



muswellbrook
shire council

Muswellbrook Shire Council

ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 28 MARCH 2023



MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
22 March, 2023

Councillors,

You are hereby requested to attend the Ordinary Council Meeting to be held in the Community Hall, Golden Highway, Sandy Hollow, NSW 2333 on **Tuesday 28 March 2023** 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	7
2. Civic Prayer	7
3. Apologies and Applications for a Leave of Absence	7
4. Confirmation of Minutes	7
5. Disclosure of any Pecuniary or Non-Pecuniary Interests	7
6. Mayoral Minute	7
7. Public Participation	7
8. Business Arising (From Previous Meetings)	7
9. Business (Specific Reports)	8
9.1. Planning and Environment	8
9.1.1. Rating Sub-Category Amendments	8
9.1.2. Muswellbrook Battery (BESS) revised Planning Agreement General Terms	15
9.1.3. DA 2021-58 Organics Recycling Facility	26
9.1.4. Landcare Education Grants	58
9.1.5. Monthly Report to Council - Planning, Environment and Regulatory Services	61
9.2. Community Infrastructure	74
9.2.1. Denman to Sandy Hollow Water Pipeline Project - Council Funding Contribution	74
9.2.2. Mangoola Coal Continued Operations Project Closure of Temporary Diversion Road	80
9.2.3. Mangoola Coal Continued Operations Project Yarraman Road Upgrade s.138 Roads Act 1993 Permit	87
9.3. Property and Place	97
9.3.1. NSW Land and Housing Corporation - Lots Dedication	97
9.3.2. Denman District Heritage Village - Timbers from Williams Bridge	106
9.3.3. Major Projects Status Report	107
9.4. Corporate Services	112
9.4.1. Sponsorship - Muswellbrook Business Awards 2023	112
9.4.2. DRAFT Policy on Policy Making MSC25E for Public Exhibition	115
9.4.3. DRAFT Privacy Management Plan MSC037E and DRAFT Data Breach Policy MSC038E for Public Exhibition	124
9.4.4. Monthly Financial Report - February 2023	195
9.4.5. Report on Investments held as at 28 February 2023	211



9.4.6. Report on Council Grant Funding and Community Engagement.....	225
9.5. Community and Economy	230
9.5.1. Library Policy for Children and Young Persons MSC33E for Adoption	230
9.5.2. ANZAC Day Ceremonies - Partnerships.....	243
9.5.3. Aboriginal Cultural Inclusion Committee - Terms of Reference	248
10. Minutes of Committee Meetings.....	260
10.1. Minutes of the Grants Review Committee Meeting - 8/03/2023	260
10.2. Minutes of the Regional Entertainment Centre Development Committee Meetings - 22/02/2023 & 13/03/2023	263
10.3. Minutes of the State Significant Development Committee Meeting - 13/03/2023.....	270
10.4. Minutes of the Local Traffic Committee Meeting - 14/03/2023	273
10.5. Minutes of the Olympic Park Precinct Development Advisory Committee Meeting - 14/03/2023.....	277
11. Notices of Motion.....	280
12. Councillors Reports	280
13. Written Questions	280
13.1. Rock'n the Brook VIP Marquee Invitees	280
14. Questions for Next Meeting	282
15. Adjournment into Closed Council.....	282
16. Closed Council.....	282
16.1. Contract 2022-2023-0555 - Tender Assessment Bylong Valley Way Ch 5.9km ..	282
16.2. Contract 2017-2018-0303 - Negotiation of Recycling Collection Pricing for Remainder of Contract Term	282
16.3. Contract 2019-2020-0404 - Hunter Beach Final Works - Contract Extension.....	283
16.4. Execution of Refinancing \$1.64M General Fund Loan.....	283
17. Resumption of Open Council	283
18. Closure	283



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 on 28 February, 2023 and Extra-Ordinary Council Meeting held on 22 March, 2023

RECOMMENDATION

The Minutes of the Ordinary Council Meeting held on **28 February, 2023** and the Extra-Ordinary Council Meeting held on 22 March, 2023, copies of which have been distributed to all members, be taken as read and confirmed as true records.

Moved: _____ **Seconded:** _____

5. Disclosure of any Pecuniary or Non-Pecuniary Interests

6. Mayoral Minute

Nil

7. Public Participation

8. Business Arising (From Previous Meetings)

Nil



9. Business (Specific Reports)

9.1. Planning and Environment

9.1.1. Rating Sub-Category Amendments

Attachments:	1. Land Rating Sub-category Comparison [9.1.1.1 - 1 page]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Theresa Folpp (Development Compliance Officer)
Community Plan Issue:	1 - Economic Prosperity
Community Plan Goal:	<i>A dynamic Local economy with full employment for current and future residents in a diverse range of high value industries.</i>
Community Plan Strategy:	1.1.1 - Facilitate the expansion of and establishment of new industries and business.
	Not applicable

PURPOSE

To address an anomaly within Council's Revenue Policy 2022/2023 which places small scale energy generation in the same land rating category as the coal fired power stations and does not capture the rehabilitation phase of former coal fired power station sites.

OFFICER'S RECOMMENDATION

Council:

1. Supports, in principle, amendments to two rating subcategories: *Business – Power Generation* and *Business – Mine Rehabilitation*; and
2. Supports the next step of staff seeking legal advice on the proposed changes and notifying proposed changes as part of the 2024-25 budget process.

Moved: _____ **Seconded:** _____

BACKGROUND

Officers have recently been in discussions with proponents in relation to Planning Agreements (PA) for renewable energy State Significant Development proposed in the LGA.

The Proponent for a battery energy storage system has suggested that the payment of Council rates should be a sufficient contribution toward local road maintenance arising from the development, and that the planning agreement should focus on contributions toward the employment of environmental staff at Council and community and economic development activities that benefit the local community.

In response, Officers reviewed Council's Revenue Policy 2022/2023 to identify the nature of land rates that would be payable by renewable energy projects. Officers have identified that some of the rating sub-categories are inconsistent with Council's Community Strategic Plan



and Operational Plan goals to diversify employment opportunities in the LGA and to encourage a transition of employment activities on mine and coal fired power station sites as closures occur. The adopted land rating sub-categories may create a disincentive for the development of renewable electricity and storage development in Muswellbrook Shire.

Currently, the Revenue Policy outlines the following sub-category:

Business – Power Generation

Council determines a sub-category for the category “Business” called “Business – Power Generation” for each parcel of rateable land valued as one assessment if it cannot be categorised as farmland, residential or mining and if its dominant use is as a centre of any of the following activities:

- a) *the generation of, or capacity to generate, more than 5 megawatts of electricity;*
or
- b) *the storage of, or capacity to store, more than 10 megawatts of electricity;*
and the land cannot be sub-categorised as ‘Business – Mine Rehabilitation’.

This sub-category essentially captures the majority (if not all) of the new renewable solar and battery projects within the shire.

Council’s current Ordinary Rates as shown in the Revenue Policy are provided in **Table 1**.

Table 1 – Council’s Ordinary Rates (source: 2022/2023 Revenue Policy)

Rates Categories	Rate (cents) 2022/2023	Base Rate (\$)
General Residential - Mbrook & Denman	0.6905017	290
General Farmland	0.3237322	400
General Mining	1.3536251	15,000
General Business	1.28558374	250
General Residential	0.5074695	240
General Farmland - Irrigable	0.3882914	440
General Mining - Underground Coal Mining	2.4343808	15,000
General Business - Thomas Mitchell Drive	1.294636	275
General Business - Power Generation	9.0182913	25,000
General Business - Showground Release	0.2398414	250
General Mining - Metallurgical Coal Mining	2.4343808	15,000
General Business - Mine Rehabilitation	1.3536251	15,000

To determine the impact of the current rating scheme on electricity generating and storage development, Officers reviewed the Ordinary Rates for a typical Assessment Area with a land value of \$400,000 across three different sub-category scenarios, as follows:

- Scenario A - Farming land (*General Farmland*) being used for a solar array (*General Business – Power Generation*);
- Scenario B - Mine buffer land/rehab land (*General Business - Mine Rehabilitation*) being used for solar array (*General Business – Power Generation*); and
- Scenario C - Ausgrid land near substation (*General Business*) being used for the battery storage (*General Business – Power Generation*).

A summary of the results is provided in **Table 2** with worked examples provided in **Appendix A**.

Table 2 shows that where a renewable energy project is constructed, the rating sub-category for the site is likely to become Business - Power Generation and rates will increase



significantly to the highest sub-category in the LGA.

Table 2 – Sub-category rate comparison for renewable energy generation on a site with a \$400,000 land value

	Rates (\$pa)	Rates (\$pa)	
	Farmland - General	Business – Power Generation	Actual Increase (\$pa)
A	1694.93	61,073.17	59,378.24
	Business – Mine Rehabilitation	Business – Power Generation	
B	20,414.50	61,073.17	40,658.67
	Business - General	Business – Power Generation	
C	5392.33	61,073.17	55,680.84

Individual renewable energy projects proposed in the LGA will generate or store less power than Liddell or Bayswater Power Stations are constructed to deliver, however the rating sub-category would apply equally to them all and is not reflective of their ability to pay or their impact on Council's delivery of services. The two Power Stations were built before legislation permitted the negotiation of planning agreements to capture the residual impacts of development on local communities. The higher land rates that the Power Stations pay is Council's approach to addressing these residual impacts.

General Business - Mine Rehabilitation Rating Sub-category

The *General Business - Mine Rehabilitation* sub-category applies to '*rehabilitation of land that is or has been disturbed by mining operations*'.

The current definition for this sub-category (provided below in the **Report** section), defines rehabilitation as the following:

- the treatment or management of disturbed land or water for the purpose of establishing and maintaining a safe and stable environment; and
- the design and construction of landforms as well as the establishment of sustainable ecosystems or alternative vegetation.

This definition could be reasonably applied to the rehabilitation of the Liddell and Bayswater Power Station sites which will be required after demolition, and any land encumbered by these works will not be available for other land uses for some time. The Liddell and Bayswater Power Station sites are similar in size, scale and nature to mining operations and are likely to generate similar traffic and social infrastructure impacts when in the demolition and rehabilitation phase.

CONSULTATION

The rate sub-categories were discussed briefly with the State Significant Development (SSD) Committee meeting held 13 March 2023.

Changes have been discussed with Council's Corporate Lawyer and Council's Financial Controller, who support the changes in principle and recommend formal review of the changes by an appropriate legal expert before inclusion in the 2024-25 FY budget.



REPORT

Rating Sub-category Amendments

Officers propose the following Rating Sub-category Amendments:

1. Amend the *Business – Power Generation* sub-category as follows (amendments are shown in blue text):

Business – Power Generation (non-renewable)

Council determines a sub-category for the category “Business” called “Business – Power Generation (non-renewable)” for each parcel of rateable land valued as one assessment if it cannot be categorised as farmland, residential or mining and if its dominant use is as a centre of any of the following activities:

- a) *the generation of, or capacity to generate, more than 5 megawatts of electricity; or*
 - b) *the storage of, or capacity to store, more than 10 megawatts of electricity;*
- and the land cannot be sub-categorised as ‘Business – Mine Rehabilitation’.*

For the purpose of this sub-category “power generation (non-renewable)” means energy production from coal, natural gas, oil and nuclear energy resources or similar non-renewable resources.

As a result of this change, power generation from renewable resources would be rated as General Business.

2. Amend the *Business – Mine Rehabilitation* sub-category as follows (amendments are shown in blue text):

Business – Mine & Power Generation (non-renewable) Rehabilitation

Council determines a sub-category for the category “Business called “Business – Mine & Power Generation (non-renewable) Rehabilitation” for each parcel of rateable land valued as one assessment if it cannot be categorised as farmland, residential or mining and if its dominant use is as a centre of any of the following activities:

- a) *the rehabilitation of land that is or has been disturbed by mining or power generation (non-renewable) operations*

For the purposes of this sub-category, “rehabilitation” includes:

- a. *removal of buildings and infrastructure*
- b. *the treatment or management of disturbed land or water for the purpose of establishing and maintaining a safe and stable environment; and*
- c. *the design and construction of landforms as well as the establishment of sustainable ecosystems or alternative vegetation.*

For the purposes of this sub-category “mining operations” means operations carried out in the course of mining, “power generation (non-renewable)” means energy production from coal, natural gas, oil and nuclear energy resources.

Interactions with Planning Agreements

Officers propose that residual impacts (including Local Road Maintenance) from individual projects rated as ‘*Business – Power Generation (renewables)*’ will be captured under the updated *Planning Agreement Policy* and its associated Residual Impact Analysis worksheet.

The Planning Agreement (PA) Residual Impact Analysis concept was introduced to the SSD



Committee on 13 March 2023 and is included in this Council Agenda as a separate report regarding the Muswellbrook Built Environment Sustainability Scorecard (BESS).

OPTIONS

Option 1:

Amend the two rating subcategories: Business – Power Generation and Business – Mine Rehabilitation as outlined in this report. This is the recommended options as the economics of renewable energy are different to coal fired power generation and the current rating sub-categories will potentially create a disincentive to renewable energy projects developing in the LGA.

Option 2:

Do-Nothing – This would mean that all electricity generating works or electricity storage facilities will be required to pay the same rate sub-category.

The “Do-Nothing” approach for Rating Sub-category Amendment 3 means that Power Stations within the shire, once the land cannot be sub-categorised as ‘Business – Power Generation’ i.e. once the power station stops generating electricity, the land will be categorised as *Business – General*.

CONCLUSION

As part of negotiations on planning agreements for renewable energy projects in the LGA, Officers have recently reviewed land rating sub-categories to determine whether separate contributions would be necessary for local road maintenance. This review revealed that smaller scale renewable energy projects would be in the highest rate sub-category in the LGA and paying comparable rates to the Liddell and Bayswater power stations.

Officers recommend changes to the sub-categories so that they are not a disincentive to renewable energy projects establishing in the LGA. Residual impacts from renewable energy projects would be addressed as part of the negotiation of planning agreements.

SOCIAL IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

It is difficult to quantify the financial impacts of this change. While several renewable energy projects have been approved in the LGA, none have been constructed, so none are currently paying the Business – Power Generation rate sub-category. If that category acts as a disincentive, the LGA may miss the potential employment opportunities and the lift in rates to the General Business sub-category.

POLICY IMPLICATIONS

The outcomes of the rate sub-category review would inform the review of the Planning Agreement Policy.

STATUTORY IMPLICATIONS

Any change to the sub-categories will need to progress in accordance with the Local Government Act and Regulations.



LEGAL IMPLICATIONS

Council's Corporate Lawyer has been consulted and recommends that the next step in the review process be seeking advice from a suitable legal practitioner.

OPERATIONAL PLAN IMPLICATIONS

The soonest the rating sub-category amendments could be introduced would be the 2024-25 Budget and Operational Plan.

RISK MANAGEMENT IMPLICATIONS

Nil.

Appendix A – Land rate comparison, worked example for Battery Energy Storage System on land with value of \$400,000

	Farmland - General				Business - Power Generation					
Example (Assumes 1 Assessment Area)	Rate (cents)	Value (\$)	Base Rate (\$)	Total Rates (\$)	Rate (cents)	Value (\$)	Base Rate (\$)	Total Rates (\$)	Percentage Increase	Actual Increase (\$pa)
Farming land (General Farmland) being developed	0.3237322	400,000	400	1694.93	9.0182913	400,000	25,000	61,073.17	3603%	59,378.24
	Business - Mining / Mine Rehabilitation (same amount for each category)				Business - Power Generation					
Mine buffer land/rehab land (General Business Mine Rehabilitation) being repurposed	1.3536251	400,000	15,000	20,414.50	9.0182913	400,000	25,000	61,073.17	299%	40,658.67
	Business - General				Business - Power Generation					
Ausgrid land near substation (General Business) being used for the BESS	1.28558374	400,000	250	5392.33	9.0182913	400,000	25,000	61,073.17	1133%	55,680.84



9.1.2. Muswellbrook Battery (BESS) revised Planning Agreement General Terms

Attachments:	1. Comparative residual analysis [9.1.2.1 - 2 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Theresa Folpp (Development Compliance Officer)
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. 6.2.1.2 - Seek funding opportunities to support the interests and aspirations of the Shire identified by the Community Strategic Plan and Delivery Program

PURPOSE

The purpose of the report is for Council to consider the revised general terms of Firm Power's Benefit Sharing Offer/Planning Agreement for the Muswellbrook Battery Energy Storage System (Muswellbrook BESS) (SSD-29704663).

