



muswellbrook
shire council

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 22 NOVEMBER 2022



MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
16 November, 2022

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the Training Room, Level 2, 87 Hill Street, Muswellbrook, NSW 2333 Australia on **Tuesday 22 November 2022** commencing at 6:00 pm.

Derek Finnigan
ACTING GENERAL MANAGER



Council Meetings

Meeting Principles

Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

Public Forums

The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.

To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by no later than 9.00 am two (2) days prior to the day of the meeting before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 3 days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

Each speaker will be allowed 2 minutes to address the council. This time is to be strictly enforced by the chairperson.



Declarations of 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.



Order of Business

1. Acknowledgement of Country	9
2. Civic Prayer	9
3. Apologies and Applications for a Leave of Absence or Attendance by Audio Visual Link by Councillors	9
4. Confirmation of Minutes	9
5. Disclosure of any Pecuniary or Non-Pecuniary Interests	9
6. Mayoral Minute	9
6.1. Statewide Road Emergency	9
7. Public Participation	12
8. Business Arising (From Previous Meetings)	12
9. Business (Specific Reports)	13
9.1. Planning and Environment	13
9.1.1. DA 2021-30.2 Change of Operation Hours - McDonalds	13
9.1.2. Planning Agreement Offer - Pacific Brook School 72-74 Maitland Street, Muswellbrook	109
9.1.3. Public Exhibition of Planning Agreement relating to Dartbrook Mine	140
9.1.4. Landcare Grants	160
9.1.5. Waste Extension Consultation	164
9.1.6. Monthly Report to Council - Planning, Environment and Regulatory Services	168
9.2. Community Infrastructure	181
9.2.1. Mount Pleasant Operations Interim Water Discharge Pipeline Section 138 Roads Act 1993 Approval	181
9.2.2. Mangoola Coal Closing Public Roads-Mining Procedure	196
9.2.3. Mangoola Coal Continued Operations Project Yarraman Road Upgrade	216
9.2.4. Permanent Legal Closure of Part of Wybong Post Office Road	221
9.2.5. Bengalla Link Road Rehabilitation Section 138 Roads Act 1993 Permit Approval	229



9.2.6.	2019-2020-0404 Hunter Beach Draft Landscaping Plan	233
9.3.	Property and Place	250
9.3.1.	Street Sign Name Blades	250
9.3.2.	Major Projects: Status Update	258
9.4.	Corporate Services	263
9.4.1.	2022/2023 Operational Plan - 30 September, Quarterly Review	263
9.4.2.	2021/2022 Annual Report	320
9.4.3.	ADOPTION - Muswellbrook Shire Council Community Engagement Strategy 2022	323
9.4.4.	DRAFT Management of Trees on Roads and Public Land Policy	417
9.4.5.	Quarterly Budget Review - September 2022	434
9.4.6.	Monthly Financial Report - October 2022	443
9.4.7.	Report on Investments Held as at 31 October 2022	456
9.4.8.	Report on Council Grant Funding and Community Engagement	470
9.4.9.	Denman to Sandy Hollow Water Pipeline Project	476
9.4.10.	ARIC Chair Annual Report to Council	483
9.5.	Community and Economy	489
9.5.1.	Australia Day 2023 - Citizenship & Community Award Ceremony	489
9.5.2.	Events Steering Committee Terms of Reference	492
9.5.3.	Committee Name Change - Aboriginal Reconciliation Committee	500
10.	Minutes of Committee Meetings	508
10.1.	Events Steering Committee Meetings - 21/09/2022 and 18/10/2022	508
10.2.	Local Traffic Committee November Minutes - 8/11/2022	514
10.3.	Audit Risk and Improvement Committee Meetings - 2/03/2022, 6/08/2022, 13/10/2022 & 17/11/2022	518
11.	Notices of Motion	538
12.	Councillors Reports	538
13.	Written Questions	538
13.1.	Installation of Safety Fence at Skate Park, Muswellbrook	538



14. Questions for Next Meeting	540
15. Adjournment into Closed Council.....	540
16. Closed Council.....	540
16.1. Regional Procurement Tender T152223HUN - Supply and Delivery of Bulk Water Treatment Chemicals	540
16.2. Tender 2022-2023-0541 - Cleaning Services for Muswellbrook Shire Council Buildings and Public Toilets.....	540
16.3. Tender 2022-2023-0545 - Oakleigh Bridge Replacement.....	541
16.4. Tender 2021-2022-0535 - Supply and Deliver of Tractor	541
16.5. Tender 2022-2023-0550 - Supply and Installation of LED Fire Danger Signs in Muswellbrook.....	541
16.6. Request for Quotations - 2022-2023-0542 - Event Management Services - Reconnecting our Community Rock'n th	541
16.7. Project Thompson St Signalised Intersection - Contractor Claim for Variations.....	541
16.8. 2019-2020-0406 Muswellbrook Aquatic Centre – Construction Stage Contract - Unapproved Variations	542
16.9. Rate of Pay - Regional Planning Panel Community Member	542
16.10. Industrial Land Discussions.....	542
16.11. Water Supply Agreement	542
16.12. 41 Maitland Street - Class 1 Appeal	543
17. Resumption of Open Council	543
18. Closure	543



- 1. Acknowledgement of Country**
- 2. Civic Prayer**
- 3. Apologies and Applications for a Leave of Absence or Attendance by Audio Visual Link by Councillors**
- 4. Confirmation of Minutes**

Ordinary Council Meeting held in 25 October, 2022

RECOMMENDATION

The Minutes of the Ordinary Council Meeting held on 25 October, 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 or Non-Pecuniary Interests**



6. Mayoral Minute

6.1. Statewide Road Emergency

Attachments: Nil

MAYORAL MINUTE

The road network across the eastern seaboard has been massively impacted by the La Niña weather event we have experienced for last 18 months. We are all well aware that Muswellbrook Local Government Area has been hit by a seemingly relentless wave of flood and wet weather events in this period of time.

Our staff have been developing material to help us understand the quantum of this impact. It is fair to say it has been significant. At this point in time, the estimate is at \$15m and climbing. The longer the weather event continues and the longer we wait to respond, the larger this figure becomes.

Efforts have commenced to engage with the State and Federal Government on this matter. We realise the criticality of this issue for current and future communities.

We are not alone. A total of 126 of New South Wales' 128 Local Government Areas have had natural disaster declarations within the last 12 months, according to the President of Local Government NSW, Darriea Turley.

On 3 November 2022, Local Government NSW declared a Statewide Roads Emergency.

The declaration, and urgent call for the NSW and Federal governments to increase their existing road funding commitments in the wake of the floods, comes on the back of an estimated \$2.5 billion in road damages and a collapse of the local and regional road network.

I call on our Council to show our support for this move and whole-heartedly endorse the Local Government NSW declaration of Statewide Road Emergency.

The declaration has already been publicly supported by the Country Mayors Association of New South Wales.

As part of the Statewide Roads Emergency, Local Government NSW and Country Mayors Association of NSW are calling for:

- An acceleration and significant increase in funding for the \$1.1 billion Fixing Local Roads and Fixing Country Bridges program from the New South Wales Government
- A boost to Road Block Grant funding to compensate for the damage to the regional road network from the Federal Government
- New funding to provide councils with plant machinery and skilled workers to expedite road repairs from the Federal Government.

This situation impacts on all of us and is a very real and immediate concern for our primary producers.



The local and regional road network is critically enabling infrastructure. It is absolutely vital to our primary producers, and the key to keeping affordable food on the table across New South Wales and beyond.

Our road network, and the road network of shires across the state, have disastrous damage. We are facing a task that is beyond the reasonable scope of any local government authority. We face an unprecedented disaster that requires an unprecedented response.

We need help. Our community needs help. Other regional and rural communities across the state and beyond need help. We desperately need our leaders to lead.

We need to support our peak bodies in their declaration of Statewide Road Emergency.

This is an emergency, and it is time to seek help, and by supporting this Mayoral Minute you are endorsing that I write to the Prime Minister of Australia, the Hon. Anthony Albanese MP, the Leader of the Opposition, the Hon. Peter Dutton MP, the Premier of NSW, the Hon. Dominic Perrottet MP, the Leader of the Opposition in the NSW Legislative Assembly, Mr Christopher Minns MP, the Member for Hunter, Mr Dan Repacholi MP, and the Member for Upper Hunter, Mr Dave Layzell MP.

RECOMMENDATION

Council joins with Local Government NSW and Country Mayors Association of NSW in declaring a Statewide Road Emergency.

Moved: _____ **Seconded:** _____



7. Public Participation

8. Business Arising (From Previous Meetings)

Nil



9. Business (Specific Reports)

9.1. Planning and Environment

9.1.1. DA 2021-30.2 Change of Operation Hours - McDonalds

- Attachments:**
1. DA 2021-30 Section 4.55(2) Assessment [9.1.1.1 - 8 pages]
 2. DA 2021 30 Recommended Conditions of Consent [9.1.1.2 - 4 pages]
 3. DA 2021-30 Statement of Environmental Effects [9.1.1.3 - 19 pages]
 4. DA 2021-30 Acoustic Report [9.1.1.4 - 26 pages]
 5. DA 2021-30 Notice of Determination Compliance Table [9.1.1.5 - 5 pages]
 6. DA 2021-30 Plan of Management [9.1.1.6 - 25 pages]
 7. DA 2021-30 Redacted Submissions [9.1.1.7 - 3 pages]
 8. DA 2021-30 NSW Police Referral Comments [9.1.1.8 - 3 pages]

Responsible Officer: Sharon Pope - Director - Planning & Environment

Author: Tanya Jolly – Project Planner

Community Plan Issue: 6 - Community Leadership

Community Plan Goal: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy: 6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

Not applicable

PURPOSE

This report has been prepared to assist Council in the determination of the modification application for DA 2021/30. This modification application seeks approval from Council for the permanent 24/7 operation of the McDonald's restaurant drive-through, approved as a temporary 12-month arrangement under Council's previous determination.

This Section 4.55 Modification application has been reported to Council for determination given public interest in previous applications to adjust the trading hours of the restaurant.

OFFICER'S RECOMMENDATION

Council approves the Section 4.55 Modification of Development Application No. 2021-30, to permit the McDonald's restaurant drive-through at Lot 101 DP 1266515 83-89 Maitland Street, Muswellbrook, to operate 7 day per week (24/7) subject to the conditions in Attachment B.

Moved: _____ **Seconded:** _____



DESCRIPTION OF PROPOSAL

This Section 4.55 Modification seeks approval for the permanent 24/7 operation of the drive-through at the Muswellbrook McDonalds restaurant.

The Muswellbrook McDonald's has previously been granted approval to operate its drive-through 24 hours per day, 7 days a week for a 12-month trial period. The NSW State Government permitted temporary extended restaurant drive-through trading hours via Ministerial Orders issued during the COVID-19 pandemic. Under these temporary and trial arrangements the McDonalds restaurant has been permitted to operate its drive-through 24/7 from April 2019 until the present.

ASSESSMENT SUMMARY

The proposal has been assessed against the relevant matters prescribed by s4.55(2) and s4.15 of the Environmental Planning and Assessment Act 1979. A copy of the Development Assessment Report is provided in Attachment A. Staff recommend that the modification application be approved subject to conditions of consent.

A summary of the key assessment issues and findings are provided below:

- The Muswellbrook McDonalds has had permission to operate a drive-through 24/7 at the site on a temporary basis since April 2019. Council has received five (5) complaints related to the operation of the premises. Of these complaints, two (2) were related to litter management, one (1) related to heavy vehicle movement, one (1) related to the suitability of COVID-19 protocols and one (1) related to anti-social incidents which occurred within the car park. The applicant has provided further context around these incidents in its Statement of Environmental Effects (see Attachment C). The information provided indicates that McDonald's response to these complaints has been in line with their consent obligations (see Attachments E & F).
- A Review of Noise Impact Assessment (Attachment D) has been submitted in relation to this development application by the applicant. This review has been informed by previous acoustic investigations and attended noise modelling in relation to the site. The conclusions of this report are that the proposed permanent 24/7 drive-thru operation is acceptable.
- The proposed modification was referred to NSW Police. No objection was raised to the application or the continuation of the 24/7 operation of the McDonald's drive-through arrangements (Attachment H).
- The proposed modification would have some positive social and economic impact. The continuation of 24/7 trading would support employment and late-night services in Muswellbrook.
- Two (2) public submissions were received objecting to the proposal (Attachment G). These submissions raise concerns related to noise, anti-social behavior and litter. Given the findings of the acoustic assessment, the commentary provided by the NSW Police in support of the proposed development, the relative success of the trial period (in terms of significant issues and issue management) and management plans in place to control litter, Council Officers have not recommended the refusal of the application.
- The recommended conditions of consent include conditions related to:
 - Complaint management, recording and reporting;
 - Noise management;
 - Litter management; and
 - Lighting control.



COMMUNITY CONSULTATION

The proposal was publicly notified in accordance with the requirements of the Muswellbrook Community Participation Plan. Notification was provided to forty-four (44) individuals in the locality. The application was also advertised on Council's website with a corresponding Facebook post

Two (2) submissions were received by Council. Redacted copies of the submissions are provided in Attachment C.

Council Officers also consulted with NSW Police in relation to this development application.

LEGAL IMPLICATIONS

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

CONCLUSION

An assessment of the proposed modification has been completed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. Based on this assessment, staff recommend that the proposed modification to allow 24/7 trading of the McDonald's drive-through be permitted subject to the recommended conditions of consent.

SECTION 4.15 & 4.55 (2) ASSESSMENT REPORT

REPORT TO THE GENERAL MANAGER

ADDRESS: Lot: 101 DP: 1266515, 83-89 Maitland Street
Muswellbrook

APPLICATION NO: 30/2021

PROPOSAL: Pursuant to section 4.55(2) of the EP & A Act 1979, to
modify a consent for s4.55 (2) modification - permanent
approval of 24 hour

PLANS REF: Drawings numbered, dated, drawn by, and received by
Council on 29/08/2022

OWNER: Mcdonalds Australia Limited

OWNER ADDRESS: Site 23
Locked Bag 12
PENNANT HILL NSW 1715

APPLICANT: Mcdonald's Australia Limited

ADDRESS: C/- Slr Consulting Australia
Suite 2, 125 Bull Street
NEWCASTLE WEST NSW 2302

AUTHOR: Tanya Jolly

DATE OF REPORT: 31 October 2022

DATE OF INITIAL DETERMINATION: 31 August 2021

DATE LODGED: 29 August 2022

SUMMARY

ISSUES: Noise and litter

SUBMISSIONS: Two (2)

RECOMMENDATION: Approval subject to Conditions of Consent

1. DESCRIPTION OF PROPOSAL

This Section 4.55(2) Modification seeks approval for the permanent 24/7 operation of the drive-through (drive-thru) at the Muswellbrook McDonalds restaurant.

The Muswellbrook McDonald's has previously been granted approval to operate its drive-thru 24 hours 7 days a week on a 12-month trial period with its initial determination of this development application, a previous determination (DA 2003/72) and the NSW State Government Ministerial Orders issued during the COVID-19 pandemic. Under these temporary and trial arrangements the McDonalds restaurant has been permitted to operate its drive-thru 24/7 from April 2019 until the present.

2. RELEVANT HISTORY

16th June 2003 – Consent was granted for the alterations and additions of the Muswellbrook McDonald's operation, under DA72/2003. Condition 1.11(a) stipulated the operating hours are permitted to be between 6.00am to 10.00pm Monday to Thursday, Sunday and Public Holidays, and 6.00am to 11.00pm Friday and Saturday

9th April 2019 – Consent was granted to the modification of the original consent under DA72/2003. The modification allowed an extension of the operating hours of the Muswellbrook McDonald's to allow 5.00am to 6.00am trading on Monday to Sunday for the drive-thru only for a trial period of 12 months.

7th October 2020 - Consent was granted to the modification of the original consent under DA72/2003. The modification enabled the previous 12-month trial period allowed the drive-thru to trade permanently for the period 5am to 6am, Monday to Sunday.

31st August 2021 – Consent was granted for the Change of Operation Hours (McDonald's) under DA30/2021. The consent grant 24 hours, 7 day a week operation of the drive-thru facility for a trial period of 12 months. At the conclusion of the trial period, a s4.55 modification must be lodged with Council to continue the extended operating hours.

3. REFERRALS

3.1. Internal Referrals

The application was referred to Council's Roads and Drainage Section and Environmental Health Section. Each section reviewed the proposal and recommended standard conditions to be placed on the development consent should the application be approved.

3.2. External Referrals for Concurrence

NSW Police

Correspondence from NSW Police raised no objection to the continuation of the McDonald's 24/7 drive-thru operations.

NSW Police reviewed their records for incidents reported in relation to the site for noise and anti-social behaviour. This review identified that no such incidents had been reported to the Police within the last 12 months, with the most recent incident reported in late 2020 and related to persons loitering in the car park, which was dealt with by NSW Police at the time.

4. SECTION 4.55 CONSIDERATION

Under Section 4.55(2) of the *Environmental Planning and Assessment Act*, a consent authority may, on application, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

Planning Response - The proposed modification seeks permanency of the existing approved 24 hours, 7 day a week trading hour of the drive thru operation as per Condition 2 – Trial Period of Twelve (12) Months – in DA30/2021.

It is considered that the proposed modification is substantially the same development as for which the original consent was granted, and accordingly that the approval path for the proposed modification is a s4.55 (2) Other modifications under the EP&A Act 1979.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Planning Response – The proposed development does not require General Terms of Approval or concurrence from a Public Authority. The proposal was referred to NSW Police who raised no objection to the proposed development.

- (c) it has notified the application in accordance with—
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Planning Response – The modification application has been notified in accordance with the Muswellbrook Community participation plan from 13 September 2022 to 27 September 2022.

- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Planning Response – Council received two (2) submissions during the notification of the development application. A summary of the concerns raised in the submissions has been provided under the submitter concern heading of this report. The matters raised by the submissions were not considered to support a recommendation to refuse the proposed development.

5. SECTION 4.15 CONSIDERATION

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

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

(EPI)

5.1.1. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)

Permissibility

Under Muswellbrook LEP 2009, the land subject is zoned B2 Local Centre. The use of the premises is best defined as a food and drink premises.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,*
- (b) take away food and drink premises,*
- (c) a pub,*
- (d) a small bar.*

Under the Muswellbrook LEP 2009 a food and drink premises is a further sub-category of a retail premises, which is in turn a sub-category of 'commercial premises'. None of the land use terms relevant to the proposed development are identified as prohibited land uses in the B2 Local Centre zone and accordingly the proposed development is viewed as a type of development permissible with consent under the Muswellbrook LEP 2009 land use zoning controls.

Land use zoning objectives

Clause 2.3 of MLEP 2009 requires a consent authority to have due regard to the land use objectives of a zone when determining a development application.

The land use zone objectives for the B2 Local Centre zone are as follows:

1. *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
2. *To encourage employment opportunities in accessible locations.*
3. *To maximise public transport patronage and encourage walking and cycling.*
4. *To maintain the status and encourage the future growth of the Muswellbrook established business centre as a retail, service, commercial and administrative centre while maintaining the centre's compact form.*
5. *To enable a wide range of land uses that are associated with, ancillary to, or supportive of the retail and service functions of a business centre.*
6. *To maintain the heritage character and value and streetscape of the business centre of Muswellbrook.*
7. *To support business development by way of the provisions of parking and other civic facilities.*

It is considered that the proposed modification would be compatible with the land use zoning objectives. The extended trading hours for the premises would support the retail, trade and business development directions set out in the land use zoning objectives.

5.1.2. State Environmental Planning Policies Relevant to Muswellbrook Shire

The State Environmental Planning Policies have been considered in relation to the proposal. It is considered that the proposed modification would have limited consequences in relation to these environmental planning instruments.

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

The DPE exhibited changes to employment zones earlier this year. The zoning of the site is proposed to be changed to E3 Productivity Support. Take away Food and Drink Premises are proposed to be a permitted use in the E3 zone.

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

5.3.1. Muswellbrook DCP 2009

The Muswellbrook Development Control Plan (MDCP 2009) is the development control plan relevant to all development in the Muswellbrook Local Government Area.

The provisions of the DCP have been considered in relation to the proposed modification. The DCP does not include any specific provisions relevant to the trading hours of commercial premises.

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

There are no planning agreements relevant to approved development or proposed modification.

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

There are no specific matters prescribed by the Environmental Planning and Assessment Regulation 2000 relevant to the assessment of this application.

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

Not applicable.

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

The proposal seeks permanent approval for the Muswellbrook McDonald's to operate 24/7. The application was initially approved for a trial period of 24 hours. The likely impacts of the proposed development were considered during the initial consideration of the development application along with the Assessing Officers assessment of these impacts during this trial period.

Access, transport, and traffic

The site has existing vehicle entry points from Maitland Street (the New England Highway) and Thompson Street. The site has a single exit point via Thompson Street.

No changes are proposed.

Waste Management

During the trial period, two complaints were received related to litter in the surrounding streets, particularly Thompson Street and Shaw Crescent.

- The applicant has provided an updated Plan of Management that has extended the litter patrols to reach Shaw Crescent and will occur a minimum four (4) times per day.
- An additional two (2) bins have also been put in place at the site exits to encourage the correct disposal of litter.
- Staff have conducted several site visits and did not observe excessive litter at the site or the nearby surrounds.

The Assessing Officer notes that the conditions and management measures put in place are satisfactory to manage waste, if they are complied with.

Noise Impacts

Noise impacts related to the proposed development and drive-thru operation have been reviewed extensively during the assessment of previous applications for 24/7 operation.

In relation to this modification, a Review of Noise Impact Assessment has been submitted in relation to this development application by the applicant. This review has been informed by previous acoustic investigations and attended noise modeling in relation to the site. The conclusions of this report are that the 24/7 drive-thru operation may be supported from an acoustic impact perspective.

Council Officers also note that limited complaints have been received in relation to the noise associated with the 12-month trial period and that Council has received fewer submissions objecting to the 24/7 hour operation of the proposed facility. Related to this point Council Officer recorded the following number of submissions in relation to each previous modification application related to the 24/7 restaurant trading:

- August 2022 Application (this application) - two (2) submission
- 31st August 2021 (DA 2021/30) - four (4) submissions
- 7 October 2020 (DA 2003/72/5) three (3) submissions
- 9 April 2019 (DA 2003/72/4) thirteen (13) submissions

Safety, security and crime prevention

To inform Council's consideration of these issues the applicant has prepared and submitted a Crime Risk Assessment and plan of management (March 2021) that included the following:

- Crime Prevention through Environmental Design (CPTED) Strategy,
- 24 hour CCTV Surveillance with 60 day viewing retention,
- Effective lighting of public areas,
- Provision of directional signage that assists in controlling activities and movements throughout the premises,
- Maintenance of landscaping to ensure it communicates an alert and active presence occupying the space,
- Car parking closures in accordance with a car parking closure plan during drive-thru only operating hours,
- Incident reporting and registration of complaints,
- The adoption of noise management procedures, and
- The carrying out of regular litter patrols.

The application was referred to NSW Police who provided additional commentary related to safety security and crime related considerations. These referral comments have been attached for Council's information and raise no objection to the proposed development.

Social and Economic Impacts

The proposed trading hours will have moderate positive economic outcomes related to the additional commercial activity and trading hours. As discussed in previous applications for adjustment of trading hours these positive impacts need to be balanced against any adverse social impacts to the locality. In this instance Council Officers are satisfied that the proposal is unlikely to have any significant adverse social impacts and thereby may be supported.

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

The site is zoned B2 Local Centre under the Muswellbrook LEP 2009. Council Officers are satisfied that the site's zoning and location is suitable to support is commercial land use.

Section 4.15(1)(d) any submissions made

The proposed development was notified in accordance with the requirements of the Muswellbrook Community Participation Plan. Two submissions were received in relation to the proposed development. Matters raised by the submissions have been summarised and commented on in the table below.

Submitter Concern	Town Planning Comment
Concern that McDonald's has traded with a 24/7 drive-thru for longer than the 12 month trial period.	McDonald's initially was granted approval to trade its drive thru 24/7 for 12 months from April 2019, its ability to trade 24/7 was later re-instated by the NSW COVID-19 trading Order before an additional 12-month operating period was approved by Council. Council has is not aware of circumstances where McDonald's has traded outside its relevant trading hour operating requirements.
A submitter requested further information to consider and respond to the application	A copy of the Noise Impact Assessment was provided to the submitter who did not provide further correspondence beyond the issues raised in their initial submission.
Concern regarding individuals revving their engines at night and making noise particularly on weekends	While individual noisy issues from poorly behaved patrons remains possible Council Officers are of the view that there is not substantive justification information to recommend the refusal of the proposed modification due to potential noise impacts in view of: <ul style="list-style-type: none"> - The findings of the acoustic assessment submitted with this application which are supportive of the proposed development. - The findings of previous acoustic investigations including an independent noise assessment commissioned by Council and prepared by Global Acoustics which was supportive of a previous decision to support a trial 24/7 drive thru operation. - The limited number of reported issues (5) within the most recent and previous trial periods. Of the reported issues one (1) complaint related to anti-social behaviour. No other complaints were related to noise.
Limited success of controls including signage in managing noise	While Council Officers accept that individual instances of noise may occur, on balance, noise related impacts associated with the proposed development would not substantiate a decision to refuse the proposed development. Council Officers are of the view that the current conditions provide a useful framework for noise control, the making of complaints related to individual noise incidents and the imposition of additional measures to address reoccurring issues where they arise from the operation of the premises. See recommended condition 3.
Vehicles using Thompson Street	Vehicles are required to adhere to the road rules and

at high speeds	<p>speed limits. The proposed late-night trading is not anticipated to have any significant implication for vehicle and road user safety.</p> <p>The installation of the Thompson Street traffic lights will provide an additional traffic calming measure.</p>
Littering from the operation of the premises.	<p>The McDonald's management plan and development consent includes requirements for litter patrols to be carried out at the premises on a regular basis.</p> <p>When the site has been visited by Council Officers no significant litter has been observed. Council Officers have also observed McDonald's employees carrying out early morning litter patrols in line with their consent requirements.</p> <p>The proposed modification would not significantly impact littering on-site and where carried out in accordance with the recommended consent it is considered that reasonable measures will be employed to control litter.</p>

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

Council Officers acknowledge that these trading hours may result in some impacts to the amenity of neighbouring residents. The site has been operating under the conditions of consent imposed under DA 2021-30 and the impacts due to the development seem to have been adequately managed. Council Officers are satisfied that public interest considerations are acceptable.

6. 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 would be in accordance with the relevant planning provisions.

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

Signed by:



Tanya Jolly
Planning Assistant

Date: 02 November 2022

DA 2021-30 Section 4.55 Modification Recommended Conditions of Consent

SCHEDULE 1
SUMMARY OF MODIFIED CONDITIONS OF CONSENT

This Schedule includes a summary of the changes to the conditions of consent from those imposed on the original determination of this development application. This Schedule should not be relied on to identify the full details of the consent and is provided as a reference document only to assist a person reviewing or acting with this consent to identify changes from the consent previously issued by Council. The current conditions of consent are listed in full in Schedule 2.

The dot points below provide a brief summary of changes to the conditions of consent/ plans imposed by Council in its previous determination of this development application:

- Deletion of Condition 2.

SCHEDULE 2
RECOMENDED CONDITIONS OF CONSENT AS MODIFIED

SITE OPERATIONS

1. Scope of Approval (restriction to the operation of late night dine-in restaurant facilities)

This consent authorises the 24/7 operation of the restaurant drive-thru in accordance with the approved documents and additional conditions outlined in this consent.

No approval is granted to the 24/7 operation of the dine in eating. Between the late night trading times of 11:00pm and 6:00am the restaurant dine in areas are to be closed to the public.

The operating hours of the restaurant dine in areas are to continue to be operated in accordance with operating hours approved under DA 72/2003, being:

Sunday – Thursday & Public Holidays	5:00am – 10:00pm
Friday & Saturday	5:00am – 11:00pm

2. DELETED

3. Operation of Premises

At all times the person acting with this consent shall comply with the following:

- (a) The operation of the premises shall comply with the McDonald's Plan of Management dated March 2021, or an updated Plan of Management approved by Council in writing.
- (b) The proponent shall keep a detailed record of complaints which are to be documented in a register maintained for the 12-month period of the premises' operation. The Register is to be maintained on-site and may be inspected by Council Officers and other relevant regulatory personal. Data contained in the complaint register is to include time, location and nature of any intrusive noise, odour or other reported issue that causes a disturbance to an adjoining landowner. The person acting with this consent is to take reasonable steps to inform nearby residents and interested persons on how to make any complaints in relation to the operation of the premises. Council would view an annual letter drop to neighboring properties advising of the contact information and procedure for making complaints as reasonable steps.
- (c) If noise complaints become systematic and/or a significant increase in complaints is identified in the 12-month period the person acting with this consent is required to complete the following:
 - (i) Advise Council of the nature and number of complaints being received;
 - (ii) Unless otherwise directed by Council the proponent shall engage an appropriately qualified person to carry out attended noise monitoring at a location that is representative of the location and/or

time period during which complaints have been made. Noise monitoring shall be carried out in accordance with the Noise Policy for Industry (or any superseding Policy) and relevant Australian Standards.

- (iii) The outcomes of any noise monitoring shall be reported to Council. If the noise monitoring identifies any exceedance to the recommended PSNL during attended noise monitoring then steps to evaluate feasible and reasonable noise control shall be taken in accordance with the Noise Policy for Industry. After noise controls have been implemented, attended noise monitoring shall be repeated to determine whether noise control has been effective in reducing site noise levels.
- (iv) Council may not direct the person acting with this consent to carry out the steps prescribed by (ii) or (iii) above where it is not satisfied as to the validity of complaints received or where it is concerned that generic, vague or vexatious complaints are being made on a regular basis. Where the proponent carries out attended noise monitoring in accordance with (ii) and (iii) within the preceding 6 months or on more than 2 occasions within a 12-month period and no noise exceedances are identified Council may advise the person acting with this consent that they are not required to carry-out further attended noise monitoring.
- (d) At all times the person acting with this consent must carry out the development in accordance with the requirements of the approved waste minimisation and management plan.
- (e) The person acting with this consent must consult local residents through the preparation of the plan. The person acting with this consent must comply with the recommendations of this plan and install all required signage relating to the extended hours.
- (f) In accordance with the Management Plan requirements all lights at the premises are to comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting and the person acting with this consent is to ensure that the premises are operated in accordance with this requirement at all times.
- (g) At all times the drive-thru ceiling lining and any signage installed is to be maintained as part of the development to manage any noise from vehicle antennas in the drive-thru.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT

3. Directional Signage

Prior to commencement of operating hours all vehicle directional signage is to be maintained, including trimming of obscuring vegetation, to ensure the proper management of access to the site and clearly identify all entry and exit points and parking for all types of vehicles. Where an access point is entry or exit only appropriate signage is to be installed to identify this to customers. Where there is a car park pedestrian crossing appropriate pedestrian signage should also be installed. All necessary signage installations must comply with the relevant Australian Standard.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**4. Management of Litter**

Documentary evidence should be available to Council staff demonstrating compliance with the Plan of Management (March 2021) in relation to the removal of on-site waste in the Public Domain for such areas as, but not limited to, the footpath, gutter, building entry and surrounds. The Litter Patrols identified in the Plan of Management are to be confirmed via a register and signed by the person undertaking the action.

5. Maintenance of landscaping

All existing landscaping is to be maintained and remedial pruning is to be undertaken regularly at the site, as per the requirements of the Crime Risk Assessment and plan of management (March 2021), this consent or as otherwise directed by Council in writing. This is to ensure natural surveillance is able to occur on the premises.

6. Outdoor Lighting

All lighting installed is to be designed and positioned to minimise any adverse impact on neighbouring premises. Any outdoor lighting installations must comply with the relevant Australian Standards AS/NZ 1158.3.1:2005 Lighting for Roads and Public Spaces Pedestrian Area Lighting and Public Spaces Pedestrian Area (Category P) Lighting - Performance and Design Requirements AS 4282.1997 Control of the Obstructive Effects of Outdoor Lighting. Car Park lighting must also minimise light spill and is to be in accordance with AS 1158 and AS 4282-1997.

Where the person acting with this consent becomes aware of a complaint or issue with outdoor lighting affecting the amenity of adjoining premises reasonable steps are to be taken to address the issue and minimise the impact of any light spill on adjoining land.

26 August 2022

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Muswellbrook Shire Council
PO Box 122,
Muswellbrook NSW 2333

Attention: The General Manager

Dear Sir/ Madam,

**Proposed s4.55 (2) Application to Modify 2021/30
Permanent Continuation of the Extended Hours of Operation
83-89 Maitland Street, Muswellbrook NSW 2333**

1 Introduction

SLR Consulting Australia Pty Ltd (SLR) acts on behalf of its client McDonald's Australia Limited (McDonald's) in preparing this supporting Statement of Environmental Effects (SEE) for the proposed s4.55(2) modification to seek permanency to the extended hours of operation for the existing drive thru at the existing Muswellbrook McDonald's operation. The site is located at 83-89 Maitland Street, Muswellbrook NSW 2333.

This modification seeks permanency to the current 24/7 operation of the drive-thru operation at Muswellbrook McDonald's, which was approved for a trial period of 12 months from August 2021. This SEE describes the site, its environment, and an assessment of the proposal in terms of the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

1.1 McDonald's Australia and the Community

There is approximately 1020 McDonald's operations Australia wide, the vast majority of which are either owned or operated by members of the local business community. McDonald's Australia serves approximately 1.2 million people a day and provides job opportunities for over 115,000 people Australia wide.

Since 2002, McDonald's Australia has implemented a number of alternative healthy eating options and choices. McDonald's Australia is a well-known and respected company across Australia, known for its food product, well trained staff, and new and improved designs.

McDonald's Australia not only provides employment opportunities and a high standard of food and service, it also works closely with and supports a number of charities and local groups. This is mainly through major sponsorship, supporting local teams, providing educational, environmental, artistic and sporting programs and charity work (i.e. Ronald McDonald House charity, 'Clean up Australia Day').

1.2 Background

16th June 2003 – Consent was granted for the alterations and additions of the Muswellbrook McDonald's operation, under DA72/2003. Condition 1.11(a) stipulated the operating hours are permitted to be between 6.00am to 10.00pm Monday to Thursday, Sunday and Public Holidays, and 6.00am to 11.00pm Friday and Saturday

9th April 2019 – Consent was granted to the modification of the original consent under DA72/2003/4. The modification allowed an extension of the operating hours of the Muswellbrook McDonald's to allow 5.00am to 6.00am trading on Monday to Sunday for the drive-thru only for a trial period of 12 months.

7th October 2020 - Consent was granted to the modification of the original consent under DA72/2003/5. The modification enabled the previous 12-month trial period to be made permanent, allowing the store to trade permanently the 5am to 6am window, Monday to Sunday.

31st August 2021 – Consent was granted for the *Change of Operation Hours (McDonald's)* under DA30/2021. The consent grant 24 hours, 7 day a week operation of the drive thru facility for a trial period of 12 months. At the conclusion of the trial period, a s4.55 modification must be lodged with Council to continue the extended operating hours.

2 The Site and Surrounds

The site is within the Local Government Area (LGA) of Muswellbrook. The site is located at 83-89 Maitland Street Muswellbrook NSW 2333 and is legally identified as Lot 101 in DP 1266515. The site has an approximate area of 6,364m² with the existing McDonald's operation including a dual lane drive-thru and carpark currently occupying the entire site.

The McDonald's is situated on the corner of Thompson Street and Maitland Street. The McDonald's holds a street frontage to Maitland Street of approximately 110 metres, while it also holds a street frontage with Thompson Street of approximately 85m. Access to the site is provided via Maitland Street a state classified road and a separate ingress off Thompson Street. There is one egress only onto Thompson Street along the western border of the site. Refer to Photographs 1 – 3 which depict the ingress and egress to the site.

The land within the vicinity of the site is primarily utilised for commercial and residential purposes. The closest residential dwellings are located to the west and south-west of the site across from Thompson Street. Directly east of the site, the McDonald's shares a boundary with a short-term tourist accommodation. To the north of the site, across the classified road is a forest nursery, whilst further to the east is a service station which operates 24 hours, 7 days a week. Directly south of the site undeveloped Lot 101 in DP 793194 further separates the site from residential dwellings.

Refer to **Figure 1** and **Figure 2** for the site aerial and cadastral plan

Figure 1 Site Aerial (Source: Near Maps)



Figure 2 Cadastral Plan (Source: Six Maps)



3 Proposal

Following the conclusion of the successful 12 month trial, the proposed modification seeks permanency of the existing approved 24 hours, 7 day a week trading hours of the drive thru operation at the existing Muswellbrook McDonald's operation under *Condition 2 – Trial Period of Twelve (12) Months* of DA30/2021.

Below provides a summary of the relevant existing and proposed conditions.

Existing Condition 2

2. Trial Period of Twelve (12) Months

The restaurant drive-thru may operate 24 hours, 7 days a week on a trial basis for a period of 1 year. The date for the commencement of this trial period is taken to be the date of the Notice of Determination given these hours have commenced under the Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020. At the conclusion of the 1-year trial period the premises must revert to utilising the previous approved trading hours, unless a Section 4.55 modification has been lodged with Council for the continuation of the 24-hour, 7 day per week operation of the premises.

Where a Section 4.55 modification is lodged in line with the above, the development may continue to operate 24 hours, 7 days a week for a further period of six (6) months to allow for that application to be determined.

If the Section 4.55 modification is refused by Council or withdrawn the premises must revert back to trading hours approved under DA 72/2003/5 being:-

- (a) The hours of operation are restricted from 5.00 am to 10.00 pm Monday to Thursday, Sunday and Public Holidays, and 5.00 am to 11.00 pm Friday and Saturday.*
- (b) In addition to (a) above, the drive-thru may operate between 5.00 am and 6.00 am, 7 days a week.*

Note: the assessment of any application for the continuation of 24 hour a day operating times will be carried out in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979. Council will be particularly interested in any performance data from the 1-year trial period, compliance with the development consent requirements, outcomes of any noise monitoring, and complaints received by the operator, Council or NSW Police.

Proposed Condition 2

2. Trial Period of Twelve (12) Months **Drive-Thru Operating Hours**

The restaurant drive-thru may operate 24 hours, 7 days a week. ~~on a trial basis for a period of 1 year. The date for the commencement of this trial period is taken to be the date of the Notice of Determination given these hours have commenced under the Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020. At the conclusion of the 1-year trial period the premises must revert to utilising the previous approved trading hours, unless a Section 4.55 modification has been lodged with Council for the continuation of the 24-hour, 7 day per week operation of the premises.~~

~~Where a Section 4.55 modification is lodged in line with the above, the development may continue to operate 24 hours, 7 days a week for a further period of six (6) months to allow for that application to be determined.~~

~~If the Section 4.55 modification is refused by Council or withdrawn the premises must revert back to trading hours approved under DA 72/2003/5 being:-~~

~~(a) The hours of operation are restricted from 5.00 am to 10.00 pm Monday to Thursday, Sunday and Public Holidays, and 5.00 am to 11.00 pm Friday and Saturday;~~

~~(b) In addition to (a) above, the drive thru may operate between 5.00 am and 6.00 am, 7 days a week.~~

~~Note: the assessment of any application for the continuation of 24 hour a day operating times will be carried out in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979. Council will be particularly interested in any performance data from the 1 year trial period, compliance with the development consent requirements, outcomes of any noise monitoring, and complaints received by the operator, Council or NSW Police.~~

3.1 Justification

The proposed permanency to the amended trading hours of the McDonald's operation at 83-89 Maitland Street, Muswellbrook is considered to be of minor impact in terms of noise and other associated environmental/amenity impacts. Good performance has been demonstrated with the operation trading in accordance with the previously approved Plan of Management. The proposed extension of hours is in keeping with the objectives for the zone as it provides a land use to meet the day to day needs of the people who live in, work in and visit the local area. Furthermore, the extended operating hours provides additional employment opportunities, which has been demonstrated through the informal trial period, with an additional 40 staff employed during the extended operating period.

The Muswellbrook McDonald's is a progressive commercial premise, continually adapting over the years in response to customer demand and public needs. With this in mind, the proposed permanent extension of the trial trading hours is in response to continued customer demand for these services. Furthermore, the purpose of the trading extension is to provide key services to the community during the early morning trade, particularly as there limited take away food and drinks premises within the locality that are currently open to customers within these hours. The proposal will provide a convenient service for local residents and passing traffic to access a food premise during the early morning. The site is located along Maitland Street, and therefore experiences high late evening and early morning traffic in relation to the surrounding mining industry. As such this proposed extension can continue to provide a late evening and early morning service to residents and passing traffic.

Prior to the 12-month trial period, Muswellbrook McDonald's was operating dine-in and drive thru operations 24 hours a day, 7 days a week from October 2020 to August 2021. During this period, the store successfully demonstrated their ability to deliver an essential service with minimal adverse impacts on surrounding amenity. The McDonald's operation has been successfully operating during the extended hours while demonstrating efficiency in their response to actively resolve any concerns received.

Over the 12-month trial period, the McDonald's have actively responded to the concerns or issues raised. This has been discussed further below.

A Notice of Determination Compliance Table has been provided at **Appendix B**.

3.1.1 Results of the 12-Month Trial Period

The 12-month trial period was conditioned to ensure any issues of public interest have been considered and are acceptable for the proposed extended trading hours. The Assessment Report prepared for the Muswellbrook Shire Council, prepared on 13 July 2021, contains public interest issues raised within submissions of DA2021/30. These submissions related primarily to litter management, noise, potential for anti-social behaviour, and headlight glare. The below provides detail on the enquiries received over the 12-month Trial Period, and response/actions undertaken by McDonald's as a result.

3.1.2 Submissions Received during DA 2021/30

Four (4) submissions were received during the notification period of DA 2021/30. Concerns raised within the submissions included potential noise impacts, potential impacts upon amenity, traffic generation impacts, safety, crowd control and litter. A formal response to these submissions was provided to Council in July 2021. Actions and mitigation measures within this response have been enacted on site and have demonstrated successful operations during the 12-month trial period.

It is considered mitigation measures and actions have been enacted following the concerns raised in the submissions received during the assessment of DA2021/30. As a result, Muswellbrook McDonald's have demonstrated successful operations.

A complaint regarding headlight glare from vehicles exiting the premises was received from a nearby Thompson Street resident within these submissions. As detailed further below, McDonald's have resolved this matter with the resident through the agreed installation of an awning at the premises to reduce the impacts of headlight glare. The awning has successfully solved the issue, and the resident is happy with the result.

3.1.3 Complaints History

Council

In the 17-month period between April 2021 and August 2022, covering in part the 5am operating hours and the current trial 24 hour operation, a total of five (5) complaints were received by Council. These complaints and/or advice of receipt of these complaints was not directed to McDonald's. It is noted in an email from Council (dated 8 August 2022) that appropriate actions were taken by Council officers in response to the complaints made to Council. Comments on the complaints received to Council are provided below.

Two complaints received related to litter in the surrounding streets, particularly Thompson Street and Shaw Crescent. As noted within the updated Plan of Management, litter patrols have been extended to reach Shaw Crescent, and will occur at minimum four (4) times per day. An additional two (2) bins have also been put in place at the site exits to encourage the correct disposal of litter.

Another complaint received related to noise resulting from fighting in the car park. The Plan of Management discusses actions that are to be taken when incidents or acts of violence occur on site. These actions will continue to be implemented. Additionally, the extended hours of the drive thru only does not encourage lingering or loitering in the car park during late night hours. Vehicles are only able to access the drive thru during the extended hours, and any person found lingering on the premises or causing disturbance will be asked to move on promptly.

A complaint was also received relating to the trucks accessing the site. The truck delivery route was detoured due to Transport for NSW approved roadworks occurring on Maitland Street. This is not a permanent arrangement and is not within the control of the McDonald's premise.

A further complaint was received relating to Covid non-conformance. As stated within Council's response, this non-conformance was not a result of McDonald's operations and the correct contact for this complaint is to the Police.

Complaints Register/Letterbox Drop

As per Condition 3 (b) of the development consent (DA 2020/30), a letter box drop occurred in March 2022, refer to below:

3. Operation of Premises

- (b) The proponent shall keep a detailed record of complaints which are to be documented in a register maintained for the 12-month period of the premises' operation. The Register is to be maintained on-site and may be inspected by Council Officers and other relevant regulatory personal. Data contained in the complaint register is to include time, location and nature of any intrusive noise, odour or other reported issue that causes a disturbance to an adjoining landowner. The person acting with this consent is to take reasonable steps to inform nearby residents and interested persons on how to make any complaints in relation to the operation of the premises. Council would view an annual letter drop to neighbouring properties advising of the contact information and procedure for making complaints as reasonable steps.*

The licensee of the McDonald's premises initiated a letter drop to all nearby sensitive receivers as identified within the Acoustic Assessment (refer to **Figure 3**). The letter notified all sensitive receivers of the extended trading hours and welcomes any relevant feedback or concerns.

