

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

BUSINESS PAPER

31 AUGUST 2021



ORDINARY COUNCIL MEETING, 31 AUGUST 2021

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
30 August, 2021

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the CHAMBERS, Administration Centre, Muswellbrook on **31 August, 2021** commencing at 6.00pm.

Fiona Plesman
GENERAL MANAGER

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**MUSWELLBROOK SHIRE COUNCIL
ORDINARY COUNCIL MEETING**

**AGENDA
TUESDAY 31 AUGUST 2021**

- 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 **27 July 2021**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

Moved: _____ Seconded: _____

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

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

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

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

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

- Significant
- Less than significant

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

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

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

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

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 2021-33 CONTINUED OPERATION OF WIND MONITORING MAST - LOT 197 AND 199 DP752444 - SANDY CREEK ROAD, MCCULLYS GAP

Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Tanya Jolly - Project Planner
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>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>
Attachments:	<p>A. DA 2021-33 Development Assessment Report ⇒</p> <p>B. DA 2021-33 Recommended Conditions of Consent ⇒</p> <p>C. Map - location of submitters ⇒</p> <p>D. DA 2021-33 Summary of Submissions ⇒</p> <p>E. DA 2021- 33 Statement of Environmental Effects ⇒</p> <p>F. DA 2021-33 SEE Addendum ⇒</p>

Documents referred to in assessment not attached:

- Muswellbrook Local Environmental Plan 2009
- Muswellbrook Development Control Plan 2009
- Full copies of Submissions

APPLICATION DETAILS

Applicant:	Muswellbrook Shire Council
Owner:	Muswellbrook Shire Council
Proposal:	Continued Operation of Wind Monitoring Mast
Location:	Lot 197 and 199 DP 752444 - Sandy Creek Road McCullys Gap
Permissibility:	The proposed development is permissible as <i>electricity generating works</i> under Clause 34 of the <i>State Environmental Planning Policy (Infrastructure) 2007</i>

PURPOSE

This report has been prepared to inform Council in determining Development Application No. 2021/33. The development application involves the continued operation of a Wind Monitoring Mast on Lot 197 & Lot 199 DP 752444 Sandy Creek Road, McCullys Gap. The structure was initially installed as 'exempt development' under the provisions of the State Environmental Planning Policy (Infrastructure) 2007 but now requires development consent as it has exceeded the length of time it can be located on the land as exempt development.

This application is being reported to Council as it involves a height variation under Clause 4.6 of the Muswellbrook Local Environmental Plan (MLEP) 2009. The maximum building height of buildings for this land is 12 metres. The proposed development has a height of 110 metres.

Sixteen (16) submissions were received by Council in relation to the development application.

An external Planning Consultant was engaged to assess this development application. The Section 4.15 Assessment was prepared by the Planning Consultant, and they recommend that the application be approved subject to conditions.

RECOMMENDATION

Development Application No. 2021-33 for the Continued Operation of a Wind Monitoring Mast on Lot 197 and 199 DP 752444 - Sandy Creek Road McCullys Gap, be approved subject the conditions in Attachment B to the report.

Moved: _____ Seconded: _____

☐ Cr J. Ledlin

☐ Cr G. McNeill

☐ Cr R. Scholes

☐ Cr J. Foy

☐ Cr M. Bowditch

☐ Cr S. Ward

☐ Cr S. Reynolds

Cr J.F. Eades

☐ Cr B.N. Woodruff

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves approval to continue to operate a Wind Monitoring Mast at Lot 197 & Lot 199 DP 752444 Sandy Creek Road, McCullys Gap. The Mast is substantially located on Lot 199, however one footing and some guy wires extend on to Lot 197.

The structure was initially installed as 'exempt development' under the provisions of the State Environmental Planning Policy (Infrastructure) 2007 but now requires approval as it has exceeded the length of time it can be located on the land without development consent.

The image below illustrates the assembly/layout of the mast.

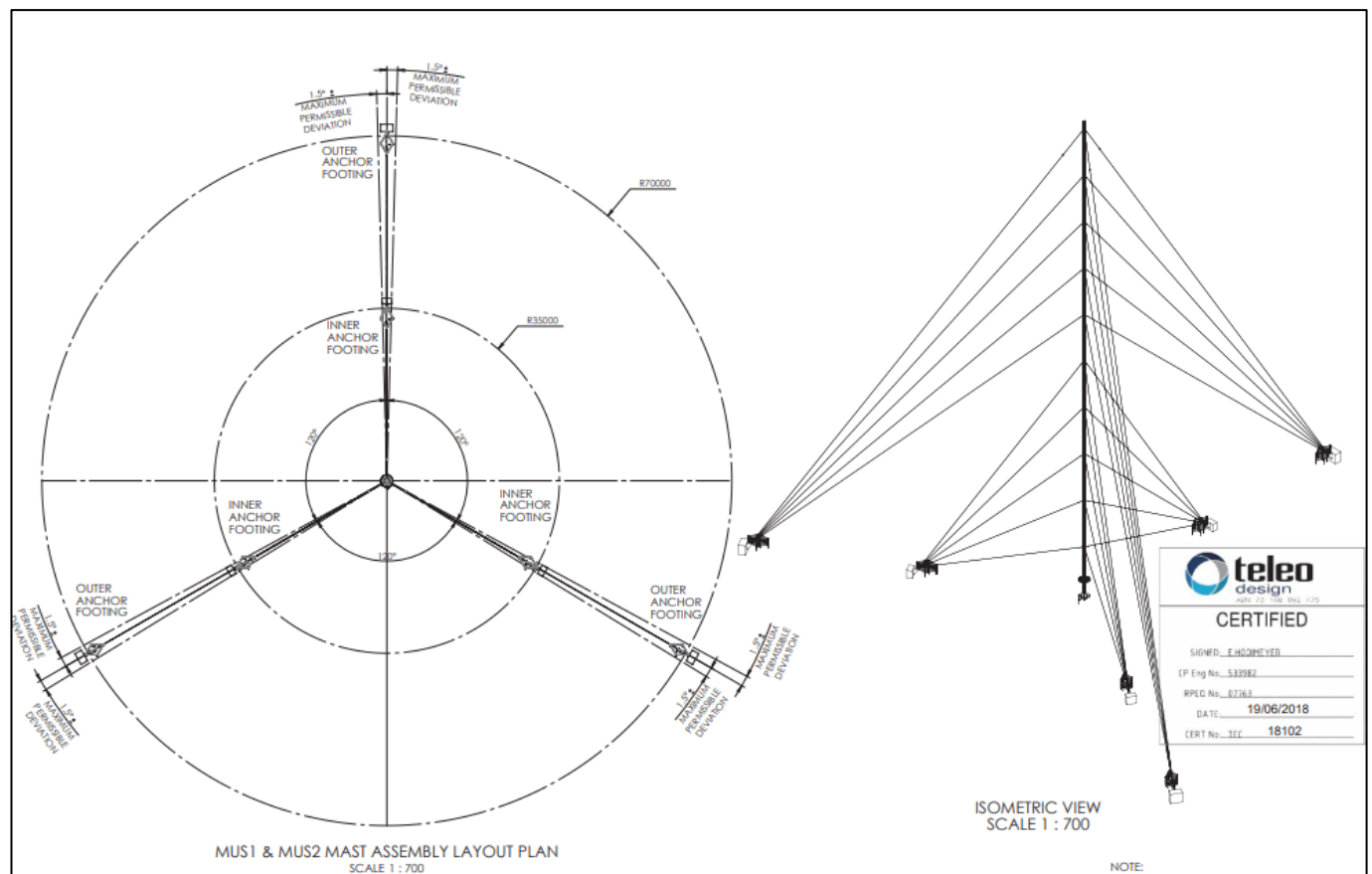


Figure 1: The Wind Monitoring Mast (Source: Art group, 30/05/2018)



Image 1: Wind Monitoring Mast looking south

ASSESSMENT SUMMARY

Council engaged an external planning consultant to assist with the assessment of this development application. The planning consultant completed the assessment of the proposed development and the Section 4.15 Report (Attachment A) and recommended conditions of consent (Attachment B) attached.

Key considerations and findings of the Section 4.15 assessment include:

- The proposed development is permitted as an “environmental facility” on land zoned RU1 Primary Production under Muswellbrook LEP 2009 (MLEP 2009).
- The proposal does not comply with Clause 4.3 under the MLEP 2009 height restrictions. Clause 4.3 of MLEP 2009 restricts the height of buildings on the land concerned to a maximum of 12 metres. The proposed development has a height of 110 metres. The applicant has sought an exemption to the application of this development standard in accordance with the provisions of Clause 4.6 of MLEP 2009. The applicant’s Statement of Environmental Effects includes information supporting the variation of this development standard and indicates the variation is unlikely to cause significant environmental impacts.
- The development complies with all other aspects of MLEP 2009.
- The proposed development was referred to the Civil Aviation Safety Authority (CASA) to consider the height and location of the proposed mast. CASA did not raise any objection to the proposal.
- The proposed development would comply with the relevant requirements of the MDCP 2009.
- Where carried out in accordance with the recommended conditions of consent the proposed development is unlikely to have a significant adverse environmental impact.

COMMUNITY CONSULTATION

In accordance with the requirements of the Community Participation Plan the proposed development was notified between 3 May 2021 and 17 May 2021.

The application was notified online on Council’s website and posted on Council’s Facebook page. Written notices were posted to the owners of property in the vicinity of the development site.

Sixteen submissions were received. The location of submitters is provided in Attachment C. A summary of the issues raised in submissions and a planning response for these issues is provided in Attachment D. The main concerns raised in submissions were:

- Environmental Impacts
- Access
- Visual Impacts

- Traffic Impacts
- Threatened Species Impact
- Impact on livelihood
- Against Public Interest
- Political Donations

- Clarification of legislation requirements

Issues raised were considered in the s4.15 assessment and the conclusion is that the environmental and social impacts are minor and can be managed by conditions of consent.

OPTIONS

Council may:

- A. Grant development consent to the proposed development subject to the recommended conditions of consent;
- B. Grant development consent to the proposed development subject to amended conditions of consent; or
- C. Refuse development consent to the proposed development and nominate reasons for refusal.

LEGAL IMPLICATIONS

Where the applicant is dissatisfied with the determination of the development application, they have an opportunity under the provisions of the EP&A Act to appeal that determination in the Land and Environment Court of NSW.

CONCLUSION

DA 2021-33 has been reported to Council for determination as the proposed development does not comply with the maximum height requirements set out in Muswellbrook Local Environmental Plan 2009.

An external planning consultant has completed a Section 4.15 Assessment in relation to the proposed development. The planning consultant is recommending that Council grant consent to DA 2021-33, subject to conditions of consent outlined in Attachment B.

10.2 DA 2021-30 - CHANGE OF OPERATIONAL HOURS (MCDONALDS) - 83-89 MAITLAND STREET, MUSWELLBROOK

Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Alisa Evans - Projects Planner Hamish McTaggart - Co-Ordinator - Development
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>
Attachments:	<ul style="list-style-type: none"> A. DA 2021-30 4.15 Assessment ⇒ B. DA 2021-30 Redacted Submissions ⇒ C. DA 2021-30 Draft Conditions of Consent ⇒ D. DA 2021-30 Statement of Environmental Effects ⇒ E. DA 2021-30 Noise Assessment ⇒ F. DA 2021-30 Plan of Management McDonald's Operation ⇒ G. DA 2021-30 Crime Risk Assessment ⇒ H. DA 2021-30 NSW Police response ⇒ I. DA 2021-30 Additional Information Submission in Related to 27 July 2021 Deferral ⇒ J. Enclosure A McDonald's Community Engagement Letter ⇒ K. Enclosure B McDonald's Australia Customer Relations Statement ⇒

Documents referred to in assessment not attached:

- Local Environmental Plan 2009
- Development Control Plan 2009

APPLICATION DETAILS

Applicant:	McDonald's Australia Limited
Owner:	McDonald's Australia Limited
Proposal:	Change of Operation Hours to 24/7
Location:	Lot 101 DP 1266515 83-89 Maitland Street Muswellbrook
Permissibility:	The proposed development is permissible as Food and Drink Premise within the B2
Recommendation:	Approval

PURPOSE

An application was lodged on 1 April 2021 seeking consent for a McDonald's food and drink premise to operate 24 hours per day, 7 days per week (24/7) at Lot 101 DP 126615 (83-89 Maitland Street Muswellbrook).

Previously Council has determined, under DA 72/2003, to allow the restaurant's drive-thru service trading hours to open at 5:00 a.m., 7 days per week. As a result of COVID, the State Government introduced the *Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020*, which permits Food and Drink Premises to open 24/7. McDonalds Muswellbrook has been trading 24/7 since September 2020.

DA 2021-30 is being reported to Council for determination as submissions have been received in relation to the proposal. It is recommended that the proposal be approved for a temporary period.

This application was reported to the 27 July 2021 Ordinary Council Meeting, where Council deferred the matter, with the intent of exploring conflicting advice provided by members of the public and McDonald's representatives around community engagement and complaint management procedures.

To inform Council in its review of this issue the applicant has provided additional information related to McDonald's community engagement, complaint management and average trading information. This information is included in Attachments I, J and K.

RECOMMENDATION

Development Application No. 2021-30, proposing 24 hours per day, 7 days per week (24/7) trade for McDonalds Muswellbrook at Lot 101 DP 1266515 83-89 Maitland Street Muswellbrook, be approved for a trial period of twelve (12) months subject to the conditions in Appendix C of the report.

Moved: _____ **Seconded:** _____

☐ Cr J. Ledlin

☐ Cr G. McNeill

☐ Cr R. Scholes

☐ Cr J. Foy

☐ Cr M. Bowditch

☐ Cr S. Ward

☐ Cr S. Reynolds

Cr J.F. Eades

☐ Cr B.N. Woodruff

DESCRIPTION OF PROPOSAL

On 9 April 2019, Council determined an application to temporarily modify the development consent to allow the restaurant's drive-thru service trading hours to open at 5:00 a.m., 7 days per week, for a 12-month trial period. The 12-month trial period finished, and on 7 October 2020 a further modification was approved to extend the restaurant's drive-thru service trading hours to 5:00 a.m., 7 days per week permanently.

This application, DA 2021-30, has been lodged with Council to seek approval for 24/7 Hour trading at the premise on a permanent basis. The Proponent's supporting documents are provided in Attachment D, E, F & G.

As a result of COVID, the State Government introduced the *Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020*, which permits Food and Drink Premises to open on a 24/7 basis. McDonalds Muswellbrook has been trading 24/7 since October 2020.

ASSESSMENT SUMMARY

An independent planning consultant was engaged to complete the assessment of this development application. The proposal has been assessed against the relevant matters prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979*. A copy of the Development Assessment Report is provided in Attachment A.

