

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

BUSINESS PAPER

5 APRIL 2022



ORDINARY COUNCIL MEETING, 5 APRIL 2022

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
2 April, 2022

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the the Denman Memorial Hall, Ogilvie Street, Denman on **5 April, 2022** commencing at 6.00pm.

Fiona Plesman
GENERAL MANAGER

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19.1	TENDER 2021-2022-500 - DENMAN AND DISTRICT HERITAGE VILLAGE <i>Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	
19.2	HUNGERFORD ROAD MAINTENANCE AND ACCESSIBILITY	

Item 19.2 is classified CONFIDENTIAL under the provisions of Section10A(2)(b) of the local government act 1993, as it deals with discussion in relation to the personal hardship of a resident or ratepayer, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.3 RICHMOND GROVE ROAD

Item 19.3 is classified CONFIDENTIAL under the provisions of Section10A(2)(g) of the local government act 1993, as it deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.4 APPLICATION UNDER UNDETECTED WATER LEAKS POLICY W5/4

Item 19.4 is classified CONFIDENTIAL under the provisions of Section10A(2)(b) of the local government act 1993, as it deals with discussion in relation to the personal hardship of a resident or ratepayer, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.5 VISITOR INFORMATION CENTRE - MUSWELLBROOK

Item 19.5 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 TENDER 2021-2022-0439 WATER MAIN REPLACEMENT PROGRAMME

Item 19.6 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.7 LOXTON HOUSE STRUCTURAL REPAIRS

Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.8 TENDER 2020-2021-456 - CONCEPT DESIGN FOR DENMAN TO SANDY HOLLOW WATER PIPELINE

Item 19.8 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

20 RESUMPTION OF OPEN COUNCIL 630

21 CLOSURE 630

DATE OF NEXT MEETING: TUESDAY 3 MAY 2022 630



**MUSWELLBROOK SHIRE COUNCIL
ORDINARY COUNCIL MEETING**

**AGENDA
TUESDAY 5 APRIL 2022**

- 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 **1 March 2022**, 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**

Statement of Ethical Obligations

Councillors are reminded of their oath or affirmation of office, made under section 233A of the NSW Local Government Act 1993, to undertake the duties of the office of councillor in the best interests of the people of Muswellbrook Shire and Muswellbrook Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them, under the Local Government Act 1993 or any other Act, to the best of their ability and judgment. Pursuant to the provisions of the Muswellbrook Shire Council Code of Meeting Practice and the Muswellbrook Shire Council Code of Conduct, Councillors are reminded of their obligations to disclose and appropriately manage conflicts of 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 ADMINISTRATIVE AMENDMENT TO MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 - 3 RACECOURSE ROAD, MUSWELLBROOK

Attachments:	A. Post Exhibition Planning Proposal B. Submission - NSW SES C. Submission - Biodiversity Conservation Division D. Submission - MACH Energy
Responsible Officer:	Fiona Plesman - 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

Council has received a request to amend the Muswellbrook Local Environmental Plan (MLEP) 2009 in relation to 3 Racecourse Road Muswellbrook (Lot 41 DP 592207). The request seeks to allow the erection of a dwelling.

A Planning Proposal to amend MLEP 2009 has been exhibited. Council received submissions from three government agencies and from a neighbour (MACH Energy). No changes are proposed to the Planning Proposal as a result of these submissions.

The purpose of this report is to finalise the requirements of the *Environmental Planning and Assessment Act 1979*.

OFFICER'S RECOMMENDATION

Council:

- 1. Endorses the Planning Proposal contained in Attachment A (Planning Proposal – Administrative Amendment 3 Racecourse Road Muswellbrook (PP_2020_MUSWE_001_00) and requests a Parliamentary Counsel Opinion to amend the Muswellbrook Local Environmental Plan 2009; and**
- 2. Makes the amending Plan under delegation pursuant to section 3.36 of the Environmental Planning and Assessment Act 1979.**

Moved: _____ **Seconded:** _____

BACKGROUND

Lot 41 DP 592207 is zoned RU1 Primary Production under the MLEP 2009 and has an area of 6.07ha. There are existing sheds, stables and day yards constructed on the land, and the remaining area is pasture improved and divided into paddocks. The site is currently vacant, however the owner intends to

establish a racehorse training facility on the property and has identified the need for someone to live on site to:

- monitor horses, and
- complete regular feeding, training and health care regimes.

The Business Paper and Meeting Minutes of the 12 April 1977 Denman Ordinary Council Meeting refer to an application for the subdivision which created this lot. The Business Paper included a reference to the use of each proposed lot in the subdivision being *'for agricultural purposes in conjunction with a dwelling house'*.

Despite the subdivision proceeding, no dwelling house was constructed on Lot 41. Changes to planning legislation since 1977 has had the unintended result of extinguishing any 'dwelling entitlement' for the land that was in place in 1977. MLEP 2009 would need to be amended to reinstate a dwelling entitlement for this lot.

CONSIDERATION OF A PLANNING PROPOSAL

In considering whether to endorse the applicant's request, staff have assessed the proposal with regard to strategic planning frameworks, constraints affecting the land and its suitability for development, and the case specific merit applying to this lot.

Strategic planning framework

This proposal does not seek to rezone the subject land, rather, it seeks to create a dwelling entitlement for an existing Lot. This planning proposal is not directly guided or informed by a regional or local strategic planning document. The provision of rural residential lifestyle living opportunities broadly aligns with Housing and Settlement Principles outlined in the Upper Hunter Strategic Regional Land Use Plan and the Hunter Regional Plan.

Site constraints and suitability for development

A rural residential pattern of development already exists in the Racecourse Road locality. There are sixteen (16) RU1 Primary Production zoned lots with frontage to Racecourse Road, with comparable lot sizes to the subject land, with dwellings. An additional fourteen (14) lots zoned RU1 Primary Production are in the wider precinct that includes Shephard Avenue. A dwelling house on Lot 41 DP 592207 would be compatible with the general rural residential living character of the area. A plan showing the locality is provided below:



The lot is flood affected. The subject site is entirely within the flood planning area and sections of the site are variously classified as flood fringe, flood storage and floodway in a 1% Annual Exceedance Probability (AEP) flood event.

The s9.1 Ministerial Direction - 4.1 Flood Prone Land - applies to a planning proposal that affects the zoning of flood prone land and requires planning authority to have regard to hazard related issues and adhere to the Floodplain Development Manual 2005. The applicant has suggested that this Section 9.1 Directive does not have bearing on the proposal as it does not seek the rezoning of the land and has indicated that any dwelling would be constructed above the flood planning level in accordance with Council requirements.

According to the applicant, the erection of a dwelling on the allotment:

- (a) would not be within a floodway;
- (b) will not result in significant flood impacts to other properties; and
- (c) will not represent a significant increase in development on the locality

There are numerous other dwellings in the immediate vicinity of the subject allotment. The proposal is unlikely to result in a substantial increase in government spending on flood mitigation measures, infrastructure or services.

CONSULTATION

Public and agency consultation required as part of the planning proposal process was specified by the Department of Planning, Industry and Environment (DPIE) as part of the Gateway Determination. The Planning Proposal was publicly notified through a notice on Council's website, a Facebook post and letters to the adjoining owners. Four submissions were received, three from government agencies and one from MACH Energy (Mt Pleasant mine). A summary of the submissions and a planning response is provided below:

NSW SES

A standard response for flood prone land was provided (see Attachment B) stating that the consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial

Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual).

Of particular concern is that the site as flood affected, residents will need to be evacuated during larger flood events, and the road providing access to the property is also flood affected.

Planning Response

There are existing households located on the same road that would require evacuation in a large 1% AEP flood. The addition of another dwelling will not result in an intolerable increase in risk to life, health or property of people living on the floodplain. New buildings will need to be designed to withstand the forces of flood water and to have habitable floor levels constructed to 500mm above the 1% AEP flood level.

NSW Biodiversity and Conservation Division (BCD)

The BCD response is provided in Attachment C, but in summary, the BCD provided three comments:

1. The SES should be consulted and aided to develop an evacuation strategy for this area linked to the Muswellbrook flood gauge. All residents, including existing large lot residents, should be made aware of the strategy, and encouraged to evacuate early to reduce reliance on SES.

Planning Comment

The adopted Muswellbrook Floodplain Risk Management Study and Plan contains a similar recommendation. Council received a grant to develop a flood warning system for Muscle Creek as a higher priority, but staff intend to apply for grants soon to develop a flood warning system for properties benefiting from the Muswellbrook flood gauge. A flood communication plan will be developed and discussed with benefiting property owners as part of that process.

2. Future approval of a dwelling should ensure it meets flood planning requirements and is an elevated structure without imported fill. If located in a flood storage area a flood impact assessment would be required in conjunction with any DA approval. Complying development should not be permitted on this site due to access issues.

Planning Comment

Council recently requested to have the Special Flood Consideration clause added to MLEP 2009 as a separate process being rolled out across the State. This clause, in conjunction with the modelled flood water depths on Racecourse Road, would mean that a dwelling could not be constructed on this site as complying development based on current Exempt and Complying Development SEPP provisions.

Council also recently adopted a revised section in Muswellbrook DCP 2009 (section 13 – Floodplain Management) which sets out requirements for new habitable structures, evacuation planning and filling on floodplains.

3. Future design of any dwelling should consider flood forces and the potential need for a robust Probable Maximum Flood refuge on site as an option of last resort.

Planning Comment

Council recently adopted a revised section in Muswellbrook DCP 2009 (section 13 – Floodplain Management) which sets out requirements for the design of new habitable structures and evacuation planning on floodplains. An engineer would need to certify that any new structure can withstand flood forces.

Geological Survey of NSW – Mining, Exploration & Geoscience (MEG-GSNSW)

MEG-GSNSW advised that they had no objection as there are no resource sterilisation issues for consideration under Section 9.1 of the Environmental Planning and Assessment Act 1979, Direction 1.3 Mining, Petroleum Production and Extractive Industries.

MACH Energy

Any dwelling constructed on 3 Racecourse Rd would be subject to the approved environmental impacts of the Mount Pleasant Operation, including noise emissions.

It is noted that the two properties adjacent to 3 Racecourse Rd have mitigation upon request rights under Development Consent DA 92/97 for rail noise emissions associated with the Mount Pleasant Operation. These rights would not apply to any new dwelling constructed at 3 Racecourse Rd.

The owner be advised to consider suitable acoustic mitigation during the design of any dwelling.

Planning Comment

This request will be conveyed to the Proponent and recorded in Council's property information system to alert staff of this requirement when a development application is submitted.

FINANCIAL IMPLICATIONS

Nil. There are existing households in this area that would require evacuation in a large 1% APE flood. The addition of another dwelling will not result in an intolerable increase to any flood evacuation assistance that Council may provide.

STATUTORY & POLICY IMPLICATIONS

This item seeks to make an amendment to the MLEP 2009. The requested amendment will change Schedule 1 – additional Permitted Development.

LEGAL IMPLICATIONS

There are no legal implications for Council, as the amendment process has followed the process outlined in the Environmental Planning & Assessment Act 1979, and the Environmental Planning & Assessment Regulation 2000.

OPERATIONAL PLAN IMPLICATIONS

The proposed amendments are consistent with the objectives of Council's Operational Plan 2021-22.

RISK MANAGEMENT IMPLICATIONS

There are many existing households in this area that would require evacuation in a large 1% APE flood. The incremental risk of permitting an additional dwelling in this location is not considered to be significant and may permit horses to be evacuated earlier reducing the risk that the owners may try to access the site through flood water to facilitate horse evacuation.

OPTIONS

Council may:

1. Resolve to finalise the Planning Proposal to amend MLEP 2009 to permit a dwelling house on Lot 41 DP 592207. This is the preferred option as the Meeting Minutes of the 12 April 1977 Denman Ordinary Council Meeting suggest that at the time of subdivision the erection of a dwelling would have been permissible, and a dwelling house is compatible with the character of the locality; or
2. Reject the Amendment request and take no further action.

CONCLUSION

It is recommended that Council support the applicant's request to amend the MLEP 2009 and prepare a Planning Proposal for a Gateway Determination by the Department of Planning, Industry and Environment.

**Planning Proposal – Administrative Amendment – 3 Racecourse
Road, Muswellbrook**

PP_2020_MUSWE_001_00

Local Government Area:		Muswellbrook Shire Council (MSC)
Name of Draft LEP:		Muswellbrook Local Environment Plan 2009 - PP_2020_MUSWE_001_00
Subject Land:		Lot 41 DP 592207 Muswellbrook.
Land Owner:		Ms N Hall
Applicant:		Casson Planning & Development Services
Folder Number:		PP 017
Date:		08 June 2020
Author:		David Casson & Sharon Pope
Tables:	Table No.	Details
	1	Assessment of the Planning Proposal against relevant SEPPs
	2	Consistency with applicable Ministerial Directions
Maps:	No.	
	1	Locality
	2	Site Identification
	3	Zoning
	4	Minimum lot size
	5	Extract from Muswellbrook Floodplain Management Study and Plan

Attachments:	No.	Details
	1	The Business Paper and Meeting Minutes of the 12 April 1977 Denman Ordinary Council Meeting.
	2	Council letter dated 8 October 2019 advising that this land is not benefited by a 'dwelling entitlement'.
	3	Evaluation criteria for the delegation of plan making functions.

4	Submission – NSW SES
5	Submission – NSW BCD
6	Submission – NSW Mineral Resources
7	Submission - Geological Survey of NSW – Mining, Exploration & Geoscience
8	Submission – MACH Energy (neighbour)

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Muswellbrook Local Environmental Plan 2009 (MLEP 2009) in order to permit a dwelling house on Lot 41 DP 592207. It is intended to do this by Amending Schedule 1 – Additional Permitted Uses.

Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the MLEP 2009 by: -

Amendment Applies to	Explanation of provision
Clause 2.5 and Schedule 1	To add the use of Lot 41 DP 592207 for a dwelling house as Item 4 in Schedule 1.

For example:

4 Use of certain land at 3 Racecourse Road, Muswellbrook

- (1) This clause applies to land at 3 Racecourse Road, Muswellbrook, being lot 41 DP 592207.
- (2) Development for the purposes of a dwelling house is permitted with consent.

Part 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal is not the result of a strategic study or report.

Lot 41 DP 592207 is zoned RU1 Primary Production under the Muswellbrook LEP 2009. In 2019 Council Officers determined that this land is not benefited by a 'dwelling entitlement' under the provisions of Clause 7.5 of the Muswellbrook LEP 2009. Correspondence regarding this matter is provided in Attachment B.

Staff undertook extensive research on the history of the lot. The Business Paper and Meeting Minutes of the 12 April 1977 Denman Ordinary Council Meeting refer to an application for the subdivision which created the lot. The Business Paper included a reference to use of each proposed lot in the subdivision being '*for agricultural purposes in conjunction with a dwelling house*'. The business paper and meeting minutes are included as attachment 1.

Despite the subdivision proceeding, no dwelling house was constructed on Lot 41. Changes to planning instruments since 1977 have had the unintended result of extinguishing any 'dwelling entitlement' for the land.

Muswellbrook LEP 2009 would need to be amended to reinstate a dwelling entitlement for this lot.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The land is zoned RU1 Primary Production and has an area of 6.07ha. A minimum lot size of 80ha applies to subdivision of this land.

A rural residential pattern of development already exists in the Racecourse Road locality. There are sixteen (16) RU1 Primary Production zoned lots with frontage to Racecourse Road, with comparable lot sizes to the subject land, each containing dwellings. An additional fourteen (14) lots zoned RU1 Primary Production are in the wider precinct that includes Shephard Avenue. A dwelling house on Lot 41 DP 592207 would be compatible with the general rural residential living character of the area.

Four options were considered for providing the Lot with a dwelling entitlement:

Option 1 – Amend Schedule 1 – Additional Permitted Uses.

A new item would need to be inserted into Schedule 1 Additional Permitted Uses in respect of lot 41 DP 592207. This amendment will permit the erection of a dwelling on the subject land, subject to Council consent.

This is the preferred option as it only has implications for the single lot.

Option 2 – Amend Clause 7.5 – Erection of dwelling houses on land in certain rural and environmental Protect zones.

Additional subclauses would need to be inserted to reinstate dwelling entitlement for lots created before LEP 2009 commenced and which had an entitlement at the time they were created.

This is not the preferred option as it is currently unclear how many lots this may apply to and if this would create unintended consequences.

Option 3 – Amend the minimum lot size map for this lot.

The minimum lot size map as it applies to this Lot would need to be amended to 5ha – 9.99ha. This is not the preferred option as it is a significantly lower lot size than normally applies to land zoned RU1 Primary Production.

Option 4 – Amend the zoning and minimum lot size map for this lot.

A more appropriate land use zone for this lot would be RU4 Primary Production Small Lots, and the minimum lot size map as it applies to this Lot would need to be amended to 5ha – 9.99ha. This is not the preferred option as Muswellbrook LEP 2009 currently does not include the RU4 zone, so a new zone would also need to be inserted into the Zone Table. If this occurred, it would be logical to review the zoning of the other thirty (30) lots in the locality.

To address matters raised by government agencies and an adjoining approved coal mine additional qualifying clauses were considered as set out below:

4 Use of certain land at 3 Racecourse Road, Muswellbrook

- 1) This clause applies to land at 3 Racecourse Road, Muswellbrook, being lot 41 DP 592207.
- 2) Development for the purposes of a dwelling house is permitted with consent.

- 3) Any future dwelling is to be constructed on the Flood Fringe areas of the lot, as far as practical, and is to be an elevated structure without imported fill to achieve the flood floor planning level. If located in flood storage area a flood impact assessment would be required in conjunction with any DA approval; and
- 4) Any future dwelling is to be certified by a suitably qualified engineer to be capable of withstanding the forces of flooding and designed with a robust PMF refuge on site as an option of last resort; and
- 5) Any future dwelling is to be designed with double glazing to windows and other glass openings, or similar suitable acoustic mitigation, to minimise the impacts of nearby coal mine operations on inhabitants.

It was considered that the matters raised in clauses 3) to 5) can be addressed at the development application stage because of the provisions in Muswellbrook DCP 2009. Clauses 3) to 5) may also be inconsistent with Ministerial direction 1.5 Site Specific Provisions.

Section B – Relationship to Strategic Planning Framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Upper Hunter Strategic Regional Land Use Plan (UHSRLUP) September 2012.

The plan indicates that "Rural residential and lifestyle housing growth should occur in close proximity to existing centres, towns and villages and is to be consistent with the settlement planning principles identified below with regard to residential lands " (p.52).

The subject land is one of some 30 approximately similar size lots located around the boundary of the Muswellbrook Racecourse. The subject land is the only lot in the immediate locality which does not have a dwelling house. The settlement pattern is consistent with the Racecourse activities. There is efficient use of resources and linkages between residential and large lot residential development which is adjoining or nearby.

The Hunter Regional Plan 2036 (HREP) 2016.

The plan outlines strategies for the 10 local government areas in the Hunter including Muswellbrook Shire.

The HREP sets out four goals for the Hunter Region

- The leading regional economy in Australia,
- A biodiversity-rich natural environment,
- Thriving communities, and
- Greater Housing choice and jobs

The HREP has "Local Government Narratives" for each of the LGA's in the Hunter. The following is an extract of the information for Muswellbrook (p.70):

Population	
2016	17,150
2036 (projected)	20,300
Projected increase	+ 3,150
Dwellings	
2016	7,400
2036 (projected)	9,000
Projected increase	+ 1,600
Employment	
2016	11,364
2036 (projected)	13,551
Projected increase	+ 2,187

Muswellbrook Local Government Area is in the centre of the Upper Hunter Valley and is the predominant location for the State's power generation. It is also a key location for coal mining activities and an important agricultural area. Muswellbrook is well placed to enhance its role as an administrative centre and a centre of educational excellence in the Upper Hunter. Muswellbrook will have to balance an overabundance of resources and successful secondary agricultural industries.

Regional priorities

- *Conduct an assessment of land use compatibility.*
- *Undertake a land use assessment of the Viticulture Critical Industry Clusters to align planning controls to achieve a balance between scenic amenity and ongoing growth in tourism.*
- *Support diversification of the energy and agricultural sectors.*
- *Protect the Equine Critical Industry Cluster and allow for expansion of the industry*

The planning proposal would allow the erection of a dwelling, allowing supervision of livestock where the land is used for equine activities.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Muswellbrook Community Strategic Plan 2017 – 2027

The proposal is considered consistent with the following goals within the Muswellbrook Community Strategic Plan 2017 – 2027:

Goal 2: Diversify the economy, facilitate the development of intensive agriculture and other growth industries, make the shire a more attractive place to invest and do business.

Goal 5: Continue to improve the liveability and amenity of the Shire's communities

Muswellbrook Local Strategic Planning Statement 2020 -2040

The proposal is considered consistent with Planning Priority 9: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living; and

Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

Table 3: Assessment of the Planning Proposal against relevant SEPPs

SEPP	Relevance	Implications
SEPP 21 — Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 36 Manufactured Housing Estates	The SEPP aims to facilitate the establishment of manufactured homes estates as contemporary form of medium density residential development to provide an alternative to traditional housing arrangements etc	It is not proposed to include any provisions which would be inconsistent with the SEPP.
SEPP 55 — Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	<p>A Preliminary Site (Contamination) Assessment has been completed for the site (See Attachment D). No visual or olfactory indications of contamination were identified during the site inspection with exception of some minor staining in the open shed.</p> <p>Stockpiles of soil identified at the site were considered to be from minor excavations at the site rather than imported material based on the consistency with the natural soils at the site. The gravel surface of the area under the open shed and within some of the horse pens was considered to have been imported.</p> <p>The concentrations of metals, pesticides and herbicides were all non-detected or below the human health criteria; there were some concentrations of nickel in the natural</p>

		<p>soils which were in excess of general ecological criterion however are considered to be representative of natural conditions and not indicative of the presence of contamination. The concentrations of zinc in the imported gravel with the open shed were in excess of the ecological criterion however were representative of that material's quality rather than representative of contamination. The concentrations of hydrocarbons within the gravel material under the open shed are minor and while in excess of the ecological criteria are not considered to pose a risk to the environment due to the location. If this material is moved on-site, the potential for more significant contamination is to be considered and the material must not be placed in proximity to a water course.</p> <p>The consultant, RCA, considers that the site is suitable for the proposed construction of a residential dwelling without formal management or remediation.</p>
SEPP (Aboriginal Lands) 2019	<p>The aims of this Policy are:</p> <p>(a) to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and</p> <p>(b) to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development.</p>	It is not proposed to include any provisions which would be inconsistent with the SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	The SEPP provides for the implementation of BASIX throughout the State.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	<p>The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.</p>	It is not proposed to include any provisions which would be inconsistent with the SEPP.

SEPP (Housing for Seniors or People with a Disability) 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	It is not proposed to include any provisions which would be inconsistent with the SEPP.
SEPP (Koala) 2020	This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	It is not proposed to include any provisions which would be inconsistent with the SEPP. The site does not contain Koala Habitat.
SEPP (Mining, Petroleum Production & Extractive Industries) 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	The subject land is not within the Mines Subsidence Area
SEPP (Primary Production and Rural Development) 2019	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The subject land is adjoining land currently zoned and developed as large lot residential land. Permissibility for the erection of a dwelling would: <ul style="list-style-type: none"> • consistent with existing use of land in the vicinity of the development, • not have a significant impact on nearby rural land uses, The proposed changes under this planning proposal are considered of minor significance and are consistent with the intent of this SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	The SEPP aims — (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	It is not proposed to include any provisions which would be inconsistent with the SEPP.

4. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 4 below.

Table 4: Consistency with applicable Ministerial Directions

Ministerial Direction	Objective/s	Consistency / Comment
1. Employment and Resources		
1.1 Business and Industrial Zones	(a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified strategic centres.	N/A
1.2 Rural Zones	Protect the agricultural production value of rural land.	This proposal does not seek to rezone the subject land, rather, it seeks to create a dwelling entitlement for an existing Lot. While the land is zoned RU1 – the area of the lot is approximately 6ha. The land is within a precinct which surrounds the Muswellbrook Racecourse on the outskirts of the Muswellbrook township. Many of the other lots in the area are used for equine activities. Consistent
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Theoretically, a new dwelling may potentially lead to a land use conflict that could restrict the development of coal resources in the area. In practical terms, however, there are already 30 other dwellings on similar lots nearby, and the site is close to the Muswellbrook Urban area, so the potential conflict already exists. To ensure no inconsistency, consultation with NSW Resources and Geosciences should be identified as a requirement in the Gateway Determination.
1.4 Oyster Aquaculture	Ensure Priority Oyster Aquaculture areas and oyster aquacultures generally are adequately considered when preparing a planning proposal.	N/A
1.5 Rural Lands	Ensure Planning Proposals that modify existing rural or environmental protection zones or minimum lot sizes to be consistent with SEPP Rural Lands 2008.	The proposal will not lead to rural land fragmentation. This proposal is seeking to provide a dwelling entitlement on an existing lot with an area of approx. 6ha. The property is within a precinct which surrounds the Muswellbrook Racecourse on the outskirts of the Muswellbrook township. There are 30 other rural

		<p>residential size allotments at this locality ranging in area from 2.8ha to 10ha. The other allotments have a dwelling erected on them. Having a dwelling on site appears to support equine activities occurring on nearby lots.</p> <p>The proposal is unlikely to adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>The Lot is appropriately for availability to human services, utility infrastructure, transport and proximity to existing centres.</p> <p>Consistent. The amendment is considered of minor significance and its impacts to the rural zone also negligible.</p>
2. Environment and Heritage		
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	N/A
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<p>N/A</p> <p>Not within a heritage conservation area and there are no listed heritage items on the site</p>
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A
2.6 Remediation of contaminated land	To reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	<p>The subject land has been used for grazing and other intensive and extensive agricultural activities. Council is unaware of any information that the site is subject to any contamination requiring remediation under the SEPP. Council Officers are satisfied that the Planning Proposal can progress without any requirement to carry out further soil contamination investigations or remediation work.</p>

3. Housing, Infrastructure & Urban Development		
3.1 Residential Zones	(a) Encourage a variety and choice of housing types to provide for existing and future housing needs, (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) Minimise the impact of residential development on the environment and resource lands.	N/A
3.2 Caravan Parks and Manufactured Home Estates	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	The Proposal does not amend provisions that permit development for the purposes of a caravan park or identify land for a Manufactured Housing Estate. Consistent.
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	The Planning proposal does not amend home occupation provisions. Consistent.
3.4 Integrating Land Use and Transport	Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	N/A

3.5 Development Near Licensed Aerodromes	(a) Ensure the effective and safe operation of aerodromes, and (b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	N/A No aerodromes in the vicinity.
3.6 Shooting Ranges	To maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	N/A
3.7 Reduction in non-hosted short-term rental accommodation period	To mitigate significant impacts of short-term rental accommodation where non-hosted and ensure the views of the community are considered.	N/A (Byron Shire Council)
4. Hazard & Rise		
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	N/A The site does not contain Acid Sulphate Soils.
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A The site is not in a Mine Subsidence Area
4.3 Flood Prone Land	To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles	The erection of a dwelling on the allotment: (a) is not within a floodway

	of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP are commensurate with flood hazard.	<p>(b) will not result in significant flood impacts to other properties</p> <p>(c) will not represent a significant increase in development on the locality</p> <p>Any future dwelling will be required to be constructed to the appropriate flood planning level. There are numerous other dwellings in the immediate vicinity of the subject allotment.</p> <p>The proposal is unlikely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.</p> <p>To ensure there is no inconsistency, consultation with SES should be identified as a requirement in the Gateway Determination.</p>
4.4 Planning for Bushfire Protection	<p>(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) Encourage sound management of bush fire prone areas.</p>	<p>N/A</p> <p>The site is not in a Bushfire Prone area.</p>
5. Housing, Infrastructure & Urban Development		
5.10 Implementation of Regional Plans	Ensure Planning Proposals are consistent with a Regional Plan.	<p>The planning proposal is consistent with the objectives and actions contained in the UHSRLUP 2012 and its settlement planning principles as discussed previously.</p> <p>The planning proposal is consistent with the strategies of the Hunter Regional Plan.</p>
5.11 Development of Aboriginal Land Council land	To provide for the consideration of development delivery plans prepared under <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> when planning proposals are prepared by a planning proposal authority.	N/A
6. Local Plan Making		
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>N/A</p> <p>The Proposal does not include provisions that require the concurrence, consultation or referral.</p>

6.2 Reserving Land for Public Purposes	(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and (b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	N/A.
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site-specific planning controls.	A dwelling house is a permitted use in the RU1 zone. The existing development standards limit the entitlement for a dwelling on this lot. The preferred option for the LEP amendment is adding a new item to Schedule 1 Additional Permitted Uses. Consistent.
7. Metropolitan Planning		
Not Applicable		

Section C – Environmental, Social and Economic Impact

5. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

There are existing sheds, stables and day yards constructed on the land, and the remaining area is pasture improved and divided into paddocks. The site is currently vacant, but the owner intends to establish a racehorse training facility on the property and has identified the need for someone to live on site to:

- monitor horses, and
- complete regular feeding, training and health care regimes.

The subject land is not identified on Council's Terrestrial Biodiversity Mapping as containing a 'biodiversity'. The land is not identified as containing Koala habitat or populations.

6. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed*

The subject site is flood affected land. See Map 5 for details.

Any future dwelling will be required to be constructed to the appropriate flood planning level. There are numerous other dwellings in the immediate vicinity of the subject allotment.

Council recently adopted an updated Flood Risk and Management Plan for the Hunter River.

This Plan includes flood information for this site. The catchment area upstream of Muswellbrook is approximately 3,370 square kilometres Approx. Due to the large size of the catchment, longer 24-48 hour rainfall events are required to cause significant flooding. The

Bureau of Meteorology (BoM) currently provides a formal flood warning service for the Hunter River at Muswellbrook. At the Muswellbrook gauge, BoM provides a warning lead time of 4 hours for a Minor flood event and a 12 hours warning lead time for a Major flood event.

Racecourse Rd is flood affected. Quote from the Flood Study:

Racecourse Road (Hunter River Floodplain crossing) – is flood free in the 10% AEP (i.e. 10yr ARI) but is inundated in the 5% AEP (20yr ARI) and above. Evacuation of the racecourse area should be a priority.

The flood maps for the site indicate flood water depths of between 0m – 1m in a 1% AEP flood, and velocities of between 0m– 1m/sec in a 1% AEP flood. The Hydraulic Classification for the lot in a 1% AEP is Flood Storage.

There are stables on site at present, the owners would need to consider evacuation of their horses for a 1% AEP (smaller floods leave flood free sections on the property). Having someone living on site may improve the ability to evacuate livestock from the site in large floods and manage stock in smaller floods.

The site contains bushfire prone vegetation category 3 (pasture).

7. *How has the planning proposal adequately addressed any social and economic effects?*

It is unlikely that there would be any adverse impacts in terms of either social or economic associated with the planning proposal. A dwelling would improve the ability of the site to operate as a racehorse training facility.

Section D – State and Commonwealth Interests

8. *Is there adequate public infrastructure for the planning proposal*

This is an existing lot amongst several other small rural lots containing dwellings. Infrastructure is already available in the area.

9. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

NSW SES

A standard response for flood prone land was provided (see Attachment B) stating that the consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual).

Of particular concern is that the site is flood affected, residents will need to be evacuated, the road providing access to the property is also flood affected.

Planning Response

There are many existing households located on the same road that would require evacuation in a large 1% AEP flood. The addition of another dwelling will not result in an intolerable increase in risk to life, health or property of people living on the

floodplain. New buildings will need to be designed to withstand the forces of flood water and to have habitable floor levels constructed to 500mm above the 1% AEP flood level.

NSW Biodiversity and Conservation Division (BCD)

The BCD response is provided in Attachment C, but in summary, the BCD provided three comments:

1. The SES should be consulted and aided develop an evacuation strategy for this area linked to the Muswellbrook flood gauge. All residents, including existing large lot residents, should be made aware of the strategy and encouraged to evacuate early to reduce reliance on SES.

Planning Comment

The adopted Muswellbrook Floodplain Risk Management Study and Plan contains a similar recommendation. Council received a grant to develop a flood warning system for Muscle Creek as a higher priority, but staff intend to apply for grants soon to develop a flood warning system for properties benefiting from the Muswellbrook flood gauge. A flood communication plan will be developed and discussed with benefiting property owners as part of that process.

2. Future approval of a dwelling should ensure it meets flood planning requirements and is an elevated structure without imported fill. If located in flood storage area a flood impact assessment would be required in conjunction with any DA approval. Complying development should not be permitted on this site due to access issues.

Planning Comment

Council recently requested to have the Special Flood Consideration clause added to MLEP 2009 as a separate process being rolled out across the State. This clause, in conjunction with the modelled flood water depths on Racecourse Road, would mean that a dwelling could not be constructed on this site as complying development based on current Exempt and Complying Development SEPP provisions.

Council also recently adopted a revised section in Muswellbrook DCP 2009 (section 13 – Floodplain Management) which sets out requirements for new habitable structures, evacuation planning and filling on floodplains.

3. Future design of any dwelling should consider flood forces and the potential need for a robust PMF refuge on site as an option of last resort.

Planning Comment

Council recently adopted a revised section in Muswellbrook DCP 2009 (section 13 – Floodplain Management) which sets out requirements for the design of new habitable structures and evacuation planning on floodplains. An engineer would need to certify that any new structure can withstand flood forces.

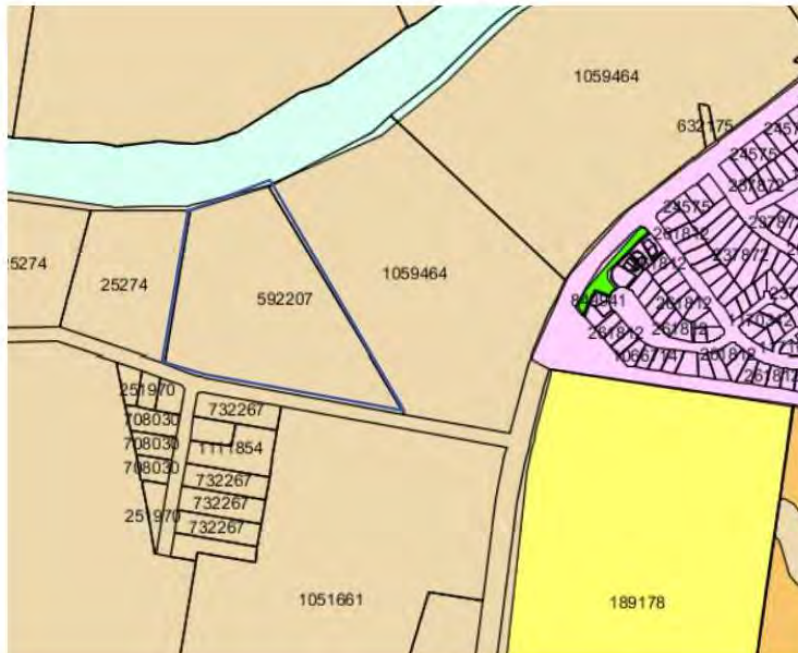
Part 4 – MAPPING

Map 1 – Locality



Map 2 - Site Identification Map

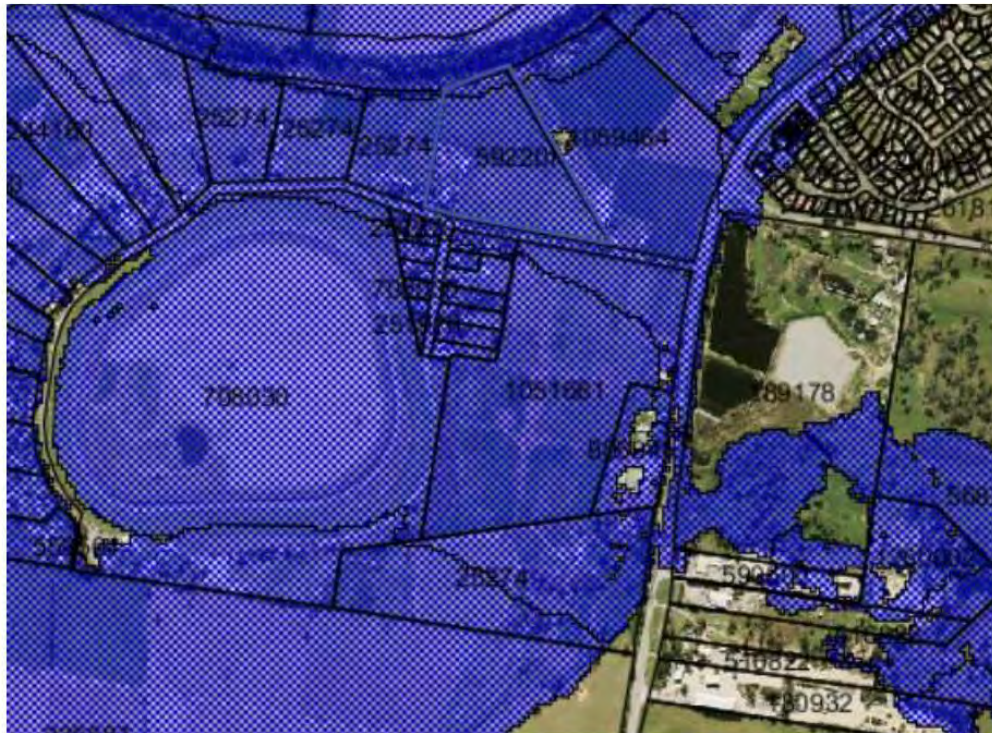


Map 3 - Muswellbrook LEP 2009 - Land Zoning Map Sheet (LZN-008)*(a) Current Land Zoning – RU1 Primary Production*

(a) *Current Lot Size – minimum 80ha*



Map 5 – Flood mapping

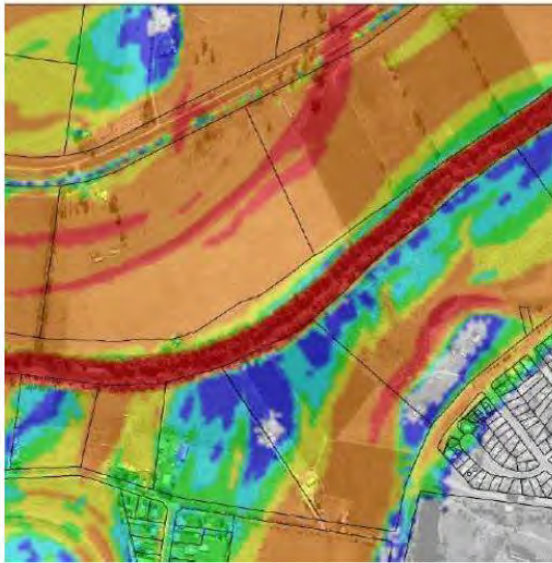


Council recently adopted an updated Flood Risk and Management Plan for the Hunter

The flood maps for the site indicate flood water depths of between 0m – 1m in a 1% AEP flood, and velocities of between 0m– 1m/sec in a 1% AEP flood. The Hydraulic

Classification for the lot in a 1% AEP is Flood Storage.**Hazard Classification**

- H6 - Unconditionally Dangerous. Not suitable for any type of development or evacuation access. All building types considered vulnerable to failure
- H5 - Unsafe for all people and all vehicles.
Buildings require special engineering design and construction
- H4 - Unsafe for all people and all vehicles
- H3 - Unsafe for all vehicles, children and the elderly
- H2 - Unsafe for small vehicles
- H1 - No Vulnerability Constraints



Part 5 – COMMUNITY CONSULTATION

A 28-day exhibition period is proposed. The Gateway Determination will confirm the exhibition period.

Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	26/10/2020
Anticipated timeframe for completion of required technical information	21/04/2021
Timeframe for government agency consultation (pre exhibition)	23/07/2021 – 23/08/2021
Public exhibition (commencement and completion dates)	23/08/2021 – 06/09/2021
Date of Public hearing (if required)	NA
Consideration of submissions	06/10/2021
Timeframe for government agency consultation (post exhibition if required)	01/03/2022
Post exhibition planning proposal consideration / preparation	05/04/2022
Submission to Department to finalise LEP	16/04/2022
Date RPA will make Plan (if delegated)	
Date RPA will forward to the Department for notification (if not delegated)	

Council intends to utilise delegations under s3.36 of the EP & A Act 1979 to finalise the Planning Proposal.

Attachment 1

The Business Paper and Meeting Minutes of the 12 April 1977 Denman Ordinary Council Meeting.

Attachment 2

Council letter dated 8 October 2019 advising that this land is not benefited by a 'dwelling entitlement'.

Attachment 3

Preliminary Site (Contamination) Assessment – RCA, 14 April 2021.

Attachment 4

Gateway Determination, 26 October 2020.

Attachment 5

Evaluation Criteria for the Issuing of an Authorisation

3 Racecourse Road, Muswellbrook

Evaluation criteria for the issuing of an Authorisation				
(Note – where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not Relevant	Agree	Disagree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain detail related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Secretary?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		√		
Heritage LEPs				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
Reclassifications				
Is there an associated spot rezoning with the reclassification?		√		
If yes to the above, is the rezoning consistent with an endorsed Plan of management (POM) or strategy?		√		

Is the planning proposal proposed to rectify an anomaly in a classification?		√		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		√		
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		√		
Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		√		
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding <i>classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		√		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		√		
Spot Rezonings				
Will the planning proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Partially			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		√		
Does the planning proposal create an exception to a mapped development standard?	Y			
Section 3.22 matters				
Does the proposed instrument		√		
a) Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provision, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error? b) Address matter in the principal instrument that are of a consequential, transitional, machinery or other minor nature? or c) Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?				

(Note – the Minister/GSC (or Delegate) will need to form an Opinion under section 3.22 of the Act in order for a matter in this category to proceed).

Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, or any other local strategic planning document that is endorsed by the Secretary of the Department.
- Matters that will routinely be delegated to a Council under administration are confirmed on the Department's website www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning



Our Ref: ID 1422

Your Ref: PP_2020_MUSWE_001_00

27th July 2021

Ms Sharon Pope
Muswellbrook Shire Council

via email: Sharon.pope@muswellbrook.nsw.gov.au

Dear Ms Pope,

PLANNING PROPOSAL FOR 3 RACECOURSE RD MUSWELLBROOK

Thank you for the opportunity to provide comment on the Planning Proposal for 3 Racecourse Rd, Muswellbrook.

The NSW State Emergency Service (NSW SES) is the agency responsible for dealing with floods, storms, and tsunamis in NSW. This role includes, planning for, responding to, and coordinating the initial recovery from floods. As such, the NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW.

The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual). Attention is drawn to the following principals outlined in the Manual which are of importance to the NSW SES role as described above:

- Zoning should not enable development that will result in an intolerable increase in risk to life, health or property of people living on the floodplain.
- Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF) and not focus only on the 1% AEP flood.
- Risk assessment should have regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration should also be given to the impacts of localised flooding on evacuation routes.



STATE HEADQUARTERS
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ABN: 88 712 649 015



- In the context of future development, self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES's principles for evacuation.
- Future development must not conflict with the NSW SES's flood response and evacuation strategy for the existing community.
- Evacuation must not require people to drive or walk through flood water.
- Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.
- Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.
- The NSW SES does not support the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.

Due entirely to the need to meet priorities dictated by legislated responsibilities, the NSW SES is not able to assess any detailed development proposal or to work with developer's consultants in preparing any such proposal.

Please feel free to contact me on 0458 737 188 or via email at nswses.riskreduction@ses.nsw.gov.au should you wish to discuss any of the matters raised in this correspondence.

Yours sincerely,

A handwritten signature in black ink that reads 'mk Frazer'.

Maria Frazer
Co-Ordinator Planning
NSW State Emergency Service



Planning,
Industry &
Environment

Our ref: DOC21/656792-3

Your ref: PP_2020_MUSWE_001_00

Sharon Pope

Executive Manager Environment and Planning
Muswellbrook Shire Council
Sharon.Pope@muswellbrook.nsw.gov.au

Dear Ms Pope

Request for advice – 3 Racecourse Road Planning Proposal – Muswellbrook LGA

I refer to your email, dated 23 July 2021 seeking input into the planning proposal regarding 3 Racecourse Road, Muswellbrook (Lot 41 DP 592207). This proposal directly relates to the amendment of the *Muswellbrook Local Environment Plan 2009* to allow for the addition of a dwelling house.

Biodiversity and Conservation Division's (BCD) recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Jayme Lennon, Senior Conservation Planning Officer, on 02 9585 6935 or via email at huntercentralcoast@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Crick'.

STEVEN CRICK
Senior Team Leader Planning
Hunter Central Coast Branch
Biodiversity and Conservation Division
Date: 3 September 2021

Enclosure: Attachments A and B

Attachment A

BCD's recommendations**3 Racecourse Road, Muswellbrook Planning Proposal**

1. The SES should be consulted and provided assistance to develop an evacuation strategy for this area linked to the Muswellbrook flood gauge. All residents, including existing large lot residents, should be made aware of the strategy and encouraged to evacuate early to reduce reliance on SES.
2. Future approval of a dwelling should ensure it meets flood planning requirements and is an elevated structure without imported fill. If located in flood storage area a flood impact assessment would be required in conjunction with any DA approval. Complying development should not be permitted on this site due to access issues.
3. Future design of any dwelling should consider flood forces and the potential need for a robust PMF refuge on site as an option of last resort.

Attachment B

BCD's detailed comments**3 Racecourse Road, Muswellbrook Planning Proposal****Flooding and flood risk****1. The subject site is a low flood island**

BCD has reviewed the provided flood information and the Muswellbrook Floodplain Risk Management Study and Plan prepared by RHDHV in 2018. The subject site is entirely within the flood planning area and sections of the site are variously classified as flood fringe, flood storage and floodway dependent of flood depth and velocity in the 1% Annual Exceedance Probability (AEP) flood. The site is accessed via Racecourse Road and this is shown to be inundated to levels which are unsafe in floods of 5% AEP (approximately 20 year recurrence interval). For the 1% AEP flood the roadway is classified as H5 hazard which is considered unsafe for all peoples and cars, buildings require special engineering design and construction. For flood larger than the 1% AEP flood the site is completely inundated and for the Probable Maximum Flood (PMF), the site is inundated by more than 3 metres (m) of water. This means that the property evacuation route is cut well before the property experiences hazardous flooding, however; shelter in place is not an option. Flooding on the site is driven by Hunter River flooding which is served by a Bureau of Meteorology flood warning system. Development of an early evacuation strategy and update of the local flood plan with the State Emergency Service (SES) will be critical to support any residential use in this location.

Recommendation 1

The SES should be consulted and provided assistance to develop an evacuation strategy for this area linked to the Muswellbrook flood gauge. All residents, including existing large lot residents, should be made aware of the strategy and encouraged to evacuate early to reduce reliance on SES.

2. Change to LEP to permit a dwelling entitlement is best method for permitting the proposed land use

BCD has reviewed the options considered for permitting a dwelling on this site. The addition of a dwelling entitlement is considered to be the best option because it is less likely to set a precedent for increased occupation of the flood plain than the alternative measures. It is agreed that placing dwellings in this location is consistent with the adjacent large lot land use, however; the site does not contain the same degree of higher ground present on the adjacent large lots. Any dwelling subsequently approved should be located within the flood fringe portion of the site and be elevated to meet the required flood planning levels in order to minimise impact on the flood plain and provide some flood immunity. The incremental risk of permitting one additional dwelling in this location is not considered to be significant and may permit horses to be evacuated earlier reducing the risk that stable owners may try to access the site through flood water to facilitate horse evacuation.

Recommendation 2

Future approval of a dwelling should ensure it meets flood planning requirements and is an elevated structure without imported fill. If located in flood storage area a flood impact assessment would be required in conjunction with any DA approval. Complying development should not be permitted on this site due to access issues.

3 The entire site is classified as floodway in the PMF event

The Muswellbrook Floodplain Risk Management Study and Plan (RHDHV 2018) shows the entire site is floodway in the PMF event. It is understood that Muswellbrook Shire Council does not use the PMF for flood planning purposes, however; it is recommended that the hazard to dwellings and other structures on this site be recognised and considered. Structural engineering certification of foundation design should be required together with consideration of an emergency on site refuge designed to resist PMF forces due to the likelihood that access may be cut prior to evacuation taking place.

Recommendation 3

Future design of any dwelling should consider flood forces and the potential need for a robust PMF refuge on site as an option of last resort.



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ABN 34 608 495 441

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www.machenergyaustralia.com.au

1 February 2022

Fiona Plesman
General Manager
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

By email c/o council@muswellbrook.nsw.gov.au

RE: 3 RACECOURSE ROAD PLANNING PROPOSAL

Dear Fiona,

Further to Muswellbrook Shire Council's *Notice of Public Exhibition Planning Proposal 3 Racecourse Rd, Muswellbrook – Permit a Dwelling House* (dated 13 December 2021), MACH Energy Australia Pty Ltd (MACH Energy) wishes to comment on the Planning Proposal.

Should the Planning Proposal be approved, any dwelling constructed on 3 Racecourse Rd would be subject to the approved environmental impacts of the Mount Pleasant Operation, including noise emissions.

It is noted that the two properties adjacent to 3 Racecourse Rd, property ID numbers 19 and 207, currently have mitigation upon request rights under Development Consent DA 92/97 for rail noise emissions associated with the Mount Pleasant Operation. As such, the owners of these properties have the right to request reasonable and feasible noise mitigation measures for their dwellings.

