislative instruments that manage and control actions related to flying-foxes and their habitat, these are discussed in **Error! Reference source not found.**

In NSW, the grey-headed flying-fox was listed as vulnerable under the *NSW Threatened Species Conservation Act 1995* in 2001. This listing is based on scientific evidence indicating a significant decline in the population of the species and that it is "likely to become endangered unless the circumstances and factors threatening its survival or evolutionary development cease to operate" (NSW Scientific Committee 2001).

This means that if present processes continue the species could become extinct. A draft national recovery plan has also been prepared for the species (DECCW 2009, Geolink 2013). Provisions in the *Threatened Species Conservation Act 1995*, *National Parks and Wildlife Act 1974* and *Environmental Planning and Assessment Act 1979* mean that actions likely to adversely affect the species generally require approval or licensing, and that impacts on the species require assessment.

The NSW Office of Environment and Heritage (OEH) has prepared the 'Flying-fox Camp Management Policy' 2015, intended to empower land managers, primarily local councils, to work with their communities to manage flying-fox camps effectively. It provides the framework within which OEH will make regulatory decisions. The Policy encourages local councils and other land managers to prepare camp management plans for sites where the local community is affected.

Additionally, any activities undertaken on Department of Education property, will also need to comply with Local Development Consent and the Infrastructure SEPP.

Parliamentary Inquiry into flying-fox management in the eastern states

In 2016-17 the House of Representatives Standing Committee on the Environment and Energy undertook an inquiry into the increasing tensions being experienced by residents affected by flying-fox camps.

In order to gather evidence from the relevant stakeholders and experts within the agreed timeframe, the Committee conducted a roundtable public hearing in Canberra (February 2017). This enabled productive engagement with a wide range of experts and representatives of affected communities. The Committee also received a range of written submissions and correspondence outlining stakeholder experiences and community concerns about local flying-fox issues.

The Committee agreed that Flying-foxes act as important pollen and seed dispersers for a wide range of native vegetation across the east coast of Australia. Due to their ecological importance in maintaining some of Australia's most significant ecosystems, work needs to be undertaken to ensure the preservation of flying-fox species across the country.

The Committee further noted the reduction in suitable foraging and roosting habitat, among other factors, has impacted on the population size of several species, leading the Spectacled Flying-fox and Grey-headed Flying-fox to be listed as 'Vulnerable' under the *Environment Protection and Biodiversity Conservation Act 1999*. The expansion of human populations across coastal New South Wales and Queensland has led to flying-fox camps becoming increasingly located in urban and rural residential areas, possibly from movements of camps due to loss of natural habitat, or the expansion of human settlement into traditional flying-fox habitats.

The Committee produced a number of recommendations that have been forwarded to the Commonwealth Department of Environment & Energy for consideration and action:

1. The Committee recommends that the Australian Government propose a national or eastern states flying-fox consultative committee or working group to the Council of Australian Governments. The consultative committee or working group would be responsible for centrally compiling information on referrals and management actions, and identifying priorities for legislative harmonisation, research and funding.
2. The Committee recommends that the Australian Government establish a dedicated funding pool for flying-fox research and conservation actions, to enable:
 - a. continued funding of the National Flying-fox Monitoring Program for at least the next 10 years;
 - b. committed funding for the priority actions outlined in the recovery
 - c. plans for both the Spectacled Flying-fox and Grey-headed Flying-fox;
 - d. targeted national research into flying-fox roosting behaviours and habitat loss impacts; and
 - e. any other research that allows for the timely evaluation of flying-foxes under the Environment Protection and Biodiversity Conservation Act 1999, informed by rigorous data, at the earliest opportunity.
3. The Committee recommends that the Department of the Environment and Energy develop, in consultation with relevant state and local governments, a tool that assists councils to make decisions on action, referral and education in the most appropriate way, relevant to the flying-fox impacts in their jurisdiction.
4. The Committee recommends that the Department of the Environment and Energy, in consultation with other relevant organisations, develop a suite of education resources for Australian communities regarding flying-fox ecology, behaviour, environmental significance, health impacts, and management options. These resources should be promoted by the Australian Government to local councils, communities, businesses and all relevant stakeholders in affected jurisdictions and potentially affected jurisdictions.

2.4 Regional Context

The Hunter & Central Coast Region is home to 59 known Flying-fox Camps (see Map 8), 54 of which have observed Flying-foxes roosting in them since 2012. It is highly likely that there are additional Camps throughout the vegetated areas (private land and National Parks / State Forest) of the region that are well away from human settlements and are currently unaccounted in the CSIRO National Flying-fox Camp Census.

Map 8: Known Flying-fox Camps throughout the Hunter & Central Coast region



The 2013 *Grey-headed Flying-fox Management Strategy for the Lower Hunter* developed by GEOLink stated that in the lower Hunter there were 6 Camps considered critical to Flying-fox survival in the Lower Hunter (these being: Millfield, Martinsville, Morisset, Blackbutt Reserve, Anna Bay, Medowie and Tocal). None of these Critical sites are managed via a Camp Management Plan and are currently not subject to conflict with Human settlements.

The 2013 Strategy also stated that a further six Camps (Black Hill, Belmont, Glenrock, Hannan Street, Italia Road and Raymond Terrace) were not critical to survival in the Lower Hunter, and reflecting on changes in Flying-fox roosting patterns in the past 4 years we now know that Black Hill and Hannan Street are no longer utilised as Camps, and the Raymond Terrace Camp is now listed as a Nationally Significant site given the number of Flying-foxes now utilising the site for roosting and mating / maternity activities.

During 2012-2017 Flying-fox roosting patterns have changing rapidly throughout the region, with a number of previously important Camps being abandoned, and small Camps becoming much more significant for roosting and breeding of Flying-foxes. The development of local Camp Management Plans, and a Regional Strategies will assist Councils to address community concerns and work to reduce the possibility of new areas of conflict arising with increased growth of the Hunter Region.

Ongoing research into Flying-fox behaviours appears to indicate that food shortages precede the abandonment of traditional camps, and the creation of new camps, and many more. Following the 2010 Flying-fox food shortage the number of Camps in Sydney increased from 7 to 22. Occupancy of these new camps did not appear to reduce when food supply increased, suggesting that once roosting and feeding patterns change, the roosting behaviour has been adapted and in most cases does not revert back to previous behaviours. This has also been played out in the Hunter region.

Overall the location and scale of Flying-fox Camps in NSW has changed significantly since 2002, when Camps were mostly found in the North of the State, in 2015 following both food shortages, and preferred food flowering events, the Flying-fox populations have spread both South and west, with a number of new camps being created inland, and on the NSW South Coast. Since 2015, the majority of new Camps created have been in vegetated areas quite close to human populations.

Regional Flying-fox Foraging Preferences

Work is currently being undertaken to identify key flying-fox foraging areas throughout the Region to progress work conducting in 2013. The incorporation of this information into Councils land use plans (and equivalent planning documents) will assist Council to, where possible, preserve areas of high value Flying-fox foraging vegetation, and potentially protect areas suitable for Flying-fox roosting that may have reduced conflict issues (i.e. not be located in close proximity to human settlements). Although Flying-foxes are wild animals and it is not possible to predict where they will choose to roost, if there are no alternatives to the current conflict Camp sites, it can be guaranteed the animals will not move on of their own accord.

Foraging models will be included in the Hunter & Central Coast Regional Flying-fox Management Strategy (expected to be completed in the later-half of 2017).

Management Actions at other Flying-fox Camps

As mentioned, there are 59 known Flying-fox Camps across the region, with occupation of the camps varying each season and across each year. Presently 7 Councils in the region are developing Flying-fox Camp Management Plans, to address Flying-fox / Human conflict issues.

The management of Flying-foxes across Councils is a prime issue at present, with Councils in the region participating in the development of a Regional Flying-fox Strategy (project being led by the NSW Office of Environment & Heritage), party to regional Flying-fox education projects, and participants in a National Australian Research Council Grant project seeking to "link" existing Flying-fox research and solidify knowledge about the species, its value to Australian ecology and how the species can best be supported.

All Councils in the Hunter & Central Coast are currently¹ proceeding on the basis that Flying-fox management activities will not include Level 3 actions (dispersal or culling). There is an active understanding amongst Council staff and senior managers that any move to disperse Flying-foxes from one Camp will undoubtedly place stress on other Camps in the region, or more likely (based on research on previous dispersal activities) create a splinter Camp nearby and ultimately cause a new residential area to be in conflict with the Flying-foxes.

The region, Local Councils, the Office of Environment & Heritage, Hunter Local Land Services, NSW Department of Industry – Lands and wildlife rehabilitators are all actively working together to develop regionally consistent community engagement and education products in the hope that this can assist residents to understand why the Flying-foxes are in the region, how long they will stay on their migration, and ways that people can manage their property and level of interaction with them. Part of the engagement project will be to address previous negative media stories related to Flying-foxes.

¹ Correct as at time of Camp Management Plan development

3 Community Engagement

Muswellbrook Shire Council undertook a community engagement process in the facilitation of this Camp Management Plan, details follow.

3.1 Stakeholders and Interest Groups

There are a range of stakeholders who are directly or indirectly affected by the flying-fox camp, or who are interested in its management. Stakeholders include those shown in Table 4.

Table 4: Stakeholders and Interest Groups in the camp and Plan

Stakeholder	Interest / Reported Impacts
Residents	Odour, noise and droppings
Business owners	Odour, noise and droppings
Indigenous community	Potential to use some LALC land for creation of flying fox habitat.
Schools	Odour, noise and droppings
Hospitals	Odour, noise and droppings
Airports	Airport managers have a responsibility to reduce the risk of wildlife—aircraft strike. Scone airport is just outside a 20 km radius from the camp.
Equine facilities and vets	Equine facility managers and local vets should be aware of Hendra virus risk and appropriate mitigation measures. Where feasible, all horse owners within 20 km of the camp should be included in such communications.
Orchardists and fruit growers	Fruit growers may be impacted by flying-foxes raiding orchards. While there are fruit trees within a 20 km radius, they are not being grown for commercial purposes.
Other/adjoining landholders; these may include government departments such as Crown Lands, Transport for NSW / Roads and Maritime Services, or neighbouring councils	Camp areas are a mix of council, Australian Rail and Track Corporation and crown land. Neighbouring councils of Singleton and Upper Hunter have also been impacted by flying foxes.
Civic leaders and influencers (including local, state and federal politicians)	Muswellbrook Mayor Martin Rush – 157 Maitland Road Muswellbrook 65493700 State MP Michael Johnsen - 20 Bridge St, Muswellbrook NSW 2333 Phone: (02) 6543 1065 Federal MP Joel Fitzgibbon - 3 Edward St, Cessnock NSW 2325 Phone: (02) 4991 1022
Local government	Local government has responsibilities to the community and environment of the area for which it is responsible in accordance with the Local Government Act 1993. Council is also responsible for administering local laws, plans and policies, and appropriately managing assets (including land) for which it is responsible.
Local Government NSW (LGNSW)	LGNSW is an industry association that represents the interests of councils in NSW.
OEH	OEH is responsible for administering legislation relating to (among other matters) the conservation and management of native plants and animals, including threatened species and ecological communities.

Stakeholder	Interest / Reported Impacts
Commonwealth Department of the Environment (DoE) (relevant to camps with grey-headed flying-foxes or other matters of national environmental significance)	DoE is responsible for administering federal legislation relating to matters of national environmental significance, such as the grey-headed flying-fox and any other federally-listed values of the camp site.
Wildlife Rehabilitators and conservation organisations	Wildlife Rehabilitators and conservation organisations have an interest in flying-fox welfare and conservation of flying-foxes and their habitat.
Researchers/universities/CSIRO	Researchers have an interest in flying-fox behaviour, biology and conservation.

3.2 Engagement Methods

Effort was made to engage with the community regarding the flying-fox camp to:

- understand the issues directly and indirectly affecting the community
- raise awareness within the community about flying-foxes
- correct misinformation and allay fears

The types of engagement undertaken included:

- media (print, social media)
- brochures and other educational material
- website pages and links
- direct contact with adjacent residents including letters, brochures and emails
- shopping centre engagement with information stand
- radio interview
- Flying Fox Engage online survey

Table 5: Details of Community Engagement Activities undertaken in the development of the Muswellbrook Camp Management Plan

Date	Consultation Activity
November 2016	<ul style="list-style-type: none"> • Brochure developed
November 2016	<ul style="list-style-type: none"> • Door knock in affected zone with brochures. 10 Face to Face conversations were held with 30 information brochures delivered. Brochures also left at
6 March 2017	<ul style="list-style-type: none"> • Media Release to local newspaper
27 March 2017	<ul style="list-style-type: none"> • Muswellbrook Chronicle's Facebook Page • http://www.muswellbrookchronicle.com.au/story/4555892/help-wanted-for-flying-fox-plan/?cs=1487
28 March 2017	<ul style="list-style-type: none"> • Radio interview on Upper Hunter ABC with Cecilia Connell.
31 March 2017	<ul style="list-style-type: none"> • Article "Help Wanted for Flying Fox Plan" appeared on page 6 of Muswellbrook Chronicle.
11 April 2017	<ul style="list-style-type: none"> • Community Engagement Stand at local shopping centre. Patrons were encouraged to ask questions and complete the Flying Fox Engage Survey.