COMMUNITY CONSULTATION

The proposed development was publicly notified in accordance with the requirements of the Muswellbrook Community Participation Plan. Notification of the proposed modification was provided to

thirteen (13) individuals who had made submissions in relation to the previous application for the alteration of the premises' approved operating hours.

Four (4) submissions were received by Council. Submissions object to the proposed development and operating hours. Redacted copies of the submissions are provided in Attachment B.

Council did not receive any specific complaints related to noise and sleep disturbances through the trial period for the 5:00am drive-thru operation.

Council Officers also consulted with NSW Police in relation to this development application. NSW Police advise that they had noticed an improvement in relation to incidents at the site during its 24/7 operation under the COVID provisions, see Attachment H.

LEGAL IMPLICATIONS

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

CONCLUSION

An assessment of the proposal for 24/7 trading has been completed against the provisions of s4.15 of the *Environmental Planning and Assessment Act 1979*. Council Officers are satisfied that the proposed application may be supported by Council.

10.3 AMENDMENT TO MUSWELLBROOK DCP 2009 - SECTION 13 - FLOODING AND SECTION 16 - CAR PARKING AND ACCESS

Attachments:	A. Draft Section 13 - Flooding⇒ B. Draft Section 16 - Car Parking and Access⇒
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Sharon Pope - Executive Manager - Environment and Planning
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>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>

PURPOSE

The purpose of the report is to request a resolution from Council to place proposed changes to *Muswellbrook DCP 2009, Section 13 – Flooding and Section 16 - Car Parking and Access* on public exhibition.

OFFICER'S RECOMMENDATION

Council approves the placing of the following draft sections of Council's Development Control Plan on public exhibition for a period of sixty (60) days:

1. Section 13 – Flooding, as provided in Attachment A of the report; and
2. Section 16 - Car Parking and Access, as provided in Attachment B.

Further, should no public submissions be received that would require alteration of Section 13 – Flooding, the General Manager is authorised to apply Section 13 – Flooding to the assessment of development on an interim basis until a further report is submitted to Council.

Moved: _____ Seconded: _____

BACKGROUND

Section 13 of the Muswellbrook Development Control Plan 2009 (MDCP 2009) provides direction to staff and proponents of development with regards to consideration of potential flooding. Council's adopted Hunter River Floodplain Risk Management Study and Plan 2019 recommends various changes to the MDCP 2009 to provide more clarity on the matters that need to be addressed by new development. The State Government introduced the *Flood-prone Land Package* for the whole of NSW in July 2021, which also recommends councils update their Development Control Plan provisions to effectively implement the new package.

Section 16 of MDCP 2009 provides direction to staff and proponents of development on provisions of on-site parking for new development and alterations to existing development. In June 2021, the State Government announced the NSW Electric Vehicle Strategy with the intention of accelerating the uptake of electric vehicles in NSW. MDCP 2009 is currently silent on the need for new development to make provision for electric vehicle charging infrastructure; however, availability of charging points will be necessary to accommodate an increased electric vehicle pool.

REPORT

It is proposed to amend Section 13 of the Muswellbrook DCP 2009 – Flooding to:

- Include recommendations from the Muswellbrook Floodplain Risk Management Study and Plan 2019;
- Implement the *NSW Flood-prone Land Package*, in particular the *Considering Flooding in Land Use Planning Guideline July 2021*;
- Provide clarification on finished floor levels for different types of development; and
- Reference legislation, plans and policies that are relevant to planning for the potential impacts of flooding.

In addition to the above changes, the whole section has been re-drafted to change formatting, reduce repetition and to generally improve useability by staff and developers. A copy of the revised Section 13 is provided in Attachment A.

Muswellbrook Shire is fortunate that most of the urban zoned land is above 1% Annual Exceedence Probability (AEP) flood levels in the Hunter River, or is protected by levees. Other watercourses, such as Muscle Creek, also present a flood risk to some properties. There is sufficient flood free land in Muswellbrook Shire to enable new development to occur with no future impact from flooding. Because of this, Section 13 is generally only applicable to a minor number of development applications each year. However, due to the operation of s733 of the *Local Government Act* (LG Act), it is important that Council considers new development in line with the best available advice.

It is proposed to amend Section 16 of the Muswellbrook DCP 2009 – Parking and Access to introduce new provisions to require electric vehicle charging points in new development and significant alterations/additions to existing development. A copy of the revised Section 16 is provided in Attachment B. Deletions are shown with strikethrough, additions are highlighted in grey.

While some councils in NSW have moved to require electric vehicle charging point infrastructure to be available for all new parking spaces, this approach has not been taken by Muswellbrook Shire Council staff in drafting the new provisions. Instead, we are looking to only require a proportion of the new parking spaces in non-residential development to have electric vehicle charging, but all parking spaces in residential development to have provision for electric vehicle charging. In many cases, this may simply require access to a regular, single phase power point.

CONSULTATIONInternal Consultation

Consultation has occurred with the Community Infrastructure Department on the proposed changes to Section 13.

Public Consultation

The recommendation will enable staff to notify the public about the proposed changes to the MDCP 2009. A notice will be published in the Hunter River Times, Council's website, and letters will be sent to local surveying firms, engineering firms and planning consultancies.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Council adopted the Muswellbrook Floodplain Risk Management Study and Plan 2019 and its recommendations in September 2019. No further consultation with Councillor Spokespersons has occurred.

OPTIONSOption 1

Council resolves to exhibit changes to Muswellbrook DCP 2009, Section 13 – Flooding provided in attachment A and Section 16 – Car Parking and Access provided in attachment B.

Option 2

Council may choose to make alternative changes to the MDCP 2009 provisions prior to exhibition.

Option 3

Council may choose not to prepare and exhibit changes.

CONCLUSION

The community relies on access to Council policies to guide the planning and design of new development, and to make informed decisions regarding the purchase of properties and businesses.

Due to the operation of s733 of the LG Act it is important that Council considers the potential for flooding of new development in line with the best available advice.

Updates to MDCP 2009 enable staff, developers and the community to readily find information on Council's current policies.

SOCIAL IMPLICATIONS

In addition to the NSW Government creating incentives to reduce the cost of ownership of electric vehicles and hence their purchase, many countries and cities around the world have pledged to transition away from petrol and diesel cars by 2035. As a result, global car makers, including Mazda, Nissan, GM and Ford have announced they will only produce electric vehicles by 2033. There are currently 31 passenger electric vehicle models from 12 different car makers for sale in Australia now, and a further 27 models are expected by the end of 2021.

To enable people to use their new vehicles in the future it is important that electric vehicle charge points be readily available in residential and non-residential development.

FINANCIAL IMPLICATIONS**POLICY IMPLICATIONS**

Changes to MDCP 2009 will represent the new policy of Council regarding consideration of flood potential and electric vehicle charge points in new development.

LEGAL IMPLICATIONS

The principal purpose of a development control plan is to provide guidance to persons proposing to carry out development that requires development consent.

OPERATIONAL PLAN IMPLICATIONS

The proposed changes assist with efficient and effective development application assessment services.

RISK MANAGEMENT IMPLICATIONS

There are no risks associated with the exhibition of amendments to the MDCP 2009 provided the requirements of the Environmental Planning & Assessment Act and Regulations are followed.

10.4 PLANNING PROPOSAL - ADDITIONAL CLAUSES FOR RURAL HOUSING AND BOUNDARY ADJUSTMENTS.

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Sharon Pope - Executive Manager - Environment and Planning
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>Review the Local Environmental Plan and Development Control Plan to improve investment certainty for industry.</i>
Community Plan Strategy:	<i>Progress completion of an LEP and DCP.</i>

PURPOSE

Over the past two years Council staff have become aware that the drafting of Muswellbrook Local Environmental Plan 1985 had the effect of removing dwelling entitlements from some rural lots that were subdivided with approval by the former Denman Shire Council.

Staff have also been presented with situations where Muswellbrook LEP 2009 does not allow sufficient flexibility for boundary adjustments to rural lots. This is in contrast to many other LEPs that operate in NSW.

The purpose of this report is to initiate a Planning Proposal, which would be an administrative amendment to correct these two issues by the inclusion of additional clauses.

OFFICER'S RECOMMENDATION

Council RESOLVES to:

1. Prepare a draft planning proposal, pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979*, for an amendment to the *Muswellbrook Local Environmental Plan 2009 (MLEP 2009)* to:
 - i) insert a new clause 4.1C Exceptions to minimum subdivision lot size for boundary adjustments;
 - ii) amend clause 7.5 Erection of dwelling houses on land in certain rural and environmental protection zones to ensure dwellings are still permitted on lots created under previous planning instruments;
2. Forward the draft planning proposal to the *Department of Planning, Industry and Environment* requesting a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the *Environmental Planning and Assessment Act 1979*; and
3. Request that the Director General of the *Department of Planning, Industry and Environment* issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 3.36 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal.

Moved: _____ Seconded: _____

<input type="checkbox"/> Cr J. Ledlin	<input type="checkbox"/> Cr G. McNeill	<input type="checkbox"/> Cr R. Scholes
<input type="checkbox"/> Cr J. Foy	<input type="checkbox"/> Cr M. Bowditch	<input type="checkbox"/> Cr S. Ward
<input type="checkbox"/> Cr S. Reynolds	<input type="checkbox"/> Cr J.F. Eades	<input type="checkbox"/> Cr B.N. Woodruff

BACKGROUND

The proposed changes were previously identified to occur as part of the new Shire-wide Local Environmental Plan (LEP). Preparation of this LEP has been slowed by changes to the planning system that have been introduced over the past 3 years (e.g. the need for a Local Strategic Planning Statement) and further changes that are currently being notified to the community (e.g. review of the employment land use zones to create a new suite of zones).

The delays to the Shire-wide LEP are unnecessarily affecting people who are having issues gaining approval to construct dwellings or undertake minor boundary adjustment in rural areas. This administrative amendment would require minimal resources to complete.

CONSULTATION

The proposed new clause 4.1C was discussed with the Department of Planning, Industry and Environment in 2020 and no objections were raised as this clause occurs in many other LEPS across NSW.

Should the Gateway Determination allow public exhibition of the Planning Proposal without further studies, it is anticipated that the proposal would be exhibited in early November 2021.

REPORT

The proposed changes to the MLEP 2009 relate to:

Inserting a new clause 4.1C

4.1C Exceptions to minimum subdivision lot size for boundary adjustments

- (1) The objective of this clause is to facilitate changes to boundaries between lots where one or more resultant lots do not meet the minimum lot size, but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural landscape,
 - (c) Zone R5 Large Lot Residential,
 - (d) Zone E3 Environmental Management,
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of land to which this clause applies by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
 - (a) the subdivision will not create additional lots, and
 - (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and
 - (c) the potential for land use conflict will not be increased as a result of the subdivision, and
 - (d) if the land is in Zone RU1 Primary Production the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
 - (e) If the land is in Zone E3 Environmental Management the subdivision will result in the continued protection and long-term maintenance of the land.
- (4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following:
 - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,

- (b) whether the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether the subdivision is likely to be incompatible with a use of land in any adjoining zone,
 - (d) whether the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - (e) whether the subdivision is likely to have an adverse impact on the environmental values of the land.
- (5) This clause does not apply:
- (a) in relation to the subdivision of individual lots in a strata plan or community title scheme, or
 - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.
- (6) Despite clause 4.2, development consent may be granted for the erection of a dwelling house on land that, immediately before the adjustment of its boundaries under this clause, was a lot on which the erection of a dwelling house was permissible.

Minor changes to clause 7.5 (2):

7.5 Erection of dwelling houses on land in certain rural and environmental protection zones

- (1) This clause applies to any of the following zones:
- (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape
 - (c) Zone RU3 Forestry,
 - (d) Zone E3 Environmental Management.
- (2) Development consent must not be granted for the erection of a dwelling house on a lot in a zone to which this clause applies, and on which no dwelling house has been erected, unless the lot is:
- (a) a lot created in accordance with clause 4.1, or
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) a lot created before this Plan commenced that is at least the minimum lot size specified for that lot by the *Lot Size Map*, or
 - (d) a lot for which subdivision approval was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible ~~immediately before that commencement~~ at the time it was approved, or
 - (e) an existing holding.

Note. A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

- (3) Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house on land in a zone to which this clause applies if:
- (a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
 - (b) the land would have been a lot or a holding referred to in subclause (2) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for

another public purpose.

- (4) In this clause:

existing holding means all adjoining land, even if separated by a road or railway, held in the same ownership:

- (a) on 11 April 1974, and
- (b) at the time of lodging a development application for the erection of a dwelling house under this clause,

and includes any other land adjoining that land acquired by the owner since 11 April 1974.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

OPTIONS

Council may:

1. Resolve to prepare a Planning Proposal to amend MLEP 2009 as recommended. This is the preferred option as this would reduce delays for a number of property owners seeking approval for dwellings or minor boundary adjustments in rural areas; or
2. Reject the Amendment request and take no further action.

CONCLUSION

The proposed changes for minor boundary adjustments to lots in rural areas reflects what has become common practice in NSW and would provide flexibility for rural property owners to make small adjustments to boundaries in order to better manage their properties.

Staff have also discovered an unintended consequence of the change to Shire-wide LEPs in 1985 and 2009 has been that a small number of lots created by the former Denman Shire Council have had their dwelling entitlements removed. A small change to MLEP 2009 would restore these entitlements.

SOCIAL IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STATUTORY IMPLICATIONS

The Planning Proposal seeks to make an amendment to the MLEP 2009. The requested amendment is an Administrative Amendment involving a change to clauses.

LEGAL IMPLICATIONS

In order to amend the MLEP 2009, Council is required to submit the planning proposal to the Department of Planning, Industry and Environment for a Gateway Determination. Council will also request the Minister for Planning, Industry and Environment to exercise their planning powers under Section 3.22 of the Environmental Planning and Assessment Act 1979 and grant Council delegated authority to amend the MLEP 2009.

RISK MANAGEMENT IMPLICATIONS

By following guidelines issued by DPIE any risks to Council in amending the LEP will be minimised.

10.5 MAJOR LANDCARE PROJECT BUDGET CAPITAL SPEND FOR 2021-22

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Michael Brady - Sustainability Officer
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 submit for Council's consideration the proposed utilisation of the 2021-22 Major Landcare Projects capital budget.

OFFICER'S RECOMMENDATION

Council endorses the 2021-22 Major Landcare Projects program of works as identified in the Report.

Moved: _____ **Seconded:** _____

BACKGROUND

The Major Landcare Projects budget for 2021-22 is \$225 000. The report details for Council's consideration how it is proposed that the funds are spent.

CONSULTATION

The Schedule of projects has been developed based on internal discussion regarding the delivery of partially grant funded projects and the delivery of outcomes identified in the 2021-22 Operational Plan.