However, these rights would not apply to any new dwelling constructed at 3 Racecourse Rd, should the Council be of a mind to approve the Planning Proposal. MACH Energy therefore suggests that, if the Planning Proposal is approved, the owner be advised to consider suitable acoustic mitigation during the design of any dwelling. It should also be noted that under the Mount Pleasant Optimisation Project (SSD-10418), currently under assessment by the NSW Department of Planning, Industry and Environment, noise impacts are predicted to decrease in the vicinity of 3 Racecourse Rd. That is, property ID numbers 19 and 207 (and, thus, 3 Racecourse Rd) are anticipated to be outside of the mitigation upon request zone of the Mount Pleasant Operation, but would continue to experience operational noise levels somewhat above applicable noise criteria (i.e. 1-2 dBA exceedance), during adverse weather conditions. Please feel free to contact me if you require further information.

MACH Energy would appreciate being advised as to the outcome of this application, so that it can keep the Department of Planning, Industry and Environment informed.

Yours sincerely,

Chris Lauritzen
General Manager - Resource Development
MACH Energy Australia Pty Ltd.

10.2 DA 2021-87 - COMMERCIAL CHANGE OF USE AND ALTERATIONS AND ADDITIONS - 12 OGILVIE STREET, DENMAN

Attachments:	A. DA 2021-87 - Section 4.15 Assessment B. DA 2021-87 Updated Site Plan (Off-street Parking Included) C. DA 2021-87 Proposed Plans D. DA 2021-87 Statement of Environmental Effects
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Hamish McTaggart - Co-Ordinator - Development
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>

PURPOSE

The report relates to Development Application (DA) 2021/87, which involves the change of use of the retail premises at 12 Ogilvie Street, Denman, to a restaurant and the carrying out of alterations and additions.

The development application was reported to the 1 March 2022 Ordinary Council Meeting, with a recommendation for refusal on the basis of the lack of provision of additional off-street car parking as part of the development application. Council deferred the matter to enable further negotiations to be conducted between the Proponent and Council Officers, related to the provision of off-street car parking.

The development application has now been amended to include six (6) off-street parking spaces.

The application is being reported to Council to accept the six parking spaces now offered and to delegate the matter to Council's General Manager to determine the application following the submission of additional information related to site contamination and remediation work requirements.

OFFICER'S RECOMMENDATION

Council:

- 1. Accepts the six (6) off-street car parking spaces proposed as achieving the objectives of Muswellbrook Development Control Plan 2009; and**
- 2. Delegates the determination of Development Application No. 2021/87 for the change of use of a retail premises to a restaurant and the carrying out of commercial alterations and additions at 12 Ogilvie Street, Denman (Lot 1 DP 997824 and Lot 12 DP 1277745) to the General Manager pending the submission of further information related to site contamination and remediation.**

Moved: _____ **Seconded:** _____

☐

Cr A. Barry

☐

Cr M. Bowditch

☐

Cr D. Douglas

☐

Cr J. Drayton

☐

Cr L. Dunn

☐

Cr J. Lecky

☐

Cr R. Mahajan

☐

Cr D. Marshall

☐

Cr G. McNeill

☐

Cr S. Reynolds

☐

Cr R. Scholes

☐

Cr B. Woodruff

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development relates to 12 Ogilvie Street (Lot 1 DP 997824 and part Lot 2 DP 1277745).

The development site is zoned RU5 Village under the Muswellbrook Local Environmental Plan (MLEP) 2009, is located in the Denman Heritage Conservation Area, and adjoins 'The Royal Hotel', a listed heritage item.

The proposed development has been amended since the matter was previously reported to Council to include the construction of six (6) off-street parking spaces.

The current development proposal involves:

- The change of use of the existing building to a licensed restaurant/small bar,
- The carrying out of alterations and additions to the existing building to support the new proposed use.
- The construction of a recessed weatherboard and brick clad extension to provide an additional area for food preparation and storage.
- The construction of a timber pergola to provide an outdoor seating area. The construction of a driveway from an existing Ogilvie St layback to provide a back of house access for delivery and service vehicles and parking.
- The construction of six (6) off-street parking spaces.

The site and the floor plan of the proposed development are provided in images below:



Image.1 – Subject Site (Council Spatial Viewer)

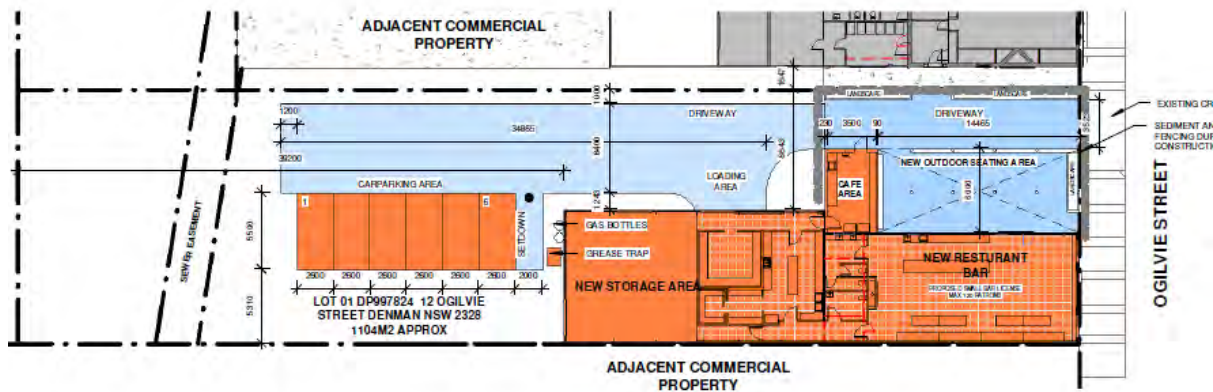


Image.2 – Floor Plan (Submitted Architectural Plans)

ASSESSMENT SUMMARY

Council Officers have assessed the DA under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see Attachment A). Council Officers recommend that the development application be delegated to the General Manager for determination.

Key section 4.15 assessment issues and findings are:

- Council's Heritage Advisor raised no objection from a heritage impact perspective.
- Referral comments were also received from Council's Building Surveyor, Senior Environmental Health Officer, Water and Wastewater Engineers, Roads and Drainage Engineers and Trade Waste Officer and recommend the inclusion of particular conditions of consent where relevant.
- Final referral comments from NSW Police raise no objection to the proposed development.
- The proposed development does not comply with number of parking spaces required by Section 16 – car parking of the Muswellbrook DCP 2009. The proposal includes six (6) off-street car parking spaces where the DCP requires 12.

Council Officers have completed a merit assessment of the reduced rate of off-street car parking against the related DCP objectives. Based on the findings of this assessment Council Officers are satisfied that the proposed development remains compatible with the related DCP objectives, and the reduced rate of off-street car proposed may be supported. Further information related to DCP off-street car parking assessment can be found under the Section 16 – Car Parking and Access sub-heading of the attached Section 4.15 Assessment.

- The proposed development complies with the remaining relevant provisions of the Muswellbrook DCP.
- The proposed development complies with the relevant provisions of the Muswellbrook Local Environmental Plan 2009 (MLEP 2009).
- The site subject to this development application is identified as 'potentially contaminated' due to past land uses on the site. Further investigation into any site contamination and potential remediation works are required for the development to proceed and to achieve compliance with the State Environmental Planning Policy (SEPP) No 55 – Remediation of Land.

The applicant is aware that further soil quality investigations are required to address this issue. However, the applicant has objected to engaging soil consultants to complete further investigations into this issue given the uncertainty as to whether the development would be supported from an off-street car parking perspective. Further commentary related to this point is included under the SEPP No. 55 – Remediation of Land subheading in the attached Section 4.15 Assessment.

Should Council wish to approve this development application, it is recommended that they do so with a deferred commencement condition requiring the completion of Preliminary Soil Analysis and Remediation Action Plan (if required) in relation to the soil qualities of the site and any required site remediation. Council Officers have not recommended that the application be approved, but that

Council delegate the development application to the General Manager for determination following the submission of further information related to site contamination and remediation.

OPTIONS

Council may:

- A. Accept the rate of off-street car parking proposed and delegate the determination of the development application to the General Manager pending the submission of further information in relation to site contamination and remediation. This is the recommended option.
- B. Accept the rate of car parking proposed and approve the development application subject to conditions of consent including deferred commencement conditions related to site contamination and remediation.
- C. Refuse the proposed development as a development application that does not propose adequate off-street car parking in accordance with the Muswellbrook Development Control Plan or comply with the related Development Control Plan objectives

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 the determination at the Land and Environment Court.

CONCLUSION

Council Officers have completed an assessment of the proposed development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. Council Officers recommend that Council accept the rate of off-street car parking proposed and delegate the determination of the development application to the General Manager pending the submission of further information in relation to site contamination and remediation.

DEVELOPMENT ASSESSMENT REPORT

ADDRESS:	1 DP 997824 and Lot 12 DP 1277745 12 Ogilvie Street DENMAN			
APPLICATION No:	87/2021			
PROPOSAL:	Alterations and additions to commercial + Change of Use			
PLANS REF:	Drawings no.	Drawn by	Date	Received
	Cover Page	BDD Building Designers	11/01/2022	11/01/2022
	Site Plan	BDD Building Designers	11/01/2022	11/01/2022
	Floor Plan	BDD Building Designers	11/01/2022	11/01/2022
	Roof Plan & Stormwater	BDD Building Designers	11/01/2022	11/01/2022
	Elevations (A301)	BDD Building Designers	11/01/2022	11/01/2022
	Elevations (A300)	BDD Building Designers	11/01/2022	11/01/2022
	Sections	BDD Building Designers	11/01/2022	11/01/2022
OWNER:	Zizoom Pty Limited			
APPLICANT:	Mr H Walker Unit 12/2 Ocean Street Mereweather NSW 2291			
AUTHOR:	Ms T Jolly			
DATE LODGED:	11/08/2021			
DATE OF REPORT:	16 March 2022			

1. SITE AND LOCALITY DESCRIPTION

The subject Site is 1 DP 997824 and Lot 12 DP 1277745 (12 Ogilvie Street) Denman. Access to the site is provided via Ogilvie Street. The site contains an existing building. It is understood that the building was historically operated as a garage and more recently a retail premises. The building is currently vacant. Previous approvals recorded for the site are:

Formatted Account	External Reference	Precis	Received Date	Determination I	Determination
005,2021.00000087.001	APPLICATION	Alterations and additions to commercial + Change of Use	11/08/2021		
005,2005.00000179.002	S96 APPLICATION	SECTION 96 AMENDMENT- REDUCE NUMBER OF LOTS FROM THREE (3) TO TWO (2)	25/05/2009	23/06/2009	Approved by Delegat
005,2005.00000179.001	APPLICATION	THREE (3) LOT COMMERCIAL SUBDIVISION	18/05/2005	21/09/2005	Approved

The site is located within the Denman Heritage Conservation Area and the site adjoins 'the Royal Hotel', a locally listed heritage item (124) under the Muswellbrook Local Environmental Plan (MLEP) 2009.

The site has been identified as being potentially contaminated land due to the past garage use.

Figure 1. – Site Aerial Image (Source: NearMaps)



Figure 2. – Site Elevation (Source: Google Street View)



2. DESCRIPTION OF PROPOSAL

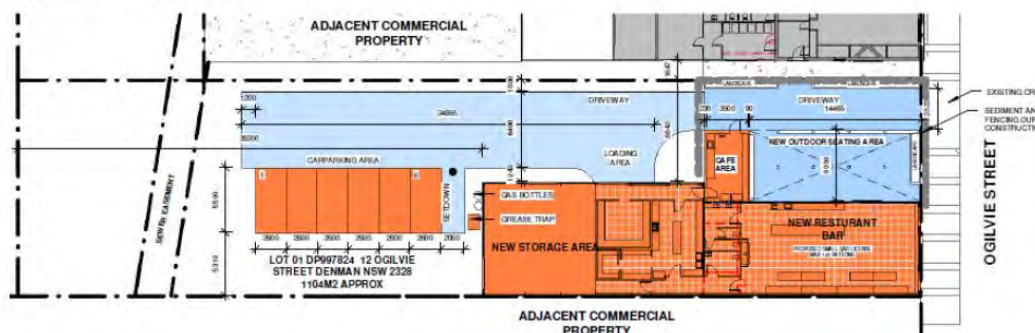
The proposed development as amended involves:

- The change of use of the existing building to a licensed restaurant/small bar,
- The carrying out of alterations and additions to the existing building to support the new proposed use.
- The construction of a weatherboard and brick clad extension to provide additional area for food preparation and storage.
- The construction of a timber pergola to provide an outdoor seating area
- The construction of a driveway from an existing Ogilvie St layback to provide a back of house access for delivery and service vehicles and parking.

The proponent amended the development application since the matter was previously reported to Council. The amended application includes the construction of six (6) off-street vehicle parking spaces.

The site plan below provides an overview of the proposed site layout as amended.

Figure 3. – Site Plan



3. SPECIALIST COMMENTS

3.1. Internal Referrals

3.1.1. Building Surveyor

Councils Building Surveyor reviewed fire safety requirements and provided a number of recommended conditions to be incorporated into any development consent.

3.1.2. Senior Environmental Health Officer

Referral comments provided by Council's Senior Environmental Health Officer (EHO) requested a Preliminary Soil Contamination Assessment to inform Council Officers considering the site is potentially contaminated.

The proponent costed the preparation of a Preliminary Soil Contamination Assessment but wrote to Council requesting that a decision be made on the acceptability or otherwise of the lack of car parking ahead of the preparation of this report. The proponent was concerned about the cost of the report when there is no certainty that Council would approve the proposed development due car parking.

Should Council resolve to approve the development application a 'deferred commencement' should be imposed in relation to the submission of a Preliminary Contamination Assessment, the completion of any further contamination investigations required by that report and any required remediation works.

Council's Senior Environmental Health Officer also provided referral comments regarding the fit-out and operation of the restaurant to comply with public health requirements.

3.1.3. Water and Waste Section

The proponent is required to obtain a Notice of Requirements in relation to the proposed development if approved.

3.1.4. Trade Waste Officer

Where the development application is approved the requirements of Council's Trade Waste Officer should be incorporated into recommended conditions of consent.

3.1.5. Heritage Advisor

The Heritage Advisor did not raise any objectives with the proposed design or recommend addition conditions of consent.

3.1.6. Roads and Drainage Section

Initial advice provided by Council Engineers opposed the proposed development without the provision of off-streetcar parking or the payment of a contribution through a planning agreement for the upkeep and maintained of Denman carparking.

Amended plans provided by the proponent include the provision of six (6) off-streetcar parking spaces. The updated application was referred to Council Engineers who accepted the six (6) off-street parking spaces as a reasonable rate of off-street car parking despite not achieving the full rate of twelve (12) parking spaces specified by the DCP.

Council Engineers recommend the imposition of conditions related to the construction of the parking spaces (accessible parking space inclusive) and the management of stormwater.

These comments would be reflected in the conditions of consent.

3.2. External Referrals

3.2.1. NSW Police

The proposed development was referred to the NSW Police to provide comments on security, safety and liquor licensing requirements for the restaurant/bar proposed.

Initial concerns related to liquor licensing requirements and the connectivity between the premises and adjoining Royal Hotel. The applicant prepared revised plans in response. These plans included additional fencing/security measures and restricted patrons from walking between the premises and the Royal Hotel other than via Ogilvie Street entry/exit points.

These revised plans were provided to NSW Police who acknowledged the changes and advising that '*Police do not object to the development based on the updated site plans*'.

4. ASSESSMENT

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

Section 4.15 Matters for Consideration

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

4.1. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)

Land Use Zone and Permitted Land Use

The development site is zoned RU5 Village pursuant to MLEP 2009. The proposal is best defined as change of use to a restaurant or cafe, a type of commercial premises, which is permitted with consent in the RU5 Village Zone.

Objectives of the RU5 Village Zone

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To allow more flexibility in the development of the town of Denman and village of Sandy Hollow.*
- *To allow for future development of residential, commercial or low-impact land use within the town of Denman and village of Sandy Hollow.*
- *To ensure that non-residential uses do not result in adverse amenity impacts on residential premises.*
- *To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.*

The proposed development is compatible with the land use zone objectives, as while the proposed use relates to a commercial premises it is appropriately located in Ogilvie Street, the Denman main street and is compatible with nearby development.

Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009

Part 4 Principal development standards	
4.3 Height of buildings	MLEP 2009 specifies a maximum building height of 8.5m in relation to the land. The proposal does not involve any changes to the existing building height

	which is 5.4m at its highest point. Complies
4.4 Floor space ratio	MLEP 2009 specifies a floor space ratio of 0.5 in relation to the land. The proposal does not involve building works that would result in floor space greater than the existing FSR of the site. Complies
Part 5 Miscellaneous provisions	
5.10 Heritage conservation	The subject site is located next to an item of Heritage Significance, the Royal Hotel, and is within the Denman Heritage Conservation Area. The application was referred to Council's Heritage advisor for a Heritage Assessment, which has been discussed above. Complies
Part 7 Additional local provisions	
7.6 Earthworks	The development is not expected to involve significant earthworks as the bulk of the proposed works involve internal alterations to an existing building. Complies

4.2. State Environmental Planning Policy No. 55 – Remediation of Land

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

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

When considering the site attributes of the land proposed for development Council Officers identified that the subject site is identified as being 'potentially contaminated' due to the previous land uses on the site.

Accordingly, Council requires soil testing be carried out to identify/confirm any site contaminants and where soil contaminants are identified a remediation action plan would need to be developed and put into action to remediate the site so as to support the new proposed use.

Council Officers requested the applicant to engage an appropriately skilled person prepare a Soil Contamination Assessment. The proponent priced a Soil Contamination Assessment and advised Council that they have reservations progressing this investigation given uncertainty on whether Council would approve the proposed development due to no car parking being proposed.

While the relationship of the proposed development with this SEPP remains unresolved it has not been listed as a reason for refusal. Should Council be interested in approving the development application a 'deferred commencement condition' could be put forward to require the submission of a Preliminary Contamination Assessment, the completion of any further contamination investigations required by that report and any required remediation works prior to the commencement of the development consent. 'Deferred commencement conditions' inhibit a person from acting with a development consent granted until requirements are satisfied.

4.3. State Environmental Planning Policy No.64 – Advertising and Signage

The application does not propose any new signage or changes to the existing signage on the site.

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

There are no draft EPIs relevant to the subject Application.

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

Section 3 – Site Analysis

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

Section 7 – Village Zones

7. VILLAGE ZONES	
7.2 Assessment Process	
7.2.1 Character Statements	<p>The Denman Character Statement aims to protect the Heritage Values of Denman while promoting tourism and community spirit</p> <p>The proposed development, as a concept will be beneficial to the Denman, <u>if designed and constructed to comply with the relevant legislation.</u></p> <p>The proposed restaurant will provide an active street frontage and provide a suitable use that benefits the community. Complies</p>
7.4 Non-Residential Development	
7.4.1 Location	<p>This section of the Muswellbrook DCP discusses objectives and controls relating to development involving new buildings and/or businesses in the locality. The proposed development involves the change of use from a commercial premise to a different subcategory of commercial premises and is therefore does not cause a noncompliance with this section of the DCP. Complies</p>
7.4.2 Design Guidelines	<p>The proposal involves minor changes to the existing façade which do not detract from the Heritage values of the site while providing a more suitable frontage for a food and drink premises. Complies</p>
7.4.3 Vehicle Parking	<p>The proposed development does not comply with the rate of off-street car parking required by the DCP. See comments under the Section 16 sub-heading Does not Comply</p>
7.4.4 Signage and Use of Footpaths	<p>The proposal does not involve any signage or a request for the use of the footpath. Not Relevant</p>
7.4.5 Wastewater Disposal	<p>The site is connected to Council's reticulated sewer system. Any trade waste created by the development will be managed via the imposition of the conditions recommended by Council's Trade waste Officer. Complies</p>
7.4.6 Form, Massing and Scale	<p>The proposal does not involve the construction of new buildings and will not significantly alter the form, massing and scale of the development. Complies</p>
7.4.7 Access	<p>The subject site is relatively flat and therefore will not require any steps that would decrease the accessibility of the site.</p> <p>The Assessing Officer recommends including a condition to ensure that all construction works are compliant with the relevant Australian standards for accessibility. Complies</p>

7.4.8 Setbacks	The proposal does not involve any changes to the front setbacks on the site and will have a setback of 1.64m from the adjoining Royal Hotel. Complies
7.4.9 Landscaping	The proposal does not involve any significant landscaping, however, the plans provided show that there will be suitable greenery to soften and enhance the appearance of the development from the street. Complies

Section 15 – Heritage Conservation

Complies.

Section 16 – Car Parking and Access

Under this section, the parking requirement for a restaurant is

‘1 space per 7m² of gross floor area available for dining purposes’

Acknowledging that the proposed development involves the change of use of an existing building, Council Officers calculated the total car parking requirements as they related to the proposed extension of the building to create a new outdoor dining area only.

Council Officers calculated that (excluding the landscaped area) the proposed outdoor dining area would have an area of 81.595m²

Off-street parking area requirement – $81.595/7 = 11.656$ **off-street parking spaces**

The applicant has proposed six (6) additional off street car parking. Council Officers have undertaken a merit based assessment to determine whether the proposed development remains compatible with the DCP Objectives that relate to this control.

DCP objectives are:

- a) To ensure adequate provision of off-street parking to maintain the existing levels of service and safety of the road network.
- b) To ensure a consistent and equitable basis for the assessment of parking provisions.

In assessing the merits of the application, the following points are made:

- Council has historically been flexible in applying its off-street car parking requirements for development in the Denman CBD.
- In 2016 Council approved DA 2015/94 involving the extension of a Denman Hotel through the construction of an elevated deck and dining area. The assessment report for this application noted that a total of 38 off-street car parking spaces would be required to comply with the DCP. The application was approved by Council without a requirement for the provision of any additional car parking spaces.
- In 2013 Council approved DA 2013/96 for alterations and additions to a café at 16-18 Ogilvie Street. In its determination of this development application Council required the provision of an additional five (5) off-street parking spaces. These off-street parking spaces were not constructed by the proponent. No compliance action was taken on the café's non-compliance with the consent. The café has recently closed.
- There are physical/spatial limitations for this and other sites that may be redeveloped within the Denman CBD to provide off-street parking at the rates prescribed by the

MDCP 2009. A review of the DCP provisions may be warranted to realise Council's strategic goal of supporting Denman's growth as a tourist destination.

- Council has recently constructed a new car park adjacent to the southern side of Ogilvie St that provides approximately 49 additional car parking spaces within walking distances of the site and CBD.
- While it may be reasonable to discount off-street parking requirements for the re-use of existing buildings this proposed development also increases the commercial floor area, and thereby potential parking demand in the Denman CBD.
- Council has entered into verbal agreements with landowners on the southern side of Ogilvie Street related to parking. Landholders who provide parts of their properties (at no cost) to Council for the construction of the new Denman town centre car park are not required to provide off-street car parking in accordance with the DCP.

Properties on the southern side of Ogilvie Street have accepted a reduction to their holding size to provide the car park. Properties on the northern side of Ogilvie Street have not contributed to the construction of the new Denman car park but benefit from the increased availability of car parking spaces.

- Officers are satisfied that the proposed development would not have a significant adverse impact to the availability of parking or safety of the existing road network. Accordingly, the proposed development is viewed as being compatible with objective a) referenced above.
- In relation to Objective b) it is recognised that the proponent does not propose to provide off-street parking at the rate prescribed by the DCP. However, Council has made prior decisions to provide significant flexibility in the rate of off-street parking required for development in the Denman CBD. The parking proposed is viewed to be comparatively equitable despite its inconsistency with the DCP control.

DCP Merit Assessment Summary and Conclusion

Having regard to the above Council Officers are satisfied that the proposed development remains compatible with the DCP objectives despite its inconsistency with the related DCP control. Therefore, Council Officers are satisfied that the proposal may be supported provided the six (6) proposed parking spaces are constructed as part of the development.

Complies with DCP Objective

Section 20 – Erosion and Sediment Control

The relevant objective of this section states:

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

The proposed development does not involve the carrying out of substantial earthworks. The earthworks proposed would not present any issue in relation to the DCP requirements and it is recommended that a condition of consent is imposed to manage the carrying out of earthworks.

Section 21 – Contaminated land

Discussed under EHO comments and Remediation SEPP assessment.

Section 24 – Waste Management

A waste management plan has not been submitted with the development application. The Assessing Officer recommends including a standard condition that a Waste Management Plan be provided prior to the issue of an Occupation Certificate, should the application be approved.

Section 25 – Stormwater Management

The applicant has proposed to discharge the stormwater overflow from the new roof space to the existing stormwater drainage system. The Assessing Officer is satisfied that Council's Stormwater infrastructure on Ogilvie Street will be able to manage the additional stormwater overflow created and recommends including a condition to ensure that the proposed measures are carried out.

s7.12 Contributions

The cost of works for the proposed development is \$431,200.00. A developer contribution of \$4312 will apply to the proposed development should the Application be approved.

4.6. Section 4.15(1)(a) (iia) the provisions of any planning agreement

There are no planning agreements relevant to the subject Application.

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

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

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

Not relevant, the Application does not relate to a coastal area.

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

Key potential impacts of the proposed development have been considered and commented on under the sub-headings below.

Noise and Amenity

The applicant has proposed that the restaurant will operate from 10am – 12am, 7 days a week. The locality is known to have similar developments in the area that operate late hours, however, the Assessing Officer is concerned in relation to noise, light and other amenity impacts on weekends.

The Officer reviewed consents for similar development in the locality and recommend the following operating hours for the development, should the application be approved.

Hours of Operation

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

Monday to Saturday	7:00am to 12:00am
Sunday	7:00am to 10:00pm

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

Social & Economic Impact on the Locality

The proposed development is likely to have a positive Social and Economic Impact on the locality if constructed in accordance with the legislation and other relevant standards.

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

The site subject to this development application is located in the Denman town centre and is considered to have site attributes generally conducive to commercial development. It is noted that the site is identified as potentially contaminated further investigation is required related to the remediation of the site. This is to be administered prior to the determination of the development application or through conditions of consent depending on Council's determination of the application and the off-street car parking issue.

4.11. Section 4.15(1)(d) any submissions made

The application was notified in accordance with the Muswellbrook Community Participation Plan from 26/08/2021 to 09/09/2021.

No submissions were received during the notification period.

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

The proposed development would be compatible with Council's strategic objective of supporting the growth of Denman as a tourist destination and would provide additional entertainment and employment opportunities for the local community. While the proposed development does not comply with the rate of off-street car parking required by Council's DCP it is considered to remain compatible with the related DCP objectives.

With regards to site contamination, additional investigations are to be carried out in relation to this issue prior to the determination of the development application or through conditions of consent.

In view of the above, the proposal would be considered to be in the public interest where carried out in accordance with standard conditions of consent and additional conditions related to the construction of off-street car parking and the carrying out of contamination investigation and remediation works.

5. CONCLUSION

The proposed development has been assessed against the relevant heads of consideration of Section 4.15 of the Environmental Planning and Assessment Act 1979. As outlined above it is considered that the proposed development complies with the majority of relevant planning provisions, with the exception of DCP requirements related to off-street car parking and with additional information required to demonstrate and address contamination and remediation issues.

As described above the rate of off-street parking proposed may be supported on merit as the development remains consistent with the related DCP objectives while contamination and remediation issues can be addressed pending Council's decision on the rate of off-street car parking proposed either prior to the determination of this development application or through site specific deferred commencement conditions requiring the preparation of a preliminary contamination assessment and remediation action plan where required.

Council Officers have recommended that Council not determine the development application but endorse the development from an off-street car parking perspective and require additional information related to contamination and remediation prior to the determination of

the development application.

The applicant had previously advised of a reluctance to go to the expense of engaging consultants to address site remediation where it remained unclear that Council would support the proposed development from a car parking perspective. If Council provides in principle support to the development from a car parking perspective the soil contamination and remediation issues may be fully investigated and address prior to the determination of the application.

Signed by:



Tanya Jolly
Planning Assistant

Date: 16.03.2022

REV	DESCRIPTION	DATE	CLIENT:	CLIENT:
7	CARPARKING ADDED	13.03.2022	MARK ZIZZA	MARK ZIZZA
			DESIGNER: HUGH WALKER - HWD	
			DRAWN: HW	
			SCALE: As indicated	
			DATE DRAWN: MAY 16	
			CHECKED: HWD	
			JOB NUMBER: 2016001	
			SHEET NUMBER: A100	
			ISSUE: 7	
			ADDRESS: LOT 01 DP97824 TO OGILVIE STREET DENMAN NSW 2328	
			SHEET TITLE: SITE PLAN	
			FOR APPROVAL	
			BUILDING DESIGN DIRECT PTY LTD PO BOX 2701 LANGRAN NEW SOUTH WALES 1501 TELEPHONE: 1300 417 030 FAX: 1300 417 030 WEBSITE: www.bddesign.com.au	
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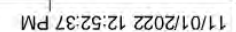
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<ul style="list-style-type: none"> - PROVIDE VERTICAL BRICK CONTROL JOINTS AT ALL MAJOR OPENINGS AND AT A MAXIMUM OF 6000 CTS - DOWNPIPE LOCATION INDICATIVE ONLY, PLUMBER TO LOCATE ON SITE, USE 100MM SEWER GRADE PVC, MAX 1200MM CTS - CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF ANY PARTICULAR STAGE OF WORKS, CONSULT MBS IF ANY DISCREPANCIES IN DESIGN AND MEASUREMENTS ARE FOUND - ALL WORKS TO BE COMPLETED IN ACCORDANCE WITH ALL RELEVANT AUSTRALIAN STANDARDS - ALL WORKS TO BE COMPLETED IN ACCORDANCE WITH CURRENT EDITION OF THE BUILDING CODE OF AUSTRALIA - ALL CONSTRUCTION TO MEET ALL RELEVANT BUSHFIRE ATTACK LEVEL REQUIREMENTS AND TO AS3529 	<p>LEGEND</p> <p>SEMENT CONTROL FENCING</p> <p>STABILISED SITE ACCESS</p> <ul style="list-style-type: none"> - SITE WORKS ARE NOT TO START UNTIL THE EROSION AND SEDIMENTATION CONTROL MEASURES ARE INSTALLED AND FUNCTIONAL - ENTRY AND DEPARTURE OF VEHICLES IS TO BE CONFINED TO THE NOMINATED EXISTING VEHICLE ACCESS OR STABILISED SITE ACCESS. - TOPSOIL IS TO STRIPPED FROM BUILDING SITE AND STOCKPILED FOR LATER USE IN LANDSCAPING THE SITE. TOPSOIL IS TO BE RESPIRED AND ALL DISTURBED AREAS REHABILITATED (TURFED) WITHIN 20 WORKING DAYS OF COMPLETION OF WORKS. - THE FOOTPATH, OTHER THAN STABILISED SITE ACCESS IS NOT TO BE DISTURBED, INCLUDING STOCKPILING OF MATERIALS. WHERE ESSENTIAL WORKS (eg DRAINAGE) ARE REQUIRED, THE FOOTPATH IS TO BE REHABILITATED (TURFED) AS SOON AS POSSIBLE. - WASTE BINS ARE TO BE PROVIDED FOR BUILDING WASTE OR WASTE ENCLOSURE MINIMUM 1800x1800x1200mm HIGH CONSTRUCTED USING STAR PICKETS AND 1200mm HIGH WEED CONTROL MAT. ARRANGEMENTS ARE TO BE MADE FOR REGULAR COLLECTION AND DISPOSAL OR RECYCLING OF CONSTRUCTION WASTE. - ROOF DOWNPIPES TO BE CONNECTED TO STREET KERB OR OTHER STORMWATER DISPOSAL SYSTEM ON COMPETITION OF ROOF AND GUTTERING. - ALL SEDIMENTATION CONTROLS ARE TO BE CHECKED DAILY (AT A MINIMUM WEEKLY) AND AFTER ALL RAIN EVENTS. ALL STRUCTURES TO BE CLEANED ON REACHING 50% STORAGE CAPACITY TO ENSURE THEY ARE MAINTAINED IN FULL FUNCTIONAL CONDITION. 	<p>CONTACT DIA BEFORE YOU DIG PRIOR TO ANY EARTHWORKS ON SITE</p> <ul style="list-style-type: none"> - ANY CONTRACTORS WORKING ON SITE UNDERTAKING EXCAVATIONS TO REQUEST DIAL BEFORE DIG PLAN BEFORE PROCEEDING WITH ANY EARTHWORKS - ANY CONTRACTORS WORKING ON SITE UNDERTAKING EXCAVATIONS TO REQUEST BRIEFING ON SERVICES LOCATION FROM SITE FOREMAN OR LEADING HAND, PRIOR TO STARTING ANY WORK - SEDIMENT CONTROL FENCING TO LOCAL AUTHORITY ENGINEERING STANDARDS TO BE ERCTED PRIOR TO ANYTH EARTHWORKS ON SITE - EARTHWORKS TO BE HOSED DOWN AS REQUIRED DEPENDING ON NEIGHBOURS REQUIREMENTS PROXIMITY AND WEATHER CONDITIONS - ALL EARTHWORKS TO BE COMPLETED IN ACCORDANCE WITH THE EARTHWORKS AND SEDIMENT CONTROL PLAN - IF ANY UNFORESEEN SERVICES ARE FOUND ON SITE EXCAVATION MUST CEASE AND CAN ONLY START WITH PERMISSION FROM SITE FOREMAN OR LEADING HAND AFTER CONFIRMATION OF SERVICES AND ANY ADDITIONAL REQUIREMENTS - EARTHWORKS ARE NOT TO EFFECT THE AMENITY OF THE SURROUNDING PROPERTIES OR PRIVATE LAND - ALL EARTHWORKS TO BE SECURED AND SECURED AS REQUIRED BY LOCAL GOVERNMENT REQUIREMENTS - ALL LOOSE STOCKPILES TO BE COVERED IF REQUIRED DO TO WEATHER AND WIND ISSUES <p>LANDSCAPE FALLS</p> <p>ALL LANDSCAPING TO FALL AWAY FROM RAINWATER TANK AND FLOOR SLAB EDGE. DO NOT LANDSCAPE TO FLOOR LEVEL. STORMWATER SURGE PITS TO BE LOCATED WHERE POSSIBLE AWAY FROM HOUSE AND TO FALL AWAY FROM HOUSE TO STREET OR DESIGNATED STORMWATER PIT</p>

AREAS	EXISTING BUILDING AREA = 325M ²	PROPOSED BUILDING AREA = 350M ²	SITE AREA = 1160M ²
NEW RESTAURANT BAR			
NEW OUTDOOR SEATING AREA			
CAFE AREA			
LOADING AREA			
GAS BOTTLES			
GREASE TRAP			
NEW STORAGE AREA			
CARPARKING AREA			

1 SITE PLAN

A100 1 : 300

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			HUGH WALKER - HWD	FLOOR PLAN
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			HW	2016001
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ROOF PLAN & STORMWATER

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SCALE:
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DRAWN:
HW

DATE DRAWN:
MAY 16

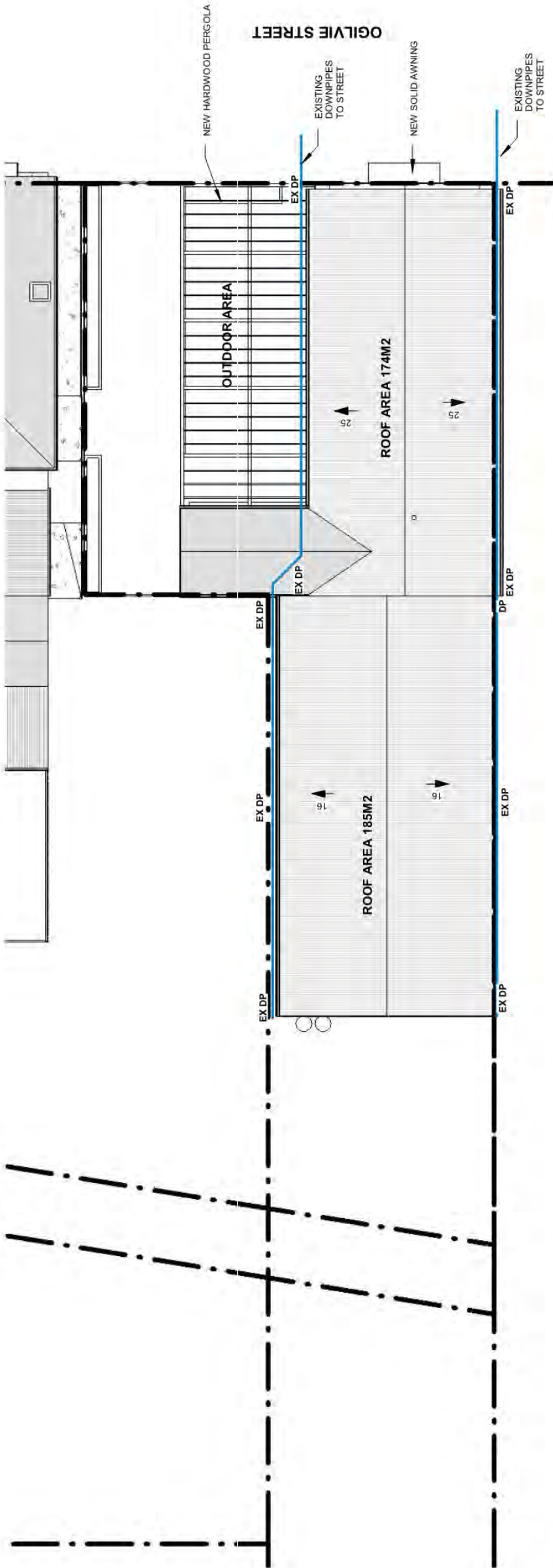
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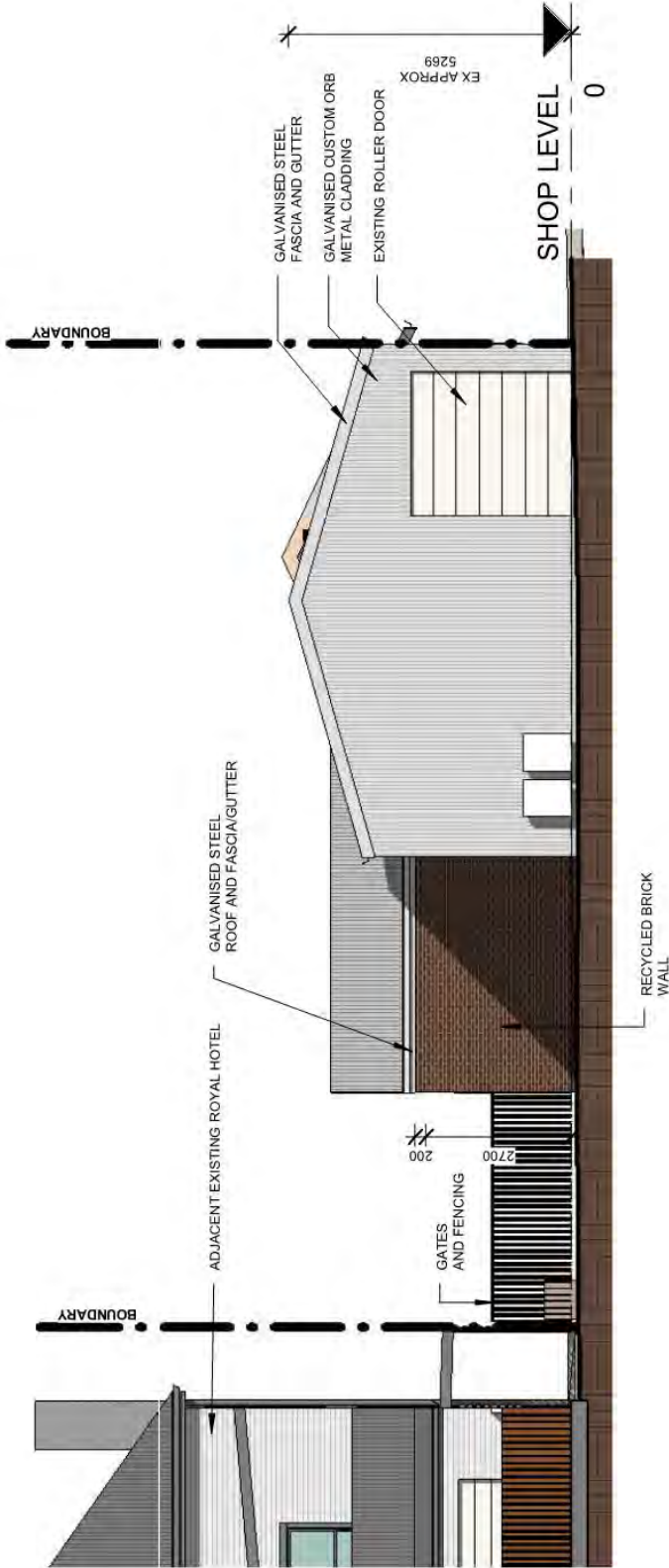
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2 SHOP NORTH ELEVATION

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1 SHOP EAST ELEVATION

1 : 125

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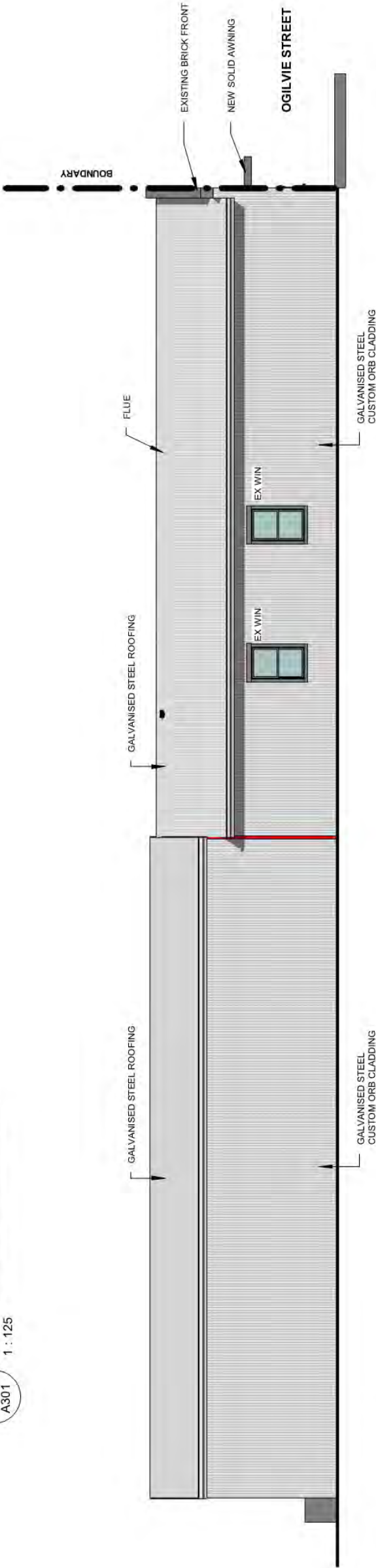
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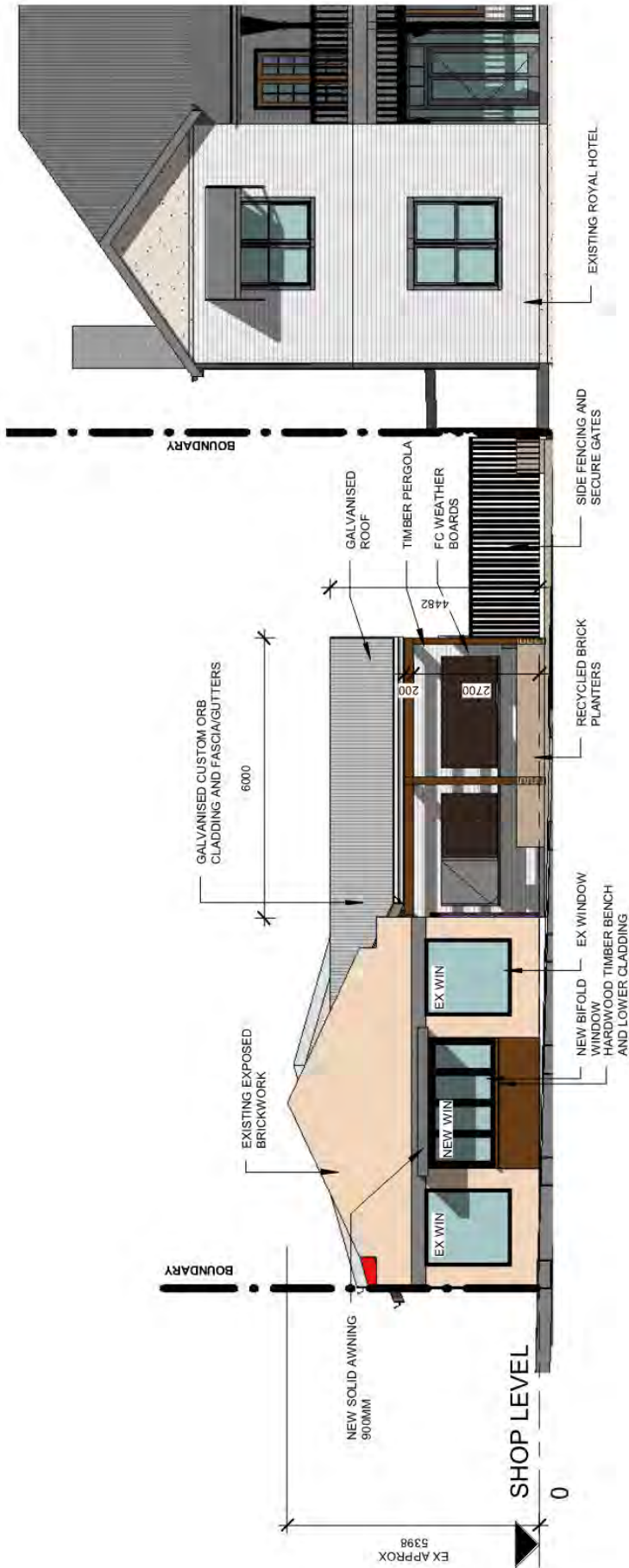
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1 SHOP SOUTH ELEVATION