3.3 Community Feedback on Management Options

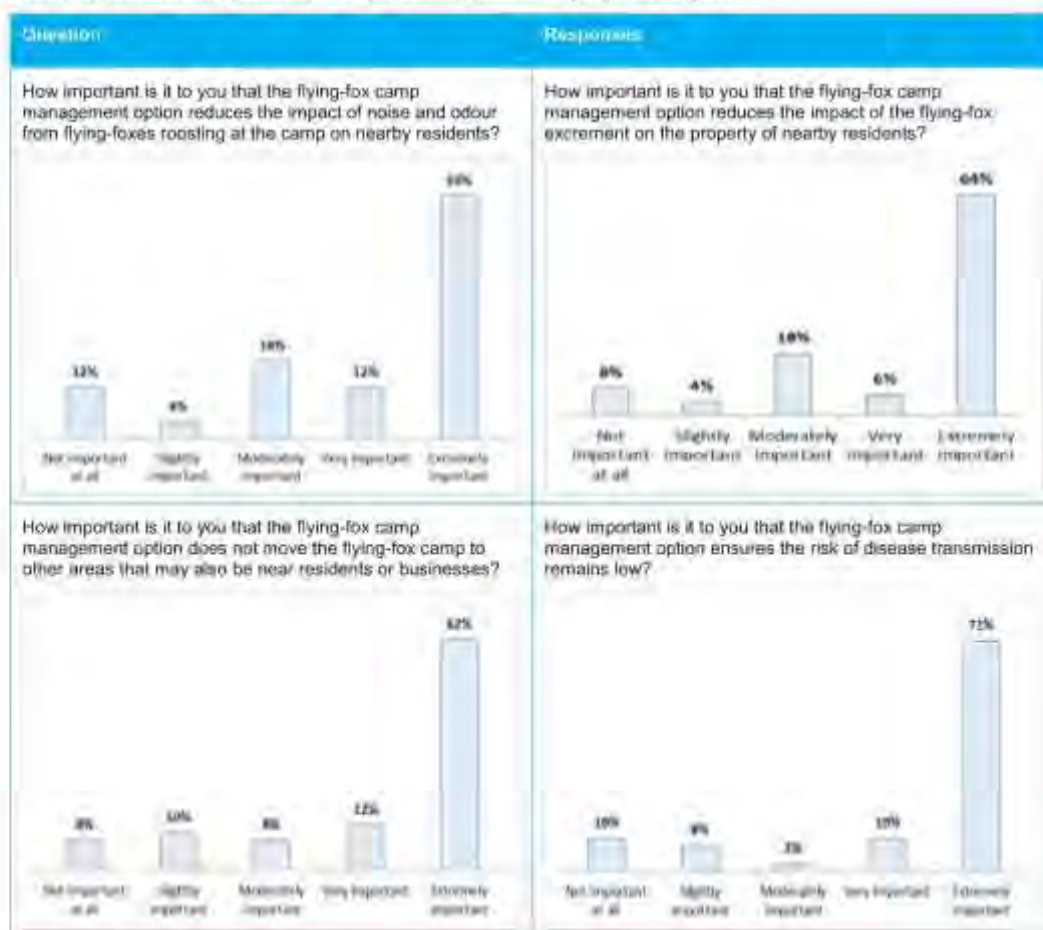
The use of the FlyingFoxEngage online survey was the key engagement tool used to enable Council to receive direct feedback from the community on their experiences living near Flying-foxes and the values they place on them to provide some insight to Council on the management actions they would find acceptable to be employed on site.

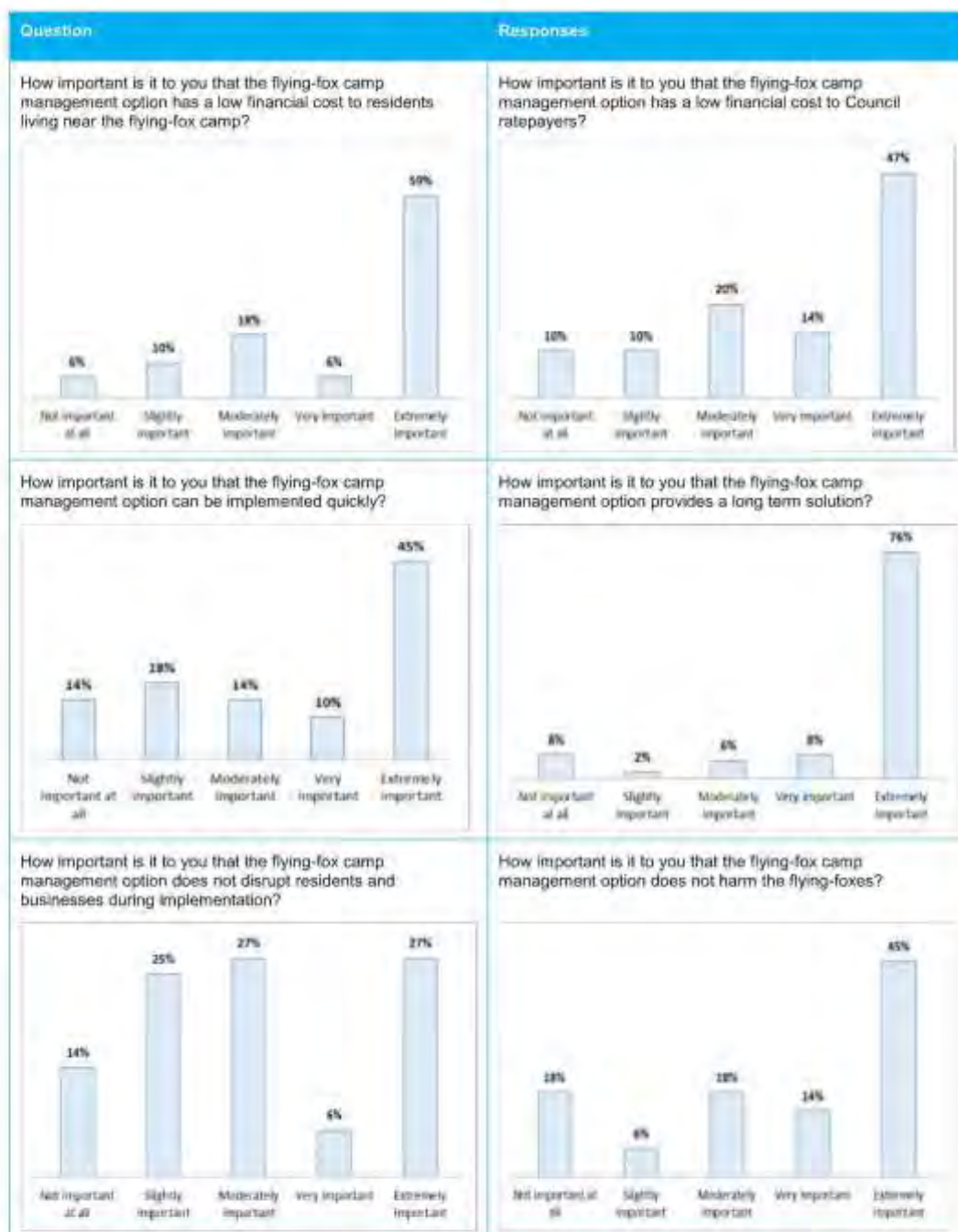
Flying fox engage is an innovative engagement decision support system. The online Flying fox engage consultation tool was launched in March 2017 and remained open for submissions until the end of May 2017. During this consultation period the Flying Fox Engage website received 51 valid submissions.

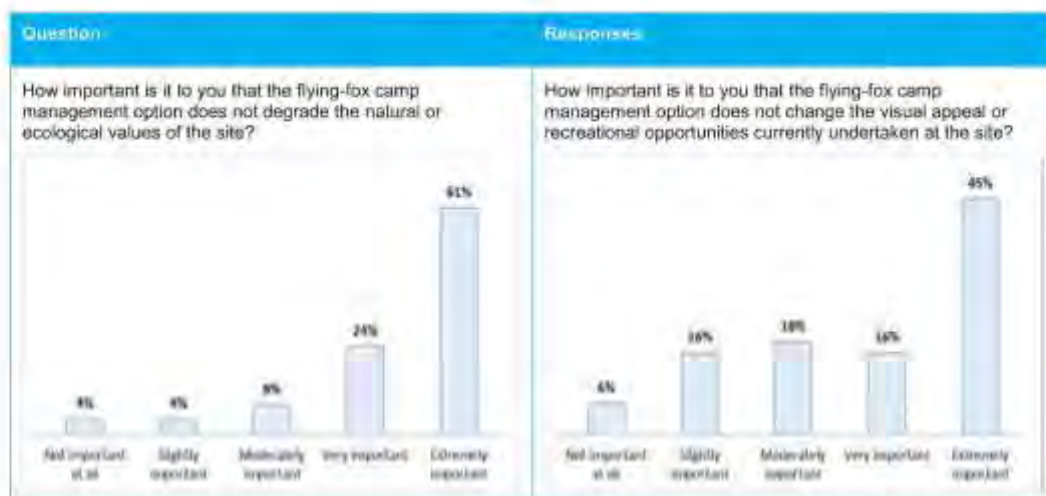
Flying Fox Engage is a relatively simple survey methodology that poses 12 questions to users, the responses to these questions then produces a ranked list of preferred management options that reflect the values of the survey respondent. The list is then able to be manipulated by the user to manually reorder the preferred list.

The initial ranked list of preferred management options is influenced by a weighting applied to each management option that relates to ease of implementation, cost of implementation, and impact of implementation. The weighting was determined by a panel of experts convened by OEH, and confirmed by Council officers based on any specific issues that affect or influence the Camp at Muswellbrook. Collated responses to the questions are included in Table 6.

Table 6: Collated responses to the questions posed in Flying Fox Engage







With all questions posed, the majority of respondents suggested they were extremely important. It was only questions related to management actions not disrupting businesses and residents, not harming flying-foxes and not changing the visual appeal of the site that respondent's views changed slightly, and more respondents suggested these were less important.

Based on the responses to the questions, Flying Fox Engage was able to rank the various management options that match the responses. Details of the preferred management actions before and after re-ranking is allowed is provided in Table 7.

Table 7: Top 10 community ranked Management Options based on Flying Fox Engage responses

Rank	Initial Result (values based ranking)	Re-ranked result (emotion based ranking)
1	Land-use planning	Land-use planning
2	Subsidising property modification to reduce the impacts of flying-foxes	Subsidising property modification to reduce the impacts of flying-foxes
3	Provision of flying-fox education and awareness programs	Health and safety guidelines to manage incidents related to the camp
4	Health and safety guidelines to manage incidents related to the camp	Guidelines for carrying out operations adjacent to camps
5	Guidelines for carrying out operations adjacent to camps	Provision of flying-fox education and awareness programs
6	Subsidising services to reduce the impacts of flying-foxes	Subsidising services to reduce the impacts of flying-foxes
7	Do Nothing	Research to improve knowledge of flying-fox ecology
8	Research to improve knowledge of flying-fox ecology	Revegetate and manage land to create alternative flying-fox habitat
9	Revegetate and manage land to create alternative flying-fox habitat	Do Nothing
10	Routine maintenance to improve the condition of the site	Routine maintenance to improve the condition of the site

As shown in Table 7, initial values based ranking suggests the community are in favour of Level 1 actions only, with the top 10 responses including low impact actions such as Council managing impacts through land use planning controls, provision of information to affected residents, appropriate management of the Camp site to reduce impacts (routing management) and possible subsidy to affected residents to reduce the impacts they experience. Even after re-ranking, all actions were the same (all Level 1) although in a slightly different order.

When considering just those residents within 300m of the Camp (directly impacted) based on information that could be extracted from the survey, the following preferred management list was created (see Table 8)

Table 8: Top 10 ranked Management Options based on Flying Fox Engage responses from directly affected residents

Rank	Initial Result (values based ranking)	Re-ranked result (emotion based ranking)
1	Land-use planning	Land-use planning
2	Subsidising property modification to reduce the impacts of flying-foxes	Subsidising property modification to reduce the impacts of flying-foxes
3	Provision of flying-fox education and awareness programs	Provision of flying-fox education and awareness programs
4	Health and safety guidelines to manage incidents related to the camp	Health and safety guidelines to manage incidents related to the camp
5	Guidelines for carrying out operations adjacent to camps	Guidelines for carrying out operations adjacent to camps
6	Subsidising services to reduce the impacts of flying-foxes	Subsidising services to reduce the impacts of flying-foxes
7	Do Nothing	Research to improve knowledge of flying-fox ecology
8	Research to improve knowledge of flying-fox ecology	Do Nothing
9	Revegetate and manage land to create alternative flying-fox habitat	Revegetate and manage land to create alternative flying-fox habitat
10	Routine maintenance to improve the condition of the site	Routine maintenance to improve the condition of the site

Once again, there are largely only level 1 actions, and the few level two actions are related to appropriate management of vegetation to reduce impacts on the properties. Management actions such as subsidies to affected residents was a prominent action, and unsurprising as these respondents are directly affected by the Camp's proximity to their homes.