From this letterbox drop, two (2) responses were received. The responses related to noise resulting from the extended hours, and litter in the surrounding streets. The authors of both letters were asked to attend a meeting to discuss their concerns and operational responses by McDonalds. They both declined.

Furthermore, minimal complaints were received directly to McDonald's within the complaints register available on site which demonstrates the store was able to safely and successfully operate during these extended operating hours.

Figure 3 Surrounding Sensitive Receivers (Source: Noise Impact Assessment, Muller Acoustic Consulting)



3.1.4 Response to Complaints Received

As a result of the above complaints, and submissions received during the assessment of DA2021/30, the following actions have been taken by McDonald's in the past 12 months to resolve these perceived concerns:

- Two (2) extra bins have been added to the exits of the premises to encourage litter to be disposed of correctly.
- Litter patrols have increased in frequency and have extended to Shaw Crescent to improve the efficiency of the patrols. Litter maintenance and management has significantly increased on the block.
- An electronic awning was installed at the bedroom window of the property located directly west of the site. This is a direct response to complaints of headlight glare beaming through the windows during late night hours.
- Additional signage was installed on the premises asking patrons to reduce noise and to be mindful of surrounding residents when exiting the premises. Signage has also been installed advising clients of the complaints register and provides a contact number for patrons to utilise if necessary.

During the 12-month trial period, and previous 24-hour, 7 day a week trading hours under the Covid Order, there were no ongoing operational issues. As demonstrated above, all complaints received were actively resolved. Furthermore, the extended hours of operation provides additional employment opportunity while providing an essential service to the community. The McDonald's operation demonstrated successful management during the late-night trading period and will continue to actively manage the operation to ensure any concerns are minimised and any concerns are promptly resolved. McDonald's have demonstrated their ability to deliver an essential service to the community in a safe and secure environment, whilst limiting adverse impacts on the surrounding amenity.

4 Legislation and Planning Controls

The following legislation, Environmental Planning Instruments (EPI's) and Development Control Plan (DCP) are relevant to the proposed application and haven been addressed below:

- Environmental Planning and Assessment Act 1979.
- Muswellbrook Local Environmental Plan (LEP) 2009.
- Muswellbrook Development Control Plan (DCP) 2009.

4.1 Environmental Planning and Assessment Act 1979

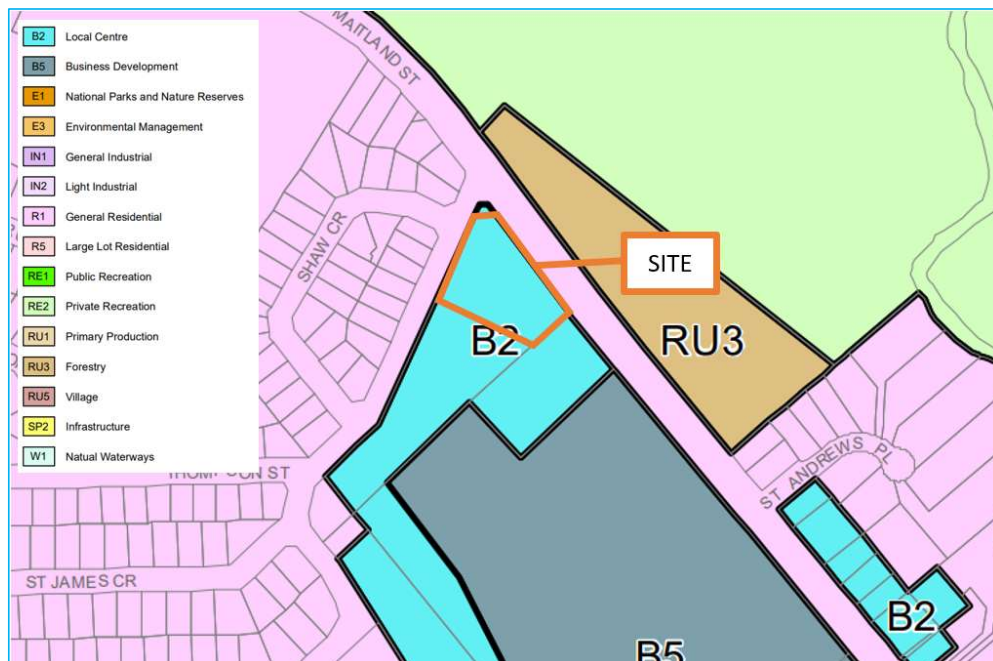
It is considered that the proposed modification of the development consent is substantially the same development as for which the original consent was granted, and accordingly that the approval path for the proposed modification is a *s4.55 (2) Other modifications* under the EP&A Act 1979.

In determining an application for modification of a consent under Section 4.55 of the EP&A Act 1979, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The relevant matters for consideration are addressed throughout this SEE.

4.2 Muswellbrook Local Environmental Plan (LEP) 2009

Under the provisions of the Muswellbrook Local Environmental Plan (LEP) 2009, the site is zoned B2 Local Centre, refer to **Figure 4**.

Figure 4 Land Zoning Map Extract from LEP 2009 (LZN_008A)



Zone B2 Local Centre

1 Objectives of zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To maintain the status and encourage the future growth of the Muswellbrook established business centre as a retail, service, commercial and administrative centre while maintaining the centre's compact form.*
- *To enable a wide range of land uses that are associated with, ancillary to, or supportive of the retail and service functions of a business centre.*
- *To maintain the heritage character and value and streetscape of the business centre of Muswellbrook.*
- *To support business development by way of the provisions of parking and other civic facilities.*

2 Permitted without consent

Home occupations

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Health services facilities; Heavy industrial storage establishments; Highway service centres; Hostels; Information and education facilities; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Research stations; Respite day care centres; Restricted premises; Roads; Service stations; Sewage reticulation systems; Sex services premises; Shop top housing; Signage; Storage premises; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water reticulation systems; Wholesale supplies.

4 Prohibited

Pond-based aquaculture; Any other development not specified in item 2 or 3

The proposed modification will not alter the approved use and built form of the premises. The existing operation on the site will remain consistent with the objectives of the sites B2 zoning, ensuring a mix of compatible land uses within the zone.

4.3 Muswellbrook Development Control Plan (DCP) 2009

The proposed modification has been prepared having regard for the provisions of Muswellbrook DCP 2009. The modification meets all of the relevant controls contained within the DCP.

It is noted that the overall building design and signage, remains unchanged and the operational arrangements on site in regard to waste management, deliveries, access and car parking also remain generally unchanged by this application.

5 Assessment of Planning Issues

As discussed in Section 3, the proposed continuation of 24/7 drive-thru operating hours is in direct response to continued customer demand at the Muswellbrook McDonald's store. Given that there are limited early morning food and drink premise available in the area, McDonald's seeks to satisfy the clear demand for this type of service. The proposal, and the ongoing implementation of mitigation measures currently at the site, is expected to result in minimal adverse impacts on the environment and the amenity of the surrounding area. The proposal will provide a convenient service for local residents, locally employed people, visitors and passing traffic to access its services.

5.1 Amenity

The proposal has shown it causes minimal, if any, adverse impacts on the general amenity of the surrounding premises. It has been highlighted through the trial period for extended hours that the operation has successfully implemented mitigation measures that has ensured no ongoing adverse amenity impacts on the closest residential receivers during this time. It is emphasised that the Muswellbrook McDonald's had an exemplary record during the trial period and therefore have proven that the proposed permanency of the trial hours can be managed to ensure minimal impact to the surrounding amenity.

5.2 Noise

A review of the Historic Noise Assessment has been prepared by Muller Acoustic Consultants (MAC) and attached at Appendix A of this SEE. The review has been complete to validate the historic noise assessments in a contemporary context and whether the reports are suitable for the current application.

A previous Noise Assessment was complete at the site in March 2021. Due to road upgrades, updated unattended noise monitoring could not be complete as part of the assessment. The construction will be ongoing for 6 months, therefore impacting any background noise monitoring over this time. It is noted no new residential development are within vicinity of the operation, therefore the most affected residential receivers within the previous assessment remain relevant for the contemporary assessment. Additional attended noise monitoring was conducted 11 August 2022 and 22 August 2022. This was complete during periods where no construction was complete.

The review of the Covid Certification Assessment noise monitoring demonstrates that noise emanating from the operation complied with the applicable Project Noise Trigger Levels (PNTLs) and Maximum Noise Triggers Levels as all assessed received. Additional contemporary noise monitoring conducted in August 2022 reiterated previous findings and will comply with applicable noise trigger levels at all receivers. Noise sources including passing traffic, rail traffic and industrial hum dominates the noise sources within the environment.

Therefore, according to the report, there are no noise relate issues which would prevent Council approved the proposed operation. For further information regarding the noise impact refer to **Appendix A**.

5.3 Odour

Noting that an existing McDonald's operation is currently on the site, the proposal is not anticipated to have any new or additional impacts on any surrounding premises from the potential odours associated with cooking and waste storage on the premises. The operation will continue to operate in accordance with the Food Standard Code and relevant Australian Standard.

The primary source of odour emissions on site are assumed to be cooking and deep frying of products and the storage and handling of waste and raw products.

Appropriate ventilation exists within the premises above all cooking and deep-frying locations within the kitchen. Odour emissions from cooking processes are captured and dispersed into the air via the exhaust point above. This ventilation system is regularly maintained and cleaned to ensure it is effective in managing odour on site.

Odour resulting from the storage and handling of waste and raw materials can be mitigated by ensuring that waste and storage facilities are enclosed and to maintain a regular disposal of waste on site. All areas of the premises are cleaned regularly, including dining areas the kitchen and storage areas, and no waste or raw materials are left out for long periods.

5.4 Traffic and Parking

The proposed extension to trading hours is not likely to result in any significant impact on traffic movements on the surrounding road network, as it would not be considered a predetermined 'destination' for food during the extended hours, instead capturing passing trade. The surrounding road network has the capacity to accommodate traffic movements associated with the proposal given the extension of trade relates to periods outside of peak times.

Noting that there are no changes proposed to the existing access or parking arrangements on site, the proposal is considered to be minor in nature in relation to impacts on traffic flows, circulation and vehicle movements. The proposal will not impact on the existing approved conditions regarding traffic, parking and access.

5.5 Lighting

The existing external lighting will be utilised during the extended trading hours. The existing lighting will enable clear surveillance and has been designed to prevent concealment and shadowing.

The standard of lighting is designed to not only reduce the fear of crime in accordance with Australia lighting standards, but also serves to provide clear identification of activity using the high technology CCTV cameras.

Lighting is generally directed internally within the site to prevent light spill on nearby land uses. The orientation and screening of the drive thru, as well as carpark ensures minimal adverse impacts on adjoining properties and roads.

5.6 Safety and Lighting

The proposal will have minimal impact on the existing safety and security of the McDonald's operation. McDonald's will ensure the safety and security of the site through the existing Plan of Management (attached at **Appendix C**) which deals with such matters as the amenity of the neighbourhood, lighting, surveillance equipment, vandalism, noise, anti-social behaviour and security. A number of measures are used to ensure the safety and security of the site, including:

- CCTV surveillance.
- control and monitoring of access.
- activity and space management.
- training in emergency situations and on cash handling.

By utilising these measures throughout the operation, the premises will upkeep the safety of the site. Refer to the CPTED Assessment at **Appendix D** for further details.

5.7 Public Interest

The proposal is considered to be in the public interest as it will deliver a number of public, social and economic benefits with minimal adverse impacts. The proposal will continue to provide a low cost, convenient fast-food service to serve the needs of neighbouring businesses as well as the local community. The proposed extended operating hours are primarily to service the earlier morning commuters and shift workers who currently have limited food and drink premises available to them late at night and in the early morning. There will be increased employment opportunities for existing and new staff created by extended trading hours.

6 Conclusion

The proposed extension to trading hours (24/7) will not change the overall design, use or function of the approved McDonald's operation. The proposal will not result in detrimental amenity impacts to surrounding commercial and residential uses. It is considered that the proposed permanency to the trading hours of the drive thru operation is appropriate given the demand for a late-night/early morning food and beverage facility in the area and the operators compliancy with the relevant legislation and Australian Standards.

It has been established through the Noise Impact Assessment acoustic modelling that the proposal will not result in unacceptable impact to the nearest residential noise receptors and the emissions will comply with the current noise policy.

Furthermore, the proposal will not result in any excess traffic being encountered on the surrounding road network or result in any other traffic issues. Accordingly, there will be no unreasonable social or environmental impacts, and the premise will operate in accordance with the Plan of Management submitted with this application to ensure the safety and security of the site is maintained.

Overall, it is considered that the proposed extension to hours will provide community benefit by responding to the increased demand for convenient access to a food premises. The proposed hours are considered to be appropriate in the context of the site and will bode well from an economic and social perspective through increase employment opportunities.

Given the merit of the proposal and the absence of any significant adverse impacts, the extension of hours is considered to be worthy of Council's support.

Yours sincerely,



GRACE MOSES
Project Consultant - Planning

Checked/
Authorised by: PC

APPENDIX A

Noise Impact Assessment (review)

APPENDIX B

Notice of Determination Compliance Table

APPENDIX C

Plan of Management

APPENDIX D

Crime Risk Assessment



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24 August 2022

MAC170483-03RP1

Attention: Martin Bocking
McDonald's Australia Ltd
PO Box 392
Pennant Hills NSW 2120

Dear Martin,

Review of Historic Noise Assessment

Permanent Modification of Drive Thru Operating Hours

McDonald's Operation

83-89 Maitland Road, Muswellbrook, NSW.

1 Introduction

Muller Acoustic Consulting Pty Ltd (MAC) has been commissioned by McDonald's Australia Ltd to complete a review of the historic Noise Assessment (NA) and Certification Assessments (CA) to support the permanent modification to the drive thru operating hours for the McDonald's Operation (the 'operation') located at 83-89 Maitland Road, Muswellbrook, NSW.

MAC understands that following a 12-month trial period, an application is being lodged with Muswellbrook Shire Council (MSC) to seek approval for a permanent extension to 24-hour, seven days per week operation of the drive thru facility. This review has been completed to validate the historic noise assessments in a contemporary context and whether the reports are suitable and appropriate to support the current application.

A glossary of terms, definitions and abbreviations used in this report is provided in **Attachment A** with **Figure 1** providing a locality plan showing the indicative position of the operation relative to the surrounding noise sensitive receivers.



2 Review of Noise Trigger Levels

2.1 Project Noise Trigger Levels

The applicable Project Noise Trigger Levels (PNTLs) for the assessment have been sourced from the *Acoustic Certification Report (Report Ref: MAC170483-02CL1, Muller Acoustic Consulting Pty Ltd, 18 March 2021)* (the 'covid certification report'). To establish the noise triggers for the assessment historic background noise data was sourced from *'Noise Impact Assessment – Proposed Modification to Drive-Thru Trading Hours, McDonald's Operation, Muswellbrook, NSW' (Report Ref: MAC170483RP2, Muller Acoustic Consulting Pty Ltd, 17 December 2018)* (the 'historic report').

Updated unattended noise monitoring could not be undertaken as part of this assessment due to the road upgrade currently being undertaken by MSC adjacent to the site operation. The construction program is expected for a duration of six (6) months and any background noise monitoring would be influenced by the construction.

Table 1 reproduces the derived PNTLs in accordance with the methodologies outlined in the NPI which were established in the covid certification (March 2021).

Table 1 Project Noise Trigger Levels				
Receiver	Period ¹	PINL	PANL	PNTL
		dB LAeq(15min)	dB LAeq(15min)	dB LAeq(15min)
R1, R2, R22	Night	43	43	43
R3-R5, R15, R16, R19-R21	Night	41	43	41
R6-R14, R17, R18, FD1	Night	37	43	37
M01	Night	N/A	48	48

Note 1: Day - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays; Evening - the period from 6pm to 10pm; Night - the remaining periods.

2.2 Maximum Noise Assessment Trigger Levels

The maximum noise trigger levels are reproduced from the covid certification report (March 2021) in **Table 2** and are based on night-time RBLs and trigger levels as per Section 2.5 of the NPI. The trigger levels are applied to transient noise events that have the potential to cause sleep disturbance from the operation. Furthermore, the NPI outlines that additional guidance on maximum noise level assessments may be sourced from the EPA NSW Road Noise Policy (RNP). Section 5.4 of the RNP outlines that a maximum internal noise level of 50-55dBA is unlikely to awaken people from sleep. Taking into account a 10dB loss for a partially open window an external level of 65dBA is unlikely to awaken internal occupants.

Table 2 Maximum Noise Level Assessment Trigger Levels			
Residential Receivers R1, R2, R22			
dB LAeq(15min)		dB LAmax	
40dB LAeq(15min) or RBL + 5dB		52dB LAmax or RBL + 15dB	
Trigger	40	Trigger	52
RBL (38) +5dB	43	RBL (38) +15dB	53
Highest	43	Highest	53
Residential Receivers R3-R5, R15, R16, R19-R21			
dB LAeq(15min)		dB LAmax	
40dB LAeq(15min) or RBL + 5dB		52dB LAmax or RBL + 15dB	
Trigger	40	Trigger	52
RBL (36) +5dB	41	RBL (36) +15dB	51
Highest	41	Highest	52
Residential Receivers R6-R14, R17, R18,			
dB LAeq(15min)		dB LAmax	
40dB LAeq(15min) or RBL + 5dB		52dB LAmax or RBL + 15dB	
Trigger	40	Trigger	52
RBL (32) +5dB	37	RBL (32) +15dB	47
Highest	40	Highest	52
Temporary Accommodation Receivers M01			
dB LAeq(15min)		dB LAmax	
48		65	

Note: Monday to Saturday; Night 10pm to 7am. On Sundays and Public Holidays; Night 10pm to 8pm.

Note: As per Section 2.5 of the NPI, the highest of the two criteria are adopted as the trigger level.



MAC170483-03RP1

Page | 4

3 Noise Modelling Assessment

The historic report was completed in accordance with the NSW Noise Policy for Industry (NPI) (EPA, 2017) for the extension of the drive thru operations during the evening shoulder (10pm to 12am) and morning shoulder (5am to 6am). The assessment was completed to quantify operational noise levels at the nearest receivers combining the simultaneous occurrence of the following sources:

- customer car noise (driving around site / parking);
- customer ordering displays (CODs), customers and passbys; and
- mechanical plant.

It is noted that the assessment was completed for the operation of the drive thru during evening and morning shoulder periods. Additionally, the onsite activities during the night period would not differ from those completed during the shoulder periods.

Accordingly, the predicted shoulder period noise levels from the historic report have been assessed against the derived night-time project noise trigger levels for the operation. **Table 3** reproduces the operational noise predictions from the historic report against the applicable night-time project noise trigger levels.

The predicted levels are demonstrated to satisfy the PNTLs at all assessed receivers during the night period.

Table 3 Combined Noise Predictions – All Receivers

Residential Receivers				
Catchment	Rec No	Predicted Noise Level dB LAeq(15min)	PNTL dB LAeq(15min)	Compliant
L1	R1	36	43	✓
	R2	38	43	✓
L2	R3	39	41	✓
	R4	40	41	✓
	R5	38	41	✓
L4	R6	35	37	✓
	R7	35	37	✓
	R8	<35	37	✓
	R9	<35	37	✓
	R10	<35	37	✓
	R11	<35	37	✓
	R12	<35	37	✓
	R13	<35	37	✓
L2	R14	<35	37	✓
	R15	<35	41	✓
L4	R16	<35	41	✓
	R17	<35	37	✓
L2	R18	<35	37	✓
	R19	<35	41	✓
	R20	<35	41	✓
L1	R21	<35	41	✓
	R22	<35	43	✓
Other Receivers				
Rec No		Predicted Noise Level dB LAeq(15min)	PNTL dB LAeq(15min)	Compliant
M01A		37	48	✓
M01B		42	48	✓
M02A		33	48	✓
M02B		35	48	✓
FD1		36	37	✓

Note 1: Day - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays; Evening - the period from 6pm to 10pm; Night - the remaining periods.

Predicted noise levels from LA_{max} events from the operation are presented in **Table 4** which are reproduced from the historic report and assessed against the night-time maximum noise trigger levels. Results identify that the sleep disturbance criteria will be satisfied at all assessed receivers.

Table 4 Maximum Noise Trigger Levels

Location	Period ¹	Predicted Noise Levels	Maximum Noise	Compliant
		dB LA _{max}	Trigger Levels dB LA _{max}	
R01	Night	<40	53	✓
R02	Night	42	53	✓
R03	Night	46	52	✓
R04	Night	49	52	✓
R05	Night	45	52	✓
R06	Night	40	52	✓
R07	Night	41	52	✓
R08	Night	40	52	✓
R09	Night	<40	52	✓
R10	Night	<40	52	✓
R11	Night	<40	52	✓
R12	Night	<40	52	✓
R13	Night	<40	52	✓
R14	Night	<40	52	✓
R15	Night	<40	52	✓
R16	Night	<40	52	✓
R17	Night	<40	52	✓
R18	Night	<40	52	✓
R19	Night	<40	52	✓
R20	Night	<40	52	✓
R21	Night	<40	52	✓
R22	Night	<40	53	✓
M01A	Night	49	53	✓
M01B	Night	49	53	✓
M02A	Night	41	53	✓
M02B	Night	43	53	✓
FD1	Night	45	53	✓

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

4 Covid Certification Noise Monitoring

To certify the operation, operator attended noise monitoring was undertaken during the temporary extension of trading hours in close proximity to residential receivers surrounding the operation as part of the covid certification assessment. The temporary extension of trading hours was permitted as part of the COVID Health Directive and were undertaken during typical current night-time operation activities. Attended measurements were completed on Tuesday 9 March 2021. **Table 5** presents the results of the attended measurements conducted at the monitoring locations.

Table 5 Operator-Attended Validation Noise Survey Results						
Location	Date / Time (hrs)	Descriptor (dBA re 20 µPa)			Meteorology	Description and SPL, dBA
		L _{Amax}	L _{Aeq}	L _{A90}		
ATT1	09/03/2021 00:00	63	46	43	WD: N	Insects 40-44
					WS: 0.2m/s	Passing Traffic 45-63
					Rain: Nil	Distant Train 46-48
						Operation Mechanical Plant 41-43
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		43			45	
ATT1	09/03/2021 00:57	66	46	43	WD: N	Insects 40-43
					WS: 0.2m/s	Passing Traffic 43-52
					Rain: Nil	Birds 45-55
						Operator Noise 66
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		42			51	
ATT2	09/03/2021 0:17	72	51	43	WD: N	Insects 43-50
					WS: 0.1m/s	Passing Traffic 46-72
					Rain: Nil	Operation Onsite Vehicles 43-50 (580 secs)
						Operation Mechanical Plant 36-37
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		42			50	

Table 5 Operator-Attended Validation Noise Survey Results

Location	Date / Time (hrs)	Descriptor (dBA re 20 µPa)			Meteorology	Description and SPL, dBA
		L _A max	L _A eq	L _A 90		
ATT2	09/03/2021 01:32	70	51	42	WD: N	Insects 38-42
					WS: 0.1m/s	Passing Traffic 46-70
					Rain: Nil	Birds 42-51
						Operation Mechanical Plant 36-38
Metric		dB L _A eq			dB L _A max	
Operation Contribution		38			39	
ATT3	09/03/2021 0:33	63	48	45	WD: N	Insects 43-46
					WS: 0.1m/s	Passing Traffic 46-63
					Rain: Nil	Train 47-49
						Operation Onsite Vehicles 44-50 (400 secs) Operation Mechanical Plant 35-36
Metric		dB L _A eq			dB L _A max	
Operation Contribution		39			50	
ATT3	09/03/2021 01:16	62	50	45	WD: N	Insects 49-52
					WS: 0.1m/s	Passing Traffic 45-58
					Rain: Nil	Train 47-52
						Operator Noise 61-62 Operation Mechanical Plant 36-37
Metric		dB L _A eq			dB L _A max	
Operation Contribution		37			39	

Results demonstrate that although the operation is audible on occasion, it is generally masked by noise from noise sources such as passing traffic and rail traffic which dominant the acoustic environment surrounding the operation site.

4.1 Calculated Contribution at Receivers

Intermediary monitoring locations (as per Section 7 of the NPI) were utilised to assess noise emissions from the operation at the residential facades and a correction factor was applied to the measured contribution. The correction factor has been established utilising the predictive noise modelling, using the difference between the residential receiver location and a reference location. The correction factor included the attenuation due to distance and intervening barriers between the monitoring location and residential receiver location.

Table 6 Calculated Contributions						
Location	Date / Time (hrs)	Nearest Receiver	Descriptor	Contribution at Monitoring Location dBA	Correction dB	Calculated Contribution at Receiver dBA
ATT1	09/03/2021	(M02)	L _{Amax}	45	0	45
	00:00		L _{Aeq}	43	0	43
	09/03/2021		L _{Amax}	51	0	51
	00:57		L _{Aeq}	42	0	42
ATT2	09/03/2021	(R3)	L _{Amax}	50	-2	48
	0:17		L _{Aeq}	42	-2	40
	09/03/2021		L _{Amax}	39	-2	37
	01:32		L _{Aeq}	38	-2	36
ATT3	09/03/2021	(R6)	L _{Amax}	50	-2	48
	0:33		L _{Aeq}	39	-2	37
	09/03/2021		L _{Amax}	39	-2	37
	01:16		L _{Aeq}	37	-2	35

4.2 Compliance Check

The compliance assessment for each of the assessed receiver location during the covid certification attended monitoring are presented in **Table 7**.

Table 7 Noise Compliance Assessment Checks					
Receiver	Date / Time (hrs)	Descriptor	Calculated Contribution at Receiver dBA	Criteria dBA	Compliant
M02	09/03/2021	L _{Amax}	45	65 ¹	✓
	00:00	L _{Aeq}	43	48	✓
	09/03/2021	L _{Amax}	51	65 ¹	✓
	00:57	L _{Aeq}	42	48	✓
R3	09/03/2021	L _{Amax}	48	52	✓
	0:17	L _{Aeq}	40	41	✓
	09/03/2021	L _{Amax}	37	52	✓
	01:32	L _{Aeq}	36	41	✓
R6	09/03/2021	L _{Amax}	48	52	✓
	0:33	L _{Aeq}	37	37	✓
	09/03/2021	L _{Amax}	37	52	✓
	01:16	L _{Aeq}	35	37	✓

Note 1: Trigger Level updated to reflect maximum external noise trigger level for temporary accommodation receivers in accordance with RNP guidance.

The results demonstrate that the operation complies with the applicable noise trigger levels at all assessed receivers for the covid certification monitoring.

5 Contemporary Attended Noise Monitoring

To supplement the Covid Health Order Certification Assessment and to quantify the contemporary ambient noise in the community surrounding the operation, additional attended noise monitoring was undertaken on Thursday 11 August 2022 and Saturday 22 August 2022.

Attended noise surveys were conducted in general accordance with the procedures described in Australian Standard AS 1055:2018, "Acoustics - Description and Measurement of Environmental Noise". Measurements were carried out using two (2) Svantek Type 1, 971 noise analysers. The acoustic instrumentation used carries current NATA calibration and complies with AS IEC 61672.1-2019- Electroacoustics - Sound level meters - Specifications. Calibration of all instrumentation was checked prior to and following measurements. Drift in calibration did not exceed $\pm 0.5\text{dBA}$.

Noise measurements were of 15-minutes in duration and where possible, throughout each survey the operator quantified the contribution of each significant noise source. The attended measurements were completed during calm and clear meteorological conditions and during typical night-time drive thru activities for the operation. The results of the short-term noise measurements and observations are summarised in **Table 8** to **Table 9**.

It is noted that the attended noise monitoring was undertaken during periods where no road construction works were being undertaken or changes to traffic flows were implemented.

Furthermore, a review of historic drive thru sales numbers indicates that customer levels accessing the operation during the monitoring periods were representative of typical trade and consistent with the normal trading number prior to construction works commencing.

An additional attended monitoring location (ATT5) was also included in the monitoring regime to quantify operation noise levels at an elevated position on Shaw Crescent.

The results of the attended noise monitoring demonstrates that the operation complies with the adopted Project Noise Trigger Levels and Maximum Trigger Levels. Furthermore, the results of the attended monitoring are consistent with the results of the predictive noise modelling results presented in **Section 3**.

Table 8 Operator-Attended Validation Noise Survey Results – 11 August 2022

Location	Date /	Descriptor (dBA re 20 μPa)			Meteorology	Description and SPL, dBA
	Time (hrs)	L _{Amax}	L _{Aeq}	L _{A90}		
ATT1	12/08/2022 00:34	73	52	47	WD: NE WS: 0.1m/s Rain: Nil	Passing Traffic 44-61
						Operation Mechanical Plant 42-43
						COD Operations 47-55
						Operation Customer Vehicles 44-55
						Operator noise 70-73
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		43			55	
ATT1	12/08/2022 00:49	67	51	47	WD: NE WS: 0.1m/s Rain: Nil	Passing Traffic 45-67
						Operation Mechanical Plant 42-43
						Operations Customers Talking 45-55 (10secs)
						Operation Customer Vehicles 45-49 (20 Secs)
						COD Operations 45-48 (10 Secs)
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		43			55	
ATT4	11/08/2022 22:26	85	58	45	WD: NE WS: 0.1m/s Rain: Nil	Insects 37-40
						Passing Traffic 50-85
						Distant Train 39-65
						Distant Industrial Hum 40-45
						Operation Mechanical Plant 40-41
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		41			50	

Table 8 Operator-Attended Validation Noise Survey Results – 11 August 2022

Location	Date / Time (hrs)	Descriptor (dBA re 20 µPa)			Meteorology	Description and SPL, dBA
		L _A max	L _A eq	L _A 90		
ATT4	11/08/2022 23:11	70	50	44	WD: NE WS: 0.1m/s Rain: Nil	Insects 34-38
						Passing Traffic 40-70
						Distant Industrial Hum 38-44
						Operation Mechanical Plant
						39-40
						Operation Customer Vehicles
						40-52 (55 secs)
Metric		dB L _A eq			dB L _A max	
Operation Contribution		41			52	
ATT5	11/08/2022 22:51	73	53	41	WD: NE WS: 0.1m/s Rain: Nil	Insects 36-40
						Traffic 48-73
						Distant Industrial Hum 40-42
						Operation Mechanical Plant
						38-39
						Operation Customer Vehicles
						38-41 (28 Secs)
Metric		dB L _A eq			dB L _A max	
Operation Contribution		40			41	
ATT5	12/08/2022 00:03	68	48	40	WD: NE WS: 0.1m/s Rain: Nil	Insects 34-38
						Passing Traffic 45-68
						Distant Industrial Hum 38-42
						Operation Mechanical Plant
						38-39
						Operation Customer Vehicles
						40-42 (15 secs)
Metric		dB L _A eq			dB L _A max	
Operation Contribution		39			42	

Table 9 Operator-Attended Validation Noise Survey Results – 20 August 2022

Location	Date / Time (hrs)	Descriptor (dBA re 20 µPa)			Meteorology	Description and SPL, dBA
		L _{Amax}	L _{Aeq}	L _{A90}		
ATT1	20/08/2022 04:44	64	52	48	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 51-60
						Birds 60-64
						Operation Mechanical Plant
						42-43
Operation Customer Vehicles at						
COD 50-58 (30 secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution			48		58	
ATT1	20/08/2022 04:58	66	55	48	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 55-60
						Birds 52-66
						Operation Mechanical Plant
						46-48
Operation Customer Vehicles at						
COD 50-61 (150 secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution			50		61	
ATT4	20/08/2022 04:06	61	49	43	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 45-61
						Train 43-55
						Operation Mechanical Plant
						38-40
Operation Customer Vehicles						
40-44 (30 Secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution			39		44	
ATT4	20/08/2022 04:21	68	50	43	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 45-65
						Distant Train 44-53
						Operation Mechanical Plant
						38-40
Operation Customer Vehicles						
40-51 (20secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution			39		51	

Table 9 Operator-Attended Validation Noise Survey Results – 20 August 2022

Location	Date / Time (hrs)	Descriptor (dBA re 20 µPa)			Meteorology	Description and SPL, dBA
		L _{Amax}	L _{Aeq}	L _{A90}		
ATT5	20/08/2022 04:06	65	51	43	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 50-65
						Distant Train 40-61
						Industrial Hum 39-42
						Operation Mechanical Plant
						38-40
						Operation Customer Vehicles
35-40 (20 secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		39			40	
ATT5	20/08/2022 04:21	69	52	42	WD: NW WS: 0.1m/s Rain: Nil	Passing Traffic 50-69
						Distant Train 40-58
						Industrial Hum 39-42
						Operation Mechanical Plant
						38-40
						Operation Customer Vehicles
35-40 (20 secs)						
Metric		dB L _{Aeq}			dB L _{Amax}	
Operation Contribution		39			40	

As intermediary monitoring locations were utilised, the established correction factor has been applied to each receiver location, with the calculated received level at the receivers presented in **Table 10** as per Section 7 of the NPI.

Table 10 Calculated Operation Noise Contributions

Location	Date / Time (hrs)	Nearest Receiver	Descriptor	Operation Contribution at Monitoring Location dBA	Correction dB	Calculated Contribution at Receiver dBA
ATT1	12/08/2022	(M02)	L _{Amax}	55	0	55
	00:03		L _{Aeq}	43	0	43
	12/08/2022		L _{Amax}	55	0	55
	00:34		L _{Aeq}	43	0	43
ATT4	11/08/2022	(R4)	L _{Amax}	50	-2	48
	22:26		L _{Aeq}	41	-2	39
	11/08/2022		L _{Amax}	52	-2	50
	23:11		L _{Aeq}	41	-2	39
ATT5	11/08/2022	(R16)	L _{Amax}	41	-3	38
	22:51		L _{Aeq}	40	-3	37
	12/08/2022		L _{Amax}	42	-3	39
	00:03		L _{Aeq}	39	-3	36
ATT1	20/08/2022	(M02)	L _{Amax}	58	0	58
	04:44		L _{Aeq}	45	0	45
	20/08/2022		L _{Amax}	61	0	61
	04:58		L _{Aeq}	48	0	48
ATT4	20/08/2022	(R4)	L _{Amax}	44	-2	42
	04:06		L _{Aeq}	39	-2	37
	20/08/2022		L _{Amax}	51	-2	49
	04:21		L _{Aeq}	39	-2	37
ATT5	20/08/2022	(R16)	L _{Amax}	40	-3	37
	04:06		L _{Aeq}	39	-3	36
	20/08/2022		L _{Amax}	40	-3	37
	04:21		L _{Aeq}	39	-3	36

The compliance assessment for each assessed receiver locations during the validation monitoring are presented in Table 11.

Table 11 Noise Compliance Assessment Checks					
Receiver	Date / Time (hrs)	Descriptor	Calculated Contribution at Receiver dBA	Criteria dBA	Compliant
M02	12/08/2022	L _{Amax}	55	65 ¹	✓
	00:03	L _{Aeq}	43	48	✓
	12/08/2022	L _{Amax}	55	65 ¹	✓
	00:34	L _{Aeq}	43	48	✓
R4	11/08/2022	L _{Amax}	48	52	✓
	22:26	L _{Aeq}	39	41	✓
	11/08/2022	L _{Amax}	50	52	✓
	23:11	L _{Aeq}	39	41	✓
R16	11/08/2022	L _{Amax}	38	52	✓
	22:51	L _{Aeq}	37	41	✓
	12/08/2022	L _{Amax}	39	52	✓
	00:03	L _{Aeq}	36	41	✓
M02	20/08/2022	L _{Amax}	58	65 ¹	✓
	04:44	L _{Aeq}	45	48	✓
	20/08/2022	L _{Amax}	61	65 ¹	✓
	04:58	L _{Aeq}	48	48	✓
R4	20/08/2022	L _{Amax}	42	52	✓
	04:06	L _{Aeq}	37	41	✓
	20/08/2022	L _{Amax}	49	52	✓
	04:21	L _{Aeq}	37	41	✓
R16	20/08/2022	L _{Amax}	37	52	✓
	04:06	L _{Aeq}	36	41	✓
	20/08/2022	L _{Amax}	37	52	✓
	04:21	L _{Aeq}	36	41	✓

Note 1: Trigger Level updated to reflect maximum external noise trigger level for temporary accommodation receivers in accordance with RNP guidance.

The results of the noise monitoring demonstrate that the operation trades within the applicable project noise trigger levels at all assessed receivers. Furthermore, it is demonstrated that passing traffic, rail traffic and the continuous industrial hum often mask all onsite operations at the nearest receivers.

6 Review of Compliance in a Contemporary Context

MAC understands that an application being lodged with Muswellbrook Shire Council is seeking approval for a permanent extension to the drive thru operating hours only.

The predictive noise modelling considered the coincidence of all plant occurring onsite simultaneously at maximum capacity. The predicted noise levels are therefore considered to be representative of the worst-case operational conditions.

The PNTLs provided in the historic NA were established based on monitoring undertaken during June 2018. It is noted at the time of the monitoring that road traffic noise was observed to be the dominant noise source. Due to land use changes and the ongoing road upgrade, it is generally anticipated that road traffic volumes increase over time, which would coincide with an increase in background noise levels. It is therefore considered that the PNTLs in the historic NA and CA are likely to be conservative.

A review of aerial imagery indicates that there have been no new residential developments in the vicinity of the operation. Therefore, the potentially most affected residential receivers as identified in the historic NA report remain the relevant assessable receivers.

On the basis that the adopted criteria from the historic report are conservative and taking into consideration the predicted results presented in **Section 2**, and attended noise monitoring results presented in **Section 4** from the historic report, MAC considers the report may be used to support the application for the permanent extension to operating hours.

Furthermore, contemporary noise monitoring demonstrates that the operation is trading in accordance with the applicable noise trigger levels at all assessed periods.

7 Conclusion

Muller Acoustic Consulting Pty Ltd (MAC) has completed a review of the historic Noise Assessment in the contemporary context for the permanent extension of the drive thru operating hours for the McDonald's Operation located at 183-89 Maitland Road, Muswellbrook, NSW. The review was undertaken to determine the validity of the historic noise assessment and covid certification assessment reports results to support the application for a permanent extension to operating hours.

The review of the historic Noise Assessment demonstrates that the operational noise levels are predicted to meet the relevant NPI trigger levels at all assessed receiver locations for extended operating hours of the drive thru. The review of the historic Noise Assessment demonstrates that due to anticipated increase in background noise level since the completion of the historic Noise Assessment, the criteria adopted for the historic Noise Assessment are considered conservative in the contemporary context.

Review of the Covid Certification Assessment noise monitoring demonstrates that the noise emanating from the operation complied with the applicable Project Noise Trigger Levels and Maximum Noise Trigger Levels at all assessed receivers. Furthermore, the noise from extraneous local noise sources such as passing traffic and rail traffic dominated the ambient noise environment and generally masked operation attributed sources.

Additional contemporary noise monitoring conducted in August 2022 reiterated the findings of the covid certification monitoring with the operation again complying with the applicable noise trigger levels at all receivers and extraneous sources such as passing traffic, rail traffic and industrial hum dominating the noise environment.

A review of aerial imagery indicates that there have been no new residential developments in the vicinity of the operation. Therefore, the potentially most affected residential receivers as identified in the historic report remain the relevant assessable receivers.

Based on the review of historic noise assessments and the three completed rounds of attended noise monitoring it is considered that the results of the noise assessment reports are representative of the future operating conditions and supports the application for the permanent modification of drive thru trading hours at the operation.

We trust this letter addresses your current requirements, if you have any further questions regarding the above, please contact the undersigned.

Yours sincerely



Robin Heaton
Senior Acoustic Engineer
BEng (Hons)
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Reviewed: OM

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MAC170483-03RP1

Page | 22

Attachment A – Glossary of Terms

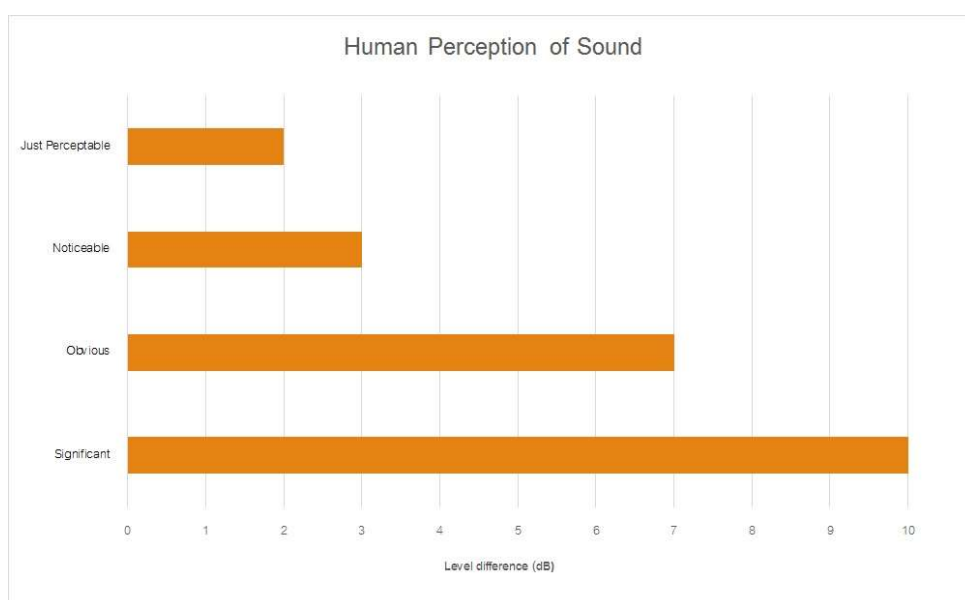
A number of technical terms have been used in this report and are explained in **Table A1**.

Table A1 Glossary of Terms	
Term	Description
1/3 Octave	Single octave bands divided into three parts
Octave	A division of the frequency range into bands, the upper frequency limit of each band being twice the lower frequency limit.
ABL	Assessment Background Level (ABL) is defined in the NPI as a single figure background level for each assessment period (day, evening and night). It is the tenth percentile of the measured LA90 statistical noise levels.
Ambient Noise	The noise associated with a given environment. Typically a composite of sounds from many sources located both near and far where no particular sound is dominant.
Extraneous Noise	Noise resulting from activities that are not typical of the area. Atypical activities include sources such as construction and holiday period traffic.
A Weighting	A standard weighting of the audible frequencies designed to reflect the response of the human ear to noise.
dBA	Noise is measured in units called decibels (dB). There are several scales for describing noise, the most common being the 'A-weighted' scale. This attempts to closely approximate the frequency response of the human ear.
dB(Z), dB(L)	Decibels Linear or decibels Z-weighted.
Hertz (Hz)	The measure of frequency of sound wave oscillations per second - 1 oscillation per second equals 1 hertz.
LA10	A noise level which is exceeded 10 % of the time. It is approximately equivalent to the average of maximum noise levels.
LA90	Commonly referred to as the background noise, this is the level exceeded 90 % of the time.
LAeq	The summation of noise over a selected period of time. It is the energy average noise from a source, and is the equivalent continuous sound pressure level over a given period.
LAmaz	The maximum root mean squared (rms) sound pressure level received at the microphone during a measuring interval.
RBL	The Rating Background Level (RBL) is an overall single figure background level representing each assessment period over the whole monitoring period. The RBL is used to determine the intrusiveness criteria for noise assessment purposes and is the median of the ABL's.
Sound power level (LW)	This is a measure of the total power radiated by a source. The sound power of a source is a fundamental location of the source and is independent of the surrounding environment. Or a measure of the energy emitted from a source as sound and is given by : $= 10 \cdot \log_{10} (W/W_0)$ Where: W is the sound power in watts and W ₀ is the sound reference power at 10-12 watts.