OFFICER'S RECOMMENDATION

Council:

1. Notes the principles of the draft Community and Economic Development Fund Policy and the revised Planning Agreement Policy;
2. Supports the following key elements of the Muswellbrook Battery Energy Storage System (BESS) Planning Agreement:
 - a. Based on the comparative residual impact of the BESS, accept the offer of contributions to the value of \$200 per megawatt (MW) of installed capacity, provided every year of operation.
 - b. Funds will be managed as part of Council's proposed Community and Economic Development Fund (CEDF), or in the interim where the CEDF is not in place, funds will be paid to Council, managed in accordance with the Environmental Planning and Assessment Act Regulations, and allocated via a committee involving Council, the Proponent and community.
 - c. Expenditure of contributions will be in the following ratios: 15% Environmental Officer and 85% Community and Economic Development benefit.
 - d. Contributions paid in the first five years of the Project will be considered for use in upgrading of the Northview Estate Play Space, subject to design, safety and maintenance considerations. The contributions may not be used to fund the already approved Play Space design under DA 2013-232.

Moved: _____ **Seconded:** _____



BACKGROUND

Muswellbrook Battery Energy Storage System (BESS)

In late 2022, Firm Power lodged a State Significant Development (SSD) application and associated Environmental Impact Statement (EIS) for the Muswellbrook BESS (the Project) with Department of Planning and Environment (DPE).

During the exhibition of the EIS, Council staff requested a Planning Agreement as an alternative to a s.7.12 contribution.

On 23 November 2022, the Applicant provided draft General Terms for a Benefit Sharing Offer. This was discussed at the SSD Committee on 19 December 2022. Based on the recommendation of staff, the Committee resolved:

1. *Notes the draft General Terms of the Applicant's Benefit Sharing Offer;*
2. *Authorises staff to continue to negotiate with Firm Power to translate the Offer into a Planning Agreement to provide a monetary contribution along the principles established by the recent mining project approvals:*
 - a. *The payment be calculated as CIV/100/MW/years with adjustments for CPI;*
 - b. *That the annual instalments be spent in the following ratios: 15% Environmental Officers; 25% local road maintenance and 60% community & economic benefits.*
 - c. *The instalments may be pooled with contributions from other projects and aggregated over several years to fund a specific project; and*
 - d. *A panel comprising Muswellbrook Shire Council, the proponent, and members of the local community make recommendations to Council on the community and economic projects that are funded.*
3. *Supports a proposal from staff to prepare a Community and Economic Development Fund Policy (CEDF) for the consideration of Council, to better manage monetary contributions from State Significant Development projects.*

On 20 February 2023, Firm Power provided a revised "Benefit Sharing initiative", and asked that the Council reconsider the contribution amounts:

Voluntary Planning Agreement Outline

Contribution Amount

Contributions to the value of \$200 per megawatt (MW) of installed capacity, provided every year. This amount would be available at year 0, year 5, year 10 and year 15 to cover the planned 20-year life of the project.

This \$200/MW figure would be adjusted by the consumer price index (CPI) every five years.

This voluntary planning agreement would come into effect upon the realization of project construction, following project approvals, contracting and financing.

Administration

The community grant fund would be paid into and managed by the Muswellbrook Community and Economic Development Fund, which is currently in development.

The Fund is to be administered in line with the Environmental Planning and Assessment Regulation 2021, in particular Part 9 Infrastructure Contributions &



Finance.

If the Muswellbrook Community and Economic Development Fund is not developed prior to the time required by the project, the community grant fund would be managed via e-grants and administered by the project.

The project owners would retain final veto rights for due diligence and compliance considerations.

The following table provides a comparison of the initial offer provided by the Applicant compared to the revised offer. A discussion is also provided below.

VPA Element	Initial Offer	Revised Offer
Contribution Amount	<ul style="list-style-type: none"> A payment of \$1,000 per MW (by nameplate capacity) installed and in commercial operations. Paid on the date of the commencement of commercial operations and the 5th, 10th and 15th anniversary of the commencement of operation Indexed to CPI annually on the anniversary of the date of commercial operations Total value estimated to be \$600k NPV 	<ul style="list-style-type: none"> Contributions to the value of \$200 per megawatt (MW) of installed capacity, provided every year. This amount would be available at year 0, year 5, year 10 and year 15 to cover the planned 20-year life of the project. This \$200/MW figure would be adjusted by the consumer price index (CPI) every five years. This voluntary planning agreement would come into effect upon the realization of project construction, following project approvals, contracting and financing. Total value estimated to be \$600k NPV.
Administration	<ul style="list-style-type: none"> Money is to be paid into a Communities Fund with grants to be administered through an online grants platform such as Smart e-Grants or Grants Guru and managed by a community panel which would include the proponent, Muswellbrook Shire Council and members of the local community. The types of initiatives and recipients of funding under the Communities Fund would include: <ul style="list-style-type: none"> Playground, park and amenities equipment Education program or scholarships targeting future employment in renewables via STEM Program 	<ul style="list-style-type: none"> The community grant fund would be paid into and managed by the Muswellbrook Community and Economic Development Fund, which is currently in development. The Fund is to be administered in line with the <i>Environmental Planning and Assessment Regulation 2021</i>. If the Muswellbrook Community and Economic Development Fund is not developed prior to the time required by the project, the community grant fund would be managed via e-grants and administered by the project. The project owners would retain final veto rights for due diligence and compliance considerations.



REPORT

Planning Agreements for renewable energy projects

The NSW Government has not published guidelines to establish a consistent approach for payments by mines, quarries and energy generating development to compensate for residual impacts of development on local communities. Staff are aware that:

- Current negotiations with the Bowmans Creek wind farm project have reached an agreement where the project will pay a contribution calculated on CIV/MW/turbine/years of operation with the total contribution being 1% of CIV over the life of the project.
- The 'Large-scale Solar Energy Guideline' (DPE, 2022) states that the "total funding for benefit sharing (including planning agreements and any other programs facilitated by the applicant) should be between \$200 and \$300 per MW per annum (indexed to CPI) over the life of the development".
- The contributions to be paid by the recently approved Wallerawang BESS and Wellington BESS are 1,000 per megawatt (MW) of installed capacity, provided every five years.
- Council did not require a contribution from AGL for the Liddell BESS as we have an agreement that AGL contribute \$3.5million toward employment diversification in the Shire as part of the closure of Liddell Power Station.
- Council's s7.12 Plan requires a contribution of 1% of CIV.

Firm Power have stated that "due to the nature of the project having a small footprint but large capital investment value, they do not consider a 1% CIV contribution appropriate".

The Shire is currently the location for several renewable energy projects, such as solar arrays, a wind farm proposal and battery energy storage. A pumped hydro project is in early planning phase, and the Shire is well located for green hydrogen production.

While each project will have its own unique residual impacts, it is also important to provide a consistent approach to Planning Agreement contributions. Staff have created a table that attempts to compare the residual social impacts, traffic generation and ongoing council staff involvement for the different forms of mining and renewable energy projects (see attachment A). This comparative residual impact table will be included in the revised Planning Agreement Policy that will be submitted to Council in the next few months.

The comparative residual impact analysis does support the claim by Firm Power that the BESS will have fewer residual impacts compared to alternative types of renewable energy projects.

Community and Economic Development Fund Policy

A Community and Economic Development fund (CEDF) Policy is currently being drafted. It will be similar to the CEDF recently adopted by Singleton Shire Council. Key principles include the following:

- Decisions on projects and initiatives to which the funds are allocated will be agreed and approved in accordance with the 'Muswellbrook Community and Economic Development Fund Deed'.
- The management structure will consist of a Joint Management Committee and a Joint Management Team.
- The community would be invited to nominate potential projects for funding by the CEDF annually or biannually.
- The Joint Management Team will evaluate community nominated projects against a number of criteria including quantifying the short, medium and long-term benefits to the community, and ongoing maintenance costs.
- The Joint Management Team will evaluate and endorse funding proposals and make



recommendations to the Joint Management Committee for approval.

- The Joint Management Committee will recommend funding proposals for final Council approval.
- The membership of the Joint Management Committee would comprise three members appointed by Council and one representative from each SSD project.

Planning Agreement Policy

Council's Planning Agreement (PA) Policy is currently being revised and will be presented to Council for consideration with the draft CEDF policy in the near future. Unfortunately, the timeframes given by DPE to deal with this current project require a decision prior to finalising the new Planning Agreement Policy. Key principles of the revised Policy include the following:

- A. Where a development contribution is in the form of a monetary contribution, the contribution will generally be distributed to cover the costs of employing an Environmental Officer, Local Road Maintenance and Community and Economic Development.
- B. As at the date of this report (and subject to change):
 - I) For Wind Farms
 - Contributions will be calculated as 1% of (capex expenditure) but payable as \$/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
 - Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.
 - II) For Solar Arrays
 - Contributions will be calculated as 0.6% of (capex expenditure) but payable as \$/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
 - Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.
 - III) For Battery Energy Storage Systems
 - Contributions will be calculated as 0.4% of (capex expenditure) but payable as \$/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
 - IV) For Pumped hydro on former open-cut mine or quarry sites
 - Contributions will be calculated 0.7% of (capex expenditure) but payable as a \$/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
 - Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.
 - V) For Pumped Hydro utilising underground mine workings
 - Contributions will be calculated 0.5% of (capex expenditure) but payable as a \$/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
 - Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.
 - VI) For Green Hydrogen production
 - Contributions will be calculated 0.6% of (capex expenditure) but payable as a



\$/Kg of production per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).

- Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.

VII) For other forms of Hydrogen production

- Contributions will be calculated 1% of (capex expenditure) but payable as a \$/Kg of production per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned).
- Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.

VIII) For Open Cut mining development:

- Contributions will be calculated 1% of (capex expenditure) but payable a cents/tonne of material transported to and from the site per annum (indexed to CPI) over the life of the development (i.e., until mine rehabilitation is complete).
- Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.

IX) For Underground mining development:

- Contributions will be calculated 0.7% of (capex expenditure) but payable a cents/tonne of material transported to and from the site per annum (indexed to CPI) over the life of the development (i.e., until mine rehabilitation is complete).
- Include a clause regarding employment of apprentices from the Muswellbrook Local Government Area or surrounding local government areas.

X) For Quarries

- Contributions will be calculated using a cents/tonne of material transported to and from the site as the preferred option.
- The Contribution will be higher where the site is accessed from local roads as compared to State Roads.

Muswellbrook BESS - Planning Agreement Discussion

Contribution Amount

The Revised Offer is a contribution of \$200/MW of installed capacity, per annum. The estimated Capital Investment Value (CIV) of the Project is \$157 million. A contribution for 1% of CIV would equate to \$78,500pa.

The initial offer and revised offer is 0.4% of the CIV. Based on an analysis of residual impacts the BESS this is considered acceptable.

Annual Payments

The revised offer offers contributions paid every five years (and subject to CPI increases every 5 years). From a budget preparation, invoicing and project management perspective, it is the preference of Council's Finance staff that an annual contribution be received.

The Project will be required to report installed capacity, either in an Annual Report or directly to Council Officers (as requested to DPE in Council's response to the Submissions Report).

Administration

The revised offer allows for funds to be managed via the proposed CEDF (consistent with Officers' request), unless the CEDF is not developed prior to the time required for the



Project. If the Muswellbrook Community and Economic Development Fund is not developed prior to the time required by the project, the community grant fund would be managed via e-grants and administered by the Proponent. The project owners also wish to retain final veto rights for due diligence and compliance considerations.

Planning Agreement contributions are a form of compensation to the local community toward residual impact of the development. Council's experience with the Ridgeland Mine project is that the management of community benefit funds by private companies is not regulated to the same degree as councils, so staff do not recommend that Council accept the request by Firm Power.

Staff recommend that funds be managed as part of the proposed Community and Economic Development Fund (CEDF), or in the interim where the CEDF is not in place, funds be paid to Council, managed in accordance with the Environmental Planning and Assessment Act Regulations, and allocated via a committee involving Council, the Proponent and community.

Distribution of Funds

The Applicant has stated that the project is not expected to have notable surplus impacts that cannot be mitigated via the consent conditions for the SSD. During the operations phase, there will be people and vehicles visiting the site, which will largely remain unmanned, similar to a substation. All impacts to roads during construction will be handled via a dilapidation study, and road maintenance during and post construction will be a condition of consent from the Department of planning. The project does not expect to have ongoing reporting environmental obligations.

The Shire is currently home to several mines, quarries and power stations, and is now part of the Hunter Renewable Energy Zone – so renewable energy projects, such as solar arrays, wind farms, battery energy storage, pumped hydro project and green hydrogen production are anticipated. Council's experience is that the cumulative impact of these projects on the environment, the community and Council's operations is significant. For example, Council employs an officer full-time to coordinate Council's responses to SSD projects. There would not be many rural or regional council areas in the State that manage so many SSD projects. While the Shire does benefit from employment and economic opportunities that arise, so do many nearby council areas, and the wider region, which do not host and manage the impacts of the projects. Nor does the Council receive development application fees (these go to the NSW Government). Accordingly, it benefits the ratepayers of the Shire to offset some of these costs through Planning Agreement contributions.

Following the initial discussions of the PA funding ratios, Officers undertook a review of the land rating applicable for different categories of land. The purpose of the review was to determine the reasonability of applying a 25% Local Road Maintenance charge under a PA if a proponent is required to pay rates on a property.

In the case of the Muswellbrook BESS, it is understood that the land will be leased from the owner, Ausgrid (currently rated *General – Business*).

In comparison to other projects, the Residual Impact Analysis shows that a BESS will have minimal traffic impacts after construction compared to a range of other SSD activities. These traffic movements would be commensurate with many other business premises.

Officers recommend that annual instalments be spent in the following ratios: 15% Environmental Officer and 85% Community Economic Development Fund.

Nomination of a Project for Initial Five-Year Funding

The Proponent has requested that the initial five-year funding payment under the VPA be contributed toward the Northview Estate Play Space (Play Space), subject to assessment



under the CEDF.

The Play Space is approved under development application (DA) 2013-232 and the proponent for DA 2013-232, Tindale Pty Ltd, is required to develop the Play Space in accordance with approved plans dated 20 December 2022 (Play Space Approved Plans).

Council Officers advise that no part of the PA funds for the Muswellbrook BESS should be used to develop the Play Space elements required to be provided by the subdivision.

Officers recommend that contributions for the first five years of the Project for the upgrade of the Northview Estate Play Space be considered, however design, safety and maintenance aspects of the upgrade are still unknown and will be assessed in accordance with the CEDF Fund. The VPA contributions may not be used to fund the already approved Play Space design under DA 2013-232.

OPTIONS

Option 1: Contributions will be calculated as 0.4% of (capex expenditure) payable as \$200/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned) [with the division of any Contribution](#) using the ratios of 15% for the employment of an Environmental Officer and 85% for Community Economic Development Fund [is the recommended option. This is the preferred option as it reflects the residual impacts of the development and the proposed land rating category for the site.](#)

Option 2: Contributions will be calculated as 0.4% of (capex expenditure) payable as \$200/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned) [with the division of any Contribution](#) using the ratios of 15% for the employment of an Environmental Officer, 25% for local road maintenance and 60% for Community Economic Development Fund.

Option 3: Contributions will be calculated as 1% of (capex expenditure) payable as \$500/MW of installed capacity per annum (indexed to CPI) over the life of the development (i.e., until the project is decommissioned) [with the division of any Contribution](#) using the ratios of 15% for the employment of an Environmental Officer, 25% for local road maintenance and 60% for Community Economic Development Fund. This is not the recommended option as the contribution rate plus land rates payable will likely mean the project is not economically viable and does not reflect the residual impacts the project is likely to generate.

SOCIAL IMPLICATIONS

A Planning Agreement is intended to offset any negative impacts on the community that are not addressed by the conditions of consent (these are usually focused on environmental impacts) but are not of sufficient scale to warrant refusal of the project.

FINANCIAL IMPLICATIONS

Contributions will allow Council to complete projects that advance community strategic goals.

POLICY IMPLICATIONS

Staff are working on a Community & Economic Development Fund Policy and revising the Planning Agreement Policy for consideration by Council in 2023 to make the desired outcomes of a Planning Agreement negotiation process more consistent and transparent in the future.



STATUTORY IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

Nil.

Comparative Residual Impact

The following table provides a comparative residual impact assessment. The lower the score, the less residual “adverse” impact.

	Mine	Quarry	Wind Farm	Pumped Hydro	Green Hydrogen	Solar Arrays	BESS
Visual Impact	10	7	7	5	5	6	3
Noise	7	6	5	4	4	0	2
Traffic Generation	8	7	6	6	7	4	3
Local Economic Benefit	2	4	6	4	2	6	10
Airborne Pollutants	8	5	2	3	3	1	2
Light Pollution	7	5	5	5	5	1	1
Local Biodiversity	9	6	6	5	3	6	1
Emergency Services	5	4	7	4	7	5	5
Staff Resources	10	10	8	7	7	7	7
Water Consumption	9	6	4	9	10	2	1
Impact to Agriculture Productivity	7	4	3	2	3	5	1
Contamination	8	6	2	2	4	3	3
Impacts to Local Landfill	7	4	9	2	2	7	7
<i>Total</i>	97	74	70	58	62	53	46

Assessment of Impacts

Visual Impact: Will impact be restricted to a few adjoining properties or will it be seen from many vantage points including public places. Will the cumulative visual impact of a number of similar types of projects be limited or extensive. After closure and rehabilitation, is there permanent visual impact or minimal visual impact. Does impact include disrupting historic landscapes, sense of place and/or Aboriginal cultural landscapes.