In addition to providing preferential management action lists, respondents to the survey also answered a number of additional questions (see Table 9).

Table 9: Additional Flying Fox Engage Questions

Question	Responses	Number
Have you experienced the flying-foxes in the camp?	No, I have not experienced the flying-foxes	10
	Yes, flying-foxes from the camp roost in trees that are next to or overhang my home	3
	Yes, flying-foxes leaving and returning to the camp fly over my home	16
	Yes, flying-foxes stop me from using the area, surrounding services or businesses	1
	Yes, I enjoy visiting the flying-foxes	9
	Yes, my home is very close to the camp	2
Open ended Question and responses		
If you want to, you can comment on the flying-fox camp management options we have explored or you can suggest other solutions.	<ul style="list-style-type: none"> I want long-term options like planting roosting and foraging trees outside of urban centers. stop bulldozing their habitat for coal mines stop destroying habitat for mining What would be the natural Flying Fox population balancing factors? I hate them stop destroying their habitat with ...coal mines and intensive agriculture ... 	
If you want to, please provide comments about this flying-fox camp	<ul style="list-style-type: none"> Harmless. Concerned about increase in numbers, Noise and smell. Have to deal with droppings on vehicle, house and concrete. Do not want another Singleton Park experience. It is relatively small and only present for part of the year. leave them there stop destroying habitat for mining I think that they should be moved from the urban area to another suitable site I have seen the destruction they have made in the community in several locations along Muscle Creek and the Hunter River Near hospital Hate them . whatever works Not bothering me Very smelly and very noisy leave it alone 	

The responses to these questions provided even greater understanding to the responses, as only 3 respondents (6%) had direct impact from roosting Flying-foxes, and 16 respondents (31%) experience flying-foxes flying over their homes as they head out and return from foraging. The implication to this is over two thirds of respondents have no direct impact from the presence of flying foxes, and are just interested in the management of the species. Given the lack of direct conflict experienced by the survey respondents, it is unsurprising that Level 1 actions were the ones included in the preference lists.

4 Management Opportunities

4.1 Site-specific analysis of camp management options

The NSW Flying-fox Camp Management Policy 2015 and Camp Management Plan Template 2016 provide details on acceptable management activities to manage and mitigate human / bat conflict at Camp Sites. The management actions are grouped into three levels, as discussed following.

Routine camp management actions (Level 1 actions)

Routine camp management actions should be clearly identified as Level 1 camp management actions in the camp management plan.

These include:

- removal of tree limbs or whole trees that pose a genuine health and safety risk, as determined by a qualified arborist
- weed removal, including removal of noxious weeds under the Noxious Weeds Act 1993 or species listed as undesirable by a council
- trimming of under-storey vegetation or the planting of vegetation
- minor habitat augmentation for the benefit of the roosting animals
- mowing of grass and similar grounds-keeping actions that will not create a major disturbance to roosting flying-foxes
- application of mulch or removal of leaf litter or other material on the ground.

Creation of buffers (Level 2 actions)

Creation of buffers can be effective as management actions to nudge flying-fox populations away from urban settlements. The intention is to create a physical or visual separation from the camp and actively manage vegetation structure and composition to discourage flying-foxes from roosting close to built areas.

Actions include:

- clearing or trimming canopy trees at the camp boundary to create a buffer
- disturbing animals at the boundary of the camp to encourage roosting away from human settlement.

Camp disturbance or dispersal (Level 3 actions)

Camp dispersal is an action that aims to intentionally move entire camps from one location to another by clearing vegetation or dispersing animals through disturbance by noise, water, smoke or light.

Camp dispersal can remove impacts on local communities and is supported by this policy. However, camp dispersal is challenging for a number of reasons:

- it can be expensive and can have uncertain outcomes.
- dispersal may result in relocating the animals rather than resolving the issue. Past disturbances in Australia have sometimes failed to remove flying-foxes from the area or have resulted in flying-foxes relocating to other nearby areas where similar community impacts have occurred.
- attempts to disperse camps are often contentious.
- disturbing flying-foxes may have an adverse impact on animal health.
- the cumulative impacts of flying-fox camp dispersals may negatively impact on the conservation of the species and the ecosystem services flying-foxes provide.

Table 10 provides details on the various management options available, an assessment of cost and effectiveness of the action to address the various conflict issues. The Table also provides details of the assessment undertaken by Council as to the suitability of the actions to be included in the Camp Management Plan. Section 4.2 provides details of the management actions that will be undertaken through the implementation of the Camp Management Plan.

Table 10: Analysis of management options

Management Option	Relevant Impacts	Cost	Advantages	Disadvantages	Suitability Determination
Level 1 Actions					
Education and awareness programs	Fear of disease Noise Smell Faecal drop	\$	Low cost, promotes conservation of FFs, contributes to attitude change which may reduce general need for camp intervention, increasing awareness and providing options for landholders to reduce impacts can be an effective long-term solution, can be undertaken quickly, will not impact on ecological or amenity value of the site.	Education and advice itself will not mitigate all issues, and may be seen as not doing enough.	This action was deemed suitable. Responses from Flying Fox Engage indicated a strong desire from the community for more information on Flying Foxes.
Property modification (e.g. car cover, pool cover, clothesline cover, air conditioners, double glaze windows, etc.)	Noise Smell Faecal drop Health/wellbeing Property devaluation Lost rental return	\$-\$	Property modification is one of the most effective ways to reduce amenity impacts of a camp without dispersal (and associated risks), relatively low cost, promotes conservation of FFs, can be undertaken quickly, will not impact on the site, may add value to the property.	May be cost-prohibitive for private landholders, unlikely to fully mitigate amenity issues in outdoor areas.	This action was deemed suitable for residents adjacent to the Camp – to be limited to car covers, clothesline covers and pool covers.
Fully-fund/subsidise property modification	Noise Smell Faecal drop Health/wellbeing Property devaluation Lost rental return	\$-\$	Potential advantages as per property modification, but also overcomes issue of cost for private landholders.	Costs to the land manager will vary depending on the criteria set for the subsidy including proximity to site, term of subsidy, level of subsidy. Potential for community conflict when developing the criteria, and may lead to expectations for similar subsidies for other issues.	This action has limited applicability due to funding constraints. Should funding become available, this option can be further explored. This was the second preference from Flying Fox Engage.
Service subsidies (e.g. rate rebates, access to water gurney, etc.)	Noise Smell Faecal drop Health/wellbeing Property devaluation Lost rental return	\$-\$	May encourage tolerance of living near a camp, promotes conservation of FFs, can be undertaken quickly, will not impact on the site, would reduce the need for property modification.	May be costly across multiple properties and would incur ongoing costs, may set unrealistic community expectations for other community issues, effort required to determine who would receive subsidies.	This action was deemed suitable. Access to water gurney could be made available to residents within 300m of roosting sites.

Management Option	Relevant Impacts	Cost	Advantages	Disadvantages	Suitability Determination
Routine camp management	Health/wellbeing	\$	Will allow property maintenance, likely to improve habitat, could improve public perception of the site, will ensure safety risks of a public site can be managed. Weed removal has the potential to reduce roost availability and reduce numbers of roosting FFs. To avoid this, weed removal should be staged and alternative roost habitat planted, otherwise activities may constitute a Level 3 action.	Will not generally mitigate amenity impacts for nearby landholders.	This action was deemed suitable
Provision of artificial roosting habitat	All	\$-\$\$	If successful in attracting FFs away from high conflict areas, artificial roosting habitat in low conflict areas will assist in mitigating all impacts, generally low cost, can be undertaken quickly, promotes FF conservation.	Would need to be combined with other measures (e.g. buffers/alternative habitat creation) to mitigate impacts, previous attempts have had limited success.	This action was not deemed suitable
Protocols to manage incidents	Health/wellbeing	\$	Low cost, will reduce actual risk of negative human/pet-FF interactions, promotes conservation of FFs, can be undertaken quickly, will not impact the site.	Will not generally mitigate amenity impacts.	This action will be included as a risk management response by all responsible land managers
Research	All	\$	Supporting research to improve understanding may contribute to more effectively mitigating all impacts, promotes FF conservation.	Generally cannot be undertaken quickly, management trials may require further cost input.	This action was deemed more suitable to be included in a regional strategy or plan
Appropriate land-use planning	All	\$	Likely to reduce future conflict, promotes FF conservation. Identification of degraded sites that may be suitable for long-term rehabilitation for FFs could facilitate offset strategies should clearing be required under Level 2 actions.	Will not generally mitigate current impacts, land-use restrictions may impact the landholder.	This action was deemed suitable
Property acquisition	All for specific property owners Nil for broader community	\$\$\$	Will reduce future conflict with the owners of acquired property.	Owners may not want to move, only improves amenity for those who fit criteria for acquisition, very expensive.	This action was not deemed suitable due to excessive cost, and limited concern of impacts from neighbouring residents.
Do nothing	Nil	Nil	No resource expenditure.	Will not mitigate impacts and unlikely to be considered acceptable by the community.	Due to commitment of Council, this action is not suitable.

Management Option	Relevant Impacts	Cost	Advantages	Disadvantages	Sustainability Determination
Level 2 Actions					
Buffers through vegetation removal	Noise Smell Health/wellbeing Property devaluation Lost rental return	\$-\$	Will reduce impacts, promotes FF conservation, can be undertaken quickly, limited maintenance costs.	Will impact the site, will not generally eliminate impacts, vegetation removal may not be favoured by the community.	Only weed species will be considered for removal (such as willows)
Buffers without vegetation removal	Noise Smell Health/wellbeing Damage to vegetation Property devaluation Lost rental return	\$	Successful creation of a buffer will reduce impacts, promotes FF conservation, can be undertaken quickly, options without vegetation removal may be preferred by the community.	May impact the site, buffers will not generally eliminate impacts, maintenance costs may be significant, often logistically difficult, limited trials so likely effectiveness unknown.	Could be undertaken but needs time to become effective.
Level 3 Actions					
Nudging	All	\$\$-\$	If nudging is successful this may mitigate all impacts.	Costly, FFs will continue attempting to recolonise the area unless combined with habitat modification/deterrents.	Not deemed suitable due to excessive cost.
Passive dispersal through vegetation management	All at that site but not generally appropriate for amenity impacts only (see Section 8)	\$\$-\$	If successful can mitigate all impacts at that site, compared with active dispersal: less stress on FFs, less ongoing cost, less restrictive in timing with ability for evening vegetation removal.	Costly, will impact site, risk of removing habitat before outcome known, potential to splinter the camp creating problems at other locations (although less than active dispersal), potential welfare impacts, disturbance to community, negative public perception, unknown conservation impacts, unpredictability makes budgeting and risk assessment difficult, may increase disease risk (see Section 7.1), potential to impact on aircraft safety.	Not deemed suitable due to excessive cost and the likelihood of shifting the problem onto another section of the community, is high

Management Option	Relevant Impacts	Cost	Advantages	Disadvantages	Sustainability Determination
Passive dispersal through water management	All at that site but not generally appropriate for amenity impacts only (see Section 8)	\$\$– \$\$\$	Potential advantages as per with passive dispersal through vegetation removal, however likelihood of success unknown.	Potential disadvantages as per passive dispersal through vegetation removal, however likelihood of success unknown.	Not deemed suitable for the site as on the Hunter River and cannot change water availability
Active dispersal	All at that site but not generally appropriate for amenity impacts only (see Section 8)	\$\$\$	If successful can mitigate all impacts at that site, often stated as the preferred method for impacted community members.	May be very costly, often unsuccessful, ongoing dispersal generally required unless combined with habitat modification, potential to splinter the camp creating problems in other locations, potential for significant animal welfare impacts, disturbance to community, negative public perception, unknown conservation impacts, unpredictability makes budgeting and risk assessment difficult, may increase disease risk (see Section 7.1), potential to impact on aircraft safety.	Not deemed suitable due to excessive cost and limited likelihood of success.
Early dispersal before a camp is established at a new location	All at that site	\$\$– \$\$\$	Potential advantages as per other dispersal methods, but more likely to be successful than dispersal of a historic camp.	Potential disadvantages as per other dispersal methods, but possibly less costly and slightly lower risk than dispersing a historic camp. Potential to increase pressure on FFs that may have relocated from another dispersed camp, which may exacerbate impacts on these individuals.	Not applicable to this Camp, however the plan should address the potential likely sites that may be established in the future.

4.2 Planned Management Approach

The planned management approach included in Table 11 have been determined after consideration of community views, ecological requirements and legislative / policy controls. The Actions have been grouped into the major thematic areas of:

- Governance
- Routine Management
- Infrastructure
- Restoration & Rehabilitation
- Monitoring
- Flying-fox Species Management
- Resident Assistance
- Community Education

The actions included in Table 11 are directly linked to the management actions discussed in Table 10, but have been directly tailored to actions that will be planned for implementation at the Flying-fox Camp, depending on conditions and funding provision. Responsibility for the implementation of these actions is indicated in the table.