CONSULTATION WITH COUNCILLOR SPOKESPERSONS

A copy of the report has been forwarded to the Mayor, Councillor Scholes, the Deputy Mayor, Councillor Ledlin, and the Councillor Spokesperson for Infrastructure, Councillor Woodruff, for review.

REPORT

The items below are proposed to be funded from the 2020-21 Major Landcare Project budget:

Proposed Project	Cost
Rehabilitation of Muscle Creek Project (partially grant funded)	\$70 000
Final section of the Muscle Creek Walkway (partially funded by AGL Macquarie)	\$70 000
Haydon Street Nature Trail and Platypus Track Repairs and Upgrade Project	\$15 000

Proposed Project	Cost
Landcare Grants for local Landcare groups (annual initiative)	\$24 000
Hyde Park Denman Nature Walk	\$46 000
Total	\$225,000

Details on the projects is provided below:

Rehabilitation of Muscle Creek for Community and Environmental Benefit Project

This project is to support the work being undertaken as part of the Rehabilitation of Muscle Creek for Community and Environmental Benefit Project. This project is partially funded through a grant from the NSW Government's Environmental Trust. It involves work on a difficult 1 hectare site, located on very steep land, mostly within the railway corridor (See Figure 1. Below).



Figure 1. Map of Rehabilitation of Muscle Creek project site.

This work complements the rehabilitation works that Council has been undertaking on Muscle Creek over many years. These funds will be used to help complete this stage of the project which involves erosion and weed control and revegetation activities.

ARTC requires that a Railway Protection Officer is present during the works. This requirement and the steepness of the site mean that extra funds are required to complete this work.

Muscle Creek Walkway - \$70,000

The proposed Walkway Project involves construction of an approximately 220 metre of path running behind the Muswellbrook Aquatic and Fitness Centre (See Figure 2. below). One end of the path will start next to the bridge that crosses Muscle Creek on Wilkinson Ave. The other end of the path will join with the existing Platypus Track that starts near the Olympic Park Carpark. This project will also involve rehabilitation of the Muscle Creek riparian zone through weed and erosion control and native species planting in the area adjacent to the proposed path. The Project is substantially funded by AGL Macquarie (\$237,500) as part of an Enforceable Undertaking resulting from ash pipeline issues at the Liddell Power Station site.

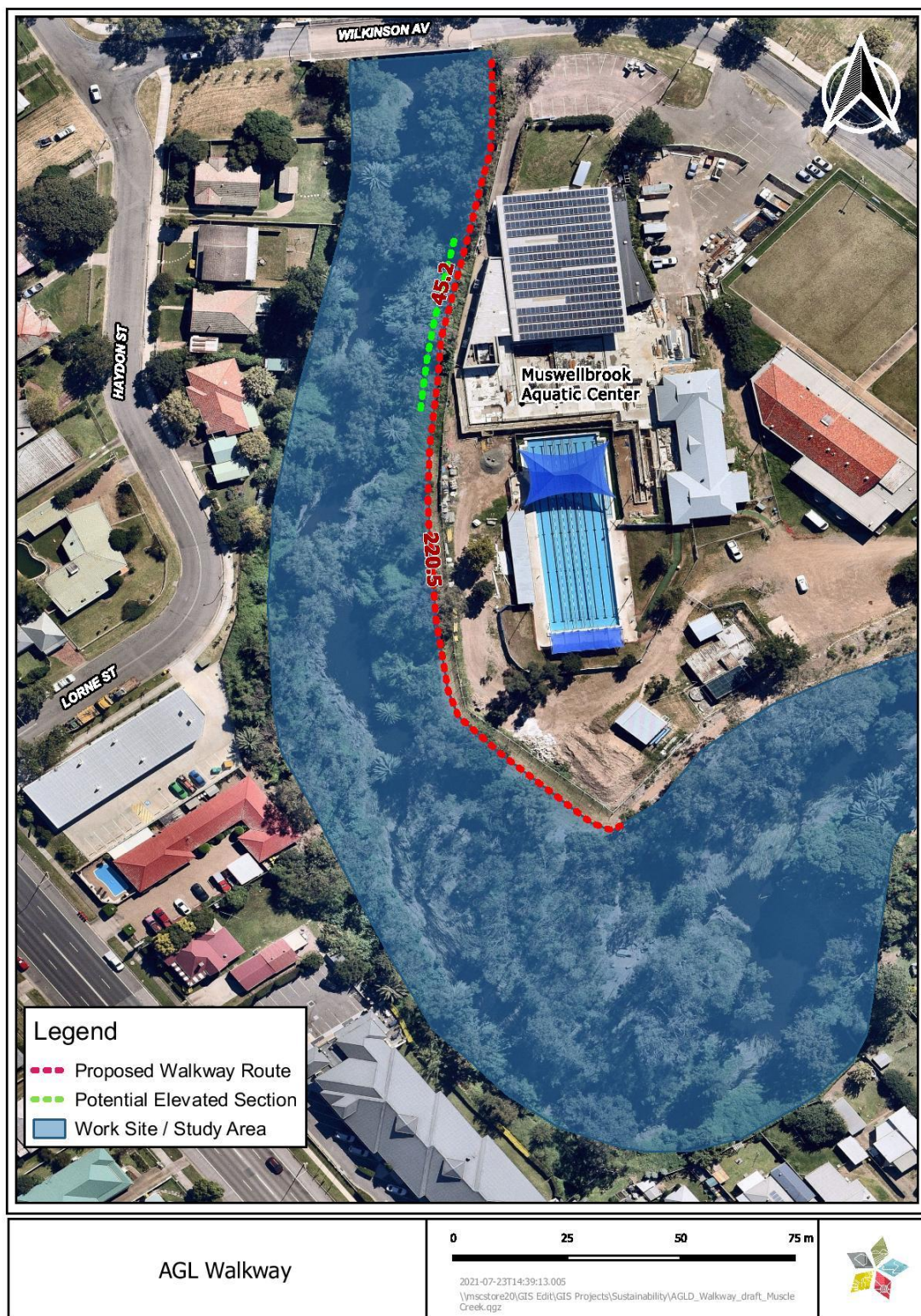


Figure 2. Proposed AGL Walkway project location.

Haydon Street Nature Trail and Platypus Track Upgrade Project - \$15 000

This project will involve carrying out much needed upgrades of both the Haydon Street Nature Trail and the Platypus Track.

Since completion of the Haydon Street Nature Trail in 2017, some damage and vandalism has occurred. Repairs to the stonework is needed in order to restore the nature trail, prevent further damage and reduce the risk to users.

Platypus Track requires some repairs due to stormwater damage and installation of additional stormwater drainage works.



Platypus Track stormwater damage

Landcare Grants - \$24 000

This is an ongoing initiative. The project involves granting funds to groups for Landcare projects. Grant applications will be considered from Landcare groups, schools and community groups in the Muswellbrook Shire Local Government Area that have an ABN.

The grants will be assessed using the following criterion:

- a) the likely impact the project will have on the environment.
- b) the likely impact the project will have on increasing environmental awareness and educating the community about environmental issues.

Applicants can apply for up to \$8000 per group. Groups will need to match the amount requested through an in-kind contribution. This in-kind contribution can be through other funds and or project management.

Hyde Park Denman Nature Walk - \$35 000

This project will involve completing an approximately 500 metre nature trail walking loop pathway around the wetland in Hyde Park Denman between Macauley and Babbington Streets.



Figure 4. Proposed location of walkway.

This path will extend and complement the existing concrete name path that runs along Paxton Street to Macauley Street. It will also allow Council to showcase the work completed over many years by the community at National Tree Day events. The project will involve installing education items, such as signs and statues, next to the path to add to its environmental education value. This nature trail will greatly improve the recreational values of the area and will provide residents a place to visit while learning about their local environment.

OPTIONS

The following options are available to council

1. Endorse the 2021-22 Major Landcare Projects program of works.
2. Amend the proposed Major Landcare Projects programs.
3. Reject proposed Landcare Major Project programs.

CONCLUSION

To allow the programming of activities, it is recommended that Council endorses the proposed suite of projects.

SOCIAL IMPLICATIONS

The allocated projects will encourage pride, access and participation in the Shire's natural areas by the community.

FINANCIAL IMPLICATIONS

The Sustainability Unit has been allocated a Major Landcare Projects capital budget of \$225 000 for the 2021-22 financial year, under ledger number 3920.5617.504.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project**1. Financial Implications – Operational**

New sections of pathway will be added to Council's asset register and will require ongoing maintenance. Maintenance costs will be minimal in the short-term.

Creekbank locations that are weeded and replanted with native vegetation will require ongoing maintenance for five years until they become established. The cost of this establishment maintenance is difficult to predict as it does depend on weather over that time. It could be expected that maintenance work will be carried out by a combination of Council staff and contractors.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

The proposed Major Landcare Projects capital budget expenditure would facilitate the delivery of the below 2021-22 Operational Plan Goals and Actions:

GOAL 13 | OUR LOCAL RIVERS AND CREEKS ARE ENHANCED, UTILISED AND VALUED.

Action 2.01.02 Maintain rehabilitation works along Muscle Creek, Karoola Wetlands and Denman Wetlands to improve habitat quality and vegetation connectivity across the Upper Hunter Community Infrastructure.

Action 12.01.03 Maintain areas that have undergone rehabilitation activities to avoid degradation.

Action 13.01.01 Commence construction of 240m of walkway behind the Muswellbrook Community Pool.

Action 12.01.01 Support Landcare activities in the Shire.

RISK MANAGEMENT IMPLICATIONS

Risk Assessments will be conducted for all necessary activities.

11 COMMUNITY INFRASTRUCTURE

11.1 DEVELOPMENT SERVICING PLANS - WATER SUPPLY AND SEWERAGE SERVICES

Attachments:	<p>A. Development Servicing Plan-Water Supply Draft - Under Separate Cover</p> <p>B. Development Servicing Plan -Sewerage Draft - Under Separate Cover</p> <p>C. DSP Preparation Process⇒</p>
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Gamini Hemachandra - Project Engineer
Community Plan Issue:	<i>A safe, secure and reliable water supply and sewerage services are provided to all residents that will ensure public health</i>
Community Plan Goal:	<i>Provide safe, secure, efficient and effective water, sewerage and waste services in compliance with regulatory requirements.</i>
Community Plan Strategy:	<i>Ensure substantial achievement of Best Practice Water Supply and Sewerage Guidelines.</i>

PURPOSE

The report is submitted for Council's consideration of placing the draft Development Servicing Plans for Water and Sewer services on public exhibition for a period of thirty working days.

OFFICER'S RECOMMENDATION

Council:

1. Approves placing the draft Development Serving Plan – Water Supply and draft Development Servicing Plan – Sewerage Services on public exhibition for a period of thirty working days; and
2. Requests a further report be submitted to Council following the period of public exhibition of the draft Development Serving Plans.

Moved: _____ Seconded: _____

BACKGROUND

Development Servicing Plans (DSPs) prescribe water supply and sewerage developer charges to be levied on developments utilising Council's water supply and sewerage infrastructure. The developer charges are upfront charges, levied by Local Water Utilities (Muswellbrook Shire Council is the Local Water Utility for Muswellbrook Shire), to recover part of the infrastructure costs incurred in servicing new developments or additions to existing developments. The power of Local Water Utilities to levy charges for developer services derives from section 64 of the *Local Government Act 1993* by means of a cross reference to section 306 of the *Water Management Act 2000*.

Developer charges and DSP should be reviewed by a Local Water Utility after a period of 4 to 8 years.

Accordingly, Council's current DSP, prepared in 2012 and adopted by Council in 2014, have been reviewed.

Reviewing DSP is conducted in compliance with guidelines issued by the Minister for Land and water, pursuant to Section 306 of the *Water Management Act 2000*. The procedure as given in the guidelines is

attached, for information purposes, to this report.

Public Works Advisory (PWA) was commissioned by Council to review the existing DSP and reproduce DSP suitable for the next 4 to 8 years.

The draft DSP are attached for Council's consideration to place the documents on public exhibition for a period of 30 working days.

The draft documents will also be audited by auditors approved by the Department of Planning Industry and Environment - Water prior to placing the draft documents on public exhibition for 30 working days.

CONSULTATION

Department of Planning, Industry and Environment – Water representatives

CONSULTATION WITH COUNCILLOR SPOKESPERSON

A copy of the report has been forwarded to the Mayor, Councillor Scholes, the Deputy Mayor, Councillor Ledlin, and the Councillor Spokesperson for Infrastructure, Councillor Woodruff, for review.

REPORT

Preparation and adoption of Development Servicing Plans (DSP) enables Council to comply with the NSW Government's Best Practice Management of Water Supply and Sewerage Framework. Council's current DSP for Water and Sewer services have been revised by based on the financial planning aspects of Council's adopted IWCM Strategy.

The draft documents will be audited by the NSW Department of Planning, Industry and Environment - Water prior to placing the draft documents on public exhibition.

DSP will be finalised in consultation with Public Works Advisory, taking into account community feedback received through the public consultation process. The draft DCP will then be submitted to Council for final consideration and adoption.

OPTIONS

Council may decide to place the draft Development Servicing Plans for water and sewer services on public exhibition for a period of thirty days or decide not to place the draft plans on public exhibition.

CONCLUSION

Adoption of revised Development Servicing Plans will enable Council to comply with the NSW Government's Best Practice Management of Water Supply and Sewerage Services Framework. In order to finalise the strategies, it is essential to exhibit draft documents for thirty working days

it is recommended that Council approves placing the audited draft Development Servicing Plans, for Water Supply and Sewerage Services on public exhibition for a period of thirty working days.

SOCIAL IMPLICATIONS

Nil known

FINANCIAL IMPLICATIONS

The Developer Servicing Plans will prescribe headworks charges associated with development.

POLICY IMPLICATIONS

In order to comply with the NSW Government's Best Practice Management of Water Supply and Sewerage Services Framework, Developer Servicing Plans should be reviewed and updated every 4 to 8 years.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Local Government Act 1993.

Water Management Act 2000.

OPERATIONAL PLAN IMPLICATIONS

Submission of the report complies in principle with Item 20.1.2 of the Operational Plan: 'Ensure substantial achievement of Best Practice Water Supply and Sewerage Guidelines'.

RISK MANAGEMENT IMPLICATIONS

In order to regularise the levying of headworks charges, adopted Development Servicing Plans must be registered with the NSW Department of Planning, Industry and Environment - Water.

WASTE MANAGEMENT IMPLICATIONS

Nil.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Subject to Council's approval, the draft Development Servicing Plans will be placed on public exhibition for a period of 30 working days.

12 CORPORATE AND COMMUNITY SERVICES

12.1 2021 COMMUNITY SATISFACTION SURVEY

Attachments:	A. 2021 Community Satisfaction Survey Final Report 📄
Responsible Officer:	Fiona Plesman - General Manager
Author:	Melissa Cleary - Manager - Governance
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 present the attached 2021 Community Satisfaction Survey report outlining the results of a random telephone survey of 400 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Council.