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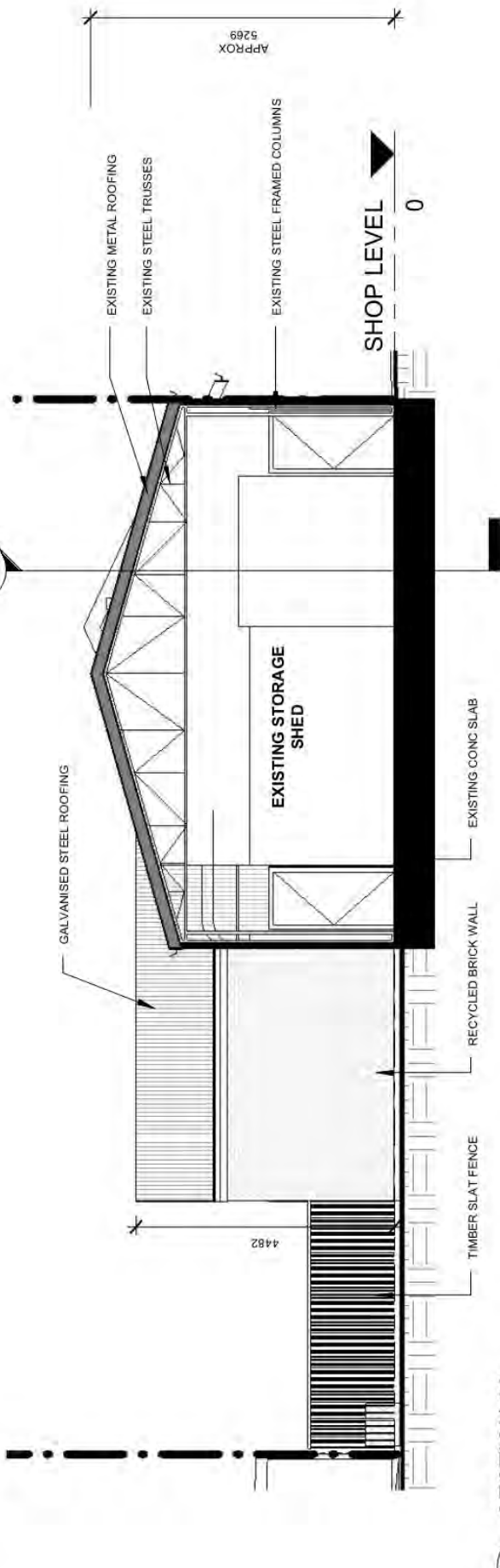
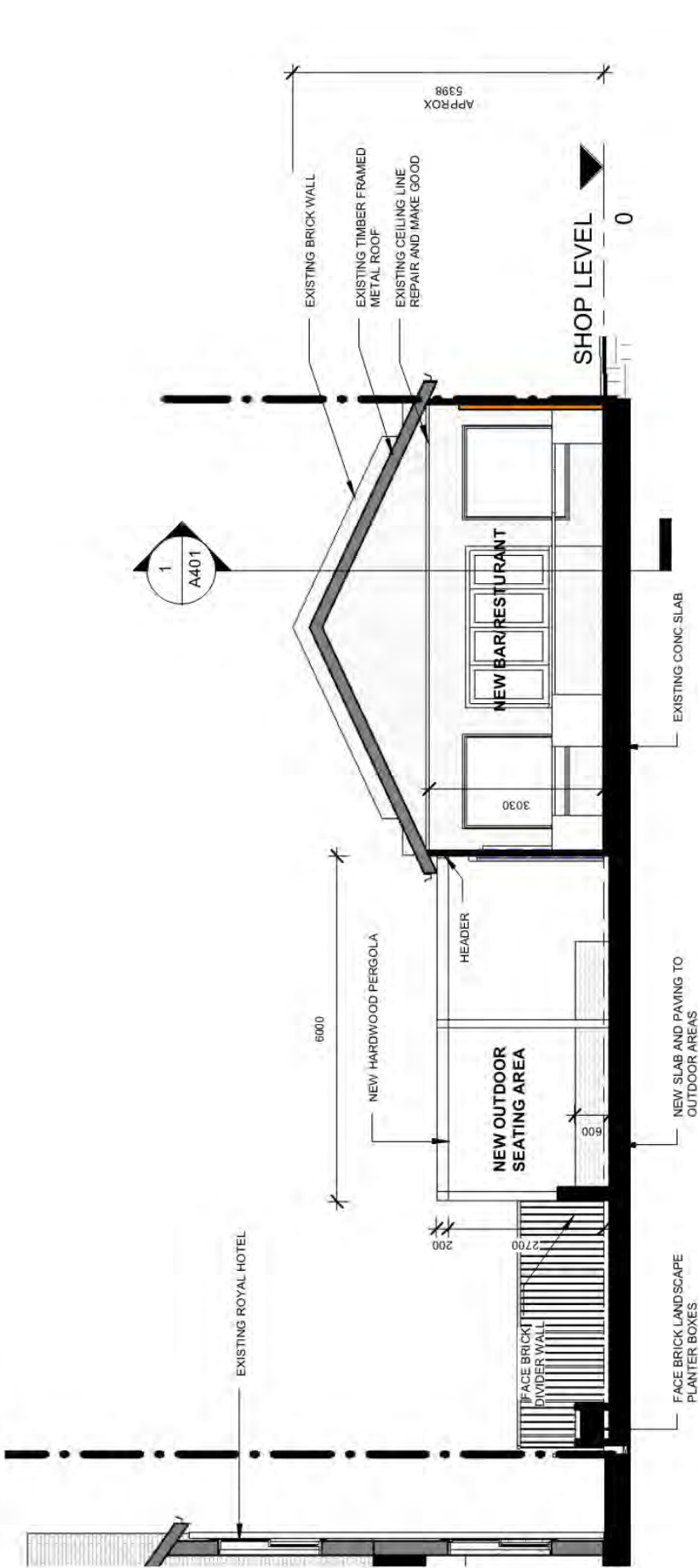
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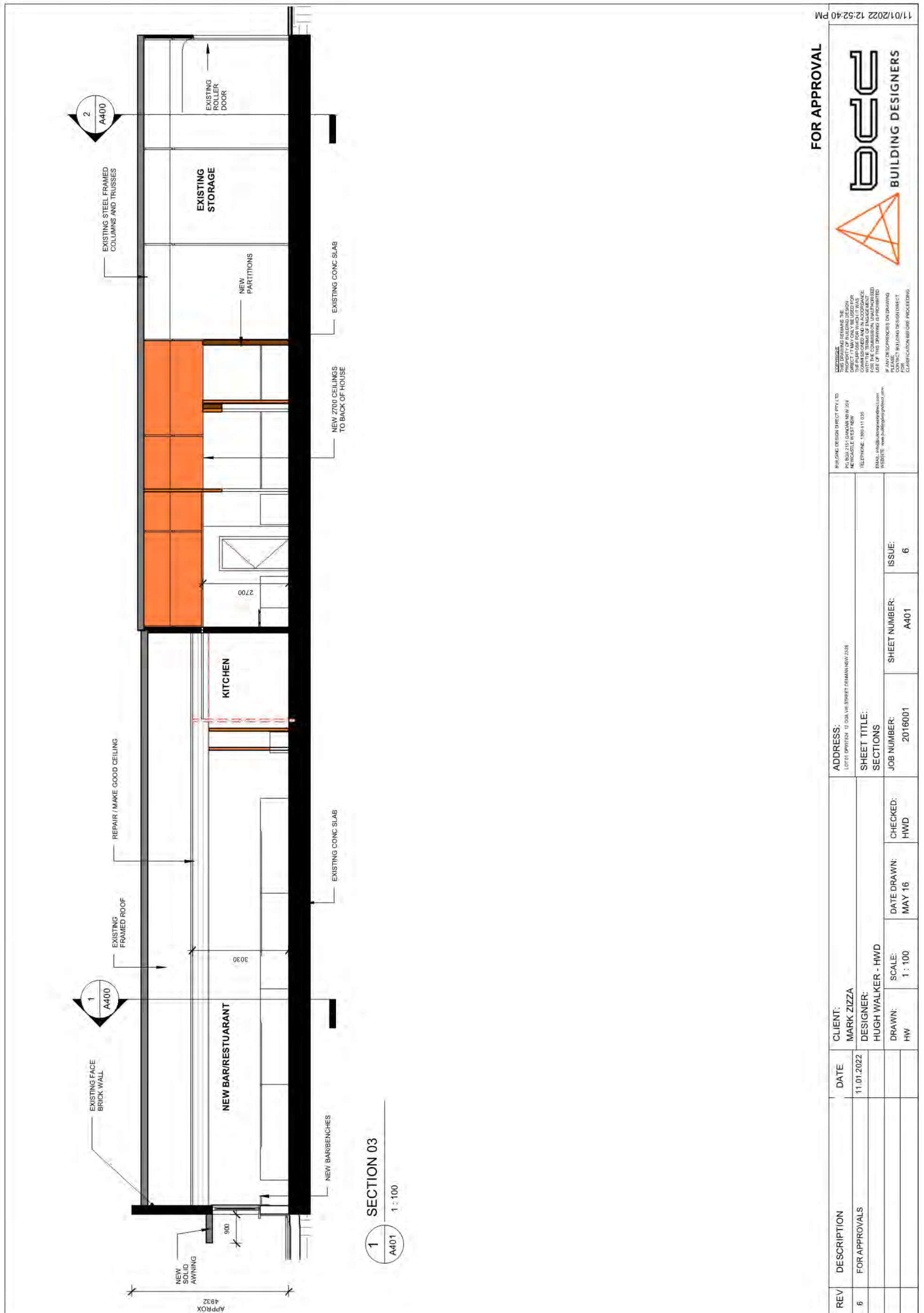
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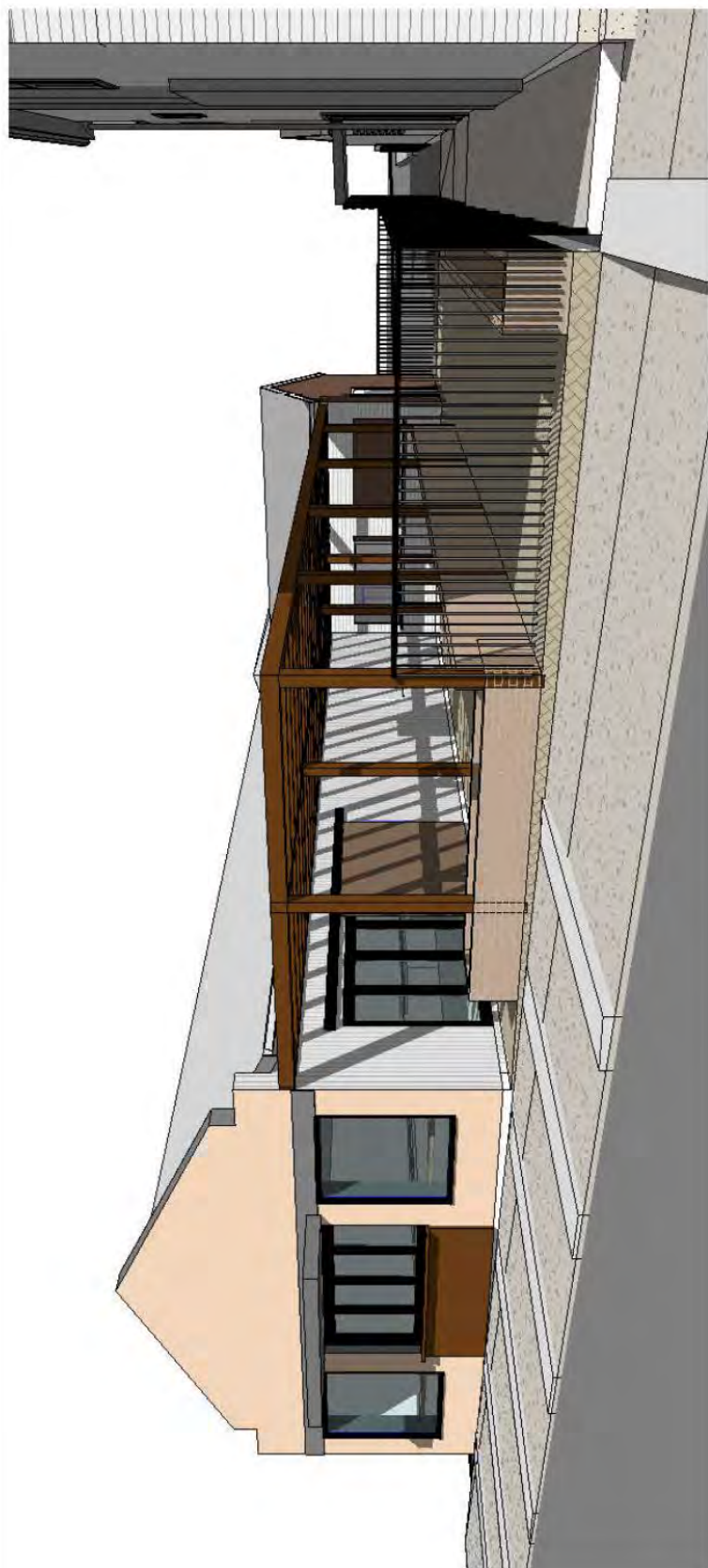
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DESCRIPTION: FOR APPROVALS

JOB NUMBER: 2016001
SHEET NUMBER: A400
ISSUE: 6



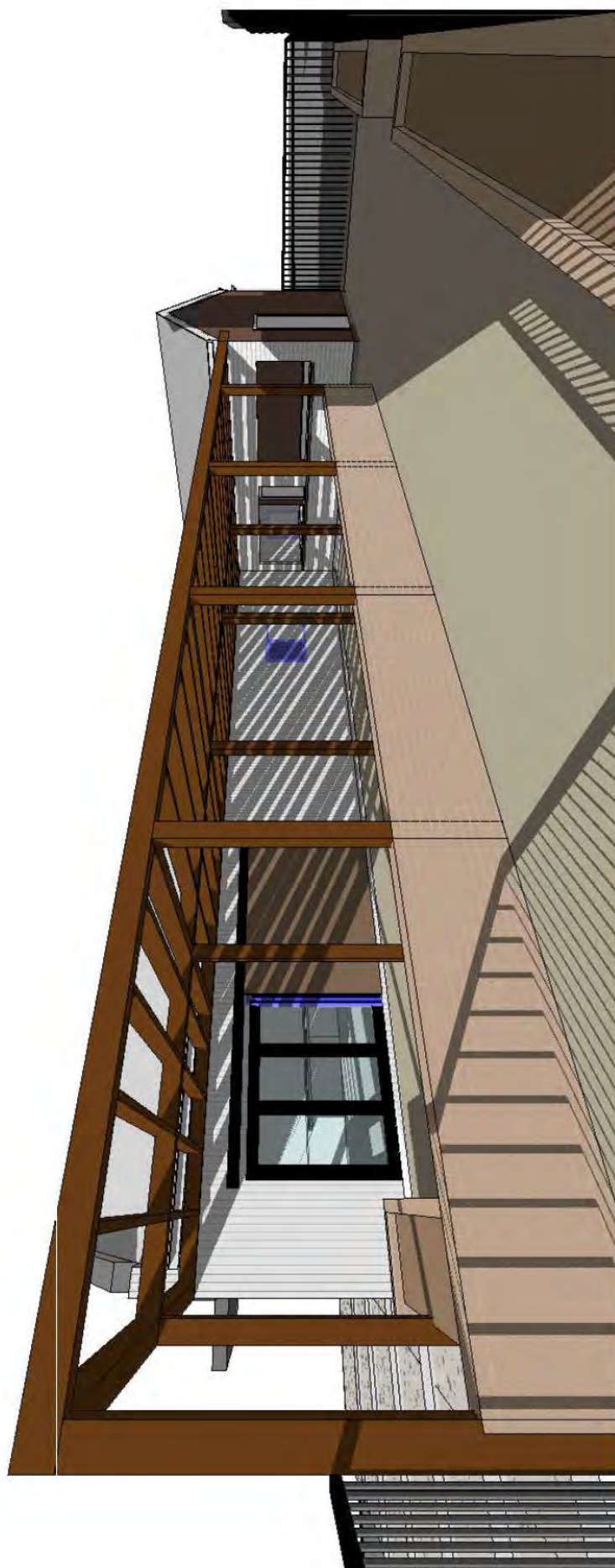




PROPOSED 3D VIEW 01

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PROPOSED 3D VIEW 02

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		3D VIEWS				2016001		A500			
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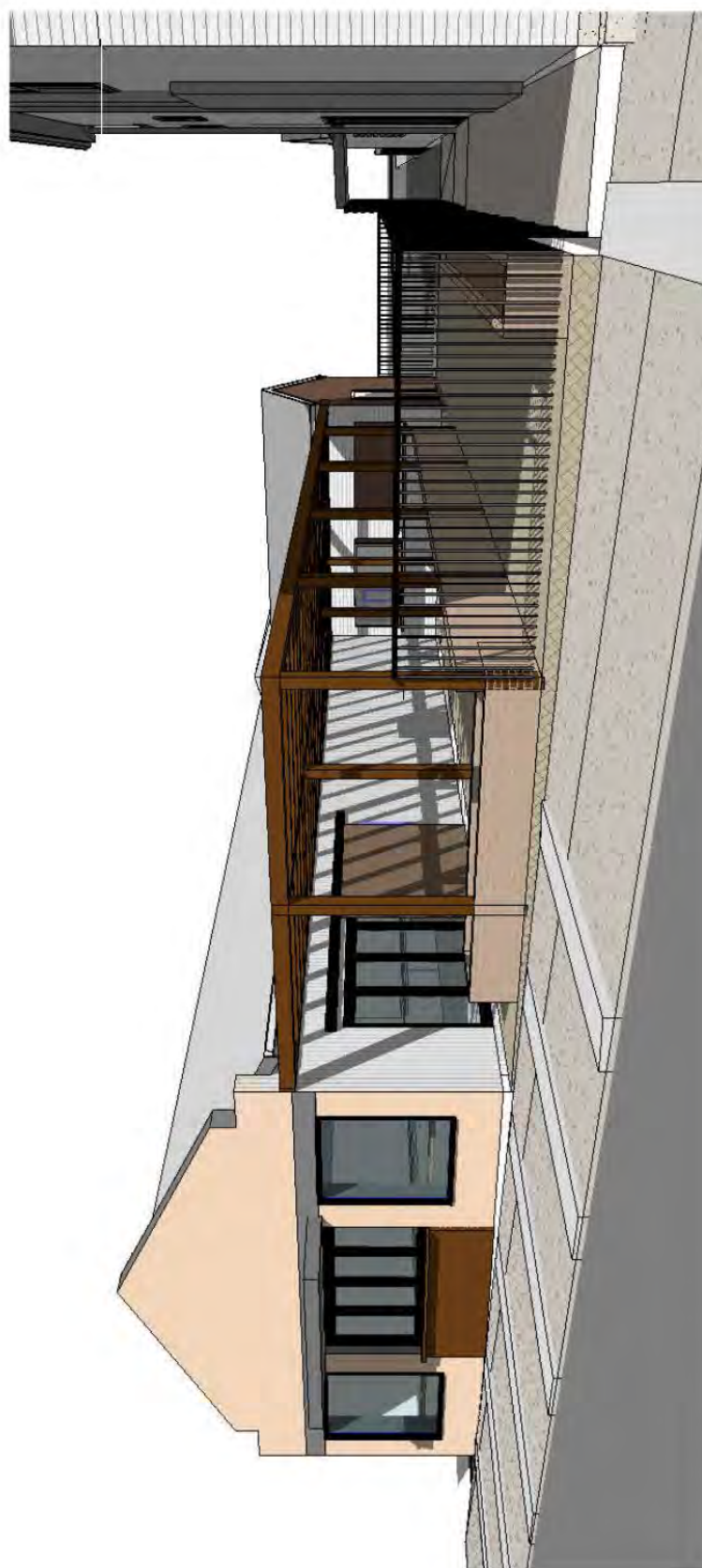
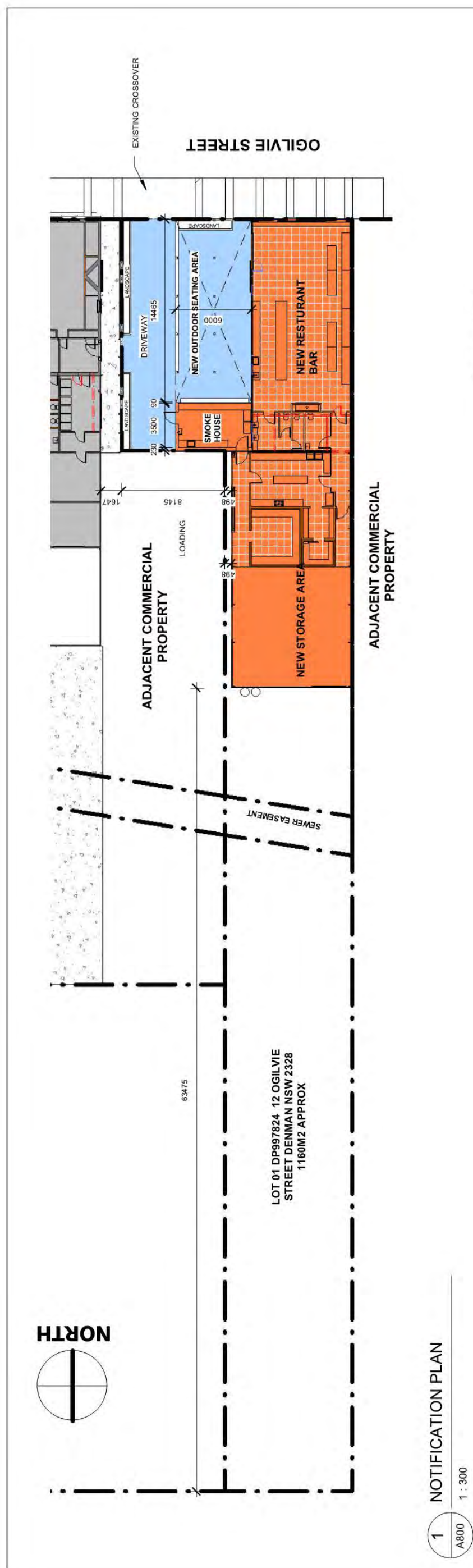
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2 PROPOSED 3D VIEW

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6	FOR APPROVALS		11.01.2022	MARK ZIZZA						
				DESIGNER:	SHEET TITLE: NOTIFICATION PLAN					
				HUGH WALKER - HWD						
				DRAWN: HW	SCALE: 1 : 300	DATE DRAWN: MAY 16	CHECKED: HWD	JOB NUMBER: 2016001	SHEET NUMBER: A800	ISSUE: 6

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STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED NEW RESTURANT/BAR/CAFE

12 OGILIVIE STREET DENMAN NSE

APPLICANT: HUGH WALKER FOR MARK ZIZZA

PREPARED BY: BDD BUILDING DESIGNERS

JULY 2021



INTERIOR VIEW

CONTENTS

INTRODUCTION

SUBJECT SITE AND LAND

DESCRIPTION OF PROPOSAL

SECTION 79C MATTERS FOR CONSIDERATION

- Section 79c(1)(a)(i) – Environmental planning instructions
- Section 79c(1)(a)(ii) – Any draft environmental planning instrument
- Section 79c(1)(a)(iii) – Any development control plan
- Section 79c(1)(a)(iiia) – Planning agreements
- Section 79c(1)(a)(iv) – Regulations
- Section 79c(1)(b) – Likely impacts
 - Section 79c(1)(c) – Suitability of the site for development
 - Section 79c(1)(d) – Any submissions
 - Section 79c(1)(e) – The public interest

CONCLUSION

INTRODUCTION

This statement of environmental effects accompanies a development application for a change of use of an existing commercial building and the addition of a new restaurant/café/bar at 12 Ogilvie Street Denman NSW

It is intended to elaborate, where necessary, on aspects covered in the drawings as well as to provide additional information where required. The information following is provided to detail the merit of the above development in relation to the objective performance criteria and provisions set out in the Muswellbrook Council Development Control Plan. Relevant state environmental planning policies and the local environmental plan. It also provides an assessment of the likely environmental impacts in accordance with section 79C of the Environmental Planning and Assessment Act 1979.

SUBJECT SITE AND LAND

The subject site is located at **12 Ogilvie Street Denman NSW 2328** The locality of the site is depicted in **Figure 01 & 02**.



Figure 1 - Site Location – Ogilvie Street Denman



Figure 2: Close up view 12 Ogilvie Street Denman NSW

The existing building is located at 12 Ogilvie Street Denman

The existing premises is a vacant commercial space previously used as an automotive workshop and then retail space and now is vacant

The shop has access to existing sewer, water, and electricity and telephone services

The commercial property consists of a brick façade addressing Ogilvie Street which represents a traditional form and style typical of the area. Behind the brick façade is a series of simple timber and steel framed sheds and spaces. The rear structures are lightweight clad in Fc sheet and metal cladding.

There is an existing open area between the 12 Ogilvie Street and the adjacent Royal Hotel. This provides an opportunity for a large outdoor space or piazza.

The existing building and structure is simple and open to easy modification and enhancement.



Figure 3: Street view of 12 Ogilvie Street. The façade presents a simple rural industrial appearance. There is a large open space between 12 Ogilvie and 20 Ogilvie Streets. This provides an excellent outdoor area opportunity addressing Ogilvie Street with great natural light and access.



Figure 4: Existing view of structures onsite. They are simple rural industrial buildings. They are lightweight clad and present a very simple /practical appearance. This photo also highlights the great amount of open space that would create an excellent north facing courtyard/piazza with access directly off Ogilvie Street.

DESCRIPTION OF PROPOSAL

The following items listed below will form the basis of the development application for 12 Ogilvie Street Denman NSW

1. **Change of use to allow restaurant/bar/café**
2. **Refit existing building structure to accommodate new kitchen/bar/toilets/storage/seating areas**
3. **New outdoor seating areas**
4. **New café structure**
5. **Minor façade changes to allow new windows and doors**
6. **Loading area and driveway**
7. **Site fencing**

It is proposed to upgrade the existing building and structure to accommodate a new rustic bar/restaurant /café that is in keeping with the existing built character of the site and pays homage to the past history of the site.

The development will consist of an appealing outdoor seating area with hardwood pergola accompanied with landscape elements/lighting. This will engage the streetscape during the day and night. A café structure element will also provide further interest to the outdoor area and Ogilvie Street frontage.

New bifold doors will open the existing building up onto the courtyard and create a seamless transition between spaces.

The existing street façade will remain and present a rustic brick façade. The roller door will be replaced, and a new bifold window element added to create interaction with the streetscape. The façade will maintain its existing integrity without minimal disruption or change.

Elements of the existing building will be updated to include

1. New kitchen
2. New cool rooms / storage / bottle and keg store
3. Toilet facilities
4. Storage areas

The proposed development will create an appealing / lively and interactive space that will further enhance the Ogilvie Street tourist precinct and further enhance Denman's appeal to tourists stopping by on their travels. The upgrade of the existing site will further enhance the overall built form and quality of the streetscape.

The proposed new restaurant will operate from 10am-12am to cater primarily for lunch and dinners 7 days a week.

The restaurant will operate with 2-4 staff depending on time of day.

It is proposed to apply for all relevant liquor licenses with NSW Liquor/Gaming, Muswellbrook Council and NSW police once Development application has been resolved and approved. An additional application will be lodged at this point for the relevant license approvals. A small bar license will be required allowing for a maximum of 120 persons in the designated licensed area. Site fencing will secure and enclose the licensed areas. Additionally, a max 32 camera system will be installed to offer surveillance throughout the building and street surrounds.

There is an existing crossover from Ogilvie Street and it is proposed to allow delivery vehicles to access via secure gates to the rear proposed loading areas. Turning area has been provided so they can leave in a forward manner.



Artistic impression showing courtyard area off Ogilvie Street. It provides an interesting, natural and appealing area that is consistent with the heritage/rural themes in the context.



The new outdoor areas provide a great area for groups of people to enjoy the outdoor area and sunshine. It provides a dynamic space that is visible from Ogilvie Street and will engage with the wider context.

The addition of the new café structure element will create further interest to the space and the streetscape. It is about creating an interesting and inviting space that encourages people to enter, stay and feel comfortable in their surroundings.



The existing interior area will require little change, just some fixtures and fittings added to create new bar and seating areas. The fireplace will add warmth and interest to the space.

The space interacts well with the new courtyard and the Ogilvie Street Frontage. The building maintains its existing character and history but is enhanced slightly to accommodate the new use.

SECTION 79C MATTERS FOR CONSIDERATION

The proposal has been assessed having regard to the relevant matters for consideration under Section 79c of the Environmental Planning and Assessment Act 1979. The Matters are assessed under the following sections.

SECTION 79C(1)(a)(i) – ENVIRONMENTAL PLANNING INSTRUMENTS**Muswellbrook Council Local Environmental Plan 2011**

The Muswellbrook Local Environmental Plan 2011 (LEP 2011) applies to the subject site.

The site is Zoned Village and the proposal is permissible with Council's consent.

The development is considered a heritage building and located in a heritage conservation area.

There are no clauses of the LEP that are particularly relevant in the assessment of the proposal but the proposal is consistent with its aims and objectives.

State Environmental Planning Policy 60 (SEPP 60) – Exempt and Complying Development**SECTION 79C (1) (a) (ii) – ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT**

There are no draft environmental planning instruments relating to the proposal

SECTION 79C(1)(a)(iii) – ANY DEVELOPMENT CONTROL PLAN**Muswellbrook Council Development Control Plan 2009**

–

Provisions	Assessment	Compliance
SECTION 03 – SITE ANALYSIS	<p>A site analysis drawing has been included with this application. This identifies the parameters and pros and cons of the site. This information has been used to best design and position the new additions.</p> <p>The proposed site is well positioned on Ogilvie Street to accommodate the proposed the design and works.</p> <p>The site is in a prominent tourist area and will enhance the overall tourist appeal of Denman</p> <p>The site has access to existing services and utilities</p> <p>The site has existing access to street carparking and access to the wider council carparking located off Ogilvie Street.</p> <p>There is an existing large crossover to the site.</p> <p>The site has previously been used for a variety of commercial activities.</p> <p>The site and existing structure require minimal modification to create the proposed new development.</p> <p>The proposed development will add further interest and appeal to the wider streetscape area.</p>	YES
SECTION 09 – LOCAL CENTRE DESIGN	<p>No significant changes to the existing built form</p> <p>No significant changes to existing setbacks or heights</p> <p>No significant change to existing character of streetscape</p> <p>No landscaping proposed</p> <p>Simple enhancements to the façade to create a better quality façade to entice customers</p> <p>The new café element and pergola area will enhance the overall site design by creating an open infill area that will enhance the Ogilvie Street built form.</p> <p>Simple outdoor eating/table area proposed and to work in conjunction with main street redevelopment.</p>	YES
SECTION 15 – HERITAGE CONSERVATION	<p>Only minor changes to the existing shop frontage addressing Ogilvie Street which includes</p> <ol style="list-style-type: none"> 1. Remove Roller door and add new window 2. New bifold doors to side of building 3. New hardwood pergola 4. New brick café structure 	YES

	<p>5. Landscaping brick planters</p> <p>All these items are in keeping with the rustic rural character of the existing building and site. They are consistent with wider Ogilvie Street built form and character,</p> <p>The proposed alterations and additions further enhance the existing building and site but maintain the character and history of the site.</p> <p>Heritage conservation/impact is further discussed in detail within the attached heritage impact statement.</p>	
Section 16 – CARPARKING	<p>No significant change to existing floor area. 22m² added for café structure.</p> <p>Majority of visitors to the restaurant will utilise street Carparking and the large council carparking located off Ogilvie Street</p>	YES
Section 19 – PRIVATE USE OF FOOTPATHS	n/a all outdoor seating located off street behind the Ogilvie Street Building Line	N/A
Section 24 – WASTE MANAGENENT	<p>The proposed development will create minimal building waste as there are no major new building works.</p> <p>Any packaging from new equipment and furniture to be recycled where appropriate</p> <p>Ongoing waste production from the restaurant will utilise a designated and screen waste bin area. Private commercial bins will used and collected by private contractor when full</p>	
Section 25 – STORMWATER MANAGEMENT	The proposed new development does not propose any new roofs or downpipes and will utilise existing stormwater measure on site which discharge to the existing Ogilvie Street stormwater system	YES
SECTION 7 – VILLAGE AREAS	<p>The proposed new development does not negatively affect the existing Denman village character.</p> <p>The new development coupled with outdoor seating will serve to further enhance the streetscape and village by providing a quality new destination which will attract, locals and visitors alike.</p> <p>Providing some variation to restaurants and food variety will serve to better provide for tourists</p> <p>Simple updates to the façade while maintaining the original character of the site including hardwood pergola, cafe structure, courtyard, and bifold will assist in creating a more transparent and vibrant streetscape creating a more</p>	YES

	appealing place to stop and enjoy for residents and tourists, The proposed restaurant does not require any significant changes to function and does not dramatically affect the character of the existing building/	
SECTION 14 – OUTDOOR SIGNAGE	No new signage proposed	YES

SECTION 79C(1)(a)(iii) – PLANNING AGREEMENTS

There are no planning agreements.

SECTION 79C (1)(a)(iv) – REGULATIONS

There are no matters prescribed by the regulations for the proposal.

SECTION 79C(1)(b) – LIKELY IMPACTS

The proposed development will have no adverse impact.

SECTION 79C(1)(c) – SUITABILITY OF THE SITE FOR DEVELOPMENT

The proposed residential dwellings are entirely suitable for the site due to its location.

SECTION 79C(1)(d) – ANY SUBMISSIONS

To be considered by Council should notification be required.

SECTION 79C(1)(e) – THE PUBLIC INTEREST

For reasons set out in this statement, it is considered that there will be no public interest in the proposed, given the absence of any demonstrable adverse impacts.

CONCLUSION

The proposal satisfies the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 and the provisions set out in the Muswellbrook Council Development Control Plans Design Criteria.

In summary the proposed new restaurant/bar/café and associated outdoor areas are a simple and elegant upgrade to an existing vacant and underutilised commercial space.

The proposed new bar/restaurant has no negative effects on the streetscape, heritage and village character of the area.

The proposed new development will serve to further enhance the streetscape and also provide further options for tourists and residents alike in terms of food and entertainment. The restaurant will bring further interest and vibrancy to the streetscape and will also work with the proposed Ogilvie Street upgrades.

10.3 MONTHLY REPORT TO COUNCIL - PLANNING, ENVIRONMENT AND REGULATORY SERVICES

Attachments:	Nil
Responsible Officer:	Sharon Pope - Executive Manager - Environment and Planning
Author:	Tracy Ward - Sustainability Officer Michael Brady - Sustainability Officer Kelly Lynch - Administration 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 provide an update on activities in the Planning, Environmental and Regulatory Services section.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ Seconded: _____

REPORT

PLANNING AND ENVIRONMENT

Schedule 1: Development Applications Approved (22 February to 22 March 2022)

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/9	Ancillary Development - Shed Extension	91 Woodland Ridge Road MUSCLE CREEK	\$ 17,951
2022/8	Ancillary Development - Shed	59 Stockyard Pde MUSWELLBROOK	\$28,119
2022/7	Ancillary Development - Shed	10 Ted Clay Street MUSWELLBROOK	\$33,000
2022/2.	Ancillary Development - Shed	11 Sepoy Crescent MUSWELLBROOK	\$10,000
2022/1	Single Storey Dwelling	1490 Denman Road DENMAN	\$735,110
2021/164	Single Storey Dwelling	3 Shearer's Close MUSWELLBROOK	\$340,000
2021/160	Dwelling	24 Pendula Way DENMAN	\$387,065
2021/157	Dwelling	420 Giants Creek Rd SANDY HOLLOW	\$445,170

2021/155	Ancillary Development - 2 x Carports	57 Queen Street MUSWELLBROOK	\$20,000
2021/147	Ancillary Development - Shed	18A Grey Gum Road DENMAN	\$46,595
2021/140	Ancillary Development - Carport	152 Queen Street MUSWELLBROOK	\$9,999
2021/117	Ancillary Development - Shed	121 Ironbark Road MUSWELLBROOK	\$50,000
2021/89	Ancillary Development - Retaining walls and Driveway	14 Calgaroo Avenue MUSWELLBROOK	\$20,000
2020/96/2	S4.55 (1a) Modification - Recreation Facility (Outdoor) - Formula Kart	Hebden Road HEBDEN	-
2020/105	Ancillary Development - Shed with Attached Awning	15 Edinglassie Drive MUSWELLBROOK	\$40,000
2017/60	Change of Use - Building Materials Recycling Depot	7 Glen Munro Road MUSWELLBROOK	-

Schedule 2: Development Applications Currently Being Assessed

DA No.	DESCRIPTION	PROPERTY	RECEIVED	VALUE (\$)
2022/26	Covered Walkway access from Carpark/ Bus Stop Area to Classroom	109-111 Hill Street MUSWELLBROOK	21/03/2022	\$75,012
2022/25	Inground Pool and Associated Barrier	4 Yammanie Way MUSWELLBROOK	15/03/2022	\$32,350
2022/24	Single Storey Dwelling	40 Finnegan Crescent MUSWELLBROOK	15/03/2022	\$360,000
2022/23	Ancillary Development - Shed and Retaining Wall	8 Malbec Street MUSWELLBROOK	14/03/2022	\$34,689
2022/22	Ancillary Development - Shed	96 Palace Street DENMAN	02/03/2022	\$30,000
2022/21	Single Storey Dwelling	25 Northerly Close MUSWELLBROOK	28/02/2022	\$396,515
2022/20	Single Storey Dwelling	110 Ironbark Road MUSWELLBROOK	24/02/2022	\$494,890
2022/19	Boundary Adjustment of Two (2) Allotments	11-13 Paxton Street DENMAN	23/02/2022	\$10,000
2022/18	Single Storey Dwelling	71 Babbler Crescent MUSCLE CREEK	22/02/2022	\$450,000
2019/41 /2	S4.55 (1A) Modification - to approved lot layout.	Castlerock Road MUSWELLBROOK	21/02/2022	0
2022/17	Single Storey Dwelling	2 Shaw Crescent MUSWELLBROOK	18/02/2022	\$400,000
2022/16	Ancillary Development - Shed	23 Finnegan Crescent MUSWELLBROOK	18/02/2022	\$19,500
2022/15	Ancillary Development - Shed	87 Queen Street MUSWELLBROOK	14/02/2022	\$19,818
2022/14	Alterations and additions to industrial Shed	29 Wallarah Road MUSWELLBROOK	10/02/2022	\$27,082
2022/13	Manufactured Dwelling	59 Dolahentys Branch Road MCCULLYS GAP	09/02/2022	\$310,381

2022/12	Ancillary Development - Shed	7 Bronte Crescent MUSWELLBROOK	09/02/2022	\$18,154
2022/11	Ancillary Development - Shed	10 St Heliers Street MUSWELLBROOK	07/02/2022	\$23,679
2022/10	Ancillary Development - Shed with Bathroom and 2 Water Tanks	8 Yammanie Way MUSWELLBROOK	04/02/2022	\$65,000
2022/6	Ancillary Development - Shed	5A St Heliers Street MUSWELLBROOK	20/01/2022	\$36,687
2022/5	Storage Facility & Signage	Victoria Street MUSWELLBROOK NSW	17/01/2022	\$1,304,330
2021/33/2	S4.55 (2) Modification of Development Consent for Continued Operation of Wind Monitoring Mast Development	Sandy Creek Road MCCULLYS GAP	14/01/2022	0
2022/4	Ancillary Development - Garage	36-38 Finnegan Crescent MUSWELLBROOK	13/01/2022	\$19,500
2021/165	Ancillary Development - Shed	45 Queen Street MUSWELLBROOK	22/12/2021	\$47,800
2021/162	Ancillary Development - Carport	2 Hyde Street DENMAN	21/12/2021	\$10,000
2021/158	Change of Use to Health Services Facility	79 Brook Street MUSWELLBROOK	09/12/2021	\$24,750
2021/156	Boundary Adjustment to Three 3 existing lots	10 Ogilvie Street DENMAN	07/12/2021	\$10,000
2021/152	Artisan Food and Drink Industry (Change of Use)	Thomas Mitchell Drive MUSWELLBROOK	01/12/2021	\$15,000
2021/150	Ancillary Development - Patio Awning	22 Pendula Way DENMAN	01/12/2021	\$30,300
2021/148	Ancillary Development - Shed	24 Henry Dangar Drive MUSWELLBROOK	30/11/2021	\$36,000
2021/146	Colourbond Steel Sheds and Transportable Lunchroom	24 Glen Munro Road MUSWELLBROOK	25/11/2021	\$117,381
2021/145	Ancillary Development - Skillion Roof over Existing Deck	40 Lorne Street MUSWELLBROOK	22/11/2021	\$13,000
2021/144	Ancillary Development - Carport	9 Barrington Street MUSWELLBROOK	17/11/2021	\$6,300
2021/141	Two Storey Dwelling	Honeyeater Close DENMAN NSW 2328	16/11/2021	\$250,000
2021/139	Educational establishment	57 Maitland Street MUSWELLBROOK	11/11/2021	\$4,489,151
2021/138	Ancillary Development - Shed	24 Paxton Street DENMAN NSW 2328	11/11/2021	\$45,579
2021/137	Change Of Use to Educational Facility	820 Rosemount Road DENMAN	09/11/2021	0
2021/135	Multi-dwelling housing Ancillary Works and Strata Subdivision	66 Sowerby Street MUSWELLBROOK	05/11/2021	\$498,000
2021/129	Animal Boarding & Training Facility	1949 Martindale Road MARTINDALE	18/10/2021	\$33,338,800
2021/125	Self Storage Facility	Turner Street DENMAN	07/10/2021	\$3,555,527

2021/11 9	Three (3) Lot Subdivision	1607 Merriwa Road SANDY HOLLOW	27/09/2021	0
2021/11 8	Patio Awning	11 Grant Miller Street MUSWELLBROOK	27/09/2021	\$19,900
2021/11 6	Single Storey Dwelling	29 Aberdeen Street MUSWELLBROOK	24/09/2021	\$311,125
2021/11 4	Alterations to industrial use - Landscape material supply and storage	22 Common Road MUSWELLBROOK	21/09/2021	\$20,000
2021/11 1	Ancillary Development - Shed	59 Sowerby Street MUSWELLBROOK	14/09/2021	\$21,000
005.202 1.00000 099.001	Alterations and Additions to Muswellbrook Indoor Sports/Youth Centre	Rutherford Road MUSWELLBROOK	27/08/2021	\$1,263,665
2021/97	Subdivision of One (1) Lot into Two (2) Lots	128-130 Palace Street DENMAN	23/08/2021	\$10,000
2021/87	Alterations and additions to commercial + Change of Use	12 Ogilvie Street DENMAN	11/08/2021	\$431,200
2021/73	Temporary use of the land for receival and dismantling of rail wagons with off-site disposal	18 Strathmore Road MUSWELLBROOK	09/07/2021	\$50,000
2021/70	Dwelling alterations - Converting existing garage into a bedroom and ensuite	27 Cousins Street MUSWELLBROOK	06/07/2021	\$36,300
2021/61	Alterations and additions to Commercial Premises	4 Lorne Street MUSWELLBROOK NSW	15/06/2021	\$75,000
2021/58	Organics Recycling Facility	252 Coal Road MUSWELLBROOK	02/06/2021	\$3,850,000
2021/55	Waste Transfer Station	32-36 Glen Munro Road MUSWELLBROOK	27/05/2021	\$7,985,117
2021/45	Rural Fire Service Shed	20 Dorset Road KAYUGA	05/05/2021	\$800,000
2021/35	Temporary Installation of Portable Building for Community Centre Office and Construction of new Community Centre	5 Jersey Place MUSWELLBROOK	23/04/2021	\$850,000
2021/32	Staged Development - Demolition, 23 Room Boarding House and Subdivision of One (1) lot in Two (2) Lots.	41 Maitland Street MUSWELLBROOK	15/04/2021	\$645,000
2002/34 2/6	S4.55(2) Modification - Addition of 30,000tpa of commercial and demolition waste sorting and processing to be used as a substitute for quarry product.	8440 New England Highway MUSWELLBROOK	13/04/2021	0
2021/10	Entertainment Facility (Muswellbrook Regional Entertainment and Conference Centre)	30 Brook Street MUSWELLBROOK	02/02/2021	\$26,998,40 0
2020/10 2	Hotel Accommodation (Royal Hotel)	10 Ogilvie Street DENMAN	04/09/2020	\$20,000

2020/83	Subdivision of one lot (1) into three (3)	60-62 Palace Street DENMAN	03/08/2020	\$10,000
2020/7	Additions and Alterations to existing Hotel	184 Bridge Street MUSWELLBROOK	24/01/2020	\$110,000
005.201 9.00000 053.001	Subdivision of Two (2) Lots into Seventy Five (75) Lots	9027 New England Highway MUSWELLBROOK	27/06/2019	\$4,875,600

20.1.12 Inspect onsite wastewater sewerage systems to ensure they are installed and maintained in compliance with regulatory requirements.

On-site Wastewater Statistics - 13 Month Analysis (2021/2022)

	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Applications Received (new installation)	1	2	1	0	Unable to inspect due to COVID restrictions			0	0	0	0	0
Applications Approved (new installation)	0	1	1	0				0	0	0	0	0
Inspections (new system)	1	1	0	1				0	0	0	3	0
Inspections (existing system)	3	14	6	34				34	0	0	14	3

24.1.5 Registration and inspection of regulated premises (caravan parks, food outlets, skin penetration premises, hairdressers, mortuaries, air handling systems) in accordance with regulatory requirements to ensure public health and safety is protected.

	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Applications Received (new businesses)	1	0	0	0	Unable to inspect due to COVID restrictions			0	0	0	0	1
Inspections (new businesses)	0	1	0	3				0	0	0	1	1
Inspections (existing businesses)	4	9	5	38				0	0	0	11	16
Reinspections	0	0	0	0				0	0	0	0	1

Building Site Compliance Inspection Statistics – 13 Month Analysis (2021/2022)

Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb
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Total Sites Inspected											6	7
Total non-compliant and educated											1	0
Total compliance after education											1	0
Total Penalty Notices Issued											0	0

14.1.11 Continue surveillance and regulation of illegal dumping on an ongoing basis through participation in the Hunter Central Coast Regional Illegal Dumping Squad

Illegal Dumping Statistics – 13 Month Analysis (2021/2022)

	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Total Investigations											1	2
Total Clean up by Council - insufficient evidence											1	2
Total Clean Up by individual											0	0
Total Penalty Notices Issued											0	0
Court Attendance Notice Issued											0	0
Still under investigation											0	0

24.1.8 Ensure statutory requirements under the Private Swimming Pools Program (Swimming Pool Act 1992) are implemented.

Swimming Pool Compliance Statistics – 13 Month Analysis (2021/2022)

	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Applications for Compliance Certs.	6	3	4	4	4	4	8	11	5	8	5	6	1

Total compliance inspections (not inc. Final Insp. for Occ. Certs)	24	26	14	8	5	12	12	9	26	9	6	14	0
Initial Inspections	21	19	8	8	2	9	8	7	21	7	5	9	0
Re-inspections	3	7	6	0	3	3	4	2	5	2	1	5	0

Compliance Certs / Occ. Certs issued	10	12	14	5	3	9	9	2	6	4	6	9	0
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Total Pools in Council's SPR = 958

Compliance as at 30 June 2018 = 65.7%

Compliance as at 30 June 2019 = 43.0%

Compliance as at 30 June 2020 = 26.7%

Compliance as at 30 June 2021 = 20.8%

Compliance as at 22 February 2022 = 23%

Compliance as at 22 March 2022 = 24%

Current Compliance = 24% (i.e. 228 out of 958 pools have a valid Compliance Certificate or Occupation Certificate. Note: Certificate is valid for 3 years)

Percentage of pools inspected Financial Year 2021/2022 = 13%

(i.e. 124 out of 958 pools have had at least one inspection carried out during June 2021 – February 2022)

SUSTAINABILITY

Bird Watching

Liz from Hunter Bird Observers Club conducted a bird watching walk/talk, sharing her expert knowledge. We counted 40 species over 1.5 hours. We hope to do similar events in the future.

This project is proudly supported by the NSW Government through its Environmental Trust.

Native Plant Propagation Workshop

A native plant and seed propagation workshop was held with Martindale Creek Catchment Landcare. Thanks to Pauline from Landcare for sharing her knowledge.

This project is proudly supported by the NSW Government through its Environmental Trust.

Home school Visit to Hub

As COVID restrictions ease the Sustainability Unit has recommenced education activities. The aim is to educate students and their families about diverting waste to landfill.

A group of Home School students visited the Sustainability Hub. They learnt about worms, composting, native plants and helped by sowing some seeds and making sure the worms weren't too hot.

Reuse Shop

The Sustainability Unit continues to promote the Reuse Shop to the community. This involves posting photos each week on Facebook.

Muswellbrook Connect

The Sustainability unit continues to support the seed library at the Sustainability Hub. With the support of the library, Penguin Community Garden and Warrior Disability Services, We use this work to help encourage residents to grow food, to compost and use worm farms and thus reduce food waste.

The Sustainability Hub also has free seeds, fridge magnets and flyers for residents to collect while exercising. Weekly themed Muswellbrook Connect Facebook posts encourage residents to live sustainably.

Sustainable Futures – Muswellbrook

The Sustainable Futures – Muswellbrook Facebook page continues to grow. It has now received 1,411 page likes and 1,507 page followers. This page continues to be a great way for Council to engage with the community around a range of sustainability topics. This includes promoting the Community Recycling Centres, correct waste management practices, sewerage management, the Reuse Shop, soft plastic recycling, Sustainability Hub activities, reducing food waste, plastic free July, worm farms, composting, grant projects and more.

Air Quality Monitoring

The weekly air quality filter changes continue. A report from ANSTO for monitoring performed in 2021 was recently circulated to senior staff.

Air Quality Sensing Project

Sustainability staff have been involved in air quality workshops with University of Technology Sydney. Researchers are investigating deploying low-cost, real-time sensors in various locations across the whole of New South Wales, including in and around Muswellbrook.

Flying Fox Monitoring and Projects

Sustainability staff were accompanied on to ARTC land recently to perform a count of Grey Headed Flying Foxes. There are approximately 2200 Grey Headed Flying Foxes residing on ARTC land, just up from the Riverside Caravan Park. Sustainability staff are currently working on grant applications to Local Government NSW for rehabilitation of both habitat and foraging trees. This involves negotiating land access with ARTC and local mining companies.

Power Purchase agreement

Sustainability staff have been working with finance and other Councils in the Hunter to secure a ten-year power purchase agreement from Mojo Energy. This will give Council long term security with electricity prices and support the development of local large-scale renewable energy projects.

10.4 LOCAL INFRASTRUCTURE CONTRIBUTION PLAN REVIEW

Attachments:	A. Muswellbrook s94 Contributions Plan 2001
Responsible Officer:	David Walsh - Manager - Corporate Services & Chief Financial Officer
Author:	Sharon Pope - Executive Manager - Environment and Planning
Community Plan Issue:	<i>Continue to improve the affordability, livability and amenity of the Shire's communities</i>
Community Plan Goal:	<i>Facilitate the provision of affordable housing opportunities through development application process as encouraged through the Affordable Rental Housing SEPP 2009.</i>
Community Plan Strategy:	<i>Facilitate the provision of affordable housing opportunities through development application process as encouraged through the Affordable Rental Housing SEPP 2009.</i>

PURPOSE

To request Council's consideration of commencing preparation of a new Local Infrastructure Contributions Plan to replace the *Muswellbrook Section 94 Contributions Plan 2001*, and to agree in principle to fund an upgrade of the intersection of Bimbadeen Drive and the New England Highway in order to facilitate further residential subdivision development.

OFFICER'S RECOMMENDATION

Council:

- 1. Resolves to prepare a new Local Infrastructure Contribution Plan (s. 7.11) to replace the *Muswellbrook Section 94 Contributions Plan 2001*;**
- 2. Agrees in principle to funding the construction of an upgraded intersection for Bimbadeen Drive and New England Highway, Muswellbrook, to satisfy Transport for NSW requirements; and**
- 3. Supports the cost of the Bimbadeen intersection upgrade being recouped from new development via the new Local Infrastructure Contribution Plan.**

Moved: _____ **Seconded:** _____

BACKGROUND

Local infrastructure contributions assist councils to deliver public and open space, footpaths, cycleways, roads, social and community infrastructure and stormwater management devices. Infrastructure contributions are made by developers when they increase demand as communities grow. Contributions can be made in the form of money, land dedicated free of cost, as works-in-kind or as a combination of these.