Table 11: Management Actions

Action ID	Issue	Actions & guidelines	Responsibility	Trigger / Catalyst for commencement	Budget
1. Resident Assistance					
1.1	Car / Clothes-line / swimming pool covers	Provision of these items based upon selection criteria during times of high population occupancy	Muswellbrook Shire Council	Only applicable to properties within 300m of Camp boundary and only provided when 30000 animals present	Rebate for residents to purchase covers for car, clothes lines, and swimming pools. Max expected costs for 300 meter radius: 150 car covers = \$7500 150 clothesline covers = \$30000 Swimming pool covers x (20) \$4000 Grant for loan at \$1000
1.2	Assistance with costs for tree removal	Based on limited species, and proximity to camp – roosting trees only	Muswellbrook Shire Council	Only applicable to properties within 300m of Camp boundary and only provided when 30000 animals present	To be determined on as needs basis.
1.3	Financial assistance with s91 licence fees.	Resident / business responsible for development of licence, and required to ensure it complies with the intent of the CMP	Muswellbrook Shire Council	Only applicable to properties within 300m of Camp boundary	Free of charge to residents. \$30 per application
1.4	Access to gurney / water cleaners to remove bat excrement	Access provided only when trigger reached	Muswellbrook Shire Council	Only applicable to properties within 300m of Camp boundary	Purchased in 2017/18 through recurrent budget

Action ID	Issue	Actions & guidelines	Responsibility	Trigger / Catalyst for commencement	Budget
2. Community Education					
2.1	Advice on backyard vegetation management	Advice on which trees residents may wish to remove (introduced or naturalised foraging species such as Cocos Palms, Poplars and Silky Oaks) Advice on trees to plant if residents want to encourage bats to forage in their properties. Advice on native fragrant trees that will assist to screen smells from Camp	Muswellbrook Shire Council Hunter Joint Organisation of Councils Office of Environment & Heritage Hunter Local Land Services	Will be delivered through regional Grant funded project	Funded by NSW Environmental Trust for 2017-19
2.2	Health and disease management	Develop consistent regional information regarding health concerns	Muswellbrook Shire Council Hunter Joint Organisation of Councils Office of Environment & Heritage Hunter Local Land Services	Will be delivered through regional Grant funded project	Funded by NSW Environmental Trust for 2017-19
2.3	Lifecycle and nomadic timing of bat arrival	Develop consistent regional information regarding Flying-fox nomadic behaviour	Muswellbrook Shire Council Hunter Joint Organisation of Councils Office of Environment & Heritage Hunter Local Land Services	Will be delivered through regional Grant funded project	Funded by NSW Environmental Trust for 2017-19
2.4	Implement Regional Flying-fox educational kit	Develop a community education kit to assist residents to understand Flying-fox movement patterns and reduce conflicts with Camps	Muswellbrook Shire Council Hunter Joint Organisation of Councils Office of Environment & Heritage Hunter Local Land Services	Will be delivered through regional Grant funded project	Funded by NSW Environmental Trust for 2017-19
2.5	How to manage dead or injured Flying-foxes	Information on who to call when sick, injured or dead Flying-foxes are seen	Muswellbrook Shire Council Office of Environment & Heritage	Protocol to be developed in 2017-18	NA
3. Restoration & Rehabilitation					
3.1	Assess native recruitment potential away from boundary	Assessment of vegetation condition improvement in core of site, to make boundary less attractive for roosting.	Muswellbrook Shire Council	To be undertaken in 2017-18	NA

Action ID	Issue	Actions & guidelines	Responsibility	Trigger / Catalyst for commencement	Budget
3.2	Rehabilitation of damaged areas (from Flying-fox occupation)	Removal of damaged vegetation and establishment of replacement vegetation.	Muswellbrook Shire Council	30000	As Required
3.3	Creation of wider vegetated areas in the riparian zone, away from residential properties	Planting of appropriate native species in the riparian zone to create Flying-fox roosting habitat.	Muswellbrook Shire Council	Part of Riparian Planning	Operational Plan Budget for Landcare
3.4	Plant appropriate foraging species in areas of the Camp away from residential properties	strategically plant endemic foraging habitat trees away from residential areas along the southern side of the reserve.	Muswellbrook Shire Council	Part of Riparian Planning	Operational Plan Budget for Landcare
3.5	Manage buffer zone (APZ) to reduce conflict between residents and Flying-foxes	Planting of native fragrant trees and shrubs adjacent to dwellings to reduce the noise and smell directly behind	Muswellbrook Shire Council	Part of Riparian Planning	Operational Plan Budget for Landcare
3.6	Weed Control	Noxious and environmental weed control throughout the Camp area - targeting exotic tree species known to act as potential roosting and foraging habitat (e.g. Camphor Laurel as most on site are immature or have not reached maximum height)	Muswellbrook Shire Council	Part of Riparian Planning	Operational Plan Budget for Landcare
3.7	Dangerous Trees	Assessments for potentially dangerous trees	Muswellbrook Shire Council	30000	As Required
3.8	Buffer (Asset Protection Zones) Maintenance	Create buffer around APZ	Muswellbrook Shire Council	30000	As Required
4. Flying-fox Species Management					
4.1	Flying-fox rehabilitators response	Respond to calls of injured or dead Flying-foxes	Flying-fox rehabilitators	As required	NA
4.2	Rehabilitators alerts (notification of upcoming events, e.g. management activities, heat stress, etc.)	Council to notify rehabilitators of any events that will impact on Camp Site or Flying-fox population.	Flying-fox rehabilitators	As required	NA
5. Monitoring					
5.1	Flying-fox Census	Quarterly Flying-fox animal counts to assist with determining likely national population	CSIRO Muswellbrook Shire Council	Quarterly monitoring	CSIRO funded by Commonwealth Government
5.2	Wildlife / Rehabilitation rehabilitators data collection	Collection and provision of count information, and other data collected when responding to calls	Wildlife / Rehabilitation rehabilitators	State of environmental reporting	NA

Action ID	Issue	Actions & guidelines	Responsibility	Trigger / Catalyst for commencement	Budget
5.3	Hunter Bird Observers data collection	Collection and provision of count information, and other data collected	Hunter Bird Observers	As reported	NA
5.3	Muswellbrook Shire Council management data	Collection and dissemination of data related to Flying-foxes, and vegetation that may impact on local or regional Flying-fox populations	Muswellbrook Shire Council	Quarterly monitoring as part of CSIRO monitoring plus extra monitoring if numbers increase to 30000.	NA
6. Governance					
6.1	Land Use Planning	Review Land Use Planning provisions that impact on the Camp site (e.g. Re-zoning, DCP, s149 considerations)	Muswellbrook Shire Council	As per LEP and DEP review timeframes	Recurrent budget activity
6.2	Camp Management Plan review	Review currency and suitability of CMP	Muswellbrook Shire Council	Review in 5 years / when FF numbers increase past current capacity	Recurrent budget activity
6.3	Protocol Development	Fire	Rural Fire Service	To be undertaken in 2018-19	Funded by NSW Environmental Trust for 2017-19
		Heat Stress	Office of Environment & Heritage / Wildlife Rehabilitators		
		Community Response to dead / injured animals	Wildlife Rehabilitators		
		Equine	Hunter Local Land Services		

5 Assessment of Impacts to Flying Foxes

5.1 Flying-fox Habitat to be affected

Based on the actions included in Table 11 it is expected there would be little to no negative impacts on the Flying-fox population that utilises the Muswellbrook Flying-fox Camp.

The majority of actions approved in this Camp Management Plan are considered Level 1 (routine management actions), as the Land Managers have determined the cost and ongoing issues with drastic management actions including nudging, dispersal or culling are inappropriate for the Muswellbrook Camp and will not be undertaken whilst this current Camp Management Plan is in force.

It is expected that if Council is able to secure restoration and rehabilitation funding, the quality and condition of the site will increase, and encourage flying-foxes to move away from the margins of the site and nearby residential properties. These measures can be implemented at a time when flying-foxes are not present, and therefore will not disturb or harm individual flying-foxes.

5.2 Assessment of Impacts to Other Threatened Species or Communities

All required Environmental Assessments will be conducted by Council as part of its normal Environmental Assessment Legislative Responsibilities, prior to works being undertaken.

6 Evaluation and Review

The Plan will have a scheduled review annually, which will include evaluation of management actions against Actions included in Table 11.

The following will trigger a reactive review of the Plan:

- Flying-fox population in excess of 30,000 animals (counted utilising approved CSIRO monitoring methodology)
- changes to relevant policy/legislation
- new management techniques becoming available
- outcomes of research that may influence the Plan
- incidents associated with the camp.

Results of each review will be included in reports to Council, and the NSW Office of Environment & Heritage.

If the Plan is to remain current, a full review including stakeholder consultation and expert input will be undertaken in the final year of the Plan's life prior to being re-submitted to NSW Office of Environment & Heritage.

7 Plan administration

7.1 Monitoring of the camp

Muswellbrook Shire Council will continue to assist the CSIRO to undertake their quarterly Flying-fox census activities. Wildlife Rehabilitators can access the site as required to attend to the animals, and record information of relevance to Council, the Office of Environment & Heritage and CSIRO.

Additional monitoring and data collection will occur as opportunities arise.

7.2 Reporting

Quarterly reports (following publication of the CSIRO Census Count) will be developed by Muswellbrook Shire Council and submitted to Council providing details on management activities at the site, and the Flying-fox population during the quarter.

7.3 Funding commitment

Muswellbrook Shire Council has a responsibility to ensure appropriate funding is available to undertake management actions included in this plan. The Plan will operate from 2017 – 2027 and therefore each organisation should ensure ongoing funding, and forward planning for management actions be included in their annual budget development.

It is expected that an annual work plan, including budget items will be developed by the project team and implemented as required.

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12.2 SPORT AND RECREATION GRANTS PROGRAMME - THIRD ROUND

Attachments:	Nil
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Paul Chandler - Recreation and Property Officer
Community Plan Issue:	<i>Continue to improve the affordability, livability and amenity of the Shire's communities</i>
Community Plan Goal:	<i>Promote and facilitate increased participation in active and passive recreational activities.</i>
Community Plan Strategy:	<i>Continue small grants dollar for dollar program.</i>

PURPOSE

The third round of Council's Sport and Recreation Grants Programme has now closed. A total of twelve applications were received from sporting and community groups within the Shire. This report provides the detail of these applications and makes a recommendation for the allocation of funds.

OFFICER'S RECOMMENDATION

Council allocate funds as identified in the report.

Moved: _____ Seconded: _____

BACKGROUND

The 2017/18 General Recreation Programme has a funding allocation of \$125K which includes \$100K for the Large Capital Grants Programme and \$25K for the Small Capital Grants Programme.

CONSULTATION

Manager Property and Building Services

Technical Officer – Recreation and Property

Muswellbrook Shire Sport and Recreational Group

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Councillor Spokesperson for Sport and Councillor Spokesperson for Recreation and Wellbeing

REPORT

Large Capital Grants

User group	Purpose of funding	Funding requested	Total project cost
Early Arms Rifle and Pistol Club	Repair damaged pistol bays and add sun protection for members. Level and construct a weatherproof floor to pistol	\$2,487.50	\$4,975

User group	Purpose of funding	Funding requested	Total project cost
	bays and storage room. Purchase a 2200ltr water tank.		
Denman Sandy Hollow Junior Rugby League Club	In partnership with Denman Little Athletics provide lighting for the mini fields.	\$20,000	\$40,000
Muswellbrook Rugby Union Club	Replace existing rock retaining wall between the grandstand and the club house on driveway side.	\$3,500	\$7,000
Denman Golf Club	Purchase a new fairway mower.	\$31,600	\$63,200
Muswellbrook Men's Shed	Single garage workshop facility for aluminium can recycling and storage and security.	\$6,500	\$13,000
TOTAL		\$64,087.50	\$128,175

Small Capital Grants

User Group	Purpose of funding	Funding requested	Total project cost
Glengallic Shooting Club Inc	Renew worn out 3D archery targets	\$1,467.50	\$2,935
Glengallic Shooting Club Inc	Replace pre-fabricated concrete blocks between shooting ranges.	\$880	\$1,760
Early Arms Rifle and Pistol Club	Replacement of targets and frames. Replacement of safety and signage of equipment.	\$2,000	\$4,829
Olympic Park Tennis Club	To install coin operated light control unit that would time power consumption and charge against light use.	\$1,922	\$3,844
Muswellbrook Squash Club	Purchase and installation of new carpet tiles to replace existing carpet. Note: the funding grant is to go with the \$2k grant money that Denman Squash Club has already received for replacing carpet.	\$1,814.95	\$3,628.89
Muswellbrook Netball Club	To purchase new netballs for all association teams,	\$788	\$1,576

User Group	Purpose of funding	Funding requested	Total project cost
	representative teams with training balls and also to replace all of the Saturday game balls in all grades and divisions.		
TOTAL		\$9,286.44	\$18,572.89

The NSW Community Building Partnership program grants are outstanding for which Council's potential contribution is up to \$34,000. An announcement of successful projects and advice to all applicants is expected in December. It is proposed that \$24,000 from the Large Capital Grants Programme should be set aside and \$10,000 from the Small Capital Grants Programme to match potential funding.