Noise: Will impact be restricted to a few adjoining properties or will it affect properties for some distances, including public places. Will the cumulative noise impact of a number of similar types of projects be limited or extensive. Is the noise regular or intermittent. Is the noise dull/background or noticeable even if of short duration e.g., blasts, rock crushing.

Traffic Generation: Will operational traffic be limited, mainly light vehicles, or regular with medium to high volumes including heavy vehicles.

Local Economic Benefit: Will the project result in regular employment opportunities for local residents. Will the project create opportunities for traineeships and apprenticeships for local youth. Will the project result in the establishment of supporting secondary businesses and purchases from local businesses. Will the project create demand for new long-term housing.

Airborne Pollutants: Will impact be restricted to a few adjoining properties or will it affect properties for some distances, including public places and schools. Will the cumulative impact of airborne pollutants from a number of similar types of projects be limited or extensive. Is the airborne pollution regular or intermittent.

Light Pollution: Will impact be restricted to a few adjoining properties or will it affect properties for some distances, including public places.

Local Biodiversity: Will the project result in nett loss of native vegetation in the Shire for the life of the project or permanently. Will the impact be limited to a small area or more extensive area. Will the impact increase the distance between patches of native vegetation of a similar plant community type (i.e. corridor values and movement impacted). Is the vegetation lost likely to be habitat for threatened or endangered animal species.

Emergency Services: Will the development generate the potential need for bush fire fighting resources and personnel. Can paramedics readily access the site to assist injured workers

Staff Resources: Will there be an ongoing chance for modifications to the development post-approval e.g. rapidly changing technology; complex type of development where full infrastructure needs or changes could not be anticipated initially. Are annual reports required to monitor compliance. Will the community (including new residents) reach out to Council to understand the nature of the approval or to lodge complaints. Will staff attend subsequent CCC meetings.

Water Consumption: Will the project result in a long-term permanent impact on water availability in the local catchment impacting the water sharing regime and employment diversification.

Impacts to Agricultural Productivity: does the project require large portions of contiguous land disrupts rural activities and reduces supporting rural industries and professions e.g. large animal vets.

Contamination: After closure and rehabilitation, is there a risk of permanent contamination impacts that will disrupt future potential use of the site or parts of the site.

Impacts to Local Landfill: Will the project result in a high proportion of project elements being disposed of in local waste management facilities i.e. project components are unable to be recycled and/or large-scale recycling technology is not yet available.

**9.1.3. DA 2021-58 Organics Recycling Facility**

Attachments:	1. DA 2021-58 s4.15 Assessment [9.1.3.1 - 14 pages]
	2. DA 2021-58 Draft Conditions [9.1.3.2 - 8 pages]
	3. DA 2021-58 NSW EPA response and conditions [9.1.3.3 - 3 pages]
	4. DA 2021-58 TfNSW Response [9.1.3.4 - 2 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Alisa Evans (Development Planner)
Community Plan Issue:	3 - Environmental Sustainability
Community Plan Goal:	An environmentally sensitive and sustainable community
Community Plan Strategy:	Not Applicable
	Not applicable

APPLICATION DETAILS

Applicant:	Muswellbrook Shire Council
Owner:	Muswellbrook Shire Council
Proposal:	Resource Recovery Facility (Food Organics Garden Organics recycling)
Location:	Lot 1 DP 819014, 252 Coal Road Muswellbrook
Permissibility:	The proposed development is permissible as a Resource Recovering Facility (organic recycling) within the SP2 Infrastructure zone

PURPOSE

This report has been prepared to assist Council in determining DA 2021-58 Muswellbrook Organic Recycling Facility at 252 Coal Road Muswellbrook (Lot 1 DP 819014).

The development application is being reported to Council for determination as its determination is outside the delegations of Council Officers.

OFFICER'S RECOMMENDATION

Council approves Development Application 2021-58 for a Resource Recovery Facility (Organics Recycling) at Lot 1 DP 819014, 252 Coal Road Muswellbrook, subject to the conditions provided in Attachment B to this report.

Moved: _____ **Seconded:** _____



Cr A. Barry



Cr M. Bowditch



Cr D. Douglas



Cr J. Drayton



Cr L. Dunn



Cr J. Lecky



Cr R. Mahajan



Cr D. Marshall



Cr G. McNeill



Cr S. Reynolds



Cr R. Scholes



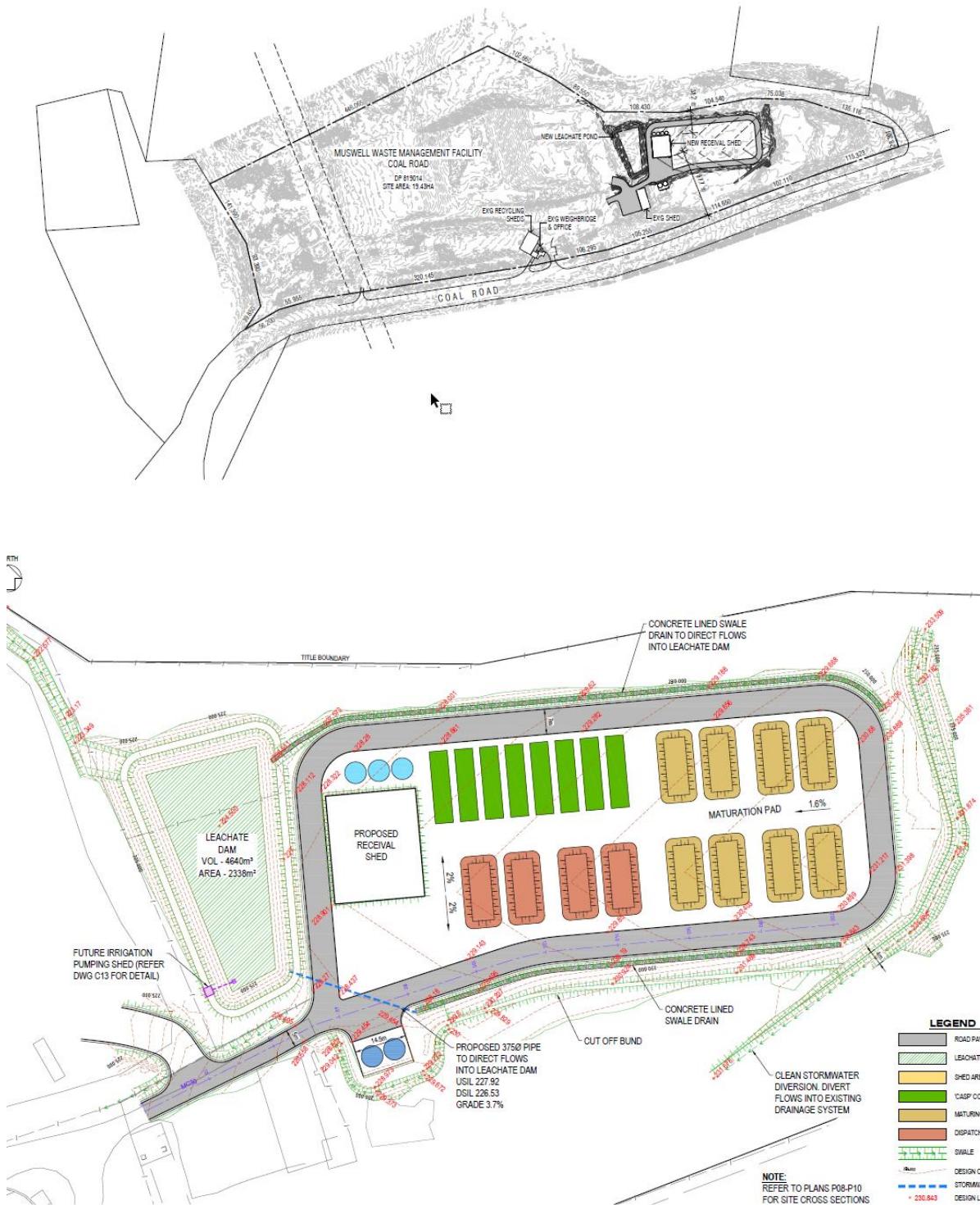
Cr B. Woodruff

DESCRIPTION OF PROPOSED DEVELOPMENT

DA 2021-58 was lodged on 2 June 2021. The proposal seeks approval to establish an Organics Recycling Facility (ORF) at Muswellbrook Waste and Recycling Facility, at 252 Coal Road Muswellbrook (Lot 1 DP 819014).

Aerial Photograph Identifying Development Site

Site Plan from the development application has been included below showing the layout of the proposed development.



The Organic Recycling Facility would include the following:

- A large enclosed shed for receival of organic material;
- Covered aerated composting units for processing the organic material;
- New hardstand areas for compost maturation and storage and dispatch of the product;



- A leachate dam to capture wastewater;
- Upgrades to drainage and internal access ways; and
- Water tanks for operational use and fire safety.

An Environmental Impact Statement was prepared for the project – given the size of this document it is not included as an attachment to this report but is available on request.

ASSESSMENT SUMMARY

The proposal has been assessed against the relevant matters prescribed by 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 application be approved subject to conditions.

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

- The Proposal is defined as a resource recovery facility under Muswellbrook LEP 2009 and State Environmental Planning Policy Infrastructure 2007 (Infrastructure SEPP). Division 23 identifies that development for a resource recovery facility is permitted with consent in the applicable zone.
- In accordance with the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), the proposed Organics Recycling Facility meets the description of a Designated Development by it being:
 - *“Composting facilities or works that process more than 5,000 tonnes per year of organic materials”.*
- In accordance with Clause 4.12(8) of the Environmental Planning & Assessment Act 1979 (EP&A Act), an Environmental Impact Statement (EIS) has been prepared on behalf of the applicant in accordance with the Secretary’s Environmental Assessment Requirement (SEARs) for the Proposal, issued on 12 June 2018 by the Department of Planning.
- A Traffic Impact Assessment was submitted. This report concludes that the proposed development may be supported from the perspective of any traffic impact and that it would not impact Council’s local road network.
- Council Engineers raised no objection to the proposed development and comments related to the final design and requirements for stormwater management and access have been incorporated into recommended conditions of consent.
- The application was referred to the required NSW government agencies with no objections raised. Their comments have been incorporated into recommended conditions of consent as appropriate and required.
- The proposal would be regulated by the NSW Environment Protection Authority (EPA) under the current Environmental Protection Licence for MSWRF EPL 5980. A licence variation will be required to modify the licence to manage environmental risks and change the scheduled activity, such as accounting for an increased authorised amount of waste, additional waste types that will be processed at the facility and the environmental monitoring regime. Consideration must also be given to cumulative odour impacts from existing landfilling with the added volume of organic composting activities.

COMMUNITY CONSULTATION

The proposed development was publicly notified in accordance with the requirements of the Muswellbrook Community Participation Plan and Environmental Planning & Assessment Regulation from 23 June 2021 until 6 August 2021. This included letters to nearby



landowners, advertisements in the local paper, on Council's website and social media sites. No submissions were received in relation to the proposal.

OPTIONS

Council may:

- a. Grant development consent to the proposed application subject to the recommended conditions of consent;
- b. Grant development consent to the proposed development subject to different conditions of consent; or
- c. Refuse consent to the development application for the proposed development and nominate reasons for refusal.

LEGAL IMPLICATIONS

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

CONCLUSION

The application has been assessed by Council Officers in accordance with the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. Staff recommend that Council grants development consent to the proposed development subject to the conditions of consent recommended in Attachment B.

Extended
DEVELOPMENT ASSESSMENT REPORT

Attached: Site Plan

ADDRESS:	LOT 1 DP 819014 252 Coal Road MUSWELLBROOK
APPLICATION No:	2021/58
PROPOSAL:	Organics Recycling Facility
OWNER:	Muswellbrook Shire Council
APPLICANT:	Muswellbrook Shire Council Po Box 122 MUSWELLBROOK NSW 2333
AUTHOR:	Alisa Evans
DATE LODGED:	02/06/2021
DATE OF REPORT:	20/03/2023

1. RECOMMENDATION

It is recommended that development consent be granted to DA 2021/58 for an Organics Recycling Facility, subject to the recommended conditions of consent.

2. SITE LOCALITY AND DESCRIPTION

The Site subject to this development application is LOT 1 DP 819014 and known as 252 Coal Road MUSWELLBROOK. Access to the site is provided via Coal Road.

The site is Muswellbrook Waste and Recycling Facility (MWRF). The MWRF currently provides the following services:

- Small vehicle waste transfer station for mixed waste and recyclables
- Landfill
- Composting of garden organics
- Reuse Shop
- Weighbridge and office facilities
- Staff facilities; and
- Community Recycling Centre for collection of household problem wastes such as paints, gas cylinders and e-waste.

Figure 1. 1. Site Aerial Image (Source: Spectrum)



Flood Prone Land	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Bushfire Prone Land	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Terrestrial Vegetation	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Heritage Conservation Item	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Heritage Conservation Zone	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Contaminated Land	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Mine Subsidence	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Classified Road Frontage	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Council Infrastructure within Site	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Other	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

3. DESCRIPTION OF PROPOSAL

The proposal seeks development approval for Organics Recycling Facility.

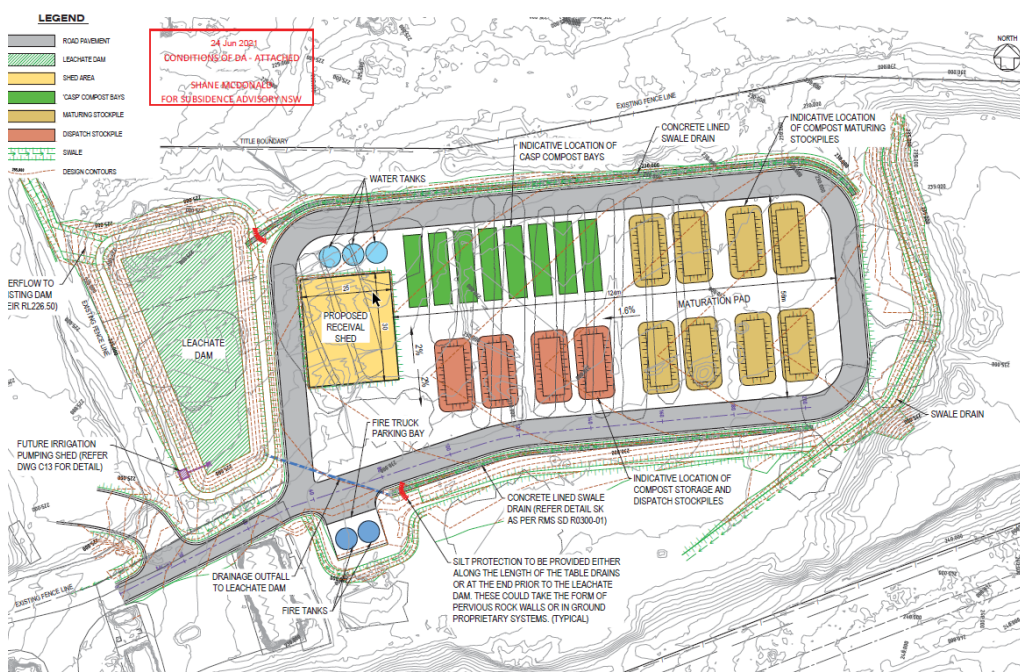
The Organics Recycling Facility would include the following:

- A large, enclosed shed for receipt of organic material;
- Covered aerated composting units for processing the organic material;
- New hardstand areas for compost maturation and storage and dispatch of the product;
- A leachate dam to capture contaminated water;
- Upgrades to drainage and internal access ways; and
- Water tanks for operational use and fire fighting.

The Organics Recycling Facility will:

- Process Food Organics Garden Organics (FOGO) and other suitable organic wastes;
- Divert organic wastes from landfill and in so doing contribute to the NSW State objective of increasing waste diversion from landfill;
- Extend the life of the existing landfill;
- Produce a quality compost product for use in a range of applications throughout the Muswellbrook LGA; and
- Contribute towards achieving MSC objectives of transitioning to a more diverse economy which embraces sustainability approaches.

Figure 2. – Site Plan (Source: Applicant)



Notification Required	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Notification Dates	23/06/2021 to 06/08/2021
Number of Submissions	No Submissions
Standard Local Development	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Regionally Significant Development	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Designated Development	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

Integrated Development	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
	NSW EPA licenced required (amendment to existing licences to be completed)

The proposal is Integrated Development. The current Environment Protection Licence (EPL) issued under the *Protection of Environment Operations Act 1997* for the site is required to be modified to represent the increase in quantities of waste materials and processing technology, namely the composting process.