There are two forms of local infrastructure contributions under the NSW *Environmental Planning & Assessment Act*, 1979:

- 1. Section 7.11 contributions:** Charged where there is a demonstrated link between the development and the infrastructure to be funded. Councils prepare contributions plans which specify what infrastructure will be provided and approximately how much it will cost. This is used to calculate a contribution rate, usually charged per lot, dwelling or per square metre. Council is currently limited to charging a contributions rate of \$20,000.00. Section 7.11 was previously known as section 94; and
- 2. Section 7.12 levies:** Is an alternative to s7.11 contributions and is charged as a percentage of the estimated cost of the development. The maximum percentage that can be charged in most areas is 1%. Section 7.12 was previously known as section 94A.

The Department of Planning, Industry and Environment (DPIE) sets the policy framework under which councils collect and administer contributions. This includes legislation, directions made by the Minister for Planning and Public Spaces and practice notes.

If Council is satisfied that development will or is likely to increase the demand for public amenities and public services within the area, Council may grant development consent subject to a condition requiring:

- (a) the dedication of land free of cost, or
 - (b) the payment of a monetary contribution,
- or both.

If Council has provided public amenities or public services within the area in preparation for, or to facilitate the carrying out of, development in the area, and the development will benefit from the provision of those public amenities or public services, Council may grant the development consent subject to a condition requiring the payment of a monetary contribution towards recoupment of the cost of providing the public amenities or public services (being the cost as indexed in accordance with the regulations).

To impose these conditions Council must have an adopted Local Infrastructure Contributions Plan that nominates these public amenities or public services in a schedule of works.

CONSULTATION

Internal consultation with staff in Community Infrastructure, Finance and Planning confirms that a new Local Infrastructure Contribution Plan is required.

The process for preparing a new Plan will involve consultation with the public. Staff would specifically consult with landowners in the Eastbrook Links and Ironbark Ridge localities, local planning consultants, engineers and surveyors.

Staff would report the draft Plan back to Council for a resolution to exhibit, providing Council with an opportunity to review the draft plan and outcomes of negotiations with Transport for NSW regarding the proposal to upgrade the intersection of Bimbadeen Drive and New England Highway, Muswellbrook.

REPORT

While all of the contribution plans applying in Muswellbrook Shire need to be reviewed over the next few years, this report is focused on *Muswellbrook Section 94 Contributions Plan 2001*, which applies to new subdivision and residential development in the town of Muswellbrook. A copy is provided in Attachment A.

The *Muswellbrook Section 94 Contributions Plan 2001* needs to be reviewed and replaced, as:

- a) Guidelines published by DPIE require Contributions plans to be reviewed regularly, preferably every 10 years. The current Plan hasn't been reviewed in 20 years; and
- b) The Schedule of Works in the Plan is out of date, with many works now completed, and new works that Council proposes to complete over the next 5 years missing.

Importantly, feedback from landowners/developers is that development of further subdivisions in the Eastbrook Links and Ironbark Ridge areas is being delayed by the need for an upgrade of the Bimbadeen Drive and New England Highway intersection. Transport for NSW (TfNSW) has advised that they will not agree to any additional lots being released prior to the upgrade of the New England Highway and Bimbadeen Drive intersection to a signalised intersection. Now that definite timeframes have been published for the construction of the Muswellbrook Bypass, Council staff would like to discuss a roundabout as an alternative. Both intersection upgrade options are likely to cost a similar amount as a roundabout would need a diameter sufficient to permit truck movements.

As the proposed works would benefit multiple landowners, and would be at significant cost (staff estimate \$1,750,000.00), developers are saying this requirement is leading them to put development plans on hold.

Staff estimate that between 700-1000 new residential lots/houses are being delayed. A way forward is for Council to borrow funds to construct the intersection upgrade and then seek to recoup these funds from developers as they subdivide land or construct medium density housing.

OPTIONS

Council may:

- a. Resolve to prepare a new Local Infrastructure Contribution Plan to replace the Muswellbrook Section 94 Contributions Plan 2001, agreeing in principle to funding the construction of an upgraded intersection for Bimbadeen Drive and New England Highway and recoup construction costs from new development. This is the preferred option, as land has already been zoned to allow residential development, and in several cases there are existing subdivision approvals, which means there would be relatively short lead times involved to enable subdivision of the land once this issue is resolved; or
- b. Resolve to amend *Muswellbrook Section 94 Contributions Plan 2001* to update the works schedule but not agree to funding the intersection upgrade for Bimbadeen Drive and New England Highway through this mechanism. This is not the preferred option as it may result in continued delay in the subdivision of land on the southern side of Muswellbrook; or
- c. Resolve to retain *Muswellbrook Section 94 Contributions Plan 2001* unchanged. This is not the preferred option given the age of this plan.

CONCLUSION

It is recommended that Council supports preparation of a new Local Infrastructure Contribution Plan to replace the *Muswellbrook Section 94 Contributions Plan 2001*, and to agree in principle to fund an upgrade to the intersection of Bimbadeen Drive and the New England Highway to enable further residential subdivision to occur.

SOCIAL IMPLICATIONS

No impacts at this time. If more residential subdivisions were to occur, it has the potential to assist housing affordability.

FINANCIAL IMPLICATIONS

Council cannot impose a condition requiring a Local Infrastructure Contribution without a Local Contributions Plan (only one plan is permitted to apply to a parcel of land) and that plan must identify the proposed works that the funds will pay for.

The contribution that Council can collect is currently limited to \$20,000 per lot. The Plan is required to show how Council has calculated the contribution rate, and in the interest of aiding the delivery of housing it is best that the rate be kept to a reasonable amount.

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

It is anticipated that the upgraded intersection of Bimbadeen Drive and New England Highway will cost a similar amount to the cost of the Thompson Street/Maitland Road intersection upgrade, which is approximately \$1,750,000. Council may recoup this cost, plus interest, through the Local Infrastructure Contribution Plan. It is expected that this will equate to a contribution of \$2000.00 for each new lot created as a result of the intersection upgrade. The payback period would be 10 to 20 years depending on the rate of development.

2. Financial Implications – Operational

A consultant will need to be engaged to prepare the Plan in a timely manner. The anticipated cost is \$60,000. This cost can be recouped through the implementation of the Plan.

POLICY IMPLICATIONS

No known policy implications.

STATUTORY IMPLICATIONS

Preparation and application of local infrastructure plans is regulated by the NSW Government under the *Environmental Planning and Assessment Act*. When Council adopts a new plan, private certifiers, Council staff, the Regional Planning Panel and DPIE will be required to implement the plan when approving relevant development applications.

LEGAL IMPLICATIONS

Environmental Planning and Assessment Act 1979 – Provides the legislative framework for infrastructure contributions. For more details see [Part 7 Division 7.1 on the NSW legislation website](#).

Environmental Planning and Assessment Regulation 2000 – Provides further requirements relating to the making, amending and revocation of contributions plans, giving public notice and other procedural arrangements. For more details See [Part 4 on the NSW legislation website](#).

OPERATIONAL PLAN IMPLICATIONS

Preparing a new Local Infrastructure Contribution Plan to replace *Muswellbrook Section 94 Contributions Plan 2001* meets Council's goals of being financially responsible and ensuring new development contributes to a more liveable town.

RISK MANAGEMENT IMPLICATIONS

An old local infrastructure plan places Council at risk of not securing funds to pay for new or upgraded facilities required to meet the needs of the community as population grows.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Preparation of a new Plan will require targeted consultation with industry experts and landowners. In the future, if Council resolves to exhibit a new draft Plan, a broader type of engagement with the community will be appropriate.

MUSWELLBROOK SHIRE COUNCIL
DEVELOPMENT CONTROL PLAN NO. 7

*MUSWELLBROOK SECTION 94
CONTRIBUTIONS PLAN 2001*

Adopted by Council on 8 August 2005
Minute No. 227

Mike Colreavy
GENERAL MANAGER

CEP Section Amended November 2006

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Appendices

- A Extract from South Muswellbrook Traffic Study**
- B Rural Road Maintenance Construction Methodology**
- C 3 Year Rolling Works Program**
- D Community Enhancement Program**

1. Summary Schedules

CONTRIBUTION RATES		
Development Type/ Location	Facility Type	Contribution Rate ¹
Rural Lot	Bushfire Protection	\$2,009.24 per additional lot
	Rural Roads	\$2,068.24 per additional lot
	Open Space and Community Facilities	\$859.35 per additional lot
Rural Dwellings including the following: <ul style="list-style-type: none"> • Rural dwelling where dwelling entitlement exists • Multiple Rural Dwellings • Additional Rural Dwellings 	Bushfire Protection	\$2,009.24 per dwelling
	Rural Roads	\$2,068.24 per dwelling
	Open Space and Community	\$859.35 per dwelling
Residential Lot <i>Muswellbrook</i>	Urban Roads and Drainage	\$724.60 per additional lot
	Open Space and Community Facilities	\$1344.35 per additional lot
Residential Dwelling including the following: <ul style="list-style-type: none"> • Additional Residential Dwelling • Multiple Residential Dwellings <i>Denman</i>	Urban Roads and Drainage	\$724.60 per additional dwelling
	Open Space and Community Facilities	\$1034.12 per additional dwelling
South Muswellbrook Commercial Development	Roads upgrading in South Muswellbrook	\$11.34 per m ²
Extractive Industry	Rural Roads Maintenance	Calculated on case basis - see

		Appendix B
Coal Mines	Rural Roads Maintenance Community Facilities	Calculated on case basis - see Appendix B Contributions to Community Enhancement Program based on total capital expenditure and annual outputs of development. See Appendix D.
Major Industry ²	Rural Roads Maintenance Community Facilities	Calculated on case basis - see Appendix B Contributions to Community Enhancement Program based on total capital expenditure and annual outputs of development. See Appendix D.
Tourist Development	Tourism Facilities	\$1.03 per \$100 of investment

1. Credit given for a dwelling if contribution paid at subdivision stage.
2. Major industries, including major rural industries, which will be subject to these contributions will be those industries which Council determines as major - having regard to level of capital expenditure proposed (generally, involving \$10m or greater); potential cumulative effect of other stages (when proposal is clearly part of staged development); traffic generating potential; output levels (annual and seasonal); or a combination of these characteristics.

WORKS SCHEDULE				
Facility Type	Facility Description	Total Cost	Council Contribution	Timing of Provision
Bushfire Protection	Brigade equipment and facilities upgrades	\$876,000	\$134,000	See Appendix C
Rural Roads	Upgrades and maintenance	\$365,000 (upgrade component)	\$265,000	Upgrade program - See Appendix C. Maintenance program dependent on location and scale of development.
Urban Roads and Drainage (Muswellbrook)	Trunk Drainage, Roads Upgrades, Footpaths and Cycleways	\$954,000	\$306,000	See Appendix C
Urban Roads and Drainage (Denman)	Trunk Drainage, Roads Upgrades, Footpaths and Cycleways	\$320,000	\$260,000	See Appendix C
South Muswellbrook	Roads	\$15.32m	100%	Related to rate of development of South Muswellbrook
Community Facilities	Buildings, parks and playgrounds, sporting facilities, cultural facilities	See Appendices C and D	See Appendices C and D	See Appendices C and D
Tourism Facilities	Visitor information centres, national parks amenities contribution, tourist laybys and signage	\$115,000	100%	See Appendix C

2. Administration

2.1 Name

This Contributions Plan, prepared in accordance with the provisions of sections 94 to 94E of the Environmental Planning and Assessment Act 1979 (EP&A Act) and Part 4 of the Environmental Planning and Assessment Regulations 2000 (Regulation), may be referred to as

Muswellbrook Section 94 Contributions Plan 2001

2.2 Purposes

The **primary** purpose of this plan is to satisfy the requirements of the EP&A Act and Regulation to enable Muswellbrook Council to require a contribution towards the provision, extension or augmentation of public amenities and public services that will, or are likely to be, required as a consequence of development in the local government area, or that have been provided in anticipation of or to facilitate such development.

Other purposes of this plan are to:

- ensure that an adequate level of public infrastructure is provided throughout Muswellbrook Shire as development occurs;
- enable Muswellbrook Council to recoup funds which it has spent in the provision of public facilities in anticipation of likely future development;
- ensure that the existing community is not burdened by the provision of public facilities required as a result of future development; and
- provide a comprehensive strategy for the assessment, collection, expenditure, accounting and review of development contributions on an equitable basis throughout Muswellbrook Shire.

2.3 Area Affected

This plan applies to all land within the Muswellbrook Shire.

2.4 Relationship to other Plans

Muswellbrook Section 94 Contributions Plan 2001 replaces Muswellbrook Council Development Control Plan No 7 (as amended) and supersedes all previous policies relating to development contributions in Muswellbrook Shire.

2.5 Operation

2.5.1 Plan Commencement Date

This Contribution Plan shall come into effect on 28 March, 2001 in accordance with Clause 31(4) of the Environmental Planning and Assessment Regulation 2000.

2.5.2 Development Consent

In determining a development application, Council may impose a condition requiring the payment of a monetary contribution and/or the dedication of land in accordance with the provisions of this plan.

2.5.3 Complying Development

When an application is made to an accredited certifier for a complying development certificate, the certifier must impose a condition if applicable to a type of development specified in this Plan.

2.5.4 Timing of Payment

A contribution is to paid :

- *in the case of a consent to development being subdivision* - before the surveyor's plan is endorsed and released by Council for registration purposes;
- *in the case of a consent to development not involving subdivision but where a subsequent Construction Certificate is required* - before the construction certificate is released to the applicant;
- *in the case of a consent to any other development* - before the development is commenced or occupied; or
- *at the sole discretion of Council*, in accordance with section 2.5.5 below.

2.5.5 Deferred or Periodic Payment

Council may accept the deferred or periodic payment of a contribution if the applicant or any other person entitled to act upon the relevant consent satisfies Council that:

- compliance with the provisions relating to when contributions are payable is unreasonable or unnecessary in the circumstances of the case;
- non compliance with the terms of clause 2.5.4 will not prejudice the timing or the manner of providing the public facility for which the contribution was required, as outlined in the works schedule.

Council may, if it decides to accept the deferred or periodic payment of a contribution, require the applicant to provide a bank guarantee by an Australian bank for the contribution or the outstanding balance, on condition that:

- i) the guarantee requires the bank to pay the guaranteed amount unconditionally to the consent authority where it so demands in writing, not earlier than six months (or a term determined by Council) from the provision of the guarantee or completion of the development or stage of the development to which the contribution or part relates;
- ii) the guarantee prohibits the bank from:
 - having recourse to the applicant or other person entitled to act upon the consent;
 - having regard to any appeal, dispute, controversy, issue or other matter relating to the consent or the carrying out of development in accordance with the consent, before paying the guaranteed amount.
- iii) the bank's obligations under the guarantee are discharged:
 - when payment is made to the consent authority according to the terms of the bank guarantee;
 - if the related consent lapses;
 - if the consent authority otherwise notifies the bank in writing that the bank guarantee is no longer required.
- iv) the applicant pays interest to Council on the contribution or the outstanding amount at the overdraft rate on and from the date when the contribution would have been otherwise payable.

Where Council does not require the applicant to provide a bank guarantee, it may require a public positive covenant under S.88E of the *Conveyancing Act 1919* to be registered on the title to the land to which the relevant development application relates.

2.5.6 Works in Kind (WIK) Contributions

Council may accept an applicant's offer to make a contribution by way of a WIK contribution (for an item included on the works schedule) or a material public benefit (for an item not included on the works schedule) as referred to in S.94 5(b) of the EP&A Act.

Council may accept the offer of a WIK contribution if the applicant, or any other person entitled to act upon the relevant consent, satisfies Council that:

- payment of the contribution in accordance with the provisions of the plan is unreasonable or unnecessary in the circumstances of the case;
- the in kind contribution will not prejudice the timing or the manner of the provision of the public facility for which the contribution was required;
- the value of the works to be undertaken are at least equal to the value of the contribution assessed in accordance with this plan.

2.5.7 Indexation

Council will review, annually, contribution rates on the basis of the Implicit Price Deflator (Total Public Gross Fixed Capital Expenditure) as published by the Australian Bureau of Statistics.

2.5.8 Availability of Financial Information

In accordance with Clause 37 of the Regulation, copies of the following documents will be available for inspection free of charge during Council office hours:-

- A copy of this Contributions Plan.
- The Contribution Register.
- Annual Financial Statement as required by Clause 36 of the Regulation.

3. Background to the Contributions

3.1 Existing Contributions

Prior to the adoption of this Contributions Plan Muswellbrook Council received contributions from development for the following facilities:

- Bushfire protection
- Public car parking
- Children's services
- Cultural centre
- Social infrastructure
- Libraries
- Drainage
- Parks
- Roads
- Street trees

3.2 Future Development in Muswellbrook Shire

It is expected that development in Muswellbrook Shire will be closely related to increases in production of primary industries - including coal mining, viticulture and the equine industry; with the prospect also of the development of major industrial complexes in the vicinity of the Bayswater and Liddell power stations.

As forecast in the *Strategic Study of Northern New South Wales Coalfields*, produced by the Minerals Consultative Committee (MCC) in November 1999, Muswellbrook Shire is subject to sustained interest in the development of new and extended coal mines. The Study predicts that by 2007/08 approximately 50% of production in the northern coalfields will be from new mines and extensions and the bulk of these will involve open cut mining in the Upper Hunter area.

Dwellings will be erected in rural and urban areas of the Shire. Residential development likely to occur in Muswellbrook and Denman is expected to include new land subdivision and limited infill medium density housing. Commercial centres will be either redeveloped or established in new locations eg South Muswellbrook.

Tourism, attracted to the area's rural scenery and wineries is expected to grow. The growth in visitor accommodation is expected to lead to demand for better signage and tourist facilities such as rest areas.

3.3 Population Change and Occupancy Rate

For planning purposes, the current estimate of population is 16,100 persons. This figure is anticipated to grow to approximately 16,300 by 2006 and remain steady over the long term.

Based on the 1996 Census, average occupancy is approximately 2.9 persons per dwelling (calculated by dividing Census population figure by number of occupied dwellings).

3.4 Planning for Facilities

Muswellbrook Council's principal documents for the planning and provision of public facilities are:

The Community Plan (Volumes 1-3)

The Management Plan

3 Year Rolling Works Program (Appendix C)

Community Enhancement Program (Appendix D).

4. Calculation of Contribution Rates

4.1 Bushfire Protection Facilities

Cost

The Shire is divided into a number of bushfire management areas known as bushfire brigade areas. Each bushfire brigade is responsible for bushfire control and suppression activities within that particular area although in extreme fire events brigades will cross boundaries to consolidate fire fighting efforts.

Council has a program for the upgrading of bushfire equipment and facilities. The total fire brigade equipment upgrade is budgeted at \$876,000. Council's monetary commitment to this program is \$134,000 (Appendix C).

Calculation of Contribution

Assuming overall population growth of 200 persons, Council's expenditure is apportioned to new development as follows:

$$134,000 / 200 = \$670 \text{ per new resident}$$

Contributions to the cost of bushfire facilities should be levied on development which increases demand to protect people and property. The Shire's occupancy rate has been applied to calculate a per additional lot/dwelling contribution ie

$$670 \times 2.9 = \$1,943 \text{ per new lot or dwelling}$$

This figure should also be applied to development approvals resulting in significant new building in the rural area, which will also require bushfire protection. Council has chosen a threshold of \$200K of capital value before requiring a contribution plus a proportion of total value for buildings greater than this value.

4.2 Rural Roads

Cost

Council has a program for the upgrading of rural roads, budgeted at \$365,000. Council's monetary commitment to this program is \$265,000 (Appendix C).

Calculation of Contribution

Maintenance

Contributions for rural road maintenance have been levied on a case by case basis in the past, using a methodology set out in Appendix B for extractive industries and mines. This is to continue.

Upgrades

Assuming overall population growth of 200 persons, Council's expenditure is apportioned to new development as follows:

$$265,000/200 = \$1,325 \text{ per new resident}$$

Contributions to the cost of rural roads should be levied on development which increases demand on roads - including subdivision and dwellings. The Shire's occupancy rate has been applied to calculate a per additional lot/dwelling contribution ie

$$1,325 \times 2.9 = \$3,842 \text{ per new lot or dwelling}$$

Discount/Equity Issues

Due to size of the increase proposed above existing contribution levels, a standard increase of 33%, comparable to the increase in Bushfire Protection Facilities has been applied.

4.3 Urban Roads and Drainage

Muswellbrook

Council's expenditure program proposes Council expenditure on general improvements to stormwater, roads, footpaths and cycleways. These are:

- Muswellbrook Stormwater Improvements - \$75,000
- Muswellbrook Urban Road improvements - \$50,000
- Residential Areas Footpaths - \$75,000
- South Muswellbrook Cycleways - \$164,000
- Skellatar Street Widening - \$150,000
- Brecht/Bowman Street Intersection - \$180,000
- Thompson Street Upgrade - \$235,000
- View Place Kerb and Gutter - \$25,000

Allowing for grants and other revenue sources, Council's contribution to this program of \$954,000 is \$306,000 (Appendix C).

Denman

Council's expenditure program proposes Council expenditure on general improvements to stormwater, roads, footpaths and cycleways. These are:

- Trunk Drainage Stage 1 - \$300,000
- Denman Creek Cycleway - \$20,000

Council is expected to meet costs of \$260,000 (Appendix C).

South Muswellbrook Traffic Study

The South Muswellbrook Traffic Study (ERM, 2000), prepared for Council has identified a works schedule and apportioned costs to new urban and rural residential areas of South Muswellbrook. The Study assumes that a New England Highway Bypass of Muswellbrook is not constructed.

If a Bypass is constructed, then the contribution levels would need to be revised. The relevant extracts from the Study are included in Appendix A.

Calculation of Contribution

Costs for each town have been allocated according to the expected proportions that each town contributes to total population.

Muswellbrook's population is calculated at 67% of the Shire total, hence expenditure has been allocated to 67% of the new population is:

$306,000/134 = \$2283$ *per additional resident* or

Using Shire occupancy rates, $\$6620$ *per additional lot or dwelling*

For Denman, which has approximately 8% of residents:

$260,000/66 = \$3939$ *per additional resident* or

$\$11,423$ *per additional dwelling or lot*

For South Muswellbrook road upgrading the contribution per dwelling has been calculated at $\$677$ *per dwelling*

Discount/Equity Issues

To maintain an equal level of contribution for each town and to avoid discouragement of development, a rate which is close to the South Muswellbrook contribution has been adopted for all three areas.

In the case of commercial development at South Muswellbrook, Council has adopted a rate which is comparable to the amount levied to the Market Place development approval which is $\$11$ per m².

4.4 Open Space and Community Facilities

Background*Open Space*

Council has traditionally levied rural and urban residential subdivisions, as well as medium density residential development with a contribution towards open space land acquisitions and embellishment.

Land that is controlled by Council for open space purposes in the year 2000 is estimated in the Council's Community Plan to total 134.7 hectares and serves a population of about 16,100 people. This equates to a rate of 84 m² per

resident. Using the average occupancy rate for the Shire of 2.9 persons per dwelling, this equate to 243m² per lot or dwelling.

Council's open space standard in its original Contributions Plan was 84m² for "passive" open space and 72 m² for "active" open space.

Contributions towards the provision of facilities on open space areas was levied by Council in the original Contributions Plan at \$310 per lot or dwelling for "passive" open space and \$690 per lot or dwelling for "active" open space in Muswellbrook; \$190 per lot/dwelling and \$560 per lot/dwelling in Denman; and \$625 for "active" open space for rural lots.

Community Facilities

Council's expenditure program (Appendix C) and Community Enhancement Plan (Appendix D) propose Council expenditure on improvements to parks and playgrounds, sporting fields and reserves and community buildings, which would benefit new residential development.

Calculation of Contribution

New residents will share in the benefits of expenditure on community facilities. A clear apportionment of this expenditure to new growth is difficult to predict precisely with the low population projections. Therefore, to keep contributions to acceptable levels, Council has adopted a figure which represents a 1/3 increase above existing contribution levels and which is consistent with other increases in contribution amounts for other facilities.

4.5 Tourism Facilities

Muswellbrook Council has recognised in its capital works program the need for provision of facilities which attend to the needs of tourists. These are:

- Visitor Information Centres - \$15,000
- Contribution to National Parks Amenities - \$20,000
- Tourist Laybys - \$40,000
- Tourist Signage - \$40,000

Calculation of Contribution

For estimating contributions, annual increases of approximately \$4,000,000 in expenditure by tourists in Muswellbrook have been used. Over the 3 years of the Capital Works Plan this equals an increase in expenditure of \$12,000,000.

For each \$ spent, Councils' contribution is calculated as:

$$115,000/12,000,000 = \$0.01 \text{ per } \$ \text{ spent.}$$

Assuming that tourist expenditure is matched by investment in tourist facilities, then this equates to approximately \$1 for each \$100 of capital investment in tourist development.

4.6 Coal Mining and Major Industrial Development

Muswellbrook Council seeks to maximise the opportunity afforded by development proposals to enhance the Shire community. However, it is concerned that the level of major development is having a negative effect on the attractiveness of the Shire to potential new residents and existing residents as well. Population statistics indicate that the growth in coal mining through the 1990's has not resulted in significant population growth. If further development attracts negative perceptions about living in the Shire, the population may in fact decline.

To help offset the negative impacts of the development of coal mines and major industry the Muswellbrook Council proposes to implement a Community Enhancement Program (CEP). The CEP is included in Appendix D.

Council intends to advocate to the State Government to ensure that any approvals granted for coal mines and major industrial development address their adverse local effects. These developments have the Minister for Urban Affairs and Planning as their consent authority. Council will seek to ensure that developments make tangible contributions to local community development through contributions to the Community Enhancement Program. These contributions will take the form of monetary contributions or in-kind contributions.

“Financial and/or In Kind Contribution to Muswellbrook Shire Council for Community Enhancement

Prior to the commencement of construction, the Applicant shall enter into a legally binding agreement with Muswellbrook Shire Council for financial and/or in kind contribution to Council for the purpose of community enhancement to mitigate the social, amenity and associated community infrastructure requirements emanating from the operation of the development.”

Appendix A

**Extracts from South Muswellbrook
Traffic Study**

Muswellbrook Section 94 Contributions Plan 2001

6

COST OF PROPOSED WORKS

6.1 SCHEDULE OF COSTS

The future program of roadworks for the South Muswellbrook area has been costed in accordance with the following schedule of costs for various road and intersection works which were determined assuming no major excavations or embankments are required to construct the proposed roads.

Future road costings per km for daily traffic volumes

i. Urban Roads

With Kerb/Gutter		
Footpaths/Cycleways	and Up to 1000	\$565,000/km
	1000- 2000	\$640,000/km
	2000 - 3000	\$715,000/km
	3000 - 6000	\$785,000/km
	Over 6000	\$835,000/km

ii. Rural Roads

Scaled with Edge Drains	Over 1000	\$750,000/km (new construction)
		\$300,000/km (edge widening)
	500 -1000	\$650,000/km
	150 - 500	\$580,000/km

iii. Intersections

Traffic Signals/Roundabout/ Seagull Type Acceleration Lane	\$175,000
Type C Intersection 80km/hr (100km/hr)	\$150,000 (\$250,000)
Type B Intersection	\$100,000
Linemarking RT lanes Centrelines at intersections	\$5,000
Local Road widening at T intersections	\$90,000

Small Local Roundabout ,		\$160,000
Traffic Calming Roundabout		\$50,000
Footpaths (\$40/m2)	1 side	\$40,000/kIn
	2 sides	\$80,000/km
Cycleway (\$30/ m2)		\$50,000/km

6.2 COSTING AND APPORTIONMENT

The future total estimated cost of roadworks be required for full development of the South Muswellbrook residential area (excluding some cul-de-sacs and minor local access roads) is \$15.32 Million without a New England Highway bypass at Muswellbrook.

This cost would be significantly lower if a New England Highway bypass is constructed at Muswellbrook because future traffic volumes would be significantly lower at most locations on the existing and future road networks with a consequent lower requirement for roadworks.

This lower requirement has not been determined and costed in this report. However the basic traffic projection details and road design standards are provided to enable this alternative cost to be calculated if required at a later date.

The major proportion of the future \$15.32 Million total roadworks program for the assessed scenario would be attributable to future residential development. However, the majority of these works are new local roads and intersections which could either be constructed directly by developers or by Council under a Section 94 contributions plan.

In general the proportions of the cost of future roadworks which are included in a Section 94 contributions plan should be distributed based on the overall proportions of future traffic generated by residential area growth, the South Muswellbrook Shopping Centre expansion and through traffic growth namely:

- Residential area growth from 1822 dwellings at 0.88 Trips per dwelling in the afternoon peak hour, = 1603 vehicles per hour;
- South Muswellbrook Shopping Centre expansion net external traffic generation = 624 vehicles per hour in the afternoon peak hour (CBHK, 1999); and
- Year 2000 through traffic growth, = + 4172 vehicles per day on all routes, 8% in the afternoon peak hour = 334 vehicles per hour .

These proportions represent the following proportions (13 percent) which can be attributed to through traffic growth (24 percent) which can be attributed to the South Muswellbrook Shopping Centre expansion and (63 percent) which should be attributed to future residential development.

6.3 *FUTURE SECTION 94 ROADWORKS PROGRAM*

Because of the uncertain timeframe of future development and the need to minimise financial risk to Council, new local road and intersection works are recommended to be constructed directly by developers where ever possible.

It should be noted that the provision of intersection improvements on major roads would be subject to the concurrence of the RTA. Correspondence has been received from the RTA in this regard and is attached as Appendix F to this report. In particular the RTA have identified a preference for the future southern access road (Ramrod Creek Road) to be connected to Pamger Drive as an alternative solution to creating a new Highway access intersection. In the longer term, this aspect of the study recommendations can be reviewed.

The future Section 94 roadworks program to be operated by Council should essentially be limited to the improvements identified on existing roads which cannot be directly funded by any single developer. These works have an estimated total cost of \$1,960,000 and are summarised below.

i. New England Highway Intersection Improvements

Lome Street	\$75,000
Francis Street	\$275,000
Thompson Street	\$175,000
Rutherford Road	\$175,000
Sub Total	\$700,000

ii. Denman Road Intersection Improvements

Stock Route Road	\$150,000
Mitchell Street	\$10,000
Skelletar Street	\$10,000
Forbes Street	\$5,000
Anzac Parade	\$5,000

Sub Total	\$180,000
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iii. *Improvements to Existing Local Intersections*

Mitchell/Lorne Streets	\$160,000
Mitchell/Francis Street	\$5,000
Mitchell/Skellatar Street	\$5,000
Skellatar /Lorne Street	\$160,000
Ruth White Avenue/ Adams Street	\$50,000
St James Crescent/ Adams Street	\$5,000
Adams Street/Ironbark Road	\$5,000
Rutherford /Ironbark Roads	\$5,000
Woolybutt Way /Calgaroo Avenue	\$5,000
Acacia Drive /Beech Street	\$90,000
Acacia Drive/Bloodwood Road	\$90,000
Weemala Place/Bloodwood Road	\$5,000
Sub Total	\$585,000

iv. *Improvements to Existing Local Roads*

Stock Route E/Denman Road (widen to 7m/2m shoulder)	\$345,000
Stock Route W / Adams Street (widen to 7m/2m shoulder)	\$150,000
Sub Total	\$495,000

The respective future costs of the Section 94 roadworks program which should be attributed to future development are the following:

- 63 percent Residential Development, 1822 dwellings =\$1,234,800;
- 24 percent South Muswellbrook Shopping Centre, 11,000m2 =\$470,400;
and
- 13 percent Through Traffic Growth, NE Hwy and Denman Road
=\$254,800

The residential development component represents a Section 94 roadworks contribution of \$677.72 per dwelling,

6.4 FUTURE TIMING OF ROADWORKS

The majority of the future roadworks will be constructed by developers on an as required basis to provide access to future residential sub-divisions. The future timing of these works will depend on the actual timing of development.

The future Section 94 Roadworks Program to be constructed by Council will consist of 23 items to be constructed over an approximate 20 year period as funds become available.

The respective priority for each of these works should be related to the relative magnitude of the percentage future traffic increases at each location which are summarised in Table 6.1 below.

The four priority rankings 1-4 which are defined in Table 6.1 correspond to the following general timing periods:

- Priority 1, 0 - 5-years;
- Priority 2, 5 -10 years;
- Priority 3, 10 -15 years; and
- Priority 4, 15 - 20 years

However where works are of comparatively low cost and/ or have significant safety benefits such as pedestrian refuges, Council may consider their early implementation prior to the timing specified in Table 6.

6.5 TIMING OF FUTURE SECTION 94 PLAN ROADWORKS

Table 6

Priority Ranking	Location	Year 1999 Traffic *	Year 2020 Traffic *	% Increase	
New England Highway Intersections	Lome Street	982 1229 25 3			
	Francis Street	956	1142	19	4
	Thompson Street	1459	2256	55	3
	Rutherford Road				
Denman Road Intersections	Stock Route Road	625	881	41	3
	Mitchell Street	763	938	23	3
	Skellatar Street	709	743	5	4
	Forbes Street	631	695	10	4
	Anzac Parade	605	661	9	4
Improvements To Existing Local Intersections	Mitchell/Lome	281	560	99	2
	Mitchell/Francis	336	651	94	2
	Mitchell/Skellatar	410	774	89	3
	Skellatar/Lome	280	334	15	4
	Ruth White/ Adams	342 .	727	113	2
	St James Cr / Adams	274	682	149	1
	Adams/Ironbark	252	702	180	1
	Rutherford / Ironbark	189	805	326	1
	Woollybutt/Calgaroo	157	331	111	2
	Acacia/Beech	320	639	100	2
	Acacia /Bloodwood	258	569	121	2
	Weemala/Bloodwood	175	483	176	1
Existing Local		122	326	167	1

Note5' . PM Peak Hour Traffic Volumes

Appendix B

**Rural Road Maintenance Contributions
Methodology**

ROAD MAINTENANCE CHARGES

1.0 GENERAL

The following procedure is to be used to assess the road maintenance charges for Muswellbrook Council.

The basis of this assessment is that the additional road maintenance and rehabilitation costs due to additional traffic generated by the development should be paid for by the developer. An assessment therefore needs to be made of the accelerated pavement damage and the consequent economic effect of this.

This assessment is separate to any additional upgrading work which may be necessary (eg additional width, intersection upgrading etc) due to the increased development traffic.

2.0 EXISTING ROAD CONDITIONS

Existing road conditions should be assessed by carrying out a Road Condition Survey (the same as RTA ROCOND). The purpose of this is to have a benchmark for comparison purposes.

In addition, deflection tests should be carried out using a Benhlemann Beam at 500mm intervals (minimum).

Deflection tests are to be used to assess the existing pavement strength and determine the life of sections of the road being assessed.

Determine existing levels of traffic % of commercial vehicles and the anticipated traffic growth without the development traffic,

3.0 DEVELOPMENT TRAFFIC

If sufficient information is available, determine the structural capacity of the road from pavement design information. :"

Otherwise, determine the length of pavement which would be capable of carrying the existing traffic and development traffic for the next 20 years or more and the length of road that would fail prematurely due to the additional traffic.

4.0 ECONOMIC IMPACT

i. Rehabilitation

Determine the economic impact by calculating the present worth of the rehabilitation costs for the road without the development.

Determine the present worth of rehabilitation costs for the road with the development.

The difference is the economic cost of the development which can then be converted to an annual cost.

Discount rate applicable at present (ref Treasury Guidelines) is 7% for economic evaluation.

Rehabilitation costs will vary depending on the location and type of road. Costs will usually vary between \$150,000 and \$220,000.

ii. Maintenance

Additional maintenance costs should be evaluated and additional annual costs determined.

The annual costs determined for rehabilitation and maintenance can then be converted to a charge per tonne based on the original quarry output assumed.

Appendix C

3 Year Rolling Works Program

PROJECT	Pr. Index	2000/2001				2001/2002				2002/03			
		TOTAL	Revenue	Grants	Loans	Other	Total	Revenue	Grants	Loans	Other	Total	Revenue
1.0 POLICY AND PLANNING	7	\$219,000	\$57,000				\$57,000	\$104,000				\$104,000	\$58,000
	1.1 Asset Management/GIS	\$20,000	\$20,000				\$20,000	\$0				\$0	\$0
	1.2 Strategic Planning - LEP												\$0
2.0 TRANSPORT AND DRAINAGE													
	2.1 Urban Road & Drainage Works												
	2.11 Annual Asset Replacement Pavement												
2.1 Urban Road & Drainage Works	9	\$720,000	\$120,000	\$100,000			\$220,000	\$150,000	\$100,000			\$250,000	\$150,000
	9	\$480,000	\$155,000				\$155,000	\$160,000				\$160,000	\$165,000
	9	\$180,000	\$60,000				\$60,000	\$60,000				\$60,000	\$60,000
2.1 Urban Road & Drainage Works	7	\$75,000	\$25,000				\$25,000	\$25,000				\$25,000	\$25,000
	5	\$50,000	\$0				\$0	\$25,000				\$25,000	\$25,000
	9	\$150,000	\$0	\$150,000			\$150,000						
2.1 Urban Road & Drainage Works	9	\$180,000						\$0	\$180,000			\$180,000	
	7/8	\$235,000											\$12,000
	2.15 Thompson St (Shaw Cr to St James Cr)		\$17,000		\$8,000		\$25,000						
2.2 Rural Roadworks	7	\$25,000											
	2.21 Annual Asset Replacement Pavement												
	8	\$975,000	\$120,000	\$200,000			\$320,000	\$155,000	\$170,000			\$325,000	\$140,000
2.2 Rural Roadworks	8	\$690,000	\$225,000				\$225,000	\$230,000				\$230,000	\$235,000
	8	\$275,000	\$125,000				\$125,000	\$75,000				\$75,000	\$75,000
	7	\$165,000	\$50,000				\$50,000	\$55,000				\$55,000	\$60,000
2.3 Classified Roads	8	\$600,000						\$150,000	\$450,000			\$600,000	
	2.31 SH9 Sydney St (Mait St - Mscle Ck)							\$0					
	10	\$1,500,000						\$0	\$1,500,000			\$1,500,000	
2.3 Classified Roads	8/9	\$200,000						\$0	\$200,000			\$200,000	
	2.33 MR209 (Stock Route to R'course Rd)												
	8/10	\$770,000						\$0	\$770,000			\$770,000	
2.4 Bridges	8	\$500,000						\$0	\$250,000	\$250,000		\$500,000	
	2.35 Link Roads to Bypass												
	2.41 Bell St Railway Bridge G'rail												
2.4 Bridges	9	\$80,000	\$80,000				\$80,000						
	2.42(i) Wilkinson Ave Bridge rail mods		\$20,000				\$20,000						
	9	\$20,000						\$20,000				\$20,000	
2.5 Footpaths/Cycleways	8	\$500,000											
	2.44 Peberdy's Bridge							\$0		\$500,000		\$500,000	
	2.51 M'brook CBD enhancement (part funding)		\$40,000				\$40,000	\$0				\$0	
2.5 Footpaths/Cycleways	6	\$790,000						\$0				\$0	
	2.52 Denman Mainstreet program (part funding)		\$0				\$0				\$30,000	\$30,000	
	6	\$180,000											
2.5 Footpaths/Cycleways	6	\$75,000	\$7,000				\$25,000	\$7,000				\$25,000	\$7,000
	2.53 Residential footpath program						\$84,000	\$42,000	\$42,000			\$84,000	\$42,000
	6	\$168,000						\$20,000				\$20,000	
2.6 Road Safety	6	\$20,000						\$20,000				\$20,000	
	2.55 Denman Ck Park (Turtle - Merino)												
	8	\$30,000	\$10,000				\$10,000	\$10,000				\$10,000	
2.7 Carparking	8	\$105,000											
	2.61 Road Safety Programs												
	2.81 Voluntary Purchase												
2.8 Floodplain Management	8	\$210,000	\$23,000	\$82,000			\$105,000	\$23,000	\$82,000			\$105,000	\$23,000
	2.81 Voluntary Purchase												

Muswellbrook Section 94 Contributions Plan 2001

8.24 Simpson Park Stage 3	8	\$40,000	\$25,000	\$150,000	\$40,000				\$25,000	\$0	\$150,000	\$150,000
8.22 Safe-fall/shade program				\$90,000	\$40,000					\$25,000		\$25,000
8.23 Causey Park	7/8			\$60,000						\$60,000		\$60,000
8.3 Active Sporting Areas												
8.21 Special Irrigation & G'ds Maint	8	\$35,000	\$35,000	\$105,000	\$35,000				\$35,000			\$35,000
8.22 Ground Improvement Subsidy	7	\$12,000	\$12,000	\$36,000	\$12,000				\$12,000			\$12,000
8.23 Heated Pool - Muswellbrook	7	\$180,000		\$180,000	\$120,000			\$60,000				
8.24 Denman Indoor Sports Centre	8	\$57,000		\$57,000	\$57,000							
8.25 Spec Maint Highbrook Park	8	\$80,000		\$80,000	\$80,000							
8.25 Spec Maint G'stand												
8.3 Tree Planting & Passive Reserves												
8.31 Annual Tree Planting	7	\$15,000	\$15,000	\$45,000	\$15,000				\$15,000			\$15,000
8.32 Muscle Creek Development	7	\$8,000	\$8,000	\$24,000	\$8,000				\$8,000			\$8,000
8.33 Denman Creek Park (part funding)	7			\$10,000								\$10,000
8.4 Community Buildings												
8.41 Special Maintenance Allowance	8			\$60,000	\$0				\$0			
8.42 Bowman Park Community Ctr	7	\$60,000		\$60,000	\$60,000				\$30,000			\$30,000
8.42 Admin Bldg Airconditioning	9		\$75,000	\$150,000					\$75,000			\$75,000
9.0 CULTURAL												
9.11 Muswellbrook Regional Arts Centre	7	\$10,000		\$10,000	\$10,000							
9.12 Library Air Conditioning	8	\$40,000		\$40,000	\$0			\$40,000				
9.23 Library Technology Infrastructure	7	\$25,000		\$25,000	\$0			\$25,000				
10.0 EMERGENCY SERVICES												
10.11 2000/2001 Bush Fire Program	8	\$296,000		\$296,000	\$4,248	\$226,552	\$65,200	\$296,000	\$65,000	\$225,000		\$290,000
10.12 2001/2002 Bush Fire Program	8		\$290,000	\$290,000								
10.13 2002/2003 Bush Fire Program	8			\$290,000				\$0				
10.2 SES Facility Improvement	7	\$0		\$0								
11.0 ORGANISATION SUPPORT												
11.1 2000/2001 Program	8	\$58,000	\$432,000	\$58,000	\$22,000		\$36,000	\$58,000	\$0			\$0
11.2 2001/2002 Program	10			\$432,000					\$432,000			
11.3 2002/2003 Program	8			\$340,000					\$340,000			\$340,000
12.0 MUSWELLBROOK WORKS												
12.1 Special Maintenance	8	\$40,000	\$9,535,00	\$7,248,00	\$40,000	\$908,552	\$30,000	\$1,177,20	\$4,308,0	\$0	\$9,535,000	\$2,266,000
TOTALS		\$4,268,000	\$0	\$0	\$20,901,0	\$2,184,24	\$908,552	\$30,000	\$1,177,20	\$0	\$2,748,0	\$1,405,000
FAG Grant for Roads												
Urban Pavement Rehabilitation	2000/2001	\$100,000							\$2,570,00	\$4,217,00	\$0	\$1,325,000
Rural Pavement Rehabilitation		\$200,000							0	0	00	00
Skeleton St Widening		\$150,000							\$2,150,00			\$2,046,000
TOTAL		\$450,000							\$420,000			\$220,000
FAG Grant for Roads												
Pavement Rehabilitation (Urban)	2001/2002	\$100,000										
Pavement Rehabilitation (Rural)		\$170,000										
Brecht St/Bowman St Int.		\$180,000										
TOTAL		\$450,000										
FAG Grant for Roads												
Pavement Rehabilitation (Urban)	2002/2003	\$100,000										
Pavement Rehabilitation (Rural)		\$190,000										
Thompson St (Shaw - St James Cres)		\$160,000										
TOTAL		\$450,000										
Coal Compensation												

Various Items	\$533,725	
TOTAL	\$533,725	
Unallocated Items		\$400,000
Denman Main Street		\$30,000
Simpson Park Stage II		\$150,000
TOTAL		\$580,000
Unallocated Items		\$400,000
2.51 M'brook CBD enhancement (part funding)		\$375,000
2.52 Denman Mainstreet program (part funding)		\$50,000
6.33 Heritage Precinct Development 8.24 Simpson Park Stage 3		\$200,000
TOTAL		\$150,000
		\$1,175,000
		0

Appendix D

Community Enhancement Program

Contents

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1. Introduction

1.1 Development Pressures

As forecast in the *Strategic Study of Northern New South Wales Coalfields*, produced by the Minerals Consultative Committee (MCC) in November 1999, Muswellbrook Shire is subject to sustained interest in the development of new and extended coal mines. The Study predicts that by 2007/08 approximately 50% of production in the northern coalfields will be from new mines and extensions and the bulk of these will involve open cut mining in the Upper Hunter area.

Figures in the MCC Study reveal that the existing operating mines in Muswellbrook Shire have the capacity to produce 22.9 Mtpa. Disregarding explorations and proposed mine extensions, the proposed new coal mines have a combined potential of an additional 17.8 Mtpa. The report mentions the Mount Arthur North (MAN) project, Mount Pleasant and the Saddler's Creek mines as likely to be operational in five to ten years ie 2004 - 2010.

The MCC Study recommends that the coal industry address community concerns in the Muswellbrook area "as a matter of urgency". These concerns relate not only to environmental and amenity issues but also to the limited employment opportunities being generated in the Shire due to a large component of the mine workforce commuting to the area.

In addition to coal mining, Muswellbrook hosts the largest producer of electrical energy in Australia, Macquarie Generation (Mac Gen). Mac Gen operates the Bayswater and Liddell coal-fired power stations which virtually form the gateway to the Shire on the New England Highway. Macquarie Generation is actively promoting heavy industrial development on its land surrounding the power stations. Two (2) industrial proposals for this land are currently at the stage of EIS preparation.

1.2 Council Response

Muswellbrook Council seeks to maximise the opportunity afforded by development proposals to enhance the Shire community. However, it is concerned that the level of development is having a negative effect on the attractiveness of the Shire to potential new residents and existing residents as well. Population statistics indicate that the growth in coal mining through the 1990's has not resulted in significant population growth. If further development attracts negative perceptions about living in the Shire, the population may in fact decline.

To help offset the negative impacts of the development of coal mines and major industry the Muswellbrook Council proposes to implement a Community Enhancement Program (CEP).

2. Purpose of the Community Enhancement Program

Muswellbrook Council, through its Community Enhancement Program aims to:

1. Address issues raised in its Community Plan (March 2000) which are directed at improving the quality of life for the people of the Shire; and
2. Be prepared to advocate for reasonable contributions towards the provision of community facilities and services from developments having a significant social impact on the Shire community.

3. The Program

Muswellbrook Council has developed a number of Action Plans which address specific community issues. The Action Plan was reviewed in June 2006 with the projects listed as follows. Council keeps the Action Plans under review and when necessary will adjust the Plans to take account of changes in demands and resources. These Action Plans are summarised in Section 17 of *The Community Plan*.

The Council has determined its Community Enhancement Program as follows:

Community Enhancement Program as at November 2006

PROJECTS	ESTIMATED CAPITAL COSTS	ESTIMATED ANNUAL OPERATING COSTS
MAJOR PROJECTS		
Muswellbrook Library	\$4.0M	\$100,000 (over ten years)
Relocation of the SES	\$1.0M	
Rail Coal Heritage Centre	\$2.5M	\$ 50,000 (over ten years)
Muswellbrook Mainstreet	\$5.5M (staged)	
Muswellbrook Pool (Main pool)	\$1.5M	\$ 50,000 (over ten years)
Muswellbrook Pool (Small pool)	\$1.0M	
Existing infrastructure	\$1.0M	
Denman Recreation amenities building	\$3.0M	
Recreation area improvements	\$1.5M	
Low cost aged housing	\$0.5M	
Denman Mainstreet	\$1.0M	
MINOR PROJECTS		
Cycleway/footpath constructions	Projects less than \$50,000	
Passive and active recreation	Projects less than \$50,000	
Existing infrastructure	Projects less than \$50,000	

4. Implementation

Muswellbrook Council will assist the implementation of the Community Enhancement Program in the following ways:

1. Encourage service providers and other levels of government to deliver the services and facilities proposed;
2. Initiate actions designed to have a local service need satisfied;
3. Provide management advice and assistance to organisations which impact on Muswellbrook Shire. This advice and assistance would normally cover aspects such as management structure, program planning, financial and legal processes and accountability, resource availability, grievance procedures and evaluation mechanisms; and
4. Represent the needs of the Shire to the State and Federal Governments planning and funding agencies.