This will leave \$76,000 in the Large Capital Grants Programme. Council has previously provided 'In Principle Support' for matched funding requested by Denman Sandy Hollow Junior Rugby League Football Club for concrete tiered seating up to \$50,000 under the first round of the Large Capital Grant Programme. This \$110K project is about to progress and Council's matched contribution required is \$50,000. This leaves \$26,000 and is recommended that the applications from Early Arms Rifle and Pistol Club, Denman Sandy Hollow Junior Rugby League Club, and Muswellbrook Rugby Union Club be funded as these are considered the most meritorious projects.

There will remain approximately \$5,000 in the Small Capital Grants Programme and it is recommended that this funding be allocated to progress a concept design for the children's play area at Simpson Park.

OPTIONS

Council may choose to amend the user groups that receive grant funding.

CONCLUSION

It is recommended to allocate funding as identified in the report.

SOCIAL IMPLICATIONS

Improving the facilities and equipment of local sport and recreation groups will encourage increased participation in sporting and recreational activities, leading to improved health and social outcomes.

Financial assistance from Council ensures that user groups are able to operate with appropriate equipment and facilities.

FINANCIAL IMPLICATIONS

If Council funds all proposed applications as recommended with exception of Muswellbrook Men's Shed there remains \$15,713.56 from the Small Capital Grants Programme and \$42,412.50 from the Large Capital Grants Programme.

POLICY IMPLICATIONS

F16-1 Financial Assistance Policy

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

Funding recipients will be required to sign an agreement that outlines their rights and responsibilities regarding the funded project, reporting of works, administration of funds, and post-project acquittal.

OPERATIONAL PLAN IMPLICATIONS

'5.5.4 Continue small grants dollar for dollar program' and '5.5.5 Continue major grants dollar for dollar program', *Operational Plan 2017 – 2018*

RISK MANAGEMENT IMPLICATIONS

All applicants were required to show proof of capacity to match the requested funding and quotes for proposed items/activities.

Evidence of all regulatory and planning approvals (where relevant) is required from the applicant before funding can be released. Each successful applicant will sign a funding agreement with Council prior to release of funds. The funded project will be the subject of a formal acquittal on completion.

12.3 FINDINGS OF THE COMMUNITY PANEL COMMUNITY ENGAGEMENT PROGRAM

Attachments:	A. Community Panel Agenda
Responsible Officer:	Fiona Plesman - Director - Planning, Community & Corporate Services
Author:	Melissa Cleary - Co-Ordinator - Integrated Planning
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 report to Council on the outcomes of the 2017 Community Panel.

OFFICER'S RECOMMENDATION

Council consider the recommendations made by the Community Panel

Moved: _____ **Seconded:** _____

BACKGROUND

Council's Community Engagement Strategy was endorsed in 2016 and includes a commitment to use a variety of community engagement methodologies including a deliberative democracy approach. At the Ordinary Meeting of Council on 20 September 2017 Council endorsed preparation of an application for a Special Rate Variation with IPART. Council's Ordinary meeting of 10th October Council, endorsed an application to IPART for an overall permanent 14.9% Special Rating Variation from 2018/2019, continuing.

CONSULTATION

The General Manager and Council Officers

CONSULTATION WITH COUNCILLOR SPOKESPERSON

The following Councillors attended the Community Panel

Cr Rush, Cr Scholes, Cr Bailey, Cr Green, Cr Reynolds, Cr Ledlin, Cr Bowditch, Cr Woodruff, Cr Foy.

REPORT

Council's August Community Satisfaction survey asked respondents to indicate if they would be willing to participate in a Community Panel. 150 of the 450 people surveyed indicated they would be willing to participate. This list was used to randomly select a demographically representative group of 25 to 35 people to form a community panel.

Council welcomed a group of 27 community members to form a community panel that met over three weekends on the 4 & 18 November and 2 December, 2017 from 9.30am until 4.30pm and progressed through the attached agenda.

The panel delivered the following recommendations at 3.30pm on Saturday 2nd December:

- We support council's vision for the future of the shire.
- We agree (yes) to the SRV as proposed as long as the entertainment centre is multifunctional
- Consider adjusting the Olympic Park development to provide even more car parking (consider moving tennis courts).
- Community stakeholders need to have ongoing involvement in both projects.
- We thank council for the opportunity to be involved.

To view the interviews with panel members visit Council's website at www.muswellbrook.nsw.gov.au

OPTIONS

Council provide appropriate funds to continue the community panel process in 2018 to provide feedback on service levels and standards.

CONCLUSION

The community panel supports council's vision for the future as articulated in the Denman and Muswellbrook Town Centre Master plans; the Community Panel supports applying for a Special Rate Variation as proposed by Council to increase expenditure on drainage, roads and park maintenance, for the development of Olympic Park as per the Olympic Park Master Plan and the building of an Entertainment and Conference Centre.

SOCIAL IMPLICATIONS

The Community Panel agreed that the delivery of these two projects will have a positive social impact on the Muswellbrook Shire.

FINANCIAL IMPLICATIONS

See the CAPEX reviews for Olympic Park Development and the Entertainment and Conference Centre.

POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

Not applicable

LEGAL IMPLICATIONS

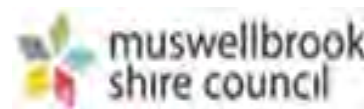
Not applicable

OPERATIONAL PLAN IMPLICATIONS

The intention to apply for a special variation to rates was identified in Council Delivery Program and Operational Plan (17.1).

RISK MANAGEMENT IMPLICATIONS

See the CAPEX reviews for Olympic Park Development and the Entertainment and Conference Centre.



Community Panel

Background

In line with the 2016 /2017 Community Engagement Strategy council will use a 'citizen jury' method of community engagement called a community panel from November 4 to December 2 2017. The purpose of the Panel is to provide community feedback on the proposed SRV application. The community panel will apply the logic of the criminal jury where citizens are asked to *"weigh up the evidence, discuss it as a group and return with a recommendation"*. It is not a perfect process but increasing numbers of local governments are using this 'deliberative democracy' approach to provide a voice for the 'common' resident and improve the level of information and understanding about Council in the community.

The following factors are important to a successful community panel:

- Random selection
- Demographic representation
- Providing appropriately detailed information
- Posing a clearly understood question for the panel to consider

Panel Selection

The Customer Satisfaction Survey of 400 residents completed by Jetty consulting in August 2017 asked each resident if they would like to be part of a community panel; 150 of the 400 indicated that they would. 45 individuals from that list have been invited to participate in the community panel – those invited were selected to reflect a range of age groups, locations and gender balance, the aim is to create a panel of 30 to 35 people. 12 people have confirmed attendance (as of 19th October). The community panel will meet three times this year; the panel will be invited to re-convene in 2018.

Panel Meetings

3 meetings are planned, each are on a Saturday **9.30 to 4.30**. All meetings are fully catered.

The Question: Should Council apply for a special rating variation?

Saturday 4 th November Denman RSL	Saturday 18 th November Muswellbrook – Conservatorium	Saturday 2 nd December Muswellbrook – Conservatorium
Facilitator: Fiona Plesman Opening: Mayor/GM Presenters: Natalia Cowley (finances), Phil Redan (utilities), Neil Pope (roads & infrastructure), Matt Lysaught (property and recreation), Mark Scandrett (Sustainability), Kim Manwarring (Community Services). Focus: Learning about Council <ul style="list-style-type: none"> • Panel purpose and operation, guidelines and rules • Overview of council services, financial management and governance 	Facilitator: Fiona Plesman Presenters: Gerry Bobsien (Economic Development), Matt Lysaught (Future Fund & Market Place), Pathum Gunasekara (LEP & Town Centre Master Plans), (Matt Lysaught (regional projects); Councillors – mingle and meet the panel. Focus: Why apply for an SRV <ul style="list-style-type: none"> • Meet the councillors (which ever councillors can make it) • Review proposed major projects • What further information do you need? 	Facilitator: Fiona Plesman Presenters: speakers at Panel's request. Focus: Prepare recommendations or feedback for Council <ul style="list-style-type: none"> • Review council information (Q & A) • Hear additional information as requested • Prepare recommendation for Council • Present feedback to Mayor and GM

12.4 ESTABLISHMENT OF AN UPPER HUNTER ECONOMIC DEVELOPMENT CORPORATION

Attachments:	A. Circular to Councils 07-49
Responsible Officer:	Steve McDonald - General Manager
Author:	Gerry Bobsien - Executive Manager Economic Development and Innovation
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>

PURPOSE

The purpose of this report is to present to Council a proposal to establish an Upper Hunter Economic Development Corporation.

OFFICER'S RECOMMENDATION

1. Council endorse the establishment of an Upper Hunter Economic Development Corporation and in accordance with section 358 of the Local Government Act, direct Council officers to make application to the Minister of Local Government for approval to establish an entity.
2. A Constitution and funding agreement be presented to Council in a future report.

Moved: _____ Seconded: _____

BACKGROUND

Discussion around the establishment of an Upper Hunter Economic Development Corporation emerged following consultation with the NSW Government in relation to the Upper Hunter Economic Diversification action plan. It became clear that in order to deliver impact and jobs growth in the region, a development corporation would be an effective mechanism to promote new economic opportunities for the Muswellbrook Shire and Upper Hunter region. A Constitution has been drafted with a view to supporting new industry and employment opportunities to address our changing local economy and to buttress the region against future economic change through enhanced industry and economic diversification. The Corporation would work under the governance of a skills-based board of key regional stakeholders to effect structural adjustments in the local economy, with seed funding available for innovation and business relocation to the region, and to promote the Upper Hunter as a key industrial centre of NSW. To date, Council has engaged with industry and NSW government representatives who have expressed support for the initiative.

CONSULTATION

NSW Department Premier and Cabinet
Hunter Development Corporation

Hunter Joint Organisation of Councils

University of Newcastle

Upper Hunter Economic Diversification Working Group

Muswellbrook Chamber of Commerce and Industry

GM and Directors Upper Hunter Councils

Industry representatives including AGL

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Cr Rush

REPORT

Through the development of the Community Strategic Plan and in consultation with the NSW Government's Upper Hunter Economic Diversification Action Plan, Muswellbrook Shire Council recognises there are opportunities in regional economic transition linked to the Upper Hunter's strengths in energy and mining infrastructure, water resources, land use diversification (productive use of mined buffer lands) and transport connectivity. Council aims to focus on several key industry sectors to maintain the Shire's prominent role within as an economic powerhouse. This includes the growth of the environmental goods and services sector and agribusiness alongside increasing market opportunities for post-mining land use and rehabilitation and working alongside the University of Newcastle's International Centre for Balanced Land Use and AGL in the Hunter Energy Transition Alliance.

The Corporation would work to:

- Develop and facilitate initiatives to attract investment and support economic growth and associated employment opportunities in the Upper Hunter.
- Market and promote the Upper Hunter as a regional centre with growth potential.
- Inform and support strategies to address skills shortages.
- Advocate the interests of the Upper Hunter to NSW and Commonwealth governments.
- Identify regional priorities in the short, medium and long term working in partnership to support the delivery of these priorities.
- Collaborate between members of the Corporation to deliver enhanced tourism and event offerings and products promoting the Upper Hunter.
- Facilitate partnerships and engage with business, State and Commonwealth agencies, and education institutions to support and promote enhanced development of community social infrastructure related to employment and regional economic diversification.
- Communicate research and relevant reports undertaken by the Corporation to inform stakeholders, the community and government policy.

The Corporation will be funded in its establishment phase by Muswellbrook Shire Council to provide economic development services and advocacy and will report to Council on a quarterly basis. Following establishment there will be provisions for other Upper Hunter based Councils to join as members. It is proposed a funding agreement is established between Council and the Corporation. The proposed Corporation would report to Council against the KPI requirements within the funding agreement. This draft agreement will be provided to Council along with the Constitution in a future report.

OPTIONS

Council could resolve not to establish an economic development corporation for the Upper Hunter and retain economic development services within Council.

CONCLUSION

In consultation with regional stakeholders and considering the comparative advantages of a similar corporation established by Lake Macquarie City Council (Dantia), there is benefit in the establishment of a Corporation that is responsive to economic opportunity and commands the focus of a dedicated independent board with expertise across sectors and with a passion for the economic development of the Upper Hunter.

SOCIAL IMPLICATIONS

Muswellbrook Shire Council aims to support the transformation of the Muswellbrook Shire economy from a reliance on the thermal coal industry to a more diverse and innovative economy that draws on the Upper Hunter regions competitive and comparative advantages. This will have a positive impact to encourage jobs growth across a diverse range of sectors.

FINANCIAL IMPLICATIONS

There are funding implications for the establishment of the Corporation. This requires an allocation for operational costs that will be detailed further in a future report. The funding agreement will outline the funds that will be provided to the Company. Existing wage and program funding allocated to Economic Development and Innovation in the current budget and proposed 2018/19 budget could be transferred over to the Company and included in the funding agreement.

POLICY IMPLICATIONS

Nil

STATUTORY IMPLICATIONS

Section 358 of the Local Government Act 1993 restricts councils in forming or participating in the formation of a corporation or other entity without first obtaining the consent of the Minister for Local Government. This restriction also extends to acquiring a controlling interest in a corporation or other entity. An entity for the purposes of section 358 of the Act means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated).