As the Proposal is deemed both Designated and Integrated Development, approval is sought under Part 4 of the EP&A Act. The applicant applied and received SEARs and the submitted Environmental Impact Statement was prepared in accordance with the requirements and the relevant shareholders were identified and feedback obtained.

4. RELEVANT HISTORY

Previous Approvals

Formatted Account	Document Type	External Reference	Preds	Received Date	Court Date	Court Determination	Determination Date
005.2021.00000058.001	Development Applications	APPLICATION	Organics Recycling Facility	02/06/2021			
005.2016.00000120.001	Development Applications	APPLICATION	Resource recovery Facility	24/11/2016			12/05/2017
005.2015.00000106.002	Development Applications	S96(1A) MODIFICATION	S96(1a) Modification - Change Alignment of Shed to East Facing	19/04/2016			09/05/2016
005.2015.00000106.001	Development Applications	APPLICATION	Community Recycling Centre	04/12/2015			01/03/2016
005.2008.00000285.001	Development Applications	APPLICATION	OFFICE ADDITIONS FOR COUNCIL WASTE DEPOT	15/10/2008			07/11/2008
005.2006.00000087.001	Development Applications		EXTENSIONS TO EXISTING RECYCLING SHED	20/03/2006			22/04/2006
005.2006.00000066.001	Development Applications	APPLICATION	OFFICE ADDITIONS/ALTERATIONS AT COUNCIL'S WASTE DEPOT	24/02/2006			16/03/2006
005.1999.00002037.001	Development Applications		Office	12/08/1999			03/09/1999
017.2012.00000100.001	Complying Development Applic	APPLICATION	CARPORT	21/12/2012			05/01/2013

The site is an established waste facility that has expanded over the years to accommodate changes and demands on services within the waste and recycling processes.

Other Background Information

As outline above the aim and objectives of establishing a FOGO capable facility is to better manage waste process and reduce the waste and create a more environmentally sustainable community.

5. REFERRAL COMMENTS

Internal Comments	
CI – Roads and Drainage	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
CI – Water and Waste	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Environmental Health Officer	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA NSW EPA
Building Surveyor	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Community Services	Satisfactory: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> NA
Sustainability	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Heritage Advisor	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Other	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
External Comments	
TfNSW	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
NSW Heritage	Satisfactory: <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
RFS	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
NSW Police	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

NSW Fire & Rescue	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
EPA	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
NSW Health	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
DPIE	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Local Traffic Committee	Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Subsidence Advisory NSW	Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA

6. ASSESSMENT - Section 4.15 Matters for Consideration

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

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

A. Muswellbrook Local Environmental Plan 2009 (MLEP 2009)

Relevant Clauses applicable under the Muswellbrook Local Environmental Plan 2009 are:

Part 2 Permitted or prohibited development

Land use Zone	SP2 Infrastructure
Proposed Use	Resource Recovery Facility (organics recycling)
Permissibility	Permitted with Consent
Zone Objective	Complies with Objective

The objectives under the SP2 Infrastructure Zone are as follows:

Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To recognise existing railway land and to enable future development for railway and associated purposes.
- To prohibit advertising hoardings on railway land.
- To recognise major roads and to enable future development and expansion of major road networks and associated purposes.
- To recognise existing land and to enable future development for utility undertakings and associated purposes.

The proposed development is not contrary to the objectives under the SP2 Infrastructure Zone. The purpose on the land is Waste Management Facility and the proposed application is within the provision of the use.

Part 4 Principal Development Standards

Relevant Clause	Control	Proposed	Compliance
4.1 Minimum subdivision lot size			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
4.3 Height of buildings	13m	10.5m	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
4.4 Floor space ratio			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
4.6 Exception to Development Standards			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Other			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

Part 5 Miscellaneous Provisions

Relevant Clause	Compliance
5.4 Controls relating to miscellaneous uses	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA

5.8 Conversion of fire alarms	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
5.10 Heritage Conservation	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
5.18 Intensive livestock agriculture	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
5.21 Flood planning	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Other	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

Part 7 Additional Local Provisions

Relevant Clause	Compliance
7.1 Terrestrial Biodiversity	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
7.3 Rural Workers Dwelling	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
7.4 Subdivision services	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
7.5 Dwellings in Rural or Conservation Zones	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
7.6 Earthworks	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Other	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

B. State Environmental Planning Policies Relevant to Muswellbrook Shire

<p>State Environmental Planning Policy 33 - Hazardous and Offensive Development (SEPP 33)</p> <p>Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA</p> <p>The site is classified as a contaminated site as it is a Waste Facility.</p> <p>Under the SEPP the consent authority is required to consider the risk of the use. The following is and extract from the EIS of the process to be utilised in operating and controlling the risk:</p>

4.3.2 State Environmental Planning Policy 33 - Hazardous and Offensive Development (SEPP 33)

SEPP 33 requires the consent authority to consider whether an industrial proposal is a potentially hazardous or offensive industry that without the implementation of appropriate impact minimisation measures would, or potentially would, pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment.

Hazardous industry is limited to industrial developments which after all measures proposed to reduce or minimise its impact have been employed, would still pose a significant risk to the surrounding populace and / or biophysical environment. It is deemed the proposed ORF is a *potentially hazardous industry*. A preliminary risk screening completed in accordance with State Environmental Planning Policy No. 33 - Hazardous and Offensive Development and Applying SEPP 33 (DoP, 2011) is outlined in Section 6.4.

Consideration of the proposed ORF under Clause 13 of the SEPP is provided in Table 4-2. The Proposal should not pose any significant risk to the surrounding populace, properties or environment with the implementation of best management practices as well as effective implementation of an updated EMP and an Occupational Health and Safety Management System.

Table 4-2: Consideration of SEPP 33

Clause 13 provisions	Comment
<i>current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development,</i>	The quantities of dangerous goods proposed to be stored on-site are well below the screening thresholds and do not trigger the requirement for a Preliminary Hazard Assessment.
<i>whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply,</i>	The EPA has been consulted in the preparation of the EIS and their requirements have been incorporated into the development design. The required EPL will address any additional environmental and land use safety requirements.
<i>in the case of development for a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant,</i>	The quantities of dangerous goods proposed to be stored on-site are well below the screening thresholds and do not trigger the requirement for a Preliminary Hazard Assessment; and
<i>any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application),</i>	There are no feasible alternatives to carrying out the development. The development will make local waste service collection more sustainable by collecting and converting FOGO waste into compost for reuse. The site was chosen because it is located adjacent to the MWRF.
<i>any likely future use of the land surrounding the development.</i>	The site is located within the MWRF and hence will operate within the constraints and buffers of the existing facility.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

Satisfactory: ☒ Yes ☐ No

The Infrastructure SEPP is the principal Environmental Planning Instrument (EPI) which consent is sought for the application. The SEPP defines a *resource recovery facility* as:

'A facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.'

<p><i>A resource recovery facility sits within the definition of a waste or resource management facility.</i></p> <p>The application was also referred to TfNSW under Clause 101 of SEPP (Infrastructure) 2007 and Section 2.121 / Schedule 3 of SEPP (Transport and Infrastructure) 2021. The agency had no objections to the proposal but noted that prior to the commencement of work the proponent must contact TfNSW to ensure that the works do not conflict with the proposed Muswellbrook bypass that is to commence 2024.</p>
State Environmental Planning Policy Koala Habitat Protection (SEPP Koala Habitat)
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
State Environmental Planning Policy No 55 – Remediation of Land
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
State Environmental Planning Policy (Primary Production and Rural Development) 2019
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
The use would be within an existing waste management facility and does not increase conflict with surrounding rural land.
SEPP (Transport and Infrastructure) 2021
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Detailed above.

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

There are no draft EPIs relevant to the subject Application.

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

Muswellbrook DCP 2009

Section 3 Site Analysis
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Section 5 Subdivision
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 6 Residential Development
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 7 – Village Zones
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 8 – Rural development
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 9 – Local Centre Development
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 10 – Industrial Development

Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 11 – Extractive Industry
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 12 – Tourist Facilities and Accommodation
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 13 – Floodplain Management
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 14 – Outdoor Signage
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 15 – Heritage Conservation
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 16 – Car Parking and Access
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Existing parking provision is adequate, no additional parking is required.
Section 17 – Sex Services ad Restricted Premises
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 18 – Child Care Centres
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 19 – Use of Public Footpaths
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 20 – Erosion and Sediment Control
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
During the construction stages, sediment controls will be implemented. The ongoing controls are a closed water circuit with swales that will capture runoff and sediments and divert for treatment in the leachate dam.
Section 21 – Contaminated Land
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Section 22 – Land Use Buffers
Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Section 23 – On-Site Sewage Management
Satisfactory: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable
The subject site is serviced by an existing approved on-site sewage treatment system.
Section 24 – Waste Minimisation and Management Systems

<p>Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable</p> <p>A site waste minimisation management plan has not been submitted. As the proposed Organics Recycling Facility is on the site of an existing waste management facility, any non-compostable material will be able to be diverted to recycling or landfill as required.</p>
Section 25 – Stormwater Management
<p>Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable</p> <p>The site will have a closed water system that will capture the runoff and divert to a leachate dam.</p> <p>Stormwater is required to be well managed due to the possible contaminants that are within the other processes undertake onsite.</p> <p>The stormwater management system has been reviewed by Community Infrastructure to ensure its adequacy.</p>
Section 26 – Site Specific Controls
<p>Satisfactory: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable</p>

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

There are no planning agreements relevant to the subject Application.

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

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

Development Contributions

The cost of works for the proposed development is \$3,850,000.00. No contributions apply under Section 94A as this is a community infrastructure project delivered by Council.

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

Not applicable - The Application does not relate to a coastal area.

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

Context and Setting

The site is the Muswellbrook Waste and Recycling Facility. The proposal is to enhance the delivery of services to the community by facilitating processing of Food Organic and Green Organic (FOGO) waste. The site is generally flat with minimal native vegetation on site.

Built Form

The proposal includes an additional shed to accommodate the process. The shed is 10.5m in height and is 25m by 30.5m. The shed will receive material for sorting and shredding. Material will then proceed to the stockpiles for composting.

The shed is positioned away from the boundary and does not overshadow any adjoining land.

Potential Impact on Adjacent Properties

The closest sensitive receptors are residences 1km from the site. Adjoining land use are a mix of mining, industrial and sporting facilities. The EIS has considered impacts and has proposed mitigation measures to ensure the additional use does not adversely impact on the amenity of the area.

Access, Transport and Traffic

A Traffic Impact Assessment was completed and reviewed by Community infrastructure. The proposal will result in a minor increase in truck movements (3-5%). The performance of intersections from the New England Highway to the site would remain high, and trucks would continue to use existing routes. Relevant mitigation measures have been identified.

The Muswellbrook bypass options would not directly impact the proposed Organics Recycling Facility. The Coal Rd interchange would assist some future traffic movements being directly to the Bypass and not through the urban areas of Muswellbrook.

Extract below is the conclusion of the submitted Traffic Impact Assessment.

17. Conclusion

An assessment of the traffic impacts associated with the organic recycling facility development has been undertaken by a suitably qualified person in accordance with the Austroads Guide to Traffic Management – Part 12 (2016) and the RMS Guide to Traffic Generating Developments (2002). The analysis and discussion presented in this report can be summarised as follows:

- Traffic generated by the proposed development is expected to be in the order of five heavy vehicles per day and 2 light vehicles, with a total 14 vehicle movements per day (10 heavy vehicle movements and 4 light vehicle movements) during operation
- The additional traffic volumes generated by the development both during construction and operation are expected to have a minimal impact on the traffic function of the surrounding road network including Coal Road, Bell Street and the New England Highway
- Vehicles up to the size of 19m semi-trailers can utilise the site in a safe manner and enter and exit the site in a safe manner. This is applicable to both construction and operational stages
- The existing car parking supply is adequate for staff parking; and
- SISD considerations have identified less than required sight distances at the Common Road/ Coal Road intersection and the Bell Street / Victoria Street intersection. These are existing deficiencies that Council may consider addressing through improvements such as removal of vegetation, should it be deemed necessary for safety reasons. Intersection upgrades are not necessitated or recommended as a result of the proposed ORF development.

Public Domain

The use does not impact on the public domain within the locality.

Utilities

The site has existing services, and the use will obtain the required water supply from Council's reticulated water supply system. A Notice of requirement will be required for the application and has been conditioned

Other Land Resources

The development does not affect:

- Productive agricultural land
- Mineral and extractive resources
- Water supply catchments

Water and soil

Surface water and ground water have been considered in the EIS. The management of water is a key factor in the operation of the facility. The documentation has demonstrated how water will be managed onsite to control environmental impacts. The NSW EPA licence will provide measure for monitoring and assessing the final water process and will be further defined in the licence provisions.

Extract of summary of water processes from EIS.

Stormwater runoff through the site may become contaminated by the organic wastes and compost and would be captured and managed accordingly. A new leachate dam would be constructed as part of the Proposal to collect the leachate generated by the Proposed ORF. A water balance prepared for the Site identified areas of leachate collection, storage and reuse in the proposed ORF and identifies an appropriate size for the proposed wastewater management systems. The proposed leachate dam has capacity to capture a 1 in 10 year, 24-hour storm event in accordance with NSW Environment Protection Authority (EPA) Guidelines. The dam would also provide temporary storage of leachate for potential reuse within operations. By careful design and implementation of a discrete leachate drainage and storage system separate from stormwater, potential impacts from leachate are minimal. Lining of the leachate dam and drainage system is proposed in accordance with EPA Guidelines and would protect soils and groundwater.

Air/Microclimate

Air quality assessment and monitoring has been undertaken and the results reviewed by NSW EPA. The modelling and monitoring have determined that the sensitive receivers are not impacted by the proposal.

Flora and Fauna

A site survey has been undertaken and no significant flora and fauna will be impacted.

Waste

Adequate provision is provided.

Noise & Vibration

A noise assessment was undertaken and no exceedance have been identified.

Natural Hazards

Bushfire hazard (bushfire hazard assessment), flood hazard (flood study), and geological hazards (subsidence, slip, mass movement) (Geotech report) assessments were undertaken for the EIS. All hazards can be managed appropriately.

Contamination will be managed and controlled as detailed in EIS.

The proposed development is not expected to have a significant negative impact on the site, locality, or nearby residents.

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

The proposed development is compatible with surrounding land uses and site characteristics, subject to consent conditions.

Section 4.15(1)(d) any submissions made

The application was notified to adjoining owners from 23 June 2021 until 6 August 2021. A notice was also placed on Council's website and Facebook page at the commencement of the notification period.

No submissions were received during the notification period.

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

It is considered that the proposal is in the public interest.

7. 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:

A handwritten signature in purple ink, appearing to be 'AE' followed by a long horizontal stroke.

Alisa Evans

Date: 15/03/2023

Internal Referrals

CI – Roads and Drainage

CI – Water and Waste

Building Surveyor

External Referrals

TfNSW

EPA

IDENTIFICATION OF APPROVED PLANS

1. Approved Plans and Supporting Documents

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan Ref. or Drawing No.	Rev. No.	Plan Title.	Drawn by.	Dated.
NC19052-C01, NC19052-C02, NC19052-C03, NC19052-C04, NC19052-C05, NC19052-C06, NC19052-C07, NC19052-C08, NC19052-C09, NC19052-C10, NC19052-C11, NC19052-C12 & NC19052-C13	A	Engineering Design for Tunnel Composting ORF	Pitt & Sherry	20/05/2020
DA000 to DA007 & DA201 to DA205	P1	Muswellbrook Organic Recycling Facility Project No. 19013	Edwards + Simpson	22/05/2020

Document Title.	Ver. No.	Prepared By.	Dated.
Muswellbrook Organics Recycling Facility Environmental Impact Statement	REV 01	Pitt & Sherry	11 November 2020

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

3. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

ANCILLARY MATTERS TO BE COMPLETED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

4. Requirement for a Construction Certificate

No works shall commence on site until such time as a Construction Certificate has been issued for either part or all the works. If a certificate is issued for part of the works, it must cover the works being undertaken onsite.

5. Section 68 Local Government Act Approval

Prior to the issue of a Construction Certificate, the person operating on this consent is to obtain a Section 68 Local Government Act approval for all stormwater, water supply and sewer drainage works.

6. Protection of External Walls and Openings

Prior to the issue of the Construction Certificate, details are to be provided to the Principal Certifier demonstrating the external walls and openings adjacent to the property boundary are protected appropriately for the type of construction required to avoid the spread of fire in accordance with CP2 of Volume 1 of the NCCS/BCA.