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

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

Figure A1 – Human Perception of Sound



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MAC170483-03RP1

Page | 26

25 August 2022

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Appendix B

Notice of Determination - Compliance Table

Conditions of Consent	Comment	Compliance
2. Trial Period of Twelve (12) Months		
<p><i>The restaurant drive-thru may operate 24 hours, 7 days a week on a trial basis for a period of 1 year. The date for the commencement of this trial period is taken to be the date of the Notice of Determination given these hours have commenced under the Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020. At the conclusion of the 1-year trial period the premises must revert to utilising the previous approved trading hours, unless a Section 4.55 modification has been lodged with Council for the continuation of the 24-hour, 7 day per week operation of the premises.</i></p>	Noted.	Y
<p><i>Where a Section 4.55 modification is lodged in line with the above, the development may continue to operate 24 hours, 7 days a week for a further period of six (6) months to allow for that application to be determined.</i></p>	Noted. This s4.55 Modification Application seeks a continuation of the 24 hour, 7 day a week drive thru operating hours.	Y
<p><i>If the Section 4.55 modification is refused by Council or withdrawn the premises must revert back to trading hours approved under DA 72/2003/5 being:-</i></p> <p><i>(a) The hours of operation are restricted from 5.00 am to 10.00 pm Monday to Thursday, Sunday and Public Holidays, and 5.00 am to 11.00 pm Friday and Saturday;</i></p> <p><i>(b) In addition to (a) above, the drive-thru may operate between 5.00 am and 6.00 am, 7 days a week.</i></p>	Noted.	Y
<p><i>Note: the assessment of any application for the continuation of 24 hour a day operating times will be carried out in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979. Council will be particularly interested in any performance data from the 1-year trial period, compliance with the development consent requirements, outcomes of any noise monitoring, and complaints received by the operator, Council or NSW Police.</i></p>	This application contains performance data from the 1 year trial period, including any complaints received and the relevant actions undertaken to address this.	Y

Conditions of Consent	Comment	Compliance
3. Operation of Premises		
<i>(a) The operation of the premises shall comply with the McDonald's Plan of Management dated March 2021, or an updated Plan of Management approved by Council in writing.</i>	All operations of the Muswellbrook McDonald's have been in accordance with the Plan of Management (dated March 2021).	Y
<i>(b) The proponent shall keep a detailed record of complaints which are to be documented in a register maintained for the 12-month period of the premises' operation. The Register is to be maintained on-site and may be inspected by Council Officers and other relevant regulatory personnel. Data contained in the complaint register is to include time, location and nature of any intrusive noise, odour or other reported issue that causes a disturbance to an adjoining landowner. The person acting with this consent is to take reasonable steps to inform nearby residents and interested persons on how to make any complaints in relation to the operation of the premises. Council would view an annual letter drop to neighboring properties advising of the contact information and procedure for making complaints as reasonable steps.</i>	<p>A detailed record of complaints were documented during the 12-month trial period. A letter box drop occurred in March 2022.</p> <p>Details of any complaints received and the actions undertaken by McDonald's in response are summarised in the Section 3 of the SEE.</p>	Y
<p><i>(c) If noise complaints become systematic and/or a significant increase in complaints is identified in the 12-month period the person acting with this consent is required to complete the following:</i></p> <p><i>(i) Advise Council of the nature and number of complaints being received;</i></p> <p><i>(ii) Unless otherwise directed by Council the proponent shall engage an appropriately qualified person to carry out attended noise monitoring at a location that is representative of the location and/or time period during which complaints have been made. Noise monitoring shall be carried out in accordance with the Noise Policy for Industry (or any superseding Policy) and relevant Australian Standards.</i></p>	A review of the Historic Noise Assessment has been prepared, refer to Appendix A . Additional attended noise monitoring was conducted by Muller Acoustic Consultants (MAC) in August 2022. It was concluded within the report that noise generating from the operation continue to comply with applicable Project Noise Trigger Levels. This is discussed further within the SEE.	Y

Conditions of Consent	Comment	Compliance
<p>(iii) The outcomes of any noise monitoring shall be reported to Council. If the noise monitoring identifies any exceedance to the recommended PSNL during attended noise monitoring then steps to evaluate feasible and reasonable noise control shall be taken in accordance with the Noise Policy for Industry. After noise controls have been implemented, attended noise monitoring shall be repeated to determine whether noise control has been effective in reducing site noise levels.</p> <p>(iv) Council may not direct the person acting with this consent to carry out the steps prescribed by (ii) or (iii) above where it is not satisfied as to the validity of complaints received or where it is concerned that generic, vague or vexatious complaints are being made on a regular basis. Where the proponent carries out attended noise monitoring in accordance with (ii) and (iii) within the preceding 6 months or on more than 2 occasions within a 12-month period and no noise exceedances are identified Council may advise the person acting with this consent that they are not required to carry-out further attended noise monitoring.</p>		
<p>(d) At all times the person acting with this consent must carry out the development in accordance with the requirements of the approved waste minimisation and management plan.</p>	All waste management and disposal have been carried out in accordance with the Waste Management Plan for the site.	Y
<p>(e) The person acting with this consent must consult local residents through the preparation of the plan. The person acting with this consent must comply with the recommendations of this plan and install all required signage relating to the extended hours.</p>	<p>Local residents have been given the opportunity for feedback within the letterbox drop which occurred in March 2022.</p> <p>All required signage has been installed on site, particularly relating to operating hours and areas of the premises which are restricted during the extended hours.</p>	Y
<p>(f) In accordance with the Management Plan requirements all lights at the premises are to comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting and the person acting with this consent is to ensure that the premises are operated in accordance with this requirement at all times.</p>	Noted and achieved.	Y

Conditions of Consent	Comment	Compliance
(g) <i>At all times the drive-thru ceiling lining and any signage installed is to be maintained as part of the development to manage any noise from vehicle antennas in the drive-thru.</i>	Noted and achieved.	Y
3. Directional Signage		
<i>Prior to commencement of operating hours all vehicle directional signage is to be maintained, including trimming of obscuring vegetation, to ensure the proper management of access to the site and clearly identify all entry and exit points and parking for all types of vehicles. Where an access point is entry or exit only appropriate signage is to be installed to identify this to customers. Where there is a car park pedestrian crossing appropriate pedestrian signage should also be installed. All necessary signage installations must comply with the relevant Australian Standard.</i>	All directional signage has been appropriately maintained and visible on site.	Y
4. Management of Litter		
<i>Documentary evidence should be available to Council staff demonstrating compliance with the Plan of Management (March 2021) in relation to the removal of on-site waste in the Public Domain for such areas as, but not limited to, the footpath, gutter, building entry and surrounds. The Litter Patrols identified in the Plan of Management are to be confirmed via a register and signed by the person undertaking the action.</i>	All required documentary evidence has been maintained ensuring compliance with the Plan of Management, including a register of all litter patrols undertaken.	Y
5. Maintenance of Landscaping		
<i>All existing landscaping is to be maintained and remedial pruning is to be undertaken regularly at the site, as per the requirements of the Crime Risk Assessment and plan of management (March 2021), this consent or as otherwise directed by Council in writing. This is to ensure natural surveillance is able to occur on the premises.</i>	Noted and achieved.	Y
6. Outdoor Lighting		
<i>All lighting installed is to be designed and positioned to minimise any adverse impact on neighbouring premises. Any outdoor lighting installations must comply with the relevant Australian Standards</i>	All lighting has been installed in accordance with the relevant Australian Standards.	Y

Conditions of Consent	Comment	Compliance
<p><i>AS/NZ 1158.3.1:2005 Lighting for Roads and Public Spaces Pedestrian Area Lighting and Public Spaces Pedestrian Area (Category P) Lighting - Performance and Design Requirements AS 4282.1997 Control of the Obstructive Effects of Outdoor Lighting. Car Park lighting must also minimise light spill and is to be in accordance with AS 1158 and AS 4282-1997.</i></p> <p><i>Where the person acting with this consent becomes aware of a complaint or issue with outdoor lighting affecting the amenity of adjoining premises reasonable steps are to be taken to address the issue and minimise the impact of any light spill on adjoining land.</i></p>	Noted.	Y



Plan of Management

McDonald's Operation
83-89 Maitland Street,
Muswellbrook NSW 2333

PREPARED FOR:
MCDONALDS AUSTRALIA LIMITED
AUGUST 2022





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Plan of Management

Final

Prepared for McDonald's Australia Limited, Muswellbrook Operation | August 2022

Approved by	Martin Bocking
Title	Development Consultant, NSW/ACT, McDonald's Australia Ltd
Date	August 2022



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Contents

1	Introduction	1
1.1	Purpose of Plan of Management	1
2	Risk Assessment	3
3	Security and Safety	5
3.1	Surveillance	5
3.1.1	CCTV Camera Systems	5
3.1.2	Intruder Alarm Systems	5
3.1.3	Lighting	5
3.1.4	Clear Sight Lines	5
3.2	Access Control	6
3.2.1	High Risk Areas	6
3.2.2	Signage	6
3.2.3	Security	6
3.3	Space Management	6
3.3.1	Seating Design	6
3.3.2	Toilets	6
3.4	Ejection of Patrons	6
3.5	Hold Up Procedure	7
3.5.1	In the Event of an Armed Robbery	7
3.6	Money Handling	7
3.7	Theft	7
3.8	Weapons	8
4	Operational Procedures	9
4.1	Communication and training	9
4.2	Incident Report	9
4.2.1	Acts of Violence	9
4.3	Telephones	9
4.4	Public Transport Awareness	10
4.5	Registering of Complaints	10
4.6	Noise Management	10
4.7	Cleaning of Surrounding Public Domain	10
4.8	Litter Patrol Guidelines	10
4.9	Waste Management	11
5	Consultation and Assessment	13



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1 Introduction

1.1 Purpose of Plan of Management

This Plan of Management (PoM) has been prepared for the McDonald's Operation located at 83-89 Maitland Street, Muswellbrook, NSW 2333 in association with a Development Application to seek extended operating hours to allow 24 hour, 7 days a week trading.

McDonald's Australia Limited (McDonald's) recognises the need to ensure the safety and security of customers, staff, workers, residents and the greater community in which the McDonald's Operation resides. The safety and security issues have been considered carefully to ensure the utmost safety of staff and patrons.

A Risk Assessment has also been included in this PoM to identify, understand, communicate and mitigate security related risks and threats associated with the McDonald's Operation and specifically, the early morning trading hours proposed.

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

CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:

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

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

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



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2 Risk Assessment

The provision of a safe environment is critical for the long-term success of any operation and presents an essential aspect of the duty of care that must be demonstrated by the various stakeholders.

While identifying and mitigating known safety issues is important, so too is safety planning, ensuring the systems and processes are in place to identify and deal with safety issues as they arise. Effective safety planning also limits the consequences that can arise from poor safety procedures.

The following sections of this report detail the various threats and security issues associated with the proposed McDonald's Operation and where necessary, mitigation measures to minimize the opportunities for crime and manage crime risk are presented.



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3 Security and Safety

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

3.1 Surveillance

3.1.1 CCTV Camera Systems

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

All cameras will operate 24 hours a day. The surveillance tapes / videos will be kept for at least 1 month for viewing by the Police as required. The quality of the images filmed will satisfy Police requirements. Management will be trained to view and burn CCTV at the request of Police.

TV monitors are located within the premises and allow staff to monitor the activities on the camera.

Management will ensure the system is maintained in good working order. Management will also ensure that the coverage will be operated with due regard to the privacy and civil liberties of all persons within the development. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.

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

3.1.2 Intruder Alarm Systems

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

3.1.3 Lighting

Perimeter lighting will be provided around the premises and car park to enable clear vision and will be designed in such a manner so as to prevent concealment and shadowing. The standard of lighting will not only reduce the fear of crime in accordance with Australian lighting standards, but also serves to provide clear identification of activity using the high technology CCTV cameras proposed.

All lighting other than security lights are to be turned off each night at the close of business.

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

3.1.4 Clear Sight Lines

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



Good visibility to the interior of the premises is provided and will be maintained. No blinds, curtains, signage, displays, or internal fittings will obscure the front windows and doors of the premises.

3.2 Access Control

The McDonald's Operation will utilise access control and CCTV systems to monitor access to the car park. Upon commissioning the facility, a risk assessment will be undertaken to consider any pedestrian or vehicular access control issues which may arise.

3.2.1 High Risk Areas

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

3.2.2 Signage

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

Signage and clear sight lines will assist with the anticipated pedestrian flows within the associated car park and McDonald's.

Warning signs, at strategic locations are to be placed around the premises, at entry / exits to warn people of security measures.

A sign at the entry of the premises advising residents to forward any complaints regarding the operation of the premises to the Duty Manager will be provided. The sign will include a phone number and state that complaints can be made 24 hours a day / 7 days per week. Signage has also been installed asking residents to limit noise when exiting the premises, refer to Appendix C.

3.2.3 Security

High quality door and window locks are to be fitted to all openings. The locks will comply with the BCA.

No fewer than three (3) staff members will be working at the premises at any one time.

3.3 Space Management

3.3.1 Seating Design

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

3.3.2 Toilets

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

3.4 Ejection of Patrons

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



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

3.5 Hold Up Procedure

3.5.1 In the Event of an Armed Robbery

Primary advice to staff is to remain as calm as possible. Other advice is as follows:

- Contact 000 as soon as possible after incident;
- Staff are instructed to comply with the demands of the offender's;
- Assess the situation and remain calm;
- Focus on the offender/s making mental notes of their "appearance" with particular attention to;
 - Any distinguishing features such as clothing, scars, tattoos;
 - Weapon if used, such as firearm, bladed weapon; and,
 - Any language, accent, nicknames or speech peculiarities;
- Move slowly. Only do this with safety. Advise of any sudden movements you have to make;
- Observe the direction taken after the bandit leaves the premises;
- Look to see if a motor vehicle is being used and note any occupants;
- Separate staff involved to ensure they do not discuss the incident with anyone other than the Police and Senior Management; and,
- Provide access to McDonald's Counselling support agency as soon as possible after the incident.

3.6 Money Handling

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

3.7 Theft

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

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

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



3.8 Weapons

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



4 Operational Procedures

4.1 Communication and training

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

4.2 Incident Report

McDonald's uses Donesafe, an online Incident and Hazard Log Reporting system, to record details of incidents that occur in McDonalds Operations. Shift managers have been trained in usage of this system and are trained to "take control" when an incident occurs. The Shift Manager will ensure that an Incident Report is to be completed for all incidents that necessitate action by emergency services such as Police, Ambulance or Fire Brigade.

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

Managers have been trained to call "000" immediately to report a serious crime or incident occurring in the McDonalds Operation that requires and immediate response from Police and other Emergency Services.

The NSW Police Assistance Line (131 444) will be used to report minor incidents of crime.

4.2.1 Acts of Violence

When an incident involving an act of violence resulting in an injury to any person occurs on the premises, the duty manager will immediately, if safe to do so:

- Provide First Aid to any injured person;
- Contact "000" for assistance;
- Follow the NSW Police Crime Scene Preservation Guidelines by;
 - taking all practical steps to preserve and keep intact the area where the act of violence occurred;
 - isolate and retain all material and any weapons or implements associated with the act of violence;
 - provide information to the investigating Police as to the cause and circumstances of the incident;
 - Comply with any directions given by the senior Police Officer in attendance; and
 - Secure and produce a copy of all CCTV footage of the incident as required by the investigating Police Officer.

4.3 Telephones

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



4.4 Public Transport Awareness

Staff members that are working in the store during its operation are to be aware and be able to provide information to visitors of the store, of the public transport facilities that are within the area, at all times of the day or night.

4.5 Registering of Complaints

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

4.6 Noise Management

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

- The premises will comply with the relevant acoustics requirements in relation to noise emanating from the premises;
- The Duty Manager will ensure that customers keep noise to an appropriate level upon entering and leaving the premises. The Duty Manager will ask customers making in-appropriate noise to leave quietly and quickly and ask any customers loitering to move on (including the use of any horns in the drive thru);
- Security Notices will be placed at the points of exit requesting customers leave quietly and in a prompt manner so as not to cause any disturbance to the surrounding neighbourhood (in order to cease any yelling or screaming in the car park); and
- Reports of all noise complaints received by the Duty Manager will be documented in a register.

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

Particular attention will be made to cars which enter the site and either park or enter the drive-thru facility where noise from these vehicles (including noise generated from any car stereo) exceed acceptable noise levels. Should this occur, the owners of such vehicles will be instructed to reduce noise levels or move on. McDonald's will not provide a service to customers or vehicles in the drive-thru facility who refuse to comply.

4.7 Cleaning of Surrounding Public Domain

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

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

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

4.8 Litter Patrol Guidelines

Litter patrols are to be undertaken at the following times:

- After sunrise
- After the breakfast period (approximately 11am)



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

A litter patrol path has been provided at Appendix A. Litter patrols are to be carried out on the western side of the New England Highway adjacent to the site and on both sides of the New England Highway following the commission of the Thompson Street/ New England Highway signals. Litter patrols will also extend down Shaw Crescent, west of the site.

4.9 Waste Management

Waste generated on site primarily consists of general waste (food wastes and miscellaneous customer waste) and paper and cardboard.

The site contains a number of disposal areas comprising general waste bins throughout the store and two (2) skip bins, one (1) for general waste and one (1) for recycling. Waste shall be collected by a recognized private contractor in accordance with the approved Site Waste Management Plan.



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5 Consultation and Assessment

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



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Appendix A – Litter Patrol Path

SLR Consulting Australia



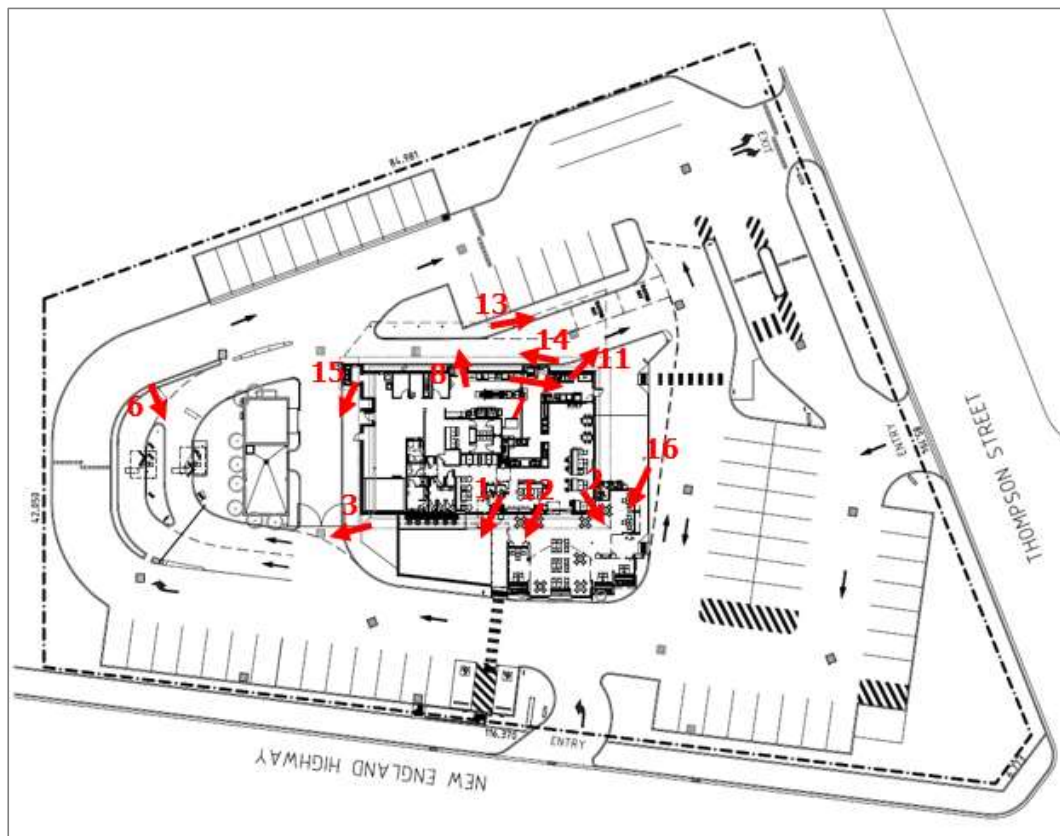


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Appendix B – CCTV Locations

SLR Consulting Australia





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Appendix B – Signage

SLR Consulting Australia



RE:- Development Application 2021/30

General Manager,

We once again submit a submission in objection to the above application involving McDonalds and the continuation of a 24 hours permanent operational hours for the following reasons.

- 1) We are sick to the back teeth of the revving of engines and screaming out of people after midnight, on a Friday and Saturday night.
- 2) We are sick of the burn outs these thugs perform as they leave McDonalds.
- 3) Courtesy Signs about noise in McDonalds does not do squat.
- 4) High speed use of Thompson Street is a joke and after reporting this matter to Police NSW they state "That it is a known problem".
- 5) Rubbish is dumped in our street all the time due to lazy slugs being too lazy to place it in the bin.

It appears that businesses have higher priority over council than their rate payers as the mines generates billions of dollars out of our town and we don't even get footpaths and missing a lot of curb and guttering. Council should concentrate on what council should do to improve the town rather than degrade it.

Muswellbrook Council

Proposal: S4.55 (2) Modification - Permanent approval of 24 hour 7 day a week drive-thru trading hours
Premises: Lot 101 DP 1266515-83-89 Maitland Street Muswellbrook
Development Application: No:2021/30

I would like to submit my submission for Council to extend the due date for submissions and reschedule another closing date.

Request that the time be taken into consideration for rescheduling to include Council to gather and provide more information to the residents and for the residents to re read the documents and be given time for the opportunity to supply additional submissions or a new submission.

The reason for my submission is that I have read the information and page 6 of the Report with date 26 August 2022 in 3.1 Justification is stated:

"Prior to the 12 month trial period, Muswellbrook McDonalds was operating dine in and drive thru operations 24 hours a day, 7 days a week from October 2020 to August 2021.

Why has this industry applied for this modification when they were already operating at this capacity prior to the 12 month trial period?

Over the 12 month trial period , the McDonalds have actively responded to the concerns or issues raised. This has been discussed further below.

Please forward this and other relevant information in relation to this industry since operating the 24 hour drive thru?

Please make aware to the residents all other impacts this industry has imposed on the neighbours of this area since operating at this capacity?

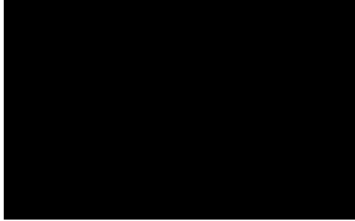
Please provide to all the residents a full copy of the documents to cover all information in relation to this application.

A Notice of Determination Compliance Table has been provided at Appendix B.

Can you please provide this information to the residents.

Please consider my request to reschedule the closing date for this application.

More information should be provided to the residents about this industry that may or may not have any future impacts in this area.





Muswellbrook Shire Council
MUSWELLBROOK. NSW. 2333

01/11/2022

Attention: Tanya Jolly
Planning Assistant

RE: Development Application No. DA 2021 - 30. Modification to change of Operation Hours to permanent 24/7, at Lot 101 DP 1266515, 83 – 89 Maitland Street, Muswellbrook

Dear Tanya,

Hunter Valley Police District has received the application that was prepared by SLR and this included a Crime Risk Assessment, a Plan of Management (POM) and other related reports.

The Hunter Valley Police do not object to the application and are aware that during the COVID 19 pandemic that the Store has been operating under a COVID order with extended hours since 25 October 2020.

Hunter Valley Police have perused records of reported incidents to Police and have not found any report of noise or antisocial behaviour in the carpark during late night trading within the last 12 months. Last recorded incidents found in late 2020 relating to persons loitering in the carpark but they were dealt with at the time by Police.

The POM sets out the process of calling and reporting incidents to Police and this appears to be adhered to and working. Since the Store has been operating the extended hours, there has been less loitering occurring in the carpark and this could be attributed to the increase in the perceived passive surveillance from the store being operational 24 hours. We encourage positive relationship between the store and the Police to continue, with a shared goal of maintaining the peace and quiet order of the neighbourhood, not only during afterhours trading but at any time during the day or night.

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

Yours faithfully



Chief Inspector Guy Guiana APM
Officer In Charge Muswellbrook & Upper Hunter
Hunter Valley Police District.

Hunter Valley Policing District
26 William Street, Muswellbrook NSW 2333
T 02 65426999 E hunternvalley@police.nsw.gov.au

TRIPLE ZERO (000)	POLICE ASSISTANCE LINE (131 444)	CRIME STOPPERS (1800 333 000)
Emergency only	For non-emergencies	Report crime anonymously

**9.1.2. Planning Agreement Offer - Pacific Brook School 72-74 Maitland Street, Muswellbrook**

- Attachments:**
1. Pacific brook School SSD - MSC comments [9.1.2.1 - 3 pages]
 2. Pacific Brook School - VPA Letter Draft v 4 - 02.11.22 [9.1.2.2 - 6 pages]
 3. Draft VPA Pacific Brook Christian School 002 [9.1.2.3 - 16 pages]

Responsible Officer: Derek Finnigan - Acting General Manager

Author: Sharon Pope – Director - Planning & Environment

Community Plan Issue: 6 - *Community Leadership*

Community Plan Goal: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy: 6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

PURPOSE

This report has been prepared to advise Council of the offer of a Planning Agreement (PA) for the proposed Pacific Brook Christian School.

The proposed school is currently being assessed by the Department of Planning and Environment (DPE) as a State Significant Development application.

RECOMMENDATION

Council:

1. Agrees to the offered schedule of contributions listed in this report and in the Letter of Offer in Attachment B;
2. Authorises staff to notify the Department of Planning and Environment that Council agrees to the proposed contributions set out in the Letter of Offer; and
3. Authorises public notification of a draft Planning Agreement once legal review is completed.

Moved: _____ **Seconded:** _____



<input type="checkbox"/> Cr A. Barry	<input type="checkbox"/> Cr M. Bowditch	<input type="checkbox"/> Cr D. Douglas
<input type="checkbox"/> Cr J. Drayton	<input type="checkbox"/> Cr L. Dunn	<input type="checkbox"/> Cr J. Lecky
<input type="checkbox"/> Cr R. Mahajan	<input type="checkbox"/> Cr D. Marshall	<input type="checkbox"/> Cr G. McNeill
<input type="checkbox"/> Cr S. Reynolds	<input type="checkbox"/> Cr R. Scholes	<input type="checkbox"/> Cr B. Woodruff

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves the construction of a new School at 72 – 74 Maitland Street, Muswellbrook. The School is currently located on the corner of Sowerby and Hill Streets, Muswellbrook. Enrolments have increased over the years and the current site no longer meets the needs of the school.

Page 20 of the Environmental Impact Statement identifies that the eventual full enrolments at the school are expected to be 660 students from kindergarten to Year 12, with a Capital Investment Value (CIV) of \$34,579,000.00. The Proponent intends to construct the development in 10 stages.

BACKGROUND

Council Officers made a submission on the development application (see attachment A). The submission requests several conditions of consent.

Council has an adopted Development Contributions Plan which seeks a contribution of 1% of the estimated capital cost of new development. A recommended condition of consent relates to the payment of a Section 7.12 contribution. Based on the Capital Investment Value, a contribution of \$345,790.00 would be payable.

The s7.12 Plan allows an applicant to offer to enter into a planning agreement with the Council, rather than pay the 1% monetary contribution. Under the planning agreement, the applicant may offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes. The offer under a planning agreement may be additional to, or instead of paying a contribution. This is a matter for negotiation with the Council.

The s7.12 Plan identifies that local infrastructure contributions go toward constructing footpaths, road upgrades, drainage, community facilities, recreational facilities, and car parking.

Council may also consider requests for a reduction in the amount payable for the following types of development:

- works undertaken for charitable purposes or by a registered charity;
- places of worship, public hospitals, police and fire stations;
- childcare facilities;
- libraries;
- other community or educational facilities.



For such requests to be considered, a comprehensive submission is required presenting a case to justify the request for a reduction.

REPORT

The Proponent of the school has made an offer to enter into a Planning Agreement (see attachments B & C).

In summary, the School is seeking a reduction of the Contributions from \$345,790 to \$259,342.35.

The justification for the reduction in Contributions is as follows:

Recreational and Community Facilities

The requirement for recreational facilities such as large parklands and open space is predominantly aimed at residential development. The school itself does not generate the need for additional recreational facilities in Muswellbrook and is already proximate to existing recreational facilities.

The School is providing recreational facilities and proposes to allow community use of the School for recreational purposes such as:

- Fair/ fete days;
- Fundraiser days;
- Open space within the School available for supervised community use (including yarning circle and walking tracks); and
- The School hall is being provided by the School and will be available for community use, outside of school hours.

Footpaths

The School is providing a 2.5m shared footpath along the frontage and extending past the boundary of the site (over 330m in length), which will benefit the wider Muswellbrook community as well as the School population.

Roads

The School:

- Is providing kerb and gutter to sections of Maitland Street that currently do not have kerb and gutter.
- Is providing a bus bay along Maitland Street.
- Will also be financing the median fencing to Maitland Street both north and south of the Thompson Street intersection to provide a safer road network, limiting pedestrians crossing outside of signalised intersections – a \$60,000 contribution as part of Stage 1 of the development.

Carparking

The School will be providing on-site car parking and:

- The car parks will be available for community use during functions at the Showground, including Muswellbrook show and monthly markets.



- The carpark can be available for other community uses upon agreement with the School.

In summary, the justification above proposes the following:

(a) Total reduction of Contributions originally payable – \$86,447.65

(b) Total Contributions payable after reduction – \$259,342.35

The proposed Schedule of Payments under the Planning Agreement:

• Stage 1	\$60,000
• Stage 2	\$22,149.15
• Stage 3	\$22,149.15
• Stage 4	\$22,149.15
• Stage 5	\$22,149.15
• Stage 6	\$22,149.15
• Stage 7	\$22,149.15
• Stage 8	\$22,149.15
• Stage 9	\$22,149.15
• Stage 10	\$22,149.15
Total	\$259,342.35

The Planning Agreement would be executed as part of the Development Consent, but the obligation to pay only arises in accordance with the progressive construction of the development.

Council staff have reviewed the justification for a reduction in s7.12 contributions below 1% of CIV and support the offer. The actual Planning Agreement still requires review by Council's legal section, and may be subject to change, however based on Council's resolution, staff would be able to advise the Department of Planning and Environment whether the principles of the Planning Authority are agreed.

OPTIONS

Council may:

- Agree to the offered schedule of contributions listed in this report and in the Letter of Offer in Attachment B. This is the recommended option as the Proponent has provided justification for a reduction in contributions.
- Refuse the offered schedule of contributions listed in this report and in the Letter of Offer in Attachment B.

CONCLUSION

The Proponent for the proposed Pacific Brook Christian School has made an offer of a planning agreement that would make contributions toward community infrastructure. Council staff have reviewed the justification for a reduction in s7.12 contributions below 1% of CIV and support the offer.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS:

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



SOCIAL IMPLICATIONS

The proposed development is likely to have a positive social impact on the locality by providing increased opportunities for schooling options in the community.

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

This matter has no specific policy implications for Council.

STATUTORY IMPLICATIONS

The Proponent has provided justification for a variation to the financial contributions that would usually arise under Council's Contribution Plan.

LEGAL IMPLICATIONS

The actual Planning Agreement still requires review by Council's legal section and may be subject to change. Once this review is completed the next stage in the process would be to publicly notify the draft PA for community feedback.

21 Dec 2021

Ms Jasmine Tranquille
Department of Planning, Industry and Environment – Major Projects
Jasmine.tranquille@planning.nsw.gov.au

Dear Ms Tranquille,

**SSD-16858710 Pacific Brook Christian School – Muswellbrook Shire Council
Request for Comment**

I refer to your correspondence regarding the public exhibition of SSD-10380 and your request for Council to provide any comments it may have in relation to the project dated 17 November 2021.

Council appreciates the opportunity to provide comment in relation to the proposed development.

General Comment

Council Officers have no objection to the concept of the proposed development. The expansion of educational services in the Muswellbrook LGA is compatible with Council's Strategic and Operational Plan Objectives related to the diversification of the region's economic base, facilitating access to and participation in education and supporting employment opportunities. As part of its role as the consent authority it is anticipated that the Department of Planning, Industry and Environment will undertake a more holistic assessment of the proposed development and consider the likely environmental impacts and submissions received prior to determining the development application.

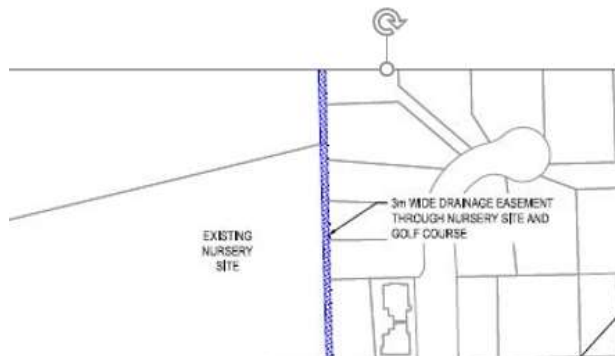
Council Officers have reviewed the documentation related to the project available online from the Major Projects Portal and Council makes the following comments in relation to the proposal.

1. **Thompson Street Intersection Signalisation** – the proposed development is reliant on the construction of a signalised intersection at the Maitland/Thompson Street intersection to support the proposed development and the provision of safe pedestrian access to the school. Given the relationship between the proposed development and this planned piece of public infrastructure it is recommended that the consent authority consider:
 - The additional demand for this infrastructure generated by the proposed development and require the proponent to contribute to the signalisation of the intersection. Council's Community Infrastructure Department are of the view that a reasonable financial contribution would be \$60,000.
 - A condition of consent should be imposed requiring the signalised intersection to be completed prior to the issue of an Occupation and/or the commencement of the school's operation.

2. **Proposed Bus Stop B along the western New England Highway carriageway** – Council Officers have reservations with the bus stop proposed along the western New England Highway Carriageway (proposed Bus Stop B). Council Officers are concerned about the safety of young students crossing the Highway to access the bus stop and recommend that further consultation is undertaken with the bus service provider to identify whether bus routes can be developed which would enable busses servicing the school to use the eastern carriageway bus stop (proposed Bus Stop A). Where this is not feasible it is recommended that the proponent provide further information related to measures to ensure the safety and functionality of proposed Bus Stop B and to limit pedestrian movements to the traffic signalised intersection.
3. **Cycleway/footpath** – there is currently no public footpath along the site's frontage to with New England Highway. There is a Council footpath east of the site along the same New England Highway frontage (this footpath has been recently constructed and is not identified in the Traffic Impact Assessment) and opposite the site on the southern side of the Highway.

To support the development and provide proper pedestrian linkages between the site and residential areas, a condition of consent is requested requiring the developer to design and construct a pedestrian footpath along the entirety of the development site's road frontage with the New England Highway.

4. **Stormwater** – The following observations are made on the stormwater information provided:
 - The On-Site Detention requirements for the school are inconsistent within the report and between the report and the engineering plans. The correct OSD requirements should be detailed clearly in all references to the OSD system for the site in accordance with MSC DCP and control discharge to pre-development levels. Any OSD system should be designed to be load rated for both the expected construction and in-service loads including maintenance vehicles. Prior to CC, a maintenance manual should accompany all stormwater treatment and detention systems. It is recommended that below-ground stormwater detention requirements can be further reduced by providing rainwater tank facilities on the site with additional detention volume as part of the overall site OSD.
 - Above-ground detention depth is not shown for the car park but should be less than 200mm in depth
 - Prior to CC, all details of the drainage lines should be detailed including invert and finished service levels and accompanied by a compliant DRAINS and MUSIC model for validation of the design
5. **Easement for Stormwater** – Additional Stormwater management systems are required in the precinct to cater for stormwater originating higher in the catchment, including from Maitland Road. A condition of consent is requested requiring the developer to provide an easement for stormwater, 3m wide, along the south-eastern side boundary as shown in the diagram below.



6. **Waste Service Vehicle** – manoeuvring areas for a waste service vehicle should be based on a 9.9m service vehicle.
7. **Section 7.12 Contribution Plan** – Council's Section 94A (7.12) Contribution Plan is applicable to the proposed development. Council requests a condition of consent requiring the payment of a Section 7.12 contribution.
8. **Notice of Requirements** – Muswellbrook Shire Council is the Water Authority under the Water Management Act 2000 for the provision of reticulated water and sewerage services in the Muswellbrook LGA. For the proposed development to proceed it will be necessary for the proponent to obtain a Notice of Requirements for water and sewerage servicing from Council prior to the issue of a Construction Certificate and a Compliance Certificate prior to the issue of an Occupation Certificate. The Notice of Requirements will require the proponent to pay Section 64 water and sewer headworks charges for the development in accordance with Council's Servicing Plan. A condition of consent requiring the proponent to obtain these approvals and comply with the Water Management Act 2000 is requested.

Should you have any further queries regarding this application or letter feel free to contact Council's Development Coordinator Hamish McTaggart on 6549 3860 or via email at hamish.mctaggart@muswellbrook.nsw.gov.au.

Yours faithfully,

Sharon Pope
EXECUTIVE MANAGER ENVIRONMENT AND PLANNING



Sharon Pope
Director Environment and Planning
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

Dear Sharon

SSDA 16858710 – Justification for reduction in s 7.12 contributions & letter of offer to enter into Planning Agreement with Pacific Brook Christian School

1. Introduction

1.1 Background

We refer to our previous letter of offer via our lawyers on behalf of Pacific Brook Christian School Ltd (**School**). As you are aware, the School has lodged a State significant concept development application SSD-16858710 (**SSDA**) for a new educational establishment at Lot 100 in Deposited Plan 1261496, known as 72-74 Maitland Street, Muswellbrook NSW (**Development Application**).

The Development Application also seeks approval for Stage 1 works and envisages ten development stages, as set out in the Environmental Impact Statement submitted with the Development Application.

1.2 Purpose of this letter

This letter sets out the terms of a new offer to enter into a Planning Agreement, following recent discussions between Council and the School's town planning consultants, DFP. The School thanks Council for its positive engagement in relation to the SSDA, which seeks to serve not only the future School community, but the locality in general. The proposed form of Planning Agreement is attached at Annexure A to this letter.

In that regard, in line with DFP's meeting with Council, this letter also sets out the justification for a reduction in contributions payable under s 7.12 (**Contributions**) of the *Environmental Planning and Assessment Act 1979 (Act)* under Council's 'Section 94A development contributions plan 2010' (**s 7.12 Contributions Plan**) based on the multi-use community purpose of many of the facilities proposed by the School under the SSDA.

1.3 Justification for reduction

In summary, the School is seeking a reduction of the Contributions from \$345,790, being 1% of the capital investment value of the development the subject of the SSDA, by 25% and a further \$60,000 for the Thompson Street intersection.

Pacific Brook Christian School

Faith | Truth | Excellence

ABN 77 622 818 400

|A| PO Box 924 / 30 Sowerby St. Muswellbrook, NSW 2333
|P| (02 6543 1114 |E| school@pacificbrook.nsw.edu.au



The reduction in Contributions is sought under Section 1.5 of s 7.12 Contributions Plan as the proposed development the subject of the SSDA is an educational facility. Section 1.5 is as follows:

'1.5 Are there any exemptions to the levy?

The levy will not be imposed in respect of development:

- *where the proposed cost of carrying out the development is \$100,000 or less;*
- *for the purpose of disabled access; or*
- *for the sole purpose of providing affordable housing; or*
- *for the purpose of reducing a building's use of potable water (where supplied from water mains) or energy; or*
- *for the sole purpose of the adaptive reuse of an item of environmental heritage;*
or
- *that has been the subject of a condition under section 94 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.*

Council may consider exempting other categories of developments, or components of developments from the requirement for a levy, but only by resolution of Council. There are no additional exemptions at the time of commencement of this plan.

For such claims to be considered, a development application will need to include a comprehensive submission presenting a case and a justified request for exemption. Consideration will be given to requests for exemption for the following types of development:

- *works undertaken for charitable purposes or by a registered charity;*
- *places of worship, public hospitals, police and fire stations;*
- *childcare facilities;*
- *libraries;*
- *other community or educational facilities.'*

Justification for the reduction in Contributions in relation to various categories in Section 1.5 is set out below:

(a) Recreational Facilities

The requirement for recreational facilities such as large parklands and open space is predominantly aimed at residential development. The school itself does not generate the need for additional recreational facilities in Muswellbrook, and is already proximate to existing recreational facilities.



The school is seeking a 50% reduction to the recreational facilities contributions as the School is providing recreational facilities and proposes to allow community use of the School for recreational purposes such as:

- Fair/ fete days
- Fundraiser days
- Open space within the School available for supervised community use (including yarning circle and walking tracks)

(b) Community Facilities

The school is seeking a 50% reduction to the community facilities contributions as the School hall is being provided by the School and will be available for community use, outside of school hours.

(c) Footpaths

The school is seeking a 50% reduction to the footpath contributions as the School is providing a 2.5m shared footpath extending past the boundary of the site (over 330m in length), which will benefit the wider Muswellbrook community as well as the School population.

(d) Roads

The School is requesting a 7.5% reduction to the roads contribution as the School:

-
- Is providing kerb and gutter to sections of Maitland Street, that currently do not have kerb and gutter.
- Is providing a bus bay along Maitland Street.
- Will also be financing the median fencing to Maitland Street both north and south of the Thompson Street intersection to provide a safer road network, limiting pedestrians crossing outside of signalised intersections.
- Is providing an additional \$60,000 contribution to the Thompson Street Intersection.

(e) Carparking

The School's justification for seeking a 50% reduction in the car parking contribution is that:

- The School is providing carparking within the development, adding to the overall parking spaces in Muswellbrook.



- School carparks will be available for community use during functions at the Showground, including Muswellbrook show and monthly markets.
- School carpark can be available for other community uses upon agreement with the School

In summary the justification above proposes the following:

- (a) Total reduction off Contributions originally payable – \$86,447.65
- (b) Total Contributions payable after reduction – \$259,342.35

Proposed Schedule of Payments under the Planning Agreement:

- Stage 1 – \$60,000
- Stage 2 – \$22,149.15
- Stage 3 – \$22,149.15
- Stage 4 – \$22,149.15
- Stage 5 – \$22,149.15
- Stage 6 – \$22,149.15
- Stage 7 – \$22,149.15
- Stage 8 – \$22,149.15
- Stage 9 – \$22,149.15
- Stage 10 – 22,149.15

We trust this justification presents a sufficient case for Council to support a reduction in contributions in this instance.

2. Terms of Offer – Planning Agreement

2.1 Offer

In the above context, and in accordance with section 7.4 of the *Environmental Planning and Assessment Act 1979 (EPA Act)* our client offers to enter into a Planning Agreement in accordance with the terms of this formal Offer (**Offer**) with Council in connection with the Development Application, and all subsequent development applications as envisaged in the SSDA.

2.2 Parties

The Parties to the Planning Agreement are:

- (a) Pacific Brook Christian School Ltd, ABN 77 622 818 400.
- (b) Muswellbrook Shire Council, ABN 86 864 180 944.



2.3 Land

The Planning Agreement will apply to the land at Lot 100 in Deposited Plan 1261496, known as 72-74 Maitland Street, Muswellbrook NSW (**Land**), which the School owns.

2.4 Development

The Planning Agreement will be entered into in connection with the Development Application and all subsequent development applications as set out in the Environmental Impact Statement lodged by the School in relation to the Development Application. Note that as part of the SSDA, the School has sought approval to carry out Stage 1 works.

2.5 Monetary Contribution, Timing, and Purpose

The Planning Agreement can be executed before the grant of Development Consent, but the obligation to pay only arises in accordance with the timing set out in Schedule A to the Planning Agreement as attached. Schedule A also sets out the amount of payments in accordance with the payment schedule at paragraph 1.3 of this letter.

The purpose of each element of the Development Contribution is as set out Schedule A to the Planning Agreement as attached, being:

- (a) in relation to Stage 1, a contribution to the Thompson Street/Maitland Street intersection upgrades (**Council Intersection Upgrade Project**); and
- (b) in relation to subsequent stages (Stages 2 to 10), a contribution for the provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act

Council identified the Council Intersection Upgrade Project as a high priority in a traffic study undertaken by Council. The Council Intersection Upgrade Project aims to improve traffic outcomes for the locality in general, including to *'provide capacity for future projected residential and commercial development growth in the area'*.¹ Together with the proposed contributions for Stages 2 to 10, the Development Contribution relates to a public purpose which arises independently of the Development, not as a consequence of the Development.

2.6 Application of sections 7.11 and 7.12

Given that the Development Contribution is to be used towards a project the need for which is not necessitated by the Development, and which benefits the wider locality, the Planning Agreement will exclude the application of sections 7.11 and 7.12 of the EPA Act to the Development.

¹ <https://www.muswellbrook.nsw.gov.au/project/thompson-street-signalisation-intersection-upgrade/#page-section-3>



2.7 Enforcement and security

Given the proposed 'prior to occupation certificate' timing for the payment of the contributions, which would prevent the use of relevant stages of the Development for their intended purposes, no security is proposed to be provided under the Planning Agreement.

2.8 Registration

Registration on title is not required or suitable to secure the development contributions obligations under this Planning Agreement because the Land will be used as an educational establishment by the School rather than being sold or divested by the School.

In light of this, and the proposed 'prior to occupation certificate' timing for the payment of the contributions, registration of the Planning Agreement on the title to the Land will not be required and would impose an administrative and bureaucratic burden on both the School and Council which is unnecessary.

The School once again thanks Council for its engagement on this Development. We look forward to hearing back from Council in relation to this letter at the earliest available opportunity.