4.1 Council as Advocate

Council will be an advocate to the State Government to ensure that any approvals granted for coal mines and major industrial development address their adverse local effects. These developments have the Minister for Urban Affairs and Planning as their consent authority. Often, the Minister uses a Commissioner to hold an Inquiry and make recommendations about the determination of such applications. In these instances, Council must make its own submissions to the Commissioner along with other authorities and the public. On these occasions Council will seek to ensure that developments make tangible contributions to local community development through contributions to the Community Enhancement Program. These contributions will take the form of monetary or in-kind contributions. The level of contribution is expected to be based on a percentage of the capital cost and the value of annual outputs.

The form of condition which is proposed as a model for coal mine or major industry approvals is as follows:

“Financial and/or In Kind Contribution to Muswellbrook Shire Council for Community Enhancement

Prior to the commencement of construction, the Applicant shall enter into a legally binding agreement with Muswellbrook Shire Council for financial and/or in kind contribution to Council for the purpose of community enhancement to mitigate the social, amenity and associated community infrastructure requirements emanating from the operation of the development.”

4.2 Council as Provider

Council has a direct involvement in some areas of community development, particularly with the provision of capital works. These areas are identified in the Section 94 Contributions Plan and include improvements to parks and playgrounds, sporting fields and reserves and community buildings.

In some circumstances Muswellbrook Council will make direct financial contributions to service providers through one off donations or ongoing support. Council may provide assistance to accommodate services.

Council will consider joint ventures with other local government, State and Federal governments as well as community organisations and facilities.

4.3 Council as Consent Authority

Council, in its role as consent authority for most developments will require development to contribute to the provision of locally-funded facilities through its Section 94 Contributions Plan.

11 COMMUNITY INFRASTRUCTURE

11.1 MAJOR PROJECTS STATUS REPORT

Attachments:	A. Major Projects List
Responsible Officer:	Fiona Plesman - General Manager
Author:	Derek Finnigan - Deputy General Manager
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Maintain and continually improve community infrastructure across the Shire.</i>
Community Plan Strategy:	<i>Implement prioritised (but responsive) rolling works program of maintenance.</i>

PURPOSE

The Major Projects Status Report is submitted for the information of Councillors.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ Seconded: _____

REPORT

The Major Projects Status Report is submitted for the information of Councillors, updated to 5 April 2022.

Project number	PROJECT	PROJECT STAGE INVESTIGATION (I) DESIGN (D) CONSTRUCTION (C)	GL Number	BUDGET FOR PROJECT	FY BUDGET ALLOCATION	WORKS INSURANCE	PLANNED START	PLANNED COMPLETION	ACTUAL START	ACTUAL COMPLETION	STATUS AS AT 5 APRIL 2022
FUTURE FUND											
TBA	111 Brook Street (Staff Housing)	D	3690.5541.504	\$200,000	\$200,000	Existing Cover to \$2M	Jul-21	Sep-21	Jul-21		Purchase of land with approved DA. Property has settled. Property to be developed for staff housing. EOI being prepared for interested tenderers.
N/A	Bakery Set Up	D	3690.5473.504	\$99,794	\$99,794	Existing Cover to \$2M	Sep-21	Jun-22	Sep-21		Hospitality team has reviewed design and settled on shop location at Marketplace. Fitout of café is being prepared.
2020-2021-0445	Marketplace Air Conditioning	D & C	3690.5477.504	\$398,494	\$398,494	Existing Cover to \$2M	Mar-21	Sep-21	Mar-21	Sep-21	Air conditioning works are complete and handover underway.
TBA	Marketplace Asset Renewal (incl. Lift)	D & C	3690.5540.504	\$376,194	\$376,194	Existing Cover to \$2M	Jul-21	Jun-22	Jul-21		Heavy Goods Lift specification being prepared for tender.
N/A	Renewal of Existing Assets	D & C	3690.5421.504	\$337,309	\$337,309	Existing Cover to \$2M	Jul-21	Jun-22	Jul-21		Combination of commercial building renewal projects and capital incentives for new tenancies.
2020-2021-0448	Tertiary Education Centre - Stage 2 (Donald Horne Building) incl. Upper Hunter Innovation Hub and Weidmann Café	D & C	3690.5438.504	\$6,500,000	\$5,732,716	Council insured	Jul-19	Sep-20	Jul-19		Donald Horne Building to be finished by June. Loxton House subject to structural repairs completed by August.
PLANNING, COMMUNITY AND CORPORATE SERVICES											
N/A	Aquatic Centres Programme	C	3700.5151.504	\$120,000	\$120,000	Existing Cover to \$2M	Sep-21	Oct-21	Sep-21		Majority of expenditure at Denman pool with the replacement of valves and painting this FY. Works underway for indoor pool leak and flooring.
N/A	General Building Renewal Programme	C	3910.5819.504	\$225,000	\$225,000	Existing Cover to \$2M	Oct-21	Feb-22	Oct-21		Project lists reported to 28 September 2021 Ordinary Council meeting. Administration roof review. Indoor Sports Centre amenities improvements. MOOSH minor improvements including flooring. Muswellbrook Library Renewals including generator connection. Stan Theiss Centre floors to be sanded. QEII new flooring and structural assessment. CWA accessible path and ramp. Denman Library and CTC ramp and glass sliding door.
2019-2020-0413	Muswellbrook Indoor Sport Centre	D & C	3910.5844.504	\$1,300,000	\$939,582	Existing Cover to \$2M	Oct-19	Dec-20	Oct-19		Upper Hunter Youth Services was awarded Stronger Country Community grant funding of \$500k. Stakeholder consultation and preliminary design complete and Development Application lodged and awaiting approval.
TBA	Muswellbrook Regional Art Gallery (Foyer/Café)	D	3910.5855.504	\$250,000	\$61,452	Existing Cover to \$2M	Jul-21	Jul-22	Jul-21		Architect has consulted with heritage advisor to inform design development and draft concepts received. Design being progressed relies on glazing existing structure. Advice will be sought on a planning pathway following some further changes including recommendations on painting. Heritage architect has provided finishes recommendations. Further work to be outsourced for project management.
2020-2021-0488	Rooftop Refrigeration Relocation (Administration Centre)	C	3910.5951.504	\$106,500	\$106,500	Existing Cover to \$2M	Aug-21	Sep-21	Aug-21	Sep-21	Installation complete and handover commenced.
N/A	Toybox Termite Damage Repair	C	3910.5952.504	\$11,950	\$11,950	Existing Cover to \$2M	Jul-21	Jul-21	Jul-21	Jul-21	Emergency works completed.
TBA	Outdoor Pool Plant Upgrades	D	3700.5453.504	\$150,000	\$150,000	Existing Cover to \$2M	Sep-21	Mar-22	Sep-21		Principal Design Consultant undertook site and asset condition inspection Wednesday, 22 September 2021. Draft design completed and awaiting interfacing to be confirmed with Hydraulic Specialist to finalise design. Specification for tender documentation under preparation. Tender expected to be ready early March, but subject to funding.
TBA	CBD Stage 7 (Town Centre)	C	3690.5479.504	\$1,000,000	\$1,000,000	Existing Cover to \$2M	Jan-22	Mar-22			Public domain work of education precinct. Parts to be delivered by Donald Horne building contractor.
TBA	Civic Precinct (Town Square)	D & C	3690.5498.504	\$14,500,000	\$3,268,850	Council insured	Oct-21	Jun-25			Contract status reported to Council at the 28 September 2021 Ordinary Council meeting. Tender being prepared for enabling works.
TBA	Denman Children Centre	D & C	3920.5658.504	\$620,000	\$620,000	Existing Cover to \$2M	Jun-18	Mar-20			DA 99/2018 approved May 2019. Staff have engaged with Denman Children's Centre to progress the project. Denman Children's Centre Memorandum of Understanding was developed March 2021. Both parties signed MOU to progress project in FY 21/22. Project manager awarded and preparing RFQ for detailed design.
TBA	Denman Heritage Village	D & C	3590.4222.504	\$1,000,000	\$897,740	Existing Cover to \$2M	Sep-21	Jul-22			Deed for Heritage items executed. Denman Heritage Museum Advisory Committee progressed the concept design with Council representatives to Development Application approval at the 22 December 2020 Ordinary Council meeting. A Business Plan with the Heritage Committee has been prepared. Design and Construction tender closed 27 January 2022, and will be reported to the 5 April 2022 Ordinary Council Meeting.
TBA	Denman Netball Courts	D & C	3710.7825.504	\$600,000	\$206,286	Existing Cover to \$2M	Oct-21	Jul-22			User group scoping workshop to be held. Covid has impacted arrangement of the workshop.
N/A	General Design Programme	D	3920.5924.504	\$45,000	\$45,000	Existing Cover to \$2M	Jul-21	Dec-21			Council has endorsed progressing the Council Chambers and Arts Centre design.
2019-2020-0404	Hunter Beach	D & C	3920.5904.504	\$3,173,029	\$3,173,029	TBA	Sep-21	Jul-22			Council has endorsed a concept design for the project. Tender negotiations were reported to the 28 September 2021 Ordinary Council meeting. Council has negotiated a contract for awarding.
2019-2020-0406	Muswellbrook Aquatic Centre Upgrade	C	3700.5442.504	\$6,500,000	\$2,942,975	Contractor insured	Mar-20	Mar-21	Mar-20		Ausgrid outages confirmed for mid to late April for connection of substation. Temporary power being arranged to facilitate construction of fire tanks.
2020-2021-0481	Karoola Park Citizens' Walk	I	3710.5532.504	\$20,000	\$20,000	Existing Cover to \$2M	Jul-21	Dec-21	Oct-21		RFQs called and received for Plan of Management to be awarded. Negotiation with the preferred consultant completed.
TBA	Kayuga Rural Fire Station	D & C	TBA	\$650,000	External	Existing Cover to \$2M					External project manager engaged and flood study underway. Draft Flood Study has been provided for review.
TBA	Major Landcare Projects	I, D & C	3920.5617.504	\$228,254	\$228,254	Existing Cover to \$2M	Sep-21	Jun-22			Nominated projects reported to Council at the August 2021 Ordinary Council meeting.
TBA	Denman Indoor Sports Centre Upgrade	C	3910.5949.504	\$151,200	\$151,200	Existing Cover to \$2M	Jul-21	Dec-21			Works being delivered by Council Building team.
TBA	Muswellbrook Indoor Sports Centre Upgrade	C	3910.5950.504	\$148,050	\$148,050	Existing Cover to \$2M	Jul-21	Dec-21			Works being delivered by Council Building team. Insulation completed.
2020-2021-0443	MSC Depot Construction	D & C	3910.5939.504	\$2,700,000	\$200,000	Council insured	Jul-21	Dec-22			Cost savings assessment has been completed and a number of value engineering options have been identified. These options are to be consulted with stakeholders and communicated to the designer for changes to the concept.
TBA	Muscle Creek Nature Trail (AGL Macq Project)	C	3920.5946.504	\$237,500	\$237,500	Existing Cover to \$2M	Oct-21	Jun-22			Track options have been scoped to match with Wilder St bridge.
N/A	Public Art Sculpture	C	3920.5599.504	\$84,295	\$84,295	Existing Cover to \$2M	Jul-21	Aug-21	Jul	Oct-21	Max Watters sculpture installation is complete.
2020-2021-0452	Muswellbrook Animal Shelter (3910.5587)	C	3910.5887.504	\$2,616,808	\$2,391,041	Council Insured	Feb-21	Dec-21	May-21		Roofing, including truss and bracings for the main building completed. Both frames for walls and entry gate installed. COVID related impacts are affecting progress, such as delays in material supply, availability of construction plant & equipment, etc. Wherever possible, alternative arrangements have been made to minimise the impact. Installation of straw-bale walls has commenced. Electrical and plumbing rough-in underway and connection to stormwater/sewer/ trade waste to follow approvals.
N/A	General Recreation Programme	C	3710.5293.504	\$150,000	\$135,000	Existing Cover to \$2M	Oct-21	Jun-22	Oct-21		Project lists reported to 28 September 2021 Ordinary Council meeting. Planning and programming underway. Renewal of softfall at various playgrounds. Installation of security cameras. Installation of heat and shade protection at Denman and Highbrook Park. Recreation Needs Study. Installation of smart control irrigation system. General cemetery works including fencing and concreted paths.
N/A	Landscaping and Tree Management Programme	C	3710.5311.504	\$90,000	\$90,000	Existing Cover to \$2M	Sep-21	Nov-21	Oct-21		Street tree applications were called over Winter for Spring planting. Majority of planting completed with remainder to recommence in March.
N/A	Major Large Capital Grants Programme (Dollar for Dollar Grant Programme)	C	3710.5494.504	\$100,000	\$100,000	Existing Cover to \$2M	Nov-21	Feb-22			Applications called and awarded for 21/22.
2019-2020-0419	Intelligent Lighting - Olympic Park	C	3710.7821.504	\$188,201	\$188,201	Existing Cover to \$2M	Oct-21	Dec-21	Feb-22		Tenders called and received, assessed and awarded. Works have commenced.
N/A	Cemetery General Programme	C	3722.5297.504	\$166,979	\$166,979	Existing Cover to \$2M	Oct-21	Jun-22			Staged gateway fencing to commence at site entrances. Planning underway.
N/A	Sport and Recreation Small Capital Grants	C	3710.5482.504	\$25,000	\$25,000	Existing Cover to \$2M	Nov-21	Feb-22			Applications called and awarded for 21/22.
ROADS AND DRAINAGE											
TBA	Bridges Renewal Program	I	3530.4131.504	\$95,000	\$95,000	Existing Cover to \$2M	Aug-21	Jun-22	Aug-21		Quotations were received for a level 3 assessment of Bell St bridge over Muscle Creek including options for the replacement of the safety rails. The quotations have been assessed in consultation with TNSW and the consultant has been engaged. The assessment field works have been undertaken in November 2021 and Council is awaiting the Level 3 investigation report.
TBA	Carpark Renewal Program	I	3580.4234.504	\$100,000	\$100,000	Existing Cover to \$2M	Feb-22	Jun-22	Dec-21		Consultation has occurred with the Manager Works, Property and Building and Commercial Property Coordinator to develop a concept design for future reporting to Council to undertake improvements to the Hill St Carpark to improve carparking provision and access to the Marketplace off Hill St. Concept plans are being prepared for further consultation.
TBA	CPTIGS - Bus Shelter Program	I	3500.2781.504	\$48,400	\$48,400	Existing Cover to \$2M	Mar-22	Jun-23	Nov-21		Additional funding for the project is being sought. An in-kind source of funding for the upgrade of the Bus Stop in Tindale St has been provided through a development in the street.
TBA	Developer Coordinated Works	I	3500.4199.504	\$25,000	\$25,000	Existing Cover to \$2M	Aug-21	Jun-22			Allowance for Works.
TBA	Drainage Devices Program	I	3540.4065.504	\$140,000	\$140,000	Existing Cover to \$2M	Feb-22	Jun-22			Program and concept design reported to Council.
TBA	Footpath & Cycleway Renewals	C	3500.4072.504	\$135,000	\$135,000	Existing Cover to \$2M	Aug-21	Dec-21	Aug-21	Dec-21	A prioritised program was reported and endorsed by Council 27 August 2021. This program of work has been completed to the limit of funding available.
TBA	Heavy Patching Programme	C	3500.4035.504	\$252,533	\$252,533	Existing Cover to \$2M	Aug-21	Mar-22	Oct-21	Dec-21	A prioritised program was reported and endorsed by Council 27 August 2021 with nominated sites now completed to the limit of funding available.
TBA	Ironbark Road Footpath	C	3500.4425.504	\$250,000	\$250,000	Existing Cover to \$2M	Jul-21	Nov-21	Jul-21	Dec-21	The concrete footpath has been constructed between Adams Street and Rutherford Road, including the planting of street trees adjacent to the path. This project is complete.

TBA	Kerb & Gutter Replacement	C	3560,4085.504	\$117,000	\$117,000	Existing Cover to \$2M	Aug-21	Dec-21	Aug-21	Dec-21	A prioritised program was reported and endorsed by Council 27 August 2021 with works now complete to the limit of available funding.
TBA	Large Plant Items	D	3885,5870.504	\$966,500	\$966,500	Contractor/ Council Insured	Oct-21	Jun-22			The 2021-22 Plant replacement programme was endorsed by Council at the 1 March 2022 Ordinary Council Meeting.
TBA	Waste & Recycling Centre Leachate Dam	D	3653,4530.504	\$498,212	\$498,212	Existing Cover to \$2M	Jul-21	Jun-22			Design and Construction Cost Estimates complete (\$500,000). Biodiversity Assessment RfQ issued and required prior to Development Application.
TBA	New Footpath & Cycleway	C	3500,4073.504	\$135,000	\$135,000	Existing Cover to \$2M	Aug-21	Sep-21	Aug-21	Sep-21	Prioritised program reported to Council for endorsement 27 August 2021 with footpath construction in Ironbark Road, between Calgaroo Avenue to Ironbark Ridge now complete.
TBA	Purchase of vehicles	I	3900,5660.504	\$417,486	\$417,486	Council & Contractor Insured	Oct-21	Jun-22	Oct-21		Light fleet programme prepared.
TBA	Regional Road Renewal Programme	I	3502,4135.504	\$70,000	\$70,000	Council & Contractor Insured	Apr-22	Jun-22			Bylong Valley Way sealing is programmed to be carried out in the fourth quarter of 2021-22.
	Resources for Regions - Round 5			\$8,542,556	\$8,143,687						
TBA	Edderton Road Safety Upgrade	C	3500,4257.504	\$2,508,232	\$2,427,544	Council & Contractor Insured	Nov-20	Apr-22	Feb-21	Dec-21	Construction is complete.
TBA	Thompson St signalisation	D	3500,4277.504	\$2,100,845		Council & Contractor Insured	Feb-22	May-22	Jan-2022		Tenders received and negotiations with preferred tenderer complete. WAD received from TINSW, with Principal Contractor, Project Verifier and Road Safety Auditor engaged. TINSW has issued the certificate to commence construction. Notification letters to residents and business in the precinct have been issued. The Contractor has been inducted and given possession of the site 10 January 2022.
TBA	UHSC - Murulla St causeway	I	3500,4282.504	\$1,192,576		Council & Contractor Insured					This is an Upper Hunter Shire Council project. Murulla Street is located in Murrumbidgee.
TBA	Wilkinson St bridge	C	3530,5888.504	\$2,740,901		Council & Contractor Insured	Dec-20	May-22	Oct-21		Tenders for a design and construct contract were received and reported to the 2 February 2021 Extra Ordinary Council Meeting. A Community consultation session was held with the residents of Wilder St on 26 August where the 85% design of the bridge and road approaches was briefed. Construction commenced on the bridge in late October 2021 with the central piles being constructed.
	Resources for Regions - Round 6			\$1,108,627	\$1,108,627						
TBA	Ridgeland Road	D & C	3500,4303.504	\$388,385		Council & Contractor Insured	Nov-21	Jan-22			These works are programmed and project preliminaries are currently being undertaken in preparation for site establishment in April.
TBA	Heavy Patching Programme	C	3500,4306.504	\$66,352		Council & Contractor Insured	Aug-21	Mar-22	Aug-21	Oct-21	Project Complete.
TBA	Nandowra / Dartbrook Rd	D&C	3500,4421.504	\$403,732		Council & Contractor Insured					This is an Upper Hunter Shire Council project.
TBA	Bylong Valley Way	D&C	3500,4422.504	\$250,158		Council & Contractor Insured	Jul-21	Jun-22	Jul-21	Aug-21	Project Complete.
TBA	Road Design Programme	I&D	3500,2067.504	\$100,000	\$100,000		Jul-21	Jun-22			Design programme to be reported to Council.
TBA	Road Resealing Program	C	3500,4030.504	\$500,000	\$500,000	Existing Cover to \$2M	Oct-21	Dec-21	Dec-21		Preparatory works have been scoped and quotations have been received from Sealing Companies listed on the panel of service providers. The preparatory works have been completed, with Urban road sealing completed in December. Rural road sealing is to be scheduled for the fourth quarter.
TBA	Roads to Recovery Programme	I	3500,2068.504	\$577,898	\$577,898	TBA	Jan-22	Jun-22			Programme is in the design phase. a contribution will be required from this budget towards the Lorne Street upgrade project. The Design for Lorne St was reported and endorsed by Council at the 1 February 2022 Ordinary Council Meeting. Tenders for construction advertised early January 2022. A tender report was submitted to the 1 March 2022 Ordinary Council Meeting.
TBA	Rosebrook Bridge Replacement	I	3530,4429.504	\$1,633,500	\$1,633,500	TBA	Mar-22	Dec-22	Oct-21		A brief was written to seek quotations for geotechnical investigation, site survey and completion of a review of environmental factors as preliminaries for the project. Quotations have been sought and a consultant engaged for these works. Geotech investigations are being completed.
TBA	Rosemount Rd Box Culvert	C	3500,4428.504	\$850,000	\$850,000	Council & Contractor Insured	August	December	Sep-21		The project has been completed.
TBA	Rural Roads Regravelling	C	3500,4055.504	\$350,000	\$350,000	Existing Cover to \$2M	August	Jun-22	Sep-21		50% spent at Albano Rd, Wells Gully Rd complete. Yarrawa Rd, Castlerock Rd, and Giants Creek to be programmed for carrying out in the fourth quarter of 2021-22.
TBA	Rural Road Renewal	D	3502,4125.504	\$375,000	\$375,000	Council & Contractor Insured	Apr-22	Jun-22	Jan-22		An application for funding under the Fixing Country Roads Program for the rehabilitation of Mangoola Road has been successful. Council endorsed for this budget to be used to supplement the co contribution required to a minimum value of \$82K. Works are in progress.
TBA	Safety Audit Ridgeland Road	I	3500,4270.504	\$47,272	\$47,272	Council Insured	November	January			These works are programmed and project preliminaries are currently being undertaken.
TBA	Safety Device Renewal	C	3590,4145.504	\$135,000	\$135,000	Existing Cover to \$2M	Aug-21	Jun-22			A prioritised program was endorsed by Council at the July 2021 Ordinary Council meeting.
TBA	Sandy Creek Rd Curve Improvements	C	3500,2066.504	\$246,506	\$246,506	Contractor Insured	Jun-21	Dec-21	Jun-21	Sep-21	Works completed.
TBA	Sandy Hollow Village Centre (Pocket Park)	C	3550,4257.504	\$214,403	\$214,403	Contractor Insured	Sep-21	Nov-21	Sep-21		The Tender for hard and soft landscaping has been awarded with the Contractor commencing on site in late September. Work is progressing at the site.
TBA	Transport Vehicles	I	3980,5850.504	\$105,000	\$105,000	Existing Cover to \$2M	Oct-21	Jun-22			Programme being prepared.
TBA	Urban Pavement Renewal	D	3500,4050.504	\$400,000	\$400,000	TBA	Feb-22	Jun-22			Works nominated for Lorne St Muswellbrook. Design was endorsed by Council at the 1 February 2022 Ordinary Council Meeting. A tender report was submitted to the 1 March 2022 Ordinary Council Meeting.
TBA	Waste Management Facility	I	3653,4535.504	\$60,000	\$60,000	TBA	Mar-22	Jun-22			Works programmed for third and fourth quarter. Works associated with progression of Food Organics Garden Organics (FOGO) project.
TBA	Widdien Valley Rd pavement rehabilitation	C	3500,4424.504	\$553,397	\$553,397	Existing Cover to \$2M	Aug-21	Oct-21	Aug-21		Works will recommence on site in April 2022.
TBA	Yarrawa Rd (Fixing Local Roads)	I	3500,2780.504	\$4,931,278	\$4,931,278	Council & Contractor Insured	September	Jun-22	Oct-21		The Tender for construction was advertised 10 August, Pre-tender meeting 24 August, with tenders closed 2 September. Tenders were reported to the 28 September Ordinary Council meeting. A Road Safety Audit of the design and the existing road ch 0 to ch 17km is now completed. Work is progressing on site.
SPECIAL RATE VARIATION											
TBA	Drainage	C	3540,1404.504	\$300,000	\$300,000	TBA	Feb-22	Jun-22			Projects to be prioritised and reported to Council. Palace Street and Paxton Street are considered to be high priority projects for the consideration of Council in relation to this funding.
TBA	SRV 2019 Olympic Park Project	D	3710,1405.504	\$222,554	\$222,554	Existing Cover to \$2M					Funds to be allocated to investigation and design of other precinct stages.
2019-2020-0417	Olympic Park Grandstand Amenities	D & C	3710,7824.504	\$2,126,193	\$2,126,193	Existing Cover to \$2M	Jan-21	Mar-23			Architect has amended design for stakeholder consultation. Concept options placed on public exhibition and adopted at the 26 October 2021 Ordinary Council meeting. Progressing to DA.
2020-2021-0463	RECC - Black Box	C	3690,5432.504	\$8,500,000	\$2,500,000	TBA	Oct-21	Jun-23			The project was reported to the 28 September 2021 Ordinary Council Meeting. Tender negotiations with preferred tenderer, as resolved in 28 September 2021 Ordinary Council meeting, did not result in award of tender. The project will be reviewed following DA approval.
2020-2021-0463	Performance and Convention Centre	C	3690,5433.504	\$16,500,000	\$6,434,000	TBA	Oct-21	Jun-23			The project was reported to the 28 September 2021 Ordinary Council Meeting. Tender negotiations with preferred tenderer, as resolved at 28 September 2021 Ordinary Council meeting, did not result in award of tender. The project will be reviewed following DA approval.
SEWER CAPITAL BUDGET											
TBA	Access and Security Improvements	D&C	6340,4475.504	\$20,000	\$20,000	TBA	Jan-22	Jun-22			Scope clarification currently being produced. Site security fencing upgrades are a high priority.
TBA	Mains Renewal And Replacement	D&C	6310,4340.504	\$339,581	\$339,581	Council & Contractor Insured	Jan-22	Jun-22			Aberdeen Street and William Street gravity sewer mains identified for renewal. Scope of Work and RfTs currently being produced.
TBA	Sewer Plant and Equipment		6340,4380.504	\$35,000	\$35,000	Not required	Jul-21	Jun-22			Programme being prepared.
TBA	Solar Array	I, D & C	6310,4493.504	\$1,800,000	\$1,800,000	Existing Cover to \$2M	Oct-21	Dec-21			Sustainability initiatives associated with operation of the Raw Water Treatment Works. RfQ to be called for Concept design.
TBA	System Plant Asset Renewals	I, D & C	6340,4488.504	\$140,000	\$140,000	Existing Cover to \$2M	Jul-21	Jun-22	Jul-21		2021-22 programme report was submitted to the 26 October 2021 Ordinary Council Meeting. The construction of a septage reception facility at the Muswellbrook recycled water treatment works is the highest priority project for 2021-22. Design of the facility is currently underway.
TBA	Transportation System Improvements	I, D & C	6340,4485.504	\$674,574	\$674,574	Existing Cover to \$2M	Jul-21	Jun-22	Jul-21		Programme of works is progressing.
WATER CAPITAL BUDGET											
N/R	Asbestos Removal		5310,4575.504	\$55,000	\$55,000	Not required					Funding to be reallocated. A report was submitted to the 26 October 2021 Ordinary Council meeting.
TBA	Depot - Investigation and Design	D & C	5310,4578.504	\$166,673	\$166,673	Council Insured	Jul-21	Dec-22			Design is currently being carried out.
TBA	Laboratory Equipment		5340,4395.504	\$25,000	\$25,000	Not required	Jul-21	Jun-22			Replacement of Laboratory equipment, chlorine analysers, glass desiccators, Spectrophotometer servicing. This will be carried out in the fourth quarter of 2021-22.
TBA	Mains Renewal And Replacement	I, D & C	5320,4340.504	\$753,958	\$753,958	Council & Contractor Insured	Jun-21	Mar-22	Jul-21		Works at Sowerby Street and Hill Street have been completed. A report regarding the 2021-22 programme of works was submitted to the 26 October 2021 Ordinary Council meeting. Tenders have been invited, and a report will be submitted for Council's consideration at the 5 April 2022 Ordinary Council meeting.

TBA	Replacement of Water Meters	C	5320.4376.504	\$78,000	\$78,000	Council insured	Jul-21	Jun-22			Ongoing expenditure for ageing water meter replacement.
TBA	System Plant Asset Renewals	I, D & C	5340.4400.504	\$858,600	\$858,600	Council & Contractor insured	Jul-21	Jun-22	Jul-21		2021-2022 programme report was submitted to the 26 October 2021 Ordinary Council meeting. Replacement of the clarifier hood at the Muswellbrook water treatment plant is the highest priority, and contingency planning is underway to take the clarifier off line for up to eight weeks while replacement works are being carried out.
TBA	Upgrade Fluoride Dosing System	I, D & C	5310.4577.504	\$376,800	\$376,800	TBA	Nov-21	Jun-22			DPIE has responded with a design change to improve operability and reliability. The project was reported to the 28 September 2021 Ordinary Council Meeting. Tenders have been invited, and a report was submitted for Council's consideration at the 1 March 2022 Ordinary Council meeting. Costs of the upgrade works will be fully reimbursed by NSW Health.
TBA	Vehicle Replacement	C	5330.4370.504	\$100,000	\$100,000	Existing Cover to \$2M	Oct-21	Jun-22			Programme being prepared.
TBA	Vehicle - Equipment Replacement	C	5330.4378.504	\$117,394	\$117,394	Existing Cover to \$2M	Oct-21	Jun-22			Programme being prepared.
TBA	Water Fund Environmental Grant	I	5310.4563.504	\$55,000	\$55,000						Funds to be reallocated to the Water Mains replacement programme.
TBA	Water Stop Valve Replacement Programme	I, D & C	5320.4379.504	\$159,496	\$159,496	Existing Cover to \$2M	Oct-21	Jun-22			A prioritised programme of water stop valve replacement works will be carried out in the fourth quarter of 2021-22.
WASTE											
TBA	FOGO Infrastructure	I		N/A		TBA					Preliminary Design and EIS complete. DA lodged June 2021. NSW EPA stopped clock to request further information on likely odour impacts.

11.2 ALMOND STREET DENMAN

Attachments:	A. Proposed Subdivision Development B. Road Status C. Road Development Standards Policy
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Imelda Williams - Technical Officer - Traffic & Roads
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
Community Plan Strategy:	<i>Investigate and recommend appropriate management treatments for road safety and traffic management.</i>

PURPOSE

To inform Council of the current position with regards to the maintenance of Almond Street, Denman, following questions from residents, and to seek confirmation in relation to Council's position.

OFFICER'S RECOMMENDATION

Council approves to continue not maintain the additional 1.8 km length of Almond Street, in line with Council's Road Development Standards Policy, until such time as Almond Street is constructed to the specified standards contained in current and future Development Consent proposals.

Moved: _____ **Seconded:** _____

BACKGROUND

The current status of Almond Street, Denman is part:

- Council Public Road from the intersection of Bell Street for a length of 820m; and
- Crown Road Reserve from the 820m point to the intersection of the Golden Highway.

Council's Road Register nominates that the first 600 metres of the road (from the Bell Street intersection) is maintained by Council.

Residents have raised questions regarding the maintenance of Almond Street and, specifically, why Almond Street is not fully maintained by Council.

With regards to Almond Street, north of Bray Street, Muswellbrook Shire Council has consistently stated, at the outset of land being purchased in this area, that it will not accept maintenance of this road nor will it improve it. This is in line with Council's Road Development Standards Policy, adopted by Council 30 June 2020, which states:

Council will only maintain the road network recorded in the Roads Register, and within Council's approved budget.

The responsibility and cost of maintenance of unmaintained roads, whether Formed, Unformed or Unmade roads rest with the landowners who use the road for access to private properties. Approval of a dwelling on a property accessed by an unformed road does not commit Council to any upgrade construction or repair of that road.

There are a number of development applications approved for the land beyond this point. As part of the conditions of consent, the developers are required to upgrade the road, including kerb and gutter and bitumen sealing of the road. This will progress in stages as the various developments proceed.

Over the previous twenty (20) years, a number of blocks have been purchased and further subdivided at the northern end of Almond Street, Denman. Muswellbrook Shire Council has a long-standing policy that maintenance of roads will not be accepted unless they are brought up to the standard required.

Following the recent flood event water has scoured a section of the gravel road at approximately chainage 0.5km. Maintenance works to rectify this defect are programmed to be carried out.

REPORT

Council currently maintains Almond Street, Denman, for a distance of 600 metres from the intersection of Bell Street only. The remaining length of the road (1.8km approx.) is not maintained by Council. Local residents have asked why Council is not maintaining the entire length of the road, and have asked for this matter to be reconsidered.

The maintenance of Council local roads is guided by the 'Road Development Standards Policy' which was adopted by Council 30 June 2020. This policy of Council states:

Council will only maintain the road network recorded in the Roads Register, and within Council's approved budget.

The responsibility and cost of maintenance of unmaintained roads, whether Formed, Unformed or Unmade roads rest with the landowners who use the road for access to private properties. Approval of a dwelling on a property accessed by an unformed road does not commit Council to any upgrade construction or repair of that road.

In the case of Almond Street, from the outset of land being purchased, and small subdivisions approved within the section north of Bray Street, Muswellbrook Shire Council has consistently stated that it will not accept maintenance of this section of road, nor will Council make capital improvements to this section of road. These decisions were made in line with Council's past and present road maintenance policies, including the current Road Development Standards Policy.

In summary, the following reasons and development status information, along with current and previous road maintenance policies, have guided Council's past decisions regarding the maintenance of Almond Street:

- Over the previous twenty (20) years a number of larger blocks have been purchased and further subdivided at the northern end of Almond Street, with homes being built. Muswellbrook Shire Council has had a long standing and current policy that maintenance of roads will not be accepted unless the developer undertakes works to bring the road to a specified standard. This position has been reinforced through the conditioning of development applications for subdivision of land;
- Currently Almond Street is part Council Public Road and part Crown Road Reserve- any works other than minor works on Crown roads would necessitate a resolution of Council for the road to be transferred into Council's care and control;
- A further section of Almond Street was transferred from Crown to Council on 5 September 2014 as part of a Development Application which required the upgrade of Almond Street;
- From 0.6km onwards, Almond Street is required to be upgraded as a condition of Consent for a number of current and proposed large residential subdivisions as part of the West Denman Urban Release area. These developments are pending;
- In its current condition, Almond St would need extensive works to be undertaken on the road to bring it up to a reasonable standard prior to regular maintenance being carried out, including drainage works to control and direct water away from the road into the adjoining properties;
- Previous Council consultation with residents, carried out some years ago, made an offer to residents

that if they were willing to make a significant contribution to the upgrading work then Council would consider a proposal to upgrade the road. Council received only one letter agreeing to this proposal;

- There is currently no drainage system along this portion of the road and the majority of the road is very flat with nowhere for the water go;
- It also has implications of opening up a through road short cut to the Golden Highway, which is unlikely to be supported by TfNSW unless the intersection with Almond Street and Golden Highway is substantially improved and upgraded.

In September 2021 a Subdivision Work Certificate was issued for a residential subdivision in Almond Street (DA 2017-008) with the following requirements across the full frontage of the lot. This will require the construction of Almond Street at this location to the following standards:

The Almond Street design is to ensure compatibility with adjoining development and appropriate traffic calming, therefore a full design of Almond Street fronting the allotment is required. Almond Street is to be 5.5m verge on the western side, 11m between kerbs and 4.5m wide on the eastern side. In the verge paving shall be 2.5m cycle way on the western side and normal kerb and gutter profile for Almond Street and 1.5m path on the eastern side.

Civil engineering construction works required to extend Almond Street to the development is a central 7m sealed pavement with 0.5m shoulders over the extension from existing seal to the development.....

An additional large residential subdivision was approved in 2012 with similar requirements for road construction of Almond Street further north of this site. Although the consent for this development has since lapsed, there has been an expression of interest in recent times for a similar development proposal for this land.

Before any maintenance could be programmed on the currently unmaintained (>one (1.0) km) section of Almond Street, extensive roadwork, involving construction of table drains, forming and shaping of the pavement and placement of gravel would be required. The terrain is very flat in various sections and, without any formal drainage systems in place, there is currently nowhere for the water to go, and the road surface would quickly deteriorate following any periods of heavy rainfall.

Almond Street services eight (8) residences beyond the point where it is currently maintained, with three (3) of these residences having their primary access off the Golden Highway. Traffic counts on Almond Street are only available from 2010 with the count being 11 AADT along the unmaintained portion of the road.

As outlined in Council's adopted Road Development Standards Policy, landowners may make a written application for Council to assume responsibility for the maintenance of a road. Council will consider applications on an individual basis and on the merits of each individual application, and usually only where landowners agree to pay the costs to upgrade an existing unmaintained road to Council standards prior to Council assuming the maintenance responsibilities. Council will take the following into consideration when making a decision:

- Availability of funds (budget allocation);
- Number of residents per km – as a minimum, must be greater than 5;
- Lot size and future sub-division potential;
- Traffic volume – must be greater than 40 average annual daily traffic (AADT);
- Public, recreational and emergency services use; and
- Existing road condition, and public safety and risk considerations.

OPTIONS

Option 1: Council may consider to maintain Almond Street from the point of 600m from the Bell Street intersection for a length of an additional 1.82 km. To enable this action, Council would need to request the Department of Lands consideration to transfer the Crown Road to Council. The cost to bring the road up to a suitable standard would need to be carried out at considerable cost to Council. Budgets would need to be provided to undertake the preparatory works and maintenance.

Option 2: Council determine not to maintain the additional 1.8 km length of Almond Street in line with Council's Road Development Standards Policy until such time as Almond Street is constructed to the specified standards contained in the current and future Development Consent proposals.

Option 3: Council determine not to maintain the additional 1.8 km length of Almond Street nor include this section of the road on the maintenance program, in line with Council's Road Development Standards Policy until such time as Almond Street is constructed to the specified standards contained in the current and future Development Consent proposals. However, Council could agree to carry out a one (1) off maintenance gravelling and grading undertaking for an additional distance of 600m on the section of road from Ch 0.6km Ch 1.2km once this section records a rough-o-meter reading above 8.0. This decision would be inconsistent with Council's adopted policy and may set a precedent for the maintenance of other roads.

CONCLUSION

Council expenditure on maintenance of the currently unmaintained section of Almond Street would offer little benefit to the community and may be considered to be neither an effective nor efficient use of public funds considering that Almond Street will progressively be upgraded and constructed to the specified standards as current and proposed residential developments proceed in the future. As a result, it is recommended that Option 2 be considered as the most favourable option.

SOCIAL IMPLICATIONS

Should Council decide to upgrade and maintain the currently unmaintained section of Almond Street, this will provide relief to the affected residents, whilst reducing Council's ability to provide maintenance to its overall approved road assets.

FINANCIAL IMPLICATIONS

Considerable funding will be required to prepare and maintain the 1.8km section of Almond Street currently not maintained by Council, with a source of funding not currently identified.

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

Estimated cost to bring the 1.8 km section to a standard to be able to maintain would be in the order of \$1,000,000 if the road was to remain unsealed.

2. Financial Implications – Operational

A decision to maintain the road would set a precedent to be applied across the entire road network which would require an increase to the operational budget.

POLICY IMPLICATIONS

Option 2 meets the requirements under Councils Road Maintenance Standard Policy.

Council does not have authority over Crown Roads. Works on Crown Roads would need to comply with the Departments Policy of 'Administration of Crown Roads'.

STATUTORY IMPLICATIONS

Council is the Roads Authority under the *Local Government Act 1993*, and is acting within its powers.

LEGAL IMPLICATIONS

In the case where Council is the Road Authority it may establish and maintain road surfaces. The Local Government Act does not place an obligation on Council to do so. Council is acting within its powers.

OPERATIONAL PLAN IMPLICATIONS

Submission of the report complies in principle with item 19.3.4 of the Operational Plan: 'Investigate and recommend appropriate management treatments for road safety and traffic management'.

RISK MANAGEMENT IMPLICATIONS

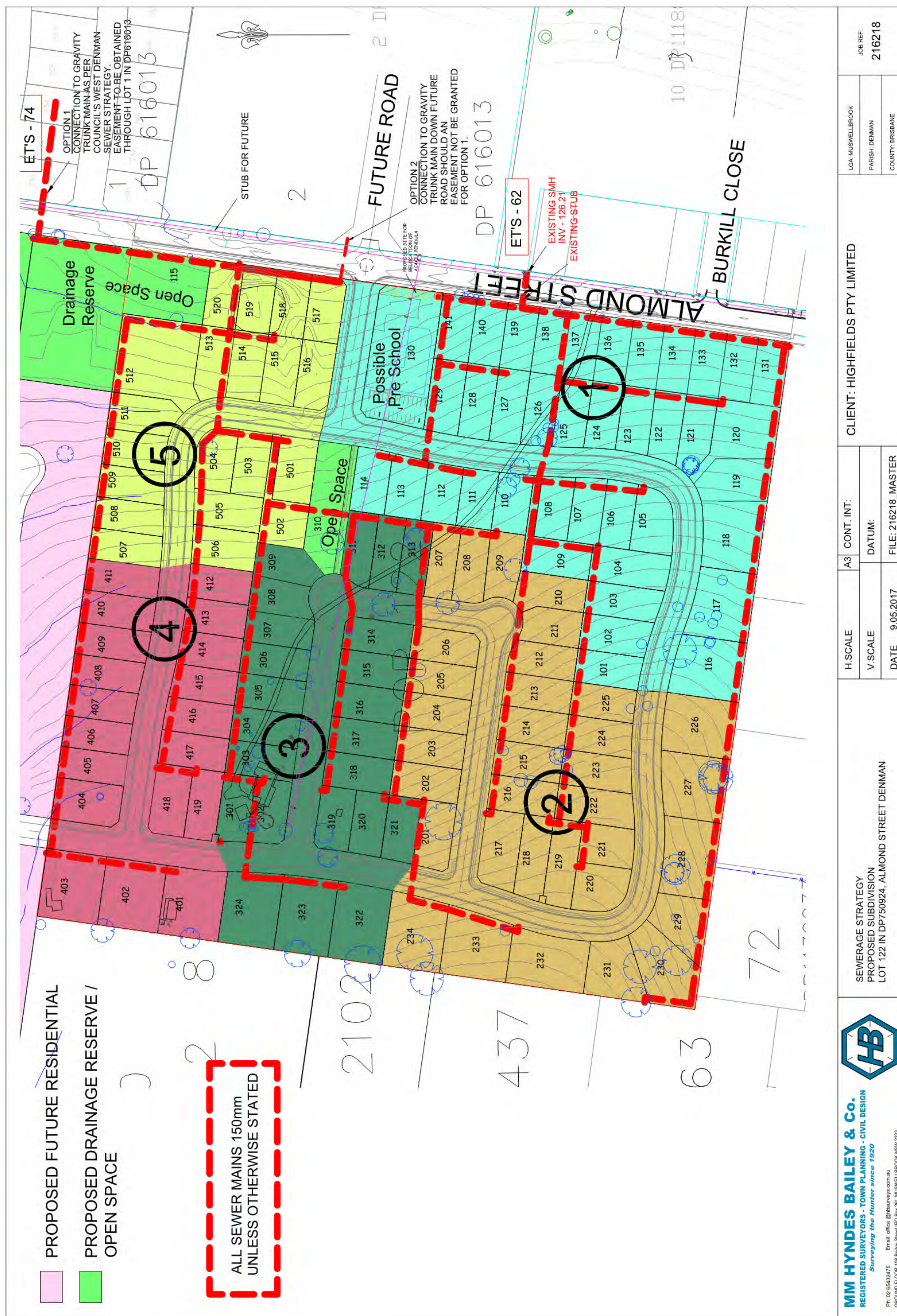
The unmaintained section of Almond Street has been signposted to alert and advise drivers to drive to the conditions of the road.

WASTE MANAGEMENT IMPLICATIONS

Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Not applicable.



Almond Street Denman - Road Status
Council Public Road: 820m (blue line)
Crown Road/
Not Council maintained: 1600m (green line)



Monday, 21 March 2022 10:06:18 AM - Window



**muswellbrook
shire council**

**Road Development Standards
Policy
MSC09E**

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Policy Objective

To provide policy guidance regarding:

- The conditions under which Council maintains roads across the Shire.
- Council's policy on changing the status of an 'unmaintained' road to a 'maintained' road.
- Council's policy regarding requests for Council to take over the upgrade and maintenance of 'unmaintained' roads.
- To provide a unique address for properties so that they can be easily identified and located.
- To ensure the naming and numbering of rights of way is regulated.
- The closure of Council roads.

The Road Development Standards Policy is intended to complement Council's Development Control Plan.

Risks being addressed

This policy ensures safe and high quality community infrastructure necessary to a regional centre.

Scope

This policy applies to all local roads in the Shire of Muswellbrook, for which Council is the designated road authority.

Contents

1. Definitions
2. Policy Statement
 - 2.1 New Roads
 - 2.2 Road Maintenance
 - 2.3 Public Ramps
 - 2.4 Naming of Roads
 - 2.5 Property Addresses and Numbering
 - 2.6 Rights of Way
 - 2.7 Road Closures Requested by Development
 - 2.8 Dedication of Public Roads
3. Delegations
4. Legislation
5. Dispute Resolution
6. Associated Council Documentation

1. Definitions

Term	Definition
Formed road	A road that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally.
Maintained road	A road specified in Council's Road Register as being maintained by Council.
Unformed road	A road reserve that has been cleared and open to use by the public.
Unmade road	A road reserve that has had no capital improvement including clearing, formation or gravel paving. An unmade road may be trafficable or un-trafficable in all weathers.
Unmaintained road	A road that is included, or not included, in Council's Road Register, and is not maintained by Council.

2. Policy Statement

2.1 New Roads

In a number of instances a new development will require:

- the construction of a new road for access, and the road will be dedicated to Council as a Public Road; or
- the reconstruction or upgrading of an existing Public Road.

The Standards that will apply are outlined in Muswellbrook DCP 2009, and engineering guidelines such as Auspec and Austroads.

It is Council's preference that residential subdivisions (for example, land zoned R1, R2, R5, B2, B3), created under Torrens and Community Title, be provided with a Public Road access that meets Council's standards. Any requests for residential subdivisions to be served by a Private Road that doesn't meet Council's standards will require justification as to why compliance with Council's standards are unnecessary or unreasonable in that instance.

In urban areas, access to new sub-divisions or dwellings will be required to be made from a sealed road compliant with Council's engineering guidelines such as Auspec and/or Austroads. Where an upgrade to an unsealed road is required, this may be carried out by the developer at its full cost, or in the case of multiple property access along the identified, affected length of road, through the development of a Developer Contributions Plan in order to fairly apportion costs between relevant property owners.

2.2 Road Maintenance

Council will only maintain the road network recorded in the Roads Register, and within Council's approved budget.

The responsibility and cost of maintenance of unmaintained roads, whether Formed, Unformed or Unmade roads rest with the land owners who use the road for access to private properties. Approval of a dwelling on a property accessed by an unformed road does not commit Council to any upgrade construction or repair of that road.

Land owners may make a written application to Council for approval to construct a formed road, at the cost of the land owners. Applications will be assessed, and may be granted conditional approval based on conditions outlined in the policy procedure.

The formation or construction of a road to Council standards does not automatically imply that Council will maintain the road. Council will only take over maintenance of the road:

- if it provides wider community benefits and satisfies the criteria outlined in Requests for Council take over section below; and
- following construction of the road in accordance with conditional approval and its acceptance by the authorised Council officer.

Land owners may make a written application for Council assume responsibility for the maintenance of a road. Council will consider applications on an individual basis and on the merits of each individual application, and usually only where land owners agree to pay the costs to upgrade an existing unmaintained road to Council standards. Council will take the following into consideration when making a decision:

- Availability of funds (budget allocation);
- Number of residents per km – as a minimum, must be greater than 5;
- Lot size and future sub-division potential;
- Traffic volume – must be greater than 40 average annual daily traffic (AADT);
- Public, recreational and emergency services use; and
- Existing road condition, and public safety and risk considerations.

Sections of road that provide access to 5 or less residences will not be considered for addition to the maintained road list.

Private individuals or Contractors may perform maintenance on public roads that are unmaintained if they obtain S138 permit from Council. Section 138 of the Roads Act (NSW) requires that all work undertaken within Council's road reserves must have Council consent prior to work being undertaken.

The only time a S138 permit is not required is when all works (including all loading and unloading with the use of machinery, shifting of the machinery e.g. backhoes, cranes, concrete trucks, mine vehicles etc) being undertaken are carried out within the boundaries of private property. Should this be the case, Council requires written notification to this effect.

Conversely, should consolidation of properties result in a maintained road providing access to one property only, without the road traversing any other property or providing a public benefit, Council may decide to remove that road from the register of maintained roads, and to no longer maintain the identified section of road.

2.3 Public Ramps

Part 9 Division 2, Roads Act (1993), Part 6, Roads (General) Regulations 2008 imposes statutory duty on Council to inspect, maintain and repair any part of a public road which is a roadway, a pathway, a shoulder or road infrastructure. For the purposes of this section, a Public Gate and/or a Stock Grid are considered an inherent component of a road and can therefore be regarded as road infrastructure.

Whilst Council has the control, care and management responsibility of its public roads, provisions of this policy transfer responsibility to the landowner for monitoring, maintenance and repair of any Public Gate and/or Stock Grid which are permitted for use. This maintenance responsibility includes the section of road 20 metres either side of the Stock Grid.