OFFICER'S RECOMMENDATION

Council notes the attached 2021 Community Satisfaction Survey report outlining the results of a random telephone survey of 400 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Council.

Moved: _____ Seconded: _____

BACKGROUND

Council commissioned Jetty Research to conduct a random telephone survey of adult Shire residents to measure their satisfaction with Council facilities and services, as well as explore residents' perceptions of key challenges and opportunities for the region. The 2021 survey replicated a baseline study conducted in 2019, to ensure comparability over time. The survey was conducted from 24 May to 8 June, involving interviews with 400 residents.

A briefing on the 2021 Community Satisfaction Survey was provided to Council by Jetty Research on 26 July 2021.

CONSULTATION

General Manager

Deputy General Manager

REPORT

Council's 2019 Community Satisfaction Survey was conducted from June 3 to 17 and the questionnaire largely replicated the 2017 baseline measurement tool to ensure movements in satisfaction, and the impact of changes in Council service levels, strategies and focus could be identified.

Among the survey's major findings:

1. Of 28 different facilities and services measured, satisfaction was highest with libraries (mean satisfaction score of 4.13 on a 1-5 scale), sewage collection and treatment (3.89), food safety (3.82), sporting facilities (3.70), water supply (3.60) and cleanliness of streets (3.55).
2. Those facilities and services with the lowest satisfaction scores included unsealed roads (2.40), economic development/attracting new investment (2.40), development applications (2.49), public toilets (2.49), the way Council communicates with the community (2.56) and weed control (2.59).
3. In relation to 2019 scores, mean satisfaction rose for dog control (up 9%) and sewage collection and treatment (up 5%). However, it fell 5 or more per cent for eight services, including Council pools (down 19%), unsealed roads (down 14%), weed control (down 11%) and development applications (down 10%).
4. Facilities and services of higher satisfaction and higher importance – deemed “strengths to maintain” – included food safety, cleanliness of streets, appearance of parks, reserves and playgrounds, public lighting in town centres, and bridges. Those services of higher importance but lower satisfaction – deemed “priorities for Council” – comprised footpaths and cycleways, Council’s website, Council pools, protection of the environment, parking facilities, services for the elderly, youth facilities and activities, local festivals and events, the way Council communicates with the community, public toilets, development applications, and economic development/attracting new investment.
5. Satisfaction with Council’s overall performance fell survey-to-survey, with a net satisfaction score (i.e. % satisfied less % dissatisfied) of -6% in 2021 against +11% in 2019.
6. Half of all respondents had contacted Council within the previous 12 months for a reason other than making a payment. Some 63% of first contacts were still made by phone, with a further 22% being made face-to-face.
7. Customer service satisfaction levels rose in this latest survey, from +3% net satisfaction in 2019 to +13% in 2021. The faster an issue was resolved (i.e. least numbers of contacts required), the greater the satisfaction – both in relation to that interaction, and with Council’s overall performance.
8. In relation to a series of quality of life statements, agreement was strongest with statements such as “I feel safe in my home at night”, “I feel proud of where I live” and “I feel part of my community” – all with 50+% agreement. However, three statements had less than 25% agreement: “Council delivers good value for our rates dollar”, “Our local Council understands the community’s needs and expectations”, and “Council provides opportunities for residents to have a say about the Shire’s future”.
9. The proportion of residents agreeing that “there are good employment prospects for locals” has risen 35% since MSC’s last quality-of-life survey in 2016, while agreement that “I feel safe walking in my local streets at night” rise 9%. However agreement fell sharply with statements such as “Council delivers good value for our rates dollar” (down 14%) and “I feel that Council provides opportunities for residents to have a say about the shire’s future” (also down 14%).
10. Major (perceived) opportunities for the region included additional retail, more coal mining, agriculture and agribusiness, and new energy sources.
11. The biggest perceived threats were to the future of the coal industry and coal-fired power generation, and (related to this) the fear of job insecurity or unemployment.
12. When asked how they should spend a hypothetical \$5m windfall, residents focussed predominantly on the need for additional youth facilities and services. Roads and parking were the second most-mentioned item, along with community events and facilities, and enhanced sporting facilities.
13. In light of recent debate around the shire’s economic future, Council asked respondents: *“Some people think the Muswellbrook Shire should continue to focus on coal mining for its future prosperity,*

while others think it should be trying to diversify into other industries. Which category do you fall into?" A slightly higher proportion of residents felt the shire should be trying to diversify away from coal and into other industries (46%), while 37% said the shire should continue to focus on coal mining. A further 14% had alternate views, with the balance (3%) unsure.

14. Council also sought feedback (from the 14% of respondents who had someone with a disability living in their home) what Council could do to make their lives easier or better. Of those (slightly more than half) able to provide suggestions, that majority focussed on: (a) improved public or community transport; (b) more level pavements; and/or (c) improved access to health services.

OPTIONS

Council notes the attached 2021 Community Satisfaction Survey report outlining the results of a random telephone survey of 400 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Council.

CONCLUSION

It is recommended that Council notes the attached 2021 Community Satisfaction Survey report outlining the results of a random telephone survey of 400 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Council.

SOCIAL IMPLICATIONS

None identified

FINANCIAL IMPLICATIONS

None identified

POLICY IMPLICATIONS

None identified

STATUTORY IMPLICATIONS

None identified

LEGAL IMPLICATIONS

None identified

OPERATIONAL PLAN IMPLICATIONS

Council's 2021/22 Operational Plan commits to:

23.1.1 Undertake a community consultation program as per the Community Participation Plan in preparation for the new suite of Integrated Planning and Reporting documents

RISK MANAGEMENT IMPLICATIONS

None identified

12.2 2020/2021 OPERATIONAL PLAN 30 JUNE QUARTERLY REVIEW

Attachments: A. Q4 2020-2021 Council Review [⇒](#)

Responsible Officer: Fiona Plesman - General Manager

Author: Melissa Cleary - Manager - Governance

Community Plan Issue: *A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders*

Community Plan Goal: *Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.*

Community Plan Strategy: *Appropriate matters are reported to Council in a timely manner in accordance with the Financial Control and Reporting Policy.*

PURPOSE

The adopted 2020/2021 Operational Plan has been reviewed over the months of 1 April 2021 to 30 June 2021.

OFFICER'S RECOMMENDATION

The 2020/2021 Operational Plan Review dated 30 June 2021 be noted.

Moved: _____ **Seconded:** _____





BACKGROUND

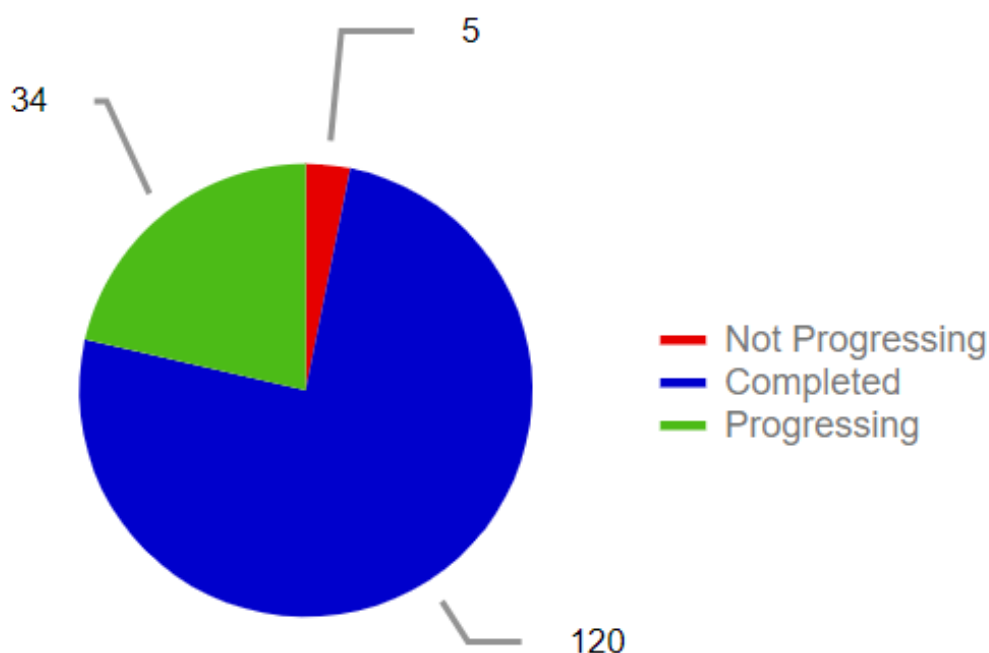
The *Local Government Act 1993* requires Council to review its Operational Plan.

REPORT

Please refer to the Q4 2020-2021 Council Review (attached under separate cover) for the full Operational Plan review for the period to 30 June 2021.

Following, are overview charts indicating the status of Operational Plan items by Principal Activity Area.

Overall - of the 160 activities:	
	3.75% are not progressing;
	0% are not due to start;
	21.25% are progressing;
	75% have been completed on or ahead of schedule.



The actions reported as **not progressing** are as follows:

ACTION	STATUS
2.1.2 Implement stage 1 of a farming productivity program	The farming productivity program is proposed for referral to the Upper Hunter Economic Development Corporation for review. This program will also be reviewed at the February 2022 Council Strategic Planning Conference.
2.5.2 Develop strategy for 'Food Upper Hunter' in partnership with Upper Hunter Shire Council and Upper Hunter Country Tourism	Actions in relation to the Food Upper Hunter was impacted during the current term of Council by the prolonged drought, followed by the 2019/2020 fires and COVID. This goal will now go forward for consideration by the next council when it meets to form the next CSP in February 2022.
24.2.12 Implement the Muswellbrook Shire Council Resourcing Strategy	Council's Resourcing Strategy is due for review as part of the next Delivery Program 2022-2024.

The actions reported as **progressing** are as follows:

ACTION	STATUS
1.1.2 Advance 2 projects/initiatives identified in the Hunter Bio-ethanol Industry Study	The new Upper Hunter Economic Development Corporation will take responsibility for facilitating new industry and business to the Muswellbrook Shire and will review the Hunter Bio-ethanol Industry Study.

ACTION	STATUS
2.1.1 Complete the feasibility study for thermal baths in Denman	The study for thermal baths in Denman has been completed and council continues to seek funding to progress the development of thermal baths as part of the proposed development of the Denman Tourist Park.
2.1.3 Implement the STEM initiative with NSW Department of Education	The new Upper Hunter Economic Development Corporation/Loxton House is working closely with the Melt in the establishment of the new Muswellbrook Innovation Centre with the appointment of a STEM Coordinator planned by October 2021.
2.2.5 Implement key recommendations in the Upper Hunter Tourism Strategy.	The Denman Visitor Information Centre is operational and temporarily closed due to the August COVID lockdown. Plans for the extension to the Muswellbrook Art Gallery are progressing and will include a tourist information kiosk. The new CEO of Loxton House and Manager of Community Services will liaise to progress recommendations within the Upper Hunter Tourism Strategy.
2.4.4 Construct the Wilder St Bridge as part of the Olympic Park Masterplan	The project to construct the Wilder St Bridge as part of the Olympic Park Masterplan continues to progress, with a hydraulic assessment of the creek undertaken to inform the final bridge design. The designs for construction of the infrastructure have been prepared ready for construction in the new financial year.
2.4.5 Complete construction of funded stages of Muswellbrook Aquatic Centre upgrade	Outdoor pool complete and indoor aquatic centre works progressing.
2.4.8 Develop a concept design for a Changing Places facility at Simpson Park, Muswellbrook	Consultation with relevant sections of Council is continuing to develop a concept design.
3.1.1 Construct the Upper Hunter Innovation Precinct - Stage 2.	The construction tender has been awarded and works are progressing.
3.1.2 Review the Muswellbrook and Denman Walk & Cycle Plan	Consultants ACOR have been engaged to review the Muswellbrook and Denman Walk and Cycle Plan. The review will involve consultation with the Community and relevant stakeholders. The village of Sandy Hollow will be included in the revised plan.

ACTION	STATUS
5.3.2 Develop Aquatic Centre and Gym programs that increase social engagement and wellbeing with young people in Council's pools and gym	Young people participation was on target however all programs at the Muswellbrook Aquatic & Fitness Centre are on hold due to the reconstruction of the Aquatic Centre facilities.
5.3.3 Support the Upper Hunter Youth Services Committee in the relocation and development of their facility at a new location	Development Application Plans have been finalised and are progressing to lodgement with Council.
5.4.5 Construct approved stages of the Hunter Beach project	Project did not receive a conforming tender in second round of tendering closing 19th July 2021. Report to Council to request to allow alternatives to progress project.
5.5.5 Develop strategy for a Recreational Vehicle Rest Stop and associated facilities to promote economic and tourism activity	Recreation vehicles included in the endorsed concept design for Hunter Beach, including amenities.
5.5.7 Prepare Plans of Management for Crown lands managed by Council as community land, and Council-owned public land managed as community land	Plans of Management are being prepared for Olympic Park and Denman Recreation Area together with a template to be applied for other Crown lands.
5.6.4 Implement Disaster Recovery infrastructure and the review of Disaster Recovery Plan	Finalisation and completion of council's Disaster Recovery Plan scheduled for December 2021.
5.6.5 Continued implementation of Asset Management System phase 2 - financial components.	The completion of phase 2 of the Asset Management System roll out is scheduled for project review in 2021/2022 period to identify and resolve project road blocks.
9.2.3 Increase the membership of older people at both Muswellbrook and Denman Aquatic Centres, gym and Upper Hunter Regional Library Service	Participation of older people at the Muswellbrook Aquatic Centre was on target however all programs at the Muswellbrook Aquatic & Fitness Centre are on hold due to the reconstruction of the Aquatic Centre facilities. Participation of Older People at the Muswellbrook Shire Libraries is increasing as people relax regarding the COVID restrictions, participation and attendance in group activities such as the Craft Group is increasing as well as an increase in borrowing membership and utilisation of library and digital resources.
10.2.1 Work with the Aboriginal community to improve access to cultural and educational activities.	Consultation, by 2 Rivers Ltd Pty with key Aboriginal Community Members, continues in order to develop the concept of a Treaty Document and a final discussion paper will be provided to Council in the coming months.