Sincerely

Edwin Boyce
Executive Principal

Chris Baldry
Group Business Manager

Deed of Planning Agreement

between

Muswellbrook Shire Council

(ABN 86 864 180 944)

and

Pacific Brook Christian School Ltd

(ABN 77 622 818 400)

Contents

Operative Provisions	3
1. Definitions and interpretation	3
1.1 Definitions	3
1.2 Interpretation	5
1.3 Business Day	6
1.4 Contra proferentem	6
2. Planning Agreement under the Act.....	6
3. Application of this deed	7
4. Operation of this deed	7
5. Development Contributions to be made under this deed	7
6. Application of section 7.11 and section 7.12 of the Act to the Development	7
7. Registration of this deed	7
8. Review of this deed	7
9. Dispute resolution	8
10. Notices.....	8
11. Approvals and consent	9
12. Assignment and Dealings	9
13. Costs of this deed	9
14. Entire agreement	9
15. Further Acts	9
16. Governing law and jurisdiction	9
17. Joint and individual liability and benefits	9
18. No fetter	10
19. Representation and warranties	10
20. Severability	10
21. Modification.....	10
22. Waiver	10
23. GST.....	10
24. Timing and staging of the Development	11
24.1 Timing	11
24.2 Staging	11
Annexure A - Development Contributions	13
Annexure B - Dispute Resolution Procedures	14

This Deed of Planning Agreement made on between

1. **Muswellbrook Shire Council**
ABN 86 864 180 944
of 60-82 Bridge Street, Muswellbrook NSW 2333
(Council) of the first part,

and

2. **Pacific Brook Christian School Ltd**
ABN 77 622 818 400
of 9-15 Quarry Road, Dural NSW 2158
(School) of the other part

Recitals

- A. The School owns the Land and made the Development Application for the Development in relation to the Land. The Development proposes ten Development Stages.
- B. Development Stage 1 of the Development, in respect of which Development Consent is sought as part of the Development Application, involves the works listed in the definition of Development in clause 1(b) of this deed.
- C. The School proposes to make Development Applications in relation to the Subsequent Development Stages.
- D. The School offered to enter into this deed with the Council pursuant to Subdivision 2 of Division 7.1 of Part 7 of the Act to make Development Contributions, upon Development Consent for the concept and Development Stage 1 being granted, to be applied towards a public purpose in respect of the Development.

Operative Provisions

1. Definitions and interpretation

1.1 Definitions

In this deed unless the context admits otherwise:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Business Day means a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Development means development in relation to the Land the subject of SSD-16858710:

- (a) for staged concept development comprising the Development Stages; and

- (b) as part of the Development Application for Development Stage 1, being works for a new educational establishment, with overall works including:
 - (i) Site preparation;
 - (ii) Demolition works;
 - (iii) Tree removal;
 - (iv) Construction of new school buildings;
 - (v) Outdoor covered learning areas;
 - (vi) Covered walkways;
 - (vii) Landscaping;
 - (viii) Core facilities; and
 - (ix) Associated works.

Development Application has the same meaning as in the Act and, unless otherwise indicated, relates to the application referred to as SSD-16858710 in relation to the Development.

Development Consent has the same meaning as in the Act and relates to the Development Application and any Subsequent Development Application.

Development Contributions means the contributions set out in **Annexure A**.

Development Stages means the ten stages of the Development, referred to as Development Stage 1, Development Stage 2 etc. as set out in the Environmental Impact Statement submitted with the Development Application and dated 5 November 2021.

Dispute Resolution Procedures means the procedures set out in **Annexure B**.

Explanatory Note means the note exhibited with a copy of this deed as prepared in accordance with the *Environmental Planning and Assessment Regulation 2000* as it continues to apply to the Development Application.

Governmental Authority means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (whether local, state or federal).

GST has the same meaning as in the GST Law.

GST Law has the same meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any other Act or regulation relating to the imposition or administration of the GST.

Land means Lot 100 in Deposited Plan 1261496, known as 72-74 Maitland Street, Muswellbrook NSW 2333.

Occupation Certificate has the same meaning as in the Act.

Party means a party to this deed, including their successors and assignees.

Subsequent Development Applications means a Development Application for Development Stages 2 to 10 of the Development.

1.2 Interpretation

In this **deed** unless the context otherwise requires:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **statute, regulation, proclamation, ordinance** or **by-law** includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Authority with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (d) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the Parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (e) a reference to a **natural person** includes a natural person, corporation, statutory corporation, partnership, association, trust, joint venture, the Crown or any other organisation or legal entity and any Governmental Authority;
- (f) a reference to a **natural person** includes their personal representatives, successors and permitted assignees;
- (g) a reference to a **corporation** includes its successors and permitted assignees;
- (h) a reference to a **right or obligation** of a Party is a reference to a right or obligation of that Party under this deed;
- (i) a reference to any thing (including any right) includes a part of that thing but nothing in this subclause 1.2(i) implies that performance of part of an obligation constitutes performance of the obligation;
- (j) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (k) a reference to the **introduction**, a **clause**, a **Party** or an **annexure** is a reference to the introduction, a clause of, a Party to or an annexure to this deed;
- (l) the **annexures** form part of this deed;
- (m) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (n) **including**, **includes**, **for example** or similar expressions are to be construed without limitation unless express wording is used to indicate otherwise;
- (o) a reference to a **Party to a document** includes a reference to the servants, agents and contractors of the Party, and the Party's successors and assignees;

- (p) a reference to an **agreement** other than this deed includes an undertaking, agreement, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (q) a reference to a **document** includes any agreement in writing, or any certificate, notice, instrument or other document of any kind and all amendments or supplements to, or replacements or novations of, that document;
- (r) **monetary amounts** are expressed in Australian dollars and all amount payable under this deed are payable in Australian dollars;
- (s) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (t) a word which denotes the singular denotes the plural, and a word which denotes the plural denotes the singular;
- (u) words importing a gender include any gender;
- (v) neither this deed nor any part of it is to be construed against a Party on the basis that the Party or its lawyers were responsible for its drafting.

1.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.4 Contra proferentem

In the interpretation of this deed of agreement no rule of construction shall apply to disadvantage one Party on the basis that that Party put forward the particular covenant term or provision.

2. Planning Agreement under the Act

The Parties agree that this deed is a planning agreement made under and governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

3. Application of this deed

This deed applies to the Development and the Land under any Development Consent granted for any Development Stage comprising the Development.

4. Operation of this deed

This deed operates on and from the date that it is executed, provided that Development Consent has been granted to the concept development and Stage 1 works the subject of the Development Application, except that the obligations of the School to provide individual Development Contribution payments do not arise to be performed until the date specified in the table in **Annexure A**.

5. Development Contributions to be made under this deed

- (a) The School must provide the Development Contributions in accordance with **Annexure A**.
- (b) The nature and extent of the provision of Development Contributions to be made under this deed are set out in **Annexure A**.

- (c) The times at which the Development Contributions are to be made are set out in **Annexure A**.

6. Application of section 7.11 and section 7.12 of the Act to the Development

This deed excludes the application of Sections 7.11 and 7.12 of the Act to the Development.

7. Review of this deed

The Parties agree that from time to time it may become necessary to review this deed. Any amendment to this deed shall only be effective if it is made in writing and signed by all Parties to this deed. If a Party requires a review of this deed it shall request the other Party to participate in a review and the review shall be undertaken accordingly. Any review of this deed will be conducted in the circumstances and in the manner determined by the Parties.

8. Dispute resolution

In the event that the Parties cannot agree in relation to any matter relating to this deed, either Party may give notice and particulars of such matter the subject of the failure to agree to the other Party and may require that such matter be resolved by the Dispute Resolution Procedures.

9. Notices

- (a) Any notice or other communication including any request, demand, consent or approval, to or by a Party to this deed:
 - (i) must be in legible writing and in English and if not emailed, then addressed as shown at the commencement of this deed or as specified to the sender by any Party by notice;
 - (ii) if not emailed, must be signed by the sender (if a natural person) or an officer or under the common seal of the sender (if a corporation);
 - (iii) may be emailed to that Party at its email address set out below:

Council: council@muswellbrook.nsw.gov.au

School: insert email
 - (iv) is to be treated as given or made at the following time:
 - (A) If it is hand delivered, when it is left at the relevant address.
 - (B) If it is sent by post, 2 Business Days after it is posted, not including the date of postage.
 - (C) If it is emailed, when it is transmitted to the addressee; and
 - (v) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) If any notice, consent, demand, information, application, approval or request is delivered, or an undelivered report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

- (c) In this clause, a reference to an addressee includes a reference to an addressee's officers, agents or employees.

10. Approvals and consent

Except as otherwise set out in this deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this deed in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

11. Assignment and Dealings

- (a) The School may not assign its rights and obligations under this deed nor have any Dealings in relation to the Land the subject of this deed unless, in addition to any other requirements of this deed:
 - (i) Council has given its consent to the proposed assignment or dealing;
 - (ii) the School has, at no cost to Council, first secured the execution by the person with whom it is dealing, of all necessary documents in favour of Council by which that person agrees to be bound by this deed as if they were a party to this deed; and
 - (iii) the School is not in breach of this deed.
- (b) A Part must not unreasonably withhold its consent under this deed.

12. Costs of this deed

Each Party is to pay its own costs associated with the preparation and registration of this deed.

13. Entire agreement

This deed contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, Explanatory Note, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this deed was executed, except as permitted by law.

14. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this deed and all transactions incidental to this deed.

15. Governing law and jurisdiction

This deed is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

16. Joint and individual liability and benefits

Except as otherwise set out in this deed, any obligation, agreement, covenant, representation or warranty under this deed by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

17. No fetter

Nothing in this deed shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

18. Representation and warranties

The Parties represent and warrant that they have power or enter into this deed and comply with their obligations under this deed and that entry into this deed will not result in the breach of any law.

19. Severability

If a clause or part of a clause of this deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this deed, but the rest of this deed is not affected.

20. Modification

No modification of this deed will be of any force or effect unless it is in writing and signed by the Parties to this deed.

21. Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

22. GST

- (a) A reference in this clause to terms defined or used in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Any amount referred to in this deed which is relevant in determining a payment to be made by one of the Parties to the other is exclusive of any GST unless indicated otherwise.
- (c) If any Party reasonably decides that it is liable to pay GST on a supply made to the other Party under this deed and the supply was not priced to include GST, then recipient of the supply must pay an additional amount equal to the GST on that supply. The GST is payable together with the consideration to which it relates or such other time as the Parties agree.
- (d) The supplier must issue a tax invoice to the recipient of the supply within 7 days of payment or such other time as the Parties agree.
- (e) If one of the Parties to this deed is entitled to be reimbursed for an expense or outgoing incurred in connection with this deed, then the amount of the reimbursement will be net of any input tax credits which may be claimed by the Party being reimbursed in relation to that expense or outgoing.

23. Timing and staging of the Development

23.1 Timing

The periods for the items in the Development Contributions may, by the agreement of the Parties each of whom must act reasonably, be extended to facilitate the carrying out and completion of the Development as a whole.

23.2 Staging

The Council also acknowledges that the School may:

- (a) carry out the Development; and
 - (b) perform its obligations under this deed (including the Development),
- in stages as the School considers to be most appropriate.

Executed as a Deed

**Signed, sealed and delivered by the Parties
hereto**

The Common Seal of Muswellbrook Shire
Council was hereunto affixed pursuant to a
resolution of the Council made on

.....
Mayor

.....
General Manager

.....
Name of Mayor

.....
Name of General Manager

Signed, sealed and delivered by Pacific Brook
Christian School Ltd (ABN 77 622 818 400) in
accordance with section 127 of the
Corporations Act:

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

Annexure A

Development Contributions

The School undertakes to provide the Development Contributions to the Council in the manner set out in the below table:

Development Stage	Development Contribution	Public Purpose	Value	Timing
1	Monetary Contribution	Contribution to be given to Council to be used towards Council's Thompson Street/Maitland Street intersection upgrades.	\$60,000	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 1 of the Development.
2	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 2 of the Development.
3	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 3 of the Development.
4	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 4 of the Development.

		natural environment, or any other purpose under s 7.3(2) of the Act.		
5	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 5 of the Development.
6	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 6 of the Development.
7	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 7 of the Development.
8	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 8 of the Development.

9	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 9 of the Development.
10	Monetary Contribution	The provision of (or the recoupment of the cost of providing) public amenities or public services, transport or other infrastructure relating to land, the conservation or enhancement of the natural environment, or any other purpose under s 7.3(2) of the Act.	\$22,149.15	Prior to the issue of the Occupation Certificate for the use of the whole or any part of the new buildings provided under Development Stage 10 of the Development.

Annexure B - Dispute Resolution Procedures

1. Dispute Resolution Procedures

- (a) The Parties agree that in the interests of expeditiously resolving any dispute or difference which arises between them under or in connection with this deed (**dispute**) they will use their best endeavours to resolve the dispute by procuring a Director of the School and the General Manager of the Council to enter into good-faith negotiations within 10 Business Days (or such other period that the Parties may agree) of the dispute arising.
- (b) If the dispute cannot be resolved within the period stipulated in or agreed pursuant to subclause 1(a), the Parties may, subject to subclause 1(c), submit to the process of adjudication set out in subclauses 1(d) – (g).
- (c) However, nothing in this Annexure B prevents either Party seeking final or interlocutory relief from a court in connection with a dispute the subject of this deed without first having to attempt to negotiate and determine the dispute in accordance with this Annexure B.
- (d) Either Party may issue a notice of dispute to the other within 14 days of the first occurrence or manifestation of the said dispute or difference or act or omission if the dispute or difference involves an act or omission. The notice is to set out the nature of the dispute or difference and an outline of that Party's contentions in respect of the same with such reasonable particularity as is appropriate in the circumstances to allow the other Party to understand the matter in dispute and what is being contended for.
- (e) Within 7 days of receiving such a notice of dispute, the receiving Party shall issue to the other a response, setting out what it believes the nature of the dispute is (if this is different to that set out in the notice of dispute) and an outline of its contentions with such reasonable particularity as is appropriate in the circumstances to allow the Party who issued the notice of dispute what the receiving Party contends in relation to the dispute.
- (f) The a Director of the School and the General Manager of the Council may direct that the dispute be resolved by the process of expert determination as set out in subclauses 1(i) and (j) below and the dispute is then referred to expert determination. Such a direction is and will be final and binding and not in itself subject to a notice of dispute.
- (g) In every other case, the dispute is to be resolved by arbitration pursuant to the provisions of the *Commercial Arbitration Act 2010 (NSW)*.
- (h) Where such dispute it to be resolved by expert determination, such a determination shall be conducted in accordance with and subject to the *Expert Determination Rules* published (dated 2016) published by Resolution Institute (**Expert Determination Rules**) or any later version of that document or other document that supersedes that document.
- (i) Any determination that is conducted in accordance with and subject to the Expert Determination Rules shall, in the absence of any error of law, be final and binding.
- (j) Subject to subclause 1(k) below, where such dispute or difference is to be resolved by arbitration, the arbitration shall be conducted in accordance with and subject to the *Resolution Institute Arbitration Rules 2020* prepared by Resolution Institute.
- (k) In respect of all questions of procedure for any arbitration or expert determination the Parties shall participate in the same in good faith and do all and agree to do all things as are appropriate so as to achieve expedition in determination of the issues so referred.

2. Continuing liability

- (a) The reference of any dispute for resolution under this deed will not relieve either Party from any liability for the due and punctual performance of that Party's duties and obligations under this deed.

**9.1.3. Public Exhibition of Planning Agreement relating to Dartbrook Mine**

Attachments:	1. Draft Planning Agreement with AQC Dartbrook Pty Ltd [9.1.3.1 - 17 pages] 2. Appendix 5 SSD Mod 7 [9.1.3.2 - 1 page]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Alexandra Hathway – Corporate Lawyer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

PURPOSE

This report provides Councillors with information of a planning agreement offer proposed by AQC Dartbrook Pty Ltd relating to State Significant Development DA231-07-2000 Modification 7.

OFFICER'S RECOMMENDATION

Council:

1. Endorses the draft Planning Agreement for Dartbrook Mine for public notification and exhibition in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021; and
2. Delegates authority to the Acting General Manager to execute the Planning Agreement following public exhibition and to make appropriate amendments to the Planning Agreement which do not alter the intent of the draft Planning Agreement as exhibited or result in material changes to the Planning Agreement following consideration of any public submissions.

Moved: _____ **Seconded:** _____

BACKGROUND

In March 2022 the Land and Environment Court granted consent to State Significant Development DA 231-07-2000 Modification 7 (SSD Mod 7). SSD Mod 7 contained in Appendix 5 general terms of Dartbrook's planning agreement offer to the Council. See attachment B.

SSD Mod 7 sought approval for Dartbrook to undertaking mining of the Kayuga Seam using the first workings board and pillar method as an alternative to the approved longwall mining within the Kayuga Seam.

Over the past several months, Council officers have negotiated a planning agreement based on Dartbrook's general terms contained in SSD Mod 7.

See the draft planning agreement in Attachment A.



CONSULTATION

Acting General Manager

Director Environment and Planning

Manager Roads Drainage and Technical Services

Corporate Lawyer

OPTIONS

Option 1

Council endorses the draft planning agreement for public exhibition and, following such exhibition, execution of the planning agreement. This is the preferred option, as the terms in the planning agreement are consistent with planning agreements in place for other mines in the Shire, and the notification would allow the matter to progress in a timely manner as required by the conditions of approval for the mine.

Option 2

Council could decline to endorse the draft planning agreement and request Council officers renegotiate with Dartbrook.

SOCIAL IMPLICATIONS

Council will apply each contribution made by Dartbrook under the planning agreement for the benefit of the public and otherwise in accordance with the agreement.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

LEGAL IMPLICATIONS

Notification of the draft planning agreement would meet the terms of the conditions of consent for the mine.

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

Not applicable.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

This report seeks endorsement of public exhibition of the draft planning agreement.

Planning Agreement

Muswellbrook Shire Council ABN 86 864 180 944

AND

AQC Dartbrook Management Pty Ltd ABN 62 007 377 577

Planning Agreement

Date	
Parties	<p>MUSWELLBROOK SHIRE COUNCIL ABN 86 864 180 944 of Campbell's Corner, 60-82 Bridge Street, Muswellbrook, NSW 2333</p> <p style="text-align: right;">(Council)</p> <p>AND</p> <p>AQC DARTBROOK MANAGEMENT PTY LTD ABN 62 007 377 577 of 6 Stair St Kayuga 2333</p> <p style="text-align: right;">(Dartbrook)</p>
Background	<p>A. Dartbrook operates the Dartbrook Coal Mine, which is located north of the township of Muswellbrook in the Upper Hunter Valley in New South Wales.</p> <p>B. On 11 March 2022, Dartbrook was granted Modification 7 of Development Consent DA231-07-2000 for the Dartbrook Coal Mine.</p> <p>C. Condition 11.4(a) of the Dartbrook Extension Consent requires Dartbrook to enter into a Planning Agreement with Council in accordance with the terms of Dartbrook's offer for Contributions as set out in Schedule 2 of this Agreement.</p> <p>D. Dartbrook has offered to enter into a Planning Agreement on the terms of this Agreement to make Contributions for the purposes of satisfying Condition 11.4(a) of the Dartbrook Extension Consent.</p> <p>E. This Agreement is entered into pursuant to an arrangement under Division 7.1 of Part 7 of the Act.</p>

Operative Provisions

1 Definitions

In this Agreement, unless the context indicates a contrary intention:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Agreement;

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person;

Business Day means a day on which banks are open for general banking business in NSW, excluding Saturdays, Sundays and public holidays;

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this Agreement;

Contributions means a contribution made by Dartbrook under this Agreement, pursuant to Schedule 2;

CPI means the All Group Consumer Price Index for Sydney as published by the Australian Bureau of Statistics;

Dartbrook Coal Mine means the coal mine operated by Dartbrook pursuant to the original Dartbrook Consent;

Dartbrook Consent means Development Consent DA231-07-2000 for the Dartbrook Coal Mine which was granted by the Minister for Urban Affairs and Planning on 28 August 2001 as modified;

Dartbrook Extension Consent means the Development Consent granted in response to Development Application DA231-07-2000-Mod-7;

Development means the development approved pursuant to the Dartbrook Extension Consent;

Development Application has the same meaning as in the Act;

Development Consent has the same meaning as in the Act;

Dispute means any dispute between the parties in connection with this Agreement;

End of Mining Operations means when Dartbrook ceases extracting, processing and transporting coal from the Dartbrook Coal Mine and all associated mine rehabilitation has been completed;

GST Law means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Land means the land upon which the Development is situated being the land comprised in Appendix 1 of the Dartbrook Extension Consent;

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

Notice means a written notice, consent, approval, direction, order, information, application, request or other communication;

Public Road has the same meaning as in the Roads Act.

Quarterly Instalment means with respect to each Contribution amount payable under this Agreement, payments to be made on each 1 March, 1 June, 1 September and 1 December each year, equal to one quarter of the total Contribution amount payable, with appropriate adjustments made for CPI.

Roads Act means the *Roads Act 1993 (NSW)*.

Tax Invoice has the same meaning as in the GST Law.

2 Interpretation

In this Agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this Agreement or another document includes any document which varies, supplements, replaces, assigns or novates this Agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in, Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally;

- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month; and
- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

3 Planning Agreement under the Act

- (a) The parties agree that this Agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) Schedule 1 of this Agreement summarises the requirements for planning agreements under s 7.4 of the Act and the way this Agreement addresses those requirements.

4 Application of this Agreement

This Agreement applies to the Land.

5 Operation of this Agreement

- (a) This Agreement commences on and from the date it is executed.
- (b) On and from the date of termination of this Agreement in accordance with clause 9, this Agreement will cease to have effect and the Council will immediately return to Dartbrook any title documentation or other security it holds under this Agreement.

6 Application of s 7.11, s 7.12 and s 7.24 of the Act

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of section 7.24 of the Act to the Development.
- (d) This Agreement does not prevent the parties from entering into other planning agreements within the meaning of Section 7.4 of the Act in relation to the Development.
- (e) The benefits under this Agreement are not to be taken into consideration in determining a development contribution under sections 7.11, 7.12 or 7.24 of the Act.

7 Contributions to be made under this Agreement

7.1 Contributions

- (a) Dartbrook must make Contributions to Council in accordance with Schedule 2 of this Agreement and any other relevant provision of this Agreement to the satisfaction of

Council.

- (b) Council will apply each Contribution made by Dartbrook under this Agreement:
 - (i) for the benefit of the public; and
 - (ii) otherwise in accordance with this Agreement.
- (c) Council, upon written request, will on an annual basis provide Dartbrook Mine a report on how the contributions have been invested.

7.2 Monetary Contributions

- (a) The parties agree that all monetary Contributions are to commence on 11 March 2022 and will be paid annually by way of Quarterly Installments.
- (b) Monetary Contributions paid in accordance with Schedule 2 must be paid by electronic transfer into a bank account, the details of which are to be provided by Council to Dartbrook.
- (c) A monetary Contribution is made for the purposes of this Agreement when Council receives the full amount of the contribution payable under this Agreement in cash or by unendorsed bank cheque or by deposit by means of electronic funds transfer of cleared funds into the bank account nominated by Council.

7.3 Apprentices

As stated in Schedule 2, Dartbrook will use its best endeavours to engage, at a minimum, 2 apprentices, at any one time, sourced from residents within the Muswellbrook Shire local government area from the date of this Agreement until the End of Mining Operations.

7.4 Adjustment for CPI

The amount of the Contributions in column 3 of the table in Schedule 2 are subject to adjustment for changes in CPI as follows:

$$DCP = \frac{DC \times A}{B}$$

where:

- DCP = the actual Contribution payment amount payable at the time the particular payment is made;
- DC = the particular Contribution payment amount required to be paid as per column 3 of the table in Schedule 2;
- A = the most recent CPI published by the Australian Bureau of Statistics prior to the date the payment is due to be made; and
- B = the most recent CPI published by the Australian Bureau of Statistics prior to the date of this Agreement.

If after the formula in clause 7.4 is applied the Contribution amount will be less than the particular Contribution payment amount required to be paid as per column 3 of the table in Schedule 2, the Contribution will not be adjusted.

8 Registration of this Agreement

8.1 Dartbrook interest

Dartbrook represents and warrants to Council that as at the date of this Agreement it has obtained the consent of each person who has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW) to enable registration of this Agreement pursuant to clause 8.2.

8.2 Registration of this Agreement

- (a) Dartbrook agrees to procure the registration of this Agreement under the *Real Property Act 1900* (NSW) on the relevant titles to the Land in accordance with section 7.6 of the

Act.

- (b) Dartbrook, at its own expense, will within 3 months after the date of this Agreement, take all practical steps, and otherwise do anything that Council reasonably requires to procure the registration of this Agreement on the titles to the Land under the *Real Property Act 1900* (NSW).
- (c) Dartbrook acknowledges and agrees that Council may lodge and maintain a caveat against the title to the Land reflecting its rights under this Agreement provided that any caveat lodged by Council will be removed contemporaneously with registration of this Agreement against the title to the Land.

8.3 Removal of Agreement

When requested to do so after termination of this Agreement, Council will, at Dartbrook's expense, promptly execute such documents and take such steps as may reasonably be required to remove notification of registration of this Agreement from the title to the Land.

9 Termination

- (a) This Agreement terminates on:
 - (i) the date on which a Court of competent jurisdiction declares that either the Dartbrook Consent or the Dartbrook Extension Consent (if applicable) is invalid;
 - (ii) the date of End of Mining Operations; or
 - (iii) at such time it is mutually agreed between the parties in writing.

10 Review of this Agreement

- (a) This Agreement may be reviewed or modified by agreement of the parties provided that no review will be undertaken within the 3 years following the date of this Agreement.
- (b) No review or modification of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.
- (c) A party is not in breach of this Agreement if it does not agree to an amendment to this Agreement requested by a party in, or as a consequence of, a review.

11 Dispute Resolution

11.1 General

This clause applies to any Dispute arising in connection with this Agreement.

11.2 Notice of Dispute

The party wishing to commence the dispute resolution process must give written notice (Notice of Dispute) to the other party of:

- (a) the nature of the Dispute;
- (b) the alleged basis of the Dispute; and
- (c) the position which the party issuing the Notice of Dispute believes is correct.

11.3 Representatives of parties to meet

- (a) The representatives of the parties must promptly (and in any event within 20 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified Dispute.
- (b) The parties may, without limitation:

- (i) resolve the Dispute during the course of that meeting,
- (ii) agree that further material or expert determination in accordance with clause 11.6 about a particular issue or consideration is needed to effectively resolve the Dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
- (iii) agree that the parties are unlikely to resolve the Dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant Dispute.

11.4 Further Notice if not settled

If the Dispute is not resolved within 20 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the Dispute (Determination Notice) by mediation under clause 11.5 or by expert determination under clause 11.6.

11.5 Mediation

If a party gives a Determination Notice calling for the Dispute to be mediated:

- (a) the parties must agree to the terms of reference of the mediation within 10 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the mediator will be agreed between the parties, or failing agreement within 10 Business Days of receipt of the Determination Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) the mediator appointed pursuant to this clause 11.5 must:
 - (i) have reasonable qualifications and practical experience in the area of the Dispute; and
 - (ii) have no interest or duty which conflicts or may conflict with his or her function as a mediator, he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) the mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) the parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a Dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) in relation to costs and expenses:
 - (i) each party will bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) the costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

11.6 Expert determination

If the Dispute is not resolved under clause 11.3 or clause 11.5, or the parties otherwise agree that the Dispute may be resolved by expert determination, the parties may refer the Dispute to an expert, in which event:

- (a) the Dispute must be determined by an independent expert in the relevant field:
 - (i) agreed upon and appointed jointly by the parties; and
 - (ii) in the event that no agreement is reached, or no appointment is made within 10 Business Days of the agreement, to refer the Dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) the expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) the determination of the Dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) any determination made by an expert pursuant to this clause is final and binding upon the parties unless:
 - (i) within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and intends to commence litigation; or
 - (ii) the determination is in respect of, or relates to, termination or purported termination of this Agreement by a party, in which event the expert is deemed to be giving a non-binding appraisal.

11.7 No suspension of contractual obligations

Subject to any interlocutory order, the referral to or undertaking of a Dispute resolution process under this clause 11 does not suspend the parties' obligations under this Agreement.

12 Enforcement

12.1 Default

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this Agreement, it may give notice in writing to the other party (Default Notice) giving all particulars of the matters in respect of which it considers the default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 30 days.
- (b) In determining a reasonable time, regard must be had to both the nature of the default and the action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may, if the Default Notice relates to a Dispute, refer the Dispute to dispute resolution under clause 11 of this Agreement.

12.2 General enforcement

- (a) Without limiting any other remedies available to the parties, this Agreement may be enforced by a party in any Court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Agreement prevents:
 - (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; or

- (ii) the Council from exercising any function under the Act or any other Law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

13 Assignment

- (a) Dartbrook must not assign or deal with any right under this Agreement without the prior written consent of Council and any proposed assignment or dealing must not take effect until this Agreement has been registered against the title to the Land.
- (b) Council may withhold its consent to any proposed assignment by Dartbrook unless it is satisfied on reasonable grounds that the proposed assignee has sufficient financial and technical resources to enable it to comply with Dartbrook's obligations under this Agreement.
- (c) Any change of ownership or control (as defined in section 50AA of the *Corporations Act 2001* (Cth)) of a party (excluding Council) shall be deemed to be an assignment of this Agreement for the purposes of this clause.
- (d) Any purported dealing in breach of this clause is of no effect.

14 Approvals and consents

Except as otherwise set out in this Agreement, and subject to any Law, a party may give or withhold an Approval or consent to be given under this Agreement in that party's absolute discretion and subject to any conditions determined by that party. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

15 Council's position

15.1 Agreement does not fetter Discretion

This Agreement is not intended to operate to fetter, in any manner the:

- (a) power of Council to make any Law; or
- (b) exercise by Council of any statutory power or discretion

(all referred to in this Agreement as a "Discretion").

15.2 Severance of provisions

- (a) No provision of this Agreement is intended to, or does, constitute any unlawful fetter on any exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:
 - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 15 is substantially satisfied; and
 - (ii) in the event that clause 15.2(a)(i) cannot be achieved without giving rise to a fetter on a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect.

16 Notices

16.1 Notices

- (a) Any Notice that must or may be given or made to a party to this Agreement is only given or made if it is in writing and sent in one or more of the following ways:
 - (i) delivered or posted to that party at its address set out below;

- (ii) faxed to that party at its fax number set out below; or
- (iii) emailed to that party at its email address set out below

Council

Attention	The General Manager
Address	PO Box 122, Muswellbrook, NSW, 2333
Email	council@muswellbrook.nsw.gov.au; and gm@muswellbrook.nsw.gov.au

Dartbrook

Attention	Jeff Beatty
Address	Dartbrook Mine 6 Stair Street Kayuga NSW 2333
Email	jeff.beatty@tetraresources.com.au

- (b) If a party gives the other party 3 Business Days notice of a change of its address, number or email, any Notice is only given or made by that party if it is delivered, posted or emailed to the latest address or email.
- (c) Any Notice is to be treated as given or made at the following time if it is:
 - (i) delivered, when it is left at the relevant address;
 - (ii) sent by post, 5 Business Days after it is posted.
- (d) If any Notice is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5pm on that day in the place of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

16.2 Notices sent by email

- (a) A party may serve a Notice by email if the Notice:
 - (i) includes a signature block specifying:
 - a. the name of the person sending the Notice; and
 - b. the sender's position within the relevant party;
 - (ii) states in the body of the message or the subject field that it is sent as a Notice under this Agreement;
 - (iii) contains an express statement that the person sending the Notice has the authority to serve a Notice under this Agreement; and
 - (iv) is sent to the email address specified in clause 16.1(a) or the email address last notified by the intended recipient to the sender.
- (b) The recipient of a Notice served under this clause 16.2 must:
 - (i) promptly acknowledge receipt of the Notice; and
 - (ii) keep an electronic copy of the Notice.
- (c) Failure to comply with clause 16.2 does not invalidate service of a Notice under this clause.

16.3 Receipt of Notices sent by email

- (a) A Notice sent under clause 16.2 is taken to be given or made:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
 - (ii) when the Notice enters an information system controlled by the recipient; or
 - (iii) when the Notice is first opened or read by the recipient, whichever occurs first.
- (b) If under clause 16.3 a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 5pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

17 Interest to accrue

17.1 Interest

- (a) Dartbrook agrees to pay interest on any amount under this Agreement which is not paid on the due date for payment. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.
- (b) Dartbrook agrees to pay interest under this clause on demand from Council.

17.2 Rate of interest

The rate of interest applying to each daily balance is the maximum rate permitted to accrue on unpaid rates by Section 566(3) of the *Local Government Act 1993* (NSW).

18 General

18.1. Relationship of the Parties

- (a) Nothing in this Agreement constitutes a partnership between the parties, nor does it constitute one party to be the agent of the other.
- (b) A party cannot in any way or for any purpose bind another party or contract in the name of another party.

18.2. Entire Agreement

This Agreement constitutes the entire agreement of the parties in relation to its subject matter and supersedes all prior agreements, understandings and negotiations between the parties. Subject to any contrary requirement of any Law, no other covenants or provisions are implied or arise between the parties by way of collateral or other agreement. The existence of any such implication or collateral or other agreement is expressly negative to the extent permitted by Law.

18.3. Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of or seeks to rely on this Agreement or any part of it.

18.4. Confidentiality

The parties agree that the terms of this Agreement are not confidential and this Agreement may be treated as a public document and exhibited or reported without restriction by any party.

18.5. Governing Law and Jurisdiction

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the New South Wales Courts and Courts competent to hear appeals from those Courts.

18.6. Counterparts

This Agreement may be executed in any number of counterparts and all such counterparts taken together will constitute the same instrument. A party can execute this Agreement by signing any counterpart. Counterparts can be exchanged electronically by way of email.

18.7. Costs

- (a) Dartbrook must pay to Council the Council's reasonable costs (exclusive of GST) and disbursements in connection with the negotiation, preparation, execution, registration and release and discharge of this Agreement and any other document relating to this Agreement, and for all advertising and associated costs, within 7 days of a written demand by Council for such payment.
- (b) Dartbrook must also pay to Council the Council's reasonable costs of enforcing this Agreement within 7 days of a written demand by Council for such payment.

18.8. Further assurances

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

18.9. Representation and warranties

The parties represent and warrant that they have the power and authority to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any Law.

18.10. Severability

Subject to clause 15, this Agreement must, so far as possible, be interpreted or construed so as not to be invalid, illegal or unenforceable in any respect but if any provision on its true interpretation or construction is held to be illegal, invalid or unenforceable:

- (a) that provision will, so far as possible, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation of a partial character; or
- (b) if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Agreement will not in any way be affected or impaired and will continue notwithstanding that illegality, invalidity or unenforceability.

18.11. Waiver

- (a) A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other

Planning Agreement

obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

Schedule 1

Summary of requirements (Section 7.4)

Subject and subsection of the Act	Planning Agreement
Planning instrument and/or Development Application Section 7.4(1)	The Dartbrook Extension Consent approved on 11 March 2022
Description of the land to which the planning Agreement applies Section 7.4(3)(a)	See the definition of Land in clause 1.
The scope, timing and manner of delivery of contribution required by the Planning Agreement Section 7.4(3)(b)	See clause 7.
Applicability of section 7.11 of the Act Section 7.4(3)(d)	Not excluded. See clause 6.
Applicability of section 7.12 of the Act Section 7.4(3)(d)	Not excluded. See clause 6.
Applicability of section 7.24 of the Act Section 7.4(3)(d)	Not excluded. See clause 6.
Mechanism for dispute resolution Section 7.4(3)(f)	See clause 11.
Enforcement of the Planning Agreement Section 7.4(3)(g)	See clause 12.
Registration of the Planning Agreement Section 7.4(3)(g)	To be registered against the Land. See clause 8.
No obligation to grant consent or exercise functions Section 7.4(9)	See clauses 14 and 15.

Schedule 2 Contributions

Description of Contribution Column 1	Purpose of Contribution Column 2	Initial Contribution Column 3	Funding Timeframe Column 4
Dartbrook community contribution	Funding for the provision of public infrastructure and services within the Muswellbrook Shire local government area.	\$450,000 per year plus CPI calculated in accordance with clause 7.4.	Dartbrook must pay an annual financial contribution of \$450,000, plus CPI, paid in Quarterly Instalments commencing 11 March 2022.
Contribution of funding toward an environmental officer	Funding toward an environmental officer, who will be responsible for environmental matters associated with development in the Muswellbrook Shire local government area.	\$20,000 per year plus CPI calculated in accordance with clause 7.4..	Dartbrook must pay an annual financial contribution of \$20,000, plus CPI, paid in Quarterly Instalments commencing 11 March 2022.
Training of apprentices	To assist in building a skilled labour force in the Muswellbrook Shire local government area.	Use best endeavours to engage 2 apprentices, at any one time, sourced from residents within the Muswellbrook Shire local government area.	
Contribution to road maintenance relevant to the Dartbrook Extension Consent's traffic contribution.	Funding towards road maintenance relevant to the Dartbrook Extension Consent's traffic contribution.	\$10,000 per year plus CPI calculated in accordance with clause 7.4.	Dartbrook must pay an annual financial contribution of \$10,000, plus CPI, paid in Quarterly Instalments commencing on the date of this Agreement.

EXECUTED AS AN AGREEMENT:

EXECUTED by **Muswellbrook Shire Council**)
ABN 86 864 180 944 by its authorised delegate)
pursuant to Section 377 of the *Local*)
Government Act 1993 (NSW), in the presence
of:

.....
Signature of Witness

.....
Authorised Delegate

.....
Name of Witness (Print)

.....
Name of Authorised Delegate

EXECUTED by **AQC Dartbrook Management**)
Pty Ltd ABN 62 007 377 577 in accordance with)
Section 127 of the *Corporations Act 2001 (Cth)*:)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director (Print)

.....
Name of Director/Secretary (Print)

Appendix 5 - General Terms of Applicant's VPA Offer
Components of Proposed Planning Agreement with MSC

Description of Contribution	Quantity	Purpose of Contribution
Dartbrook Community Contribution	\$408,000.00 per annum payable in 12 equal monthly instalments commencing from the date of the approval of Modification 7 to DA 231-7-2000. This amount will be indexed annually according to the Consumer Price Index (CPI).	Funding for the provision of public infrastructure and services within the Muswellbrook LGA. This figure is arrived at consistently with other Shire approvals, at 6.8c multiplied by the maximum approved ROM rate of 6mtpa.
Contribution of funding toward an Environmental Officer	\$10,000 per annum. This amount will be indexed annually according to the Consumer Price Index (CPI).	Funding toward an Environmental Officer, who will be responsible for environmental matters associated with development in the Muswellbrook LGA. Noting that the same condition is inserted in proposed UHSC VPA.
Training of Apprentices	Target of two apprentices at any given time with preference given to residents of Muswellbrook & Upper Hunter Shire LGA's	To assist in building a skilled labour force within the Muswellbrook & Upper Hunter Shire LGAs. Same condition proposed in UHSC VPA.
Revision of the Mine Affected Roads Study	Consultant or contractor costs of reviewing and revising the Mining Affected Road Network Plan (or equivalent) as it relates to or is impacted upon by the project together with the proportional contribution, reasonably assessed, payable pursuant to the Mining Affected Road Network Plan (as amended) including the associated Contributions Plan, to MSC for the construction, renewal upgrade or maintenance of road infrastructure.	To reimburse MSC for a revision to the relevant aspects of the Mining Affected Roads Plan (as is relevant to the proposed Modification to DA 231-7-2000 to incorporate the traffic generated by the Modification). Contribute to road upgrades relevant to the modification's traffic contribution.



9.1.4. Landcare Grants

Attachments:	Nil
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Michael Brady – Sustainability Officer - Waste
Community Plan Issue:	3 - Environmental Sustainability
Community Plan Goal:	An environmentally sensitive and sustainable community
Community Plan Strategy:	3.2.1 - Support Landcare initiatives and advocate for programs to enhance native vegetation connectivity across the Shire and Upper Hunter Region. 3.2.1.1 - Provide funds for local Landcare activities

PURPOSE

To request Council's approval to offer grant funding to groups as part of the Small Landcare Grants Program. Council received four applications, and all four applications satisfy the criteria for funding.

OFFICER'S RECOMMENDATION

Council approves grant funding under the Small Landcare Grants Program for:

- A. Martindale Creek Catchment Landcare Inc. - \$8000
- B. Hunter Sustainability Landcare Team - \$800
- C. Lake Liddell Recreation Area Reserve Land Manager - \$1134
- D. Muswellbrook Golf Club (Muswellbrook RSL Sub Branch) - \$2008.60

Moved: _____ **Seconded:** _____

BACKGROUND

At the 27 September 2022 Ordinary Council Meeting, Council endorsed the recommendations contained in the Major Landcare Projects report. Council's resolution in relation to the report was:

9.1.1 Major Landcare Projects

67 *RESOLVED on the motion of Cr J. Drayton and Cr D. Marshall that:*

Council approves the allocation of the Major Landcare Projects budget as itemised in the report.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, and Cr B. Woodruff

Against: Nil.

One of the recommendations was to allocate \$22 000 Ex GST in funds towards Landcare Small Grants. The purpose of the grants was to support community groups with grants of up



to \$8,000 (dollar for dollar matched, in-kind contributions considered but not preferred).

Small Landcare Grants opened 28 September 2022 and closed 31 October 2022. The Grants were promoted via a media release, an article in the Hunter River Times, and on Facebook.

Landcare Small Grants are made available to Landcare, community, and educational groups within the Shire. These grants were managed using the same methods and criteria as was applied in 2021-22. The first round of grant funding was targeted towards larger Landcare projects. Another round of funding will now be made available targeting educational projects. Any remaining funding will be used on revegetation works on Muscle Creek and in Denman.

CONSULTATION

Director Environmental and Planning Services

REPORT

On 3 November 2022, Council staff assessed the applications that were received using the criteria below:

- The improvement the project will have on the environment.
- The impact the project will have on increasing environmental awareness and educating the community about environmental issues.
- The likelihood of success of the project.

Scores were rated 1 = low and 10 = high.

Following this assessment staff make the following recommendations.

Organisation	Amount requested	Description of project	Average Score	Recommendation
Martindale Creek Catchment Landcare Inc.	\$8000	Working with at least 21 property owners to complete weed control over 30km of riparian zone of Martindale Creek.	8.6	Approve
Hunter Sustainability Landcare Team	\$800	Erect a new shed at the Sustainability Hub.	5.6	Approve
Lake Liddell Recreation Area Reserve Land Manager	\$1134	Planting 800 plants on NE area of Reserve with the aid of drill and auger.	6.3	Approve
Muswellbrook Golf Club (Muswellbrook RSL Sub Branch)	\$2008.60	Weed control along Muscle Creek riparian zone.	6.1	Approve



OPTIONS

1. Accept the recommendations from staff on approving all the grant requests.
2. Reject the recommendations.
3. Propose alternatives.

CONCLUSION

Council received four requests for funding for landcare small grants. There is \$22 000 Ex GST in funds available in the budget for Landcare Small Grants. As all the requests meet the criteria and there are sufficient funds in the budget, it is recommended that the four applications be approved.

SOCIAL IMPLICATIONS

Landcare Grant funded projects can have a positive social impact on a local community.

FINANCIAL IMPLICATIONS

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Funded through the Major Landcare Projects budget (General Ledger number 3920.5617.504). This budget contains sufficient funding to enable the awarding of the grants recommended in the report.

2. Financial Implications – Operational

All projects recommended are expected to create minimal maintenance that can be completed through existing staff and resources.

POLICY IMPLICATIONS

Environmental Sustainability Policy S32/1

Key Sustainability Principles

The Environmental Sustainability Policy will be pursued by Muswellbrook Shire Council through the following key principles:

1. Operations that demonstrate sustainable environmental management.
2. Provide leadership and actions for achieving environmental sustainability
3. Pursue ecologically sustainable land use and development.
4. Collaborate with the community and other stakeholder groups to protect and preserve the natural environment.
5. Support and regulate activities of others within its control to protect the environment.

STATUTORY IMPLICATIONS

Muswellbrook Shire Council is committed to environmental sustainability and adherence to sections 7 and 8 of the Local Government Act that states:

s.8(1) to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.



LEGAL IMPLICATIONS

Not applicable

OPERATIONAL PLAN IMPLICATIONS

The Muswellbrook Shire Council Operational Plan 2022/2023.

Community Strategic Plan Goal 3: An environmentally sensitive and sustainable community.

CSP Strategy 3.2: Improve native vegetation connectivity across the upper hunter region.

3.2.1 Support Landcare initiatives and advocate for programs to enhance native vegetation connectivity across the Shire and upper hunter Region.

3.2.1.1 Provide funds for local Landcare activities.

3.2.1.2 Liaise with Local Land Services to advocate for projects in the Shire.

CSP Strategy 3.3: Enhance our local rivers and creeks to improve environmental outcomes and access for recreation.

3.3.1 Implement funded actions of the adopted Urban Riparian Masterplan.

3.3.1.2 Maintain rehabilitation works along Muscle Creek, Karoola Wetlands and Denman.

CSP Strategy 3.4: Support initiatives which reduce the community's impact on the environment

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Staff will work with the media and communications team to help promote Landcare Grant funded projects.



9.1.5. Waste Extension Consultation

Attachments:	Nil
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	{a Michael Brady, Joann Polsen – Sustainability Officer - Waste
Community Plan Issue:	2 - Social Equity and Inclusion
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.3.1 - Water, sewerage and waste services are provided in compliance with regulatory requirements. 3.4.1.1 - Assist Council, households and businesses to manage waste effectively and use water and energy efficiently.