7. Notice of Requirements – Water and Sewer Connection

Prior to the issue of a Construction Certificate and the carrying out of any works associated with the provision of reticulated water and sewer to the development, a 'Notice of Requirements pursuant to the provisions of the Water Management Act 2000, is to be obtained from Council.

Any application for a Notice of Requirements will need to be accompanied by a design plan detailing any alterations to reticulated water and sewer connections.

The Notice of Arrangement under the Water Management Act 2000 may require the proponent to pay Section 64 Headworks Contributions for the development. Councils Water Headworks are charged in accordance with Council's fees and charges.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT

8. Stabilised access

Unless a suitable existing site access is utilised, stabilised site access consisting of at

least 200mm of aggregate at 30–60mm in size and a minimum of 3m in width must be provided from the road edge to the front of the building being constructed, prior to the commencement of work. The stabilised access must be fully maintained and removed from the site when a permanent driveway has been constructed.

9. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during this development. The applicant shall submit to Council, in writing and/or photographic record, evidence of any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work, it will be assumed that the infrastructure was undamaged, and the applicant will be required to restore all damaged infrastructure at their expense.

10. Vehicle Entry

Prior to commencing construction of the driveway/vehicle crossing/layback within the road reserve, a permit for the work must be obtained from Council, under Section 138 of the Roads Act 1993.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. Mandatory Inspections under Section 68 Local Government Act 1993

The person acting with this consent shall ensure that all mandatory sewer, water, and stormwater inspections are carried out by Council at the relevant stages of construction in accordance with any Section 68 approval issued for the development.

Note: a minimum notice of 48 hours is required when booking an inspection. Inspection fees will be charged in accordance with Council's adopted fees and charges and must be paid prior to the issue of the Construction Certificate.

12. Construction Hours

- (a) Subject to this clause, building construction is to be carried out during the following hours:
 - i. between Monday to Friday (inclusive)—7.00am to 6.00pm
 - ii. on a Saturday—8.00am to 1.00pm
- (b) Building construction must not be carried out on a Sunday or a public holidays.
- (c) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.
- (d) The builder and excavator must display, on-site, their 24-hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.

13. Erosion and Sediment Controls

The approved Sediment & Erosion controls shall be reinstated daily prior to workers leaving the site where modified at any time. Any sediment that escapes from the allotment shall be cleaned, collected and disposed of to Council's waste management facility or the sediment shall be returned to the subject allotment on a daily basis.

OR

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

All required sedimentation control techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

14. Site Waste Minimisation

Throughout the carrying out of building works the person acting with this consent shall take steps to minimise waste from the carrying-out of the development in accordance with the following objectives of *Chapter 24 Waste Minimisation and Management* of Council's Development Control Plan. Steps to be taken:

- Optimise adaptive reuse opportunities of existing building/structures.
- Maximise reuse and recycling of materials.
- Minimise waste generation.
- Ensure appropriate storage and collection of waste.
- Minimise environmental impacts associated with waste management.
- Avoid illegal dumping.
- Promote improved project management.

15. No Work on Public Land

The applicant shall not enter or undertake any work within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction Management Plan.

16. Out of Hours Work Permits

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to written permission on each occasion from Council. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979.

Failure to obtain a permission for work outside of the approved hours will result in fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

It is recommended that applications be lodged as early as possible to allow sufficient time for determination by Council and to avoid disruption or delay due to conflicting priorities.

17. Excavation/Demolition

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.
- (d) The builder is to ensure that persons working on the site comply with the WorkCover Authority's requirements.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

18. Occupation

The building is not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

19. Construction of Parking Areas

Prior to the issue of an Occupation Certificate all parking areas, loading bays, driveways, internal access ways, vehicular ramps and turning areas shall be fully constructed, sealed, line marked, sign posted in accordance with the approved plans and AS.2890.1 2004 Parking Facilities and the relevant provisions of AS1428.1 and AS1428.4.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

20. Stormwater Disposal

All stormwater from the development including all hardstand areas and overflows from rainwater tanks is to be collected and disposed of in accordance with the stormwater management plan submitted and approved by council in accordance with the conditions of consent and related Section 68 Permit.

21. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site, always and within loading bays designated on the approved plans.

22. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to stop before proceeding onto the public way.

GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 4.47 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

23. NSW EPA Conditions

The following are conditions of consent are issued by NSW EPA:

1. A maximum of 10,000 TPA of source separated organic material can be received and treated by compositing at the facility.
2. The facility must be designed and constructed in a manner that does not preclude the retrofit of air quality (including odour) emission controls and management measures.
3. All material at the facility must be received and shredded within an enclosed building.
4. The proponent must develop and implement an Air and Odour Management Plan (AOMP) prior to the commencement of project operations. As a minimum, the AOMP must include the following parts:
 - i. Risk assessment
 - ii. Proactive and reactive mitigation measures of all significant, and potentially significant emission sources
 - iii. Key performance indicator(s)
 - iv. Monitoring method(s)
 - v. Location, frequency and duration of monitoring,
 - vi. Record keeping
 - vii. Response mechanisms and contingency measures,
 - viii. Responsibilities
 - ix. Compliance reporting.

Note: Based on the information provided, the proposal would be regulated by the EPA under the current Environmental Protection License for MSWRF **EPL 5980**. A license variation will be required to modify the license to manage environmental risks and change the scheduled activity, such as accounting for an increased authorised amount of waste, additional waste types that will be processed at the facility and the environmental monitoring regime. Consideration must also be given to cumulative odour impacts from existing landfilling with the added volume of organic composting

activities.

REASON FOR IMPOSITION OF CONDITIONS:

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

- (a) To encourage:
 - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
 - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
 - (iii) The protection, provision, and co-ordination of communication and utility services;
 - (iv) The provision of land for public purposes;
 - (v) The provision and co-ordination of community services and facilities;
 - (vi) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
 - (vii) Ecologically Sustainable Development; and
 - (viii) The provision and maintenance of affordable housing.
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
- (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

ADVICE:

- TfNSW requests that the applicant contact TfNSW before construction commences, to ensure that there are no conflicts with the Muswellbrook bypass construction works and construction accesses.
- Where indicated by specific reference in a condition above, approval is also granted for Section 68 of the Local Government Act 1993 to carry out sewer drainage, water supply work and stormwater drainage.
- You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration or internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act, 1979. Any such changes may need to be the subject of a separate Development Application.

Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

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

RIGHT OF APPEAL:

Sections 8.2, 8.3, 8.4, 8.5 of the Environmental Planning and Assessment Act 1979 provide that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six (6) months *after receipt of this Notice of Determination*, together with payment of the appropriate fees. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.

If you are dissatisfied with this decision, Section 8.7, 8.10 of the Environmental Planning and Assessment Act, 1979 give you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.



DOC22/1001970

Mr Derek Finnigan
Acting General Manager
MUSWELLBROOK SHIRE COUNCIL
PO Box 122
MUSWELLBROOK NSW 2333

18 November 2022

Email: alisa.evans@muswellbrook.nsw.gov.au

Dear Alisa Evans

**Muswellbrook Shire Council Organics Recycling Facility – 1 Coal Mine Rd,
Muswellbrook – CNR – 18038 – DA/2021/58 EPL 5980**

The NSW Environment Protection Authority (**EPA**) is writing in regard to the notification dated 16 June 2021 of referral CRN-18038 requesting the consideration and assessment of application DA/2021/58 for 1 Coal Rd, Muswellbrook. The application relates to Muswellbrook Organics Recycling Facility (the **Facility**).

The proposed facility would operate adjacent to the established Muswellbrook Waste Recovery Facility (**MWRF**) EPL 5980 which is licensed to receive up to 50,000 Tons Per Annum (**TPA**).

The Facility would process up to 10,000 TPA primarily of food organics (**FO**) and garden organics (**GO**) by composting, to produce soil amendments suitable for use in landscaping and agricultural production. This would be achieved utilising Covered Aerated Static piles (**CASP**) and the waste types would include:

- FOGO
- Miscellaneous Category 1 organics (e.g., untreated timber, natural or processed fibrous organics); and
- Biosolids from the Muswellbrook Recycle Water Treatment Works.

Key milestones:

- A. The EPA received the Environmental Impact Statement (**EIS**) via the planning portal on the 16 of June 2021
- B. EPA's Technical Advice Air group (**TA-Air**) reviewed the EIS on 13 July 2022 and identified issues with the Air Quality Impact Assessment (**AQIA**) which required further information
- C. The EPA responded with a letter to Muswellbrook Shire Council dated 16 July 2021 (**EPA request additional info**)
- D. MSC followed with a response to EPA's requests provided by Pitt & Sherry consultants (**Pitt & Sherry Response to EPA**) dated 26 April 2022. This response elaborated on details of CASP composting technology and clarification of how odour emission rates were modelled and assessed under the **AQIA** and how the odour risks were to be addressed

- E. TA-Air have assessed the additional information provided by the consultant's regarding the effectiveness of the **AQIA** in evaluating odour impacts. TA-Air confirmed that all concerns raised regarding the assessment have been adequately assessed and that Todoroski Air Sciences have addressed the necessary odour modelling for the site.

The EPA has reviewed the following documents:

- i. Muswellbrook Organics Recycling Facility, Environmental Impact Statement – Pitt&Sherry – 11 November 2020
- ii. Technical Advice Air - Review of Council's Development Proposal – 13 July 2021
- iii. EPA request for additional information – IDA – 16 July 2021
- iv. Pitt & Sherry Response to NSW EPA seeking additional information – 26 May 2022
 - a) Attachment 1: Spartel System Technology
 - b) Attachment 2: Todoroski Air Sciences Additional Air Quality Information
 - c) Attachment 3: SLR Leachate Dam and Irrigation System Design
- v. Technical Advice Air – Assessment – 10 August 2022.

Based on the information provided, the proposal would be regulated by the EPA under the current Environmental Protection License for MSWRF **EPL 5980**. A license variation will be required to modify the license to manage environmental risks and change the scheduled activity, such as accounting for an increased authorised amount of waste, additional waste types that will be processed at the facility and the environmental monitoring regime. Particular consideration must also be given to cumulative odour impacts from existing landfilling with the added volume of organic composting activities.

To seek a license variation please refer to the EPA's Environment Protection License administration page linked below:

<https://apps.epa.nsw.gov.au/epabusinessportal/poeo-login>

The EPA does not oppose this development application on the grounds that all conditions are met as clarified in Attachment A, with separate license conditions to be established through variation of the existing licence.

The EPA acknowledges and apologises for the delay in responding to this matter and will endeavour to assist council in promptly progressing this matter moving forward.

Should you require clarification of any of the above please contact Daniel Whitley on 02 9274 6544 or email daniel.whitley@epa.nsw.gov.au

Sincerely,



GEORGE OREL
A/ Unit Head - Regulatory Operations - Metropolitan North
Environment Protection Authority

Encl. Attachment A

Attachment A

Consent conditions

1. A maximum of 10,000 TPA of source separated organic material can be received and treated by compositing at the facility.
2. The facility must be designed and constructed in a manner that does not preclude the retrofit of air quality (including odour) emission controls and management measures.
3. All material at the facility must be received and shredded within an enclosed building.
4. The proponent must develop and implement an Air and Odour Management Plan (AOMP) prior to the commencement of project operations. As a minimum, the AOMP must include the following parts:
 - i. Risk assessment
 - ii. Proactive and reactive mitigation measures of all significant, and potentially significant emission sources
 - iii. Key performance indicator(s)
 - iv. Monitoring method(s)
 - v. Location, frequency and duration of monitoring,
 - vi. Record keeping
 - vii. Response mechanisms and contingency measures,
 - viii. Responsibilities
 - ix. Compliance reporting.

16 June 2022

File No: NTH22/00344/01
Your Ref: DA 2021/58; CNR-18038

General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Attention: Alisa Evans

NEW ENGLAND HIGHWAY (HW9): DA 2021/58, ORGANIC RECYCLING FACILITY, LOT: 1 DP: 819014, COAL ROAD MUSWELLBROOK

I refer to the abovementioned Development Application referred to Transport for NSW (TfNSW) on 26 May 2022 for comment in accordance with Clause 101 of the *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* and Section 2.121 / Schedule 3 of the SEPP (Transport and Infrastructure) 2021.

Clause 101 of the SEPP (Infrastructure) 2007 is now known as Section 2.118 of the SEPP (Transport and Infrastructure) 2021. In accordance with Section 2.118, Council should consider the safety, efficiency and ongoing operation of the classified road. There is no trigger for referral to TfNSW with regard to this Section.

Section 2.121 of the SEPP (Transport and Infrastructure) 2021 triggers referral to TfNSW for comment on traffic generating developments. The proposal is classified as traffic generating development.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with Future Transport Strategy 2056.

New England Highway (HW9) is a classified (State) road and Coal Road is a local road. Council is the roads authority for both roads and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*.

TfNSW has reviewed the referred information and provides the following comments to assist the consent authority in making a determination:

- TfNSW notes that the TIA states that the SISD to the left from both Common Road to Coal Road, and Victoria Street to Bell Street, do not meet the Austroads Guide minimum requirements. TfNSW notes that vegetation clearing is proposed to meet the minimum requirements.
- Council should have consideration for appropriate sight line distances in accordance with Section 3 of the *Austroads Guide to Road Design Part 4A (Unsignalised and Signalised*

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76 Victoria Street (PO Box 576) Grafton NSW 2460

1 of 2

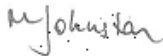
1300 207 783
transport.nsw.gov.au

Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed vehicle route promotes safe vehicle movements.

- At a meeting on 23 April 2020, TfNSW recommended restrictions to the vehicle route. TfNSW has reviewed the Development Application and now does not recommend any restrictions to the vehicle route.
- In 2023 construction will begin on the Muswellbrook Bypass. TfNSW requests that the applicant contacts TfNSW before construction commences, to ensure that there are no conflicts with the bypass construction works and construction accesses.

On Council's determination of this matter, please forward a copy of the Notice of Determination to TfNSW for our records. Should you require further information please contact Callista Harris, Development Services Case Officer, on 1300 207 783 or 02 8650 1789 or by emailing development.north@transport.nsw.gov.au.

Yours faithfully



Marg Johnston

Team Leader Development Services
North Region | Community & Place
Regional & Outer Metropolitan

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9.1.4. Landcare Education Grants

Attachments:	Nil
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Michael Brady (Sustainability Officer - Waste)
Community Plan Issue:	3 - <i>Environmental Sustainability</i>
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 Landcare Education Grants Program. Council received two applications, with both applications satisfying the criteria for funding.

OFFICER'S RECOMMENDATION

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

1. Muswellbrook Preschool - \$2500
2. Muswellbrook South Public School - \$2500

Moved: _____ **Seconded:** _____

BACKGROUND

At the 27 September 2022 Ordinary Council Meeting, Council endorsed the recommendations contained in the Major Landcare Projects report. One of the recommendations was to allocate \$22,000 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).

The Landcare Education Grant applications opened on 23 January and closed 4pm, 27 February 2023.

These grants were promoted through contact with educational groups and social media.

CONSULTATION

Director Environmental and Planning Services

REPORT

On 28 February 2023, 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
Muswellbrook Preschool	\$2,500	Engage consultant to increase educator's skills and knowledge about sustainability and Landcare	6.3	Approve
Muswellbrook South Public School	\$2,500	Materials for seed propagation and chicken coop.	7	Approve

OPTIONS

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

CONCLUSION

Council received enquiries from 7 groups. However only 2 applications were received. Feedback from interested groups said that they did not get time to submit an application. Staff will investigate ways to ensure groups wanting funding are able to apply in the future.

SOCIAL IMPLICATIONS

Landcare Education 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

There are no operational budget considerations.