All costs associated with the construction, maintenance and repair of a Public Gate and/or Stock Grid,

as well as the section of road 20 metres either side of the Stock Grid, is the responsibility of the owner of the land to whom the Public Gate and/or Stock Grid has been granted.

This policy also requires compliance check of a permitted Public Gate and/or Stock Grid to ensure that the liability insurance is held by the land owner. Council reserves the right to undertake any maintenance or removal of a Public Gate and/or Stock Grid at the landowner's expense where it may be deemed that it poses a hazard to other road users.

If Council determines that Public Gate and/or Stock Grid is not maintained to the appropriate standard, or that the Public Gate and/or Stock Grid is not warranted, Council may remove the Public Gate and/or Stock Grid and reinstate the road at the landowner's expense.

2.4 Naming of roads

Council will not accept the use of surnames of living private citizens or those in public office except when "special circumstances" are deemed by Council to warrant or justify such use.

(NOTE: "Special circumstances" will be considered in the naming of streets, accessways and parks and reserves after private citizens or those in public office where the following criteria designed to enhance the historical fabric of the Shire are met:

- a) the person after whom the street, accessway, park, or reserve is deceased or is no longer resident in the area;
- b) the person after whom the street, accessway, park, or reserve is proposed to be named has rendered exceptional services to the Shire.)

Council has a preference for the use of Aboriginal place names, the names of Australian flora and fauna, the names of geological rocks, minerals and elements related to the Shire, or places where former Shire residents have been involved in war or peace keeping efforts sanctioned by the Australian Government.

2.5 Property Addresses and Numbering

Council is committed to ensuring the health and wellbeing of its residents by making sure their place of residence can be quickly located in an emergency. Council will apply the property numbering principles identified in the Comprehensive Property Addressing System established by the Geographical Names Board. Each property shall have an address that is linked to a single road name.

The Comprehensive Property Addressing System was established to ensure there was a uniform approach taken across the whole of NSW. The majority of properties in the Shire have been allocated a Property Address that conforms to this approach. Occasionally, however, an owner or Council will identify a property that doesn't have a correct Property Address, and in this case the owner may initiate a request for a Property Address.

If a private property in a rural location has more than one private road/driveway providing access to separate dwellings on the one property, each access should be provided with a separate Property Number, in order to make it easy for emergency Services to find the correct property.

In any new subdivision, the Property Addresses for new lots must be created at the time the subdivision is approved and registered.

2.6 Rights of Way

Council is committed to ensuring the health and wellbeing of its residents by making sure their place of residence can be quickly located in an emergency.

In consultation with the property owners serviced by the right of way, where it is considered necessary to ensure properties have a unique and identifiable address, Council will name existing Rights of Way (ROW).

If Council receives a request from a property owner to name a right of way, the cost of approved signage and the supply of rural address plates benefiting properties are to be borne proportionally by the property owners serviced by the right of way.

Where a subdivision application in a rural area proposes access by right of way, and that right of way:

- services or will service more than 1 property; and
 - the right of way exceeds 400 metres in length,
- a condition will be applied to the subdivision consent requiring;
- a) The Applicant to include a name for the right of way for Council's approval;
 - b) The Applicant to provide and erect, at its expense, a sign that bears the approved name of the right of way. The sign shall also include the words 'Private Road' in letters approximately 30mm high. The size and style of the sign is to be the same as Council's standard street signage;
 - c) New lots serviced by the ROW are to be given an address to the ROW; and
 - d) The erection of rural address plates to identify each property.

In the case of private roads in rural locations that provide access to a primary residence and a number of rural workers dwellings, the Owner should consider naming the private road as a ROW and providing each residence with a number based on distance from the Public Road, again to help emergency services locate the correct dwelling quickly.

Rights of Way are not maintained by Council.

2.7 Road Closures requested by Development

Road closures requested by private developers will comply with the Notice of Motion entitled 'Road Closure Resolution' adopted by Council at the 12 February 2019 Ordinary Council Meeting. The adopted Road Closure Resolution provides:

1. Without predetermining any particular application under Division 3 of Part 4 of the Roads Act 1993, Council adopts a general policy that significant alterations to the rural road network should not be resolved until after the adoption of a new Local Environment Plan;
2. Review and finalisation of the Contributions Plan accompanying the Mine Affected Roads Strategy.

2.8 Dedication of Public Roads

Where existing roads have minor deviation outside the public road reserve, no action will be taken to correct this unless reconstruction work of that section of road is undertaken, or adjoining property owners request the correction of the road boundary.

3. Delegations

The General Manager is the interpreter of this Policy and shall be the sole arbiter in respect to the application of this Policy.

Directors, Assistant Directors, and Executive Managers are responsible for the administration and implementation of this policy.

4. Legislation

Roads Act 1993

Roads (General) Regulations 2008

5. Dispute Resolution

The General Manager is the sole interpreter of this policy.

6. Associated Council Documentation

Muswellbrook Shire Council 2019-20 Operational Plan

Muswellbrook Shire Council Rural Road Status Report (as amended 1986)

Authorisation Details

Authorised by:	Council
Minute No:	403
Date:	30 June 2020
Review timeframe:	2 years
Department:	Community Infrastructure
Document Owner:	

Details History

Version No.	Date changed	Policy type	Modified by	Amendments made

11.3 MANGOOLA COAL CONTINUATION OPERATIONS WYBONG ROAD OVERBRIDGE INFRASTRUCTURE

Attachments:	<p>A. 12567103-REP-0_RSA_Wybong Road Arch (1).pdf - Under Separate Cover</p> <p>B. EDS-00017109-02_1 - Wybong Rd Overpass Independent Verification (Final).pdf</p> <p>C. Overpass IFC 25.2.22.pdf - Under Separate Cover</p> <p>D. Mangoola Coal EDS-00017109-01_1 - Wybong Rd Overpass Independent Verification.pdf - Under Separate Cover</p> <p>E. 6993 - Mangoola Coal Mine - IFC Design Issue 21.08.2020.pdf - Under Separate Cover</p>
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Imelda Williams - Technical Officer - Traffic & Roads Kellie Scholes - Manager - Roads, Drainage & Technical Services
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
Community Plan Strategy:	<i>Investigate and recommend appropriate management treatments for road safety and traffic management.</i>

PURPOSE

To advise Council of the receipt of the structural verification for the Wybong Road Overpass precast arch and reinforced earth wall provided by the independent expert, Lyndsay Dynan, on behalf of Mangoola Coal and to seek Council's concurrence that this satisfies the requirement that the Infrastructure Works have been designed to all applicable standards.

OFFICER'S RECOMMENDATION

Council;

1. Acknowledges receipt of written certification from independent expert Lyndsay Dynan Consulting Engineers Pty Limited, in the form of a Structural Verification Report dated 20 January 2022, for the Wybong Road Overpass Precast Arch and Reinforced Earth Wall, verifying that the Infrastructure Works have been designed to all applicable standards.
2. Authorises for Mangoola Coal Operations Pty Limited to be notified that the detailed design plans and the written certification provided under Clause 6.1 (c) of the Deed are satisfactory.

Moved: _____ Seconded: _____

BACKGROUND

Mangoola Coal Operations received approval from the Independent Planning Commission on 26 April 2021 for SSD 8642 Mangoola Coal Continued Operation Project. Council Officers began negotiations with Mangoola Coal Operations shortly after mine approval was granted to facilitate the Mine's Continuation Project.

The Development Consent approves, among other things, the design and construction of an overbridge haul road over Wybong Road (the Infrastructure). At the 12 October 2021 Ordinary Council Meeting,

Council resolved to delegate to the General Manager authority to sign the s138 Roads Act 1993 approval generally in accordance with the draft Special Conditions. Council and Mangoola also entered into the "The Road Closure and Works Deed", dated 18 November 2021, which, among other matters, outlines the criteria for the design, construction and maintenance of the Infrastructure.

CONSULTATION

Roads, Drainage & Technical Service Team, Council's Corporate Lawyer, Mangoola Coal Continued Operations Project Team, Lyndsay Dynan Consulting Engineers, (third party independent verifier) GHD Pty Ltd (Consulting Engineers), Arkhill Engineers (Design Consultant), Reinforced Earth Sustainable Technology (Design Consultant).

REPORT

The construction plans for the Infrastructure that impact Wybong Road have been received by Council, and are attached to the report as Attachments C & E. The "Road Closure and Works Deed" Clause 6.1 (c) Infrastructure Works, requires *that Mangoola must design the Infrastructure in accordance with the Austroads Guide to Road Design, Austroads Guide to Bridge Technology, Bridge Design Standard where applicable and any other applicable standards and lodge detailed plans with MSC for approval under the terms of the Deed. Mangoola must provide MSC with, to MSC's satisfaction, the written certification of an independent expert, acceptable to MSC, that the Infrastructure Works have been designed to all applicable standards.*

Council advised Mangoola Coal that Lyndsay Dynan Consulting Engineers Pty Limited was an acceptable independent expert. The report from Lyndsay Dynan is attached above for the consideration of Council. Matters raised by the reviewer have been addressed by the designer and all matters raised have now been closed out. The Report provided as Attachment B.

Additionally, a Road Safety Audit was undertaken on the detailed Design by GHD, in accordance with Austroads Guide to Road Safety, Part 6: Road Safety Audits. The limit of this road safety audit is the section of Wybong Road impacted by the overpass haul bridge. An assessment of the proposed design documentation for the Wybong Road, Wybong Road Temporary Bypass Road and onsite inspection was undertaken for the purpose of identifying any features which could potentially impair road safety. The road safety audit follows a standard practice in identifying safety related issues. The road safety audit findings have been addressed and closed out in the design drawings and have been provided in the report as attachment A.

OPTIONS

In accordance with the "Road Closure and Works Deed" Section 6 specifies that within 25 Business days of lodgement of the written certification of the independent expert (in this instance the report from Lyndsay Dynan in Attachments B & D):

- Council may give Mangoola Coal notice whether the detailed design plans and the written certification prepared are satisfactory; or
- Council may give Mangoola Coal notice that the detailed design plans and written certification are not satisfactory to Council and that Council will identify any reasonable modification required.

CONCLUSION

With consideration of the independent expert's attached reports and comments register, it is recommended that Council give notice to Mangoola Coal that the written certification provided by Lyndsay Dynan is satisfactory to Council and Council acknowledges the report verifies that the infrastructure has been designed to all applicable standards.

SOCIAL IMPLICATIONS

Nil known.

FINANCIAL IMPLICATIONS

The cost of all works undertaken will be the responsibility of the applicant. Council will cover its costs through the s.138 Road Act 1993 consent condition fees previously issued for the works.

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

Mangoola Coal is responsible for all costs associated with the construction of the infrastructure.

2. Financial Implications – Operational

Mangoola Coal is responsible for the maintenance of the infrastructure and for the section of Wybong Road affected by the infrastructure until such time as the infrastructure is removed from the road reserve.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Council as the Roads authority is acting within its powers under the *Roads Act 1993*.

LEGAL IMPLICATIONS

Council as the Roads authority is acting within its powers under the *Roads Act 1993*.

OPERATIONAL PLAN IMPLICATIONS

Submission of the report complies with item 19.3.4 of the Operational Plan: 'Investigate and recommend appropriate management treatments for road safety and traffic management'.

RISK MANAGEMENT IMPLICATIONS

The independent structural verification letter does not relieve any party of their responsibility to comply with relevant documentation such as drawings, specifications and standards. The independent verification should be considered a general engineering review of the structural elements of the arch and reinforced earth wall and should not be interpreted as an exhaustive analysis. Design responsibility for the elements reviewed remains with the permanent works designer.

Provisions are made under the "Road Closure and Works Deed" if Mangoola fails to maintain the infrastructure or comply with any rectification notice. Council holds an unconditional bank guarantee that can be drawn upon as documented in the Deed.

WASTE MANAGEMENT IMPLICATIONS

Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Extensive public consultation has been, and will continue to be, undertaken by Mangoola Coal prior to and during the construction phase to notify road users of the changed traffic conditions. Updates will be provided on Council's website.



Thursday, 20 January 2022

Project No. 00017109

Glencore Coal (NSW) Pty Limited
4/670 Hunter St
Newcastle West NSW 2302

ATTENTION: Brian Pease
Brian.Pease@glencore.com.au

**EDS-00017109-02_1: STRUCTURAL ENGINEERING DESIGN STATEMENT (REVISION 1)
MANGOOLA COAL CONTINUED OPERATIONS PROJECT INDEPENDENT STRUCTURAL VERIFICATION
WYBONG ROAD OVERPASS PRECAST ARCH AND RE WALL**

Further to the report EDS-00017109-01_1 issued 23 November 2021, Lindsay Dynan confirms that, being practising Structural Engineers as specified within the meaning of the National Construction Code of Australia, we have undertaken a third-party structural engineering design review and verification of the precast concrete arch and RE spandrel and wing wall components (designed by Reinforced Earth Pty Ltd) and the arch footings (designed by Arkhill Engineers) for the proposed haul road access over Wybong Road as part of the Mangoola Coal Continued Operations Project. Lindsay Dynan has reviewed the original designer responses provided to the comments register issued with EDS-00017109-01_1 and is generally satisfied that design queries raised are closed subject to the following requirements:

- Final construction drawings issued to Lindsay Dynan for our records with any amendments made as per IV comments register responses.
- Additional geotechnical investigations being undertaken to the south of Wybong Road to confirm founding conditions are consistent with assumptions made to the north of the road alignment.
- Geotechnical supervision and signoff for items noted in the comments register.
- Outstanding temporary works design for the arch installation to be undertaken by others.

The closed comments register is provided in Appendix A for reference.

Please note that this letter does not relieve any party of their responsibility to comply with relevant documentation such as drawings, specifications and standards. Our independent verification should be considered a general engineering review of the structural elements of the arch and RE wall and should not be interpreted as an exhaustive analysis: design responsibility for the elements reviewed remains with the permanent works designer.

Should you require any clarification of the review or content of this report please do not hesitate to contact us.

Yours faithfully
LINDSAY DYNAN
CONSULTING ENGINEERS PTY LIMITED

Sam Buttenshaw
Senior Structural Engineer
BEng(Civil) Hons 1

Reviewed By

Brenton Wakem
Associate Structural Engineer
BEng(Hons1) MIEAust CPEng NER RPEQ



Member of:
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Appendix A

IV Comments Register

[illegible]

11.4 MANGOOLA COAL CONTINUED OPERATIONS PROJECT YARRAMAN ROAD UPGRADE

Attachments:	<p>A. Yarraman Road Upgrade New Bridge Span Options .pdf</p> <p>B. Yarraman Road Upgrade Bridge Options Justification - design pre-issue memo.pdf</p> <p>C. Yarraman Road Upgrade Bridge Alignment Survey Plan 211224-GDA94_RAK-Model.pdf</p>
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Imelda Williams - Technical Officer - Traffic & Roads
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Facilitate investment in high quality community infrastructure necessary to a regional centre.</i>
Community Plan Strategy:	<i>Investigate and recommend appropriate management treatments for road safety and traffic management.</i>

PURPOSE

To request the endorsement of Council regarding the concept design of the Yarraman Road bridge over Wybong Creek, and the realignment of a portion of Yarraman Road, and to progress the acquisition of land for road purposes.

OFFICER'S RECOMMENDATION

Council endorses the following matters pertaining to the Yarraman Road Portion Upgrade as outlined in the "Road Closure and Works Deed" for the Mangoola Coal Continued Operations Project:

1. The Option 2 A (incorporating Motif #1) concept design plan for the new Yarraman Road bridge spanning Wybong Creek;
2. The proposed Yarraman Road realignment route nominated on attachment C;
3. Council staff to commence negotiations with affected landowners to acquire the land required for road purposes as shown on the concept bridge/road realignment survey plan; and
4. Council authorises the General Manager to negotiate the compensation required for the land required for road purposes as shown on the concept road realignment plan.

Moved: _____ Seconded: _____

BACKGROUND

Mangoola Coal Operations Pty Limited received approval from the Independent Planning Commission on 26 April 2021 for SSD 8642 Mangoola Coal Continued Operations Project. Council Officers began negotiations with Mangoola Coal Operations shortly after mine approval was granted to facilitate the Mine's Continuation Project.

Council and Mangoola entered into the "The Road Closure and Works Deed", dated 18 November 2021, which, among other matters, requires that Mangoola, at its cost, on behalf of MSC is to undertake and complete the Yarraman Road Portion Upgrade. The Deed outlines the criteria for the design and construction of the Yarraman Road Upgrade works under Clause 5. The upgrade works are to extend from the Wybong Post Office Road/Yarraman Road intersection for a length of 1.5km towards Wybong Road, including a crossing over Wybong Creek. The Deed states that *Council acknowledges that*

Mangoola's commitment to construct the Yarraman Road Portion Upgrade is the provision of an acceptable financial contribution to Council in full and final satisfaction of Mangoola's obligations pursuant to condition B102(b) of the Development Consent which states:

[B102. Prior to undertaking mining operations within 200m of Wybong Post Office Road, unless otherwise agreed to by the Planning Secretary, the Applicant (Mangoola) must close the affected section of Wybong Post Office Road and either:

9a) Realign the affected section off Wybong Post Office Road as described in the EIS and shown conceptually in Appendix 2, to the satisfaction of the applicable roads authority; or

(b) provide a financial contribution to Council at least equivalent to the cost of the works identified in subparagraph (a) that is to be directed towards the implementation of Council's preferred approach to addressing road network issues associated with the closure of the affected section of Wybong Post Office Road.]

CONSULTATION

General Manager

Initial consultation with affected landowners

Manager Roads Drainage and Technical Services

Arkhil Engineers

Focus Bridge Engineering

Mangoola Coal Continued Operations Project Team

Deputy General Manager.

REPORT

With reference to the "The Road Closure and Works Deed" dated 18 November 2021, Clause 5.2 (a) requires that '*Mangoola must design the Yarraman Road Portion Upgrade and lodge detailed design plans with MSC for approval under the terms of the Deed within 6 months of the date of the Deed.*'

Mangoola Coal has provided, for Council's consideration, the 20% Concept Bridge Design plans for the proposed new bridge over Wybong Creek on Yarraman Road and the proposed new alignment of the road to accommodate the proposal. The design proposes to realign Yarraman Road approximately 150m upstream (west) of the existing low-level causeway crossing, which will significantly improve road alignment, access and serviceability for traffic using Yarraman Road, specifically during both minor and major flood events.

The preferred road alignment shown on attachment C to the report, achieves a straight horizontal road segment through the bridge, and a constant vertical grade of 1%, allowing for a straightforward bridge geometry. In terms of the bridge design there are several superstructure types that would be feasible to achieve the required span lengths to cross Wybong Creek. The options explored are shown in Attachments A & B. The preferred option is Option 2-A which consists of 3 spans nominally 34.1m in length, using "T4" 1.515m deep girders. This is the preferred and recommended option, as it:

- allows for the central span to be positioned ideally to cross the waterway under normal flow conditions. This avoids potentially costly excavation into rock, and places the abutments close to the crest of the creek bank, meaning less disturbance to the creek banks and bed. Progressively shorter span arrangements require longer and deeper road embankments, which further constricts the waterway. Any longer span arrangements would result in the bridge construction costs being greater than a shallow road embankment;
- provides a height of the bridge deck being above a '1-in-100-year flood' (which refers to a flood height that has a long-term likelihood of occurring once in every 100 years, also called a 100 year recurrence interval and referred to on the plans as "1 in 100 ARI"); and

- the design waterway capacity is well above that required by the Deed, and therefore satisfies the agreed requirements.

In accordance with the Deed, Council is required to give Mangoola notice whether the detailed design plans for the construction of the Yarraman Portion (road and bridge) are satisfactory. The provision of this concept information forms part of the process for Council to be able to determine its satisfaction with the final design of the Yarraman Road Portion. Endorsement of the road alignment and concept plans for the bridge will allow progression to detailed design, and will allow negotiations to commence with the affected landowners for the acquisition of land for road purposes. A further report will be provided to Council once the detailed design plans for the bridge and road upgrade works have been prepared to seek the satisfaction of Council as required under the provision of the Deed.

OPTIONS

Four (4) options, attached to the report as Attachment A, have been considered for the bridge design concept. All options allow for two lane two way traffic and satisfy the specified road cross sectional standards in terms of widths for traffic lanes. All options could be constructed on the preferred road centreline alignment.

There are two (2) options for Motifs to be embedded on the precast side panels of the bridge deck.

CONCLUSION

Justification for the preferred **Option 2A** Bridge Concept Design is provided in attachment B. This concept satisfies the requirements of the Deed in terms of road standards and serviceability for the Community. Motif #1 is the preferred design for the side of the bridge deck.

Council will have a further opportunity to comment once the detailed design plans have been prepared and a further report will be provided in due course.

SOCIAL IMPLICATIONS

During construction of the bridge and road upgrade works, there will be disruption to traffic and an increase in heavy vehicle construction traffic on Yarraman Road for an extended period of time. Once completed, the road upgrade and bridge will significantly improve the safety and access serviceability for traffic using Yarraman Road, specifically during minor and major flood events.

FINANCIAL IMPLICATIONS

In accordance with the Deed, all costs associated with the bridge and Yarraman Road upgrade works will be the responsibility of Mangoola Coal. Council will be responsible for the costs associated with the acquisition of land for road purposes and the dedication to the public of the realigned portion of Yarraman Road.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Council is required to purchase land from the affected landowners and an allocation will be sought for this purpose from the Asset Replacement Reserve.

2. Financial Implications – Operational

Council will be responsible for the ongoing maintenance of the works once completed. Operational costs will decrease due to the new road asset including a flood free crossing.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Council as the roads authority for Yarraman Road is acting within its powers under the *Roads Act 1993*.

LEGAL IMPLICATIONS

Council as the roads authority for Yarraman Road is acting within its powers under the *Roads Act 1993*. Council has entered into the Road Closure and Works Deed which outlines the commitments and

obligations of both Council and Mangoola in this matter.

OPERATIONAL PLAN IMPLICATIONS

Submission of the report complies with item 19.3.4 of the Operational Plan: 'Investigate and recommend appropriate management treatments for road safety and traffic management'

RISK MANAGEMENT IMPLICATIONS

There are risks associated with reaching agreement with the affected landowners on land matters in a timely manner. Flood events could delay construction. Works are required to comply with appropriate Standards, particularly Austroad standards and Transport for NSW guidelines 'Traffic Control at Work Sites' traffic management guidelines.

WASTE MANAGEMENT IMPLICATIONS

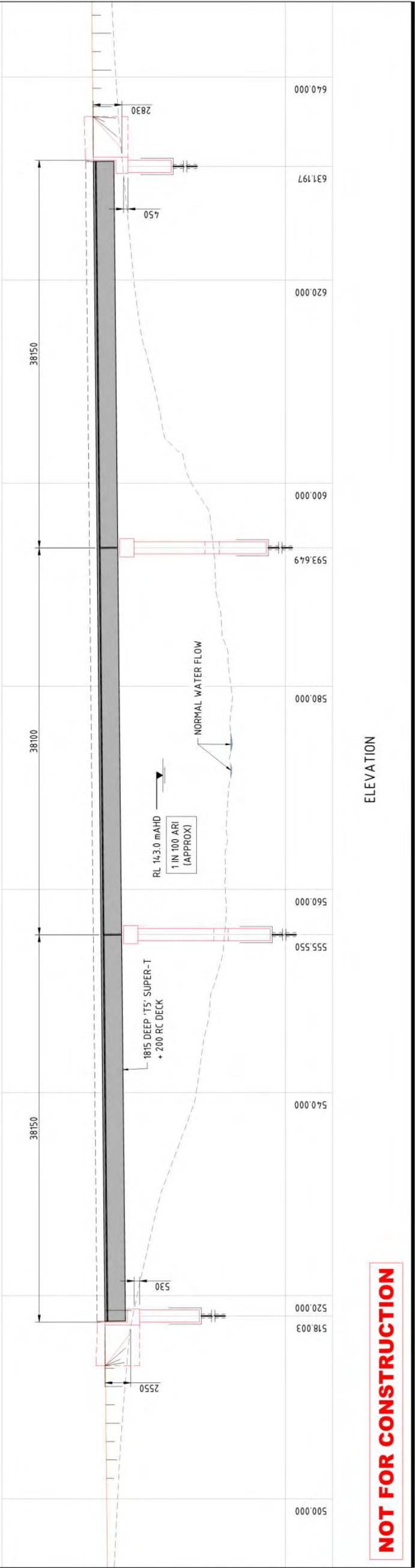
Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Extensive public consultation has, and will continue to be, undertaken by Mangoola Coal prior to and during the construction phase in order to notify road users of the changed traffic conditions. Updates will be included on Council's website.



PLAN

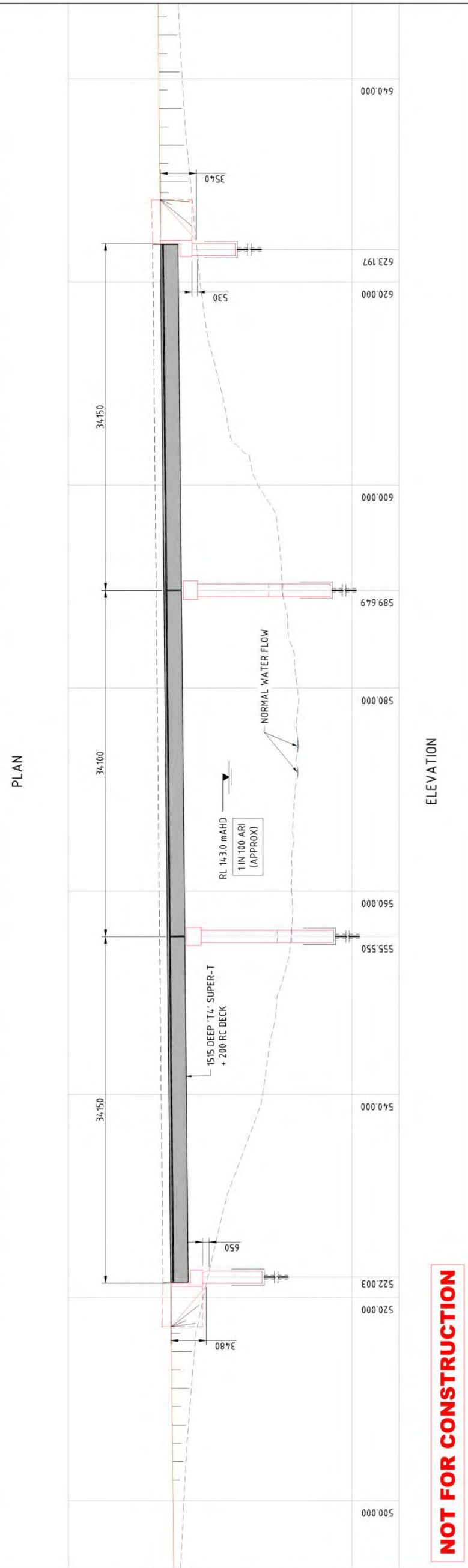


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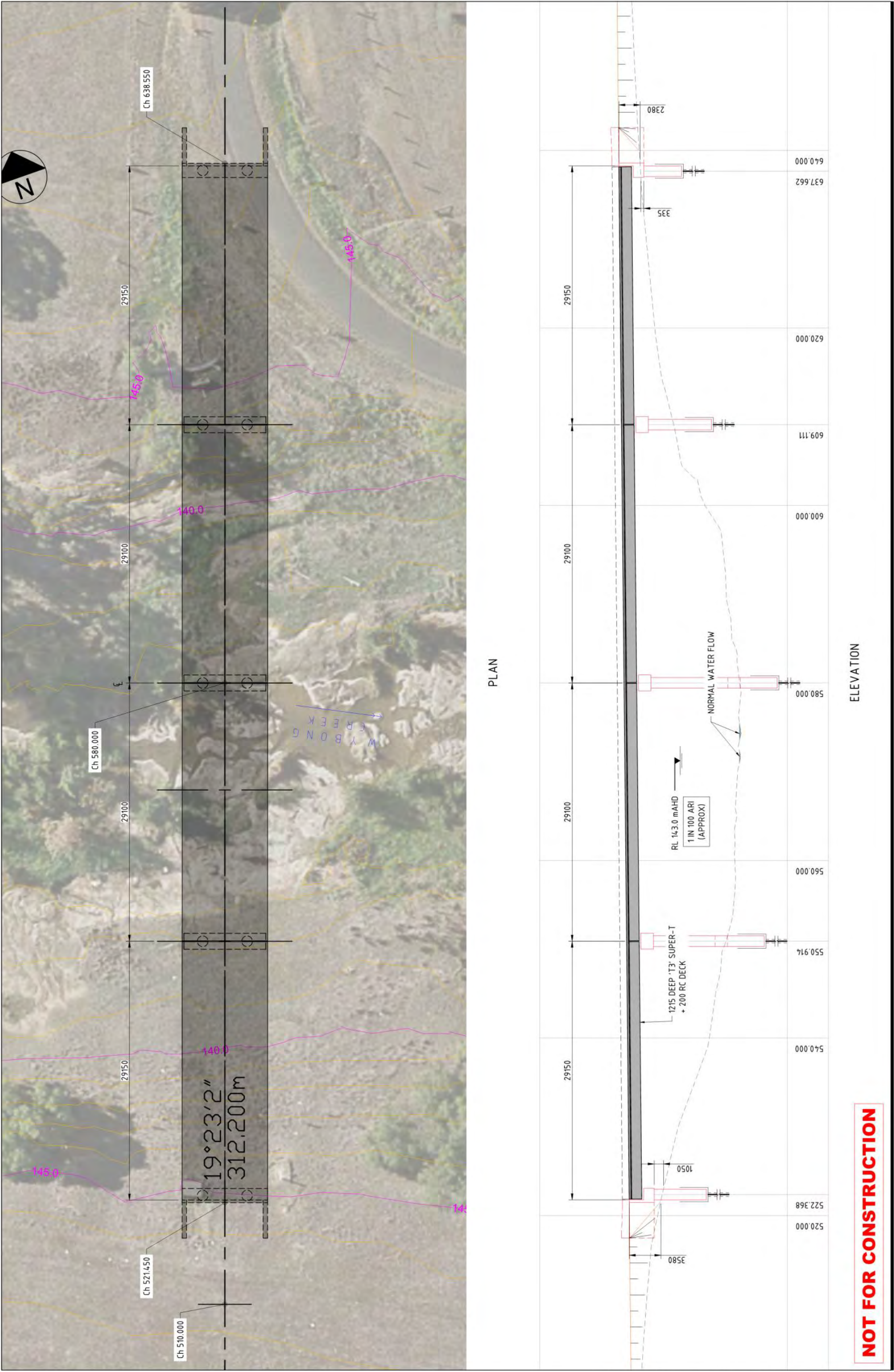
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NEW BRIDGE SPAN OPTION 1-A
GENERAL ARRANGEMENT
SK-YRU-01



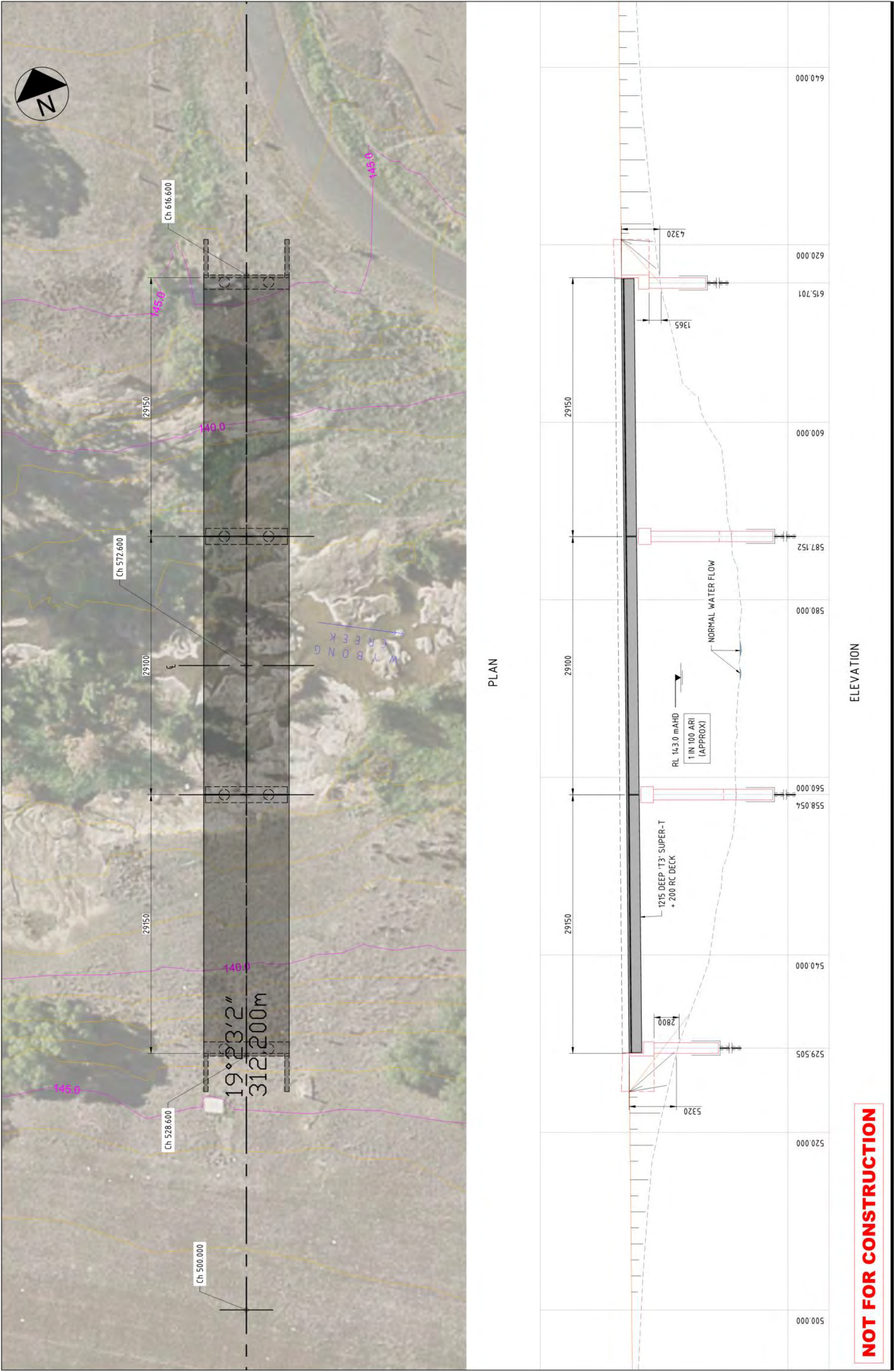


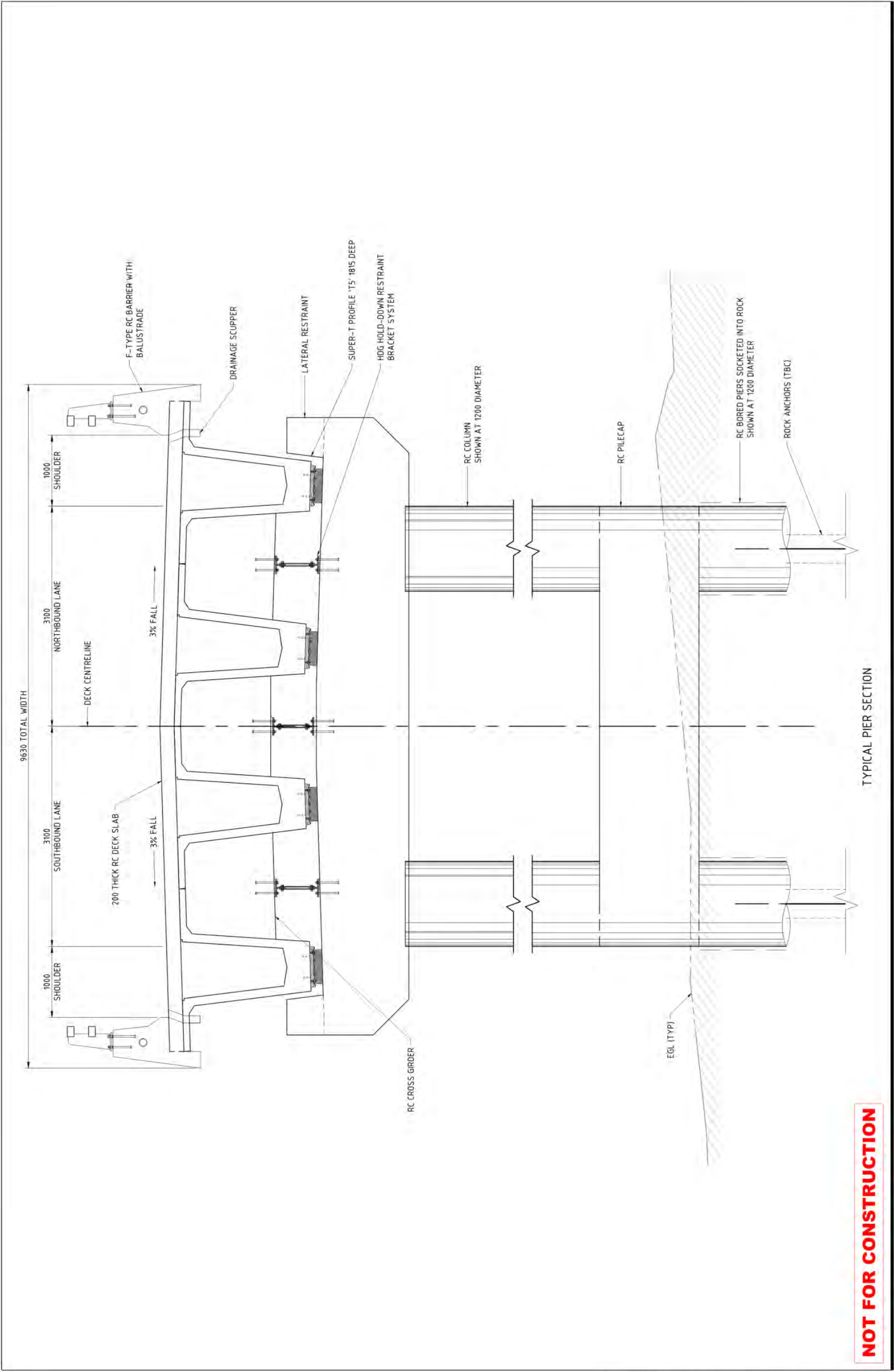
YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 2-A
GENERAL ARRANGEMENT
SK-YRU-02

Focus Bridge Engineering

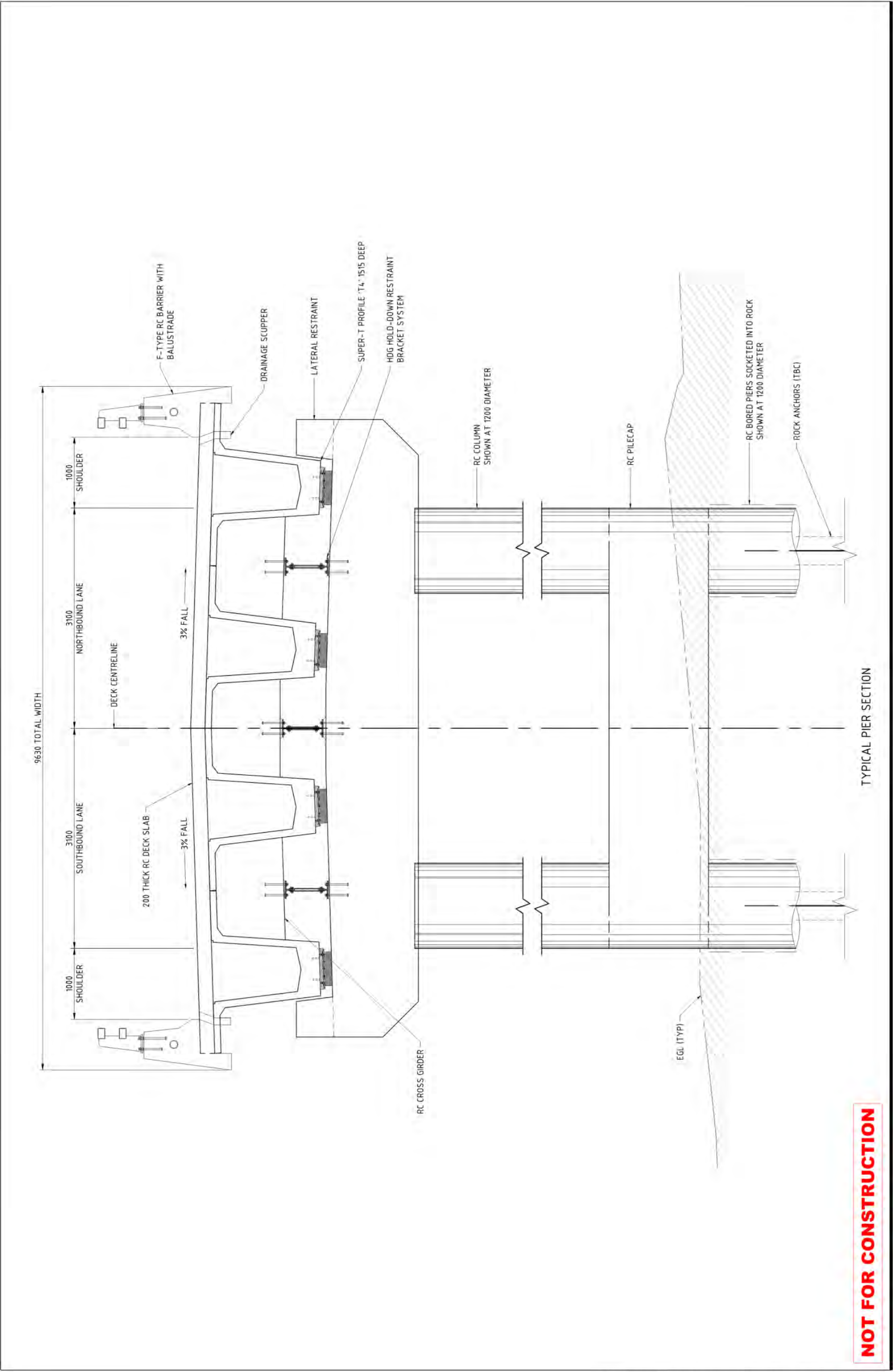


YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 3-A
GENERAL ARRANGEMENT
SK-YRU-03

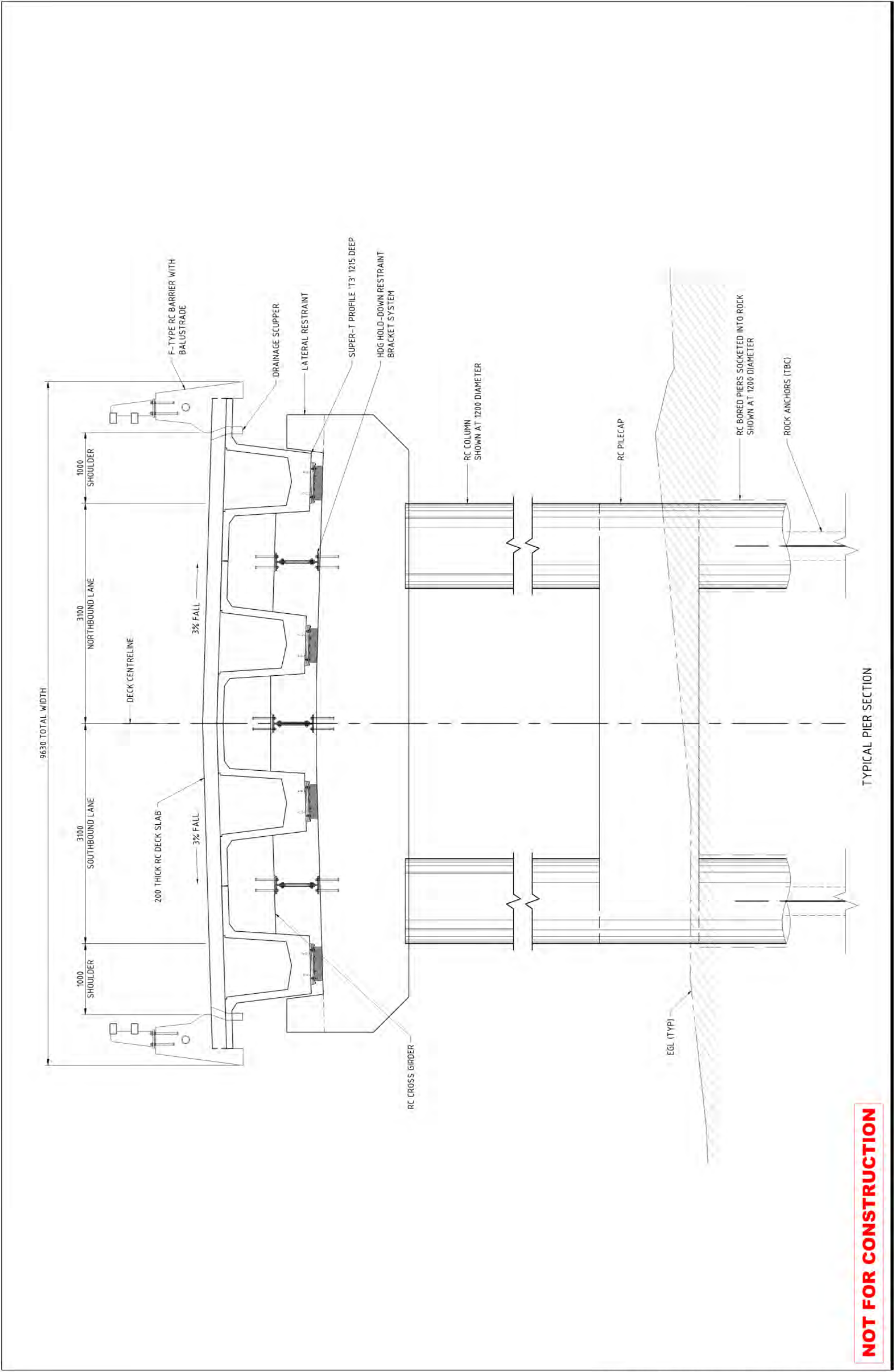




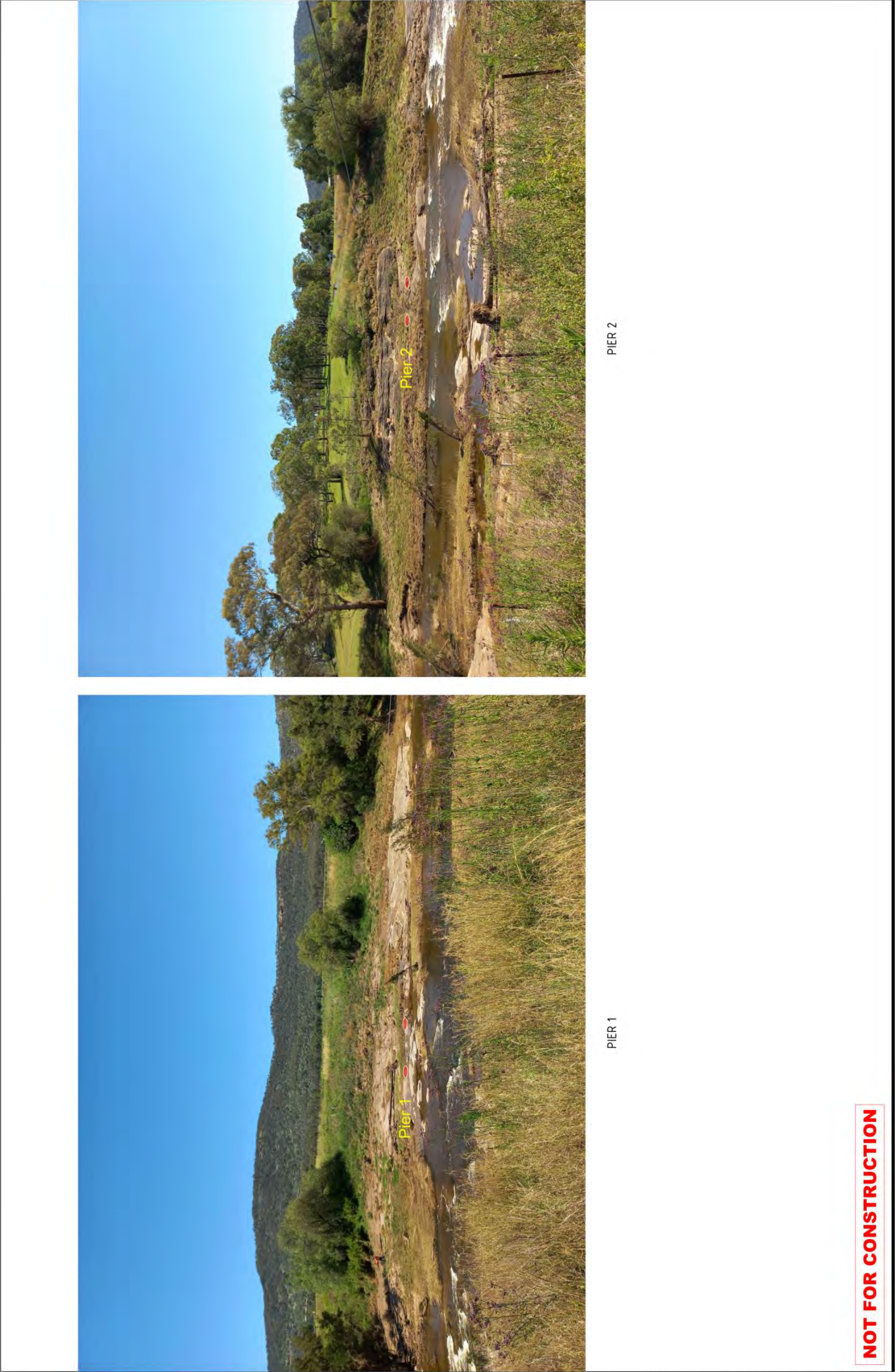
YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 1
TYPICAL PIER SECTION
SK-YRU-05



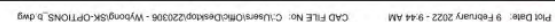
YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 2
TYPICAL PIER SECTION
SK-YRU-06



YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 3
TYPICAL PIER SECTION
SK-YRU-07

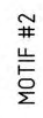


YARRAMAN ROAD UPGRADE
NEW BRIDGE SPAN OPTION 2-A
APPROXIMATE PIER LOCATIONS
SK-YRU-08



Focus Bridge Engineering

SK-YRU-09



MEMORANDUM

Focus Bridge Engineering



TO: Ron Klok – Arkhill Engineers
FROM: James Crace and Mark Tilley – Focus Bridge Engineering
DATE: 14 February 2022
SUBJECT: Yarraman Road Upgrade
20% Bridge design – confirmation of preferred preliminary concept option

Summary

Arkhill Engineers (Arkhill) have engaged Focus Bridge Engineering (FBE) to complete the structural design for a new road bridge spanning Wybong Creek at Wybong, NSW, on behalf of Glencore Pty Ltd (Glencore).