ACTION	STATUS
11.1.1 Develop a Mining and Extraction (Quarries) Policy to inform the calculation of environmental bonds, modifications and extensions and other relevant matters within the Shire	Liaison with the Natural Resources Regulator regarding mines in the Shire has continued this quarter.
12.1.5 Obtain easements over Possum Gully in order to facilitate the carrying out of vegetation rehabilitation works	Obtaining access or ownership over Possum Gully for vegetation rehabilitation works is progressing.
14.1.1 Develop a work program to prepare a Muswellbrook Urban Catchment Management Plan which prioritises areas for remediation and activities that reduce and slow urban stormwater runoff	Agreement reached by Officers across Council work teams to focus on developing a catchment management plan for the Muscle Creek catchment as the highest priority to enable prioritisation of creek stabilisation projects.
18.1.1 Develop an Events and Festival Strategy with Action Plan for the period 2020 to 2024.	A draft Events and Festival Strategy has been developed, the need for an Events and Festival Strategy will be reviewed in line with Muswellbrook Shire Councils Strategic direction regarding tourism and the incorporation of the Upper Hunter Economic Development Corporation.
18.1.2 Deliver the funded actions of the approved Events and Festival Strategy 2020-2024 during 2020/21 financial year.	The Events and Festival Strategy will be reviewed in line with Muswellbrook Shire Councils Strategic Direction of tourism and events and the incorporation of the Upper Hunter Economic Development Corporation.
18.2.4 Muswellbrook Regional Arts Centre to host an Artist in Residence Program	'The Wollemi Project' is a partnership project with Muswellbrook Shire Council, National Parks & Wildlife Services and Singleton Council. The selected Artist; Mark Dober, Marie Mansfield and Rebecca Rath have completed their site visit to the Wollemu National Parks.
18.2.5 Develop a strategy to attract major exhibitions to the Shire and associated budget and report to Council	The Muswellbrook Art Gallery Business Plan is being reviewed internally and will be presented to MANEX for notation.
18.3.1 Memorial for Max Watters	The third installment has been provided to Artist Linda Klarfeld to complete the three dimensional sculpture of Max Watters. An internal meeting has been held to prepare for the siting of the statue prior to its delivery mid August 2021.
19.3.1 Construct the funded stages of the new animal care facility	Construction of the Muswellbrook Animal Care Facility has commenced

ACTION	STATUS
19.4.1 Implement funded projects arising from the Floodplain Risk Management Plan	A report was submitted to the 27 July 2021 Ordinary Council Meeting, advising that no conforming tenders had been received for the Hunter Beach project. Negotiations will be undertaken in order to satisfactorily progress the project.
20.1.7 Carry out construction of second water main servicing south Muswellbrook	Design works for stage 1 have been completed. Purchase of privately owned land is required for construction of the stage 1 works once these have been approved by Council. Liaison with the relevant land owner is being progressed.
21.1.3 Develop concept design for transport route from Muswellbrook bypass linkage to Muswellbrook town centre	A suitably qualified and experienced consultant has been engaged to provide a concept design for a transport route from the Muswellbrook bypass linkage to the Muswellbrook town centre. Work on the concept design is in progress. A concept design will be reported for Council's consideration in 2021-22.
22.1.8 Develop Climate Change Resilience Policy	Staff attended a briefing on Climate Resilience Policy development organised by the Department of Planning, Industry and Environment. A Climate Change Resilience Policy for Muswellbrook Shire is currently being developed.
24.2.10 Continue to review, update and revoke policies in accordance with the policy framework management strategy	Resources for policy review and update has been reviewed as part of a review of the Governance structure and further resources for maintenance of the policy framework is under consideration.
24.2.14 Provide clear, accessible and relevant information to the community	The launch of Council's new website was delayed in 2021. The website delivery team has been renewed. Delivery of the new website is scheduled for the end of August 2021.

12.3 AUSTRALIA DAY 2022 AWARDS AND CITIZENSHIP CEREMONY

Attachments:	Nil
Responsible Officer:	Fiona Plesman - General Manager
Author:	Kim Manwarring - Manager - Community Services
Community Plan Issue:	<i>Facilitate cultural activities and events which engage the community and visitors, and which create a 'sense of place' and identity</i>
Community Plan Goal:	<i>Increase funding to the Blue Heeler Film Festival and the Bottoms Up Beer and Music Festival with a view to engaging more locals and visitors.</i>
Community Plan Strategy:	<i>Ensure that all local festivals are supported to experience improved and increased patron engagement and attendance.</i>

PURPOSE

To update Council on the plans for the Australia Day 2022 Award nomination process, Australia Day Awards Ceremony, Citizenship Ceremony and Family Fun Day, these events are being developed in consultation with NSW Health COVID Regulations.

OFFICER'S RECOMMENDATION**Council:**

- 1. Endorses the plans for the Australia Day 2022 Awards nomination process, Australia Day Award and Citizenship Ceremony and Family Fun Day; and**
- 2. Approves the establishment of an internal Australia Day 2022 Working Party.**

Moved: _____ **Seconded:** _____

BACKGROUND

Australia Day is an important date in Australia's history that reflects the nation's diverse peoples. Traditionally, on this date, Australian citizenship ceremonies are held it is anticipated that ceremonies will be continually delivered within the NSW COVID Health Regulations.

Muswellbrook Shire Council hosts two events to celebrate Australia Day; the Australia Day Awards Ceremony and Australia Day Citizenship Ceremony this event is followed by a Family Fun Day at the Muswellbrook and Denman Aquatic Centres.

The Australia Day Award Ceremony acknowledges the achievement and contribution of community members to our community. Last year due to COVID restrictions all the successful award nominees were invited to an evening event on the 25 January to receive their awards to ensure that the whole community could be a part of the ceremony it was live streamed.

Australia Day Citizenship Ceremony is celebrated on the 26 January and has previously been an early morning event with a carnival like atmosphere, breakfast is provided by local service groups, and the local band delights the crowd. The Citizenship Ceremony and the acknowledgment of the successful Award Winners is the highlight of the event and the day moves into a family fun day at the Muswellbrook Aquatic Centres where facilities are open free of charge to community members.

CONSULTATION

Consultation has occurred with the General Manager.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Consultation occurred with the Mayor and Deputy Mayor.

REPORT

Due to the delay of the Council elections the Australia Day Award nomination process has been brought forward so that Council can receive community nominations for Citizen of the Year, Young Citizen of the Year and Open Award and assess them prior to the end of this Council term.

Last year Council received quality applications for the Citizen of the Year and Young Citizen of the Year as well as awarding community members for their contribution to the Tourism and Viticulture Industry, contribution to local Health Services, a youth commendation award and acknowledgement of a local volunteer groups 36yrs contribution to the community.

The Australia Day 2022 Awards nomination process is now open and will close on the 30 September 2021. Nomination forms are available on Councils website and hardcopies will be made available at Council Offices in both Muswellbrook and Denman pending COVID restrictions.

Council alternates Australia Day ceremonies between Muswellbrook and Denman, last years ceremonies were held at Denman, it is proposed that they be held at Muswellbrook in 2022.

All Australia Day Ceremonies and Community Celebrations will be developed in consultation with the NSW Health COVID Regulations, the events will require a degree of flexibility, as restrictions can change quickly.

To progress this planning, the establishment of an internal working party should be established to work towards the adopted recommendations.

OPTIONS

Council can support the establishment of an internal working group to work towards the planning and facilitation of Australia Day Ceremonies and Family Fun Day.

CONCLUSION

The planning and hosting of the Australia Day 2022 Awards, Citizenship Ceremonies and Community Celebrations needs to be flexible in order to appropriately accommodate the NSW Health COVID Regulations.

To progress this planning, the establishment of an internal working party should be established to work towards the adopted recommendations.

SOCIAL IMPLICATIONS

Australia Day 2022 Award Ceremony held on the 25 January acknowledges the difficult symbol for many Aboriginal and Torres Strait Islander people who perceive Australia Day to be a day of sorrow and mourning.

The hosting of Australia Day Awards and Citizenship Ceremonies creates an opportunity for the local community to come together to celebrate the positive contributions made by individuals and groups that build our local community and, importantly, to celebrate our nation's diversity.

FINANCIAL IMPLICATIONS

Funding for Australia Day 2022 is allocated in the 2021-22 operational budget.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

The Australia Day 2022 Awards Ceremony and Community Celebration will be conducted in compliance with relevant NSW legislation, particularly in relation to COVID Regulations.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

This is in line with Council's Operational Plan goals and objectives

RISK MANAGEMENT IMPLICATIONS

The Australia Day 2022 Awards Ceremony and Community Celebration will be conducted in compliance with relevant NSW legislation, particularly in relation to COVID Regulations.

12.4 MUSWELLBROOK AQUATIC CENTRE - OUTDOOR POOL PUMP AND FILTRATION SYSTEM

Attachments:	Nil
Responsible Officer:	Fiona Plesman - General Manager
Author:	Kim Manwarring - Manager - Community Services
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>Maintain the sporting and recreational facilities to standard.</i>

PURPOSE

Council to consider allocation of funds to replace the outdoor pool plant with detailed design to be undertaken this financial year and capital budget allocation for 2022/23.

OFFICER'S RECOMMENDATION

Council allocate the budget as identified to progress the detailed design of the new plant.

Moved: _____ **Seconded:** _____

BACKGROUND

Council has recently invested considerable funding to make significant improvements and upgrades at the Muswellbrook Aquatic & Fitness Centre with the indoor facility works ongoing. The first stage of this upgrade was completed early this year with the sealing, tiling of the outdoor pool, and new concourse extending the life of the 90-year-old outdoor pool which has been well received in the community.

The outdoor pool plant - pumps and filtration system though were not upgraded or replaced as part of this work, and considerable effort was spent last summer by council employees and specialist contractors to adjust the existing pump and filtration system to work effectively alongside the new outdoor pool. The pump and filtration system failed several times to adjust and manage the cleaning of the water to public health standards and adequate swimming conditions which resulted in several unplanned closures.

The need for new outdoor plant was reported in the scoping of the current major capital work but other works were prioritised. This report proposes a budget commitment to commence detailed design work for a new pump and filtration system and consideration of replacement as budget item for the 2022/23 capital budget.

CONSULTATION

General Manager

MANEX

Manager Works, Property & Building

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Mayor - Cr Scholes

REPORT

The existing pump and filtration system are approximately 50 years old. In the past the plant has operated alongside the old outdoor pool facility for six months of the year as the old outdoor pool was

emptied every winter to manage the major leak. Following the renewal of the outdoor pool it is now winterised which is a reduction in chemical dosing but does require the pump and filtration system to operate all year round. A significant change and issue have been adjusting the pump and filtration system to a new mass of water as the renewed pool is not as deep as the old pool.

Last summer with the reestablishment of the outdoor pool the pump and filtration system did not consistently clean and filter the water and was ultimately not reliable resulting in the closing of the new facility. To balance the communities lack and unpredictability of access to the Muswellbrook outdoor pool Council waived entrance fees on number of occasions.

Staff now have the plant running effectively but new plant is required. When the major capital works considered it was reported the existing plant had only a limited number of seasons before it needs to be replaced. New pumps and filtration systems do offer manageable and sophisticated systems that provide safer working environment, reduction in human resources to operate and maintain, and are more cost-effective. A preliminary budget estimate to replace the plant is approximately \$2M but this will be made clear through a detailed design process.

It is proposed to undertake the detailed design this year and plan for replacement in financial year 2022/23. The development of a detailed design will require a budget allocation of \$150,000. The services required include architect, hydraulic engineer, filtration specialist, and would include authority fees.

OPTIONS

Council allocated funding to progress the detail design for the new plant or defer the matter.

CONCLUSION

With the expectation that the existing pump and filtration system will now operate all year around and community expectation that the outdoor pool is reliably available all throughout summer it is timely that Council consider prioritising the replacement of the existing pump and filtration system.

SOCIAL IMPLICATIONS

The Muswellbrook Shire Council Aquatic & Fitness Centre provides facilities and programs that improve the health and well-being of our community.

FINANCIAL IMPLICATIONS

Capital budget estimate for replacement of plant is \$2M and detailed design is \$150,000.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Whilst the current detailed designed is not in the current budget, it is suggested that the \$150,000 can be funded through the Capital Works Contingency which has a budget for the 2021/2022 period of \$150,000.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

'Code 5.1 - Implement the outcomes of the Recreation Needs Study', *Muswellbrook Shire Council Operational Plan 2022/23*

RISK MANAGEMENT IMPLICATIONS

Managing risk associated with the operation and reliability of the plant is required.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

To be determined.

12.5 HALF-DAY PUBLIC HOLIDAY 2022

Attachments:	A. Survey Monkey results⇒ B. Support letter from Race Club⇒ C. Objection by Community Member⇒
Responsible Officer:	Fiona Plesman - General Manager
Author:	Julie Vince - PA to the Mayor
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

For Councillors to consider supporting the proposed application to NSW Treasury for the Local half-day public holiday on Friday 1 April, 2022.

OFFICER'S RECOMMENDATION

Council make an application to the Minister for the Public Service and Employee Relations for the declaration of a half-day public holiday for the Muswellbrook Cup Day from noon on Friday, 1 April 2022.

Moved: _____ **Seconded:** _____

BACKGROUND

In order that the 2022 Muswellbrook Cup Half-Day Public Holiday can be observed, Muswellbrook Shire Council is required to make application to NSW Treasury under the *Public Holidays Act 2010* for the declaration of local public holidays and local event days.

CONSULTATION

Muswellbrook Race Club

Local businesses, schools, banks, transport providers and community members

REPORT

To be officially recognised, the Minister for the Public Service and Employee Relations must declare a local public holiday or event day following an application by Council.

It is proposed that a local half-day public holiday be held on Friday, 1 April 2022 to mark the running of the Muswellbrook Cup. The Muswellbrook Race Club has been granted approval from Racing NSW to hold the Muswellbrook Cup on Friday, 1 April 2022 to stimulate greater participation and interest in the event. To mark the occasion, it is proposed that a half-day public holiday be observed in the Muswellbrook Local Government Area.

An alternative to a local half-day public holiday is a local event day. A local event day is again declared by the Minister, although it does not preclude banks and certain retail outlets from trading on the day. Entitlements to penalty rates will only apply in the case where an enterprise agreement or contract allowing for such entitlements has been signed.

As recommended by NSW Treasury, consultation with the relevant stakeholders has been undertaken to support the application. Council has sought feedback from schools, transport providers, banks, local businesses and the broader community through an online survey, which was promoted by the Muswellbrook Chamber of Commerce and with specific consultation undertaken with the Muswellbrook Race Club, local transport providers, banks and schools. Council has received largely positive feedback in support of the declaration of a half-day public holiday as proposed and one email in opposition to the proposal. A copy of the survey results is attached as Appendix A. A letter from the Muswellbrook Race Club stating their view on the proposal is attached as Appendix B. A copy of the email received from a community member in opposition to the proposed half-day public holiday is attached as Appendix C.

The local half-day public holiday has become somewhat of a tradition on Muswellbrook Cup day as it has been declared for many years. The Muswellbrook Cup is one of the major sporting events in the region which experiences high attendance with crowd numbers in excess of 5,000 not uncommon. A portion of the support experienced at the Muswellbrook Cup is contributed to by the declaration of a local half-day public holiday.