LEGAL IMPLICATIONS

The Corporation will be legally separated from Council and Council will need to demonstrate adequate separation with clearly defined legal structure including liability of Council, Council staff and Councillors. The Draft Constitution has undergone a legal review with local Government Legal.

OPERATIONAL PLAN IMPLICATIONS

Establishment of the Corporation is linked to the Economic Prosperity objectives in the Operational Plan.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with the recommendations of this report. If Council endorses the establishment of the company and the application is approved by the Minister, the Company will adopt all insurance and associated regulatory and statutory requirements of the *Corporations Act 2001*. If approved, Council should consider the risks associated with an 'arms-length' delegated authority for service delivery of an objective that is critical to the Community Strategic Plan and Operational Plan of Council. There is however, enough evidence and local government benchmarking that highlights where this kind of model has worked successfully. There will also be appropriate reporting, auditing and review of the Company to minimise the risk of establishing an independent company to deliver economic development services for the Shire.



Circular No. 07-49
Date 5 October 2007
Doc ID. A108632

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CRITERIA FOR APPLICATIONS UNDER SECTION 358 OF THE LOCAL GOVERNMENT ACT 1993 – FORMATION OF CORPORATIONS OR OTHER ENTITIES

This circular is to replace Circular No. 56 of 2006. An additional fourth administrative criteria for assessing applications has now been adopted.

Section 358 of the *Local Government Act 1993* restricts councils in forming or participating in the formation of a corporation or other entity without first obtaining the consent of the Minister for Local Government. This restriction also extends to acquiring a controlling interest in a corporation or other entity.

An entity for the purposes of section 358 of the Act means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated). It does not include any such entity that is of a class prescribed by the Local Government (General) Regulation 2005 as not being within this definition. To date, the Regulation has not prescribed such a class.

It should be noted that the restrictions on the formation of corporations and other entities does not prevent a council from being a member of a co-operative society or a company limited by guarantee and licensed not to use the word "Limited" in its name.

In applying for the Minister's consent under section 358, the council must demonstrate that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest. After assessing the application, the Department will make a recommendation to the Minister on the council's proposal.

As part of the Department's assessment of a council's application, we will have regard to the following:

1. *Is the proposal consistent with the functions of the council or an existing service that the council provides?*

This requirement is drawn from the power of a council to "provide goods, services and facilities and carry out activities appropriate to the current and future needs within its local community and of the wider public" that is contained in section 24 of the Act. This requirement is also consistent with council's general charter in section 8 of the Act.

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To establish that a proposal is consistent with council's functions or services, the following should be provided in support of the application:

- Demonstration of the link between the proposal and community or public needs
- Detail on the general appropriateness of the council's involvement in the corporation or other entity
- Explanation as to how corporatisation or involvement in the entity would improve the economic performance and ability of the council to carry out its responsibilities
- Explanation of what measures will be employed to ensure that the activities of the corporation or entity will be accountable.

2. *Will the proposed entity be legally separated from the council?*

Applications must demonstrate that the initial capital and working capital of the corporation/entity can be identified and separated from the council. The application must also indicate how the council (both as a corporate body and its members personally) are protected from any liability that might arise as a result of the activities of the corporation/entity (including the activities of other partners).

To demonstrate adequate legal separation, council should address three main areas or activities of the proposed corporation or entity. These are:

- Legal structure (including liability of the council, councillors and council staff)
- Financial separation (confirmation that the accounting for the corporation or other entity is separate to the council's accounts)
- Management separation (details of the management structure of the corporation or other entity).

3. *Is the council currently financially viable?*

An assessment of the council's overall financial viability will be made on the basis of data that the council is routinely required to supply to the Department. However, council should also provide details about the costs expected to be incurred, and revenues expected to be received, by the council as a result of being involved in the corporation or other entity.

4. *What is the impact of the proposal on existing council staff?*

Will the proposal result in existing council staff being transferred to the employment of the corporation and if so, will the staff be employed on terms and conditions consistent with their previous employment with the council. Will the corporation guarantee the

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continued employment of transferred staff for a period of at least 3 years. Will the corporation adopt an agreement to refer any industrial disputes to the NSW Industrial Relations Tribunal. Will the proposal result in existing council staff being made redundant.

Any council considering making an application under section 358 of the Act as part of a Public Private Partnership should, as well as referring to all four administrative criteria, also ensure that it follows the requirements outlined in Circular 05-51 "Public Private Partnerships Legislation and Guidelines".

In all other situations, it is recommended that councils refer to all four administrative criteria in making an application for the Minister's consent under section 358 of the Act.



Garry Payne AM
Director General

12.5 DIRECTOR'S REPORT - PLANNING, COMMUNITY & CORPORATE SERVICES

Attachments: Nil

Responsible Officer: Fiona Plesman - Director - Planning, Community & Corporate Services

Author: Chloe Wuiske - Administration Officer
Jade Richardson - Co-Ordinator, Customer Service & Administration
Carolyn O'Brien - Manager, Community Services
Pathum Gunasekara - Acting Manager, Planning & Regulatory Services

Community Plan Issue: *Progressive leadership*

Community Plan Goal: *That Muswellbrook Shire is well led and managed*

Community Plan Strategy: *Operational efficiency*

PURPOSE

Monthly report to Council.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ Seconded: _____

REPORT

PLANNING & REGULATORY SERVICES

1. Statistical Information

Note: Statistics for Section 149 Planning Certificates, Development Applications, Construction Certificates and Complying Development Certificates are distributed separately to Councillors with whole of month data prior to the Council meeting. The statistics are also available on Council's website.

Schedule 1: Development Applications Approved (26 October 2017 to 29 November 2017)

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2017/38	Garage, Awning & Driveway	45 Sowerby Street Muswellbrook	30,000
2017/101	Boundary Adjustment between Two (2) Lots	8 Bronte Crescent Muswellbrook	-
2017/85	Install Manufactured Home	80 Wollombi Road Muswellbrook	130,000
2017/91	Signage	15-17 Rutherford Road Muswellbrook	30,000

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2017/96	Mobile Concrete Batching Plant	8440 New England Highway Muswellbrook	40,000
2017/67	Demolition of Existing Service Station & Construction of New Service Station	12-20 Sydney Street Muswellbrook	1,998,653
2017/84	Steel Carport	71 Humphries Street Muswellbrook	6,200
2017/77	New Dwelling	50 Ogilvie Street Denman	198,000
2017/87	Internal Commercial Shop Fitout and Installation of Business Sign	19-29 Rutherford Road Muswellbrook	7,500
2017/83	Swimming Pool & Associated Safety Barrier	162 Almond Street Denman	19,000
2017/82	Two (2) Factory Units and Two (2) Commercial Offices	14 Glen Munro Road Muswellbrook	600,000

Schedule 2: Development Applications Currently Being Assessed

DA No.	DESCRIPTION	PROPERTY	RECEIVED	VALUE (\$)
2017/104	Primary and Secondary Dwelling to be Constructed in Two (2) Stages	8569 New England Hwy Muswellbrook	24/11/2017	552,924
2017/103	Placement of Four (4) Temporary Demountable Buildings	3 Thomas Mitchell Drive Muswellbrook	16/11/2017	34,552
2017/102	Attached Fly-Over Patio	53 Ogilvie Street Denman	15/11/2017	13,700
2017/100	Shooting Range	Pretoria Row Muswellbrook	09/11/2017	-
2017/99	Two (2) Steel Sheds	2 Armitage Avenue Muswellbrook	09/11/2017	29,800
2017/98	Attached Gable Patio Cover	93 Queen Street Muswellbrook	08/11/2017	25,850
2017/97	Above Ground Swimming Pool & Associated Safety Barriers	376 Sandy Creek Road Mccullys Gap	07/11/2017	8,615
2017/95	Concrete Block Retaining Wall and Steel Framed Shed	70-72 Ironbark Road Muswellbrook	27/10/2017	145,000
2017/94	Five (5) Rural Workers Dwellings	3367 Golden Highway Jerrys Plains	25/10/2017	1,400,000
2017/93	Two (2) Carports	17 Wilson Street Muswellbrook	25/10/2017	18,000
2017/92	Demolition of Existing Garage and Erection of New Garage	4 Wilder Street Muswellbrook	24/10/2017	24,600
2017/90	Deck at Rear of House	7 Malbec Street Muswellbrook	23/10/2017	17,344
2017/89	Construction of a New 3/4 Effluent Drain Sump to Replace Existing Sump	New England Hwy Muswellbrook	19/10/2017	215,000
2017/88	Internal Alterations to Existing Car Dealership and Replace Existing Signage with New Illuminated Signage	116 Bridge Street Muswellbrook	18/10/2017	40,000
2017/86	Garage with Awning	26 Lexia Street Muswellbrook	13/10/2017	15,100
2017/81	Change of Use - Function Facility - Bed & Breakfast - Tea Room	310 Denman Road Muswellbrook	19/09/2017	6,000

DA No.	DESCRIPTION	PROPERTY	RECEIVED	VALUE (\$)
2017/76	Renovations and Additions to Racing and Function Centre	16 Sheppard Avenue Muswellbrook	24/08/2017	4,000,000
2017/73	Caravan Park - Continuation of Use	1618 Merriwa Road Sandy Hollow	28/07/2017	-
2017/66	Refurbishment and Extension of Existing RSL Building	2-4 Isobel Street Denman	10/07/2017	3,666,099
2017/60	Change of Use - Building Materials Recycling Depot	7 Glen Munro Road Muswellbrook	23/06/2017	-
2017/59	Deconstruction and Rebuilding of Heritage Belfry	20 Brook Street Muswellbrook	20/06/2017	75,000
2017/57	Construction of Ford and Isuzu Showroom, Vehicle Display and Signage	113 Maitland Street Muswellbrook	14/06/2017	445,459
2000/212/6	S96(1a) Modification - Extension of timeframe of Operations & Extraction Area, Site Plan, Removal of Conditions	2449 Denman Road Muswellbrook	29/05/2017	-
2003/72/2	S96(1a) Modification - Amend Condition 1.11 - Alter Hours of Operation	83-89 Maitland Street Muswellbrook	21/04/2017	-
2017/25	Mobile Crushing Plant	11 Glen Munro Road Muswellbrook	21/03/2017	40,000
2016/111/2	S96(1a) Modification -Extend Existing Retaining Wall by Six (6) Metres	33 Shaw Crescent Muswellbrook	10/03/2017	-
1995/10098/3	S96(2) Modification - Additional Small Irrigation Area & Amend Conditions	Savoy Parish County Durham	30/01/2017	-
2016/32	Placement of Fill	110 Merriwa Road Denman	12/04/2016	5,000

4.07.01.1 - On-site sewage management systems meet regulatory standards. Ensure all on site sewage management systems have necessary approvals and inspections are to be carried out.

On-site Wastewater Statistics - 13 Month Analysis (2016/2017)

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Applications Received (new installation)	1	2	3	0	1	0	1	1	0	0	1	2	4
Applications Approved (new installation)	0	3	3	0	4	0	1	0	1	1	2	4	3
Inspections (new system)	0	1	0	0	0	0	0	0	0	0	2	1	2
Inspections (existing system)	51	61	83	4	31	8	6	31	14	26	1	11	2

4.01.01.1 - Reduce the environmental impact of development on our community by carrying out regular inspection of building sites and monitoring waste.

Building Site Compliance Inspection Statistics – 13 Month Analysis (2016/2017)

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Total Sites Inspected	2	1	0	0	0	0	0	0	0	0	0	2	3

Total non-compliant and educated	0	1	0	0	0	0	0	0	0	0	0	0	3
Total compliance after education	0	1	0	0	0	0	0	0	0	0	0	0	0
Total Penalty Notices Issued	0	0	0	0	0	0	0	0	0	0	0	0	0

4.06.01.1 - Increase surveillance and regulation of illegal dumping.**Illegal Dumping Statistics – 13 Month Analysis (2016/2017)**

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Total Investigations	4	3	5	1	3	2	3	5	2	5	4	3	4
Total Clean up by Council - insufficient evidence	3	2	3	1	2	2	3	3	2	1	2	3	2
Total Clean Up by individual	0	0	2	0	0	0	0	0	0	3	2	0	1
Total Penalty Notices Issued	0	1	0	0	0	0	0	0	0	0	0	0	1
Court Attendance Notice Issued	0	0	0	0	0	0	0	0	0	0	0	0	0
Still under investigation	1	0	0	0	0	0	0	2	0	0	0	0	0

4.04.04.4 - Enhance public safety and wellbeing of the community by undertaking an inspection program for swimming pools within the Local Government Area**Swimming Pool Compliance Statistics – 13 Month Analysis (2016/2017)**

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Applications for Compliance Certs.	0	2	1	3	2	3	2	1	0	1	2	1	2
Total compliance inspections (not inc. Final Insp. for Occ. Certs)	18	25	17	20	19	42	25	19	8	19	29	27	19
Initial Inspections	14	19	17	15	16	27	19	1	4	17	23	21	8
Re-inspections	4	6	0	5	3	15	6	18	4	2	6	6	11
Compliance Certs / Occ. Certs issued	12	16	8	9	22	26	18	27	7	15	21	21	13

Total Pools in Council's Swimming Pool Register = 855**Compliance as at 30 June 2017 = 63.7%****Current Compliance = 71.1%**

(i.e. 608 out of 855 pools have a valid Compliance Certificate or Occupation Certificate.
 Note: Certificate is valid for 3 years)

Percentage of pools inspected during Financial Year 2017/2018 = 8.1%

(i.e. 69 out of 855 pools have had at least one inspection carried out during FY 2017/2018. Council's program outlines that we will inspect 10% of pools per year).