PURPOSE

To update Council on the community consultation completed as part of the waste service extension proposal.

OFFICER'S RECOMMENDATION

Council resolves not to proceed at this time with an extension of waste services to rural areas outlined in this report.

Moved: _____ **Seconded:**

BACKGROUND

At the Ordinary Council meeting on 24 May 2022 Council endorsed the following recommendation:

Approves staff to commence consultation with affected landowners regarding extending the waste services to new areas.

Staff commenced consulting and informing property owners in the following two areas:

1. Sandy Hollow to UHSC Boundary via Golden Highway.
2. Muswellbrook to UHSC Boundary via New England Highway.

CONSULTATION

Customer Service and Administration.

Finance

Acting General Manager



REPORT

A detailed letter explaining the proposal was sent to the owners of properties. Property owners were asked to complete a survey and return in a reply-paid envelope within 1 month. Follow up phone calls were also attempted by staff where Council held records of phone numbers.

Only 13% of contacted property owners responded, and 3% of the contacted property owners actually want a service. The majority of respondents indicated they did not want the waste service extended to their property. The responses received are detailed below:

Sandy Hollow to UHSC Boundary

Out of 39 letters sent to property owners, 4 responses were received:

- 1 owner would like to receive a kerbside collection.
- 2 owners do not want to receive a kerbside collection.
- 1 owner would only like other alternatives investigated.

Responses also indicated that there was interest for alternatives to be investigated (bin bank in a central location, pre-paid vouchers for the waste facility, drop off days) and for an information session.

Muswellbrook to UHSC Boundary

Out of 29 letters sent to property owners, 5 responses were received:

- 1 owner would like to receive a kerbside collection.
- 3 owners do not want to receive a kerbside collection.
- 1 owner would like an alternative investigated (pre-paid vouchers for the waste facility).
- 1 owner sent an email, detailing that Transport for NSW is in the process of acquiring a portion of their property that fronts the New England Highway, suggesting their property would not have direct access to the highway for a service to be provided once the portion is acquired.

At the Ordinary Council meeting on 24 May 2022 Council indicated that 50% of affected property owners would need to agree to a kerbside collection before Council would decide to extend the waste collection service.

OPTIONS

Option 1

Council resolves to not proceed with extending waste services to the two areas as outlined in this report at this time.

Option 2

Council requests that staff to undertake further consultation within the two areas outlined in this report, for example:

Hold community meetings/listening posts at locations convenient to residents within these areas.

Obtain phone numbers for property owners and call each of them to seek a response to the survey.

Conduct a door knock of all residents within the proposed areas.

If Council decides that further consultation should occur, then the necessary staff resources need to be allocated to the consultation method determined.



CONCLUSION

Due to feedback from property owners, it is recommended that Council does not extend the Waste Collection Service to these areas at this time:

1. Sandy Hollow to UHSC Boundary via Golden Highway.
2. Muswellbrook to UHSC Boundary via New England Highway.

SOCIAL IMPLICATIONS

Extending waste services to new areas provides Council with the opportunity to improve equitable delivery of services to more people in the community. The extension of waste services could be more valuable to community members who currently find it difficult to properly dispose of their waste. For example, those with access to a suitable vehicle and those with physical limitations.

Providing a waste collection service may reduce potential for property owners to manage waste by burning or burying on-site, taking unsorted waste to the waste facilities or using a contractor to dispose of unsorted waste.

FINANCIAL IMPLICATIONS

Financial Implications – Operational

Extension of the Waste Collection Zone and rollout of bins to outlying properties would increase Waste Collection Contract costs, balanced by increase to income from waste charges.

If Council was to decide to extend waste services, consideration would need to be given to the implications on rate income. Depending on the number of properties who are offered the extended service and the number of properties who take up the service, ratepayers within the current urban waste zone may need to pay more to cover the cost of the extended service.

POLICY IMPLICATIONS

Nil.

STATUTORY IMPLICATIONS

Council must collect the domestic waste management service levy from every parcel of rateable land that the service is available to regardless of whether it is actually provided to a particular parcel of rateable land, in accordance with Section 496 of the Local Government Act.

LEGAL IMPLICATIONS

Nil.

OPERATIONAL PLAN IMPLICATIONS

Submission of the report complies in principle with item 20.1 of the Operational Plan: 'Provide safe, secure, efficient and effective water, sewerage and waste services in compliance with regulatory requirements.'

RISK MANAGEMENT IMPLICATIONS

Possible risk implications are residents' expectations that a waste extension service will be provided.



WASTE MANAGEMENT IMPLICATIONS

Providing a source separated collection service will reduce the amount of mixed/general waste being disposed of in land fill and will increase the recycling of suitable materials.



9.1.6.	Monthly Report to Council - Planning, Environment and Regulatory Services
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Attachments:	Nil
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Responsible Officer: Sharon Pope - Director - Planning & Environment

Author: Tracy Ward, Michael Brady, Emily Lane – Sustainability Officer (Mon - Thurs)

Community Plan Issue: 6 - Community Leadership

Community Plan Goal: Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy: 6.2.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ **Seconded:** _____

REPORT

PLANNING AND ENVIRONMENT

Schedule 1: Development Applications Approved (01/10/2022-31/10/2022)

DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/119	Ancillary Development - Shed	110 Ironbark Road Muswellbrook	\$53,859.00
2022/106	Patio attached to Existing Dwelling	52 Stockyard Parade Muswellbrook	\$13,800.00
2022/104	Ancillary Development - Detached Garage and Colourbond Fence	1 Fontana Way Denman	\$12,000.00
2022/101	Ancillary Development - Shed with Toilet, Shower & Handbasin	14 Lorne Street Muswellbrook	\$81,500.00
2022/98	Demolition of existing slab and shed and construction of Shed	7 Jenkins Street Muswellbrook	\$15,000.00
2022/10	S4.55 (2) Modification-Shed with Bathroom and 2 Water Tanks	8 Yammanie Way Muswellbrook	\$65,000.00



DA No.	DESCRIPTION	PROPERTY	VALUE (\$)
2022/94	Dwelling	234-236 Queen Street Muswellbrook	\$522,220.00
2022/88	Detached Double Garage	4 Sheppard Avenue Muswellbrook	\$19,990.00
2022/83	Alterations and additions to residential + Ancillary Development Shed	8 Clifford Street Muswellbrook	\$100,000.00
2022/71	Farm Shed	433 Dalswinton Road Dalswinton	\$175,000.00
2022/66	Two (2) Lot Subdivision of land and Dwelling	146 Palace Street Denman	\$346,500.00
2021/162	Ancillary Development - Carport	2 Hyde Street Denman	\$10,000.00
2021/138	Ancillary Development - Shed	24 Paxton Street Denman	\$45,579.00
2021/87	Alterations and additions to commercial + Change of Use	12 Ogilvie Street Denman	\$431,200.00

TOTAL = 14

Schedule 2: Development Applications Currently Being Assessed

As at 08/11/2022

DA No.	DESCRIPTION	PROPERTY	VALUE
2022/133	Retaining Wall	15 Lou Fisher Place Muswellbrook	\$15,000
2022/131	Ancillary Development - Shed	69 Stockyard Parade Muswellbrook	\$19,800
2018/54	S4.55 (1A) Modification - Demolition of a Commercial Building and the Construction of a Two (2) Storey Building for Use as a Tertiary Education Establishment and Food and Drink Premises, Alterations and Additions to the 'Loxton House', Heritage Listed Item, Level 1 ancillary office. Alterations and Additions to the Muswellbrook Public Library and Ancillary Works	140 Bridge Street Muswellbrook	\$3,556,300
2022/130	Detached Secondary Dwelling	13 Merton Street Denman	\$208,370



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/128	Single Storey Dwelling	60 Stockyard Parade Muswellbrook	\$426,445
2022/87	S4.55 (1A) Modification Single Storey Dwelling	63 Stockyard Parade Muswellbrook	\$410,935
2021/45	S4.55 (1A) Modification - Category 2 Rural Fire Service Shed	20 Dorset Road Kayuga	\$800,000
2022/127	Ancillary Development - Shed	90-92 Palace Street Denman	\$19,800
2022/126	Ancillary Development - Shed	23 Pendula Way Denman	\$18,784
2022/126	Two Storey Dwelling	207 Ferndale Road Yarrawa	\$189,871
2022/122	Subdivision of One (1) Lot into Two (2) Lots	59 Tindale Street Muswellbrook	\$20,000
2022/123	Single Storey Dwelling	59 Babbler Crescent Muscle Creek	\$520,385
2022/109	Ancillary Development - Garage	9 Aberdeen Street Muswellbrook	\$73,507
2020/43	S4.55 (1A) Modification - Modification of the Animal Boarding Establishment and Community Facility Stormwater Drainage Infrastructure	127-129 Sydney Street Muswellbrook	\$350,000
2002/205	S4.55(1A) - Extension of coal haulage operations	Limestone Road Muswellbrook	\$0
2022/120	Single Storey Dwelling	67 Stockyard Parade Muswellbrook	\$464,271
2022/118	Ancillary Development - Shed	7 Shaw Crescent Muswellbrook	\$48,300
2022/117	Inground Swimming Pool & Associated Safety Barrier	9 Sepoy Crescent Muswellbrook	\$43,620
2022/107	Single Storey Attached Dual Occupancy & Two (2) Lot Strata Subdivision	48 Finnegan Crescent Muswellbrook	\$702,182
2022/115	Shed	11 Jillaroo Way Muswellbrook	\$63,000



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/114	Dwelling- Single storey dwelling with attached garage	82 Babbler Crescent Muscle Creek	\$427,487
2022/111	Temporary Event (Charity Bike Show)	1-3 Ogilvie Street Denman	\$0
2022/112	Carport	59 Shiraz Street Muswellbrook	\$12,600
2022/108	Ancillary Development - Carport	82 Paxton Street Denman	\$5,418
2022/102	S4.55 (1A) Modification Ancillary Development - Shed	7 Bronte Crescent Muswellbrook	\$0
2022/110	Carport	18 Weemala Place Muswellbrook	\$12,541
2022/105	Dwelling	20 Lou Fisher Place Muswellbrook	\$440,000
2017/18	S4.55 (1A) Modification - Modification to Outdoor Gaming Area and Car Park Arrangement	15 Sydney Street Muswellbrook	\$0
2021/30	S4.55 (2) Modification - Permanent Approval of 24 hour 7 day a week drive-thru trading hours (the trading hours referenced are currently approved for the premises for a trial period)	83-89 Maitland Street Muswellbrook	\$0
2022/103	Detached Garage with Awning	32 George Street Muswellbrook	\$28,605
2022/102	Dwelling	16 Almond Street Denman	\$326,000
2019/5	S4.55 (1A) Modification - Revised Caravan Park Site Layout	9080 New England Highway Muswellbrook	\$0
2022/100	Dual occupancy	67a Queen Street Muswellbrook	\$540,000
2022/99	Demolish Existing Garage and build New Garage	4 Hillview Avenue Muswellbrook	\$12,000
2022/97	Ancillary Development - Shed	23 Adams Street Muswellbrook	\$13,000
2022/96	Signage	72-78 Brook Street Muswellbrook	\$10,000



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/95	Staged Demolition of Existing Buildings and Construction of New Grandstand and Amenities.	3 Wilkinson Avenue Muswellbrook	\$9,455,600
2022/92	Subdivision of One (1) Lot into One Hundred & Ninety Four (194) Residential Lots	Almond Street Denman	\$18,284,734
2022/89	Single Story Dwelling with attached Garage	69 Stockyard Parade Muswellbrook	\$617,277
2021/158	S8.2 Review - Change of Use to Health Services Facility	79 Brook Street Muswellbrook	\$0
2009/48	S4.55 (1A) - Amend Approval Indefinitely for Motorcycle Track	Jerrys Plains Road Denman	\$0
2022/82	Ancillary Development - Shed	41 Stockyard Parade Muswellbrook	\$42,500
2022/81	Single Storey Dwelling	15 Lou Fisher Place Muswellbrook	\$321,670
2022/80	Remediation and Earthworks	Coal Road Muswellbrook	\$2,516,829
2022/76	Caravan Park, Two (2) Amenity Blocks, New Driveway area and Landscaping	66 Palace Street Denman	\$254,250
2022/75	Three (3) Lot Subdivision	18-22 Kenilworth Street Denman	\$15,000
2022/57	Ancillary Development - Shed	29 Stockyard Parade Muswellbrook	\$30,980
2022/45	Manufactured Home and Associated Structures	120 Yarraman Road Muswellbrook	\$417,100
2022/42	Single Storey Dwelling and Detached Secondary dwelling	62 Brentwood Street Muswellbrook	\$429,370
2002/205	S4.55 (1A) Modification - Changes in Rehabilitation Framework	Muscle Creek Road Muscle Creek	\$0
2022/39	Single Storey Dwelling	35 Babbler Crescent Muscle Creek	\$468,700
2022/38	Change of use from Dwelling to Restaurant and Internal Fitout	43 Maitland Street Muswellbrook	\$98,000



DA No.	DESCRIPTION	PROPERTY	VALUE
1995/410	S4.55 (1A) Modification - Request to Extend Operational time of Existing Development.	Dalswinton Road Dalswinton	\$0
2022/32	Internal alterations, upgrade to access and amenities	2 Market Street Muswellbrook	\$50,000
2022/30	Steel Framed Deck 7 Internal Fit Out	93a Hill Street Muswellbrook	\$30,000
2022/29	Single Storey Dwelling	10 Babbler Crescent Muscle Creek	\$472,370
2022/21	Single Storey Dwelling	25 Northerly Close Muswellbrook	\$396,515
2022/5	Storage Facility & Signage	Victoria Street Muswellbrook	\$1,304,330
2021/137	Change Of Use to Educational Facility	820 Rosemount Road Denman	\$0
2021/129	Animal Boarding & Training Facility	1949 Martindale Road Martindale	\$33,338,800
2021/125	Self Storage Facility	Turner Street Denman	\$3,555,527
2021/73	Temporary use of the land for receival and dismantling of rail wagons with off-site disposal	18 Strathmore Road Muswellbrook	\$50,000
2021/58	Organics Recycling Facility	252 Coal Road Muswellbrook	\$3,850,000
2020/102	Hotel Accommodation (Royal Hotel)	10 Ogilvie Street Denman	\$20,000
2020/83	Subdivision of one lot (1) into three (3)	60-62 Palace Street Denman	\$10,000
2020/7	Additions and Alterations to existing Hotel	184 Bridge Street Muswellbrook	\$110,000
2019/53	Subdivision of Two (2) Lots into Seventy Five (75) Lots	9027 New England Highway Muswellbrook	\$4,875,600
2022/134	120 square metre shed.	17 Stockyard Parade Muswellbrook	\$20,000
2022/132	68 lot subdivision (65 residential lots) 110 place Childcare Centre	9036 New England Highway Muswellbrook	\$5,700,000



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/129	Hair and beauty premises	100 Yarrawa Deviation Rd Yarrawa	\$5,000
2022/124	Construction of shed for use as a community facility	17-19 Maitland Street Muswellbrook	\$182,720
2022/121	Construction of a single storey dual occupancy dwelling	12 Bimbadeen Drive Muswellbrook	\$675,000

TOTAL = 78

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)

	Oct	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Applications Received (new installation)	0	0	0	0	0	3	0	0	0	0	3	2	0
Applications Approved (new installation)	0	0	0	0	0	2	1	0	0	2	2	0	0
Inspections (new system)	0	0	0	3	0	2	0	1	0	0	0	0	0
Inspections (existing system)	34	0	0	14	3	7	0	18	39	1	1	0	0



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.

	Oct	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Applications Received (new businesses)	0	0	0	0	1	1	0	0	1	3	3	7	1
Inspections (new businesses)	0	0	0	1	1	0	0	0	3	1	0	8	1
Inspections (existing businesses)	0	0	0	11	16	10	1	12	13	0	0	0	0
Reinspections	0	0	0	0	1	2	1	0	0	0	0	0	0

4.1.1.1 Reduce the environmental impact of development on our community by carrying out regular inspection of building sites and monitoring waste.

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

	Oct 21	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Total Sites Inspected				6	7	8	7	6	9	0	0	0	23
Total non-compliant and educated				1	0	0	0	0	0	0	0	0	0
Total compliance after education				1	0	0	0	0	0	0	0	0	23
Total Penalty Notices Issued				0	0	0	0	0	0	0	0	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

13 Month Analysis (2021/2022)

	Oct 21	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Total Investigations				1	2	4	6	5	3	3	7	1	0
Total Clean up by Council - insufficient evidence				1	2	4	6	5	3	2	7	1	0
Total Clean Up by individual				0	0	0	0	0	0	1	0	0	0
Total Penalty Notices Issued				0	0	0	0	0	0	1	0	0	0
Court Attendance Notice Issued				0	0	0	0	0	0	0	0	0	0
Still under investigation				0	0	0	0	0	0	0	0	0	0

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

13 Month Analysis (2022-23) – as at 08/11/2022

	Oct	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
Applications for Compliance Certs.	11	5	8	5	6	1	1	7	3	1	5	3	3	59
Initial Inspections	7	21	7	5	9	0	2	3	0	18	11	8	8	99
Re-inspections	2	5	2	1	5	0	0	1	0	6	7	9	1	39
Total compliance inspect	9	26	9	6	14	0	2	4	0	24	18	17	9	138



	Oct	Nov	Dec	Jan 22	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
ions (not inc. finals for OCs)														
Compliance Certs / Occ. Certs issued	2	6	4	6	9	0	4	4	1	5	13	7	2	63

Total Pools in Council's SPR = 971

(Note: 1106 records in SPR but 132 have been notified as demolished, 2 are Council's Public Pools and 1 is on Crown Land)

Compliance as at 30 June 2015 = 18.8%

Compliance as at 30 June 2016 = 44.3%

Compliance as at 30 June 2017 = 63.7%

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 30 June 2022 = 23.7%

Compliance as at 08 November 2022 = 25.85% (251 compliant out of 971 pools)

(Note: Certificate is valid for 3 years)

Tourist/visitor accommodation or properties with pools where there are more than two dwellings

8 out of 8 sites have valid compliance certificates.

Key Date – 29 April 2014:

- Tourist and visitor accommodation, or properties where there are more than 2 dwellings, must have a swimming pool inspection at least once every 3 years.

Key Date – 29 April 2016 (originally 29 April 2014, then 29 April 2015):

- Pools on properties intended to be leased require valid Compliance Certificate. Pools on properties intended to be sold require a valid Compliance Certificate or Certificate of Non-Compliance.

**SUSTAINABILITY**

SUSTAINABILITY UPDATE - 19 September to 19 October 2022

Muswellbrook Connect

The next workshop for interested community groups will be held on Wednesday 23 November at 4:00pm at the Muswellbrook Girl Guide Hall on Wilkinson Ave.

Aussie Bird Count 2022

The count ran from the 18th to 24th October 2022.

- 68 observers participated in the bird count.
- Observers recorded a total of 5,557 individual birds during Bird Week.
- 111 bird species were recorded (Table 1).

A morning bird watching event along Muscle Creek was held during this period. We have now recorded 42 bird species. Over 2 days Liz from the Hunter Bird Observers Club (HBOC), with support from Muswellbrook Shire Council's Sustainability Unit, visited 8 schools/preschools to give a presentation about the 2022 Aussie Bird Count that starts on Monday.

Pictured is Liz and the students from Martindale Public School. This project has been assisted by the NSW Government through its Environmental Trust.

**Worm to Reduce Food Waste**

Educating and encouraging our community to use worms for composting or worm farming is a great way to engage residents about the topic of food waste. Over the past month 45 worm farms have been sold to residents at a discounted rate. In a normal month about 5 are sold.

20 people attended D I Y worm farm activities at the Denman and Muswellbrook Libraries.

A worm farm was donated to the Denman Children's Centre.

Landcare Grants

Grants were opened and are for any project with environmental protection or environmental rehabilitation (e.g., weed removal, erosion control, planting native plants to stabilise the banks of watercourses, fencing off areas to restrict damage by hard hoofed animals etc) as the major objective. Grants are also for projects with environmental education as the major

objective.

Penguin Community Garden

The Sustainability Unit continues to support the Penguin Community Garden. Come to share knowledge and skills in gardening, worm farming and composting. Any skill, knowledge level and age welcome.



Battery Recycling in Denman

Thanks to those great Denman residents (and visitors) for taking their problem wastes to the mini-Community Recycling Centre at the Denman Craft Shop (next to Denman Library). Here you can drop off domestic quantities of household batteries, ink cartridges, mobile phones and smoke detectors for free.



Integrated Living Carers Day

Sustainability staff attended the Integrated Living Carers Day to give information to residents about Council matters.

Sustainable Futures – Muswellbrook

The popularity of the Sustainable Futures – Muswellbrook Facebook page continues to grow. It has now received 1,555 page likes and 1,683 page followers.

Rehabilitation of Muscle Creek Project

Maintenance and weed control works have continued as part of the Rehabilitation of Muscle Creek Project. This has also involved preparing for erosion control and tree planting activities in September 2022 and March 2023. This project has been assisted by the NSW Government through its Environmental Trust.



Muscle Creek – AGL Muscle Creek Walkway Project

Work continues for the development of 6 augmented reality (AR) experiences along the Muscle Creek walking loop. Maintenance work for the recently planted 1500 native seedlings continues. This work has many challenges as the steep slopes do not allow for mulch and makes getting water to plant roots more difficult.



9.2. Community Infrastructure

9.2.1. Mount Pleasant Operations Interim Water Discharge Pipeline Section 138 Roads Act 1993 Approval

Attachments:	<ol style="list-style-type: none">1. MACH Energy Interim Water Discharge Arrangement S 138 FINAL (002) [9.2.1.1 - 9 pages]2. MACH Energy Interim Water Discharge Pipeline Special Conditions [9.2.1.2 - 3 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Imelda Williams – Traffic & Roads Status Officer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.3 - Facilitate investment in high quality community infrastructure necessary to a Regional Centre.

PURPOSE

The report requests Council's approval of a section 138 permit under the Roads Act 1993 for the MACH Energy Mount Pleasant Mine Interim Water Discharge Pipeline Project across Council's Public Roads.

OFFICER'S RECOMMENDATION

1. Council delegates to the Acting General Manager authority to sign the Section 138 Roads Act 1993 approval generally in accordance with the special conditions set out in the attachment to this report; and
2. As per the conditions outlined in 1 above, prior to construction works within Council's road reserves, fees are to be paid, insurances provided, detailed design plans are to be submitted and certified by a suitably qualified consultant and accepted by the Acting General Manager.

Moved: _____ **Seconded:** _____

BACKGROUND

MACH Energy Australia (MACH) seeks approval to install and maintain a utility service crossing within Council's road reserves. The service crossings will facilitate the transfer of water from the Mount Pleasant Operations mine lease via pipeline to the Hunter River in accordance with Schedule 3 Condition 26 of DA 92/97 Water Discharges.

CONSULTATION

AECOM Australia Pty Ltd, Bengalla Mining Company, Roads Drainage & Technical Services.



REPORT

MACH Energy and Bengalla Mining Company are currently conducting engineering design for the new Mount Pleasant Operations Controlled Release Dam (DW1). This s.138 Roads Act 1993 permit relates to interim pipeline and controlled discharge facilities from the existing Mine Water Dam constructed on the northern side of Wybong Road to the Hunter River via a tributary west of the Bengalla Mine.

The scope of works for this permit impacts three (3) road crossings shown in Attachment 1. These include the use of two (2) unused road service crossings and one (1) under bore at Bengalla Link Road.

The preferred pipeline alignment option shown in Attachment 2 will impact Bengalla Link Road reserve immediately adjacent to the property boundary for a short distance. The pipeline will be buried through this area, including prior to the entry and on exit from the road reserve. The under bore across Bengalla Link Road will commence and finish outside the road reserve.

There will be minimal disruption to traffic during the above works as the pipeline will be installed immediately adjacent to the boundary fence and all works will be accessed from within the adjacent freehold land.

The under bore will have a general arrangement similar to the details provided in Attachment 3 previously constructed on Wybong Road in 2019 which specifies for the pipeline to be laid within a steel sleeve conduit placed at a minimum depth under the road pavement, to top of conduit of 1.5m.

The service crossings will remain in place until 2048 while they are required to service the scope outlined in DA 92/9, and the recently approved SSD-10418.

OPTIONS

Council may decide to:

- Approve the delegation to the General Manager to issue this consent for works under Section 138 of the Roads Act 1993 with the conditions recommended by staff; or
- Request modifications to the conditions; or
- Refuse the delegation.

CONCLUSION

The report provides information in relation to a section 138 *Roads Act 1993* application, which is currently progressing to final design, and is a result of conditions of consent for the development of Mount Pleasant Mine. The application appears to satisfy all of the usual conditions that apply to applications of this nature. Therefore, it is recommended that Council approves the delegation to the Acting General Manager to issue this consent for works under Section 138 of the Roads Act 1993 with the conditions recommended by staff.

SOCIAL IMPLICATIONS

There will be minimal disruption to traffic as the works are away from the travel lanes and mostly located adjacent to the fence line.



FINANCIAL IMPLICATIONS

The cost of all works undertaken will be the responsibility of the applicant. Council will cover its costs through the s138 *Road Act 1993* Consent Conditions.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Not applicable

2. Financial Implications – Operational

Ongoing maintenance cost of the works within the road reserve will be the responsibility of the applicant.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

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

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

Risk is managed through the engagement of suitably qualified consultants required to submit and certify designs for the infrastructure to be placed within Council's road reserve, and Council staff acceptance of the designs and oversight of the construction. Works are required to comply with all relevant standards, for example, the Transport for NSW guideline 'Traffic Control at Work Sites'. A removal bond for the infrastructure located within the road reserve will be imposed under the conditions of consent for the works at the time of the approval of s138 Roads Act 1993 application.

WASTE MANAGEMENT IMPLICATIONS

Not applicable

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

MACH Energy will advise the community via their newsletter and any affected residents will be notified prior to construction works commencing.

23 September 2022

Muswellbrook Shire Council
Campbell's Corner 60-82 Bridge St
PO Box 122
Muswellbrook
NSW 2333

Attention: Kellie Scholes – Manager Roads Drainage and Technical Services
council@muswellbrook.nsw.gov.au

Dear Kellie,

RE: MACH Energy S138 Application – Interim Water Discharge Pipeline

MACH Energy Australia (MACH) seeks approval to install and maintain service crossings within Council's road reserves. The service crossings will facilitate the transfer of water from the Mount Pleasant Operations mine lease via pipeline to the Hunter River in accordance with Schedule 3 Condition 26 of DA 92/97 – Water Discharges.

MACH and the Bengalla Mining Company (BMC) are currently conducting engineering design for the new Mount Pleasant Operation Controlled Release Dam (DW1). This S138 application relates to an interim arrangement which includes part construction of the DW1 scheme including the construction of a pipeline and controlled discharge facilities from the existing Mine Water Dam (MWD) to the Hunter River via the unnamed tributary west of the Bengalla Mine.

Scope of Works

The scope of works for this permit application addresses three road crossings shown in **Attachment 1**, including two paper road service crossings and one under bore at Bengalla Link Road.

The preferred pipeline alignment option (**Attachment 2**) will step into the Council road reserve for a short distance. The pipeline will be buried through this area including prior to entry and on exit from the road reserve. The under bore will commence and finish outside the road reserve.

It is anticipated there will be minimal disruption to traffic during the above works as the pipeline will be immediately adjacent to the boundary fence with all works accessed from within the adjacent freehold land.

The under bore will have a general arrangement like the detail in **Attachment 3**.

The service crossings will remain in place while they are required to service the scope outlined in DA 92/97, and the recently approved SSD-10418 to 2048.

A completed S138 Activity Permit Application accompanies this letter.

Please do not hesitate to contact the undersigned on 0411 440 912 should you wish to discuss.

Yours sincerely,

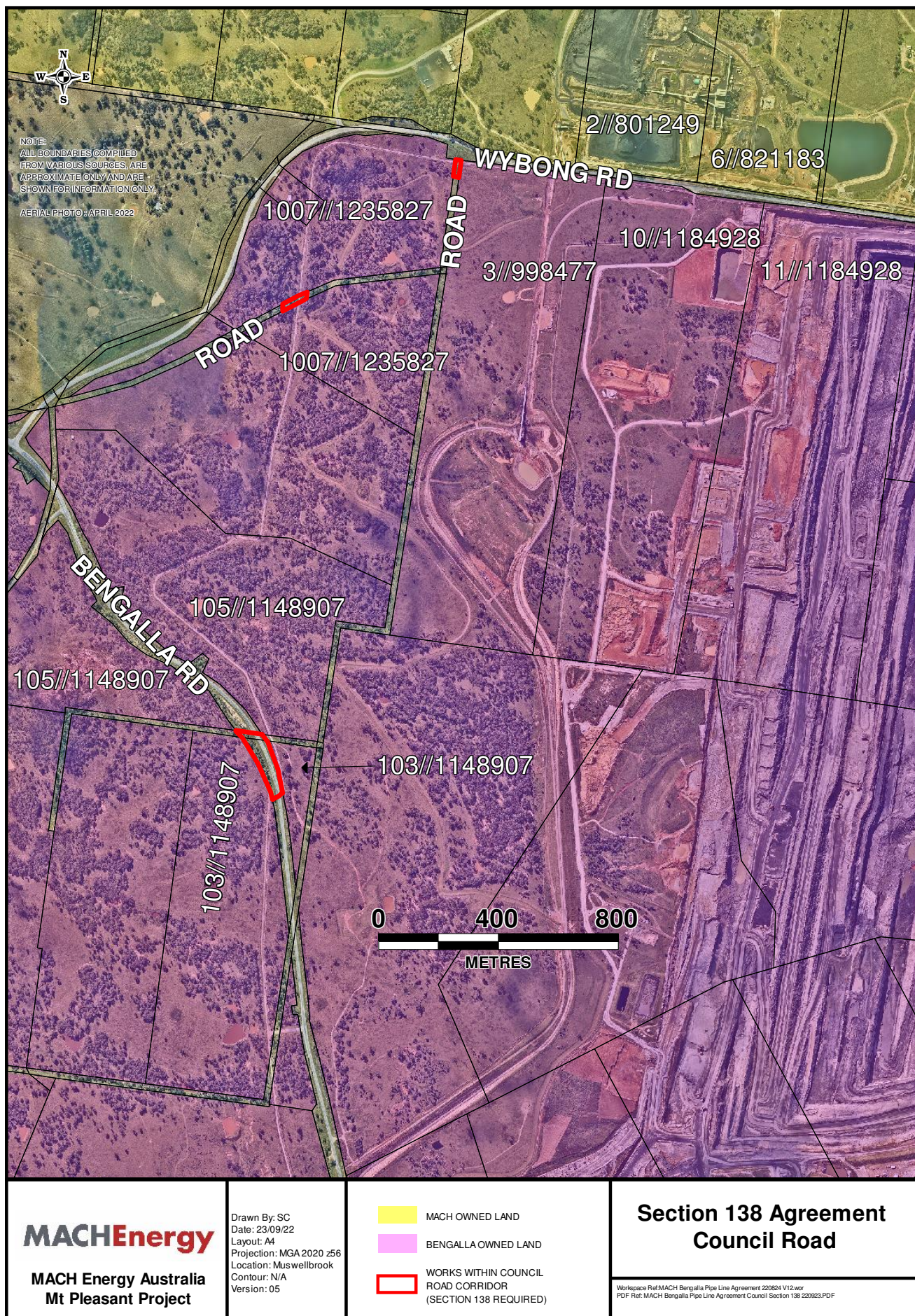


Andrew Reid
Superintendent Environment

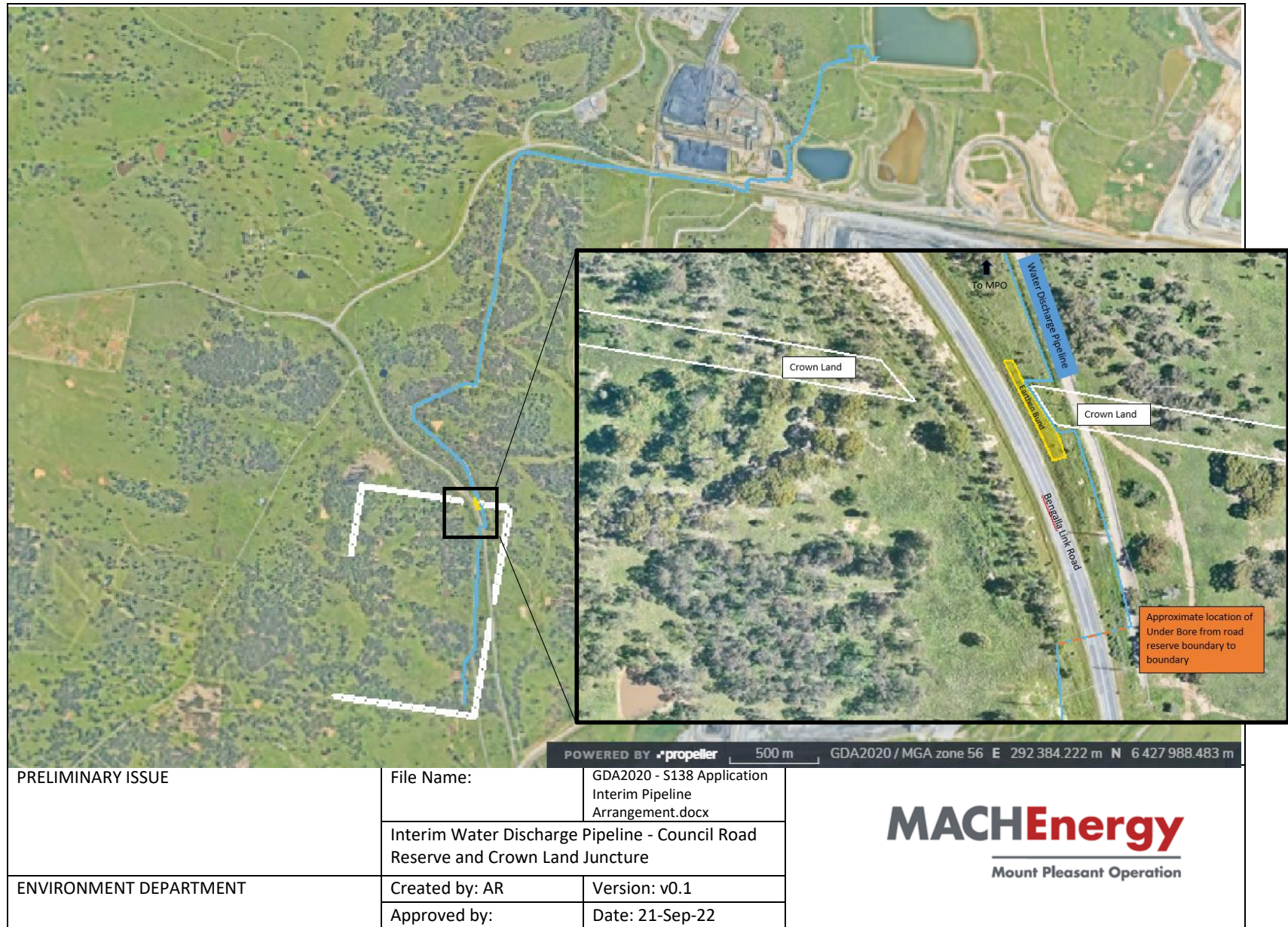
Incl:

- | | |
|--------------|--------------------------------------------|
| Attachment 1 | Location Plan of Council Road Reserves |
| Attachment 2 | Interim Water Discharge Pipeline Alignment |
| Attachment 3 | Under Bore General Arrangement and Detail |

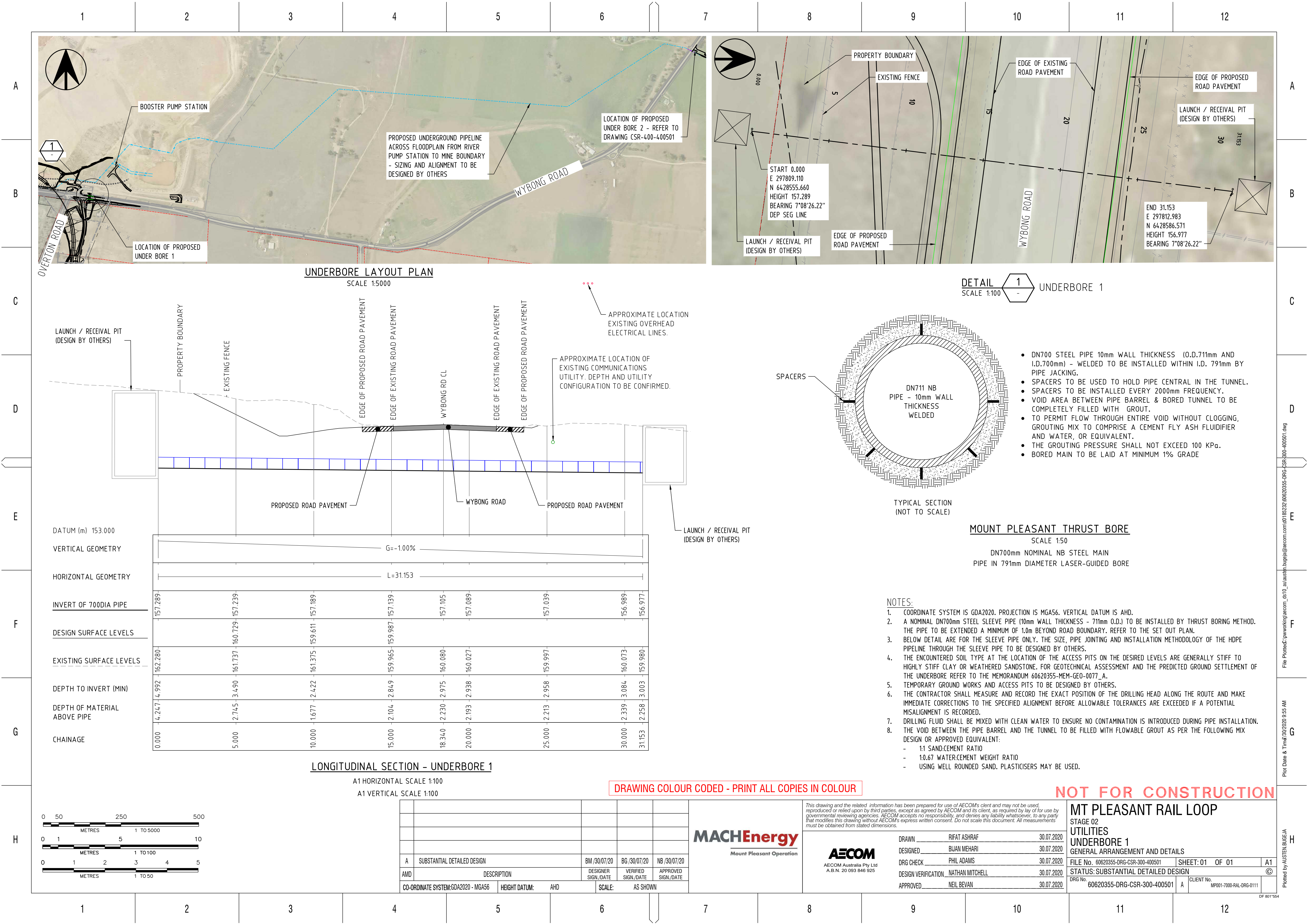
ATTACHMENT 1

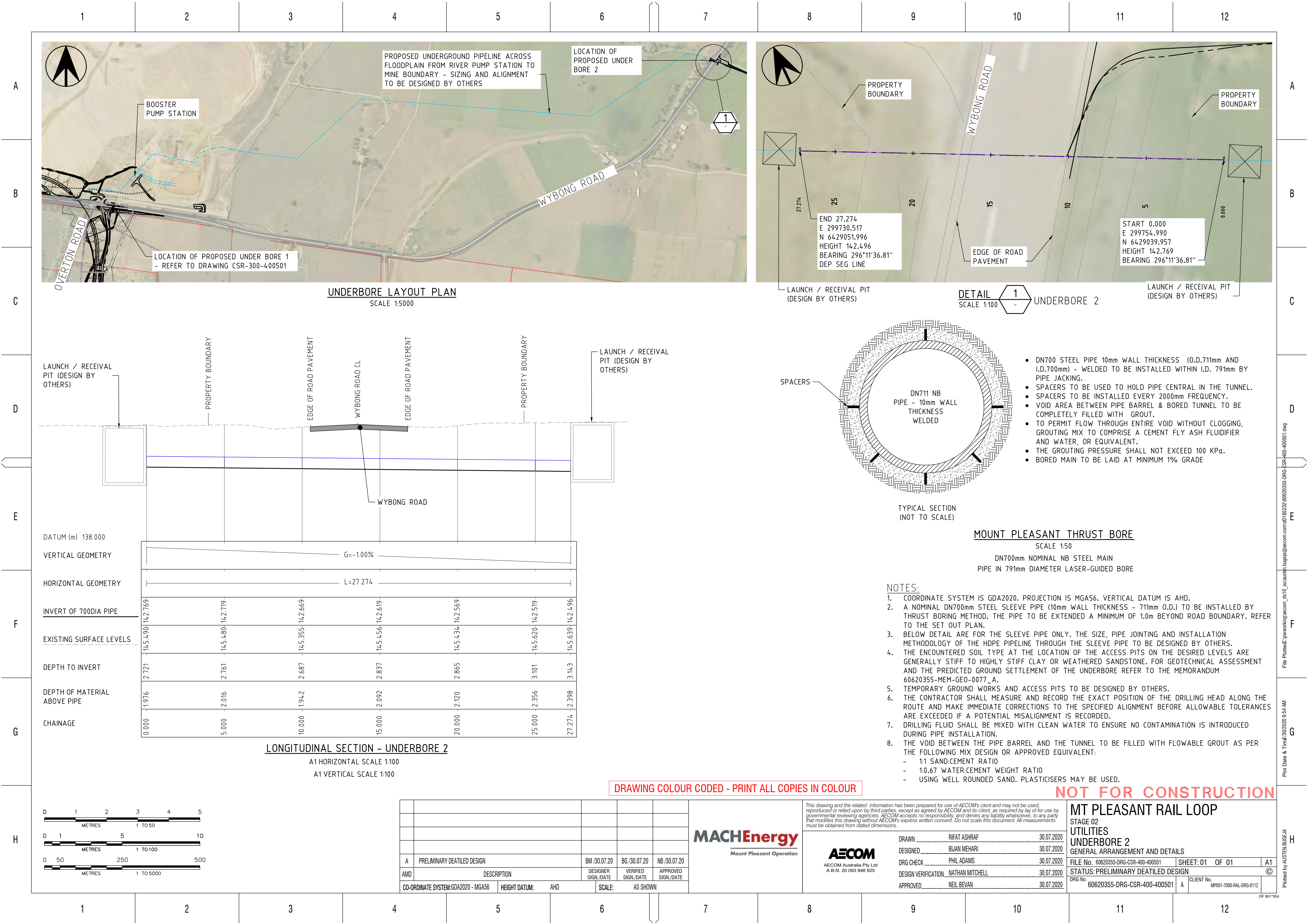


ATTACHMENT 2



ATTACHMENT 3





Schedule of Details

1. The Works	The works within the Road Reserve of Bengalla Link Road and 2 unnamed Council Public Roads within Lot 1007 DP1235827 and Wybong Link Road as detailed in the letter and application from MACH Energy dated 23 September 2022 and the plans attached to the application.	
2. The Site	Bengalla Link Road and associated areas as shown in the above documents	
3. Estimated Cost of the Works	Removal Bond Bengalla Link Road \$40,000.00 (+ GST) Removal Bond Wybong Road \$25,000.00 (+ GST)	\$65,000.00]
4. Estimated Council Costs	Plan Approval \$ 500.00 (GST inclusive) Construction Observation and Traffic Control Plans \$ 2,000.00 (GST inclusive) Final Acceptance (WAE review etc) \$ 500.00 (GST inclusive) Total \$ 3,000.00 (GST inclusive)	[Clause 6.1(f)]
5. Defects Liability Period	12 Months	[Clause 8.4]
6. Consent Holder's Representative	Name.....Richard Bailey..... Position..... Project Manager..... Mobile Phone.....0417 412 962..... Office Phone..... Email Richard Bailey richard.bailey@machenergyaustralia.com.au .. Facsimile.....	[Clause 14. 3]
7. Council's Representative	Name.....Kellie Scholes..... Position.....Manager Roads Drainage & Technical Services..... Mobile Phone..... 0407 252 142..... Office Phone.....02 6549 3756..... Email Kellie.scholes@muswellbrook.nsw.gov.au Facsimile.....02 93005774.....	[Clause 14.3]

CONSENT NO. _____

Special Conditions

1. The works must be commenced within six months of the consent date.
2. The Consent Holder is to advise Council's Engineering Officer Works Quality on 0418 110 010 one week (7 Days) prior to commencing work to confirm inspections prior to commencement.
3. The Consent Holder is to advise directly affected residents and property owners of the program of Works that may affect access etc. at least a week in advance and incorporate reasonable access needs for those properties if required.
4. The occupation of the Road should be undertaken in a safe manner, with adequate dust control. A Traffic Guidance Scheme is to be submitted for approval prior to the commencement of work within the road reserve.
5. The Consent Holder shall check for other services and is responsible for any damage to services and Council Infrastructure. Dial before you dig 1100.
6. This Consent does not constitute approval of any environmental impacts and the Consent Holder is responsible for any such impacts and any approvals that may be required in relation to the Works.
7. The Consent Holder must ensure that mud and dust from the Works is not carried on to the Road. (It is suggested that a device (from the Soil management book) may be required to remove such materials prior to entering the roads. Note: If required a shake down device should be placed off the existing road so that the public did not need to travel on it.).