Consideration must be given to the implications a local half-day public holiday can create for small to medium sized businesses within the Muswellbrook Shire. A local half-day public holiday under Industrial Relations legislation would preclude banks and certain retail outlets from operating from 12:00 midday on 1 April 2022. This would include penalty entitlements for individuals who are required to work during the declared half-day public holiday, depending on the employee's contract arrangements.

A local half-day public holiday does create an imposition on local businesses, although the community benefit must also be measured in this decision. The local half-day public holiday provides the opportunity for residents to participate in a local event which benefits the economic and social aspects of the Muswellbrook Shire. Without the declaration of the local half-day public holiday, the Muswellbrook Cup attendance rates may decline significantly.

In the pursuit of maintaining a community event, it is recommended that the support of an application to NSW Treasury for a local half-day public holiday be approved.

OPTIONS

Council may consider not making the application and abandoning the public holiday or supporting a local event day in the alternative.

CONCLUSION

It is recommended that Council again seek approval from the Minister for the declaration of a half-day public holiday for the Muswellbrook Cup Day on Friday, 1 April 2022 from noon.

SOCIAL IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

A half-day public holiday would incur an estimated \$26,860 in wages to be paid in accordance with the Local Government State Award (2020). Council employees who would be required to work and maintain a minimum level of service to the community would be entitled to penalty rates.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

Not applicable.

WASTE MANAGEMENT IMPLICATIONS

Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Not applicable.

12.6 SECTION 355 COMMITTEE GUIDELINES

Attachments:	A. DRAFT Section 355 Committee Guidelines ⇒
Responsible Officer:	Fiona Plesman - General Manager
Author:	Melissa Cleary - Manager - Governance
Community Plan Issue:	<i>Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community</i>
Community Plan Goal:	<i>Enhanced collaboration with Council's community and stakeholders to ensure Council and its elected arm is best placed to make decisions in the best interest of the community.</i>
Community Plan Strategy:	<i>Implement and maintain a diverse range of communication channels between Council and community stakeholders..</i>

PURPOSE

This report provides Councillors with details of the new Section 355 Committee Guidelines, which is recommended for endorsement for public exhibition.

OFFICER'S RECOMMENDATION**Council:**

- 1. Endorses the Section 355 Committee Guidelines for public exhibition for a period of not less than twenty-eight (28) days.**
- 2. Adopts the Section 355 Committee Guidelines at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.**

Moved: _____ **Seconded:** _____

BACKGROUND

In accordance with Section 355 and Section 377 of the *Local Government Act 1993* (NSW) ("Local Government Act") Council is permitted to delegate certain functions to a committee of the council. Council uses this delegation to create Committees comprising members of the community to assist in the management, care and control of Council assets.

CONSULTATION

Manex;

Corporate Lawyer

REPORT

Council staff have developed the Section 355 Committee Guidelines to implement the legislative requirements of the *Local Government Act 1993* (NSW) and other legislation, regulations and guidelines imposed to ensure that both the Council and the Committees are compliant. Principally, the purpose of these guidelines is to outline the roles and responsibilities of both the Council and the Committee to allow for an effective and valuable partnership.

OPTIONS

Council may or may not endorse the guideline recommended for public exhibition.

CONCLUSION

It is recommended that the Section 355 Committee Guidelines be placed on public exhibition.

SOCIAL IMPLICATIONS

No known social implications.

FINANCIAL IMPLICATIONS

No known financial implications.

POLICY IMPLICATIONS

No known policy implications.

STATUTORY IMPLICATIONS

No known statutory implications.

LEGAL IMPLICATIONS

No known legal implications.

OPERATIONAL PLAN IMPLICATIONS

No known Operational Plan implications.

RISK MANAGEMENT IMPLICATIONS

No known risk management implications.

12.7 MT PLEASANT OPTIMISATION PROJECT - PROPOSED PLANNING AGREEMENT

Attachments:	A. Mt Pleasant Optimisation Project - Offer of Planning Agreement- August 2021 ↗
Responsible Officer:	Fiona Plesman - 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>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>

PURPOSE

The Mt Pleasant Optimisation Project – SSD 10418 – was exhibited in March 2021. Council made a submission and indicated that a Planning Agreement would be required. The Proponent (MACH Energy) has written to Council with an offer.

The purpose of this report is to obtain a resolution to allow the General Manager to continue to negotiate a Planning Agreement with MACH Energy and to exhibit a Planning Agreement between Council and MACH Energy if the Independent Planning Commission approves the Development.

OFFICER'S RECOMMENDATION**Council:**

- 1. Notes the letter of offer regarding a draft Planning Agreement between MACH Energy and Muswellbrook Shire Council (Attachment A).**
- 2. The General Manager begin negotiations with MACH Energy to finalise the Planning Agreement to reflect as a minimum, contribution amounts payable in the 2021-22 financial year under the current VPA.**
- 3. The draft Planning Agreement, once amended in line with negotiations between the General Manager and MACH Energy, be placed on public exhibition for 28 days if the Independent Planning Commission approves the Mt Pleasant Optimisation Project.**

Moved: _____ **Seconded:** _____

REPORT

Regular meetings have been held with representatives from MACH Energy concerning the Optimisation Project. Council's submission on the proposed development requested a new Planning Agreement. MACH Energy have offered the following Planning Agreement:

Item	Development Contribution
Mount Pleasant Community Contribution	\$604,079 per annum (indexed annually according to CPI). A community representative committee will be established, including Applicant representatives, to make recommendations to Council regarding these community contributions.
Council Road Maintenance Costs	Costs associated with the maintenance of roads, as reasonably apportioned to the use of the road by Mount Pleasant, up to a maximum annual payment of \$277,863 per annum (indexed according to CPI). This contribution will be made for the recurrent road maintenance to be used at Councils discretion for that purpose.
Environmental Officer	The Applicant to make contributions to an Environmental Officer, up to a maximum of \$24,169 per annum (indexed annually according to CPI).
Apprenticeships	The Applicant to use its best endeavours to engage 4 apprentices per year for the life of the mine sourced from residents within the Muswellbrook Shire and Aberdeen.

The Contributions amounts payable in the 2021-22 financial year under the current VPA are for the:

Community Contribution	\$664,650
Roads Maintenance	\$305,649.60
Environmental Officer	\$26,586

Contributions proposed in the offer would be contingent on the following:

- Agreement and execution of a Planning Agreement between MACH Energy and MSC.
- Favourable determination of the Mount Pleasant Optimisation Project application (SSD-10418) by the NSW Independent Planning Commission or the Minister for Planning and Public Spaces (or delegate).
- MACH Energy taking up the new Development Consent under SSD-10418 and surrendering DA 92/97.

The Draft Voluntary Planning Agreement has been considered by the Finance and Review Advisory Committee on 19 August, 2021 and the State Significant Development Committee on 23 August, 2021. Both Committees recommended that the draft Voluntary Planning Agreement be submitted to Council for consideration.

12.8 SPONSORSHIP FOR HUNTERWISE OUTREACH PROGRAM FOR 2022

Attachments:	A. Letter to Muswellbrook Shire Council ↗ B. 2020 - 2021 HunterWise Business Plan ↗
Responsible Officer:	Fiona Plesman - General Manager
Author:	Matthew Lysaught - Manager - Works, Property & Building
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>Work with University of Newcastle on research and innovation in areas where the Upper Hunter has a competetive or comparative advantage.</i>
Community Plan Strategy:	<i>Bring key stakeholders together to initiate and progress projects and programs that have a high probability to deliver positive economic outcomes for the Shire.</i>

PURPOSE

To seek Council's approval for a sponsorship of the HunterWiSE Outreach program for 2022.

OFFICER'S RECOMMENDATION

Council approves \$20,000 for Option 1: School Sponsorship of the HunterWiSE Outreach program for 2022.

Moved: _____ **Seconded:** _____

BACKGROUND

HunterWiSE creates opportunities for women in Science, Technology, Engineering and Mathematics (STEM) in the Hunter, to liaise, collaborate, and mentor each other.

Established in 2017, HunterWiSE aims to make visible in regional communities the crucial contribution of women in STEM. The initiative also works to positively influence school ages girls' perceptions of, and participation in, STEM. HunterWiSE now has four approaches: Outreach, Industry Network, Alumni Network, and Research.

Council was the first sponsor in 2017 with the participation of Muswellbrook High School. Program has involved over the years targeting year 9 female students. The program is now engaged with several schools across the Hunter region. Council has been asked to support the program for 2022 in the attached letter.

CONSULTATION

General Manager

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Briefing provided to Mayor, Cr Rod Scholes in the preparation of this report.

REPORT

The attached HunterWiSE Business plan provides a few options for sponsorship:

Bronze Sponsorship (\$5,000)

- Option 1: Event Sponsorship
- Option 2: Event Strategic Projects Support

Silver Sponsorship (\$20,000)

- Option 1: School Sponsorship
- Option 2: Alumni Club

Gold Sponsorship (\$50,000)**Platinum Sponsorship (\$85,000+)**

It is recommended that Council provide the Silver Sponsorship: Option 1 – School Sponsorship. The cost is \$20,000 and the funding is directed towards running the program for the local school.

All details and differences between the various tiers of sponsorships are outlined in the 2020-2022 HunterWiSE Business Plan.

OPTIONS

Council can choose to sponsor as recommended, choose a different tier of sponsorship, or not sponsor.

CONCLUSION

It is recommended Council approves \$20,000 from the STEM School Industry Partnership Programme for Option 1: School Sponsorship of the HunterWiSE Outreach program for 2022.

SOCIAL IMPLICATIONS

Council's sponsorship of the HunterWiSE program will continue assisting in building a culture where STEM subjects are increasingly valued by the local community.

FINANCIAL IMPLICATIONS

The HunterWiSE 2022 Outreach program could be funded from the General Manager's Operational Contingency or from the Future Fund Sponsorship Programme connected to the Muswellbrook Marketplace.

CHIEF FINANCIAL OFFICER'S COMMENTS

Whilst this sponsorship is currently not in the budget, it is suggested that, given the importance and its relevance to the region, that is, increasing the interest in STEM careers among young women and to develop a positive community for females currently working in STEM in the Hunter, that the sponsorship be provided. This could be easily funded through minor savings throughout the year.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

Consistent with Council's Delivery Program goal of Economic Prosperity.

RISK MANAGEMENT IMPLICATIONS

There is a risk that the programme is not available for local students if sponsorship is not secured.

12.9 OLYMPIC PARK MASTER PLAN - GRANDSTAND AND AMENITIES DESIGN (UPDATED)

Attachments:	<p>A. Adopted - Stage 1 - Olympic Park Master Plan ⇒</p> <p>B. Olympic Park Grandstand and Amenities Design - Option 1 ⇒</p> <p>C. Olympic Park Grandstand and Amenities Design - Option 2 ⇒</p> <p>D. Olympic Park Grandstand and Amenities Design - Option 3 ⇒</p> <p>E. Stakeholder feedback - Rugby League Club ⇒</p> <p>F. Stakeholder feedback - Junior Rugby League ⇒</p>
Responsible Officer:	Fiona Plesman - General Manager
Author:	Matthew Lysaught - Manager - Works, Property & Building
Community Plan Issue:	<i>Develop Muswellbrook as a Regional Centre</i>
Community Plan Goal:	<i>Construct and maintain regionally significant infrastructure that facilitates regional service provision.</i>
Community Plan Strategy:	<i>Apply Shire Town Centre Masterplans, Development Control Plans and Regional Economic Development Strategies to support development of Muswellbrook as a Regional Centre.</i>

PURPOSE

To provide for Council's consideration staged concept plans for the Olympic Park Grandstand and Amenities.

OFFICER'S RECOMMENDATION

1. Council endorse the Grandstand and Amenities Design - Option 2 to be placed on public exhibition for a period of not less than twenty-eight (28) days; and
2. Council proceed to prepare a Development Application for the Grandstand and Amenities Design - Option 2 at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.

Moved: _____ Seconded: _____

BACKGROUND

The Olympic Park Master Plan consultation process began in March 2017. In February 2018, Council adopted the Stage 1 Olympic Park Master Plan. Over this time there has been extensive consultation with key stakeholders at different milestones, including meetings and workshops with individuals, user groups, and wider community consultation.

The Olympic Park Master Plan was the foundation for the Olympic Park Precinct Upgrade project which was part of Council's successful 2019 Special Rate Variation application to the Independent Pricing and Regulatory Tribunal.

Stage 1 of the master plan includes:

- Safer vehicle access (in particular, construction of a bridge over Muscle Creek to facilitate egress during major events);
- Car parking;
- Additional storage;

- Improved cycleway and pedestrian connections;
- Environmental works;
- Field improvements; and
- Additional amenities.

Design work for a new grandstand is included in Stage 1. The construction of the grandstand is included in Stage 2, which is currently unfunded and is assumed to be funded in the future by a successful grant submission.

Works completed so far include the integration of the Olympic Park Master Plan into the Muswellbrook Aquatic Centre Master Plan and Muswellbrook Urban Riparian Landcare Master Plan, construction of car parks 6 & 7, demolition of MATS Hall and relocation of MATS, construction of Park Tennis Hitting Wall, Muscle Creek Nature Trail works, and awarding of installation tender for precinct intelligent lighting.

In 2020-21, GHD was engaged by Council to develop the Olympic Park Grandstand and Amenities Design for the two stages (additional Amenities and Grandstand) in consultation with key stakeholders.

To progress the design the General Manager at the beginning of this year arranged recurring meetings with primary user groups, Councillor Spokespersons, and staff to select a preferred concept to progress to Development Application stage.

User groups have been asked to have their Club Executive provide in writing confirmation of their preferred option.

Junior Rugby League and Senior Rugby League have provided written support for the Olympic Park development and state that their preferred option is Option 3 (see attached letters dated 29th August 2021).

CONSULTATION

Muswellbrook Junior Rugby League

Muswellbrook Senior Rugby League

Muswellbrook Touch Football

GHD – Design

General Manager

Deputy General Manager

Manager Works, Property and Building Services

Technical Officer - Recreation and Property

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Mayor - Cr Scholes

Councillor Spokesperson for Sport – Cr McNeill;

Councillor Spokesperson for Community Engagement – Cr Reynolds

REPORT

Stage 1 buildings are the new amenities building which includes the demolition of the existing bar and storage building and construction of additional change rooms, amenities, canteen, bar, function area, and accommodations to meet the criteria of NRL Preferred Facilities Guidelines for a Regional Facility.

Stage 2 building is the 700-seat grandstand and new amenities connecting to Stage 1.

The three options attached to this report for Council's consideration have been developed in consultation with user groups and Councillor Spokespersons.