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:

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

RISK MANAGEMENT IMPLICATIONS

None

WASTE MANAGEMENT IMPLICATIONS

None

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

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



9.1.5.	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: Kim Randall (Administration Team Leader), Michael Brady (Sustainability Officer - Waste), Tracy Ward (Sustainability Officer)

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 (1/2/2023-28/02/2023)

DA No.	DESCRIPTION	PROPERTY	VALUE
2022/130/2	S4.55 1A Modification - Construction of a Secondary Dwelling	13 Merton Street Denman	-
2022/142	Shed	1559 Golden Hwy Sandy Hollow	\$37,766
2022/150	Detached Shed	121 Brook Street Muswellbrook	\$42,798
2022/138	Single Storey Dwelling with Attached Garage	24 Stockyard Parade Muswellbrook	\$570,795
2021/69/2	S4.55 (1A) Modification- Ancillary Development Shed	8 Kenilworth Street Denman	-
2022/136	Ancillary Development- Carport and concrete slab	65 Sowerby Street Muswellbrook	\$16,400



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/135	Commercial Storage Shed	15 Strathmore Road Muswellbrook	\$35,000
2022/131	Ancillary Development - Shed	69 Stockyard Parade Muswellbrook	\$19,800
2022/12/3	S4.55 (1A) Modification Ancillary Development - Shed	7 Bronte Crescent Muswellbrook	-

TOTAL = 9***Schedule 2: Development Applications Currently Being Assessed******As at 28/02/2023*****Total = 66**

DA No.	DESCRIPTION	PROPERTY	VALUE
2023/7	Ancillary Development - Carport	2C Ironbark Road Muswellbrook	\$11,877
2023/14	Storage Complex - 103 Self Storage Units And 12 Open Storage Bays	Turner Street Denman	\$3,555,527
2022/7.2	S4.55 (2) Modification - Ancillary Shed	10 Ted Clay Street Muswellbrook	\$33,000
2023/25	Construction of New Single Storey Dwelling With Attached Garage	20 Stockyard Parade Muswellbrook	\$528,515
2023/21	Shed Over Existing Slab	3 Osborn Avenue Muswellbrook	\$34,242
2023/24	Shed	36 Hunter Terrace Muswellbrook	\$52,985
2023/23	Shed	5 Mussel Street Muswellbrook	\$18,600
2023/22	Strata Subdivision of Land With Existing Duplex Dwelling	5 Wattle Street Muswellbrook	\$10,000
2023/20	Construction of a Single Storey Dwelling	11 Herdsmen Close Muswellbrook	\$579,265
2023/16	Dwelling House	16 Martindale Street Denman	\$457,383
2023/13	Carport	4 Goruk Close Muswellbrook	\$10,000



DA No.	DESCRIPTION	PROPERTY	VALUE
2023/9	Manufactured Home and Associated Structures	554 Muscle Creek Road Muscle Creek	\$569,950
2022/121	Dual Occupancy and Strata Subdivision	12 Bimbadeen Drive Muswellbrook	\$675,000
2023/18	Dwelling House	Rouchel Gap Road McCullys Gap	\$785,294
2023/12	Ancillary Development - Shed	40 Sowerby Street Muswellbrook	\$20,000
2023/11	Single Storey Dwelling	69 Stockyard Parade Muswellbrook	\$669,210
2023/7	Single Storey Dwelling	28 Stockyard Parade Muswellbrook	\$807,860
2023/1	Demolition of Shed and Construction of Shed and Awning	30 Bimbadeen Drive Muswellbrook	\$12,000
2023/10	Construction of a Single Storey Dwelling	65 Stockyard Parade Muswellbrook	652,385
2023/6	Single storey dwelling	45 Virginia Street Denman	\$539,815
2023/5	Change of Use - Home Occupation	22 Roger Street Muswellbrook	\$3,000
2023/4	Alterations and additions to commercial development	14 Aberdeen Street Muswellbrook	\$181,650
2022/148	Construction of a Shed (Farm Building)	400 Yarrowa Road Denman	\$52,000
2020/131/2	S4.55 (1A) Modification - Dwelling Additions and Swimming Pool	104 Osborn Avenue Muswellbrook	\$198,000
2023/2	Ancillary Development - Shed. Demolishing existing garden shed	4 Towarri Street Muswellbrook	\$29,858
2022/116	Farm Building	Golden Hwy Sandy Hollow	\$24,139
2022/153	Two (2) lot Subdivision	53 Ford Street Muswellbrook	-



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/154	Multi dwelling housing - Five (5) single storey dwellings	47 Osborn Avenue Muswellbrook	\$1,550,000
2022/140	Change of Use - Industrial Development	12 Carramere Road Muswellbrook	\$2,200,000
2022/152	Alterations and Additions to Dwelling	2 Paxton Street Denman	\$32,000
2022/151	Residential Shed	60 Stockyard Parade Muswellbrook	\$40,000
2022/149	Single Storey Dwelling	56 Stockyard Parade Muswellbrook	\$527,100
2022/143	Shed	9A Grey Gum Road Denman	\$65,000
2022/145	Change of Use & Dwelling Alterations and Additions	47 Wanaruah Circuit Muswellbrook	\$12,000
2022/144	Construction of a Single Storey Dwelling	Kingfisher Court Muscle Creek	\$575,715
2022/129	Home Based Hair & Beauty Business	100 Yarrawa Deviation Rd Yarrawa	\$5,000
2012/184/2	S4.55(1A) Modification of Development Determination - Condition 1	31 Strathmore Road Muswellbrook	-
2022/137	Inground Fibreglass Swimming Pool and Associated Safety Barriers	5 Paxton Street Denman	\$36,905
2022/132	Sixty Eight (68) Lot Subdivision and Child Care Centre	9036 New England Hwy Muswellbrook	\$6,705,835
2022/124	Shed for Community Facility	17-19 Maitland Street Muswellbrook	\$182,720
2022/128	Single Storey Dwelling	60 Stockyard Parade Muswellbrook	\$426,445
2022/122	Subdivision of One (1) Lot into Two (2) Lots	59 Tindale Street Muswellbrook	\$20,000
2022/129	Ancillary Development - Garage	9 Aberdeen Street Muswellbrook	\$73,507



DA No.	DESCRIPTION	PROPERTY	VALUE
2022/118	Ancillary Development - Shed	7 Shaw Crescent Muswellbrook	\$48,300
2022/107	Single Storey Attached Dual Occupancy & Two (2) Lot Strata Subdivision	48 Finnegan Crescent Muswellbrook	\$702,182
2017/18/3	S4.55 (1A) Modification - Modification to Outdoor Gaming Area and Car Park Arrangement	15 Sydney Street Muswellbrook	-
2019/5/2	S4.55 (1A) Modification - Revised Caravan Park Site Layout	9080 New England Highway Muswellbrook	-
2022/100	Dual occupancy	67A Queen Street Muswellbrook	\$540,000
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
2022/180	Remediation and Earthworks	Coal Road Muswellbrook	\$2,516,829
2022/45	Manufactured Home and Associated Structures	120 Yarraman Road Muswellbrook	\$417,100
2002/205/9	S4.55 (1A) Modification - Changes in Rehabilitation Framework	Muscle Creek Road Muscle Creek	-
2022/30	Steel Framed Deck 7 Internal Fit Out	93A Hill Street Muswellbrook	\$30,000
2021/137	Change Of Use to Educational Facility	820 Rosemount Road Denman	-
2021/129	Animal Boarding & Training Facility	1949 Martindale Road Martindale	\$33,338,800
2021/173	Temporary use of the land for receival and dismantling of rail wagons with off-site disposal	18 Strathmore Road Muswellbrook	\$50,000
2021/158	Organics Recycling Facility	252 Coal Road Muswellbrook	\$3,850,000



DA No.	DESCRIPTION	PROPERTY	VALUE
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
2023/31	Alterations & Additions to Existing Dwelling to Create a Dual Occupancy with Swimming Pool	84 Palace Street Denman	\$400,000
2023/30	Shed	43 Stockyard Parade Muswellbrook	\$16,110
2023/29	Construction of a Single Storey Dwelling	6 Stable Close Muswellbrook	\$538,860
2023/28	Construction of a Single Storey Dwelling	27 Stockyard Parade Muswellbrook	\$597,955
2022/147	Change of Use - Tyre Recycling Facility	12 Carramere Road Muswellbrook	\$2,200,000

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 (2022/2023)

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23
Applications Received (new installation)	0	3	0	0	0	0	3	2	0	2	0	0	0
Applications Approved (new installation)	0	2	1	0	0	2	2	0	0	0	1	0	0
Inspections (new system)	0	2	0	1	0	0	0	0	0	2	1	0	0
Inspections (existing system)	3	7	0	18	39	1	1	0	0	1	1	0	2



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.

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23
Applications Received (new businesses)	1	1	0	0	1	3	3	7	1	1	3	3	13
Inspections (new businesses)	1	0	0	0	3	1	0	8	1	3	1	1	2
Inspections (existing businesses)	16	10	1	12	13	0	0	0	0	5	0	15	3
Reinspections	1	2	1	0	0	0	0	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)

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23
Total Sites Inspected	7	8	7	6	9	0	0	0	23	19	17	17	15
Total non-compliant and educated	0	0	0	0	0	0	0	0	0	0	0	0	0
Total compliance after education	0	0	0	0	0	0	0	0	23	19	17	17	15
Total Penalty Notices Issued	0	0	0	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)

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23
Total Investigations	2	4	6	5	3	3	7	1	0	1	0	0	4
Total Clean up by Council - insufficient evidence	2	4	6	5	3	2	7	1	0	1	0	0	0
Total Clean Up by individual	0	0	0	0	0	1	0	0	0	0	0	0	1
Total Penalty Notices Issued	0	0	0	0	0	1	0	0	0	0	0	0	0
Court Attendance Notice Issued	0	0	0	0	0	0	0	0	0	0	0	0	0
Still under investigation	0	0	0	0	0	0	0	0	0	0	0	0	3

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

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 23	Feb 23	Total
Applications for Compliance Certs.	6	1	1	7	3	1	5	3	3	5	3	1	2	41
Initial Inspections	9	0	2	3	0	18	11	8	8	1	7	1	3	71
Re-inspections	5	0	0	1	0	6	7	9	1	3	3	4	8	47
Total compliance inspections (not inc. finals for OCs)	14	0	2	4	0	24	18	17	9	4	10	5	11	118
CCs/OCs issued	9	0	4	4	1	5	13	7	2	3	1	1	1	51
Fees invoiced	\$1100	\$150	\$150	\$1400	\$4986	\$2845	\$2486	\$3863	\$477	\$1050	\$1263	\$363	\$700	\$20833

Total Pools in Council's Swimming Pool Register = 971

(Note: 1109 records in SPR but 135 have been notified as demolished, 2 are Council's Public Pools)



and 1 is on Crown Land)

Current Compliance = 27%

SUSTAINABILITY - 22 January to 22 February 2023

Sustainable Events

Sustainability staff have been trying to implement more sustainable events initiatives at community events, especially those run by Council. Previously a Sustainable Events Procedure was developed and accepted by MANEX. Sustainability staff continue to work to try and ensure this procedure is followed. Recently some of these initiatives have been adopted as below.

a. Rock'n the Brook

Sustainability staff sought Expressions of Interest (EOI) from community groups to collect Return and Earn containers from the Rock'n the Brook event on Saturday, 4 March. The water refill stations were also available.

b. Colour Run

Council's Sustainability Unit brought along their water refill stations and purple lid bins to make the Colour Run at Karoola Park more sustainable. The water refill stations deliver cold, filtered water reducing the need to purchase multiple single use plastic water bottles. The bin collected drink containers that can be deposited for fundraising.





New Muscle Creek Grant Received

The NSW Environmental Trust has approved Council's application for an Environmental Restoration and Rehabilitation grant under the 2022–23 round of the program. A grant of \$134,632 has been awarded for the project proposed entitled Restoring Muscle Creek Through Environmental and Educational Action.

Bird Brochure

With assistance from the Hunter Region Bird Observers Club the Sustainability Unit has produced a bird route brochure. This could be a great resource for local and to attract visitors to our shire.

MUSWELLBROOK SHIRE OVERVIEW MAP

7 - Giant's Leap

The start of the walking trail and car park is behind the Sandy Hollow Tourist Park at the end of Bernard Street, off the Golden Highway. This approximately 2.6km out-and-back trail is generally considered a moderately challenging route and takes an average of 1 hour 17 minutes to complete. The trail leads you out to a viewing spot (be cautious near the edge) called Giant's Leap where you'll catch some stunning views. There are a few sections where you'll need to scramble up some rocks. The trail is marked with rock cairns (human-made stacks) along the way. Birds to look for include Rockwarbler, Glossy Black Cockatoo, Spiny-cheeked Honeyeater, White-plumed Honeyeater and Rufous Whistler. Different species of bats also occur in this area. Carry water and tell someone of your plans.

6 - McCullys Gap and Sandy Creek Road

Access to McCullys Gap is approx. 11km north of Muswellbrook town centre. Follow the New England Highway and turn right onto Sandy Creek Road just past the War Memorial Park. Birding is road side only (be aware of traffic) but rich in species on farm dams and roadside vegetation. Approx. 6kms along Sandy Creek Road, Wells Gully Road is on your left with places to park and a good picnic area. Numerous bird species can be found along the creek including White-plumed and Spiny-cheeked Honeyeaters, Noisy Friarbirds, Superb Fairy-wrens, Yellow and Yellow-rumped Thornbills, Silvereyes, Fairy Martins and water birds such as Dusky Moorhen, Grey Teal, Australian Wood Duck and Pacific Black Duck. Travel a further 4 kms along Sandy Creek Road and Rouchel Gap Road is to the left. A variety of bush birds can be found roadside. There are no public toilet facilities available. The closest toilet is at the War Memorial Park in Muswellbrook.

Regent Honeyeater
Critically endangered
Observed in Muswellbrook
Image: ©Rebecca Ozoni

Diamond Firetail
Image: ©Allyns Simple

Golden Pocket Park & Sandy Hollow

Please respect private property, drive to conditions, make sure you have plenty of fuel, and stay overnight or longer to avoid fatigue.

For more information on Muswellbrook Shire contact Muswellbrook or Denman Visitor Information Centre.


Prepared in 2022 by Dave Stuart and Liz Date-Hurtable from Hunter Bird Observers Club Inc. and Mick Beady from Muswellbrook Shire Council.
www.hboc.org.au
Like us on Facebook @ Sustainable Futures - Muswellbrook.

muswellbrook shire council
NSW
Hunter Bird Observers Club

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


Muswellbrook Shire Council respectfully acknowledges the local Aboriginal people who are the Traditional Owners and custodians of the land.






1 - Muscle Creek Loop

Start this urban walking loop at Simpson Park Muswellbrook. Follow the purple posts under the railway underpass then turn left on the path between the creek and railway line. Get off the path and head down to the creek crossing towards Haydon Street. Sit on the sandstone blocks and watch for birds around the water. Keep travelling along the path towards Platypus Track between the Aquatic Centre and creek. Simpson Park to Bell Street is 2kms. From here, walk along the path between the creek and football ground. At Bell Street either go back the way you came or walk the loop via Bell and Victoria Streets back to Simpson Park. Fifty three species have been observed including Azure Kingfisher, Nankeen Kestrel and Spotted and Striated Pardalote. Enjoy augmented reality (AR) experiences along the way.



2 - Denman Rest Stop

Situated 1km east of Denman heading toward Muswellbrook on the Golden Highway overlooking an artificial lake. Different species of Cormorant, ducks and Black Swans are found here. Brown Falcon and Nankeen Kestrel patrol the sky. Superb Fairy-wren and Red-browed Finches inhabit the surrounding vegetation. There are picnic tables but the closest toilet facilities are in Denman.




3 - Denman Nature Walk

Situated in the township of Denman between Hunter and Hyde Streets is a small area of habitat around Sandy Creek in a park environment. There is a walkway along both sides of the creek (200m each) and the vegetation is home to a large variety of birds. The large Eucalypts are full of hollows and house a number of parrots such as Galah, Little Corellas, Red-rumped Parrots and Eastern Rosella. A number of Honeyeaters and smaller bush birds can be found in the lower Grevillea. The water is home to Australian Reed-warbler, Dusky Moorhen and various duck species. There is signage here, as well as some rubber animal sculptures, an undercover children's playground and toilet facilities.

4 - Denman Nature Trail Lookout


Situated approx. 3kms from Denman on Rosemount Road is a parking bay on the right at the intersection of Reg Thornton Road. Start to slow down when you pass the Waste Transfer Station as it is only 500m further down the road. The walking track is 1.5km each way (about 30 minutes) to the lookout and has steps in steeper sections. The walk is entirely through bushland and you will find a variety of birds including Fairy-wrens, Thornbills, Weebill, Golden Whistlers and Speckled Warbler, Pardalotes and White-throated Treecreepers. In the spring/summer months you will find migratory species such as Rufous Whistler, Sacred Kingfisher, Common Cuckoo and some Cuckoo species. Also a variety of Honeyeaters in the blossoming Eucalypts. The walk to the main lookout is worthwhile as it gives commanding views over Denman township, surrounding farmland and distant mountains. There are toilet facilities at the start of the walk.



5 - Martindale Creek/Medhurst Bridge at Turnermans Road

Turnermans Road is approx. 44kms from Muswellbrook via Denman. From Denman take Yarrowa Road to Martindale, take the left fork at Martindale School and travel 14kms to Turnerman Road. Medhurst Bridge is at the intersection of Martindale and Turnerman Roads. The closest toilet facilities are located at the petrol station in Denman.

A variety of woodland birds can be found here including Jacky Winter, Rainbow Bee-eaters and Spiny-cheeked, White-plumed and Striped Honeyeaters. When Mistletoe is flowering you may be able to see the migratory Painted Honeyeater. Finch species such as Red-browed, Zebra, Double-bar, Plum-head and Diamond Firetail are occasionally found. Raptors are common in the area such as Brown Falcon, Nankeen Kestrel, Black-shouldered Kite and Wedge-tailed Eagle.