Private Water Pipeline Special Conditions.

- Detailed plans to be provided to Council for approval prior to construction of the works within Council's Road reserve;
- The location of the pipeline within the road reserve shall be suitably identified in a manner that will alert any future works undertaken for maintenance or roadworks in this vicinity;
- Works as executed plans to be provided to Council on completion of the works within Council's Road Reserve;
- Pipe line shall be placed a minimum or 1500mm below the road surface.
- All disturbed land shall be re-instated to the condition prior to construction and to the satisfaction of the Council.
- All due care and diligence must be exercised undertaking proposed works on Council road reserve. Also due care should be taken to protect Council and other utility authorities assets/properties within the area of operation.
- If any damages are caused to Council's assets or any other assets, The consent holder will be responsible for all the costs incurred to rectify them. It is in MACH Energy's interest to

ensure that they have adequate Public Liability Insurance to cover your operation.

- Council does not take any responsibility for maintenance or the safety of the pipeline and other associated assets placed within the council road reserve remain the responsibility of the consent holder.
- This consent may be revoked if these conditions are not complied with.



9.2.2. Mangoola Coal Closing Public Roads-Mining Procedure

Attachments:	1. Mangoola Closing Public Roads - Mining Procedure - Final [9.2.2.1 - 17 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Imelda Williams – Traffic & Roads Status Officer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.4 - Maintain and continually improve community infrastructure across the Shire.

PURPOSE

The Mangoola Closing Public Roads- Mining Procedures has been amended to include the areas covered under the Mangoola Coal Continued Operations SSD 8642 and requires the approval of Council.

OFFICER'S RECOMMENDATION

Council uses its delegated authority to approve the Mangoola Closing Public Road- Mining Procedure for the temporary closure of Council public roads when blasting within 500m of the road.

Moved: _____ **Seconded:** _____

BACKGROUND

This matter has been reported to the Local Traffic Committee in August 2022. The above recommendation now requires the endorsement of Council.

CONSULTATION

Local Traffic Committee

Roads Drainage & Technical Services

REPORT

In accordance with Condition B22 of the MCCOP approval Mangoola shall not undertake blasting on the site within 500 metres of any public road unless the applicant has:

- a) a written agreement with the relevant infrastructure owner or landowner to allow blasting to be carried out closer to the public road or land, and the Applicant has advised the Department in writing of the terms of this agreement; or
- b) demonstrated, to the satisfaction of the Planning Secretary, that the blasting can be carried out closer to the public road or land without compromising the safety of people or livestock or damaging the road or other buildings and structures, and updated the Blast Management Plan to include specific mitigation measures to be implemented when blasting is being carried out within 500 metres of the road or land.



In addition, Condition B23 (d) of SSD 8642 states:

The Applicant must prepare a Blast Management Plan for the development to the satisfaction of the Planning Secretary. The plan must:

- d) include a Road Closure Management Plan for any blasting within 500 metres of a public road, that has been prepared in consultation with relevant roads authorities and includes provisions for:
 - i) minimising the duration of closures, both on a per event basis and weekly basis;
 - ii) avoiding peak traffic periods as far as reasonable; and
 - iii) co-ordinating closures within nearby mines to minimise the cumulative effect of road closures.

Muswellbrook Shire Council (MSC) approval applies to the temporary closure of public roads associated with the Project.

Mangoola Coal will implement road closures within 500m of any public road. These will involve:

- Closure to public access for up to 20 minutes duration each;
- No road closures more than three times per week, subject to the required notice to MSC;
- The road will not be closed for periods longer than is necessary; and
- Multiple blasts will be fired within 5 minutes for a single closure, or at least 45 minutes apart for multiple closures.

Blasting will be conducted as per applicable Drill and Blast procedures and the Mangoola Coal Blast Management Plan.

The attached plan outlines the procedures to provide operational management for the temporary closure of public roads when blasting activities associated with Mangoola Coal interact with public roads. The roads affected by this plan are Wybong Road, Wybong Post Office Road and Ridgeland Road.

The Local Traffic Committee recommended that Council use its delegated authority to approve the Mangoola Closing Public Roads-Mining Procedure for the temporary closure of Council Public Roads when blasting within 500m of the road.

OPTIONS

Council may decide to:

- Accept the Mangoola Coal Closing Public Roads – Mining Procedure as outlined and attached to this report;
- Request modifications.

CONCLUSION

It is recommended that Council approves the Mangoola Coal Closing Public Roads – Mining Procedure.

SOCIAL IMPLICATIONS

Temporary road closures for blasting may cause some inconvenience to the travelling public, however the plan includes provision for:

- Minimising the duration of closures, both on a per event basis and weekly basis;
- Avoiding peak traffic periods as far as reasonable; and



- Co-ordinating closures with nearby mines to minimise the cumulative effect of road closures.

FINANCIAL IMPLICATIONS

All costs associated with the closures will be the responsibility of the applicant.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Not applicable

2. Financial Implications – Operational

Not applicable

POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

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

OPERATIONAL PLAN IMPLICATIONS

Not applicable

RISK MANAGEMENT IMPLICATIONS

As outlined in the Plan.

WASTE MANAGEMENT IMPLICATIONS

Not applicable

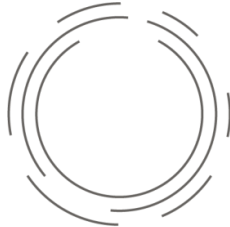
COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

The following notification provisions will be made for upcoming road closure:

- Advertised in the local newspaper 1 week prior to the planned blast;
- Road signage on the affected roads will indicate the time and date of the next blast;
- Local residents and tenants will be notified;
- Local Emergency Services will be notified; and
- Council's website will provide information advising of the planned blast.

MANGOOLA OPEN CUT

GLENCORE



Closing Public Roads – Mining Procedure



Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

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Table of Contents

1.	Purpose	3
2.	Scope.....	3
3.	Major Hazards.....	3
4.	Requirements.....	3
5.	Road Closure Management.....	5
5.1	Notifications (See Appendix A – Road Closure Checklist)	6
5.2	Traffic Management (See Appendix B – Traffic Control Plan)	7
5.3	Shotfiring Procedure	8
5.4	Passage of Emergency Vehicles	8
6.	Implementation and Review	8
7.	Accountabilities	9
8.	Document Information	9
8.1	Related Documents.....	9
8.2	Reference Information	10
8.3	Change Information	10
	Appendix A - Road Closure Checklist	13
	Appendix B - Traffic Control Plan.....	14
	Appendix C - Muswellbrook Shire Council Approval	17

1. Purpose

The purpose of this procedure is to provide operational management for the temporary closure of public roads when blasting activities associated with Mangoola Coal will interact with public roads.

2. Scope

This procedure applies to all work blasts areas within the Mangoola Open Cut, that have the potential to affect Public roads (including Wybong Road, Wybong Post Office Road and Ridglands Road)

3. Major Hazards

A team-based Risk Assessment has been conducted to assess the hazards associated with the Mangoola Blast Clearing and Firing procedures (MANOC-1772150304-6382 Blast Clearing and Firing Procedure). The key hazards identified which are addressed in this Procedure are listed below:

- Emergency vehicle access required along public roads during blasting;
- Failure to maintain security of access points;
- Public liability;
- Dust/fume leaving EPL premise or disturbance boundary;
- Potential fly rock impact on public roads and associated traffic delays;
- Lack of communication of potential road delays to community;
- Dust/fume affecting personnel/public; and
- Public refusing to recognize the roadblock.

4. Requirements

In accordance with Condition B22 of SSD 8642, the Applicant shall not undertake blasting on the site within 500 metres of any public road or any land outside the site not owned by the Applicant, unless the Applicant has:

- a) a written agreement with the relevant infrastructure owner or landowner to allow blasting to be carried out closer to the public road or land, and the Applicant has advised the Department in writing of the terms of this agreement; or
- b) demonstrated, to the satisfaction of the Planning Secretary, that the blasting can be carried out closer to the public road or land without compromising the safety of people or livestock or damaging the road or other buildings and structures, and updated the Blast Management

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 3 of 17

Uncontrolled unless viewed on the intranet

Plan to include specific mitigation measures to be implemented when blasting is being carried out within 500 metres of the road or land.

In addition, Condition B23 (d) of SSD 8642 states:

The Applicant must prepare a Blast Management Plan for the development to the satisfaction of the Planning Secretary. The plan must:

- d) include a Road Closure Management Plan for any blasting within 500 metres of a public road, that has been prepared in consultation with relevant roads authorities and includes provisions for:
 - i) minimising the duration of closures, both on a per event basis and weekly basis;
 - ii) avoiding peak traffic periods as far as reasonable; and
 - iii) co-ordinating closures within nearby mines to minimise the cumulative effect of road closures.

Muswellbrook Shire Council (MSC) approval applies to the temporary closure of public roads approximately depicted (yellow) in Figure 1.

Mangoola Coal will implement road closures within 500m of any public road. These will involve:

- Closure to public access for up to 20 minutes duration each;
- No road closures more than three times per week, subject to the required notice to MSC;
- The road will not be closed for periods longer than is necessary; and
- Multiple blasts will be fired within 5 minutes for a single closure, or at least 45 minutes apart for multiple closures.

Blasting will be conducted as per applicable Drill and Blast procedures and the Mangoola Coal Blast Management Plan.

5.1 Public Road Closures

Mangoola Coal will implement road closures within 500m of any public road. The following roads may be closed as a result of blasting operations by Mangoola Coal:

- Ridgeland Road;
- Wybong Post Office Road; and
- Wybong Road.

5.2 Notifications (See Appendix A – Road Closure Checklist)

Blasting at Mangoola Coal is permitted between 9am and 5pm Monday to Saturday inclusive. No blasting is allowed on Sundays, public holidays or at any other time without written approval from the EPA. Closure of public roads will, however, be further restricted to weekdays between 10am and 2pm in order to avoid peak traffic (8:00 to 9:00am and 2:00 to 4:00pm) and weekend traffic. Closure of public roads also will not occur during school bus operation on affected roads.

Road closures undertaken by Mangoola Coal will be advertised in the local newspapers (or online newspapers) 1 week prior to the planned blast.

Mangoola Coal will provide notification of scheduled road closure blasts (dates and times) to Muswellbrook Shire Council for inclusion on the MSC web page by 4pm, two (2) days prior to that in which road closures are required.

Permanent signage on associated public roads will advise regular road users of the likely date and time of any blasting operations that will result in a temporary road closure, at least two (2) days prior to the blast (see **Figure 2**). This signage will also display the telephone number for the Mangoola Coal Community Response Line (1800 014 339) which provides 24hr / 7 day communication with nominated Mangoola Coal representatives.

Local residents and tenants on Mangoola Coal properties will be notified of road closures by nominated Environment & Community representatives of Mangoola Coal, as per the Mangoola Coal Blasting Notification Register. Where the access from public roads to neighbouring properties is to be blocked, those affected will be directly contacted at least two (2) days prior to the blast, as those accesses will also require temporary closure.

NSW Fire Brigade (Muswellbrook), NSW Rural Fire Service (Mangoola & Wybong Brigades), NSW Ambulance Service (Muswellbrook), NSW Police (Muswellbrook & Denman), and Muswellbrook State Emergency Service will be advised of road closures two (2) days prior to blasting as well as on the morning of the blast.

Mangoola will include surrounding mining operations of the notification of road closures.

Traffic control personnel will be notified of requirements at least two (2) days prior to the blast.

All parties will be punctually notified in the event that a blast is postponed.

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 6 of 17

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Figure 2: Road closure signage

5.3 Traffic Management (See Appendix B – Traffic Control Plan)

Mangoola Coal will comply with the requirements of the *Roads Act 1993* and ensure that traffic control is carried out in accordance with the ‘Austroads Guide to Traffic Management’ and ‘Transport for NSW Traffic Control at Worksites Technical Manual’..

Approved temporary signage will be placed on the day of blasting, as illustrated on the authorized Traffic Control Plan. Traffic control work is to be undertaken by personnel who hold a current SafeWork NSW Traffic Control Work Training Card (TCWT) or equivalent.

All signs must comply with notes outlined in Appendix B: Traffic Control Plan.

Traffic controllers will be able to make radio contact with the Blast Controller, via an appointed Blast Sentry, until the blast has been cleared. The Blast Sentry will be stationed with the traffic controllers on the controlled section of public road throughout the blast event.

Appointed Blast Sentries will be placed on private access roads, and will be familiar with the road closure and shotfiring procedures.

The traffic controllers and sentries must close the road prior to the blasting, when advised by the Blast Controller. A Mangoola appointed Blast Sentry must then clear all traffic and personnel from the affected area and advise the Blast Controller when this has been completed.

Number:	MANOC-1772150304-208	Status:	Approved	Effective:	8/05/2022	Page 7 of 17
Owner:	Superintendent - Pit Services	Version:	14.0	Review:	3/09/2023	

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All traffic must be halted for the duration of the blast. In the case of emergency traffic, or other inadvertent access, refer to **Section 4.4** (below).

The Blast Sentry must not re-open the road until advised by the Blast Controller that it is safe to do so and the road has been inspected by a Blast Sentry to ensure it is in a safe and trafficable condition.

Any damage, fly-rock, or other problems must be rectified, with personnel available on standby for immediate road clearing purposes if deemed necessary. Muswellbrook Shire Council must be notified of any damage to the road and remedial work undertaken by qualified road repair personnel, in consultation with Muswellbrook Shire Council, in a timely manner so as to minimise disruption to public thoroughfare.

When the blast has been cleared normal traffic will be resumed and signage removed.

5.4 Shotfiring Procedure

The Blast Controller must fire the blast according to this procedure and in accordance with other applicable blasting and environmental procedures, with the following exceptions:

- Blasting will not take place at times when adverse environmental conditions (or other prevailing conditions) make road closure hazardous;
- Blasts requiring the closure of public roads will not be tied up if environmental conditions are expected to prevent blasting within the required timeframe;
- In the case of a misfire and dependent upon the Blast Controller's discretion, public roads may be re-opened whilst the misfire event is investigated. Public roads will be closed again during firing of the misfire. This process will allow for lengthy road closures to be avoided whilst protecting the safety of people. If the Blast Controller deems it necessary, public roads may remain closed until the misfire event is addressed.

After firing, the Blast Controller must advise the traffic controllers (via Mangoola appointed Blast Sentry) when it is safe and the road will be checked for damage/fly rock. If road conditions are deemed satisfactory, traffic flow may be permitted (under supervision of traffic controllers). Traffic controllers will remain in position until the Blast Controller has provided final clearance for the blast.

5.5 Passage of Emergency Vehicles

If traffic controllers or sentries encounter emergency vehicles (police, ambulance, fire, mines rescue etc) requiring immediate access to public roads, it may be necessary to abort the blast. This may also apply if other parties refuse to stop or ignore signage.

Traffic controllers and/or sentries must break radio silence and inform the Blast Controller if access is required (or has occurred) once shotfiring is in progress. If the blast can be halted, emergency vehicles will be allowed to pass and the shotfiring procedure will recommence once the road is clear.

6. Implementation and Review

This Mangoola Closing Public Roads - Mining Procedure is subject to approval by Muswellbrook Shire Council.

This procedure will be reviewed every 3 years (or as required) as part of the Blast Management Plan. This procedure will also be reviewed if unexpected blast performance/behaviour indicates that changes to road closure practices or clearance distances are required.

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 8 of 17

Uncontrolled unless viewed on the intranet

Where there are no changes to the physical closure locations of public roads this will not be consulted with MSC.

7. Accountabilities

Role	Accountabilities for this document
Drill and Blast Superintendent	Oversee the review of process and procedure. Review and approve procedure. Ensure a process for training of relevant personnel.
Drill & Blast Supervisor	Review procedure. Ensure a process for training of relevant personnel.
Environment & Community Manager	Ensure that blasting notices are published within relevant local newspapers in advance of blast event. Liaise with Reception / Admin to ensure that all relevant stakeholders including local residents and tenants on Mangoola Coal properties, relevant emergency services, and Muswellbrook Shire Council will be notified of road closures on the Blasting Notification Register.
Reception / Admin	Ensure that all relevant stakeholders including local residents and tenants on Mangoola Coal properties, relevant emergency services, and Muswellbrook Shire Council will be notified of road closures on the Blasting Notification Register.

8. Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

8.1 Related Documents

Related documents, listed in Table 7-1 below, are internal documents directly related to or referenced from this document.

Number	Title
<u>MANOC-1772150304-6429</u>	Blast Clearing and Firing Procedure
<u>MANOC-1772150304-5918</u>	Blast Controller Checklist and Clearance Plan
<u>MANOC-1772150304-757</u>	Blast Fume Management Procedure
<u>MANOC-1772150304-4601</u>	Blast Management Plan

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 9 of 17

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Number	Title
<u>MANOC-1772150304-292</u>	Blast Monitoring Procedure for TransGrid Powerlines
<u>MANOC-1772150304-1099</u>	Blast Permit
<u>MANOC-1772150304-884</u>	Blasting Procedure
<u>MANOC-1772150304-55</u>	Explosives Control Plan
<u>MANOC-1772150304-434</u>	Pre Blast Environmental Assessment Procedure

Table 8-1 – Related documents

8.2 Reference Information

Reference information, listed in Table 7-2 below, is external information that is directly related to the development of this document or referenced from within this document.

Title
Muswellbrook Shire Council Road Closure Guidelines
Austroads Guide to Traffic Management and TfNSW Traffic Control at Worksites Technical Manual
AS 1742.1:2014 - Manual of uniform traffic control devices - General introduction and index of signs
AS 1743:2001 – Road signs – Specifications
AS 1742.2: 2009 – Manual of uniform traffic control devices - Traffic control devices for general use
AS 1906.1:2007 - Retroreflective materials and devices for road traffic control purposes - Retroreflective sheeting

Table 7-2 – Reference information

8.3 Change Information

Full details of the document history are recorded in the document control register, by version. A summary of the current change is provided in Table 7-3 below. Example detail shown below.

Version	Date	Change Summary
1	09/02/2011	Initial issue Change heading, document owner Update properties Changes as per Mark Williams Added telephone number on page 7 Change Section 4.1 Notification – add as well as on the morning of the blast

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 10 of 17

Uncontrolled unless viewed on the intranet

Version	Date	Change Summary
2	04/07/2011	Remove Watermark (Draft)
3	02/12/2011	Update notification timeframe reduce from seven (7) to two (2) days notification & advertisement in local press. Updated changes within document for auditing purposes
4	14/12/2011	Added community relations coordinator to accountabilities Replaced sign photo with current version.
5	28/12/2011	Change document to Drill and Blast Engineer Replaced sign photo with current version
6	22/02/2013	Updated major hazards to include noxious cloud Updated accountabilities section to include Community Relations Coordinator
7	03/08/2015	Updated traffic control contractor details Updated text to reflect blasting activities no longer being undertaken in North Pit.
8	04/02/2016	Updated to change Blast Times permitted for blast when road is not required to be closed.
9	01/08/2016	Updated road closure zones in text and figure to reflect pit progression Updated notifications for process in event of blast postponement Updated relevant accountabilities to include stakeholder notification by reception Updated <i>Table 7.1 - Related Documents</i> Modified <i>Appendix A – Wybong Road Closure Checklist</i> to a flow chart; Modified <i>Appendix B – Traffic Control Plan</i> to reflect no closure of Wybong Post Office Road
10	29/09/2017	Reassign ownership of Mine Procedure – closing public roads to Tim Haig. D Rankin and M Faulkner 28.09.17
11	11/06/2020	Only change is on page 7, part 6, please change Technical Services Manager to drill and blast superintendent
12	03/09/2020	Transfer into new template. Full review of document, no changes required.
13	8/05/2022	Minor updates to add risk assessment detail and additional related documents.
14	04/04/2022	Replaced term “Supervising Sentry” with “Blast Sentry” for consistency of language between explosive related documents.

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

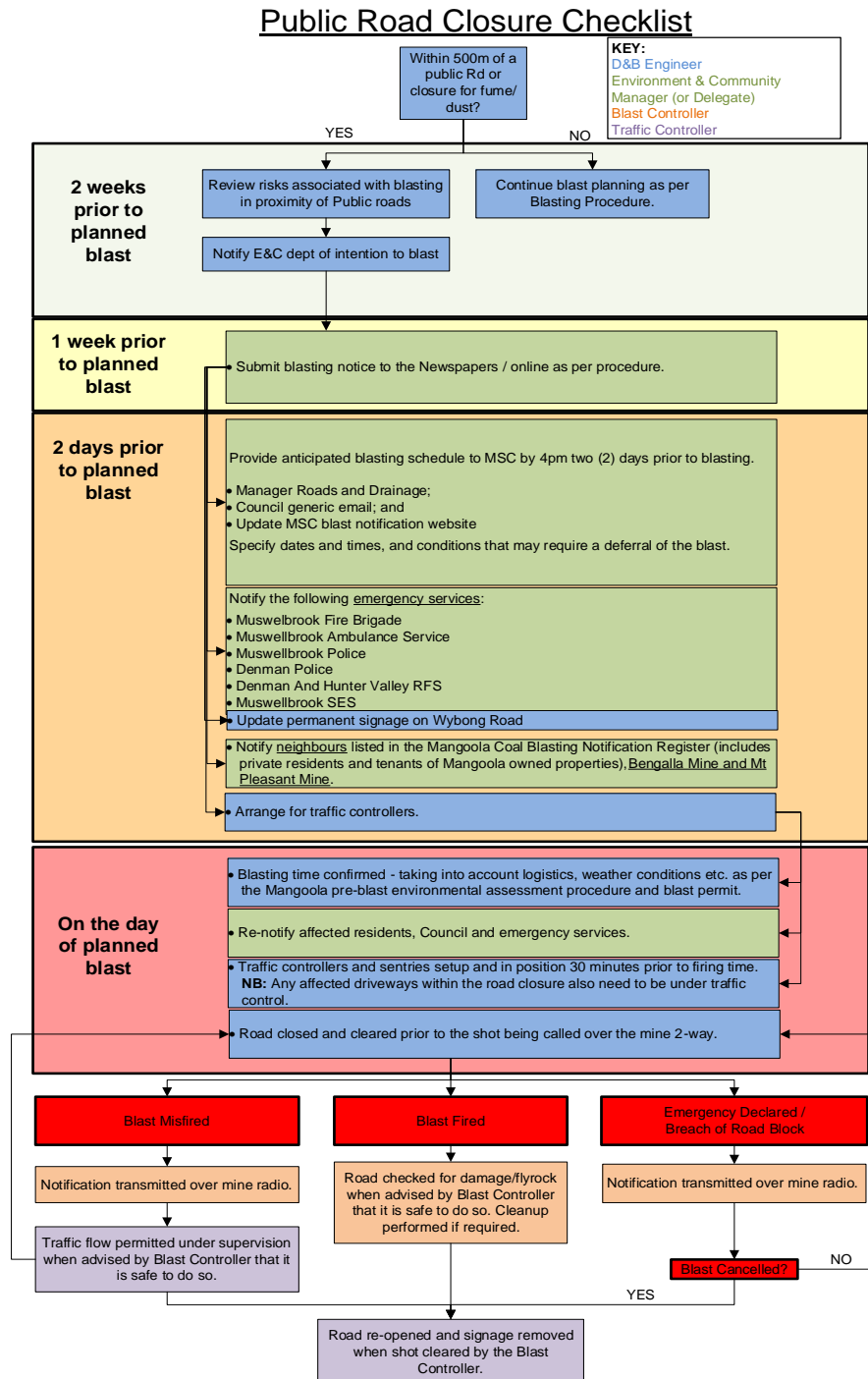
Page 11 of 17

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Version	Date	Change Summary
		Review team: W Williams, J Cribb, D Collins, J Gordon, P Boland, A Taylor
15	May 2022	Major updates to include public roads relating to the MCCO area as required for SSD 8642. Update to Figure 1, updated to <i>Appendix B – Traffic Control Plan</i> to reflect additional mining area. Revision includes approval from MSC.

Table 8-3 – Change information summary

Appendix A - Road Closure Checklist



Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

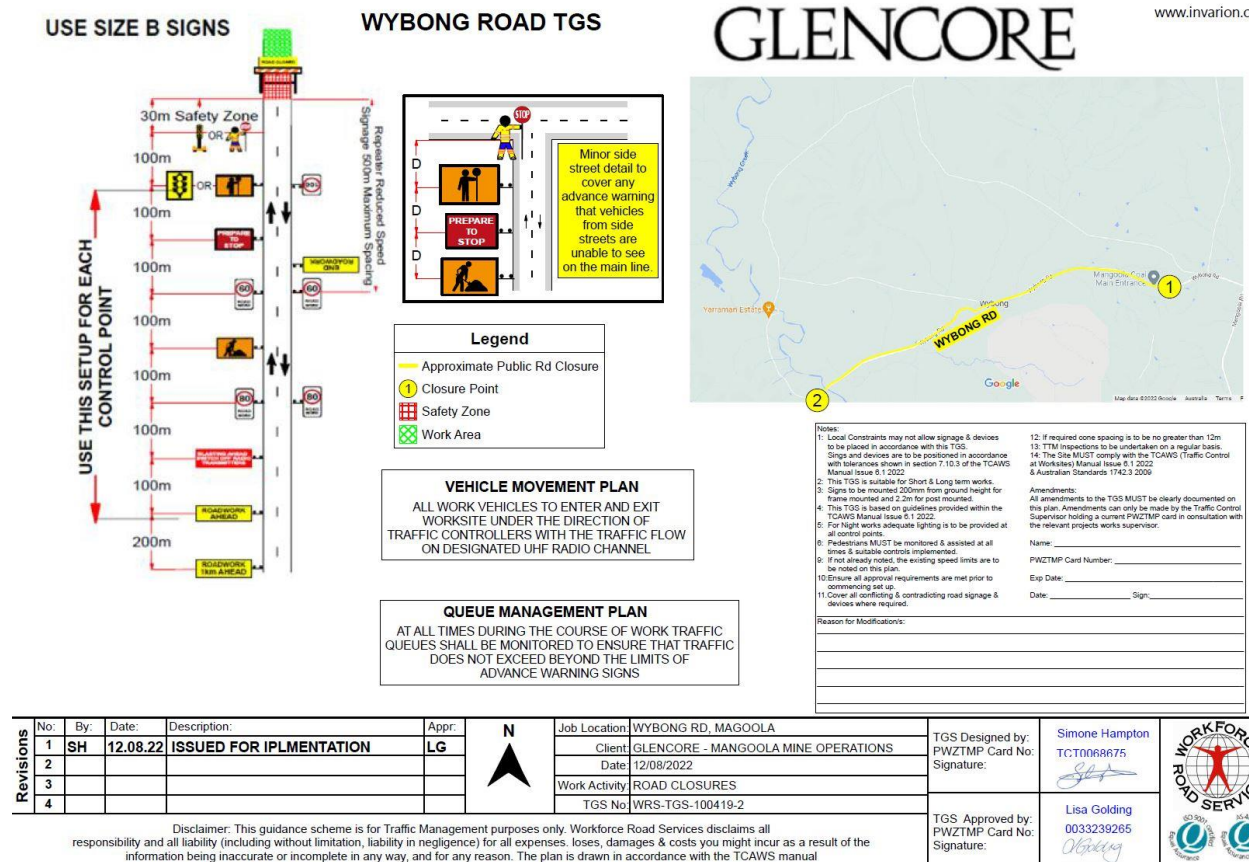
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Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 13 of 17

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Appendix B - Traffic Guidance Scheme



Number: MANOC-1772150304-208

Owner: Superintendent - Pit Services

Status: Approved

Version: 14.0

Effective: 8/05/2022

Review: 3/09/2023

Page 14 of 17

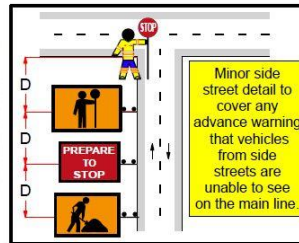
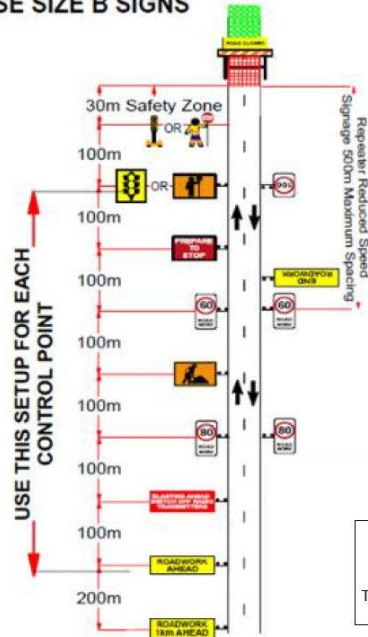
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USE SIZE B SIGNS

WYBONG POST OFFICE
ROAD TGS

GLENCORE

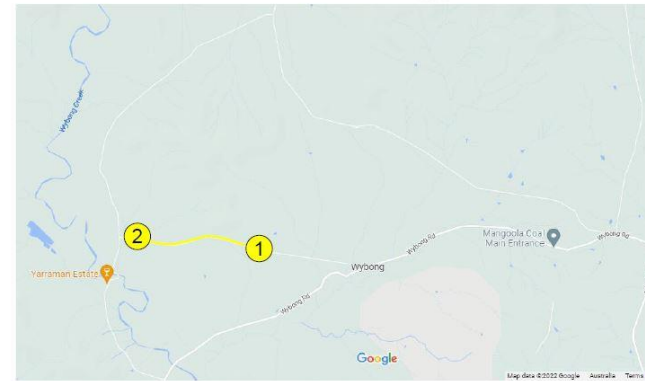
www.invarion.com



Legend	
—	Approximate Public Rd Closure
①	Closure Point
■	Safety Zone
■	Work Area

VEHICLE MOVEMENT PLAN
ALL WORK VEHICLES TO ENTER AND EXIT
WORKSITE UNDER THE DIRECTION OF
TRAFFIC CONTROLLERS WITH THE TRAFFIC FLOW
ON DESIGNATED UHF RADIO CHANNEL

QUEUE MANAGEMENT PLAN
AT ALL TIMES DURING THE COURSE OF WORK TRAFFIC
QUEUES SHALL BE MONITORED TO ENSURE THAT TRAFFIC
DOES NOT EXCEED BEYOND THE LIMITS OF
ADVANCE WARNING SIGNS



Notes:

- Local Constraints may not allow signage & devices to be placed in accordance with this TGS.
- This TGS is suitable for Short & Long term works.
- Signs to be mounted 200mm from ground height for frame mounted and 2.2m for post mounted.
- This TGS is based on guidelines provided within the TCAWS Manual Issue 6.1.2022.
- For Night works adequate lighting is to be provided at all control points.
- Pedestrians MUST be monitored & assisted at all times & suitable controls implemented.
- If not already noted, the existing speed limits are to be noted on this plan.
- Ensure all approval requirements are met prior to commencing set up.
- Cover all conflicting & contradicting road signage & devices where required.
- If required cone spacing is to be no greater than 12m.
- TTM Inspections to be undertaken on a regular basis.
- The Site MUST comply with the TCAWS (Traffic Control at Worksites) Manual Issue 6.1.2022 & Australian Standards 1742.3.2009

Amendments:

All amendments to the TGS MUST be clearly documented on this plan. Amendments can only be made by the Traffic Control Supervisor holding a current PWZTMP card in consultation with the relevant projects works supervisor.







Name: _____

PWZTMP Card Number: _____

Exp Date: _____

Date: _____ Sign: _____

Reason for Modification/s:

Revisions	No.	By:	Date:	Description:	Appr:	<div>N</div> <div></div>	Job Location:	WYBONG POST OFFICE RD, MAGOOLA	TGS Designed by:	Simone Hampton	<div></div> <div></div> <div></div>	
	1	SH	12.08.22	ISSUED FOR IPLMENTATION	LG		Client:	GLENCORE - MANGOOLA MINE OPERATIONS	PWZTMP Card No:	TC0068675		
	2						Date:	12/08/2022	Signature:			
	3						Work Activity:	ROAD CLOSURES				
	4						TGS No	WRS-TGS-100419-3				
<div>Disclaimer: This guidance scheme is for Traffic Management purposes only. Workforce Road Services disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages & costs you might incur as a result of the information being inaccurate or incomplete in any way, and for any reason. The plan is drawn in accordance with the TCAWS manual</div>											TGS Approved by:	Lisa Golding
									PWZTMP Card No:	0033239265		
									Signature:			

Disclaimer: This guidance scheme is for Traffic Management purposes only. Workforce Road Services disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages & costs you might incur as a result of the information being inaccurate or incomplete in any way, and for any reason. The plan is drawn in accordance with the TCAWS manual

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

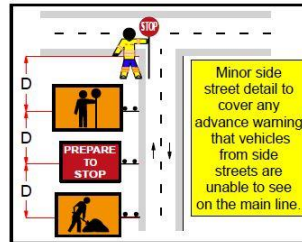
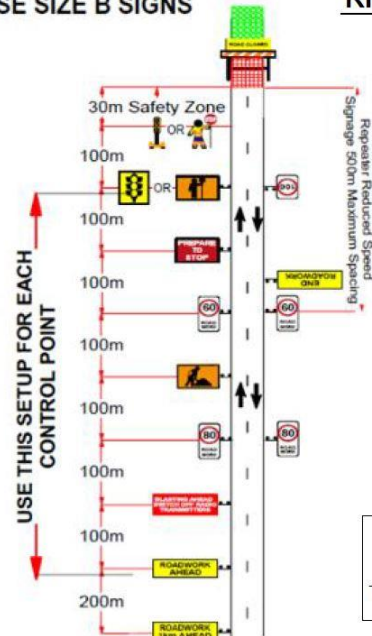
Page 15 of 17

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USE SIZE B SIGNS

RIDGELANDS ROAD TGS

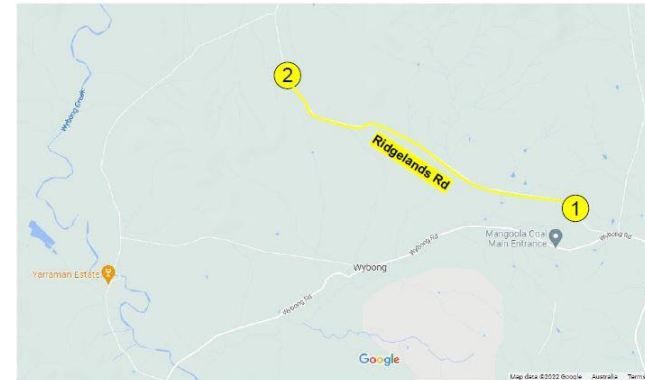
GLENCORE



Legend	
—	Approximate Public Rd Closure
①	Closure Point
⊠	Safety Zone
⊞	Work Area

VEHICLE MOVEMENT PLAN
ALL WORK VEHICLES TO ENTER AND EXIT WORKSITE UNDER THE DIRECTION OF TRAFFIC CONTROLLERS WITH THE TRAFFIC FLOW ON DESIGNATED UHF RADIO CHANNEL

QUEUE MANAGEMENT PLAN
AT ALL TIMES DURING THE COURSE OF WORK TRAFFIC QUEUES SHALL BE MONITORED TO ENSURE THAT TRAFFIC DOES NOT EXCEED BEYOND THE LIMITS OF ADVANCE WARNING SIGNS



Notes:

- Local Constraints may not allow signage & devices to be placed in accordance with this TGS. Signs and devices are to be positioned in accordance with tolerances shown in section 7.10.3 of the TCAWS Manual Issue 6.1 2022.
- This TGS is suitable for Short & Long term works.
- Signs to be mounted 200mm from ground height for frame mounted and 2.2m for post mounted.
- This TGS is based on guidelines provided within the TCAWS Manual Issue 6.1 2022.
- For Night works adequate lighting is to be provided at all control points.
- Pedestrians MUST be monitored & assisted at all times & suitable controls implemented.
- If not already noted, the existing speed limits are to be noted on this plan.
- Ensure all approval requirements are met prior to commencing set up.
- Cover all conflicting & contradicting road signage & devices where required.
- If required cone spacing is to be no greater than 12m.
- TTM Inspections to be undertaken on a regular basis.
- The Site MUST comply with the TCAWS (Traffic Control at Worksites) Manual Issue 6.1 2022 & Australian Standards 1742.3 2009.

Amendments:
All amendments to the TGS MUST be clearly documented on this plan. Amendments can only be made by the Traffic Control Supervisor holding a current PWZTMP card in consultation with the relevant projects works supervisor.

Name: _____
PWZTMP Card Number: _____
Exp Date: _____
Date: _____ Sign: _____

Reason for Modification/s:

Revisions	No.	By:	Date:	Description:	Appr.	N	Job Location:	RIDGELANDS RD, MAGOOLA	TGS Designed by:	Simone Hampton		
1	SH	12.08.22	ISSUED FOR IPLMENTATION	LG		Client:	GLENCORE - MANGOOLA MINE OPERATIONS	Date:	12/08/2022	Signature:		
2						Work Activity:	ROAD CLOSURES					
3						TGS No:	WRS-TGS-100419-1					
4												

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TGS Approved by: Lisa Golding
PWZTMP Card No: 0033239265
Signature:

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 16 of 17

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Appendix C - Muswellbrook Shire Council Approval

Approval will be added prior to finalisation

Number: MANOC-1772150304-208
Owner: Superintendent - Pit Services

Status: Approved
Version: 14.0

Effective: 8/05/2022
Review: 3/09/2023

Page 17 of 17

Uncontrolled unless viewed on the intranet



9.2.3. Mangoola Coal Continued Operations Project Yarraman Road Upgrade

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Imelda Williams – Traffic & Roads Status Officer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.3 - Facilitate investment in high quality community infrastructure necessary to a Regional Centre. 5.1.4.1 - Capital works programmes prioritised to demonstrate continual improvement in community infrastructure.

PURPOSE

To inform Council of the receipt of the 80% Detailed Design Drawings and the Review of Environmental Factors for the Yarraman Road Portion Upgrade to seek the endorsement of Council.

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. Provide concurrence that the Detailed Design Plans for the Yarraman Road Portion Upgrade are satisfactory
 - a. pending the inclusion of the additional length of Yarraman Road to extend the design to the southern limit of work to the old Yarraman Wine Estate access as detailed in the report;
 - b. any recommendations from the Road Safety Audit be included in the final design;
 - c. providing that the design will provide a smooth connection to Wybong Post Office Road,
 - d. providing that Specifications for flexible pavements - for unbound granular base are in accordance with RMS 3051- Granular Base and Sub- Base materials with a minimum edition 6.
2. Approve the Review of Environmental Factors for the Yarraman Road Portion Upgrade.

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", (Deed) dated 18 November 2021, which, among other matters, requires that Mangoola, at its cost, on behalf of Muswellbrook Shire Council (MSC) is to undertake and complete the Yarraman Road Portion Upgrade.

With reference to Clause 5.2 of the Deed it provides for the following:

- (a) Subject to subclause 5.2 (d), Mangoola must design the Yarraman Road Portion Upgrade and lodge detailed design plans with MSC for approval under the terms of this Deed within 6 months of the date of this Deed.
- (b) MSC within 40 Business Days of lodgement give Mangoola notice whether the detailed design plans prepared under clause 5.2 (a) are satisfactory.
- (c) If the detailed design plans are not satisfactory to MSC, MSC will identify any reasonable modification required so as to reflect the standards outlined in the Austroads Guide to Road Design.
- (d) The parties acknowledge and agree that the final alignment of the Yarraman Road Portion Upgrade and the associated detailed design cannot be completed and lodged with MSC until such time as the Review of Environmental Factors has been finalised and approved. If there is a delay in approval of the Review of Environmental Factors which means that Mangoola is unable to comply with the timeframe in clause 5.2(a) the parties will negotiate in good faith to agree a revised timeframe.

A report was submitted to the 5 April 2022 Ordinary Council Meeting, providing the concept plans for the Yarraman Road Portion Upgrade including the bridge across Wybong Creek. Council endorsed the following:

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.*

The detailed design plans have been progressed on this basis.

CONSULTATION

5 April 2022 Ordinary Council Meeting

Initial consultation with affected landowners

Manager Roads Drainage and Technical Services

Arkhill Engineers

Focus Bridge Engineering

Mangoola Coal Continued Operations Project Team

Acting General Manager.

REPORT

Mangoola has provided Council with the following documents pertaining to the Yarraman Road Portion Upgrade:

- 80% Civil design package for the upgrade of Yarraman Road for a length of 1.255km centred around the Wybong Creek Crossing;
- 80% Yarraman Road Bridge design over the Wybong Creek;



- Road Safety Audit for the portion of Yarraman Road affected by the work; and
- Yarraman Road Portion Review of Environmental Factors.

These documents will be available in the hub due to the size of the file.

It should be noted that the Deed provides that the Yarraman Road Portion Upgrade consists of a length of road approximately 1.5km commencing at the Wybong Post Office Road intersection and ending at the access to the old Yarraman Estate Winery. The current plans provided to Council only cover a length of 1.255km. An additional length of road to extend the design to the old Yarraman Wine Estate access has been requested and Mangoola has committed to amend the design to include this extra design in the final Yarraman Road Upgrade Design Drawings.

The road alignment for the design, achieves a straight horizontal road segment through the bridge, and a constant vertical grade of 1%, allowing for a straightforward bridge geometry.

The Bridge design consists of 3 spans, nominally 34.1m in length, using “T4” 1.515m deep girders:

- This 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.

The design for the road conforms to the Austroads Guidelines for a design speed of 90km/hr and Council's RL1 standard for rural roads. In regard to the specification for road pavement it is Council's preference for unbound granular base pavement type to conform to RMS 3051- Granular Base and Sub Base materials with a minimum edition 6, with consideration of traffic category 'B' or greater.

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 Review of Environmental Factors (REF) outlines mitigation and management practises around the construction works proposed and requires the approval of Council. The REF has been uploaded to the hub.

OPTIONS

Option 1: Endorse the detailed design plans for the Yarraman Road Portion Upgrade, the Bridge over Wybong Creek and the Review of Environmental Factors and advise Mangoola that the plans are satisfactory subject to the inclusion of the additional length of Yarraman Road as detailed in the report and any recommendations from the Road Safety Audit be included in the final design.

Option 2: If Council deems that the detailed design plans are not satisfactory to identify any reasonable modification required so as to reflect the standards outlined in the Austroads Guide to Road Design.



CONCLUSION

Option 1 is considered to be the recommended option.

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 (approximately 12 months). 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. The construction of the new bridge provides a height of the deck being above a '1-in-100-year flood' event thereby providing flood free access in most flood events at this location.

FINANCIAL IMPLICATIONS

Mangoola must, at its cost on behalf of Council undertake and complete the Yarraman Road Upgrade including the construction of the bridge.

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 Road 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

Complies with the requirements of Council's Roads Development Standards Policy.

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 consultation will be provided to the community and road users by Mangoola through the Mangoola Newsletter, Variable Message Boards, through the Mangoola Community Consultation Committee and Council's Website. Directly affected landowners will be notified by Mangoola.

**9.2.4. Permanent Legal Closure of Part of Wybong Post Office Road**

Attachments:	1. Wybong Post Office Road Closure Map [9.2.4.1 - 1 page]
	2. Wybong Post Office Road Crown Lands Removal of Objection [9.2.4.2 - 1 page]
	3. Wybong Post Office Road Ausgrid Objection Withdrawal [9.2.4.3 - 2 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Imelda Williams – Traffic & Roads Status Officer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	19.3 - Facilitate investment in high quality community infrastructure necessary to a regional centre.
Community Plan Strategy:	19.3.3 - Investigate and recommend appropriate management treatments for road safety and traffic management.

PURPOSE

To recommend the permanent legal closure of part of Wybong Post Office Road as outlined in the report.