In the development of design options, Option 1 has been the preferred design by key stakeholders with parts of Option 1 selected by user groups. In preparing for Council's decision on the option to proceed with to Development Application user groups have been asked to have their Club Executive provide in writing confirmation of their preferred option.

Junior Rugby League and Senior Rugby League Clubs provided written responses to Council's request for formal feedback on 29th August and state that their preferred option is Option 3.

Provided below is a summary of options and attached to this report are the three current designs. In all options the Stage 1 buildings are consistent across all options and are understood to be agreed upon by key stakeholders.

Option 1:

Stage 1

New building on southern end:

Ground floor

- Canteen – with commercial kitchen
- Two new changerooms that can be converted in to one large one for regional events
- Bar
- Lobby with lift and stairs
- Storage area

First floor

- Function room and viewing area
- Kitchen servery
- Bar
- Toilets – male, female and accessible
- Storage

Ground floor northern end:

- Storage rooms
- Strength and Conditioning room
- Accessible Toilet
- Administration Office
- First Aid Room
- Additional Referee Room
- Fenced storage area across back of building

First floor allows for grandstand seating.

Stage 2

Grandstand replacement:

- Male, female and Changing Places bathroom facilities
- Two new changerooms that can be converted in to one large one for regional events
- Referee Room
- Timekeeper Box
- Additional Dry Servery

First floor 700 grandstand seating.

Staff have raised concerns about Option 1 around the anticipated congestion of pedestrian access around entry point with canteen and dry servery on either side of entry to ground. Further, bathroom facilities are not as easily accessible as they could be and may cause ques and restrict pedestrian traffic flow in their location and layout.

Option 2:

Stage 1 as per Option 1.

Stage 2:

- Male, female and Changing Places bathroom facilities
- Two new changerooms that can be converted in to one large one for regional events
- Referee Room
- Timekeeper Box

First floor 700 grandstand seating.

Staff consider this Option 2 allows for better pedestrian flow and movement through the main entry point. It locates any potential alcohol service at the southern end of the facility to provide a more family friendly facility by having the ability to separate areas. Further, any potential alcohol service is placed away from officials and players benches and remains below the function room together with related hospitality. This option centralises toilet facilities and ease of access with wider corridor to amenities is considered to be better.

Option 3:

Stage 1 as per Option 1.

Stage 2:

It is like Option 1 but with the Stage 2 development flipped to ease traffic congestion and movements around entry point, placing a dry servery on the northern end of the new grandstand. How the additional servery would function would govern the merit of this inclusion for large events for e.g. it would be best not to duplicate provision of resources i.e. fridges and equipment but have this area supplement catering and hospitality in large events.

GHD's architect made the preliminary observations on Option 1 and 2:

Option 1:

Pros

- Two canteens (additional dry servery) allows for larger crowds or operations to be moved depending on game types or scale i.e. flexibility if needed.
- Grandstand internal circulation areas are more efficient.

Cons

- Bar (dry servery) and canteen when both in operation could restrict movement through the entry.
- North / grandstand bar (dry servery) could restrict movement of teams from change rooms.
- Proximity of bar to changerooms, may promote interaction between players and spectators.
- If both bar and canteen are operational at the same time it may be difficult to resource.
- Northern edge of grandstand needs to be moved north to accommodate the internal programme / and additional canteen.
- Above increases the distance from grandstand seating to canteen and bar.

Option 2:

Pros

- South block change room doors close achieves separation of teams entering and exiting from canteen (same for all options).
- Toilets closer to canteen and bar.

Cons

- South block change room doors close does not achieve complete separation of teams entering and exiting changerooms from canteen and bar (same for all options).
- Grandstand internal circulation maybe wasted in areas.
- Widening south block bar means bar has extended terrace above (same for all options).

OPTIONS

The primary difference between the options is the dry server area. Given Stage 1 has a commercial kitchen (Canteen/Kiosk) and there is server/kitchen and bar in the function facility on the first floor a judgement is required on the need for an additional server.

In a large event it would be an advantage to have additional server area in the proximate middle of the facility as per Option 3, however, often in large events planning includes providing additional food and drink vendors, and amenities to disperse crowds across the grounds. Further, a potential risk of too many food and drink service areas is that user groups may demarcate use areas and duplicate use of resources.

Council could support one of the proposed options or provide an alternate recommendation for the design.

CONCLUSION

Option 2 is recommended by staff, however, if the need for an additional dry server is considered to have merit then Option 3 lessens the concerns around the pedestrian congestion at the entry to the ground.

SOCIAL IMPLICATIONS

Proposed works would encourage passive and active recreation in the community.

FINANCIAL IMPLICATIONS

Council has allocated \$2.126M budget for Stage 1 – Grandstand and Amenities Design in the 2021/22 Capital Budget. The budget assumed the successful grant funding of \$1M from the NSW Regional Sport Facility Fund grant funding. Stage 2 has been estimated at \$5.5M but only design and development approval of this stage is funded.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

'Code 2.4 - Implement the Muswellbrook, Denman Town Centre Masterplans and the Sandy Hollow Village', *Muswellbrook Shire Council Operational Plan 2021/22*

RISK MANAGEMENT IMPLICATIONS

The risk implications of the project have been considered as different stages of the project including the development of a Capital Expenditure Review and will continued to be reviewed.

12.10 JULY 2021 MONTHLY FINANCIAL REPORT

Attachments: A. Monthly Accounts - Jul 2021.pdf [↗](#)

Responsible Officer: Fiona Plesman - General Manager

Author: Josh Hogan - Financial Controller

Community Plan Issue: *A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders*

Community Plan Goal: *Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.*

Community Plan Strategy: *Work toward the achievement of the targets established in the Fit for the Future ratios.*

PURPOSE

To provide Council with a high-level overview of the monthly financial performance of Council's General, Water, Sewer and Future Funds and to identify and explain any major variances against Council's approved budget at an organisational level for the month ending 30 June 2021.

OFFICER'S RECOMMENDATION

The Financial Report for the month ending 31 July 2021 be noted.

Moved: _____ **Seconded:** _____

REPORT

Please refer to the attachment for the monthly and year-to-date financial performance details for July 2021.

12.11 REPORT ON INVESTMENTS HELD AS AT 31 JULY 2021

Attachments:	A. Portfolio Valuation Report - 31 July 2021.pdf⇒ B. Trading Limits - 31 July 2021.PDF⇒
Responsible Officer:	Fiona Plesman - General Manager
Author:	Josh Hogan - Financial Controller
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Work towards the achievement of a sustainable Operating Budget result in the General Fund.</i>

PURPOSE

To present the list of financial investments currently held by Council in accordance with the Regulation.

OFFICER'S RECOMMENDATION

That information showing Council's investments as at 31 July 2021 be noted and that the minor discrepancy with the issuer trading limits be approved.

Moved: _____ Seconded: _____

REPORT

Clause 212 (1) of the Local Government (General) Regulation 2005, requires details of funds invested, as at the end of the preceding month, to be reported to an ordinary meeting of Council.

Funds invested under Section 625 of the Local Government Act, as at 31 July 2021 are shown in the attachments.

COMMENT:

As at 31 July 2021, two issuer trading limits had been mildly exceeded (by \$309k: 5% of \$6.5M total) between Bank of Queensland Ltd and Members Equity Bank Ltd. The discrepancy emerged when a \$3M Term Deposit was made with Members Equity Bank on 21 June. BOQ Ltd is the parent of ME Bank Ltd and so the BOQ group issuer limit was exceed.

\$500k of the 6.5M invested with this group is an At Call Deposit and can easily be transferred if required. The next BOQ investment matures in November. It is recommended that Council permits this discrepancy to remain as this security offers some of Council's better yielding interest and overall Council's security rating group trading limits have not been exceeded.

Council's weighted running yield is 0.80% for the month.

The Responsible Accounting Officer certifies that the investments listed have been made in accordance with the Act, the Regulations and Council's Investment Policy. This includes investments that have been made in accordance with Minister's Orders that have been subsequently amended. "Grandfathering" provisions still allow the holding of these investments. A detailed list of investments is attached.

12.12 REPORT ON COUNCIL GRANT FUNDING AUGUST 2021

Attachments:	Nil
Responsible Officer:	Fiona Plesman - General Manager
Author:	Ivan Skaines - Community Engagement & Grants Co-Ordinator
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 advise Council of recent grant applications submitted, grant funding recently announced or to be announced shortly, and of upcoming grant opportunities. In addition, to provide updates on Council's other grants activities.

OFFICER'S RECOMMENDATION

Council notes the information contained in the report.

Moved: _____ **Seconded:** _____

BACKGROUND

For some time, Muswellbrook Shire Council has been very successful in obtaining grants which have been decided via competitive applications and, in addition, Council has continued to receive grant allocations from both State and Federal government sources for which we are required to nominate proposed projects for funding.

CONSULTATION

Grant applications are prepared in consultation with senior managers at Council and key staff in relevant sections.

CONSULTATION WITH COUNCILLOR SPOKESPERSON

Both the Mayor and Deputy Mayor are regularly consulted about grant applications.

REPORT**Grant applications submitted**

In the last month Council has submitted the following application:

- An application prepared on behalf of the Muswellbrook Football Club to the Northern NSW Football's 2021 Facilities Fund for improvements to the Stan Thiess Centre at Victoria Park. This is a backup application in case we are unsuccessful with our application to the July 2021 Round of the Infrastructure Grants from the NSW Government's Clubgrants Category 3 Fund.

Upcoming grant and funding opportunities

These are the current grant rounds:

- The \$280 million Black Summer Bushfire Recovery (BSBR) Grants program will help communities address priorities for recovery and resilience after the 2019-20 bushfires. The program covers every Local Government Area that was disaster declared as a result of the 2019-20 bushfires, and community organisations, businesses and local councils can apply for funding between \$20,000 and \$10 million. Muswellbrook Shire has a “funding envelope” of \$1.6 million, however that funding is not guaranteed and the amount of funding allocated to our Shire depends on the quality of our applications. We are proposing to apply for funding for the construction of four netball courts at Denman since members of the Denman community were particularly involved in fighting the bushfires, and replace Oakleigh Bridge on Widden Valley Road to facilitate access for emergency and other heavy vehicles.
- **New bus shelters and shelter upgrades** with funding from the 2021/23 Country Passenger Transport Infrastructure Grants Scheme to be submitted before 30 September 2021.

Grant funding recently announced

As was mentioned last month, unfortunately we were unsuccessful in our application for funding of \$7.3 million the **Bushfire Economic Recovery Fund** for the Denman Thermal Baths and Tourist Park development. However, we are arranging a feedback session with the funding body to discover why our application was unsuccessful and how we can improve our application to increase our chances of success in the future.

Grant funding to be announced shortly

We are awaiting several announcements including:

- our application to the Federal Building Better Regions Fund. We submitted an application under the Infrastructure Projects Stream for \$10 million for the **Muswellbrook Regional Entertainment and Conference Centre** and we expect to hear the outcome in the Third Quarter.
- our Registration of Interest under the Snowy Hydro Legacy Fund Freight Linkages program for the concept of the **Gateway Service Centre on the New England Highway south of Muswellbrook**.

Muswellbrook Shire Council Community Grants – Round 2 2021

We have opened Round 2 of the 2021 Muswellbrook Shire Community Grants which provide financial assistance to local not-for-profit community groups and organisations that work towards enhancing the social, cultural and recreational well-being of the communities of Muswellbrook Shire. There are two funding rounds each year (in February/March and July/August) and the number and value of grants given in any funding period is subject to the total annual funding pool.

Round 2 of the 2021 grant program has been delayed slightly and will close at 5pm on Friday 17 September 2021. Promotion of the opportunity has occurred via our usual communication channels, along with emails to organisations who had previously expressed interest in the program and to those organisations on the database held by Council's Community Services section.

Muswellbrook Shire Council Grants Workshops

Council staff have prepared a presentation on Grants and Funding covering all aspects of the grant process from application to acquittal. Workshops with local community groups and other organisations will be held throughout the Shire following the lifting of COVID restrictions, and we are also planning practical sessions at Council's libraries where people can experience registering and completing an online application form.

Muswellbrook Shire Council Grants Portal

Council receives a monthly update on our grant finding portal at <https://muswellbrook.grantguru.com.au/>. The report provides data on a number of performance indicators including those listed in the table below:

Indicator	July 2021	June 2021	May 2021
Total unique portal visitors	85	94	117
Number of page views	219	475	667

Indicator	July 2021	June 2021	May 2021
Total cumulative registrations to the portal (via the sign-up form)	25	21	17
Grant alerts sent per month to registered users	139	67	13

As expected, community interaction with the grant finding portal has waned slightly since its launch in May 2021. However, we are continuing to promote the grants portal via our usual communication channels and the portal has also been promoted by other organisations including Arts Upper Hunter. The portal was again publicised on our website coinciding with the opening of Round 2 of the 2021 Community Grants.

OPTIONS

Council notes the applications submitted over the past month, the grant funding to be announced shortly and the applications to be submitted over the next month.

CONCLUSION

The funding received under these grant programs will offset expenditure that would otherwise be needed to be made by Council.

SOCIAL IMPLICATIONS

These projects address priority issues in the community and are well-supported.

FINANCIAL IMPLICATIONS

There are co-contributions required as specified in the applications descriptions above.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

Not applicable.

OPERATIONAL PLAN IMPLICATIONS

The projects funded by these grants are in line with Council's Operational Plan goals and objectives.

RISK MANAGEMENT IMPLICATIONS

Council will be required to outline possible risks associated with each project in preparing each grant application, along with risk mitigation strategies.

12.13 COMMUNITY SERVICES

Attachments:	Nil
Responsible Officer:	Fiona Plesman - General Manager
Author:	Kim Manwarring - Manager - Community Services
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 provide an update on activities in the Community Services section.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ Seconded: _____

REPORT

MUSWELLBROOK SHIRE LIBRARIES – MUSWELLBROOK and DENMAN

During July 2021 the Library was excited for the Launch of the NAIDOC exhibition 'Our First Teachers'. This exhibit was curated and created by Natasha Kellett and Rosslyn Thomson features contemporary Aboriginal art and tools which have been collected and created. Most of the work displayed has been hand crafted by Tash such as the stone tools, naturally tanned animal skins, bush medicines, wooden tools and a Gunyah (hut/ shelter). Roz created the woven baskets, rope and jewellery using traditional and contemporary materials. (see attached images).

During July the Muswellbrook Shire Libraries was attended by **1,898 customers**. In the lead up to the early August COVID closure the library staff noted a trend of customers utilising study spaces throughout the library for extended periods as well as completing extended reference enquiries to assist with research and family history enquiries. During this period the library hosted the Trial HSC examinations within the Seminar Room. Over the same period, our library branches **loaned 6,431 items** and processed **3,755 returns**.