Creekwatch

Home School students had great fun and increased their knowledge as staff from Council's Sustainability Unit ran a creekwatch event. The students discovered the plants and animals along Muscle Creek. These activities help locals appreciate and look after our local natural areas.



Hub Relocation

Work has continued planning for the Sustainability Hub relocation. This has involved the Sustainability Unit developing RFQs and working with Hub users to ensure an efficient relocation.



Landcare Grants

Pine Ridge Landcare have completed their Council funded grant project.



Project: Weed Control
Location: Pine Ridge Landcare

Year: 2021

Grant Money Received: \$5060

Achievements: Significant die back of parent plants since February 2022



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The main priority of Pine Ridge grant money is to control the current Mother of Millions weeds. The grant has been utilised to understand the spread, how best to control and minimise it within the area and weed management. The control of these weeds will allow for the growth of the Indigenous plant species and native wildlife. "We started spraying in February 2022, and we hit them pretty hard but it will be interesting to see in the coming weeks how many we missed, as they are much easier on our first spray cycle... We have seen significant die back of the parent plants that were sprayed to spot when in flower." Stated Renae Smith. The project has allowed for the education of the community and land owners on how best to manage the weeds and allow the locals to together and support each other. Pine Ridge has more long term mitigation strategies to manage the spread of mother of millions. Pine Ridge Landcare is part of the Hunter Sustainability Landcare TEAM.



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For further information on Landcare contact Muswellbrook Shire Council via email.

Email: sustainability@muswellbrook.nsw.gov.au

Like us on Facebook at: Sustainable Futures- Muswellbrook

Grants Applications

Working with relevant Council staff the Sustainability Unit has been working on grant application as part of the EPA Waste Solutions and Litter Prevention grants and submitted a grant for National Tree Day seedlings.

Request for Quotes (RFQ)

Sustainability staff have been progressing several projects including Giant's Leap Trail Upgrade, Nature Trails Repairs, Muscle Creek Infill Plantings, Rehabilitation of Muscle Creek Revegetation and Denman Wildlife Plantings.

Local trio acknowledged as "Hidden Treasures"

Three Muswellbrook names have been added to the 2021-22 Hidden Treasures Honour Roll, which pays public tribute to the girls and women across regional, rural, and remote NSW who have given their time and energy to helping others in their community.

Coordinated by the NSW Rural Women's Network, the 2021-22 Hidden Treasures Honour Roll recognises volunteering contributions made in those years. This year Yasmin Jimmieson, Anne Mason, and Ruth Van Bezouwen from the Muswellbrook Shire were added to the roll. Anne and Ruth both volunteer at the Sustainability Hub and several Council run community events.

Sustainable Futures – Muswellbrook

The popularity of the Sustainable Futures – Muswellbrook Facebook page continues to grow.



It has now received 1,633 page likes and 1,740 page followers. This page continues to be a great way for Council to engage with the community around a range of sustainability topics. This includes promoting the Community Recycling Centres, correct waste management practices, sewerage management, the Reuse Shop, soft plastic recycling, Sustainability Hub activities, reducing food waste, plastic free July, worm farms, composting, grant projects and more.

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 March 2023. This project will finish at the end of June. 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.

Air Quality Sensing Project

The Clarity air quality sensors have been set up at the New South Wales Department of Environment's reference station for three months to allow for calibration before deployment. Calibration for PM10 and NO2 requires further work. Clarity is currently working with the NSW Department of Environment to ensure accurate results for NO2 and PM10. Once the calibration is completed, the sensors will be deployed for air quality monitoring in more locations across Muswellbrook.



Flying Fox Camp Management Plan

The Flying Fox Camp Management Plan is being reviewed and updated with a focus on assisting residents living near the camps. Residents near the camps can ask Council for car covers, washing line covers and can hire a gurney free of charge to clean up bat droppings from their property. A new Grey Headed Flying Fox camp formed in Denman in late December 2022, so this assistance was offered to residents in Denman as well as those living in Muswellbrook close to the camp here. A count performed in mid-March estimated the population in Muswellbrook to be approximately 1300, whilst the Denman population is approximately 1000.



9.2. Community Infrastructure

9.2.1. Denman to Sandy Hollow Water Pipeline Project - Council Funding Contribution

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Derek Finnigan (Acting General Manager)
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. 5.1.4.1 - Capital works programmes prioritised to demonstrate continual improvement in community infrastructure.

PURPOSE

To submit for Council's consideration a potential reallocation of funding from projects contained in the Resources for Regions Round 9 grant funding programme to include the Denman to Sandy Hollow water pipeline project.

OFFICER'S RECOMMENDATION

Council approves:

1. Liaison to be carried out with Regional NSW or relevant NSW Government department in order to amend the funding and nominated projects as identified in the report for Round 9 of the Resources for Regions grant funding programme; and
2. Should Council's application to Regional NSW be successful, the following projects will be included in any further rounds of Resources for Regions or applicable Federal and State grant funding opportunities:
 - (i) Community Infrastructure Depot Enabling Resource Recovery and Recycling Precinct for Muswellbrook; and
 - (ii) Denman Recreation Reserve Works for Denman.

Moved: _____ **Seconded:** _____



BACKGROUND

A report, entitled '9.4.9 Denman to Sandy Hollow Water Pipeline Project' was submitted to the 22 November 2022 Ordinary Council Meeting. Council's resolution in relation to the report was:

9.4.9 *Denman to Sandy Hollow water pipeline project*

16.1 *RESOLVED on the motion of Cr B. Woodruff and Cr J. Drayton that:*

Council:

- 1) Delegates to the Acting General Manager authority to execute a Funding Deed with The Treasurer as the Minister administering section 8(a) of the Restart NSW Fund Act 2011 (NSW) for the Denman to Sandy Hollow pipeline project;*
- 2) Authorises the expenditure of Council funds in the amount of \$9,575,318.77 towards the Project;*
- 3) Endorses obtaining a loan for the amount of \$9,575,318.77.*

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

Against: *Nil.*

An internal Major Project Governance team, composed of senior staff members, has been formed to consider and provide assistance to the designated project managers for major projects. The Major Project Governance team considers and provides advice relating to, but not limited to:

- procurement;
- financial management, including project insurance and budget and expenditure management;
- risk management;
- work health and safety; and
- legal issues, potential and actual.

A meeting of the Major Project Governance team was held on Tuesday, 10 January 2023 to consider the funding of the Denman to Sandy Hollow water pipeline project. The team considered a number of options, and concluded that the option with the least financial imposition and risk to Council, from the perspective of Council's required financial contribution to the project, is to reconsider the allocation of the \$10,250,953 grant to be provided to Muswellbrook Shire Council announced under Round 9 of the Resources for Regions programme.

The report provides information in relation to this option.

CONSULTATION

Mayor Steve Reynolds

Asset Manager Water & Wastewater

Major Project Governance team

**REPORT**

In late 2022, The Hon. Paul Toole MP, Deputy Premier of NSW, announced that Muswellbrook Shire Council would receive \$10,250,953 in funding under Round 9 of the Resources for Regions programme. Projects nominated by Council under Round 9 of the Resources for Regions programme include:

Table 1: Current approved projects under Round 9 of Resources for Regions

Project Title	Grant Value
Community Infrastructure Depot Enabling Resource Recovery and Recycling Precinct for Muswellbrook.	\$4,838,247
Denman Recreation Reserve Works for Denman	\$2,249,301
Merton Street drainage for Denman	\$1,412,582
Reactivation of Campbells Corner Retail Space for Muswellbrook	\$974,686
Demolition prior to development of the Civic Pocket Park for Muswellbrook	\$425,000
Relocation of Sustainability Hub for Muswellbrook	\$351,137
Total	\$10,250,953

The majority of projects listed above are currently within the design and preparation phase. Because of this, it is suggested that, in order to mitigate any financial risk to Council and to facilitate the progression of physical works, an application is made to the Department of Regional NSW to modify the list of projects as follows:

Table 2: Recommended amendment to projects under Round 9 of Resources for Regions

Project Title	Grant Value
Denman to Sandy Hollow water pipeline	\$6,807,548
Community Infrastructure Depot Enabling Resource Recovery and Recycling Precinct for Muswellbrook.	\$100,000
Denman Recreation Reserve Works for Denman	\$180,000
Merton Street drainage for Denman	\$1,412,582
Reactivation of Campbells Corner Retail Space for Muswellbrook	\$974,686
Demolition prior to development of the Civic Pocket Park for Muswellbrook	\$425,000
Relocation of Sustainability Hub for Muswellbrook	\$351,137
Total	\$10,250,953



As may be seen from Table 2 above, it is considered that funding for only the following projects needs to be adjusted in order to achieve the total funding necessary to enable Council to call for tenders for the construction of the Denman to Sandy Hollow water pipeline:

1. Community Infrastructure Depot Enabling Resource Recovery and Recycling Precinct for Muswellbrook; and
2. Denman Recreation Reserve Works for Denman.

With respect to both of the above projects, considerable design and estimating works remain to be done before physical work may commence on site. An allocation has been made to both projects to ensure design works can continue. In both cases it is unlikely work would be able to commence on site within the next 12 to 24 months. It is therefore recommended that consideration be given by Council to enable a more streamlined progression of Council projects through replacing the Community Infrastructure Depot and Denman Recreation Reserve Works with the Denman to Sandy Hollow water pipeline project. The additional benefit provided by this option is the considerable financial relief to be achieved, whereby Council's financial contribution to the project will be financed by grant funding and not through the taking out of a loan.

With respect to Council's funding contribution to the Denman to Sandy Hollow water pipeline project, it is considered that the nominated \$6,807,548 amount would be sufficient to enable Council to call for tenders for the carrying out of the project.

There are three primary risks associated with this option, identified as:

1. There is no guarantee Regional NSW or relevant NSW Government Department will approve Council's request to reallocate the funding as recommended;
2. There is a risk the nominated \$6,807,548 may not be sufficient to fully fund the Denman to Sandy Hollow water pipeline project from the perspective of Council's contribution towards the project, and that either additional funding may be required or that the project scope will need to be amended to remain within the available funding limit; and
3. At this point, there is no guarantee of future rounds of Resources for Regions grant funding being provided. Should this be the case, alternative sources of grant funding would be required to enable the carrying out of the Community Infrastructure Depot and Denman Recreation Works projects. The intention would be to develop both projects to a 'shovel ready' position that would enable both projects to be readily submitted with respect to future grant funding opportunities.

OPTIONS

Council may decide to request a reallocation of the funding as recommended in the report or to not request a reallocation of the funding.

CONCLUSION

In the current economic environment, there is considerable risk in obtaining a loan to provide the funding required as Council's contribution to the Denman to Sandy Hollow water pipeline project. Council's financial risk will be considerably mitigated should there be the opportunity to provide the required financial contribution through Round 9 of the Resources for Regions grant funding programme.

SOCIAL IMPLICATIONS

The Denman to Sandy Hollow water pipeline will provide potable water infrastructure to manage water resources for the development of new and emerging industry sectors, particularly in agribusiness such as an abattoir and feedlot.



The water pipeline has the potential to unlock development and population growth in Sandy Hollow and Denman. There is also the potential for the pipeline to be extended to Merriwa in the future, assisting in the provision of water security to this community.

FINANCIAL IMPLICATIONS

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Council will receive a grant funding contribution of \$18,898,200 from the Growing Local Economies NSW Government grant programme for the Denman to Sandy Hollow water pipeline project.

As was reported to Council at the 22 November 2022 Ordinary Council Meeting, in order to fully fund the project, Council will be required to contribute an estimated \$9,575,318.77 to the project. However, it is considered that a \$6,807,548 reallocation of funding towards the project from the Resources for Regions will be sufficient to enable tenders to be invited for the project.

In the current economic environment, it is considered that this option provides the most financially viable option to secure Council's required financial contribution towards the project.

2. Financial Implications – Operational

Costs associated with the operation and maintenance of the pipeline are intended to be recovered from industrial and commercial users of the pipeline.

POLICY IMPLICATIONS

Tenders for the design and construction of the Denman to Sandy Hollow water pipeline project will be called in compliance with Council's Procurement Policy, the Local Government Act 1993, and the Local Government (General) Regulation.

STATUTORY IMPLICATIONS

Local Government Act 1993

Local Government (General) Regulation

LEGAL IMPLICATIONS

Nil identified.

OPERATIONAL PLAN IMPLICATIONS

The submission of the report complies in principle with item 5.4.1 of the Operational Plan: 'Capital works programmes prioritised to demonstrate continual improvement in community infrastructure'.

RISK MANAGEMENT IMPLICATIONS

There are three primary risks associated with this option, identified as:

1. There is no guarantee Regional NSW or relevant NSW Government Department will approve Council's request to reallocate the funding as recommended;
2. There is a risk the nominated \$6,807,548 may not be sufficient to fully fund the Denman to Sandy Hollow water pipeline project from the perspective of Council's contribution towards the project, and that either additional funding may be required or that the project



scope will need to be amended to remain within the available funding limit; and

3. At this point, there is no guarantee of future rounds of Resources for Regions grant funding being provided. Should this be the case, alternative sources of grant funding would be required to enable the carrying out of the Community Infrastructure Depot and Denman Recreation Works projects. The intention would be to develop both projects to a 'shovel ready' position that would enable both projects to be readily submitted with respect to future grant funding opportunities.

WASTE MANAGEMENT IMPLICATIONS

Nil at this stage of the project.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Community information will be provided throughout the project. This will include a public information session to be held at the Sandy Hollow Community Hall in the first quarter of 2023.



9.2.2. Mangoola Coal Continued Operations Project Closure of Temporary Diversion Road

Attachments:	1. D P 1280220 [9.2.2.1 - 4 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

To request Council's authority to close the Wybong Temporary Public Road Diversion by publishing a Notice in the Government Gazette in accordance with s.39 & 40 of the *Roads Act 1993* and as outlined in the "Road Closure and Works Deed".

OFFICER'S RECOMMENDATION

Council delegates to the Acting General Manager the authority to execute the following documents to close the Wybong Temporary Diversion Public Road in accordance with the Roads Act 1993 and as stipulated in the Road Closure and Works Deed:

1. Publish a Notice in the Government Gazette advising the Temporary Public Road identified as Lot 4 DP1280220 be closed and that the rights of passage and access that previously existed in relation to the road are extinguished;
2. The Request (11R) Dealing Form to remove the "Temporary Public Road" notification from the title of Lot 4 DP1280220 and for the land to remain vested in Muswellbrook Shire Council as operational land; and
3. The Transfer Dealing to be signed under the Seal of Council and in accordance with the regulations to transfer the land comprising the temporary public road being Lot 4 DP1280220 back to the original subdivider being Mangoola Coal Operations Pty Limited in accordance with s. 40 Roads Act 1993 and under the provisions of clause 4.9 of the Mangoola Coal Road Closure and Works Deed signed 18 November 2021.

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 overbridge over Wybong Road and Big Flat Creek was approved to provide access to the new mining area. Existing mine facilities will continue to operate until approximately 2030.

Council entered into the "Road Closure and Works Deed" outlining, among other matters, the Wybong Road Temporary Diversion Dedication and Works requirements for the construction



of the road overbridge.

CONSULTATION

Roads Drainage & Technical Services

Road Closure and Works Deed

Mangoola Coal Project Team

REPORT

The Wybong Diversion Road was constructed to allow the safe and efficient passage of the public using Wybong Road during the construction of the tunnel on Wybong Road to facilitate the haul road overbridge for the Mangoola Coal Continued Operations Project.

The tunnel over Wybong Road and associated road works are now complete and this portion of Wybong Road is open to the traffic. The diversion road portion was dedicated as a temporary public road and is shown as Lot 4 DP1280220 as shown on the attachment. This portion of temporary road is no longer required and is to be closed under the provision of s.39 of the *Roads Act 1993*. Council proposes to publish a notice in the Government Gazette to advise that the temporary public road ceases to be a public road and that the rights of passage and access that previously existed in relation to the road are extinguished. The land will then be transferred back to the original owner being Mangoola Coal Operations Pty Limited.

OPTIONS

The diversion road was constructed and dedicated as a temporary road for traffic management purposes during the construction of the Mangoola Coal Haulage Overpass. The construction of the Overpass is now complete and traffic has been reinstated onto Wybong Road. It is not desirable or feasible from a risk perspective to permit the road to remain as a public road. As a result, the only option is for the portion of temporary road diversion to be physically and legally closed. Council is bound by the conditions contained in the "Road Closure and Works Deed" whereby Council must take the reasonable steps necessary to legally close the Wybong Temporary Road Diversion in accordance with the Road Act 1993 once Practical Completion of the Infrastructure is achieved and the portion of Wybong Road under the structure is physically reopened to the public.