COMMUNITY SERVICES

Muswellbrook Shire Aquatic and Fitness Centres*Aquatic and Fitness Centre News*

- Staff have been selected to participate in the Australian Recreation Industry Mentor Program. This program will raise the skills and knowledge of staff at the Muswellbrook Aquatic and Fitness Centre.
- Muswellbrook Aquatic and Fitness Centre participated in “Have a go in the Brook” on 1 December, raising awareness of recreation options for people with accessibility barriers to participation.
- The learn to swim program was well supported by most public schools. Muswellbrook Public School learn to swim programs was sponsored by Bengalla Mining.
- Staff attended Maitland 25m heated pool complex which will assist in decisions regarding pool upgrades.
- New casual employees 3 x learn to swim and 1 x lifeguard were recruited to meet the staffing needs of both pool facilities over November.
- One staff member has completed their fitness course which will cater for increased programming at Muswellbrook Shire Aquatic and Fitness Centres.
- Muswellbrook High School participated in lifesaving programs during November.
- Staff attended training delivered by the Office of Local Government regarding Practice note 15.

*Statistics2017/18**Muswellbrook*

Month	Learn to Swim	Gym Patronage	General Entry	Aqua Aerobics patrons
July	394 Enrolled 756 visits	622	2546	115
August	402 Enrolled 1289 visits	683	3652	85
September	502 Enrolled 872 visits	667	4972	140
October	519 Enrolled 1336 visits	867	7466	174
November	544 Enrolled 1555 visits	581	7789	203

Denman

Month	Learn to Swim	Gym Patronage	General Entry	Aqua Aerobics
October	0	0	1239	0
November	0	0	1867	2

Muswellbrook Regional Arts Centre**18.2.1 Deliver a minimum of five Exhibitions each year**

The current exhibitions include:

Graham (Polly) Farmer Foundation – Muswellbrook Student Works

Muswellbrook Local Art Prize – An exhibition of finalists for the 2017 Muswellbrook Local Art Awards, an annual competition which offers local artists from Muswellbrook, Singleton, and Upper Hunter Shires the opportunity to show off the cream of their work from the past twelve months.

Viola Bromley Painting Prize - incorporating the Hunter Valley Printing Encouragement Prize

Garry Philp Works on Paper - incorporating the Elks Enterprises Encouragement Prize

Local 3D Prize - incorporating the Max Watters Encouragement Prize

Local Photography Prize – incorporating the Hunter Valley Hydraulink Encouragement Prize

Local Aboriginal Art Prize – incorporating the Berry & French Pharmacy Encouragement Prize

Esther Bellis Youth Prize – incorporating the Framing Good Encouragement Prize

The next exhibitions;

Muswellbrook Red Cross Christmas Trees and Wreaths

28 November - 15 December 2017

Presentation of Prizes 6.00pm Friday 15 December 2017

The ever popular biennial community Christmas event, the Muswellbrook Red Cross Christmas Trees and Wreaths are on display again in 2017 at the Muswellbrook Regional Arts Centre. Visitors to the display will be able to immerse themselves in the festive spirit with splendid, inspired, unique and creative Christmas Trees and Wreaths dotted throughout the Arts Centre.

Visitors to the Muswellbrook Red Cross Christmas Trees and Wreaths are invited to cast their vote in deciding the winning display along with supporting the Red Cross's fund raising efforts. Voting is \$2 per adult and \$1 for children and concession holders and is open to the public for the duration of the display.

Voting is open to the public for the duration of the display. While the Sponsor's Prize is selected by a Bengalla Mining Company representative, all other prizes are decided by people's choice.

The Red Cross Christmas tree display is proudly sponsored by Bengalla and Muswellbrook Red Cross and will be on display between 28 November - 15 December 2017. The official closing and Presentation of Prizes will occur at 6.00pm Friday 15 December 2017 with refreshments courtesy of the Muswellbrook Red Cross.

Coming Waives by Sue Beiboer

Opening: 6pm Friday 5 January 2018

Exhibition: 6 January to 4 March 2018

Etched imagery takes the sea motif in a new direction, simplifying forms and creating a graphic representation of the subject. These works explore the dynamic possibilities of line work and colour, amplifying the beauty of the subject through repetition.

This body of work aims to draw the viewer closer, the intrigue of the details enabling the viewer to see and appreciate the beauty of these forms. The subtle inclusion of unnatural objects shifts the focus, disrupting the harmony of the imagery. Whilst the sea life will decompose and benefit the ecosystem, man-made synthetic objects will not.

Reflecting on Nature: Birdlife studies in oil and through the lens - Bernice, Mark and Mitchell O'Mahoney

Opening: 6pm Friday 5 January 2018

Exhibition: 6 January to 4 March 2018

Mitchell O'Mahoney, Hunter Valley portrait artist and drawing teacher, has put aside his portrait subjects and teamed up with wildlife photographers Bernice and Mark O'Mahoney for this collection of parallel works – Reflecting on Nature.

Bernice and Mark O'Mahoney began photography as a pursuit to complement their interest in Australian bush, its wildlife and native plants. Their objective is to observe, photograph and identify as much as possible of the unique flora and fauna this great country has to offer. The photographs included in this exhibition are a selection from their Australian birdlife series.

Drawing on the Australian birdlife captured by Bernice and Mark, Mitchell's own unique portrayal of Australian birdlife, executed in oil on silver, features a role-reversal of sorts in which the viewer affects the subject by contributing one's own colour and movement for a changeable visual experience.

Stencil Art Prize 2017

Opening Night 6pm Friday 5 January 2018

06 January - 04 March 2018

Showcasing 67 stencil artists from 25 countries, the Stencil Art Prize is the world's largest stencil event. Influenced by the ephemeral nature of street art, these stencil-based works blend pop-culture imagery and global politics to highlight the growing concerns of a socially engaged generation of artists.

This exhibition is a unique collection of works from Australia, Argentina, Austria, Brazil, Canada, Cyprus, England, Finland, Germany, Greece, Hungary, Iran, Italy, Japan, Lithuania, Mexico, New Zealand, Poland, Russia, South Korea, Spain, Syria, Thailand, United Kingdom and USA.

Highlights of the exhibition include the Austrian duo Jana & JS with their intimate style of portraiture; David Soukup (USA) and his internationally acclaimed Chicago fire escapes; Iranian artist Afshid with his portrayal of refugees, migration and heritage; Mue Bon's (Thailand) playful take on capitalism and Australia's own Kirpy who has layered dozens of street posters as a base upon which to create a streetscape.

The stencil artists in this exhibition encompass nearly every stencil making method on the planet including hand drawn and hand cut stencils, computer generated stencil layers, silk screen stencils and screen printing processes, collage and mixed media stencils, spray paint techniques, water colour, ink and more.

Artworks and print editions of the stencils are for sale at www.stencilartprize.com

18.2.2 Work with sponsors to investigate the annual delivery of the Muswellbrook Art Prize

The 45th Muswellbrook Art Prize will be sponsored by Bengalla Mining and Muswellbrook Shire Council in 2018. Entries close in early 2018.

Finalists of the Muswellbrook Art Prize now vie for a total of \$71,000 prize money across four prize categories:

- Painting \$50,000 acquisitive
- Works on Paper \$10,000 acquisitive
- Ceramics \$10,000 acquisitive
- People's Choice \$1,000 non-acquisitive

18.2.5 At least one Artist in Residence Program is delivered each year.

Applications for the Muswellbrook Artist in Residence program closed on 1 December. This process included the submission of a proposal that detailed the following;

Quality:

Demonstration of a strong, creative and innovative arts-led project that delivers valuable outcomes relevant to the needs of the local community

Calibre and expertise of the artist and their demonstrated capacity to deliver quality creative experiences

Value:

Provision of professional development experiences to the artist

Maximisation of artistic, cultural and community outcomes

Provision of opportunities for co-creation

Engagement with and for the local community

Provided learning and development for the local community

Reach:

The range of community involvement

Strategies for sustainability and development of outcomes of the programme, including development of new relationships at the community level

Viability:

Demonstration of good planning, including appropriate timeline, effective use of resources, and interaction and engagement with the local community

Achievable outcomes

The Artist in residence will occur as a 2 to 6 week residency between January and June 2018. The successful applicant will receive \$7,000 in funding for the residency and creation of exhibition works, studio space, marketing and promotion, and a 3 month exhibition at Muswellbrook Regional Arts Centre to showcase their work.

The successful Artist in Resident will be notified by mid-December.

UPPER HUNTER REGIONAL LIBRARY

Projects and Programs Statistics

Storytime and Baby Rhyme Time sessions	Muswellbrook Branch 143 participants.
Mini Mobile Libraries x 5 collections	Muswellbrook Branch 325 items on loan
Grandparents Day.	95 participants across both branches
CALD Programs: Storytime	Muswellbrook branch 46 participants
Walk against violence	Muswellbrook branch 35 participants
Crafty hour and Brain Training	Muswellbrook branch 46 participants
Local Studies	38 participants across both branches

Library circulation statistics – please note this is the first reporting in the new library management system and does not cover a full month.

Loans Statistics - Location: Denman - & Muswellbrook – 3012

New Members – Location: Muswellbrook 63, Denman 7

Current members – Muswellbrook 6606, Denman 558

Library News

The Summer Reading Program, which is held every summer across Queensland and New South Wales was launched on 1 December, 2017 and will run until end January, 2018.. This program engages children in reading activities and has been very successful in the past. This year's theme is; GAME ON and the libraries have branded themselves by creating T-shirts and bags for the participants. The library

is very excited to be introducing 3D gaming to our services during this period and many library visitors have expressed an interest in participating in program activities.

The Muswellbrook Library seminar rooms are increasing being reserved with bookings made throughout 2018.

Staff attended the 2017 SWITCH Conference in Penrith, which was a great opportunity to network and hear from other libraries what is happening in regards to technologies and programming for public libraries in New South Wales and abroad.

Planning has commenced on strategies and partnerships that will deliver Paint the Town Read in the Shire and promote lifelong learning and literacy.

The Upper Hunter Library Network has entered in to a memorandum of understanding in relation to shared library software to enable the establishment of a consortium by member councils of the NSW Public Libraries Association Central East Zone. Currently the Upper Hunter Shire Council, Muswellbrook Shire Council and Singleton Council have entered in to this agreement to share library management software with the view to achieve the benefits of shared costing, improved customer service and improved purchasing and cataloguing processes during stage one. The library staff received extensive training over a two week period during October in preparation for the launch and the new system went live on Monday, 30th October.

Library staff have indicated that the new system seems easy to use and intuitive while customers have commented that the new public access catalogue is easy to use and are pleased with the inclusion of digital collections in to the catalogue.

Community members are now able join the library online and immediately commence accessing library ebooks without having to physically visit a branch. Planning is in place to roll this functionality out to include access to the eAudio and eMagazine collections also. Users are also able to make reservations, stock suggestions, inter-library loan requests, renew items on loan and review library items that they have borrowed via the public interface.

The digital resources consortia between Upper Hunter Library Network, Singleton Library, Cessnock Library and Maitland library has now been in place since early October. As a result library members now have access to 145 digital magazines and over 1,300 digital audio books with new titles being added each month. Feedback from this change has been positive.

Technical Services Report

The Technical Services Libraries will commence maternity leave on 15 December. Jenny Platt will commence as a temporary Technical Services Librarian on 11 December.

The door counters in both the upstairs and downstairs sections are no longer functioning. Estimations on visitation have not been accurate for the last four months.

eBook loans: 11

eAudio Loans: 38

eMagazine Loans: 109

Wifi Usage:

- Muswellbrook: 1,230 users
- Denman: 23 users

ILL Requests:

- Requests on behalf of our borrowers: 2
- Requests incoming from other library services: 12

COMMUNITY PARTNERSHIPS

An internal meeting has been held between Community Services and Building Services Sections to come to an agreed way forward in regards to the development of accommodation options for Upper Hunter Youth Services. A report is being prepared for the Corporate Policy and Planning Meeting;

Process of the Youth Week 2018 Grant has commenced with the Department of Family & Community Services. Discussions have also commenced with Upper Hunter Youth Services about next year's Youth Week event, there will be consultation with other youth services in neighbouring Shires with the focus to coordinate activities during this designated week;

Preliminary work has commenced on the Social Indicators Report, relevant ABS Census Data is being compiled to reflect community wellbeing indicators, it is expected that this Report will be available early next year;

An internal physical access committee continue to meet and priorities access issues in council owned assets. There has been some preliminary discussions about consulting with groups in the community that represent specific disability requirements;

Discussions continue with Denman Children's Centre and their proposal to extend their building. A report will be prepared for the Corporate Policy & Planning Meeting;

Muswellbrook Shire Council Ageing Strategy is currently being reviewed. The consultation phase of the Ageing Strategy has commenced, the survey focuses on assessing ageing people's issues and needs in our community this phase of the review will close mid-January;

A Seniors Festival Week brochure is currently being compiled. The brochure will reflect what activities and events will happen in the Muswellbrook shire during Seniors Week 2018;

The Aboriginal Culture and Heritage Working Group met in November and will met again in December;

The Aboriginal Oral History Working Group is scheduled to meet in December to progress this project;

The Aboriginal Culture and Education Centre concept will be explored with the Aboriginal Reconciliation Committee in December. The design and use of such as Centre will be discussed with the Aboriginal Community and aboriginal Organisations;

13 REPORTS FROM COMMITTEES

13.1 REPORT OF THE LOCAL TRAFFIC COMMITTEE MEETING HELD ON TUESDAY, 21 NOVEMBER 2017

Attachments:	Nil
Responsible Officer:	Neil Pope - Director, Community Infrastructure
Author:	Imelda Williams - Traffic & Roads Status Officer
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
Community Plan Strategy:	<i>Investigate and recommend appropriate management treatments for road safety and traffic management.</i>

PURPOSE

To facilitate Council's adoption of the recommendations of the meeting of the Local Traffic Committee held on 21 November 2017, which recommended action on Extension of a School Bus Run and "Prohibited Truck" signage in Denman.