Providing opportunities that increase community literacy, both physical and digital

- Online Engagement:

The Library has continued a regular presence on it's social media with posts to share information about library collections, library events and library online resources. Over the past month the library has had **2,811** post views and now has a combined like/follow total of **2,056**. This month online engagement focused on promotion of the new research databases available to Library members and our 'Our First Teachers' exhibition.

- Collections:

During July the library added 220 new items to the physical collections. The new items displays have become a popular place for library members to visit when first entering the Library. These new

items are promoted digitally through the library website along with themed selection lists from staff. Our digital collections have continued to be popular across our three digital platforms, there have been **308 eAudio loans, 146 eBook Loans and 88 Digital magazine loans**.

Creating spaces and programs that meet the needs of members and library visitors

- Children's Programs

Baby Rhyme time and story time were cancelled during July due to tightened Covid-19 restrictions.

- Adult Programs

Muswellbrook Library continued their **book club, writers group and craft group** in July with 28 attendees. Denman Library Book Club was cancelled in July due to Covid-19 space restrictions.

- Home Library Services

The home library service provides home delivery of library items to community members unable to visit our branches in person due to various reasons. This month the home library service has delivered **201 items** and facilitated the return of **283 items**. This program currently services **17 members** across the Muswellbrook Shire.

- Click and Collect

The click and collect service at the Muswellbrook and Denman Libraries enables library customers to reserve and collect items via the customer web portal and also to submit 'profiles' for staff selection of items. This has been popular with customers wishing for a quick visit to the library. Library staff have been utilising their reader advisory skills in making and recommending selections for customers. This service has extended to attendees of the children's programs with library staff selecting items for collection ready at each session. Over the past month, staff at Muswellbrook and Denman have satisfied **178 reservations** through this service.

- Wifi and Computer Usage

Wifi Usage:

Muswellbrook: 89

Denman: 150

Increasing and maintaining library memberships

Muswellbrook: 62 new members

Denman: 3 new members



MUSWELLBROOK SHIRE AQUATIC & FITNESS CENTRE – Denman and Muswellbrook

The Muswellbrook Aquatic & Fitness Centre is now closed until further notice.

HOSPITALITY UNIT

The Gallery Café has reopened as a small off-site food & drink premises take away only.

MUSWELLBROOK ART GALLERY

The Muswellbrook Art Gallery hosted the Mullins Photography Award in partnership with the Australia Photographic Society the announcement was made from the Gallery and was a virtual event. The winners can be viewed via <https://www.australianphotography.com/news/aps-mullins-conceptual-photography-prize-2021-winners-announced>

A virtual exhibition will be held until the 20 August.

The Art Gallery is bringing art activities to you with this month's Art Station! Linking in the finalists of the Mullins Conceptual Photography Prize to take some amazing photos. Asking participants to click on the link to get the activity sheet.

<https://www.flipsnack.com/.../art-station.../full-view.html>

TOURISM AND EVENTS

Denman Visitor Information Centre remains closed.

Plans continue with the University of Newcastle – School of Creative to deliver the Blue Heeler Film Festival. Discussions are underway to move workshops with schools and the community online as well as plans to accommodate a virtual Blue Heeler Film Festival on the 30 October 2021.

A Citizenship Ceremony on the 29 July 2021, there were 11 conferees who received their Citizenship, in attendance as well was the State Member for Upper Hunter Dave Layzell.

13 REPORTS FROM COMMITTEES

13.1 REPORT OF THE FINANCE REVIEW AND ADVISORY COMMITTEE MEETING HELD ON THURSDAY, 19 AUGUST 2021

Attachments:	A. Minutes of Finance Review & Advisory Committee Meeting - 19/08/2021 ⇒
Responsible Officer:	Fiona Plesman - 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 inform Council of a meeting of the Finance Review and Advisory Committee held on 19 August 2021.

OFFICER'S RECOMMENDATION

The minutes for the Finance Review and Advisory Committee meeting held on Thursday 19 August 2021 be NOTED.

Moved: _____ Seconded: _____

REPORT

The Finance Review and Advisory Committee met on Thursday 19 August 2021.

The minutes of the meeting are attached for the information of the Councillors.

13.2 REPORT OF THE STATE SIGNIFICANT DEVELOPMENT MEETING HELD ON MONDAY, 26 JULY 2021 , 16 AUGUST, 2021 AND 23 AUGUST, 2021

Attachments:	A. Minutes of the State Significant Development Committee Meeting - 26/07/2021 ↗
	B. Minutes of the State Significant Development Committee Meeting - 16/08/2021 ↗
	C. Minutes of the State Significant Development Committee Meeting - 23/08/2021 ↗
Responsible Officer:	Fiona Plesman - 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 inform Council of a meeting of the State Significant Development held on 26 July 2021, 16 August, 2021 and 23 August, 2021.

OFFICER'S RECOMMENDATION

The minutes for the State Significant Development meeting held on Monday 26 July 2021, 16 August, 2021 and 23 August, 2021 be NOTED.

Moved: _____ Seconded: _____

REPORT

The Executive Officer reports that the State Significant Development met on Monday 26 July 2021, 16 August, 2021 and 23 August, 2021 .

The minutes of the meeting are attached for the information of the Councillors.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

15.1 QUESTION WITH NOTICE - UNIVERSITY AWARDED \$2 MILLION INDUSTRY FUNDING

Attachments: Nil

Responsible Officer: Fiona Plesman - General Manager

Councillor Steve Reynolds has asked the following question with notice for the Council Meeting on 28 September 2021, as follows:

I refer to a press release on 7 May, 2021 from the University of Newcastle:

University awarded \$2 million industry funding

Friday, 7 May 2021

[Tweet](#)

The University of Newcastle's [Global Innovative Centre for Advanced Nanomaterials](#) (GICAN), has today signed an agreement worth \$2.119 million with InnovationClub Pty Ltd to further their research on plastic alternatives.

The research, led by [Doctor Thava Palanisami](#) and [Professor Ajayan Vinu](#), will develop novel bioplastics prototypes with improved functionality and environmental performance.

By using the GICAN Plastic Research Team's expertise and state-of-the-art equipment, the funding will support the characterisation and optimisation of products manufactured by InnovationClub, including Bio-pellet and bioplastics.

GICAN is recognised as a world leader in microplastics research, with Dr Palanisami having been invited by the United Nations in January to [showcase the team's work at the Geneva Beat Plastic Pollution Dialogues](#).

GICAN are excited for this opportunity to further their research and assist InnovationClub in their efforts to better come to terms with this critical issue for global human health.

1. *Has Council provided any funds, directly or indirectly, to Innovation Club or any other party to further the research mentioned in this article?*
2. *The 2021-22 budget for Upper Hunter Economic Development Corporation was approved on June 29, 2021 but I ask for details of all funds provided to UHEDC from its formation until June 30, 2021?*
3. *Council budget for "Economic Development and Innovation Upper Hunter" was increased from \$1,610,228 to \$2,781,737. What was the reason for this increase of \$1,171,509?*

ACTION RECOMMENDED:

The Information be noted.

Moved: _____ Seconded: _____

RESPONSE

Question 1. Has Council provided any funds, directly or indirectly, to Innovation Club or any other party to further the research mentioned in this article?

Council has not provided any funds directly or indirectly to Innovation Club or any other related party to further research mentioned in the above tweet.

Question 2. The 2021-22 budget for Upper Hunter Economic Development Corporation was approved on June 29, 2021 but I ask for details of all funds provided to UHEDC from its formation until June 30, 2021?

The contribution to the UHEDC prior to 1 July 2021 was \$542,690 a transfer of the Job Creation budget, including the position of council's Economic Development Officer to the UHEDC to 30 June 2021.

Question 3. Council budget for "Economic Development and Innovation Upper Hunter" was increased from \$1,610,228 to \$2,781,737. What was the reason for this increase of \$1,171,509?

The figure of \$2,781,737 does not exactly correlate with council's current financial records. Council made a commitment to provide funds over a five-year period to support establishment of the Richard Gill School. This was collapsed into one payment finalising council's contribution to the Richard Gill School in the 2020/2021 financial year at \$1,600,000.

15.2 QUESTION WITH NOTICE - MANGOOLA CONTINUED OPERATIONS OBJECTION

Attachments: A. Questions with Notice May Ordinary Meeting 2021 [↗](#)

Responsible Officer: Fiona Plesman - General Manager

Cr Steve Reynolds has asked the following question with notice for the Council Meeting on 28 September 2021 as follows:

- 1. We have received answers surrounding the wording of previous questions with notice in relation to the IPC Mangoola Continued Operation objection by Muswellbrook Shire Council. However, the main question as to who with the authority directly advised and gave direction to Councils legal team of Craig Leggat SC and Jim Griffiths?*
- 2. Where was that authority delegated as a council, after the report from "In Mines Lakes" that formed a part of our basis of objecting was received by staff after the dated report?*
- 3. Since the report was obtained there were 3 council meetings, being of such a significant development and being advised it was due to time constraints, why wasn't it brought before one of these meetings to adopt a formal position of council?*

Moved: _____ **Seconded:** _____

RESPONSE

- 1. Who with the authority directly advised and gave direction to Councils legal team of Craig Leggat SC and Jim Griffiths?***

This question was addressed at the Ordinary meeting of 25th May 2021 (see attached). The General Manager directly advised and gave instruction to Council's legal team Jim Griffiths of Moray Agnew Lawyers Newcastle and Mr Craig Legget SC.

- 2. Where was that authority delegated as a council, after the report from "In Mines Lakes" that formed a part of our basis of objecting was received by staff after the dated report?***

As stated in the answer provided to questions with notice to the ordinary meeting of Council on 25th May (see attached) - the Authority was granted by Council at the Ordinary Council Meetings of 27 August 2019 and again on 30 June 2020 to delegate to the General Manager the responsibility to:

- Seek expert advice; and
- Prepare a submission to Department of Planning on the Mangoola Extension SSD.

- 3. Since the report was obtained there were 3 council meetings, being of such a significant development and being advised it was due to time constraints, why wasn't it brought before one of these meetings to adopt a formal position of council?***

Ideally this matter should have come back to Council for further instruction. Council resources at that time (November, December, January) were focused on other matters due to an informed expectation (via the Department of Planning) that finalisation of the Mangoola expansion SSD was not expected until later in 2021 (not February) and the General Manager was managing the matter under delegation.

15.3 QUESTIONS WITH NOTICE - OLYMPIC PARK - BREAKDOWN OF FUNDING

- Attachments:**
- A. RSFP-1680-43460-20-21 Application - RSFF Regional Facilities Olympic Park [↗](#)
 - B. RSFP-1680-43460-20-21 Project Plan - RSFF Regional Facilities Olympic Park [↗](#)

Responsible Officer: Fiona Plesman - General Manager

Cr Graeme McNeill has asked the following question with notice for the Council Meeting on 31 August 2021, as follows:

1. *A breakdown of funding for Olympic Park be provided.*
2. *Can Council please outline the total SRV funds available for the Olympic Park project. Are these funds immediately available by way of a loan equal to the expected additional rates collected, or available as the money is collected. Can the explanation also include the total money generated by the SRV, how this figure is derived/calculated, and an explanation on the methodology used to proportion the funds as they have, i.e., the basis for the officer's recommendation to Council.*

Moved: _____ **Seconded:** _____

RESPONSE BY GENERAL MANAGER

In response to the questions raised, the following response is provided:

1. ***A breakdown of funding for Olympic Park be provided.***

The total funding available for the Olympic Park project is \$5.51M for Stage 1 (\$0.71M from a Planning Agreement with Bengalla Mine and \$4.8M Special Variation (assumed from a loan when required) and \$5.5M estimated for Stage 2 (700 seat grandstand).

The Stage 1 - Olympic Park Master Plan was adopted by Council on 13 February 2018. Design work for the new grandstand is included in Stage 1. The construction is included in Stage 2 which is assumed to be funded by a grant.

Council has been successful in attracting grant funding of \$1.25M for the Wilkinson bridge component, \$125k for intelligent lighting, \$150k for pedestrian paths, and most recently \$1M for the New Amenities Building.

A summary of the breakdown in funding for Olympic Park is below. It is understood that the individual funding amounts within the overall funding programme will need to vary to meet scope, tenders, and grant funding from the figures provided below:

- Wilkinson Avenue \$1.585M
- Carparks \$1.6M
- New Amenities Building \$2.1M
- Forecourt \$300k
- Field Upgrades \$500k
- Precinct Landscaping \$400k
- Environmental works \$300k

Total \$6.785M + Bridge \$1.25M = \$8.035M

This total expenditure of \$8.035M includes \$3.235M of external funding and \$4.8M from the Special Rate Variation (SRV).

Council has allocated \$2.126M budget for Stage 1 – Grandstand and Amenities Design in the 2021/22 Capital Budget. Expenditure in previous financial years of approximately \$1M has been on car park stage 1, footpaths, drainage, and landscaping.

2. ***Can Council please outline the total SRV funds available for the Olympic Park project. Are these funds immediately available by way of a loan equal to the expected additional rates collected, or available as the money is collected. Can the explanation also include the total money generated by the SRV, how this figure is derived/calculated, and an explanation on the methodology used to proportion the funds as they have, i.e., the basis for the officer's recommendation to Council.***

As provided above, the total SRV capital funding available for the Olympic Park project is \$4.8M.

In relation to the availability of the SRV funds, Council may decide to wait for the required reserve balance to be achieved prior to the carrying out of projects or may seek loan funding in order to facilitate the carrying out of projects within a reduced timeframe.

With regards to the Special Rate Variation, approved by the Independent Pricing and Regulatory Tribunal (IPART), the Final Report, dated May 2019, provides the following advice:

In 2019-20, Muswellbrook Shire Council applied to IPART for a permanent special rate variation (SRV) of 15.13%, comprised of a 12.43% permanent increase above the rate peg of 2.70%. Council's application for a permanent special rate variation was approved by IPART.

As the approved SRV is permanent, it will mean a cumulative increase in Council's permanent gross income of \$20.0 million above the assumed rate peg over 10 years.

The approved SRV allows Council to generate revenue to fund its asset programme and associated operational costs. This includes an upgrade to its Olympic Park Sports Precinct, development of the Regional Entertainment and Conference Centre, improvements to stormwater infrastructure, funding of ongoing operations such as infrastructure maintenance and renewal, and support of Council's Job Creation programme.

The application of the SRV funding is formalised through Council's Long Term Financial Plan and through the annual Council budgets submitted for Council's consideration and approval.

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 FUTURE FUND COMMITTEE

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(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.

19.2 EXPRESSION OF INTEREST (EOI) - SYDNEY STREET PROPERTY

Item 19.2 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.

Moved: _____ **Seconded:** _____

20 RESUMPTION OF OPEN COUNCIL

21 CLOSURE

DATE OF NEXT MEETING: TUESDAY 28 SEPTEMBER 2021