Arkhill and Glencore have proposed to re-align Yarraman Road approximately 150 m upstream of the existing low-level causeway crossing. The new crossing would significantly improve access and serviceability for traffic using this local road.

Arkhill have recently completed a concept road alignment comprising an optimised vertical and horizontal alignment in conjunction with Glencore and FBE. To this end the preferred concept road alignment contains a straight horizontal road segment through the bridge, and a constant vertical grade of 1%, allowing for a straightforward bridge geometry.

After receiving the concept road alignment FBE have prepared preliminary concept bridge options for review by Arkhill, Glencore, and any other relevant stakeholders.

This memorandum briefly summarises feasible bridge options and highlights the main attributes of the preferred span arrangement.

Feasible superstructure types

There are several superstructure types that would be feasible of achieving the required span lengths to cross Wybong Creek. Accounting for the site and project constraints the readily viable options are reinforced concrete composite beam-and-deck bridges. In general, the readily available prestressed concrete (PSC) bridge girder types in NSW are as follows:

1. **PSC planks** – widespread availability with effective for spans up to 18 m.
2. **Super-t girders** – widespread availability with effective for spans between 18 m to 37 m.
3. **I-girders** – limited usage following the introduction of super-t girders with effective for spans of up to 40 m. However, I-girders are more complicated and expensive to manufacture than super-t's, and only used on bridges with particular constraints such as a high skew.

In summary, options comprising the shorter spanning PSC planks would not be cost effective due to the much larger quantity of girders and additional piers required. Options comprising I-girders would see similar spanning arrangements to super-t options, but procurement of these girders would likely be more expensive and take longer to fabricate. Therefore, the logical bridge type, most often preferred by TfNSW, is super-t girders.

Preliminary concept options

FBE have prepared four (4) options with different span configurations. All options employ TfNSW standard super-t girders, as realistically the cost-effective and feasible bridge system for the optimal geometry required to span Wybong Creek:

1. **Option 1-A**
3 no. spans nominally 38.1 m in length, total length of 115.0 m, utilising "T5" 1.815 m deep girders.
2. **Option 2-A - Preferred**
3 no. spans nominally 34.1 m in length, total length of 103.0 m, utilising "T4" 1.515 m deep girders.
3. **Option 3-A**
4 no. spans nominally 29.1 m in length, total length of 117.1 m, utilising "T3" 1.215 m deep girders.
4. **Option 3-B**
3 no. spans nominally 29.1 m in length, total length of 88.0 m, utilising "T3" 1.215m deep girders.

Options 1 to 4 (comprising four different span arrangements) are presented in the attached sketches.

Preferred concept design

At this preliminary stage in the project FBE have identified Option 2-A as the preferred concept design. The differences between Options 1-A, 2-A, 3-A and 3-B are somewhat subjective and progressing any of the four presented options would result in a compliant, serviceable, and durable bridge. The assessment of the four options would be covered in the concept design report in more detail including advantages and disadvantages and basic cost comparison. However, Option 2-A is preferred as follows:

- **Site suitability.** The central span is positioned ideally to cross the waterway under normal low flow conditions. The refined road alignment has resulted in the abutment soffits being roughly the same distance above natural ground level for a given nominal depth, meaning that it is likely the same structural detailing can be applied to both abutments, thus simplifying documentation and construction.
- **Earthworks.** Option 2-A uses the maximum available span for the T4 profile and places the abutments just above natural ground surface. There is a possibility that rock exists very close to surface in the region where the abutments are located. This option avoids potentially costly excavation into rock that might be required with a longer span arrangement (for example Option 1-A) and may require up to 1 m deep excavation under the abutment footprint. Furthermore, Option 2-A places the abutments close to the crest of the creek bank which should be optimal. Progressively shorter span arrangements require longer and deeper road embankments and further constrict the waterway. Any longer span arrangements would result in the bridge construction costs being greater than a shallow road embankment.
- **Girder weights.** Option 2-A uses the standard T4 super-t profile, which spans 33 m between bearings. The estimated weight for one girder is 65 tonnes compared to a T5 girder (Option 1-A) whose estimated mass is 83 tonnes. This is a major project constraint and the feasibility of craneage, and constructability should be confirmed by Glencore as soon as possible. Option 3-A and B uses T3 girders at 50 tonnes which could be investigated further if craneage is an issue.

- **Foundation costs.** The significant costs associated with shallow rock foundation solutions supports minimising the number of piers within the creek bed. A three-span solution has only two piers, or 50% less than a four-span solution.

Bridge aesthetics

FBE has provided examples of a bridge barrier motif constructed on the new Barrington River Bridge by TfNSW – refer SK-YRU-09. Unless directed otherwise, FBE proposed to adopt a similar design for Wybong Bridge and would provide concepts in the Concept Design Report.

Recommendations

It is recommended that the Arkhill and Glencore review the provided span options and proposed barrier motif. FBE seek confirmation of acceptance of the preferred Option 2-A to progress to concept design.

Attachments

SK-YRU-(01 to 09).



**11.5 TRANSPORT FOR NSW PROPOSED ROAD REHABILITATION
DENMAN ROAD**

Attachments:	A. 80% Design Drawings B. Concept for culvert extension Ramrod Ck
Responsible Officer:	Derek Finnigan - Deputy General Manager
Author:	Kellie Scholes - Manager - Roads, Drainage & Technical Services
Community Plan Issue:	<i>Our community's infrastructure is planned well, is safe and reliable and provides required levels of service</i>
Community Plan Goal:	<i>Maintain and continually improve community infrastructure across the Shire.</i>
Community Plan Strategy:	<i>Effectively manage customer service requests.</i>

PURPOSE

To inform Council of the recently received advice from Transport for NSW regarding the proposed rehabilitation of Denman road, including the widening of the culvert over Ramrod Creek.

OFFICER'S RECOMMENDATION**Council:**

- 1. Notes the information contained in this report; and**
- 2. Endorses the comments on the 80% design drawings listed in the report to be forwarded to Transport for NSW for review.**

Moved: _____ **Seconded:** _____

REPORT

Council has received advice from Transport for NSW (TfNSW) that it is proposing to undertake pavement rehabilitation on a section of Denman Road and a culvert extension over Ramrod Creek, Muswellbrook.

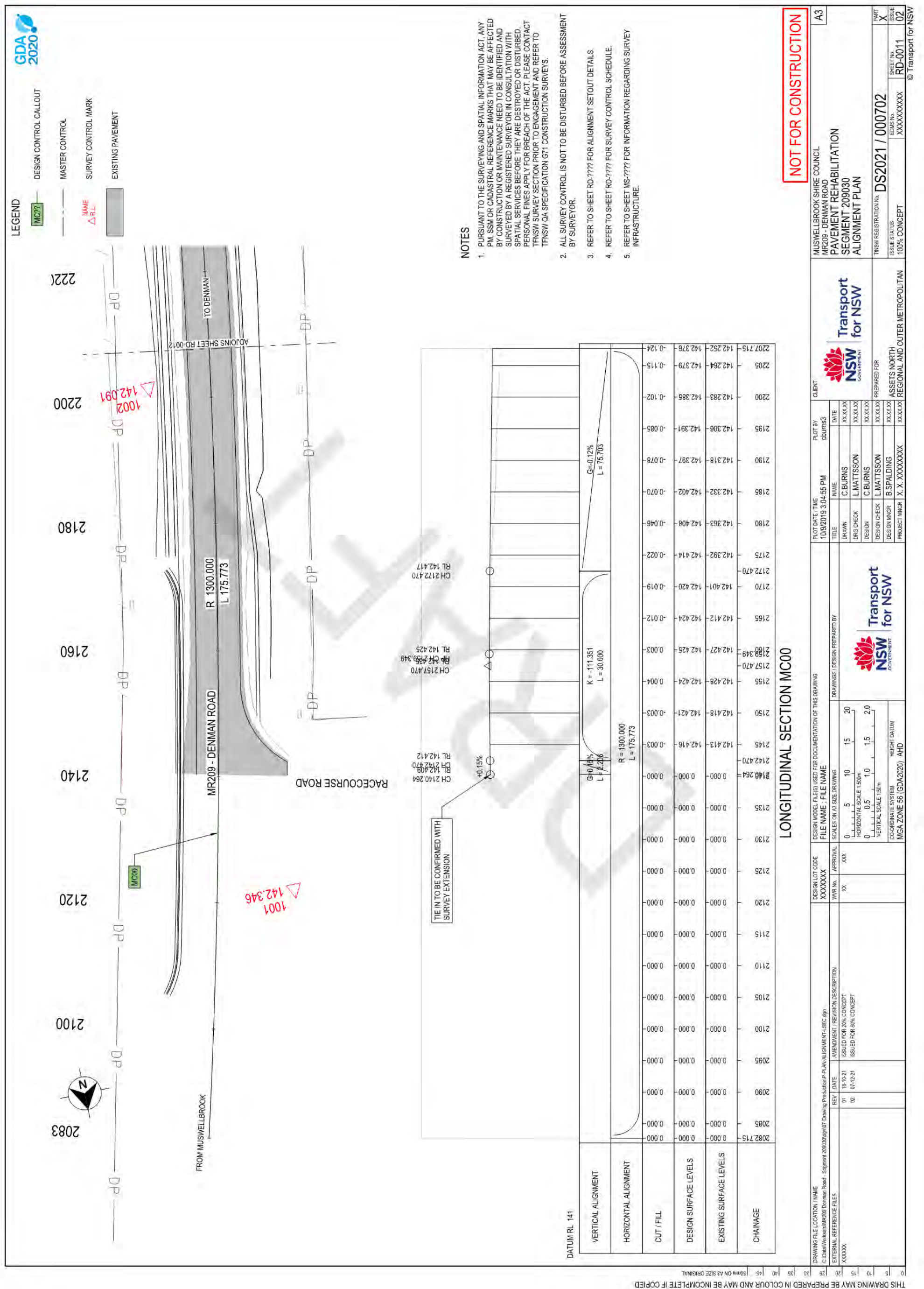
The revised 80% concept design drawings outlining the proposal are attached to the report as Attachment A.

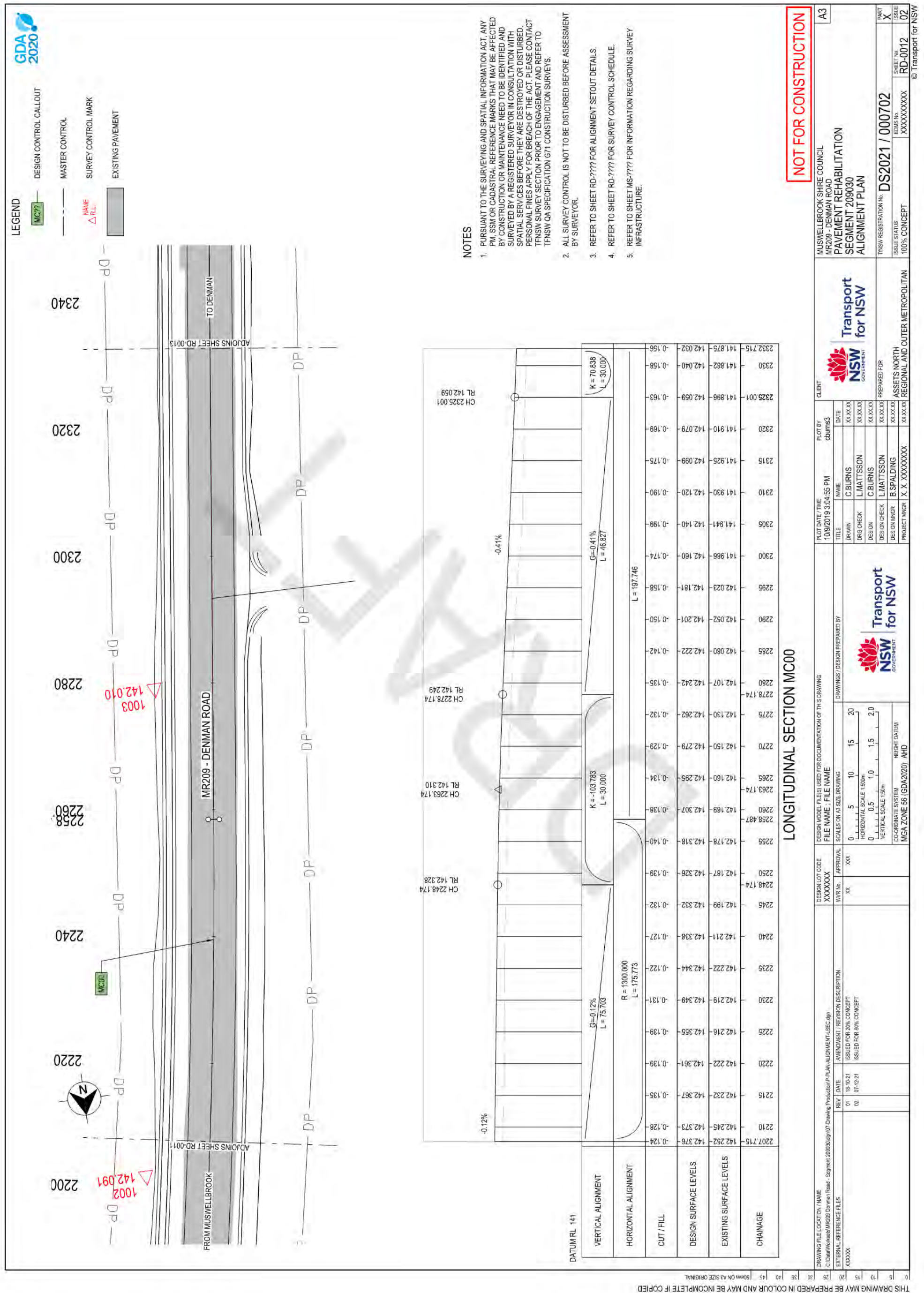
The aim of the project is to renew the road asset, improve ride quality, and to widen the road shoulder to achieve current standards.

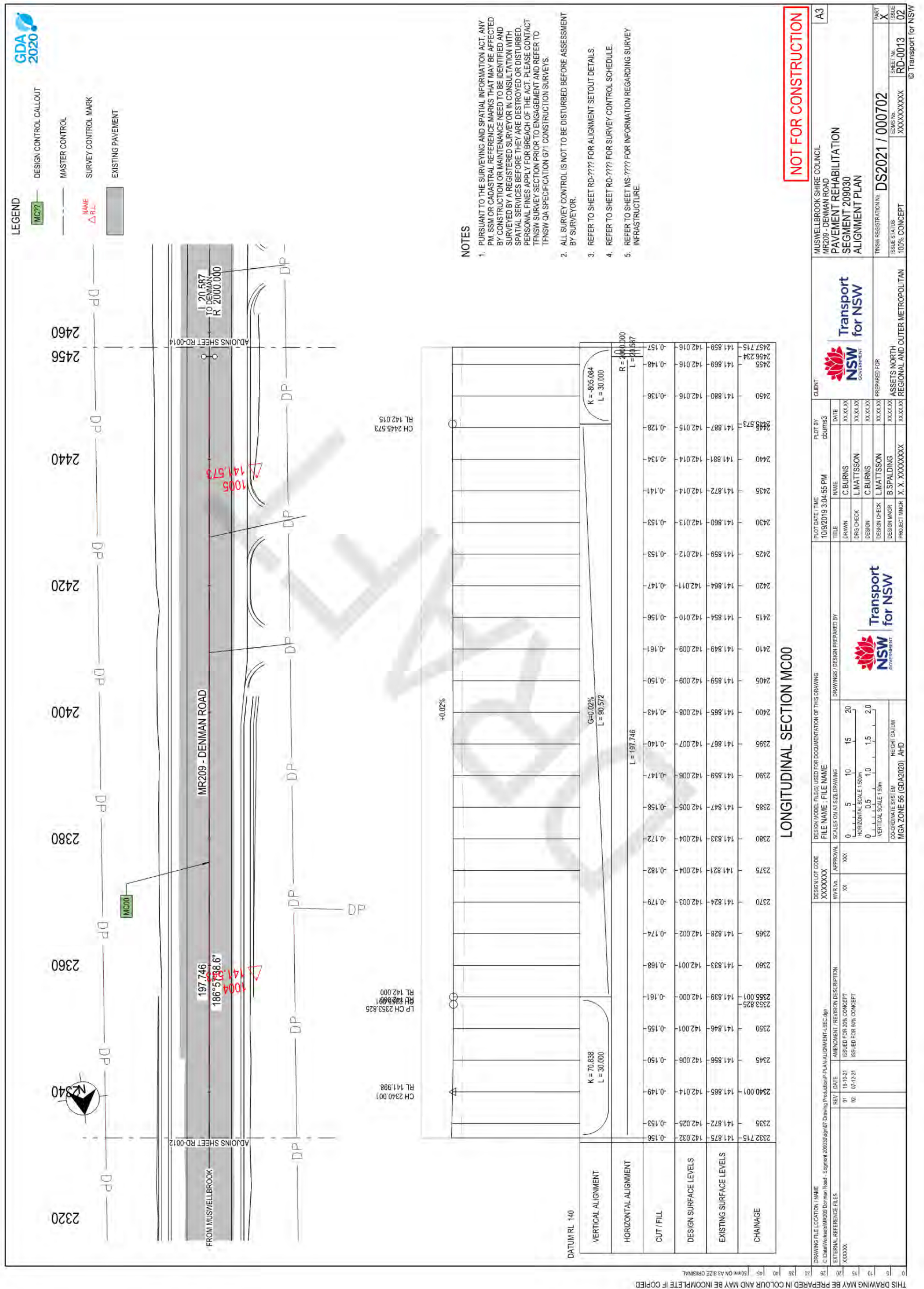
Under clause 13 and 15 of the State Environmental Planning Policy (Infrastructure) 2007, Transport for NSW is required to consult with Council due to the potential impacts on council-related infrastructure and on flood liable land. The following comments are made in relation to the proposed works:

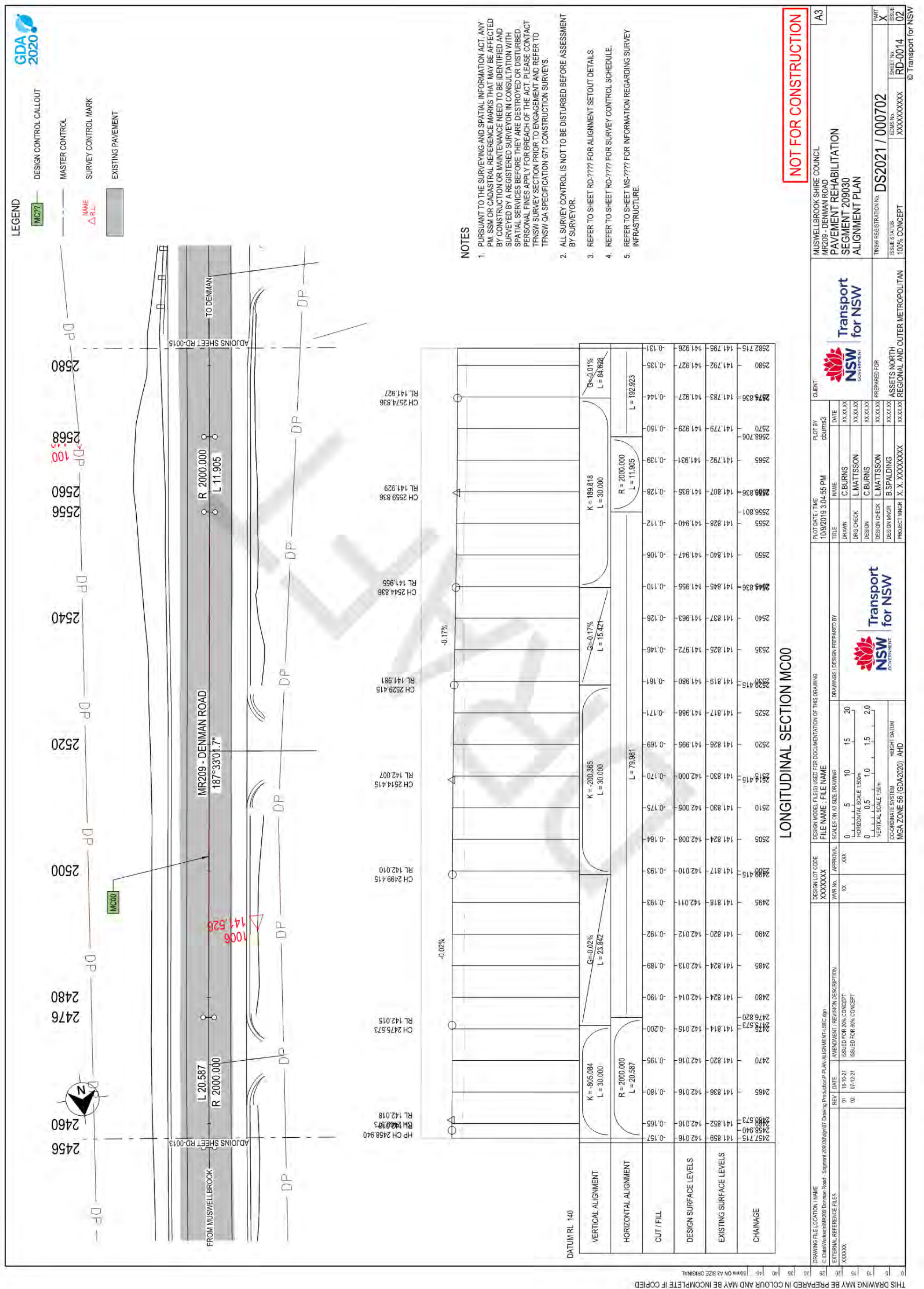
- Council has a design for a shared use path to be constructed in the future on the eastern side of Denman Road extending from Skellatar Stock Route to Thomas Mitchell Drive. This plan makes provision to cross Ramrod Creek though the construction of a small box culvert intended to be overtopped in wet weather events. The proposal to widen the road now presents an opportunity to accommodate an all weather crossing of the creek for active forms of transport as well as vehicles. An option to accommodate a cycle lane in the widening of the road and extension of the culvert over Ramrod Creek as per the concept attached to the report as Attachment B would improve access for pedestrians and cyclists, and all active forms of transport using the road. Council supports this option as the best long-term solution for providing active transport uses.

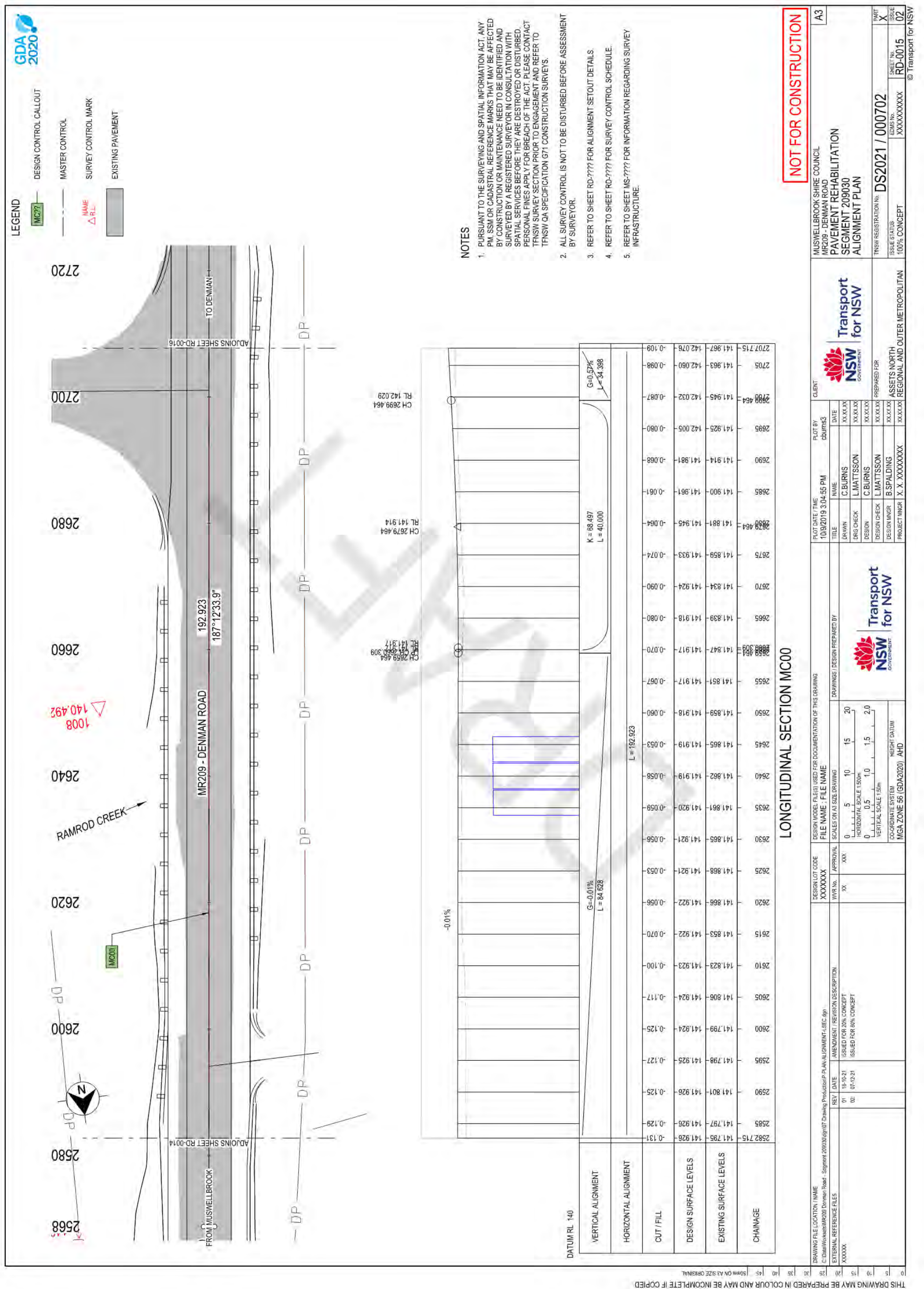
- In accordance with Muswellbrook Shire Council's Development Control Plan Section 13 – Floodplain management, a flood impact and risk assessment is required to be undertaken when development will result in increases to the 1% Annual Exceedance Probability flood of more than 100mm within 10m of the development.
- Council does not support the removal of the existing plane trees on the western side of the road as these provide an important entry statement to the town of Muswellbrook.
- Council requests that the details of the timing and duration of any proposed construction works will be communicated to Council, the adjoining residents, businesses and the general public.

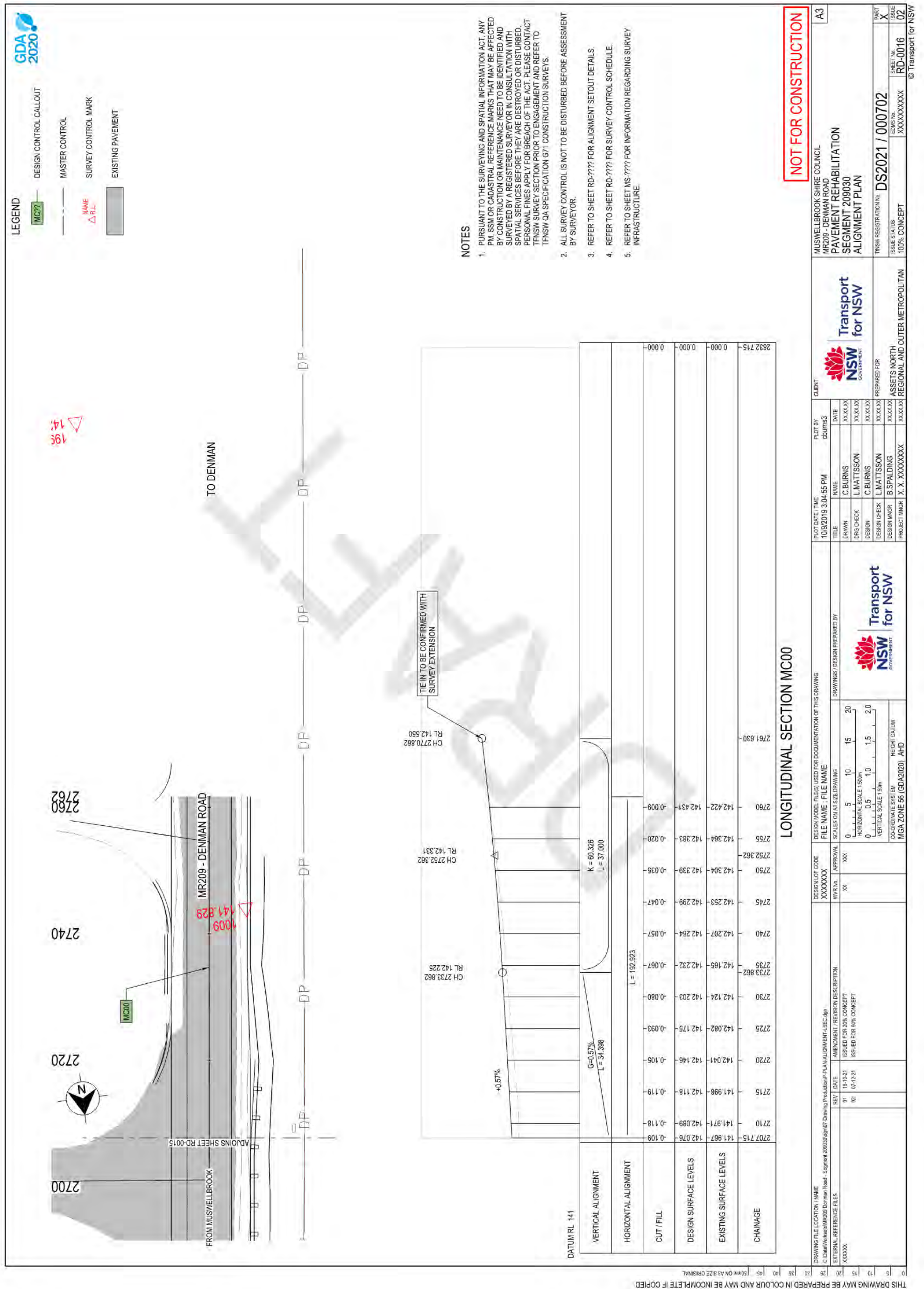


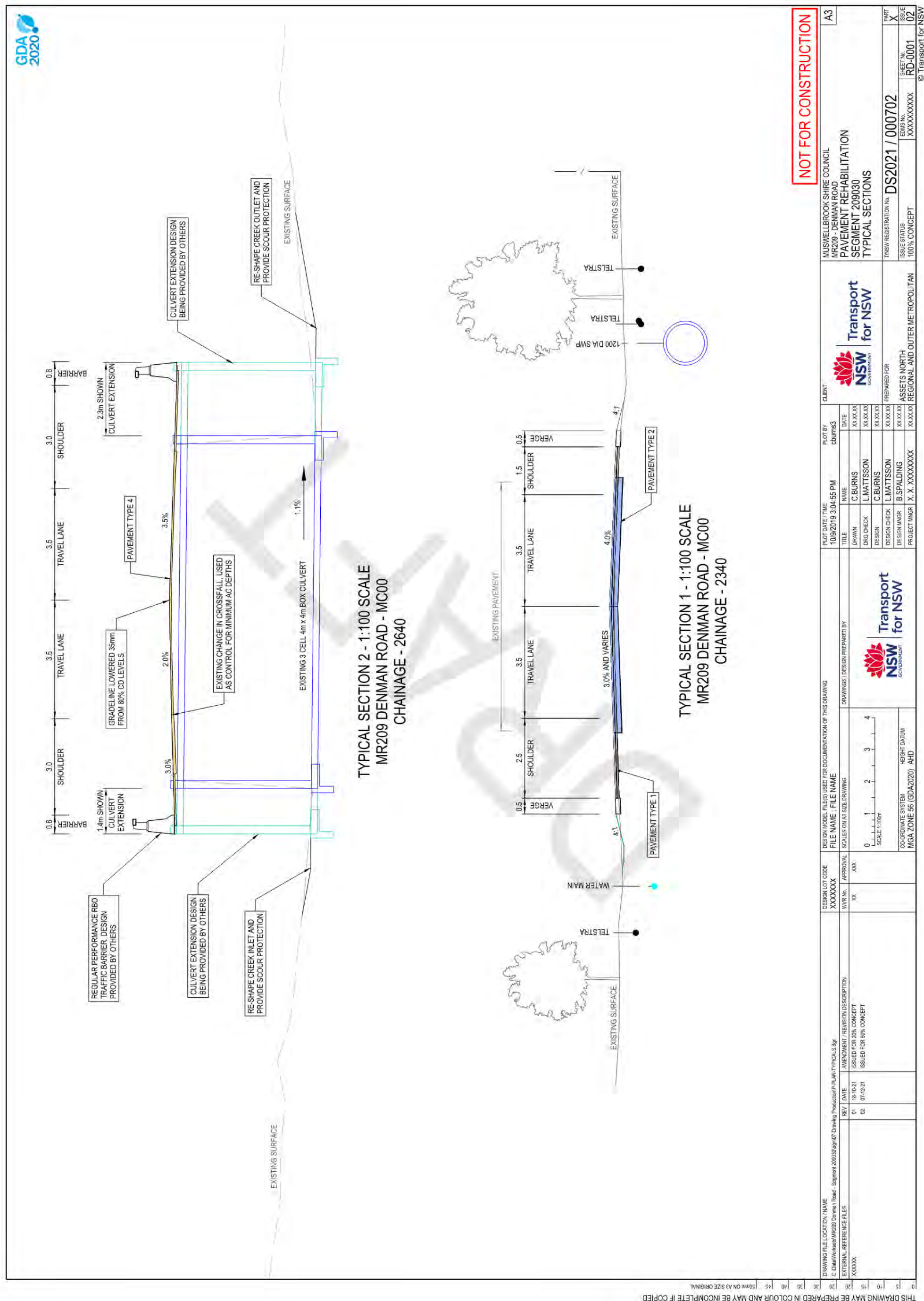


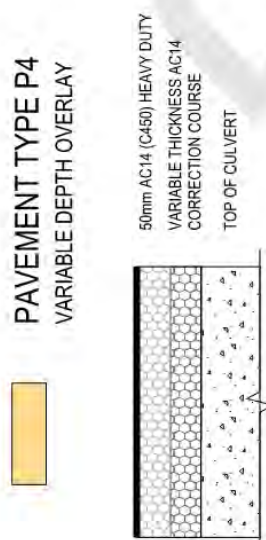
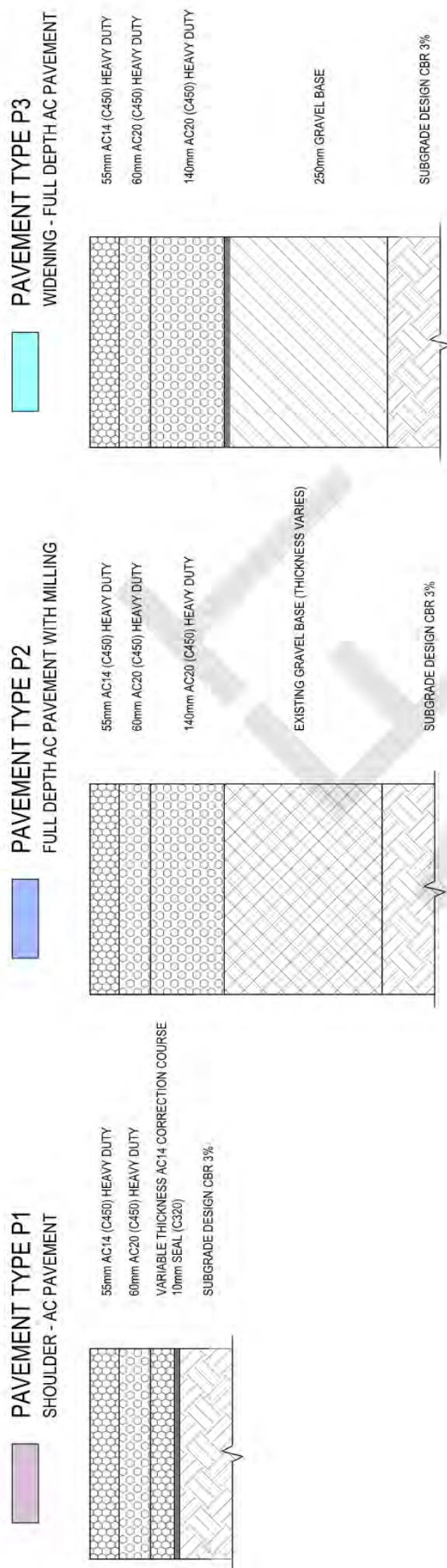