OFFICER'S RECOMMENDATION

The Minutes of the Local Traffic Committee Meeting held on Tuesday 21 November 2017 be received and the recommendations contained therein **ADOPTED**.

Moved: _____ **Seconded:** _____

REPORT

The Local Traffic Committee met on Tuesday 21 November 2017.

The Minutes of the meeting are attached for the information of the Councillors.

PRESENT: Cr S. Reynolds (Chair), Mr T. Chapman (RMS Newcastle), Snr. Constable C. Dengate (NSW Police), Mr G. de Boer (Representing Mr Michael Johnsen), Mr P. Higgins (Manager Technical Services).

IN ATTENDANCE: Mrs I. Williams (MSC).

1 APOLOGIES AND LEAVE OF ABSENCE

Nil

2 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RECOMMENDED that:

The Minutes of the Local Traffic Committee held on 19 September 2017, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

3 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST

Nil

4 BUSINESS ARISING

Nil

5 BUSINESS

5.1 (INFORMAL REPORT) EXTENSION OF SCHOOL BUS RUN ALONG TURNERMANS ROAD

RECOMMENDED that:

Council determines that a bus turnaround point located at the end of the maintained section of Turnermans Road and the additional 2 bus stops at 111 & 301 Turnermans Road are satisfactory provided suitable care is taken and raises no objection to the extension of the school bus run to the turnaround point as indicated in the report and on the attached map.

VOTE: Unanimous support

5.2 LOAD LIMIT ON DENMAN STREETS

RECOMMENDED that:

Council use its delegated authority to approve the installation of "Trucks Prohibited" (symbolic) r-6-10-2 signage on the following streets in Denman

1. Merton Street
2. Virginia Street north of Crinoline Street intersection
3. Paxton Street north of Crinoline Street intersection

4. Martindale Street

5. Kenilworth Street

after the prescribed advertising and consultation period has expired and in accordance with Part 8 Division 2 of the *Roads Act* 1993.

VOTE: Unanimous support

6 DATE OF NEXT MEETING

7 CLOSURE

The meeting was declared closed.

.....
Cr S. Reynolds

Chairperson

13.2 REPORT OF THE INFRASTRUCTURE COMMITTEE MEETING HELD ON WEDNESDAY, 29 NOVEMBER 2017

Attachments:	Nil
Responsible Officer:	Steve McDonald - General Manager
Author:	Michelle Sandell-Hay - PA to the General Manager
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>Appropriate matters are reported to Council in a timely manner in accordance with the Financial Control and Reporting Policy.</i>

PURPOSE

To facilitate Council's adoption of the recommendations of the meeting of the Infrastructure Committee held on 29 November 2017.

OFFICER'S RECOMMENDATION

The Minutes of the Infrastructure Committee Meeting held on Wednesday 29 November 2017 be received and the recommendations contained therein **ADOPTED**.

Moved: _____ Seconded: _____

REPORT

The Infrastructure Committee met on Wednesday 29 November 2017.

The Minutes of the meeting are attached for the information of the Councillors.

DECISIONS REQUIRING A NEW BUDGET ALLOCATION

Item Ref	Description	\$	GL No.

PRESENT: Cr R. Scholes (Chair), Cr M. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr M. Green, Cr J. Ledlin, Cr S. Reynolds and Cr S. Ward.

IN ATTENDANCE: Mr S.J. McDonald (General Manager), Mr N.W. Pope (Director, Community Infrastructure), Ms F. Plesman (Director, Planning, Community & Corporate Services), Mr J. Wisniewski (Acting Executive Manager, Water and Waste), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Mr D. Finnigan (Manager, Muswellbrook Works), Mr E. Ediriwickrama (Manager, Roads & Drainage), Ms N. Cowley (Manager, Corporate Services), Mr P. Gunasekara (Acting Manager, Planning & Environmental Services), Mr M. Lysaught (Manager, Property & Building Services), Mr G. Hemachandra (Project Engineer), Mr M. Wells (Project Manager) and Mrs M. Sandell-Hay (PA to General Manager).

1 APOLOGIES AND LEAVE OF ABSENCE

RECOMMENDED on the motion of Crs Eades and Green that:

The apologies for inability to attend the meeting submitted by Cr. B. Woodruff, Cr. G. McNeill, Cr. J. Foy and Cr. S. Bailey be ACCEPTED and the necessary Leave of Absence be GRANTED.

2 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RECOMMENDED on the motion of Clrs Green and Reynolds that:

The Minutes of the Infrastructure Committee held on 25 October 2017, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

3 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST

Nil

4 BUSINESS ARISING

Nil

5 BUSINESS

5.1 FOOTPATH CONSTRUCTION PROGRAM

RECOMMENDED on the motion of Crs Reynolds and Ward that:

Council endorse the construction of the footpath on Brook Street from Hunter Terrace to the Railway using the remaining funds in the footpath allocation.

5.2 MID-NOVEMBER QUARTERLY REPORT - PROGRESS ON THE RECYCLE WATER TREATMENT WORKS PROJECT

RECOMMENDED on the motion of Crs Ward and Green that:

Council note the quarterly progress report on the provision of the new recycle water treatment

works up to Mid-November 2017.

5.3 RENEWABLE ENERGY TARGET UPDATE

RECOMMENDED on the motion of Crs Ward and Eades that:

The information contained in this report be noted.

6 ADJOURNMENT INTO CLOSED COMMITTEE

RECOMMENDED on the motion of Clrs Green and Ledlin that:

The Committee 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:

7.1 2017-2018-0328 Regional Procurement Initiative panel contract T291718HUN Provision of Tree Maintenance

Item 7.1 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 the Committee considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

7 CLOSED COMMITTEE

7.1 2017-2018-0328 REGIONAL PROCUREMENT INITIATIVE PANEL CONTRACT T291718HUN PROVISION OF TREE MAINTENANCE

RECOMMENDED on the motion of Crs Green and Ledlin that:

The Committee recommends that Council accepts the following best fit for purpose tenderers under each scenario for the provision of tree removal and tree lopping works for the period 1 January 2018 to 30 September 2019, with a further twelve month option of extending the contract to 30 September 2020 based on satisfactory performance:

Under combined scenarios A and B:

1. Asplundh Tree Services (Australia) Pty Ltd;
2. Active Tree Services Pty Ltd;
3. J.K. Cooper Tree Services Pty Ltd;
4. D&C Tree Services Pty Ltd.

Under category C:

1. Plateau Tree Serve Pty Ltd.
2. UAM Pty Ltd.
3. Active Tree Services Pty Ltd.

4. D&C Tree Services Pty Ltd.

8 RESUMPTION OF OPEN COMMITTEE

RECOMMENDED on the motion of Crs Ledlin and Bowditch that:

The meeting return to Open Committee.

9 DATE OF NEXT MEETING

20 December 2017

10 CLOSURE

The meeting was declared closed at 4.45pm.

.....
Mr S. McDonald
General Manager

.....
Cr R. Scholes
Chairperson

**13.3 REPORT OF THE CORPORATE POLICY AND PLANNING COMMITTEE
MEETING HELD ON WEDNESDAY, 29 NOVEMBER 2017**

Attachments:	Nil
Responsible Officer:	Steve McDonald - General Manager
Author:	Michelle Sandell-Hay - PA to the General Manager
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>Appropriate matters are reported to Council in a timely manner in accordance with the Financial Control and Reporting Policy.</i>

PURPOSE

To facilitate Council's adoption of the recommendations of the meeting of the Corporate Policy And Planning Committee held on 29 November 2017.

OFFICER'S RECOMMENDATION

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 29 November 2017 be received and the recommendations contained therein **ADOPTED**.

Moved: _____ Seconded: _____

REPORT

The Corporate Policy And Planning Committee met on Wednesday 29 November 2017.

The Minutes of the meeting are attached for the information of the Councillors.

DECISIONS REQUIRING A NEW BUDGET ALLOCATION

Item Ref	Description	\$	GL No.

MINUTES OF THE CORPORATE POLICY & PLANNING COMMITTEE MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE COUNCILLORS ROOM, ADMINISTRATION CENTRE, MUSWELLBROOK ON WEDNESDAY 29 NOVEMBER, 2017 COMMENCING AT 4.46PM

PRESENT: Cr S. Reynolds (Chair), Cr M. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr M. Green, Cr J. Ledlin, Cr R. Scholes, and Cr S. Ward.

IN ATTENDANCE: Mr S.J. McDonald (General Manager), Mr N.W. Pope (Director, Community Infrastructure), Ms F. Plesman (Acting Director, Planning, Community & Corporate Services), Mr J. Wisniewski (Acting Executive Manager, Water and Waste), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Mr D. Finnigan (Manager, Muswellbrook Works), Ms N. Cowley (Manager, Corporate Services), Mr P. Gunasekara (Acting Manager, Planning & Environmental Services), Mr M. Lysaught (Manager, Property & Building Services), Mr G. Hemachandra (Project Engineer), Mr M. Wells (Project Manager) and Mrs M. Sandell-Hay (PA to General Manager).

1 APOLOGIES AND LEAVE OF ABSENCE

RECOMMENDED on the motion of Crs Bowditch and Scholes that:

The apologies for inability to attend the meeting submitted by Cr S. Bailey, Cr J. Foy, Cr. G. McNeill and Cr B.N. Woodruff be ACCEPTED and the necessary Leave of Absence be GRANTED.

2 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RECOMMENDED on the motion of Crs Bowditch and Scholes that:

The Minutes of the Corporate Policy & Planning Committee held on 25 October 2017, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

3 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST

Nil

4 BUSINESS ARISING

Nil

5 BUSINESS

5.1 2017/2018 OPERATIONAL PLAN 30 SEPTEMBER QUARTERLY REVIEW

RECOMMENDED on the motion of Crs Rush and Bowditch that:

The 2017/2018 Operational Plan Review dated 30 September 2017 be noted.

5.2 REPORT ON INVESTMENTS HELD AS AT 31 OCTOBER 2017

RECOMMENDED on the motion of Crs Rush and Ward that:

The information showing Council's investments as at 31 October 2017 be noted and the exceeded trading limits on three issuers be accepted.

6 DATE OF NEXT MEETING

20 December 2017

7 CLOSURE

The meeting was declared closed at 4.50 pm.

.....
Mr S. McDonald
General Manager

.....
Cr S. Reynolds
Chairperson

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS**17 QUESTIONS FOR NEXT MEETING****18 ADJOURNMENT INTO CLOSED COUNCIL**

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, business of a kind referred to in Section 10A(2) of the Act should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

19 CLOSED COUNCIL**RECOMMENDATION**

That 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:

19.1 AWARD OF CONTRACT NO 2016-2017-0280 C1 - UPGRADE OF ELECTRICAL SWITCH GEAR AT MUSWELLBROOK WATER TREATMENT WORKS

Item 19.1 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.

19.2 BUSINESS CASE FOR DOMESTIC WASTE COLLECTION

Item 19.2 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.3 PANEL SOURCE TENDER FOR THE PROVISION OF LINEMARKING

Item 19.3 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.

19.4 VICTORIA PARK - TELSTRA LEASE

Item 19.4 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.

19.5 CIVIC PRECINCT - PURCHASE OF PROPERTY

Item 19.5 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.

19.6 AWARD OF CONTRACT 2017-2018-0321 - PHOTOCOPIER AND PRINT MANAGEMENT SOLUTION

Item 19.6 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.7 CAPITAL EXPENDITURE REVIEW - REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE

Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.8 CAPITAL EXPENDITURE REVIEW - OLYMPIC PARK PRECINCT UPGRADE

Item 19.8 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.9 Councils Grant Application Program

Item 19.9 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.10 Planning and Regulatory Services

Item 19.10 is classified CONFIDENTIAL under the provisions of Section10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Moved: _____ Seconded: _____

20 RESUMPTION OF OPEN COUNCIL

21 CLOSURE

DATE OF NEXT MEETING: TUESDAY 13 FEBRUARY 2018