OFFICER'S RECOMMENDATION

Council resolves to:

1. Permanently legally close the part of Wybong Post Office Road as described below in accordance with Division 3 Part 4 of the *Roads Act 1993*;
2. Following the legal closure of part of Wybong Post Office Road, dispose of the land comprising the former public road to Mangoola Coal Operations Pty Ltd in accordance with the "Road Closure and Works Deed" dated 18 November 2021;
3. Affix the seal of Council to the Transfer dealing to effect the disposal of the land referred to in (2);
4. Authorise the Acting General Manager to execute any other relevant documents at the Acting General Manager's discretion;
5. Council agreeing to that part of Yarraman Road from the Wybong Road intersection to Wybong Post Office Road intersection be expressly transferred to Council from Crown Lands (as per attached letter);
6. The land comprised in the road proposed to be closed is operational land for the purposes of the *Local Government Act 1993*; and
7. Money received from the proceeds of sale of the land is not to be used by Council except for acquiring land for public roads or for carrying out road work on public roads in accordance with s.43 (4) *Roads Act 1993*.

The proposed closed road portion comprises the Council Public Road known as part of



Wybong Post Office Road being that part commencing at the intersection of Wybong Road for a length of 1.955km as shown on the attached map and separating the following land noted below:

- Lot 42 DP531030 from Lot 7002 DP93041;
- Lots 656 (part), 657, 658 & 659 DP633417 and Lot 1 DP727239 from Lots 3 & 5 DP1280220 (formerly Lots 21 & 22 DP706943), Lots 16 (part), 17 & 18 DP240086.

Moved: _____ **Seconded:** _____

BACKGROUND

On 26 April 2021 the NSW Independent Planning Commission approved the development application for the Mangoola Coal Continued Operations Project (SSD8642) MCCOP. This allows for the expansion of mining to the new area north of Wybong Road and the extraction of an additional 52 million tonnes of run-of-mine (ROM) coal. A haul road overpass would be constructed over Wybong Road and Big Flat Creek to provide access to the new mining area. Existing mine facilities would continue to operate until approximately 2030. The mining expansion necessitates the closure of part of Wybong Post Office Road. Prior to undertaking mining operations within 200m of Wybong Post office Road, unless otherwise agreed to by the Planning Secretary, the Applicant must close the affected section of Wybong Post Office Road.

A report went to the 28 September 2021 Ordinary Council Meeting, in which Council endorsed the direction taken by Council in negotiations with Mangoola Coal in relation to the Wybong Post Office Road closure and purchase. The actions to progress the closure and purchase have been undertaken in accordance with Division 3 Part 4 of the *Roads Act 1993* following the statutory road closure process, including advertising the proposed closure.

The required 28 day submission period has now passed and Council can now proceed with the proposal to permanently, legally close the road subject to the conditions outlined.

CONSULTATION

Community meetings held with the Wybong Community;

Local and wider community through advertising in the local papers: Hunter River Times, Hunter Valley News and on Council's website;

Local Aboriginal Groups;

Adjoining affected landowners;

All notifiable authorities; and

Crown Lands.

REPORT

In accordance with the *Roads Act 1993* the following consultation was undertaken to advise of the proposed road closure:

- the notice was published in the local newspapers and on Council's website calling for submissions;
- all owners of land adjoining the road were notified;
- all notifiable authorities; and
- local Aboriginal Groups.



The notice advised that following the consultation period, and subject to Council resolution:

- Council proposes to close the road;
- Council intends to sell the land to the adjoining land owner; and
- any interested persons were invited to make submissions within the 28 day consultation period.

The consultation period ended on 25 March 2022. Council received 2 submissions regarding the proposal to close the road.

Crown Lands initially raised an objection to the part road closure due to access to a portion of Crown Land located west of the closure point. Following lengthy negotiations Crown Lands has agreed to remove the objection subject to Council agreeing to:

- The dedication of a road across Wybong Creek in the location of the existing Yarraman bridge crossing, and
- The part of Yarraman Road from the Wybong Road intersection, up to and including the Yarraman bridge across Wybong Creek being expressly transferred to Muswellbrook Council.

Ausgrid raised an objection as they held assets within the area of the proposed road closure. These assets have since been relocated and the objection has since been removed by Ausgrid.

The statutory notification requirements of Division 3 Part 4 of the *Roads Act 1993*, specifically s. 38A, 38B and 38C have been met and the obligations of Mangoola Coal under the "Road Closure and Works Deed" have been undertaken to this point. Council can now proceed under the provisions of s.38D, 38E and 38F of the *Roads Act 1993* as follows:

- after considering any submissions that have been duly made with respect to the proposal, the Council may, by notice published in the Gazette, close part of Wybong Post Office Road as outlined in the report;
- on publication of the notice closing the road it ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished; and
- the land comprising the former road remains vested in Council.

The land can then be transferred to Mangoola Coal in accordance with the provisions of the "Road Closure and Works Deed."

OPTIONS

- Option 1: Council has previously considered the proposal to close this portion of Wybong Post Office Road. All statutory requirements under the *Roads Act 1993* have been satisfied to allow for the permanent "legal" closure of the proposed road closure portion of Wybong Post Office Road and the objections raised have been resolved with the notifiable authorities. Council can now resolve to close the road.
- Option 2: Council does not resolve to permanently close the portion of Wybong Post Office Road.

CONCLUSION

It is recommended that Option 1 is the preferred course of action in this instance.

SOCIAL IMPLICATIONS

Not applicable.



FINANCIAL IMPLICATIONS

All costs associated with the proposed closure are the responsibility of Mangoola Coal. The land comprising the proposed road closure will be sold to Mangoola Coal. In accordance with the s.43 (4) *Roads Act 1993* “*Money received by a council from the proceeds of sale of the land is not to be used by the council except for acquiring land for public roads or for carrying out road work on public roads*”.

POLICY IMPLICATIONS

Not applicable

STATUTORY IMPLICATIONS

All statutory processes associated with the proposed road closure have been undertaken in accordance with Division 3 Part 4 of the *Roads Act 1993*.

LEGAL IMPLICATIONS

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

OPERATIONAL PLAN IMPLICATIONS

The 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

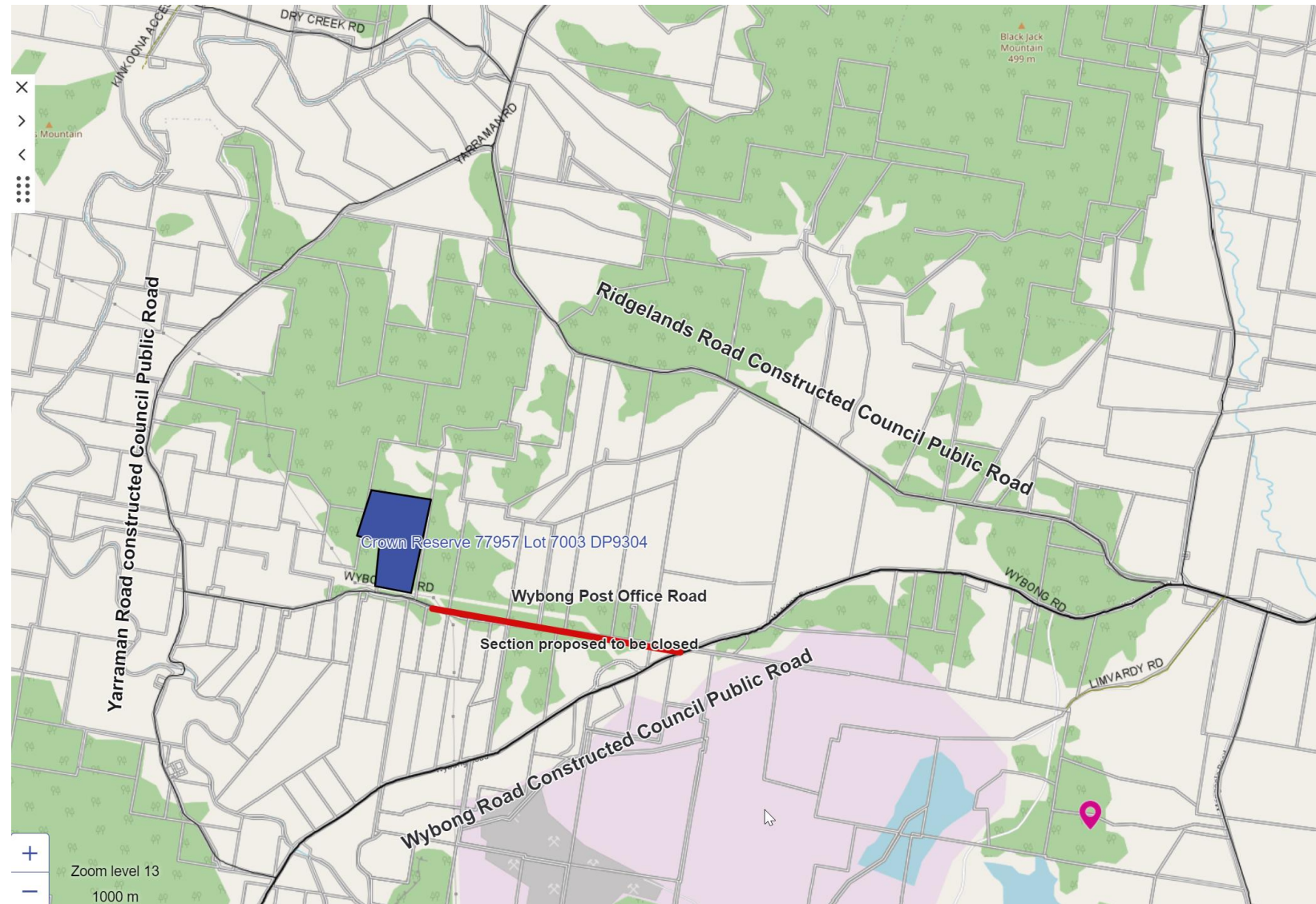
Council has agreed to and has a legal obligation under the “Road Closure and Works Deed” to take all steps necessary or required to allow for the closure of the Proposed Closed Road portion of Wybong Post Office Road.

WASTE MANAGEMENT IMPLICATIONS

Not applicable

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

All required consultation has been undertaken as outlined in the report.





Department of Planning and Environment

PO Box 2215 DANGAR NSW 2309
Phone: 1300 886 235 | Fax: 02 4925 3517
roads@crowland.nsw.gov.au
www.dpie.nsw.gov.au

17/10/2022

Muswellbrook Shire Council
Attn: Alexandra Hathway
Cc: Imelda Williams

Via email: Alexandra.hathway@muswellbrook.nsw.gov.au
Imelda.williams@muswellbrook.nsw.gov.au

Road: part Wybong Post Office Road
Our ref: 18/07347#07

RE: Muswellbrook Shire Council – Notification of proposal to close council public road

Dear Alexandra

Thank you for providing notice of the proposal to close a council public road.

NSW Department of Planning & Environment – Crown Lands (the department) does not object to:

- the closure of the council public road
- the proposed vesting upon closure.

This submission is subject to Council agreeing to:

- 1) The dedication of a road across Wybong Creek in the location of the existing Yarraman bridge, and
- 2) The part of Yarraman Road from the Wybong Road intersection, up to and including the Yarraman bridge across Wybong Creek being expressly transferred to Muswellbrook Shire Council.

General enquiries about this submission may be directed to the Crown Lands Business Centre at
council.roadclosures@crowland.nsw.gov.au.

Kind regards

Bevan Klenk
Senior Group Leader Roads
NSW Department of Planning & Environment – Crown Lands

17th June 2022

Imelda Williams
Muswellbrook Shire Council
PO Box 122
Muswellbrook NSW 2333

Email: imelda.williams@muswellbrook.nsw.gov.au

Dear Imelda,

**Proposed Road Closure – Proposal to close council public roads at Muswellbrook,
Part Wybong Post Office Road, parish Wybong, County Brisbane**

Thank you for the opportunity to provide comment on the proposed closure of a section of public road in Wybong.

Ausgrid is pleased to inform you that Ausgrid's previous objection raised on 24th December 2022 has been withdrawn after the removal of the affected assets.

Ausgrid withdraws its objection to the proposed road closure on the proviso that the access to substation 63038 J OLLEVOU on Lot 16 DP 240086 is maintained from the west end of Wybong Post Office Road.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely



Dannielle Constable-Howe
Engineering Officer
Design Hunter – Engineering | Asset Management

Ph: 02 6542 9091 M: 0427 217 167 F: 02 6542 9037
41 Thomas Mitchell Dr, Muswellbrook NSW 2333
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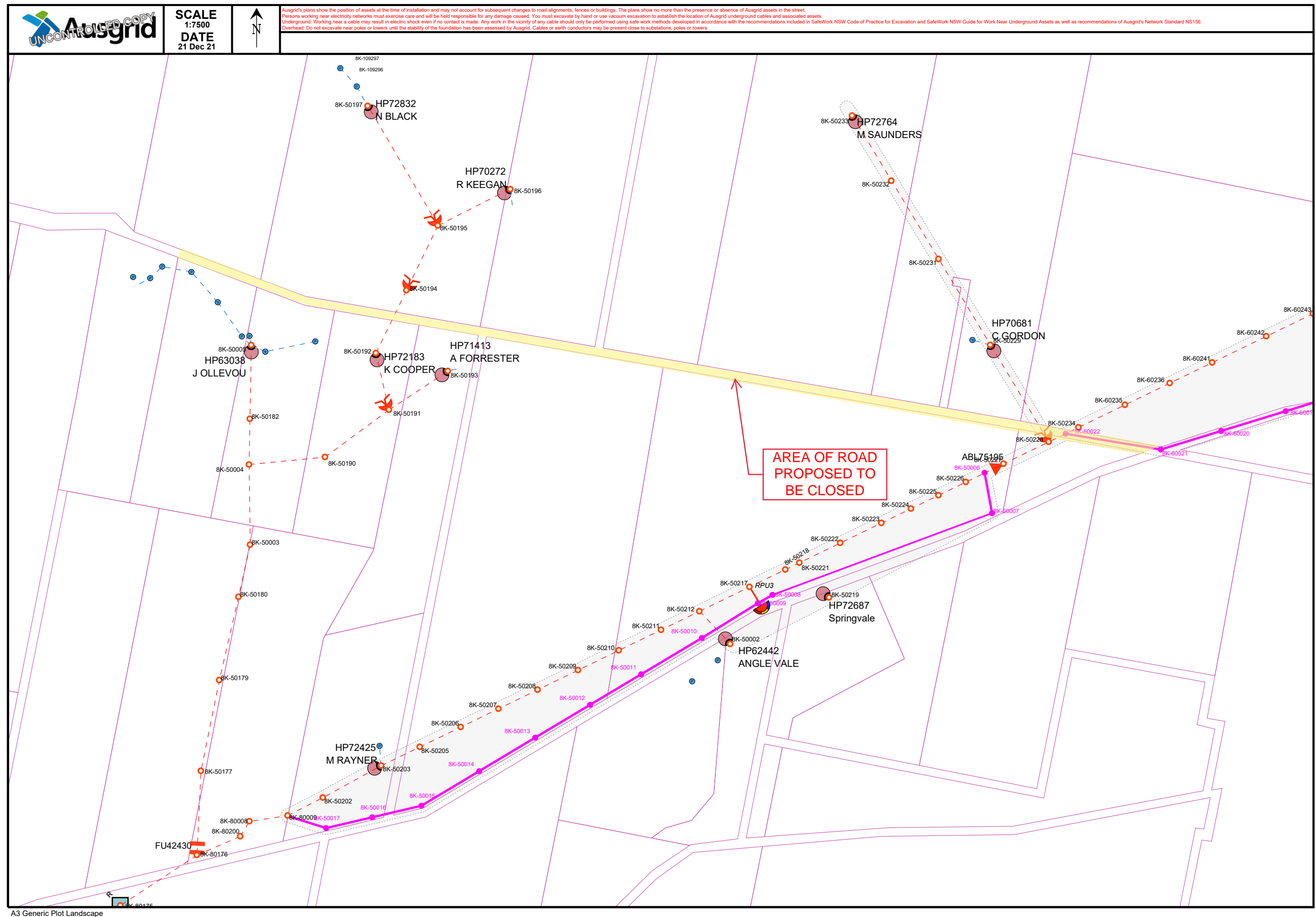
Ausgrid Reference: Trim 2017/42/3

Notification: 1900111568

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Page 1 of 1

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9.2.5. Bengalla Link Road Rehabilitation Section 138 Roads Act 1993 Permit Approval

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Imelda Williams – Traffic & Roads Status Officer
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.3 - Facilitate investment in high quality community infrastructure necessary to a Regional Centre.
	Not applicable

PURPOSE

The report requests Council's approval of a Section 138 *Roads Act 1993* Permit for the Bengalla Link Road Section 2 Rehabilitation Works proposed by Bengalla Mine.

OFFICER'S RECOMMENDATION

Council:

- delegates to the Acting General Manager authority to sign the s.138 *Roads Act 1993* permit approval for works to be undertaken on Bengalla Link Road as documented in the report; and
- advises Bengalla Mining Company that approval will be dependent on fees to be paid, insurances provided, and detailed design plans being accepted by the Acting General Manager.

Moved: _____ **Seconded:** _____

BACKGROUND

The Bengalla Mine consent stipulates that Bengalla Mining Company (BMC) is responsible for the maintenance of Bengalla Link Road from Denman Road to the Bengalla Mine access entry. In 2012, Bengalla completed major refurbishment to the first 3km of the Bengalla Link road (Stage 1), between Denman Road and Cattle Yards.

The second 3km section of road, between Cattle Yards and White House, now requires refurbishment.

BMC are planning to carry out the work which involves significant rehabilitation of this section of Bengalla Link Road which is in a noticeably poor condition. Pavement rehabilitation works are required to extend the design life of the pavement.



Fig 1 – Bengalla Road – 3km Refurbishment

CONSULTATION

Geotechnical investigation and pavement condition survey previously completed by Parsons Brinkerhoff.

WSP completed review in 2021 of proposed heavy patch repairs works.

Benkelman Beam deflection testing and test pitting.

Council's Roads Drainage & Technical Services

REPORT

Council has received a S138 *Roads Act 1993* Permit application from BMC to undertake necessary rehabilitation works to the road pavement on Bengalla Link Road as part of their asset management responsibilities. Geotechnical investigation to assess the condition of the current road surface and an assessment of the subsurface condition to assist with developing a pavement design was undertaken earlier in the year.

The Project includes the rehabilitation of approximately 3km of Bengalla Link Road, commencing near the intersection of Old Bengalla and Bengalla Link Roads running approximately 3km east, stopping at the entrance to the cattle yards on the north side of the road alignment.

The typical cross section road pavement is compliant with the required Council Road Network RS2M standard and will consist of the following:

- 3.5m lane width;
- 2 metre shoulder width;
- 0.5m verge width, increased to 1.05m where guardrail is present;
- 3% two-way cross fall with superelevation as required;
- Runout drains;
- Existing and new property accesses designed in accordance with Austroads;
- Removal of trees within the clear zone;
- Batter slopes
 - Fill batter 4H:1V typically steepened to 2H:1V behind guard rail
 - Cut batters 3H:1V

The work is expected to commence in February 2023 with an expected construction period of 6-9 months depending on the weather conditions.

OPTIONS

Council may decide to:

- Approve the delegation to the General Manager to issue consent for the work under S.138 *Roads Act 1993*;
- Refuse delegation.



CONCLUSION

It is recommended that Council approves delegation to the General Manager for the authority to sign the s.138 *Roads Act 1993* permit approval for works to be undertaken on Bengalla Link Road as documented in the report.

SOCIAL IMPLICATIONS

The roadworks will have significant impact to traffic, including the local community and the workforces at Bengalla, Mt Pleasant and Mangoola mining operations. Active management of traffic on Bengalla Link Road to ensure safe passage with minimum delay is a core component of the Project scope.

The Works are generally located within the road corridor and are entirely outside of Bengalla's mining tenements.

The rehabilitation of the road is necessary and will improve the quality of ride for the road users and extend the pavement life of the road.

FINANCIAL IMPLICATIONS

The cost of all works undertaken will be the responsibility of the applicant. Council will recover its cost through the s.138 *Roads Act 1993* consent fees.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

At nil cost to Council

2. Financial Implications – Operational

Bengalla Mining Company is responsible for the maintenance of this section of road in accordance with its consent conditions for the life of the mine.

POLICY IMPLICATIONS

Nil known

STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

Council is the roads authority and 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 treatment for road safety and traffic management".

RISK MANAGEMENT IMPLICATIONS

The Works will be undertaken under the Contractor's Health and Safety Management System.

Works are required to comply with appropriate Standards, particularly Austroads Standards and Transport for NSW guidelines "Traffic Control at Work Site" traffic management guidelines.



WASTE MANAGEMENT IMPLICATIONS

Waste management will be considered at each stage of the rehabilitation project.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Variable message signage will provide notification to the road users of the upcoming works and any affected residents are to be notified by the applicant.

**9.2.6. 2019-2020-0404 Hunter Beach Draft Landscaping Plan**

Attachments:	1. Hunter Beach MUSWELLBROOK Landscape MB 91122 [9.2.6.1 - 6 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Peter Chambers – Chief Engineer
Community Plan Issue:	3 - <i>Environmental Sustainability</i>
Community Plan Goal:	An environmentally sensitive and sustainable community
Community Plan Strategy:	3.3.1 - Implement funded actions of the adopted Urban Riparian Masterplan.

PURPOSE

To submit for Council's consideration and approval a draft landscaping design and proposed amendments for the 2019-2020-0404 Hunter Beach development to develop the final design.

OFFICER'S RECOMMENDATION

Council endorses the draft landscaping design and proposed amendments for the 2019-2020-0404 Hunter Beach Project to be finalised for final design and construction.

Moved: _____ **Seconded:** _____

BACKGROUND

Muswellbrook Shire Council is developing an area between the Karoola Wetlands and the Hunter River, with a working title of 'Hunter Beach', into a dedicated recreational area for the public and to enhance community connectivity. A concept design for the site was developed consistent with the Muswellbrook Urban Riparian Landcare Master Plan and was adopted by Council in 2018.

The Hunter Beach project has been designed to reconnect the community with the Hunter River and its ecology, as well as providing a recreation area close to, and accessible from, the Muswellbrook town centre. The development proposes to provide enhanced river access and improvement of the natural amenity, including viewing areas and enhanced biodiversity and character of the site.

Planning of the Hunter Beach project has included embankment stabilisation, extensive weed clearing works, followed by replanting/revegetation of native species, earthworks, car park facilities, steps and ramps, pathways, and Recreational Vehicle rest area.

Works on site are progressing, however the project program has been delayed by approximately four weeks due to a significant period of wet weather on critical path works. The grant funding body for this project has provided verbal approval for the extension of timeframes for the works. Formal acceptance of this time extension is expected to be formalised in the coming weeks.



CONSULTATION

Works Coordinator Parks

REPORT

One of the key objectives of the delivery of Stage 1 – Hunter Beach in the Muswellbrook Urban Riparian Landcare Master Plan (MURLMP) is to *“reactivate the river edges and provide formal and informal access to the river systems, creating a sustainable source of tourism and maintaining local community pride in their backyard”*.

Consistent with the endorsed concept design attached to this report, the contractor has engaged a consultant for a 70% draft final design of the landscaping design for the entry driveway, the car parking area and the sandstone steps and ramps. The concept design nominates plant and tree species consistent with the Muswellbrook Urban Riparian Landcare Master Plan, such as River Red Gum trees for embankment stabilisation and higher canopy cover, with a range of native flowering grasses and a range of small to medium trees to ensure biodiversity on site is maintained and protected.

The draft plan is proposed to be amended with the plantings to commence at CH200 of the driveway (approximately central to the car park, 60m south of the current proposed location) to maximise screening towards the rear of the adjacent residential properties, and additional lower storey shrubs and grasses to be duplicated near the proposed amenities and BBQ areas to improve visual amenity.

Picnic shelters, accessible BBQs and additional seating are proposed adjacent to existing vegetation cover at the Karoola Wetlands adjacent to the driveway in a designated clearing area. A fully accessible pathway to all these areas has been nominated, along with additional sandstone logs near the BBQs. Amenities for the site are located directly next to the carpark, and bin storage area is nominated adjacent to the car park area in the vicinity of the BBQs.

The site is proposed to be non-smoking, except for a dedicated smoking area at the end of the current shared pathway. Specific signage for this area will be provided with suitable ashtrays installed.

Proposed solar lighting is nominated toward the entrance to the site, along the driveway and towards the sandstone steps and ramps providing access to the lower ground areas. Lighting proposed on the Karoola Wetlands side of the pedestrian crossing (to meet Australian Standards for safety) will be screened by additional shade sails while tree canopy cover is established over time to prevent errant lighting pollution.

The entry statement for Hunter Beach is proposed to be located on the right-hand side of the entrance where its foundations can be located on flat ground and allows adequate sight distance for drivers and pedestrians passing or exiting the site. The geometry of Aberdeen Street allows clear sight distance from drivers entering from the New England Hwy. This entry statement position also enables closing of a future redundant gravel access for service vehicles to the Sewer Pump Station and additional gate requirements, with new vehicle access points to be provided from the new driveway.

A list of the plant species nominated on the draft landscaping plan and their photos are shown below.



Key	Botanical Name	Common Name	Pot Size	Mature Height	Mature Width	Quantity
TREES						
Canopy Trees						
Af	<i>Angophora floribunda</i>	Rough Barked Apple	75L	20m	20m	2
Ec	<i>Eucalyptus camaldulensis</i>	River Red Gum	75L	30m	15m	2
Medium Trees						
Al	<i>Allocasuarina luehmannii</i>	Bull Oak	45L	8m	4m	3
Bp	<i>Brachychiton populneus</i>	Kurrajong Tree	45L	12m	6m	3
Ma	<i>Melia azedarach</i>	White Cedar	45L	10m	8m	5
Small Trees						
Bs	<i>Bursaria spinosa</i>	Sweet Bursaria	25L	4m	3m	6
Cs	<i>Callistemon salignus</i>	Willow Bottlebrush	25L	6m	5m	14
TURF						
	<i>Cynodon dactylon</i>	Couch	-	-	-	2500m2
ENTRANCE PLANTING						
Feature Plants						
De	<i>Doryanthes excelsa</i>	Gynea Lilly	200mm	5m	3m	6
Low Plants						
Dr	<i>Dianella revoluta</i>	Flax Lily	140mm	0.5m	0.5m	25
Pn	<i>Pennisetum 'Nafray'</i>	Fountain Grass	140mm	0.6m	0.6m	20
Ground Cover						
Mp	<i>Myoporum parvifolium</i>	Creeping boobialla	140mm	0.5m	1m	20
MASS PLANTING						
Grasses						
LI	<i>Lomandra longifolia</i>	Basket Grass	Tube	1.2m	1.0m	50
NATIVE GRASS SEED						
	Refer Hydroseed Specification					6000m2



Canopy Trees



Rough Barked Apple (Af)



River Red Gum (Ec)



Medium Trees



Bulk Oak (AI)



Kurrajong Tree (Bp)



White Cedar (Ma)

Small Trees



Sweet Bursaria (Bs)



Willow Bottlebrush (Cs)

Feature Plants



Gynea Lily (Dr)



Low Plants



Flax Lily (Dr)



Fountain Grass (Pn) - sterile version preferred



Ground Cover



Creeping Boobialla (Mp)

Mass Plantings

Grasses



Basket Grass (LI)



OPTIONS

Council may choose to:

1. Endorse the draft landscaping design and recommended amendments; or
2. Endorse the draft final design subject to requests for any other design amendments.

This will allow the draft final drawings to be advanced to final landscaping drawings and ensure works on site will be completed in a timely manner.

CONCLUSION

The selection of amenities at Hunter Beach will provide critical infrastructure to attract locals and visitors to Muswellbrook consistent with the objectives of the Muswellbrook Urban Riparian Landcare Master Plan, creating a community space that will promote passive and active recreation opportunities within an attractive and natural environmental area.

SOCIAL IMPLICATIONS

The development of Hunter Beach will have a positive social impact to the community of Muswellbrook and tourists visiting the area, providing direct waterfront access to the Hunter River via attractive natural sandstone steps and ramps, regenerating the natural amenity of the space, provide parking, opportunities for active and passive recreation, amenities, shared cycle paths and opportunities for further improvements in additional stages of development in the future.

The control of significant overgrowth and replanting of the site will increase the community ownership of the facility and deliver clear pathways that will promote healthy passive and active recreation and connections to the town centre, including to pet owners.

FINANCIAL IMPLICATIONS

The current design approvals are a critical path issue relating to the grant funding of this project. If approval is delayed it is likely that the project timeline may exceed the budget timeline, resulting in costs to Council. The Project Manager is working closely with the head contractor to ensure any delays on site are minimised, including wet weather delays.

Small additional plantings of vegetation in this area can be accommodated by the existing budget.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

These works achieve the program objective of Operational Plan action 05.04.01: 'Construct approved stages of the Hunter Beach project'.

RISK MANAGEMENT IMPLICATIONS

Nil known.



WASTE MANAGEMENT IMPLICATIONS

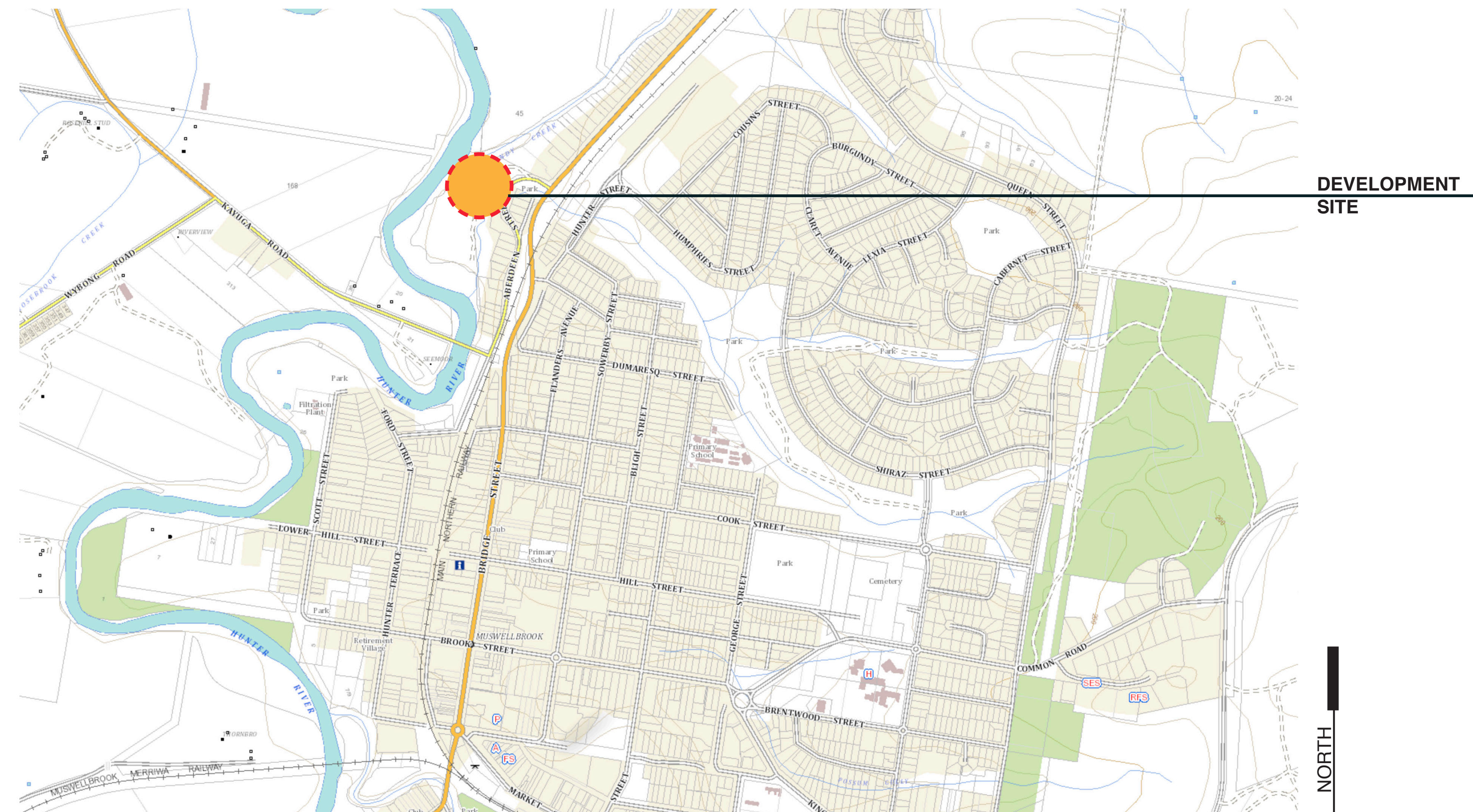
Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

The community will be informed through Council's website and social media of the development and delivery of the Hunter Beach project. A community BBQ was held at Karoola Park on Wednesday 8 June 2022, to inform the community and nearby residents of the commencement of the project.

HUNTER BEACH, MUSWELLBROOK

LANDSCAPE DOCUMENTATION



SHEET NO.	SHEET NAME	REVISION	DATE
L01	COVER SHEET	A	01.11.22
L02	LANDSCAPE PLAN - EAST	A	01.11.22
L03	LANDSCAPE PLAN - WEST	A	01.11.22
L04	PLANT DETAILS	A	01.11.22
L05	DETAILS	A	01.11.22
L06	LANDSCAPE NOTES	A	31.10.22

			<p>NOTES:</p> <ol style="list-style-type: none">1. All work is to be carried out in accordance with relevant Australian Standards, the Building Code of Australia, all Local and State Government Ordinances, Local Authorities' Regulations and other relevant Authorities concerned.2. Locate and protect all services on site prior to excavation.3. All dimensions to be checked and verified on site prior to the commencement of any work. Do not scale off drawings. Follow written dimensions and if in doubt, obtain written confirmation from the Superintendent.4. Drawings are to be read in conjunction with the Specification.5. Landscape drawings are to be read in conjunction with the relevant architectural, engineering (i.e. civil, structural, hydraulic, mechanical, electrical) drawings and specifications.6. No responsibility will be accepted by GSP for any variations in design, builder's method of construction or materials used, deviation from the specification without express permission or accepted work practices; resulting in inferior construction.		<div><div><div><div>www.dialbeforeyoudig.com.au</div><div>DIAL1100 BEFORE YOU DIG</div></div></div><div><div><div>GSP</div><div>Studio 3, 19 Bolton Street Newcastle, NSW, 2300</div><div>P 0423684382 W greenspaceplanning.com.au ABN 88625410433</div></div></div></div>		<div><div>PROJECT:</div><div>HUNTER BEACH DEVELOPMENT ABERDEEN STREET, MUSWELLBROOK</div></div>		<div><div>SHEET: 1</div><div>COVER PAGE</div><div>SCALE: AS SHOWN</div></div> <div></div>		<div><div>JOB NUMBER: 200357 - CC</div><div>STATUS: CONSTRUCTION ISSUE</div><div>DRAWING NUMBER: L01</div><div>DRAWING SHEET SIZE: A1</div></div> <div><div>DATE: 01.11. 22</div><div>SHEET: 1 OF 6</div><div>REVISION: A</div></div>	
A	31.10.22	PRELIMINARY ISSUE										
REV.	DATE	DESCRIPTION										

PLANT SCHEDULE						
Key	Botanical Name	Common Name	Pot Size	Mature Height	Mature Width	Quantity
TREES						
Canopy Trees						
Af	Angophora floribunda	Rough Barked Apple	75L	20m	20m	2
Ec	Eucalyptus camaldulensis	River Red Gum	75L	30m	15m	2
Medium Trees						
Al	Allocasuarina luehmannii	Bull Oak	45L	8m	4m	3
Bp	Brachychiton populneus	Kurrajong Tree	45L	12m	6m	3
Ma	Melia azedarach	White Cedar	45L	10m	8m	5
Small Trees						
Bs	Bursaria spinosa	Sweet Bursaria	25L	4m	3m	6
Cs	Callistemon salignus	Willow Bottlebrush	25L	6m	5m	14
TURF						
	Cynodon dactylon	Couch	-	-	-	2500m2
ENTRANCE PLANTING						
Feature Plants						
De	Doryanthes excelsa	GyMEA Lilly	200mm	5m	3m	6
Low Plants						
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Pn	Pennisetum 'Naf-ray'	Fountain Grass	140mm	0.6m	0.6m	20
Ground Cover						
Mp	Myoporum parvifolium	Creeping boobialla	140mm	0.5m	1m	20
MASS PLANTING						
Grasses						
LI	Lomandra longifolia	Basket Grass	Tube	1.2m	1.0m	50
NATIVE GRASS SEED						
	Refer Hydroseed Specification					6000m2

HYDROSEEDING	
1. HYDROSEEDING SHALL BE CARRIED OUT BY A SPECIALIST IN HYDROSEEDING, SUCH AS SPRAYGRASS OR SIMILAR APPROVED. WORK SHALL BE UNDERTAKEN TO AREAS NOMINATED ONLY AS PER SUPPLIER/INSTALLER'S SPECIFICATIONS.	
SUPPLY OF SEED	
2. CERTIFIED SEED ONLY SHALL BE SUPPLIED.	
PREPARATION FOR HYDROSEEDING	
3. STORAGE TANKS, CONTAINERS AND EQUIPMENT TO BE USED FOR HYDROSEEDING MUST BE CLEAN AND FREE OF CONTAMINATION FROM PREVIOUS OPERATIONS.	
4. BEFORE SEEDING COMMENCES, THE AREAS TO BE SEEDED SHALL BE ERADICATED OF WEEDS AND ANY EXISTING VEGETATION GROWTH (EXCEPT NATIVE VEGETATION) SHALL BE SLASHED TO A HEIGHT OF 150MM. TRASH BUILD UP AND CUT MATERIAL SHALL BE REMOVED FROM THE AREA PRIOR TO SPRAYING WITH A KNOCKDOWN HERBICIDE (INCORPORATING A HERBICIDE MARKER). THE HERBICIDE SHALL BE USED ACCORDING TO THE MANUFACTURER'S RECOMMENDED RATES AND ANY OFF-TARGET DAMAGE SHALL BE RECTIFIED BY THE CONTRACTOR.	
5. AREAS SPRAYED WITH HERBICIDE MUST REMAIN UNDISTURBED FOR A MINIMUM PERIOD OF TWO WEEKS OR SUCH LONGER PERIOD RECOMMENDED BY THE HERBICIDE MANUFACTURER.	
SLOPES	
6. TYNE SLOPES TYNE SLOPES WITH GRADIENTS OF 5 TO 1 OR FLATTER GENERALLY PARALLEL TO THE SURFACE CONTOURS TO A DEPTH OF 150 MM TO PRODUCE A LOOSE SURFACE AND REMOVE ALL STONES LARGER THAN 100 MM IN SIZE, RUBBISH AND OTHER MATERIALS THAT MAY HINDER GERMINATION BEFORE TOPSOILING.	
7. PREPARE BATTERS STEEPER THAN 5 TO 1 BY THREE PASSES OF A STEEL CHAIN OF MINIMUM WEIGHT 25 KG/M TO REMOVE LOOSE MATERIAL, OR BY ANOTHER METHOD WHICH PRODUCES A SIMILAR RESULT, NO EARLIER THAN 7 DAYS BEFORE SEEDING. THE TREATED SURFACE MUST HAVE ALL FURROWS ALIGNED WITH THE CONTOURS.	
8. WHERE BATTERS HAVE BEEN STEPPED, REMOVE ALL LOOSE STONES LARGER THAN 50 MM AND ALL RUBBISH.	
TOPSOIL	
9. ALL UNCONTAMINATED TOPSOIL STOCKPILED AT THE COMMENCEMENT OF THE EARTHWORKS MUST BE USED IN THE VEGETATION WORK. IMPORTED TOPSOIL MAY BE USED TO MAKE UP FOR ANY SHORTFALL IN THE QUANTITY AVAILABLE FROM THE SITE.	
10. APPLY TOPSOIL UNIFORMLY TO ANY AREAS PROPOSED TO BE VEGETATED, WHICH DO NOT HAVE ADEQUATE TOPSOIL COVERAGE, TO A MINIMUM DEPTH OF 150MM. WHERE BATTERS HAVE BEEN STEPPED, LOOSELY COVER THE STEPS TO PROVIDE A WEDGE OF TOPSOIL ON EACH STEP WHICH IS 30 MM TO 70 MM DEEP AGAINST THE VERTICAL FACE AT THE BACK OF THE STEP.	
HYDROSEEDING APPLICATION RATES	
MATERIAL	RATE PER HECTARE
WATER	20,000 LITRES
ORGANIC FERTILISER: PELLETTISED POULTRY MANURE	250KG
SEED (LOCALLY SOURCED NATIVE SPECIES)	7.5KG 3.75%
BIODEGRADABLE GREEN DYE	AS RECOMMENDED
BINDER: GRANULATED 'GUAR GUM'	60KG
WOOD FIBRE MULCH	2,500KG
SOWING	
11. CARRY OUT HYDROMULCHING / HYDROSEEDING WITHIN 2 DAYS OF COMPLETION OF SOIL PREPARATION OR, IF DELAYED BY THE WEATHER CONDITIONS LISTED BELOW, AS SOON AS WEATHER CONDITIONS PERMIT.	
12. AGITATE CONTINUOUSLY THE SLURRY TO MAINTAIN A UNIFORM CONSISTENCY DURING APPLICATION. APPLY IT UNIFORMLY OVER THE WHOLE SURFACE AT THE RATE SPECIFIED.	
13. THE SPRAYED HYDROMULCH LAYER WITHIN 48 HOURS OF APPLICATION MUST HAVE A MINIMUM THICKNESS AT ANY LOCATION OF 5 MM WHEN USING SUGAR CANE MULCH (MIXED WITH SHREDDED PAPER), OR 2 MM WHEN USING WOOD FIBRE.	
14. DO NOT APPLY HYDROSEEDING, HYDROMULCHING AND STRAW MULCHING:	
(A) WHEN WINDS EXCEED 15 KM/HR;	
(B) WHEN TEMPERATURES EXCEED 37°C.	
(C) WHERE THE SURFACE IS TOO WET; OR	
(D) DURING RAIN PERIODS OR WHEN RAIN APPEARS IMMINENT.	

			<div>NOTES:</div> <div>1. All work is to be carried out in accordance with relevant Australian Standards, the Building Code of Australia, all Local and State Government Ordinances, Local Authorities' Regulations and other relevant Authorities concerned.</div> <div>2. Locate and protect all services on site prior to excavation.</div> <div>3. All dimensions to be checked and verified on site prior to the commencement of any work. Do not scale off drawings. Follow written dimensions and if in doubt, obtain written confirmation from the Superintendent.</div> <div>4. Drawings are to be read in conjunction with the Specification.</div> <div>5. Landscape drawings are to be read in conjunction with the relevant architectural, engineering (i.e. civil, structural, hydraulic, mechanical, electrical) drawings and specifications.</div> <div>6. No responsibility will be accepted by GSP for any variations in design, builder's method of construction or materials used, deviation from the specification without express permission or accepted work practices, resulting in inferior construction.</div>	<div>www.dialbeforeyoudig.com.au</div> <div></div>	<div>GSP</div> <div>Studio 3, 19 Bolton Street Newcastle, NSW, 2300</div> <div>P 0423684382 W greenspaceplanning.com.au ABN 88625410433</div>	<div>PROJECT:</div> <div>HUNTER BEACH DEVELOPMENT</div> <div>ABERDEEN STREET, MUSWELLBROOK</div>	<div>SHEET:</div> <div>PLANT DETAILS</div>		JOB NUMBER: 200357 - CC	DATE: 31.10.22
A	31.10.22	PRELIMINARY ISSUE	<div>SCALE: AS SHOWN</div>	<div>PROJECT NORTH</div> <div></div>	STATUS: CONSTRUCTION ISSUE	DRAWING NUMBER: L04	REVISION: A			
REV.	DATE	DESCRIPTION								
DRAWING SHEET SIZE: A1										



NOTES

GENERAL

- 1. THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL CONTRACTS, SPECIFICATIONS, REPORTS AND APPROVAL CONDITIONS.
- 2. LANDSCAPE DOCUMENTATION IS ONLY TO BE USED FOR THE PURPOSE FOR WHICH IT WAS COMMISSIONED. UNAUTHORISED USE OF THIS DOCUMENT IS PROHIBITED.
- 3. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS NOTED OTHERWISE
- 4. THE CONTRACTOR IS TO CONFIRM THE LOCATION OF ANY UNDERGROUND SERVICES PRIOR TO UNDERTAKING ANY EXCAVATION WORKS. THESE DRAWINGS DO NOT INDICATE THE EXTENT OF EXISTING SERVICES. DO NOT EXCAVATE BY MACHINE WITHIN 1M OF EXISTING UNDERGROUND SERVICES WITHOUT PRIOR APPROVAL OR IDENTIFICATION OF SERVICE LOCATION.
- 5. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL SERVICES AND OBTAINING CLEARANCES AND APPROVALS.
- 6. THE CONTRACTOR SHALL SET OUT THE WORKS TO THE LINES, LEVELS AND DIMENSIONS SHOWN IN THE CONTRACT DOCUMENTS, OR DIRECTED BY THE SUPERINTENDENT.
- 7. ALL TREES, SHRUBS, GROUND COVERS AND GRASSING SUBJECT TO 52 WEEKS CONSOLIDATION.
- 8. PROPRIETARY PRODUCTS AND SYSTEMS ARE TO BE INSTALLED ACCORDING TO MANUFACTURER SPECIFICATION.