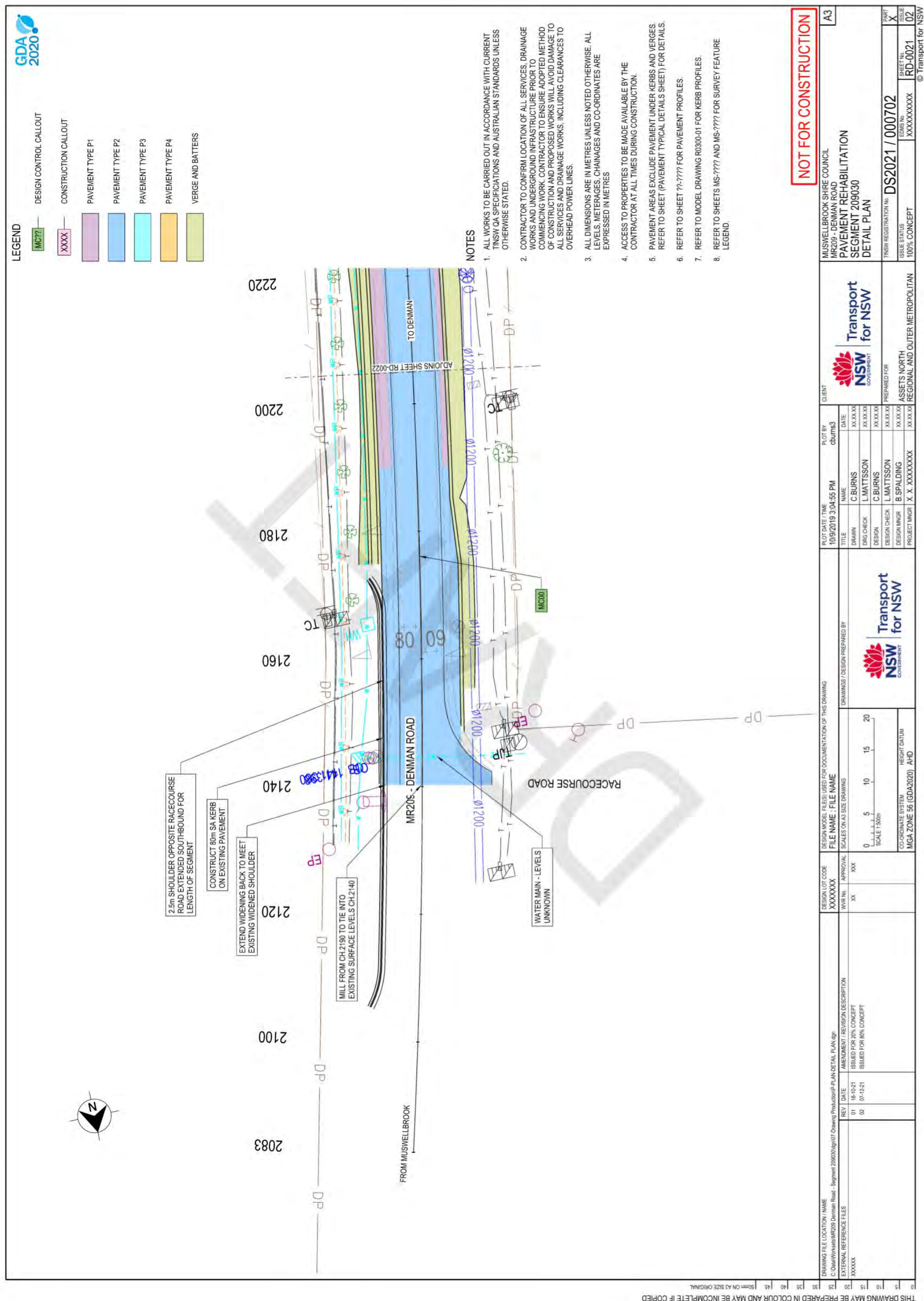


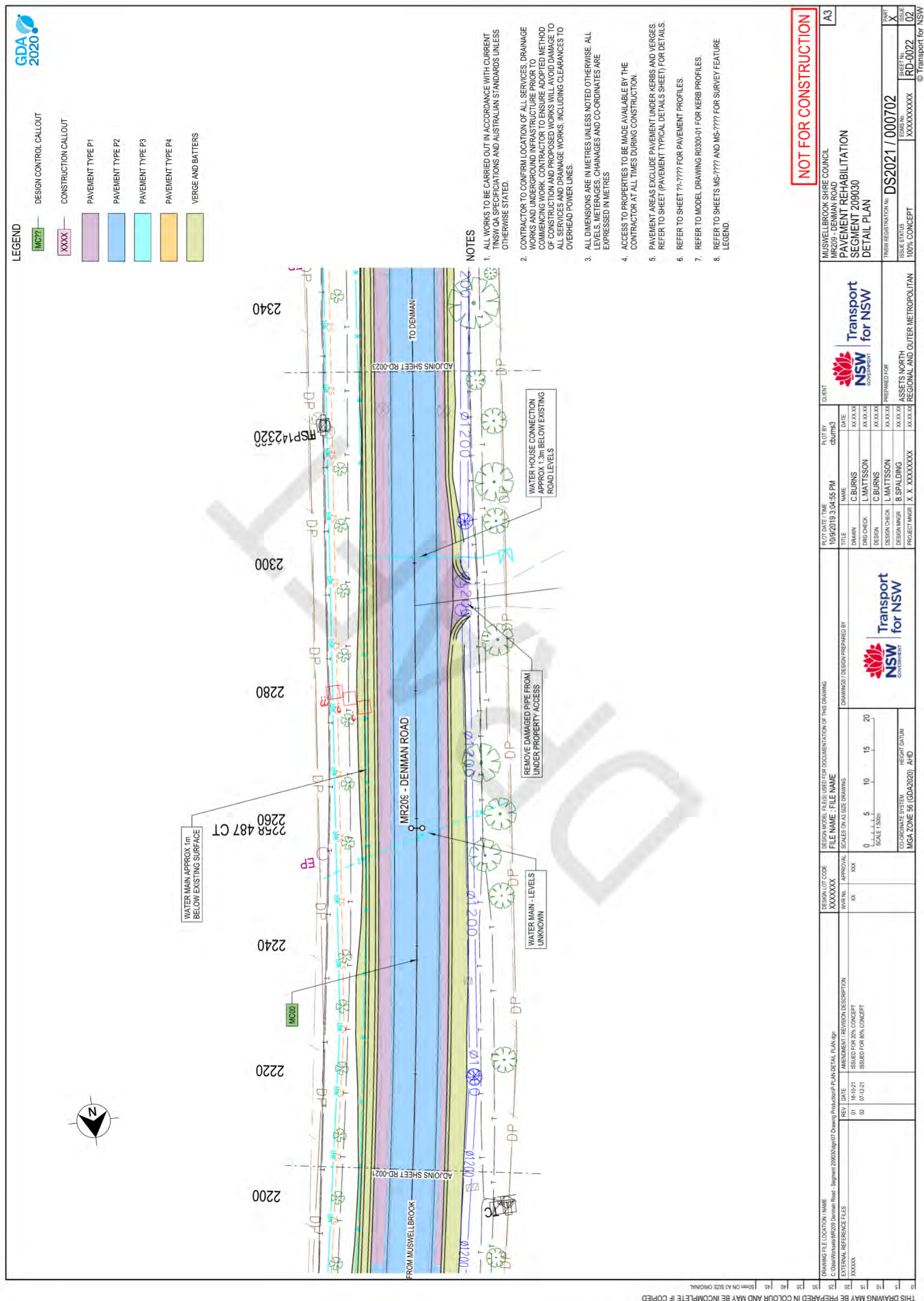


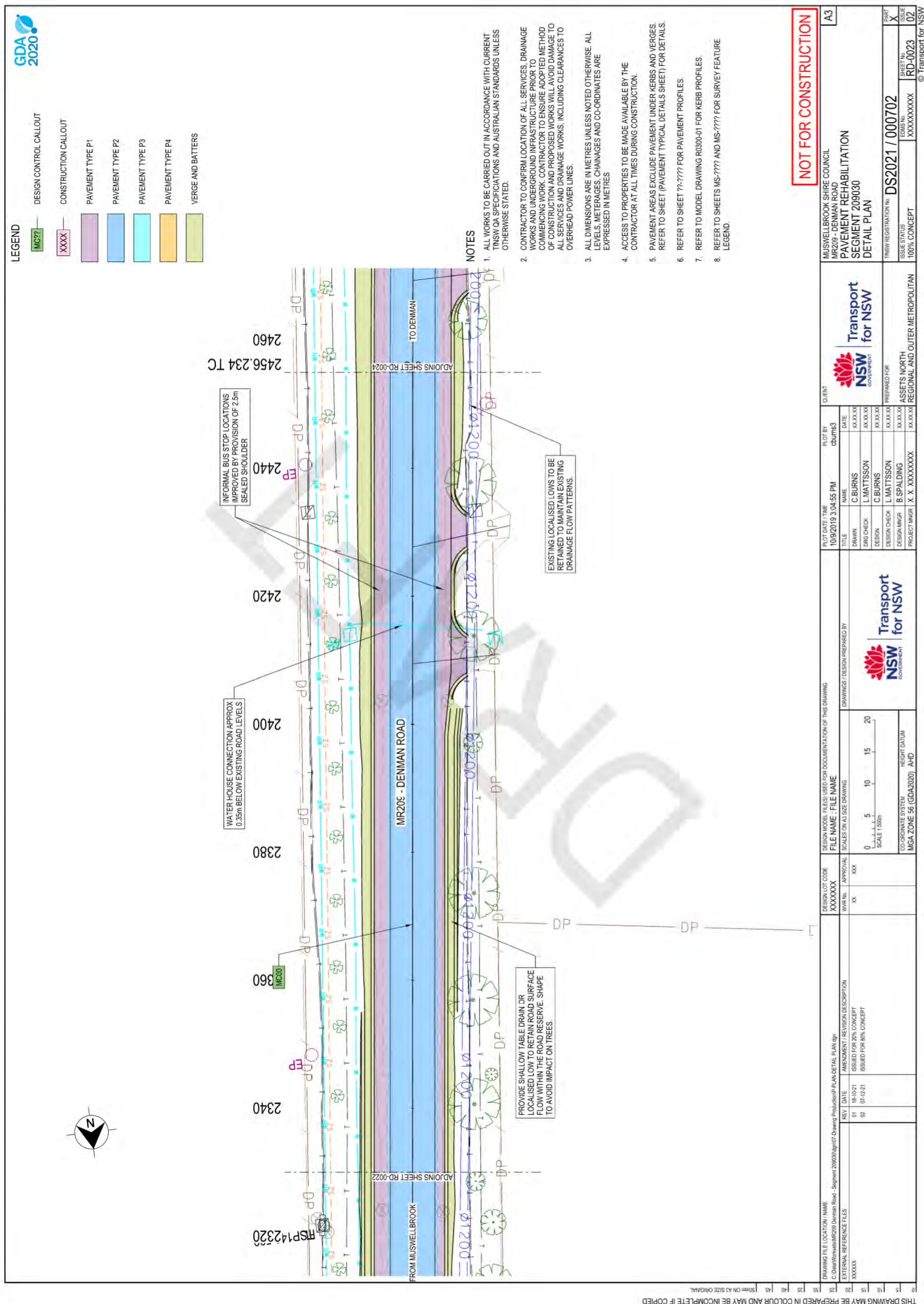


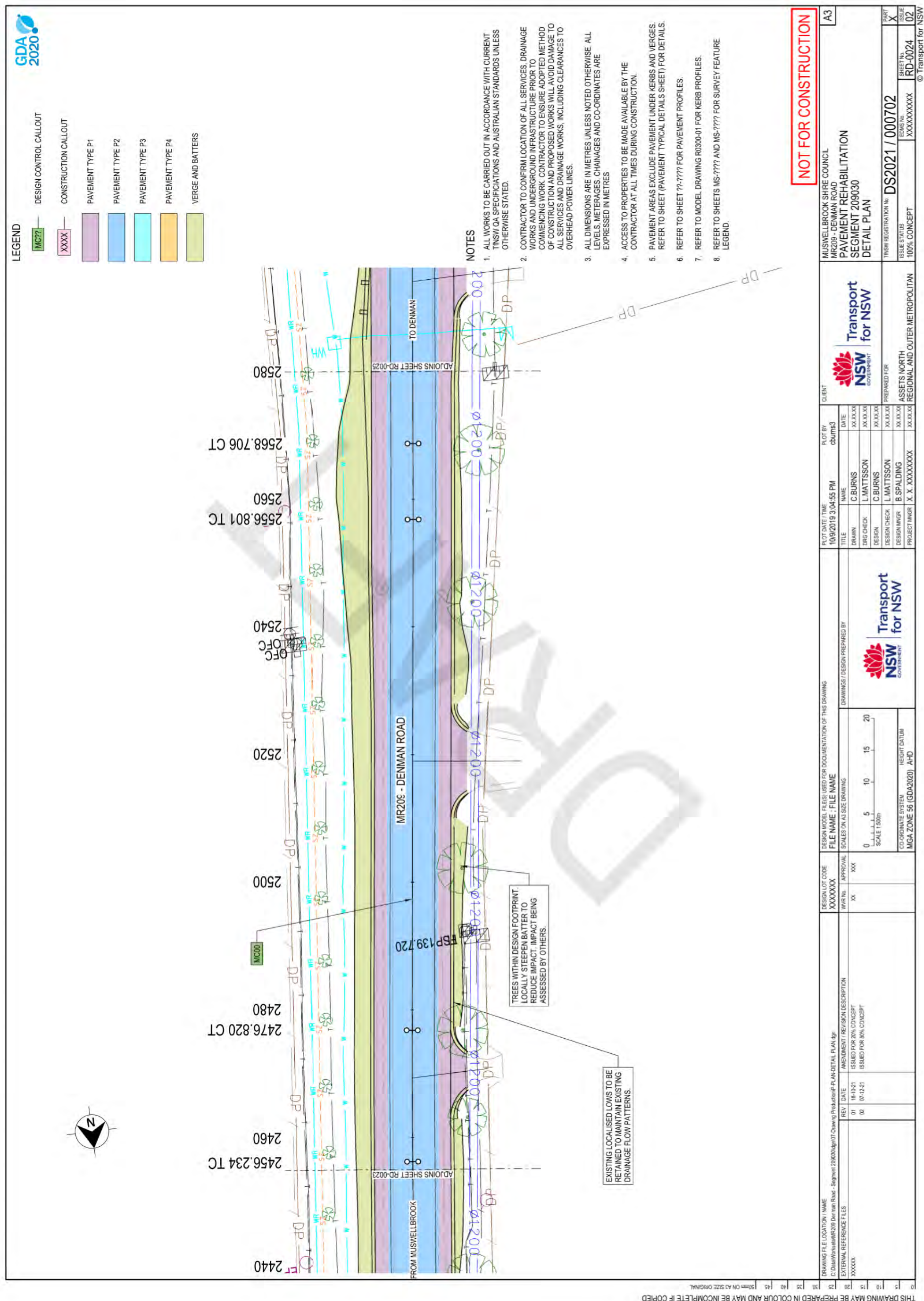
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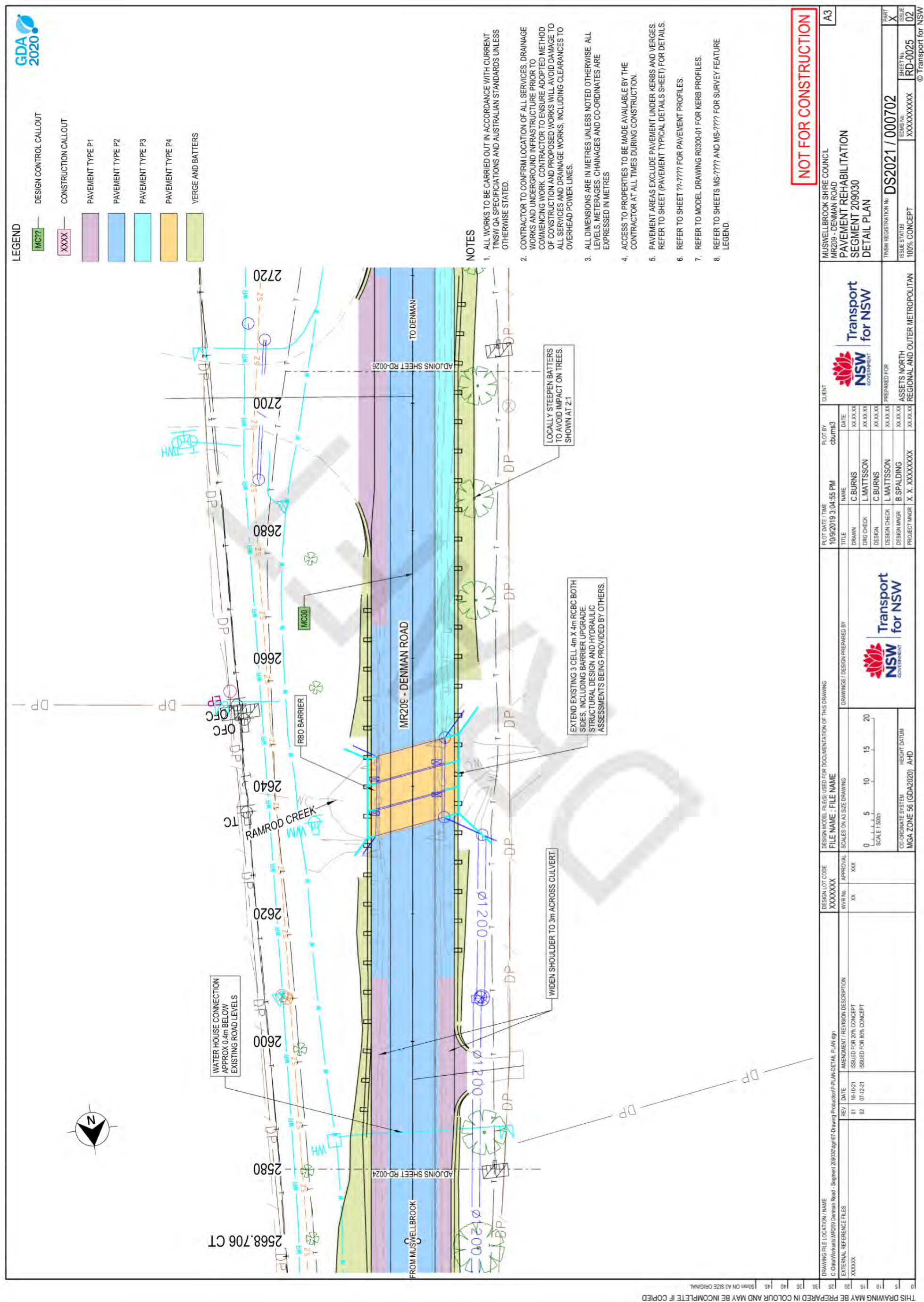
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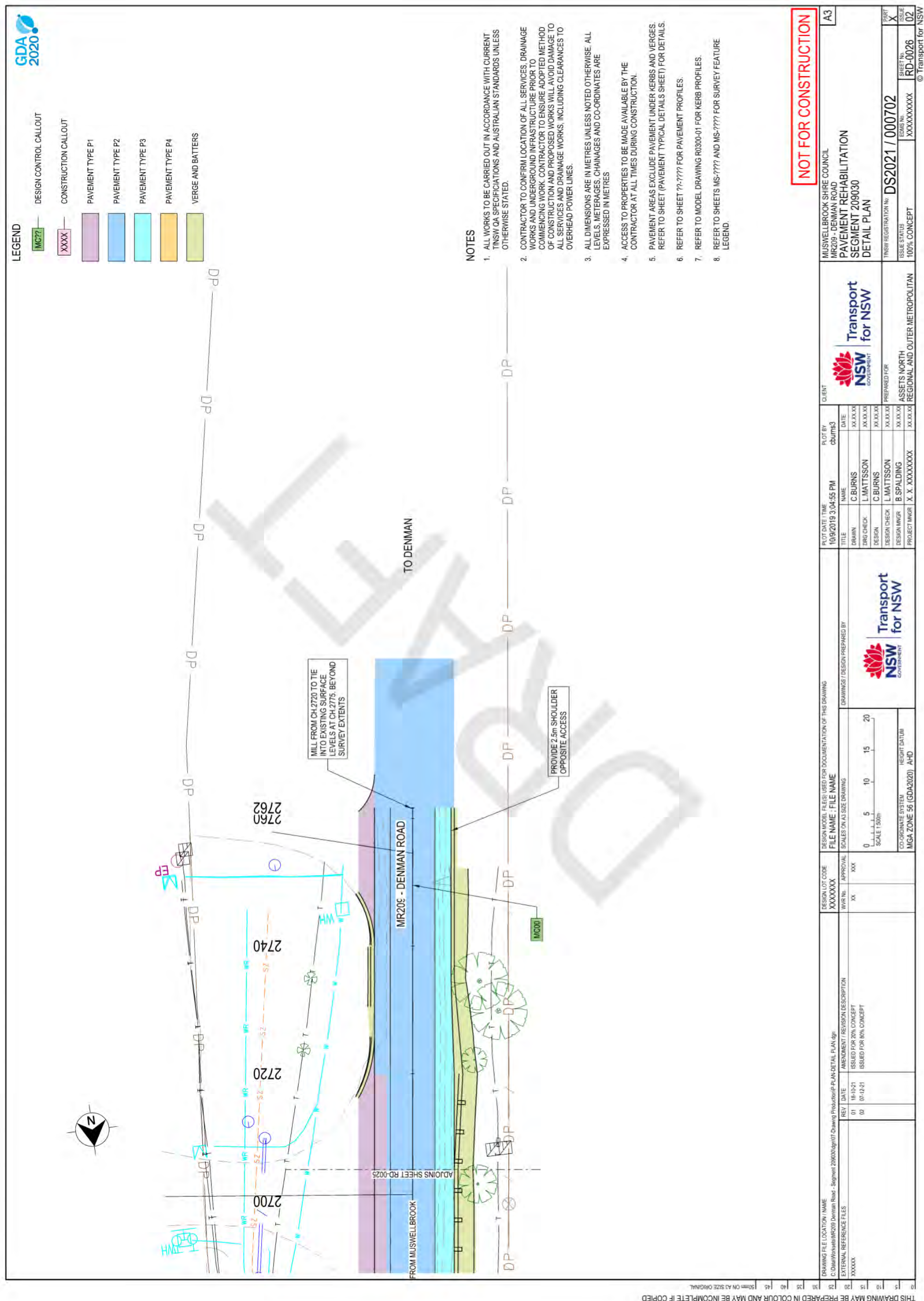


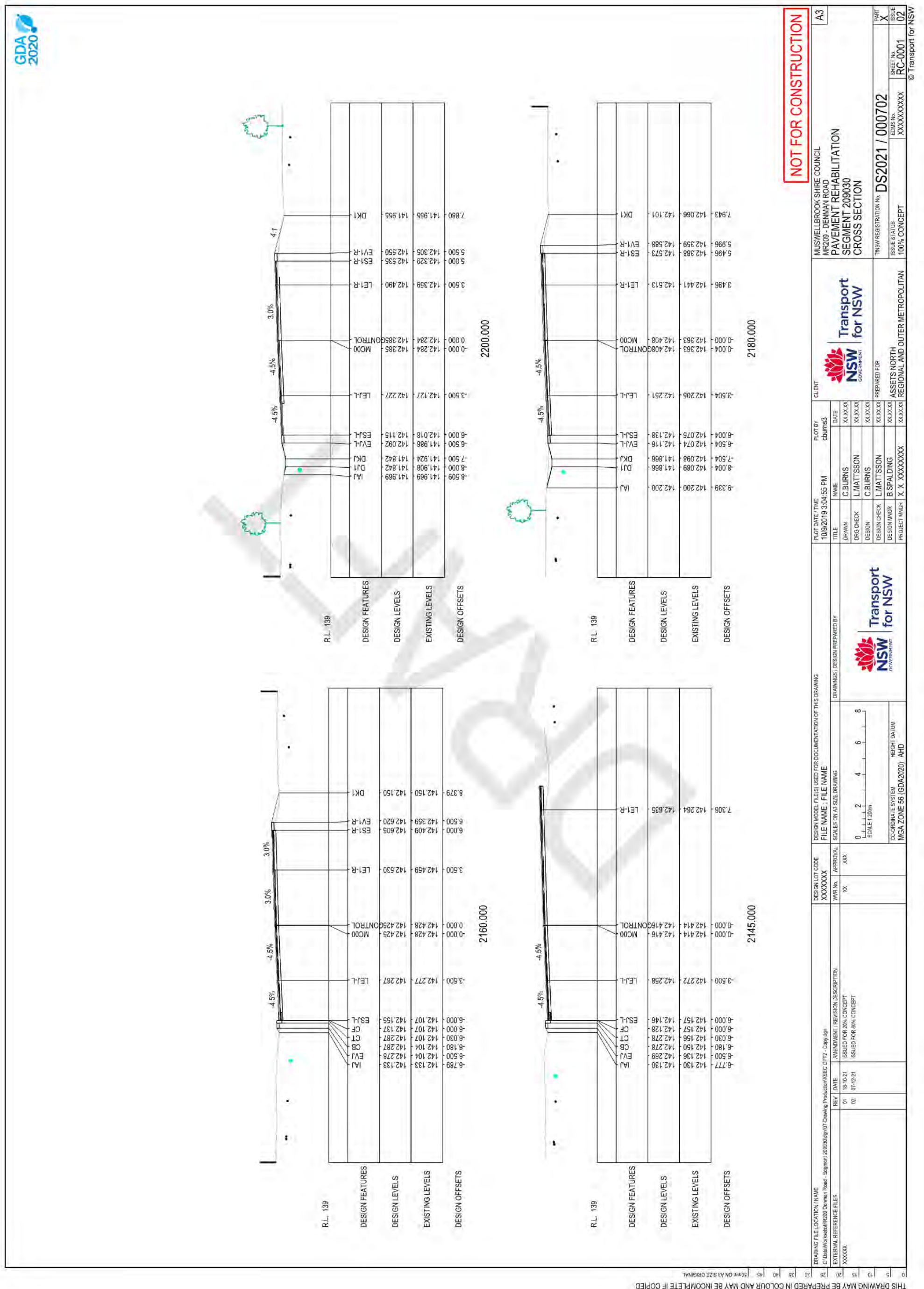


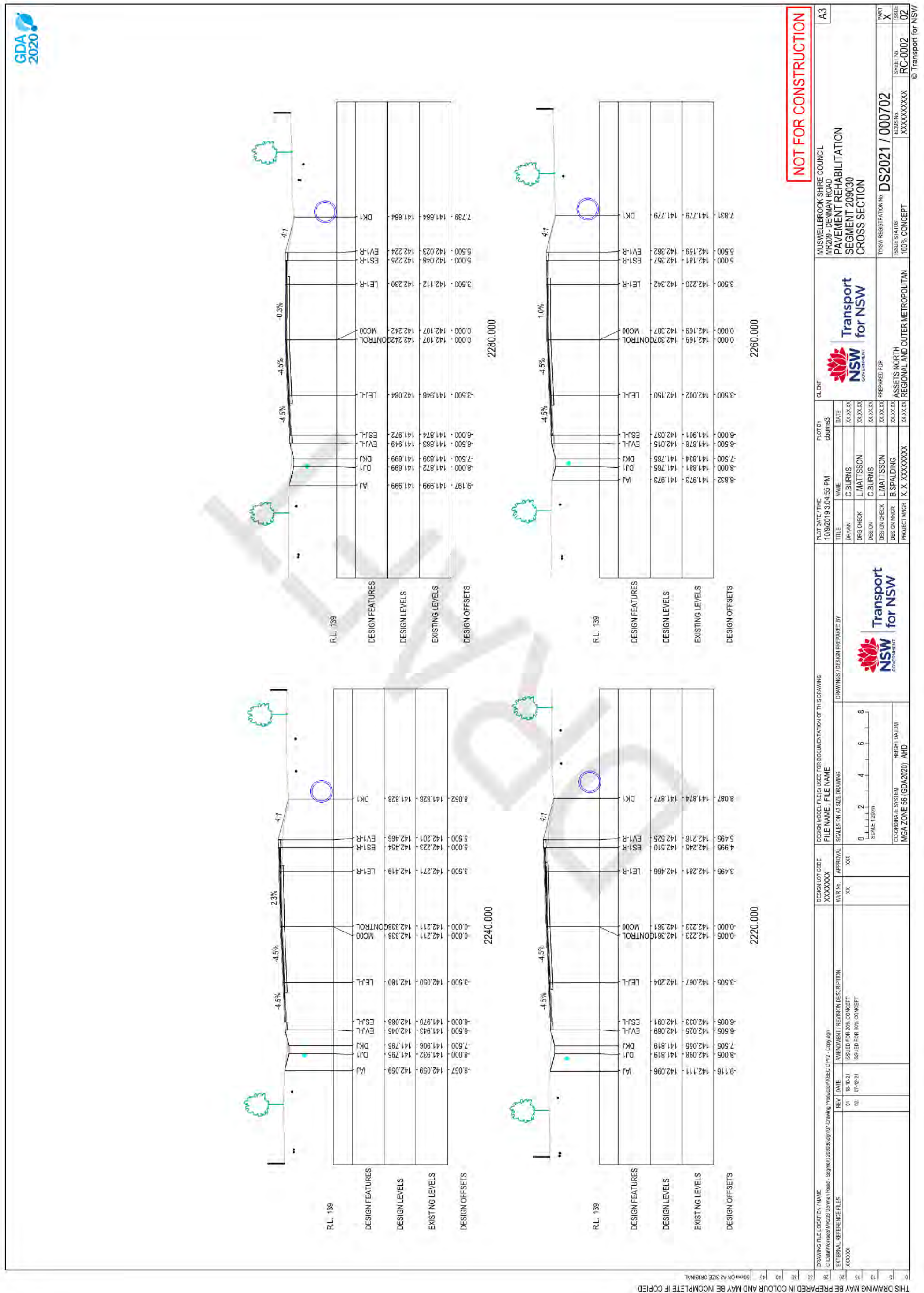


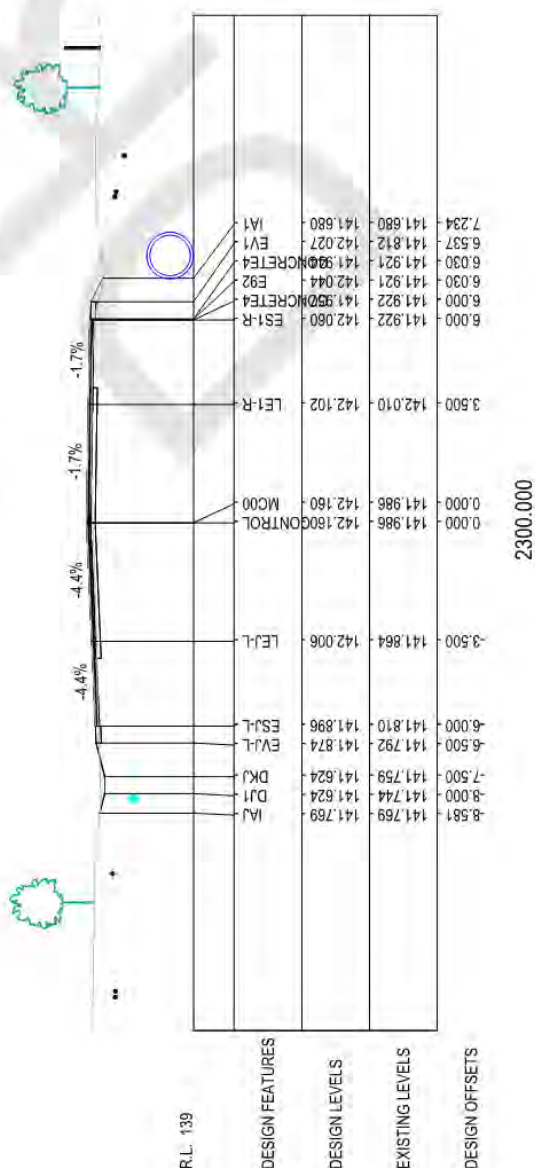
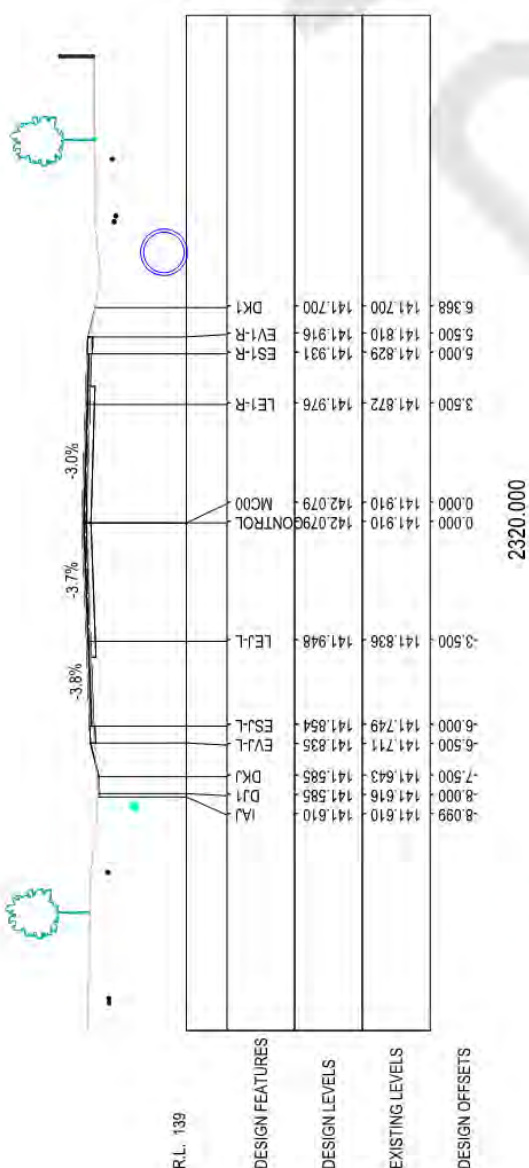
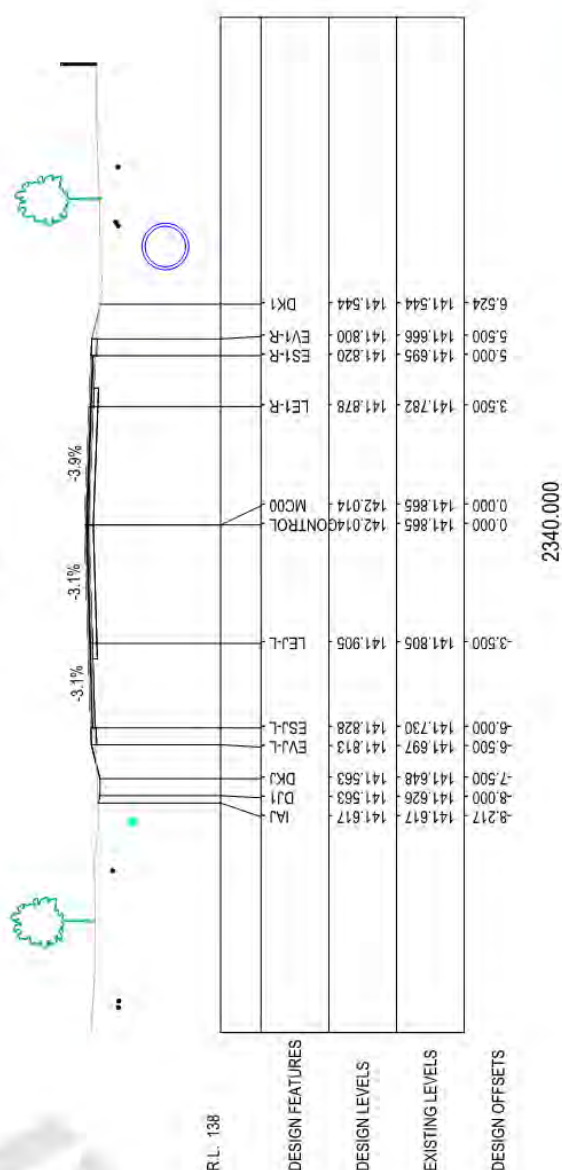
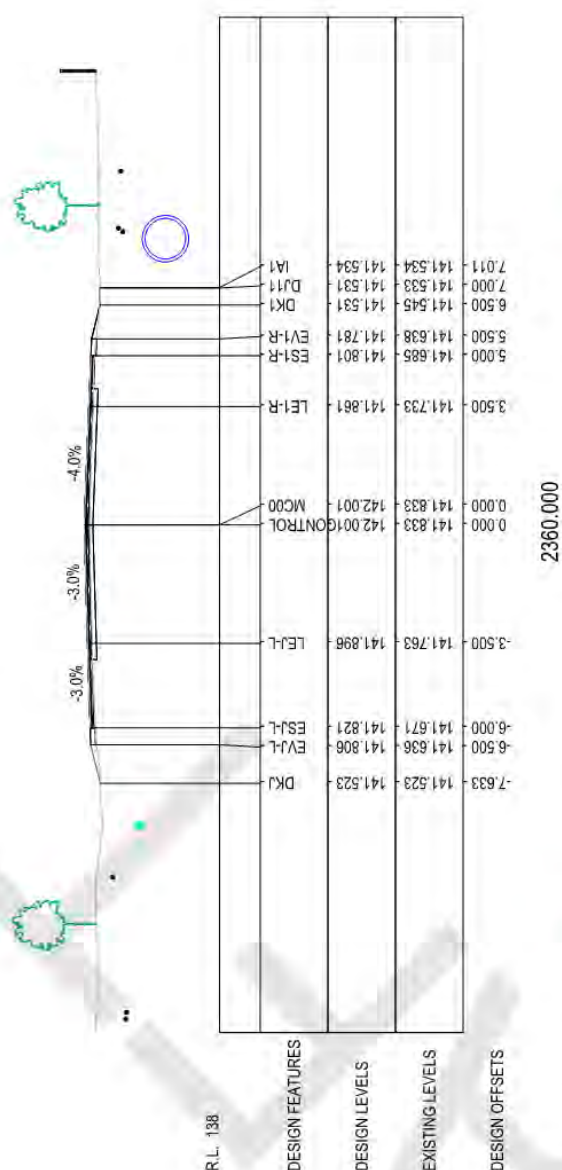








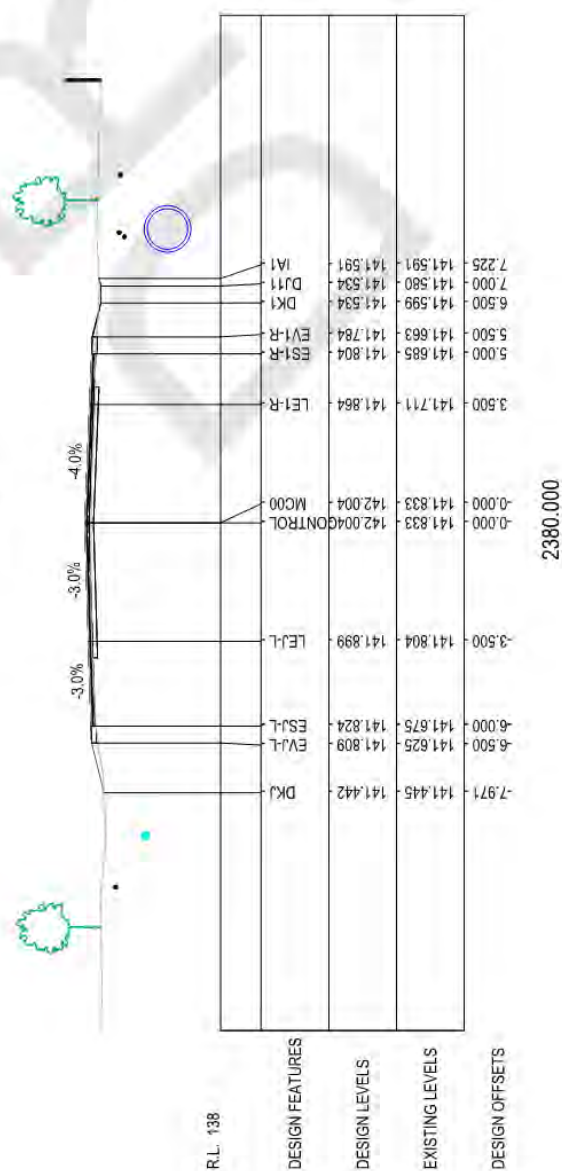
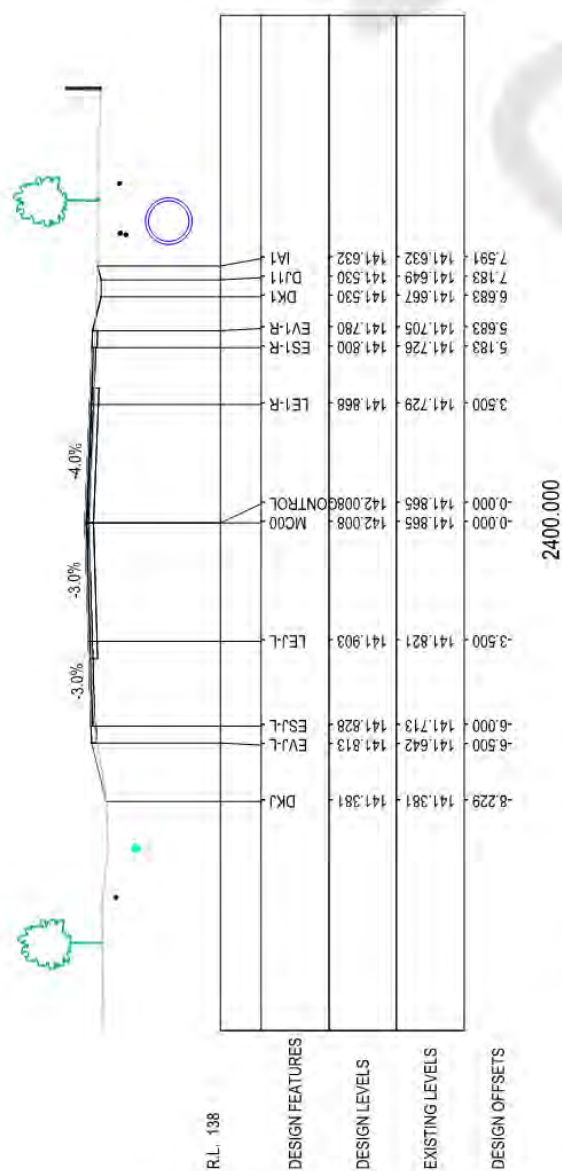
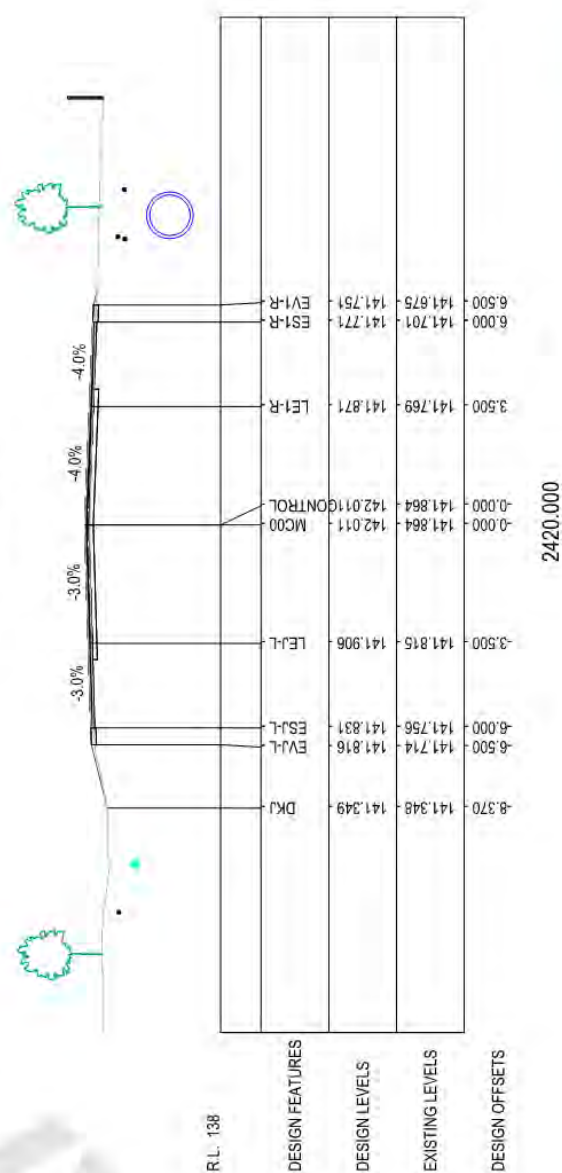
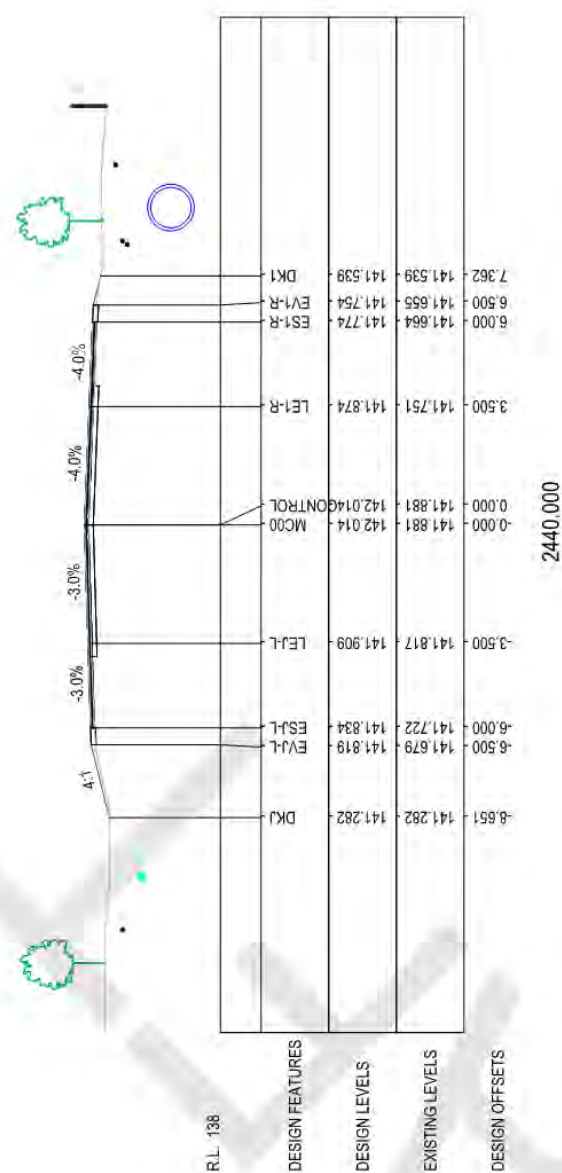




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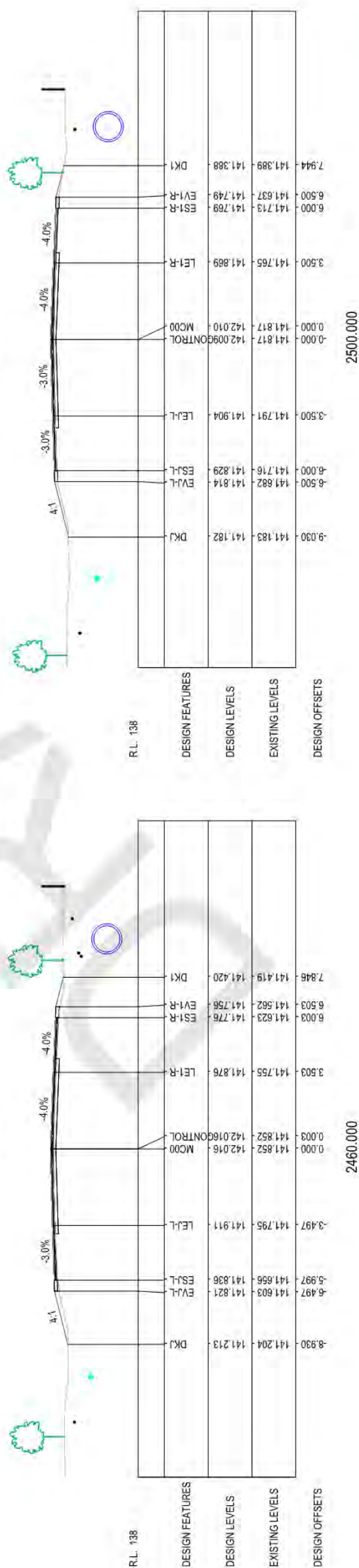
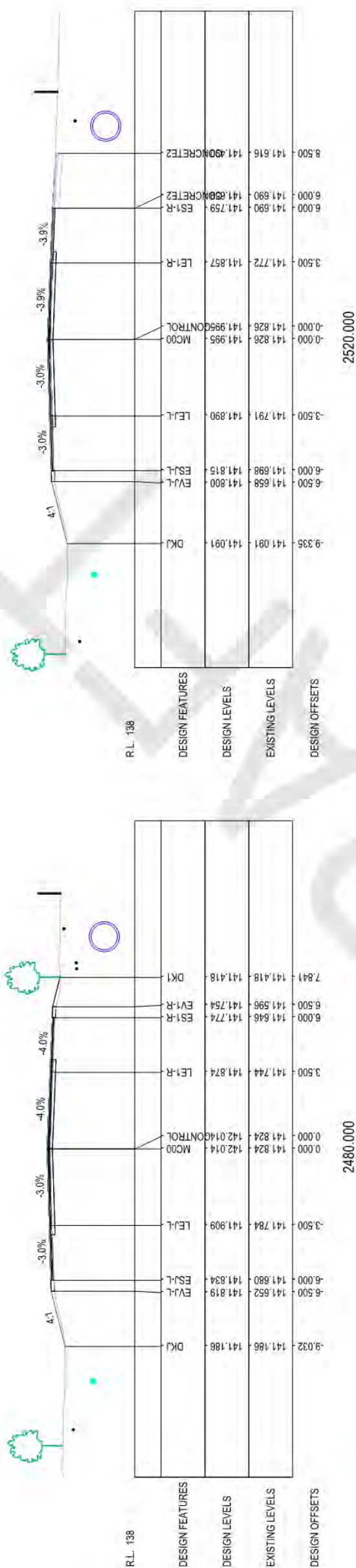
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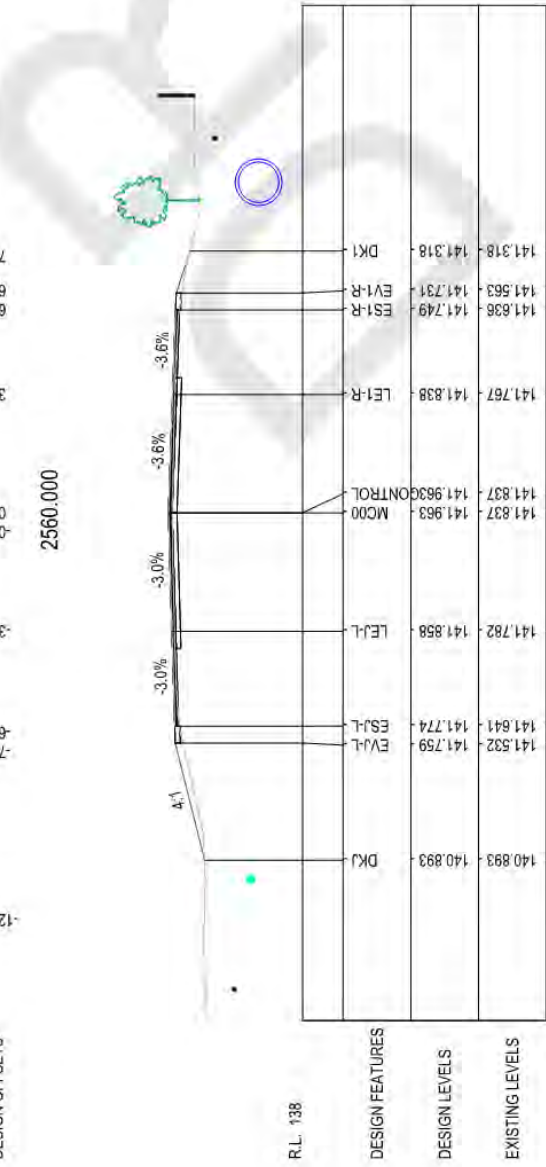
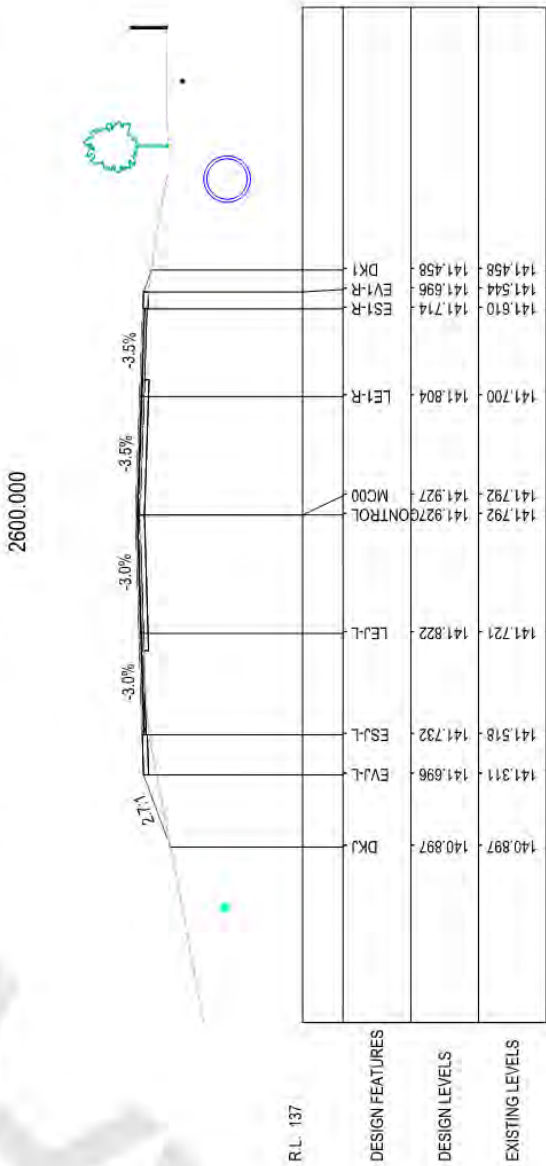
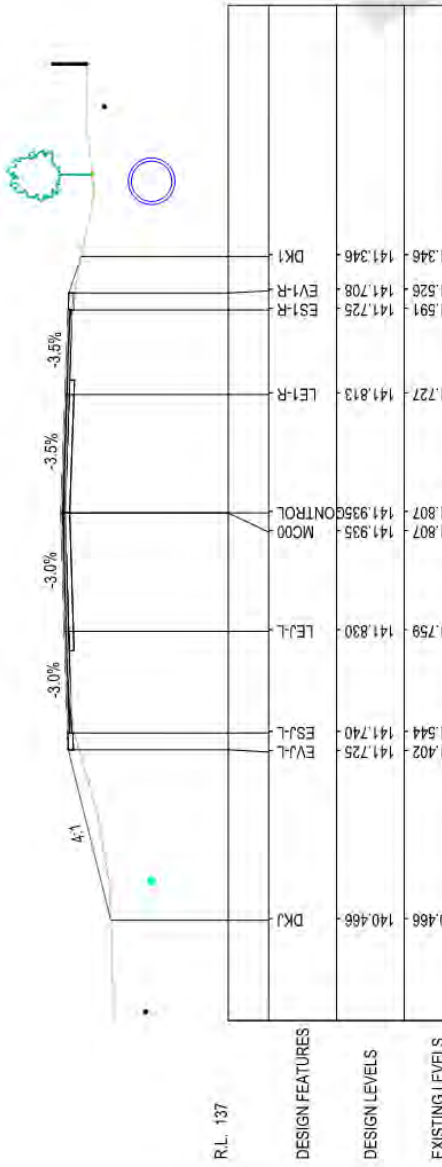
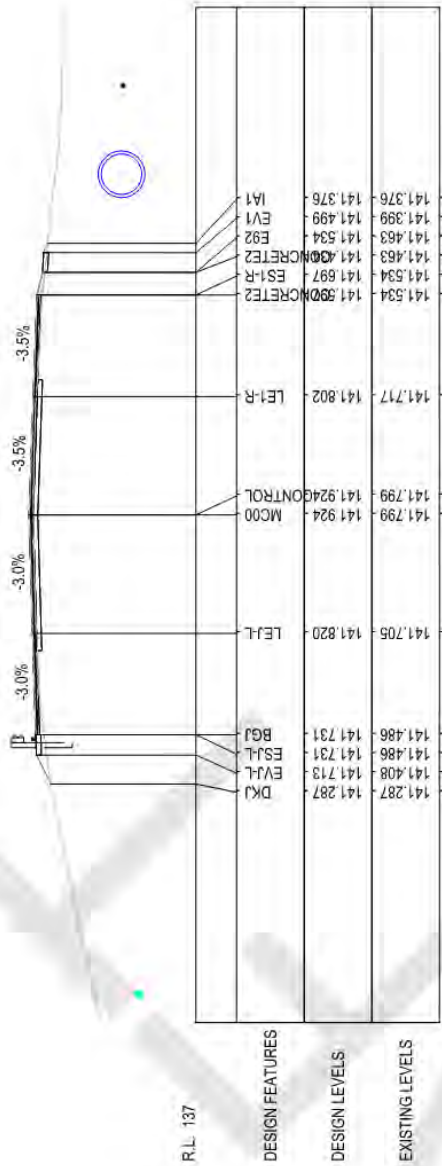
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DRAWING FILE LOCATION / NAME C:\Data\Worksets\MP0208 Domain Road - Segment 209030\gint07 Drawing Production\BSEC OPT2 - Copy.dgn										DESIGN LOT CODE XXXXXXX										DESIGN MODEL FILE(S) USED FOR DOCUMENTATION OF THIS DRAWING FILE NAME - FILE NAME										PLOT DATE / TIME 10/09/2019 3:04:55 PM										PLOT BY cburns3										CLIENT MUSWELLBROOK SHIRE COUNCIL MR209 - DENMAN ROAD PAVEMENT REHABILITATION SEGMENT 209030 CROSS SECTION										A3																																																																																									
EXTERNAL REFERENCE FILES XXXXXXX										REV 01 02										DATE 16-12-21 07-1-21										AMENDMENT / REVISION DESCRIPTION ISSUED FOR 20% CONCEPT ISSUED FOR 80% CONCEPT										WVR No. XX XX										APPROVAL XX XX										DRAWINGS / DESIGN PREPARED BY TITLE DRAWN DRG CHECK DESIGN C.BURNS L.MATTSSON C.BURNS L.MATTSSON DESIGN CHECK DESIGN INMR PROJECT INMR X X XXXXXXXX										NSW GOVERNMENT Transport for NSW										NSW GOVERNMENT Transport for NSW										ASSETS NORTH REGIONAL AND OUTER METROPOLITAN										ISSUE STATUS 100% CONCEPT										EMIS No. XXXXXXXXXXXX										SHEET No. RC-0005										ISSUE 02										© Transport for NSW									

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DRAWING FILE LOCATION / NAME C:\Data\Works\2020\Denman Road - Segment 2020\2020\0707 Drawing Production\2020\0707 - Day 1.dgn		DESIGN LOT CODE XXXXXX		DESIGN MODEL FILE(S) USED FOR DOCUMENTATION OF THIS DRAWING FILE NAME: FILE NAME		DRAWINGS / DESIGN PREPARED BY		CLIENT MUSWELLBROOK SHIRE COUNCIL MR209 - DENMAN ROAD PAVEMENT REHABILITATION SEGMENT 202030 CROSS SECTION		PLOT BY CUMMS3		DATE 10/09/2019 3:04:55 PM		TITLE DRAWN C.BURNS CHKD C.BURNS DESIGN C.BURNS DESIGN CHECK L.MATTSSON DESIGN MGR B.SPALDING PROJECT MGR X.X.XXXXXXX		TNSH REGISTRATION No. DS2021 / 000702		ISSUE STATUS 100% CONCEPT		SHEET No. RC-0006		ISSUE 02	
EXTERNAL REFERENCE FILES XXXXXX		WVR No. XX		APPROVAL XX		SCALE 1:200m		CO-ORDINATE SYSTEM MGA ZONE 56 (GDA2020) AHD		HEIGHT DATUM AHD		NSW GOVERNMENT		NSW GOVERNMENT		NSW GOVERNMENT		NSW GOVERNMENT		NSW GOVERNMENT		NSW GOVERNMENT	