LANDSCAPE SETOUT NOTES

- 1. VERIFY DIMENSIONS, LEVELS & DETAILS TO SITE CONDITIONS AND PRIOR WORKS, AND REPORT ALL DISCREPANCIES TO THE SUPERINTENDENT FOR RESOLUTION BEFORE COMMENCING WORK.
- 2. COORDINATE ALL DRAINAGE AND LEVELS WITH HYDRAULIC AND CIVIL DOCUMENTATION.
- 3. WHERE DESIGN LEVELS, FALLS AND CONTOURS NOT SHOWN, ALLOW FOR NEW F.S.L. TO MATCH EXISTING ADJACENT & TYP 2% DRAINAGE FALLS AND SEEK INSTRUCTION FROM SUPERINTENDENT.
- 4. MODIFY ALL UTILITY LIDS & ALIGNMENTS (INCLUDING UNSURVEYED) TO AUTHORITY & REGULATORY REQUIREMENTS TO SUIT NEW WORKS. REFER SURVEY OF EXISTING CONDITIONS & ENGINEER'S DRAWINGS. REFER CIVIL DOCUMENTATION FOR DRAINAGE NETWORK, KERB ALIGNMENT & SETOUT.
- 5. DISTRIBUTE LIKE JOINTS PARALLEL/PERPENDICULAR TO CONTROLLING EDGE GEOMETRY UNLESS DEFINED OR INSTRUCTED OTHERWISE. GAIN APPROVAL PRIOR TO POURING.
- 6. INSTALL EXPANSION JOINTING TO ALL FIXED STRUCTURES INCLUDING SIGNS, LIDS, VENTS, LIGHTS, WALLS, SHELTERS, KERBS AND UTILITIES.
- 7. ROOT BARRIER IS TO BE INSTALLED ADJACENT STORM WATER, WATER OR SEWER INFRASTRUCTURE WHERE REQUIRED TO PROTECT INDIVIDUAL SERVICES.
- 8. ROOT BARRIER IS TO BE INSTALLED WHERE TREES ARE PLANTED WITHIN 2m FROM THE SIDE OF ANY GAS MAIN, NOT LESS THAN 1m FROM THE SIDE OF THE GAS MAIN TO THE CENTRE OF THE PROPOSED TREE.
- 9. COORDINATE WORKS WITH IRRIGATION DESIGN AND SPECIFICATION (WHERE APPLICABLE).
- 10. PROVIDE SMOOTH TRANSITIONS BETWEEN SLOPES OF DIFFERENT GRADIENTS AND DIRECTION. MODIFY THE GRADE SO THAT THE FINISH GRADE IS FLUSH WITH ALL PAVING SURFACES OR AS DIRECTED BY THE DRAWINGS. FILL DIPS AND REMOVE ANY BUMPS IN THE OVERALL PLANE OF THE SLOPE.

PLANTS

- 1. SUPPLY AND DELIVERY OF ALL TREES AND PLANTS TO CONFORM WITH AS2303:2015 - TREE STOCK FOR LANDSCAPE USE.
- 2. TREE SUPPLY SIZE INDICATED IS TO BE CONSIDERED A MINIMUM. THE CONTRACTOR SHALL SOURCE SUITABLE STOCK AND GAIN APPROVAL FROM SUPERINTENDENT PRIOR TO ORDERING.
- 3. TREES MUST BE OF GOOD QUALITY STOCK WITH WELL ESTABLISHED CANOPY IN WHICH NUMEROUS UPRIGHT BRANCHES ACHIEVE THE SPECIFIED MINIMUM HEIGHT WHEN PLANTED. SOURCE PLANTS FROM AN APPROVED NURSERY, WHICH ARE VIGOROUS, WELL ESTABLISHED, FREE FROM DISEASE AND PESTS. OF GOOD FOLIAGE, HAVE A HEALTHY LARGE ROOT SYSTEM WHICH DO NOT SHOW ANY EVIDENCE OF ROOT CURL, RESTRICTION OR DAMAGE.
- 4. NATIVE GRASS & SHRUB SUPPLY SIZE INDICATED IS TO BE CONSIDERED A MINIMUM. THE CONTRACTOR SHALL SOURCE SUITABLE STOCK AND GAIN APPROVAL FROM SUPERINTENDENT PRIOR TO ORDERING.
- 5. PLANT SPECIES QUANTITIES ARE PROVIDED BY AREA, THE CONTRACTOR SHALL SET-OUT PLANTS AT EVEN SPACING TO ENSURE CONSISTENT COVERAGE OF AREA INDICATED IN DRAWINGS.
- 6. MAKE NO SUBSTITUTIONS. REPLACE PLANTS WHICH HAVE FAILED, BEEN DAMAGED OR REJECTED ONLY WITH PLANTS OF THE SAME TYPE, QUALITY AND SIZE.

SOIL PREPARATION

- 1. PRIOR TO THE INSTALLATION OF THE LANDSCAPE AND IRRIGATION SYSTEM, THE CONTRACTOR IS TO PREPARE THE SOIL TO ENSURE A PROPER ENVIRONMENT FOR PLANT ROOT DEVELOPMENT. APPLY WEED CONTROL MEASURES AS NECESSARY (GLYPHOSATE HERBICIDE - IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATION) WELL PRIOR TO SITE DISTURBANCE TO ENSURE TARGET VEGETATION IS COMPLETELY ERADICATED.
- 2. FOR THE PURPOSES OF LANDSCAPE AREAS, SOIL SHALL BE FREE FROM WEEDS AND OTHER DELETERIOUS MATERIALS WHICH MAY BE TOXIC TO PLANT HEALTH. IMPORTED SOIL TO HAVE A PH RANGE OF 5.5-7 AND A SLAT CONTENT OF LESS THAN 0.1% (MEASURED OVEN DRY). SPREAD AND GRADE EVENLY AND ALLOW A LIGHT COMPACTION OF SOIL TO ENSURE LEVELS FACTOR A TOPPING MULCH LAYER, WHICH WILL FINISH FLUSH WITH SPECIFIED EDGING, PAVING AND THE LIKE AS SPECIFIED.

PLANTING NOTES

- 1. PLANT WITHIN 24 HOURS OF DELIVERY AND DO NOT PLANT IN UNSUITABLE CONDITIONS SUCH AS EXTREME HEAT, WIND, COLD OR RAIN. SET OUT PLANS AS INDICATED ON THE PLAN.
- 2. PLANT HOLES ARE TO BE APPROXIMATELY TWICE THE WIDTH AND 100MM DEEPER THAN THE POT. ADD FERTILISER AND REMOVE PLANT FROM POT WITH MINIMAL DISTURBANCE TO THE ROOT-BALL AND GROWING MEDIA. ONCE PLANTS ARE IN THE GROUND BACKFILL WITH EXCAVATED SOIL TO ENSURE BASE OF STEM FINISHES FLUSH WITH FINISHED SOIL LEVEL. THOROUGHLY WATER ALL PLANTS WITH A DILUTED SEAWEED BASED SOLUTION, PRIOR TO PLANTING AND IMMEDIATELY AFTER. DEEP WATERING SHOULD BE UNDERTAKEN AT LEAST ONCE A WEEK FOR SIX WEEKS TO ENSURE PLANTS ARE KEPT MOIST BUT NOT WET. COVER AREA WITH MULCH AS SPECIFIED BELOW TO A DEPTH OF 50MM. KEEP TRUNK/STEM OF THE PLANT FREE FROM CONTACT WITH THE MULCH.

SOIL TYPE 'A'

- 3. TOP 200MMM SOIL TO BE EQUAL TO AS4419-2003 'ORGANIC SOIL' WITH TEXTURE TO AS4419-2003 TABLE 1 - SANDY LOAM.
- 4. BELOW 200MM SOIL TO BE EQUIVALENT TO AS4419-2003 'SOIL BLEND' WITH MAXIMUM 5 PER CENT ORGANIC MATTER CONTENT. TEXTURE IN ACCORDANCE WITH TABLE 1 - SANDY LOAM (AS4419-2003).

SOIL TYPE 'B'

- 5. WHERE EXISTING AMELIORATED TOP SOIL MEETS THE REQUIREMENTS FOR IMPORTED TOPSOIL OR OTHERWISE APPROVED BY THE SUPERINTENDENT.
- 6. IN THE INSTANCE WHERE THE EXISTING TOP SOIL DOES NOT MEET THE REQUIREMENTS, AMELIORATED SITE TOPSOIL OR IMPORTED GENERAL PURPOSE SOIL MAY BE USED. SOIL NEEDS TO BE FREE FROM NOXIOUS WEEDS. THE CONTRACTOR IS RESPONSIBLE FOR THE DISPOSAL OF EXCESS SOIL EXCAVATED IN THE PROCESS.

SITE TOPSOIL - SOIL TESTS

- 7. SOIL TESTS ARE TO BE CARRIED OUT ON SITE TOP SOIL WHERE PLANTING SPECIFIES NATIVE SPECIES; SAMPLING IN ACCORDANCE WITH AS4419 (2003).
- 8. AMELIORATE TOP SOIL IN ACCORDANCE WITH SOIL TEST RESULTS AND IF UNSUITABLE IMPORT SUITABLE TOPSOIL TO SUPPORT NATIVE PLANT GROWTH.

MULCH

- 9. ENSURE MULCH IS FREE FROM DELETERIOUS AND EXTRANEIOUS MATTER SUCH AS SOIL, WEEDS, STONES AND STICKS. MULCH SHOULD BE ANL 'FOREST BLEND' OR EQUIVALENT, UNLESS OTHERWISE SPECIFIED. PLACE MULCH TO A DEPTH OF 50MM. RAKE AND TO AN EVEN SURFACE FLUSH WITH SURROUNDING FINISH LEVELS.

FERTILISERS

- 10. APPLY (IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS) SLOW RELEASE FERTILISERS, APPROPRIATE FOR NATIVE OR EXOTIC SPECIES TYPE, SUCH AS OSMOCOTE OR AGRIFORM TABLETS ON ALL PLANTS.
- PLANTS: 8/9mth SLOW RELEASE FERTILISER - N:P:K 8:1:5 (NATIVES)
- TURF: SPREAD FERTILISER OVER TOPSOIL BEFORE LAYING TURF. COMPLETE LAWN FERTILISER. N:P:K 10:4:5

TURF

- 11. OBTAIN TURF FROM A SPECIALIST GROWER OF CULTIVATED TURF. A 'CERTIFICATE OF AUTHENTICITY' IS TO ACCOMPANY SUPPLY.
- 12. TURF SUPPLIED TO BE FRESH, VERDANT AND HEALTHY, FREE OF WEEDS, SOIL PESTS AND DISEASE. TURF SHOULD BE OF EVEN THICKNESS (25MM) AND WELL ROOTED GRASS.
- 13. PREPARE FOR, LEVEL AND LAY CULTIVATED COUCH TURF TO ALL AREAS NOMINATED ON THE PLANS AS TURF. TURFING TO ALSO BE LAID WHERE REQUIRED TO MAKE GOOD ANY AREAS DISTURBED DURING CONSTRUCTION.
- 14. TURF TO BE LAID WITHIN 24 HOURS OF DELIVERY ON SITE.
- 15. TURF UNDERLAY TOPSOIL TO COMPLY WITH AS4419 (2003) AND NOT CONTAIN STONES OR PLANT ROOTS (> 10MM SIZE), CLAY LUMPS OR MATERIALS TOXIC TO HUMAN OR PLANT HEALTH.
- 16. LAY TURF ON A MOIST SURFACE, ALONG THE CONTOUR LINES WITH CLOSED BUTTED JOINTS TO ENSURE TURF FLUSH WITH ADJACENT SURFACES.
- 17. ROLL FRESHLY LAID TURF, AS SOON AS PRACTICAL, WITH A ROLLER AND WATER AS NECESSARY TO KEEP SOIL MOIST.
- 18. UNTIL ESTABLISHED, PROTECT NEWLY TURFED AREAS FROM TRAFFIC.

HARDWORKS

TIMBER EDGING

- 1. EDGING TO BE INSTALLED WHERE NECESSARY TO SEPARATE PLANTING BEDS AND TURFED AREAS.
- 2. USE 38 X 100MM H4 TREATED PINE EDGING WITH 50 X 50 X 500MM STAKES (2 NO. X GALVANISED NAILS PER FIXING) FINISHED 25MM BELOW TOP OF EDGING. REFER DETAIL.

ROOT BARRIER

- 1. ROOT BARRIERS TO BE MANUFACTURED FROM A 100 PER CENT RECYCLED HDPE MATERIAL AT 1MM (MIN.) THICKNESS.
- 2. INSTALLATION IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATION.

MAINTENANCE

- 1. CARE OF NEWLY PLANTED PLANTS IS CRITICAL, PARTICULARLY IN THE FIRST 12 MONTHS, DEPENDING ON THE SPECIES AND MATURITY. ADOPT A STRATEGY TO ENSURE WATERING IS UNDERTAKEN TO MAINTAIN ADEQUATE SOIL MOISTURE AND AVOID OVER-WATERING TO AVOID ROOT ROT.
- 2. WHERE REQUIRED, IRRIGATION SYSTEMS WILL BE FULLY AUTOMATIC, DESIGNED AND INSTALLED TO COMPLY WITH AS 2698, AS 2698.1-1994, AS 2698.2-1985, AS 2698.3-1990, HUNTER WATER AND OTHER RELEVANT AUTHORITY REGULATIONS.

MAINTENANCE

- 1. ALL LANDSCAPE WORKS ARE TO BE MAINTAINED FOR A PERIOD OF 52 WEEKS AFTER FINAL COMPLETION. REPLACE ALL PLANTS WHICH HAVE FAILED WITH THE SAME SPECIES. MULCH IS TO BE MAINTAINED AT SPECIFIED DEPTH. ALL PLANTS AND TURF SHALL BE WATERED ON A REGULAR BASIS TO MAINTAIN MOISTURE LEVELS REQUIRED FOR OPTIMUM GROWTH. ALL GARDEN AREAS ARE TO BE MAINTAINED FREE FROM WEEDS.

WITNESS AND HOLD POINTS

- 1. THE FOLLOWING HOLD POINTS AND WITNESS POINTS, WHERE DEEMED APPLICABLE, ARE TO BE CARRIED OUT BY COUNCIL'S NOMINATED PROJECT MANAGER:

HOLD POINT	COMPLETED	NOTES
EXCAVATION OF TREE PITS, WITH ROOT BARRIER (AS REQUIRED)		
CERTIFICATION OF ALL ASSOCIATED IMPORTED TOPSOIL, IN ACCORDANCE WITH AS4419-2003		
TREE DELIVERY TO RELEVANT AS2303:2015 STANDARD		
WITNESS POINT		
COMMENCEMENT OF TREE PLANTING		
COMPLETION OF TREE PLANTING		

INSPECTIONS

INSPECTIONS MUST BE CARRIED OUT BY COUNCIL'S NOMINATED PROJECT MANAGER AT THE FOLLOWING POINTS:

- 1. INSTALLATION OF TREE PROTECTION MEASURES (AS4970 - 2009)
- 2. COMPLETION OF TREE PIT SET OUT, PRIOR TO EXCAVATION
- 3. TREE STOCK DELIVERED TO SITE, PRIOR TO PLANTING.
- 4. COMMENCEMENT OF TREE PLANTING.
- 5. COMPLETION OF TREE PLANTING - INCLUDING INSTALLATION OF ANY GUARDS /GRATES AND MULCH IN ACCORDANCE WITH THE APPROVED PLANS.

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9.3. Property and Place

9.3.1. Street Sign Name Blades

Attachments:	1. Current Street Sign Name Blades - Examples [9.3.1.1 - 3 pages] 2. Design Options [9.3.1.2 - 2 pages]
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Responsible Officer: Derek Finnigan - Acting General Manager

Author: Peter Ball, Nikki Forester – Senior Works Co-Ordinator

Community Plan Issue: 5 - Community Infrastructure

Community Plan Goal: Effective and efficient infrastructure that is appropriate to the needs of our community.

Community Plan Strategy: 5.1.4 - Maintain and continually improve community infrastructure across the Shire.

PURPOSE

To submit for Council's consideration design options for street name blade signs.

OFFICER'S RECOMMENDATION

Council endorses:

1. Street sign name blades with black writing on white background with Council logo (without text) before the street name.
2. All lettering on street name blades be capitalised.
3. Street abbreviations and contractions following the Australian Government Style Manual – Australian Place Names.

Moved: _____ **Seconded:** _____

BACKGROUND

Earlier this year Council's Works section undertook an audit of street name blade signs. It found several different styles of name blade throughout Muswellbrook Shire.

Differences were not significant, however were noticeable, and included:

- Black writing on white;
- Green writing on white;
- Signs with capital letters and without;
- Signs with arrows coloured and without;
- Signs with street numbers and without;
- Lack of consistency with abbreviations and contractions.

CONSULTATION

Acting Works Civil Coordinator

Manager Works

Director Property and Place



Fuel and Furnishings Officer

Works Supervisor - Structures

Acting Works Supervisor - Bitumen

REPORT

Following the audit, several sample design options were requested to assist in deciding on a consistent design that can be applied when purchasing new street name blade signs for Muswellbrook Shire.

These design options can be seen in the attachment which sample different colours previously used alongside different versions of the Muswellbrook Shire logo.

Designs were checked for conformity with the Australian Government Style Manual – Australian Place Names and Transport for New South Wales Sign Register.

Design options were also compared to street name blade signs at other Hunter Region councils. Many use their logo on their street name blades.

It is intended that from the selection of a consistent design for new street name blade signs, a Muswellbrook Shire Signs Guide can be developed and reported to Council.

The recommended design option is black writing on white background with Council logo without text before the street name. Further, that street names are capitalised, and street abbreviations and contractions following the Australian Government Style Manual – Australian Place Names.

Common abbreviations include:

- Ave (Avenue);
- Cct (Circuit);
- Cr (Crescent);
- Ct (Court);
- Dr (Drive);
- Esp (Esplanade);
- Gr (Grove);
- Hts (Heights);
- Hwy (Highway);
- Pde (Parade);
- Pl (Place);
- Rd (Road);
- St (Street);
- Tce (Terrace).

OPTIONS

Council could endorse the recommended design options for street name blade sign or select an alternative.

CONCLUSION

The street sign name blade with black writing on white background with Council logo (without text) before the street name is recommended.

SOCIAL IMPLICATIONS

Having a consistent and well-designed street signs name blade will contribute to the presentation and navigation of Muswellbrook Shire streets.



FINANCIAL IMPLICATIONS

There are no additional costs as the design changes will be introduced when signs need to be replaced.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

'5.1.4 - Maintain and continually improve community infrastructure across the Shire',
Muswellbrook Shire Operational Plan 2022-2023

RISK MANAGEMENT IMPLICATIONS

Nil known.

WASTE MANAGEMENT IMPLICATIONS

All replaced signs will be recycled.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

To be determined.

CURRENT NAME BLADES THROUGHOUT TOWN

Example 1: Green on white with directional arrow, and different abbreviation



Example 2: Green on white with no directional arrow



Example 3: Green on white, directional arrow and street numbers



Example 4: Current design, green on white with directional arrow:



Example 5: Black on white and directional arrow



Example 6: Black on white with no directional arrow



Example 7: Black on white, directional arrow and black coloured arrow



PROPOSED STYLES

Example 1: Current logo



Example 2: Social Media logo (from current Style Guide)



Example 3: Current logo in portrait style



Example 4: Image from current logo



**9.3.2. Major Projects: Status Update**

Attachments:	1. Major Projects Status Report [9.3.2.1 - 3 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Matthew Lysaught – Director Property & Place
Community Plan Issue:	5 - Community Infrastructure
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	1.4.1 - Complete current infrastructure projects and identify future opportunities for the Shire.
	Not applicable

PURPOSE

To provide Council with a monthly Major Projects Status Report.

OFFICER'S RECOMMENDATION

Council notes the report.

Moved: _____ **Seconded:** _____

BACKGROUND

A monthly tabular report is provided with status updates and information on major projects for areas of community infrastructure.

CONSULTATION

Respective project managers.

REPORT

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

Each iteration of the report is reviewed to improve the communication of status updates against the Delivery Program and 2022 – 2023 Operational Plan.

OPTIONS

Council may request further information on respective projects.

CONCLUSION

It is recommended that the information contained in the report be noted.

SOCIAL IMPLICATIONS

To provide infrastructure that is well-planned and appropriate for the needs of our community.



FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

‘1.4.1 Complete current infrastructure projects and identify future opportunities for the Shire’,
Muswellbrook Shire 2022 – 2023 Operational Plan

RISK MANAGEMENT IMPLICATIONS

Risk implications are considered and assessed for major projects.

WASTE MANAGEMENT IMPLICATIONS

Project plans consider and have waste management plans.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Subject to the type and scale of the project, Council consults and provides communications to the community and media.

PROJECT NUMBER	PROJECT	PROJECT STAGE INVESTIGATION (I) DESIGN (D) CONSTRUCTION (C)	BUDGET ESTIMATE	FY BUDGET ALLOCATION	PLANNED START	PLANNED COMPLETION	START	COMPLETION	STATUS AS AT 16 NOVEMBER 2022
MULTIPLE YEAR PROJECTS									
2019 Special Rate Variation									
TBA	Stormwater Drainage Projects	C	\$300,000	\$615,188					This funding is currently not allocated. Projects are to be prioritised and reported to Council. Merton St Denman is considered to be a high priority project for the consideration of Council in relation to this funding.
2019-2020-0417	Olympic Park Amenities and Grandstand	D & C	TBD	\$2,248,033	Jan-21	Dec-24	Jan-21		2022-23 Operational Plan Action: 1.4.1.2 Seek development approval for grandstand and amenities design for Olympic Park. Development Application has been submitted with the Regional Planning Panel. Approval is not expected until April 2023. Planned completion date has been amended to reflect anticipated approval.
2021-2022-0520	Olympic Park Field Improvements	D	\$1,500,000	\$990,316	Jul-22	Jun-23	Jul-22		2022-23 Operational Plan Action:1.4.1.1 Commence Olympic Park field improvements. Draft drainage and irrigation designs have been completed.
TBA	Olympic Park Projects	D	TBD	\$171,301	Jul-22				Design for Olympic Park Funds to be allocated for investigation and design of other precinct stages including precinct landscape design.
2020-2021-0463	Regional Entertainment and Conference Centre	D & C	TBD	\$6,208,018	Oct-21	Jun-26	Oct-21		2022-23 Operational Plan Action: 4.2.1.1 Begin precinct enabling works, and 4.2.1.2 Review design value management options for theatre and community hall. 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 development application was withdrawn in October to address planning issues raised for resubmission. Engaging consultant to prepare alternative concept design for Possum Gully Culvert relocation to cater for the Civic Precinct. It is planned that the concept will be communicated with ARTC to seek feedback.
Other									
TBA	Civic Precinct (Town Square)	D & C	\$14,500,000	\$3,404,981	Oct-21	Jun-26	Oct-21		2022-23 Operational Plan Action: 1.4.1.3 Develop Pocket Park design for the Muswellbrook Town Centre. Planning for demolition and scoping of the Pocket Park has commenced.
2021-2022-0500	Denman Heritage Village	D & C	\$1,830,871	\$1,809,525	Sep-21	Jul-22	Sep-21		Deed for Heritage items executed. Design and Construction tender awarded. Detail design being progressed with s88 approved and construction certificate approval required the inclusion of one accessible toilet and two ambulant toilets. Site establishment completed Monday, 24 October 2022. Excavation, foundation works and plumbing are underway.
2019-2020-0404	Hunter Beach	D & C	\$3,173,029	\$3,128,232	Jul-22	Feb-22	Aug-22		Works have commenced on site and are progressing well. Significant vegetation management underway and commencement of earthworks and driveway construction. 80% of final design endorsed by Council. Final design plans approved by Chief Engineer to allow infrastructure works to proceed. Draft landscaping plan lodged to November Ordinary Council meeting. Driveway, car park construction and drainage are current stage of works.
2020-2021-0443	MSC Depot Construction	D & C	\$200,000	\$200,000	Jul-21	Dec-23	Jul-21		2022-23 Operational Plan Action: 6.3.1.1 New Works Depot – tender for works called. Preliminary budget estimate has being prepared for the new proposed location at the Waste Management Facility. Architect and civil engineer coordinating designs to finalise concept and costs estimate. Concept and cost estimate to be reported to December 2022 Ordinary Council Meeting
2020-2021-0452	Muswellbrook Animal Shelter (3910.5587)	C	\$3,191,041	\$1,206,134	Feb-21	Mar-23	May-21		Building works materially complete. The Community Garden design has been accepted by the Council. Detail design for Hunter River stormwater discharge is complete and under assessment for approval and has been referred to Crown Lands for consent.
2019-2020-0413	Muswellbrook Indoor Sport Centre	D & C	\$1,242,452	\$1,205,944	Oct-19	Jun-23	Oct-19		Upper Hunter Youth Services was awarded Stronger Country Community grant funding of \$500k. Stakeholder consultation and preliminary design complete and Development Application approved. Tender documents are being prepared for a detailed design and construct contract to be issued late November and close late January.
2020-2021-0448	Tertiary Education Centre - Stage 2 (Donald Horne Building) incl. Upper Hunter Innovation Hub and Weidmann Café	D & C	\$6,930,061	\$580,613	Jul-19	Oct-23	Jul-19		Donald Horne Building nearing completion. Landscape works are being undertaken with completion expected late December, weather permitting. Loxton House works were placed on hold following structural works for design and tender review. The café design is progressing to accommodate the Blue Flame Restaurant. Staged OC is planned to allow for the Innovation Hub to occupy the building prior to the Christmas break.
FUTURE FUND									
TBA	Marketplace Asset Renewal (incl. Lift)	D & C	\$331,194	\$331,194	Jul-22	Jun-23	Jul-22		Heavy goods lift specification drafted for tender issue. Major tenant reviewing specification for advice in assisting in meeting needs of centre. Tenders to be called this quarter.
N/A	Renewal of Existing Assets	D & C	\$326,805	\$326,805	Jul-22	Jun-23	Jul-22		Combination of commercial building renewal projects and capital works for new tenancies. Major works to date included the warm shell to attract Best & Less tenancy to the Marketplace.
PLANNING, COMMUNITY AND CORPORATE SERVICES									
N/A	General Building Renewal Programme	C	\$250,000	\$250,000	Oct-22	Jun-23			Report endorsed September 2022 Ordinary Council Meeting.
TBA	Muswellbrook Regional Art Gallery (Foyer/Café)	D	\$49,452	\$37,656	Jul-21	Dec-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 sought on planning pathway. Heritage architect has provided finishes recommendations. Planning Consultant to be engaged to progress design to Development Application within available budget.
TBA	Outdoor Pool Plant Upgrades	D	\$150,000	\$150,000	Sep-21	Mar-22	Sep-21	Mar-22	Specification completed for tender. Tender subject to capital funding.
TBA	CBD Stage 7 (Town Centre)	D & C	\$1,685,796	\$1,630,345	Jan-22	Nov-22	Jan-22		A part funding allocation towards providing universally accessible pathways (including soft and hard landscaping) in accordance with NSW heritage requirements in the education precinct connecting Tertiary Education Centre 1, Loxton House, Donald Horne Building, Muswellbrook Library, and precinct car parking. Soft and hard landscaping are progressing.
2021-2022-0509	Denman Children Centre	D & C	\$1,229,714	\$1,229,714	Jun-18	Aug-23	Mar-21		Council auspice project. DA 99/2018 approved May 2019. 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 contracts for detailed design. Building design being amended in line with flood risk assessment. The main impact is the requirement for an entry ramp into the new building.
TBA	Denman Netball Courts	D & C	\$311,451	\$311,451	Oct-21	Jul-22	Sep-22		Project start dates delayed due to additional funding required. Denman Recreation Area User group consultation complete. Geotechnical investigations and tender documents preparation underway. Tenders to be called late this calendar year following user consultation. Expected completion June 2023.
N/A	General Design Programme	D	\$39,582	\$25,707	Jul-21	Dec-22			Council endorsed progressing the Council Chambers and Arts Centre design.
2019-2020-0406	Muswellbrook Aquatic Centre Upgrade	C	\$6,500,000	\$1,515,153	Mar-20	Mar-21	Mar-20	Aug-22	Aquatic Centre officially opened Saturday 17 September 2022. Incomplete works being undertaken and defects being addressed.
2020-2021-0481	Karoola Park Citizens' Walk	I	\$30,000	\$30,000	Jul-21	Dec-22	Oct-21		Request For Quote for Plan of Management awarded. The inclusion of a Citizen Walk to be considered as part of draft Plan of Management.
TBA	Adventure Playground - Wollombi Rd (Pump Track)	I, D & C	\$480,000	\$480,000	Jan-23	Jun-23			Tenders to be called for design and construct contract early 2023.
TBA	Kayuga Rural Fire Station	D & C	\$650,000	\$591,293	Dec-21	Mar-23	Dec-21		External project manager engaged. Development approval received. Tender called for design and construction closing 27 June 2022. Direct negotiations with preferred tenderer to include cost savings identified. Additional funding being considered by RFS. An amendment to Development Approval submitted to reduce setback and include RFS supplied water tank. Revised tender amount to be reported to December 2022 Ordinary Council Meeting.
TBA	Major Landcare Projects	I, D & C	\$171,286	\$171,286	Sep-22	Jun-23			Report endorsed September 2022 Ordinary Council Meeting.
TBA	Denman Indoor Sports Centre Upgrade	C	\$151,200	\$140,969	Jul-21	Dec-22			Works being delivered by Council's Building team. Delays have been experienced due to trade shortages and the nature of works.
TBA	Muswellbrook Indoor Sports Centre Upgrade	C	\$148,050	\$120,493	Jul-21	Dec-22			Works being delivered by Council's Building team. Delays have been experienced due to trade shortages and the nature of works. Insulation works completed.
TBA	Muscle Creek Nature Trail (AGL Macq Project)	C	\$237,500	\$140,238	Oct-21	Jun-22			Track options have been scoped to connect with Wilder St bridge works when complete.
N/A	General Recreation Programme	C	\$150,000	\$150,000	Sep-22	Jun-23	Sep-22		Report endorsed September 2022 Ordinary Council Meeting.
N/A	Landscaping and Tree Management Programme	C	\$90,000	\$90,000	Jul-22	Jun-23	Jul-22		Street tree applications have been received and programmed for planting.
N/A	Major Large Capital Grants Programme (Dollar for Dollar Grant Programme)	C	\$90,000	\$90,000	Oct-22	Feb-23			Applications open and closing November to be reported to the December Council meeting.
N/A	Cemetery General Programme	C	\$90,000	\$90,000	Jul-22	Sep-22			First stage of concrete path works complete.
N/A	Sport and Recreation Small Capital Grants	C	\$25,000	\$25,000	Oct-22	Feb-23			Applications open and closing November to be reported to the December Council meeting.
ROADS AND DRAINAGE									

TBA	Bridges Renewal Program	I	\$95,000	\$42,281	Aug-21	Jun-23	Jul-22		Following the level 3 assessment of Bell St Bridge over Muscle Creek a prioritised program of works has been prepared. Works will be undertaken in accordance with this program to the limit of the available budget. The works in 2022-23 include geotechnical testing and assessment of the abutments, and monitoring of the movement of the bearings.
TBA	Carpark Renewal Program	D	\$100,000	\$93,143	Feb-22	Jun-22	Dec-21		Consultation has occurred with the Manager Works, Property and Building, and Commercial Property Coordinator to undertake improvements to the Hill St Carpark to improve carparking provision and access to the Marketplace off Hill St. The concept plans were prepared for consultation and reported to the May 2022 meeting of Council. The IFC design drawings have been prepared in preparation for proposed construction upon notification of reallocation of funding from Resources for Regions.
TBA	CPTIGS - Bus Shelter Program	I and D	\$48,400	\$251,040	Mar-22	Jun-23	Aug-22		Consultants are being sought to prepare a standard drawing for the design of an accessible bus stop (concrete pad) hardstand for the installation of the shelter. An in-kind source of funding for the upgrade of the Bus Stop in Tindale St has been provided through development in the street. A brief has been prepared to tender for the design and installation of the shelters.
TBA	Drainage Devices Program	I	\$150,000	\$150,000	Feb-22	Jun-22			Program and concept design reported to Council.
TBA	Footpath & Cycleway Renewals	C	\$150,000	\$150,000	Aug-22	Jun-23	Aug-22		A prioritised program was reported and endorsed by Council July 202. This program of work has commenced with work in Maitland St Muswellbrook.
TBA	Heavy Patching Programme	C	\$500,000	\$500,000	Aug-22	Apr-22	Aug-22		A prioritised program was reported and endorsed by Council July 2022 with nominated sites now being constructed to the limit of funding available.
TBA	Kerb & Gutter Replacement	C	\$150,000	\$150,000	Aug-22	Dec-22	Aug-22	Oct-22	A prioritised program was reported and endorsed by Council July 2022 with 100% of works now complete to the limit of available funding.
TBA	Large Plant Items	D	\$1,680,000	\$1,680,000	Oct-21	Jun-23	Mar-22		The plant replacement programme priorities was endorsed by Council at the 1 March 2022 Ordinary Council Meeting. The truck has been ordered for the Waste Management Facility and the Motor Grader was reported to the September Ordinary Council meeting, and new tractor tender report to be reported to the November 2022 Ordinary Council Meeting.
TBA	New Footpath & Cycleway	C	\$250,000	\$250,000	Dec-22	Jun-23			Prioritised program reported to Council for endorsement July 2022 with footpath priorities Maitland St and Turtle St Denman. Work will commence to link the path to the new Signals at Thompson St when this project is substantially complete.
TBA	Purchase of vehicles	I	\$342,558	\$342,558	Jul-22	Jun-23	Jul-22		Light fleet programme prepared. Difficulty sourcing vehicles as per requirements and long delays in delivery of vehicles.
TBA	Regional Road Renewal Programme	I	\$70,000	\$70,000	Feb-23	Jun-23			Design for the rehabilitation of a section of Bylong Valley Way 5.9km to 6.6km is currently being prepared. A tender will be prepared for advertising.
	Resources for Regions - Round 5		\$8,542,556	\$8,143,687					
TBA	Edderton Road Safety Upgrade	C	\$2,508,232	\$2,427,544	Nov-20	Apr-22	Feb-21	Dec-21	Construction is complete.
TBA	Thompson St signalisation	D	\$2,100,845		Feb-22	May-22	May-22		Construction is continuing with the works in stage 2 of the four (4) stage project. Stage 2 works are currently involve pavement placement, construction of stormwater drainage and utility adjustment. Work to reinstate the landscaped area adjacent to the McDonalds business is included in this stage.
TBA	UHSC - Murulla St causeway	I	\$1,192,578						This is an Upper Hunter Shire Council project. Murulla Street is located in Murrurundi.
TBA	Wilkinson St bridge	C	\$2,740,901		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 with the contract awarded to Saunders Civil Group. Construction of the bridge is now complete. Work being undertaken currently is the construction of the road approaches, the connection to the existing roads and a roundabout for circulation at the Olympic Park precinct. Weather and wet conditions are currently impacting the construction so weather permitting the project is expected to be completed by December 2022.
	Resources for Regions - Round 6		\$1,108,627	\$1,108,627					
TBA	Ridgelands Road	D & C	\$388,385		Oct-22	Jan-23			A contract for the construction was awarded to Hunter Wide Civil. The works are programmed and the contractor established on site however the wet conditions have delayed earthwork commencement.
TBA	Heavy Patching Programme	C	\$66,352		Aug-21	Mar-22	Aug-21	Oct-21	Project Complete.
TBA	Nandowra / Dartbrook Rd	D&C	\$403,732						This is an Upper Hunter Shire Council project.
TBA	Bylong Valley Way	D&C	\$250,158		Jul-21	Jun-22	Jul-21	Aug-21	Project Complete.
TBA	Road Design Programme	I&D	\$100,000	\$100,000	Jul-21	Jun-22			Design programme to be reported to Council.
TBA	Road Resealing Program	C	\$500,000	\$500,000	Dec-22	Apr-23	Sep-22		Preparatory works have been scoped. Quotations have been received from sealing companies listed on the panel of service providers. The preparatory works have been completed, with urban road sealing to be completed in December. Rural road sealing is to be scheduled for the fourth quarter.
TBA	Roads to Recovery Programme	I	\$577,898	\$577,898	Jan-22	Dec-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	\$1,633,500	\$1,633,500	Jan-23	Jun-23			Project preliminaries such as geotechnical investigation, site survey and completion of a review of environmental factors for the project were completed. The design and construct tender was awarded to Waeger Constructions. The design of the bridge has commenced with 85% review to be provided late October. The submitted program has construction on site commencing site establishment 30 January 2023 and completion mid June 2023.
TBA	Rural Roads Regravelling	C	\$350,000	\$350,000	Aug-22	Jun-23	Aug-22		Grading undertaken on Wells Gully Road and planned to be undertaken on Rouchel Gap and Dorset road.
TBA	Safety Audit Ridgelands Road	I	\$47,272	\$47,272	Oct-22	Jan-23			A contract for the construction was awarded to Hunter Wide Civil. The works are programmed and the contractor established on site however the wet conditions have delayed earthwork commencement.
TBA	Safety Device Renewal	C	\$135,000	\$135,000	Jan-22	Jun-23			A prioritised program was endorsed by Council at the July 2022 Ordinary Council meeting.
TBA	Sandy Creek Rd Curve Improvements	C	\$246,506	\$246,506	Jun-21	Dec-21	Jun-21	Sep-21	Works completed.
TBA	Urban Pavement Renewal	D	\$372,000	\$372,000					This budget is currently not allocated to a project.
TBA	Widden Valley Rd pavement rehabilitation	C	\$553,397	\$553,397	Aug-21	Oct-21	Aug-21	Jun-22	Works completed.
TBA	Yarrawa Rd (Fixing Local Roads)	I	\$4,931,278	\$4,931,278	September	Jun-22	Oct-21		The Tender for construction was advertised 10 August, Pre-tender meeting 24 August, with tenders closed 7 September. Tenders were reported to the 28 September Ordinary Council meeting with contractor KCE awarded the contract. A Road Safety Audit of the design and the existing road ch 0 to ch 17km is now completed. Work is 95% complete with a soft spot in the pavement reworked. Linemarking and fencing repair is outstanding and programmed for early October when the contractor will disestablish from the site.
SEWER CAPITAL BUDGET									
TBA	Access and Security Improvements	D&C	\$155,000	\$155,000	Jul-22	Sep-22	Jul-22	Sep-22	Security improvements across Council's assets. Fencing upgrade works carried out at a number of pumping station sites.
TBA	Mains Renewal And Replacement	I,D&C	\$589,431	\$589,431	Jan-23	Jun-23	Jul-22		Aberdeen Sewer Main replacement is in design stage. Lining of Doyle Hill, Turanville, Wilson and George streets projects in design stage. Execution is planned in June 2023- completion by October 23.
TBA	Solar Array	I, D & C	\$1,800,000	\$1,800,000	Jul-22	Jun-23	Jul-22		Sustainability initiatives associated with operation of the Raw Water Treatment Works. RFQ has been called and awarded for project management consultant to run the design and construct tender process including preparation of tender documentation.
TBA	Sewer Operational Contingency	I,D&C	\$150,000	\$150,000	Jul-22	Jun-23	Jul-22	Sep-22	Contingency budget available to replace equipment and improve systems that have been impacted by the floods over the past year. Purchase orders were committed for the following equipment: a spare critical pneumatic valve positioner for the RWTW, a replacement motor and spare critical motor for the extraction fan for MSPS4 odour control system and a new control panel for the odour control system for MSPS4 (critical replacement since replacement parts are obsolete). In addition to the above purchases, final payment claim was made to Aurecon Australasia Pty Ltd for the RWTW project and critical proximity sensors were purchased and replaced the damaged sensors on the RWTW grit bins.
TBA	System Plant Asset Renewals	I, D & C	\$650,000	\$650,000	Jul-22	Jun-23	Jul-22		The construction of a septage receipt facility at the Muswellbrook recycled water treatment works is completed. Denman Sewer treatment plant dewatering/desludging of ponds is the main priority and dewatering system design and investigation is in process. Project planned to start by Jan 23 and completion by October 23. Smoke testing of sewer main and manholes is at investigation stage to stop ingress of storm water in sewer system. Muswellbrook Sewer Pump station 8 pipe works and valves are replaced. The works were awarded in July 2022 and completed in Aug 22. The electric panel is in the process of design and execution is likely to commence in May 23. Aerator at Denman Sewer treatment plant in design and in process of procurement and fabrication, and completion.
TBA	Transportation System Improvements	I, D & C	\$81,939	\$81,939	Jan-23	Feb-23			Project valve installation to cater for emergency break of recycle water main from dam in ARTC corridor (near railway line) in investigation stage and likely execution by Feb 23.

WATER CAPITAL BUDGET									
N/R	Asbestos Removal, Earth Work and Security	C	\$155,000	\$155,000	Jul-22	Jun-23	Jul-22		Funding is used to carry out earthwork asbestos removal for water main projects. The project include Bligh Street East earth removal, Turanville, Forbes and Lorne Streets. Bligh Street is in progress and
TBA	Mains Renewal And Replacement	I, D & C	\$748,278	\$748,278	Jul-22	Mar-23	Jul-22		Contract for the water main replacement program has been awarded. Under this program, water mains in Lorne St., Forbes St. and Turanville Ave are in progress and will be completed by the end of September. Bligh Street West/ East water main replacement will commence in Oct 22 for completion by December 22. Design and investigation ongoing for Wilder, Wilkinson, and Flanders Avenue.
TBA	Replacement of Water Meters	C	\$78,000	\$78,000	Jul-22	Jun-23	Jul-22		Ongoing ageing water meter replacement programme.
TBA	System Plant Asset Renewals	I, D & C	\$891,376	\$700,000	Jul-22	Jun-23			Transformer at Muswellbrook water treatment plant required to be replaced - The design has been completed. Supplier has provided a quote, and work will take 25 - 30 weeks from date of issuing the Purchase Order. The Project will be designed and will be carried out in next FY. South Muswellbrook Main is new asset and is part of this programme. Review of envirommental factor has been completed, survey and investogation is in process. Wilder street and wilkinson street will be phase1 of this project. Project commence next financial year.
TBA	Upgrade Fluoride Dosing System	I, D & C	\$346,461	\$346,461	Oct-22	Jun-23	Jul-22	Jun-23	Council's Procurement Officer is currently updating the Tender Schedules to the new MW21 version. After the documents are reviewed, Council will be ready to advertise for tender submissions - at this stage, it is expected to advertise for tender submissions by the 25th of Nov 2022. Tender Evaluations expected to be submitted to Council in the January Extra Ordinary Council Meeting (if held) or February Ordinary Council Meeting.
TBA	Vehicle Replacement	C	\$100,000	\$100,000	Jul-22	Jun-23	Jul-22		Difficulty in sourcing vehicles as per requirements and long delays in delivery of vehicles.
TBA	Vehicle - Equipment Replacement	C	\$117,394	\$117,394	Jul-22	Jun-23	Jul-22		Programme being prepared.
TBA	Water Operations Contingency Project	I	\$117,686	\$117,686	Jul-22	Jun-23	Jul-22	Jun-23	Contingency budget available to replace equipment and improve systems that have been impacted by the floods over the past year. Replacement of the electrical cables for the Denman River Pump1, a higher dose rate coagulant pump for the MWTP, a portable UVA laboratory meter (to test for dissolve organics in the raw water), four filter differential pressure transmitters for MWTP and a replacement Watson-Marlow coagulant dosing for DWTP were purchased in this quarter. Further to the above purchases, a new UF membrane module was purchased to replace a damaged module at the Denman Water Treatment Plan, a macrolite media recirculating pump was purchased to replaced a failing, existing pump at the Sandy Hollow Water Treatment Plant and a critical spare helical gearmotor was purchased for the lime auger at the Muswellbrook Water Treatment Plant.
TBA	Water Stop Valve Replacement Programme	I, D & C	\$285,627	\$250,000	Oct-22	Jun-23			The funds will be utilised for water main and valves replacement projects in Bligh Street east and Flanders Avenue, for which design is in process.
WASTE									
TBA	Waste & Recycling Centre Leachate Dam	D	\$498,212	\$498,212	Feb-23	Jul-23			Design and Construction Cost Estimates complete (\$500,000). Biodiversity Assessment RFQ issued and required prior to Development Application. Geotechnical report for project area received, triggered dam design revision due to lack of winnable clay on site. Revised design underway by consultant. Test pits required to determine if rock can be ripped to design depth.
TBA	FOGO Infrastructure	I	N/A						Preliminary Design and EIS complete. DA 2021/58 lodged June 2021. Further information on odour impacts as requested by NSW EPA was lodged in April 2022.