CONCLUSION

It is recommended that Council to take the steps necessary to legally close the Wybong Temporary Road Diversion in accordance with the *Roads Act 1993*.

SOCIAL IMPLICATIONS

The reopening of Wybong Road will return traffic to normal travel conditions.

FINANCIAL IMPLICATIONS

Mangoola must reimburse Council for all costs and expenses reasonably incurred in complying with its obligations under the Deed for the closure of the Wybong Temporary Road Diversion.



Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Nil.

2. Financial Implications – Operational

Mangoola Coal is responsible for the maintenance of the section of Wybong Road under the Infrastructure (haul road overbridge) commencing from Practical Completion of the Infrastructure and ending on the date on which the Infrastructure is removed from the road corridor.

POLICY IMPLICATIONS

Not applicable.

STATUTORY IMPLICATIONS

Council is acting within its power as the Roads Authority under the *Roads Act 1993*.

LEGAL IMPLICATIONS

Council is acting within its power as the Roads Authority under the *Roads Act 1993*.

OPERATIONAL PLAN IMPLICATIONS

Not applicable.

RISK MANAGEMENT IMPLICATIONS

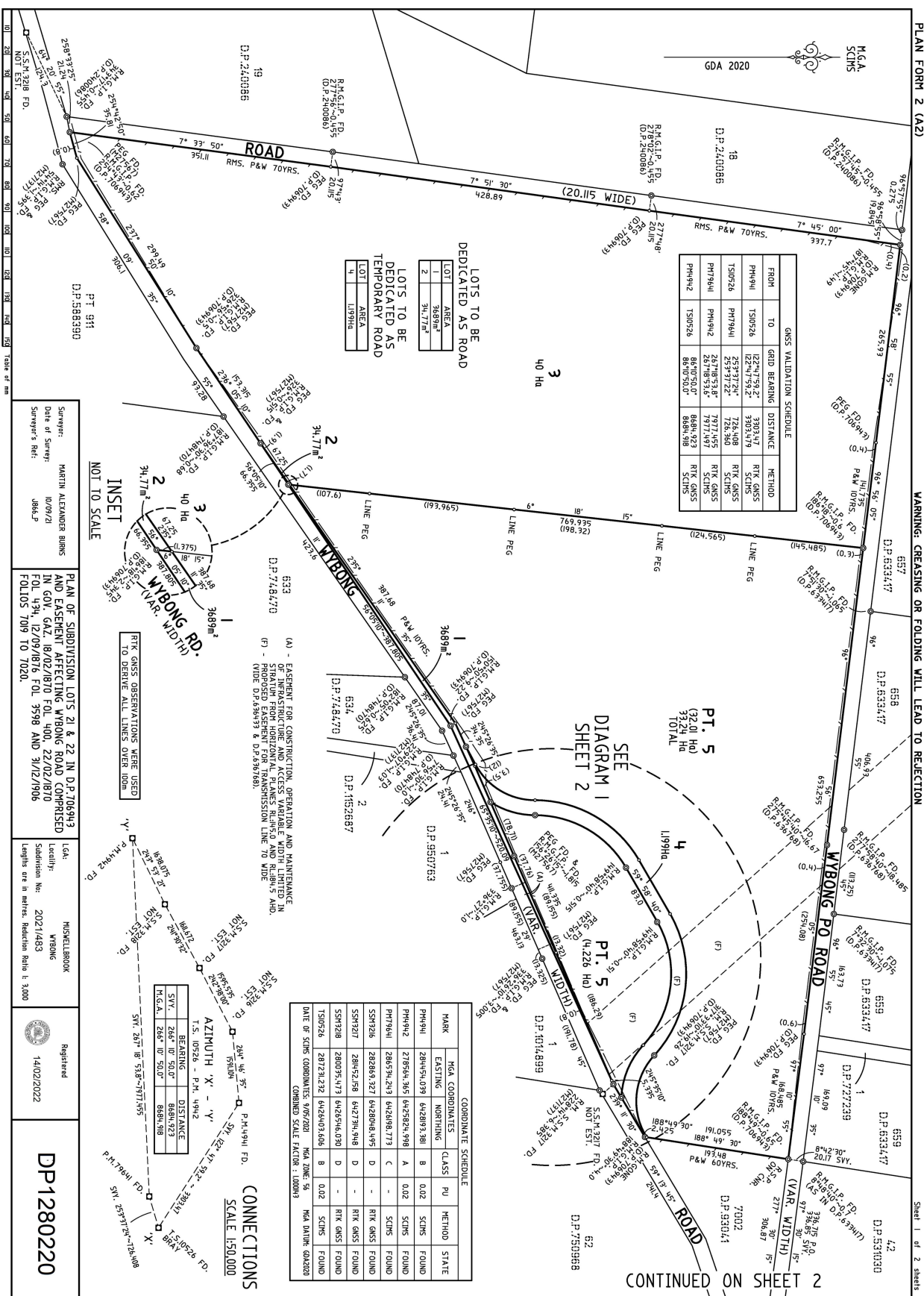
Once the temporary road is closed, the rights of passage and access that previously existed in relation to the road are extinguished. The land will be transferred back to the original owner, being Mangoola Coal Operations Pty Limited. The risk associated with the temporary public road being used by the public will be eliminated.

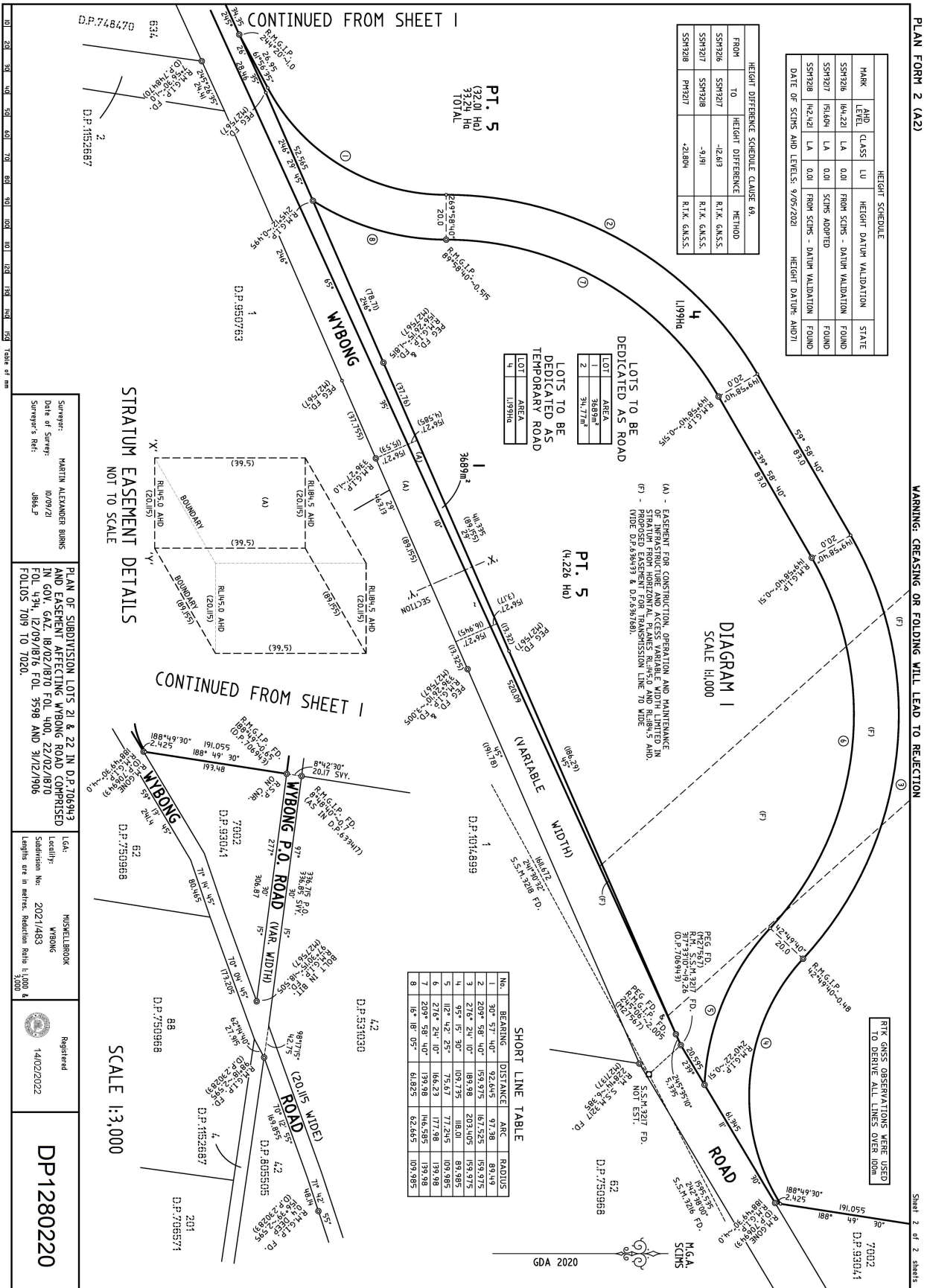
WASTE MANAGEMENT IMPLICATIONS

Not applicable.


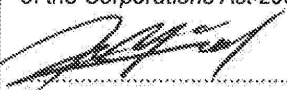



COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Council's website will be updated and the general travelling public will be advised that the road will be under traffic control signage until such time as normal road conditions are reinstated.





PLAN FORM 6 (2020)		DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 2 sheet(s)	
Registered:  14/02/2022 Title System: TORRENS		Office Use Only		Office Use Only	
PLAN OF SUBDIVISION OF LOTS 21 & 22 IN D.P.706943 AND EASEMENT AFFECTING WYBONG ROAD COMPRISED IN GOV. GAZ. 18/02/1870 FOL 400, 22/02/1870 FOL 434, 12/09/1876 FOL 3598 AND 31/12/1906 FOLIOS 7019 TO 7020.		LGA: MUSWELLBROOK Locality: WYBONG Parish: WYBONG County: BRISBANE		DP1280220	
Survey Certificate I, MARTIN ALEXANDER BURNS of SURVEY AND DRAFTING RESOURCES PTY LIMITED a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> , certify that: *(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , is accurate and the survey was completed on 10 TH September 2021, or *(b) The part of the land shown in the plan (.....) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , the part surveyed is accurate and the survey was completed on the part not surveyed was compiled in accordance with that Regulation, or *(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> . Datum Line: 'X'-Y' Type: *Urban/*Rural The terrain is *Level-Undulating / *Steep-Mountainous. Signature:  Dated: 6/01/2022 Surveyor Identification No: 263 Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>		Crown Lands NSW Approval I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given. Signature: Date: File Number: Office:		Subdivision Certificate I, <u>FIONA PLESMAN</u> *Authorised Person/*General Manager/*Registered Certifier, certify that the provisions of s.6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein. Signature:  Registration number: Consent Authority: <u>MUSWELLBROOK SHIRE COUNCIL</u> Date of endorsement: <u>30 NOVEMBER 2021</u> Subdivision Certificate number: <u>2021/483</u> File number: <u>EXEMPT DEVELOPMENT</u> *Strike through if inapplicable:	
Plans used in the preparation of survey/compilation: DP230283 MINING LEASE DP240086 M27137 DP531030 M27567 DP633417 DP636768 DP706943 DP748470		Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land. NO ADDRESSES HAVE BEEN ALLOCATED IT IS INTENDED TO DEDICATE LOTS 1 AND 2 TO THE PUBLIC AS ROAD SUBJECT TO PROPOSED EASEMENT FOR TRANSMISSION LINE 70 WIDE (VIDE D.P.636433 & D.P.636768). IT IS INTENDED TO DEDICATE LOT 4 TO THE PUBLIC AS TEMPORARY ROAD.			
Surveyor's Reference: J866_P		Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A			

PLAN FORM 6 (2020)	DEPOSITED PLAN ADMINISTRATION SHEET	Sheet 2 of 2 sheet(s)
<p>Registered:  14/02/2022</p> <p>PLAN OF SUBDIVISION OF LOTS 21 & 22 IN D.P.706943 AND EASEMENT AFFECTING WYBONG ROAD COMPRISED IN GOV. GAZ. 18/02/1870 FOL 400, 22/02/1870 FOL 434, 12/09/1876 FOL 3598 AND 31/12/1906 FOLIOS 7019 TO 7020.</p> <p>Subdivision Certificate number: 2021/483</p> <p>Date of Endorsement: 30 NOVEMBER 2021</p>	<p>Office Use Only</p> <h1 style="margin: 0;">DP1280220</h1> <p style="font-size: small;">This sheet is for the provision of the following information as required:</p> <ul style="list-style-type: none"> A schedule of lots and addresses - See 60(c) <i>SSI Regulation 2017</i> Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i> Signatures and seals- see 195D <i>Conveyancing Act 1919</i> Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets. 	<p>Office Use Only</p>
<p>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919-1964 AMENDED IT IS INTENDED TO CREATE:-</p> <p>1. EASEMENT FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF INFRASTRUCTURE AND ACCESS VARIABLE WIDTH LIMITED IN STRATUM FROM HORIZONTAL PLANES RL:145.0 AND RL:184.5 AHD (A).</p>		
<p>Executed by Mangoola Coal Operations Pty Limited ABN 54 127 535 755 in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth) by:</p>		
<p> Signature of Director</p>	<p> Signature of Director/Secretary</p>	
<p>Ashley McLeod Print name of Director</p>	<p>Ian Gough Print name of Director/Secretary</p>	
<p>I certify that I am an eligible witness and that MUSWELLBROOK SHIRE COUNCIL signed this dealing by its authorised delegate pursuant to section 377 of the Local Government Act 1993 in my presence:</p>		
<p> Signature of Witness</p>	<p> Signature of Authorised Delegate</p>	
<p>Michelle Sandell-Hay Print name of Witness</p>	<p>Fiona Plesman Print name of Authorised Delegate</p>	
If space is insufficient use additional annexure sheet		
<p>Surveyor's Reference: J866_P</p>		



9.2.3. Mangoola Coal Continued Operations Project Yarraman Road Upgrade s.138 Roads Act 1993 Permit

Attachments:	1. S138 -Mangoola Coal Continued Operations Project Yarraman Road Upgrade Draft Special Conditions [9.2.3.1 - 5 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

To request Council's consideration of delegating to the Acting General Manager authority to approve the s.138 Roads Act 1993 Permit relating to the Mangoola Coal Continued Operations Project for the works associated with the Yarraman Road Portion Upgrade.

OFFICER'S RECOMMENDATION

Council:

1. Delegates to the Acting General Manager authority to sign the s.138 Roads Act 1993 Permit approval generally in accordance with the Draft Special Conditions as attached to the report;
2. The consent be provisional on a suitable form of security bond to be agreed with the Acting General Manager prior to the commencement of construction; and
3. As outlined in the Draft Special Conditions, all insurances, detailed design plans certified by a suitably qualified consultant and Traffic Management Plans are to be submitted and accepted by the Acting General Manager for the permit to be valid.

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.

Council entered into the "Road Closure and Works Deed" outlining, among other matters, the Yarraman Road Portion Upgrade contained in Clause 5. This s.138 Roads Act 1993 application forms part of the commitment made under this section. The 80% detailed Design Drawings and Review of Environmental Factors for the Yarraman Road Portion Upgrade were endorsed by Council at the 22 November 2022 Ordinary Council Meeting.



CONSULTATION

Roads Drainage & Technical Services

Road Closure and Works Deed

Mangoola Coal Project Team

REPORT

A portion of Yarraman Road as defined in the 'Road Closure and Works Deed' will be upgraded, including the construction of a bridge across Wybong Creek. The location of the proposed road upgrade extends from the intersection of Wybong Post Office Road for a distance of 1.5km south. Part of Yarraman Road will be realigned to provide a straight horizontal road segment where the road crosses Wybong Creek at the location where a new bridge will be constructed.

Prior to the construction of the 'Yarraman Road Portion' in accordance with Clause 5.3 (b) Council must, at its cost, acquire all land, by compulsory acquisition or otherwise, necessary in order to construct the Yarraman Road Portion Upgrade including any temporary areas required during construction. Therefore, approval under s.138 Roads Act 1993 is required, as the new realigned portion of Yarraman Road will be dedicated as road prior to construction of the road asset and for the area of road where the new road intersects with the existing constructed portions of Yarraman Road.

The work will commence upon finalisation of the property acquisition, which is anticipated to occur in the second half of 2023. The construction hours for the Yarraman Road Portion Upgrade will generally be during the standard construction hours of 7.00 am to 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm on Saturdays. Workforce arrival at site, workforce pre-start communications, work site inspections and workforce leaving site will occur outside of the construction hours. Work activities (such as critical concrete pours) may occur outside of the nominated construction hours, however these will be managed to minimise impacts to the community. Some works, such as augmentation of power utilities, may need to be undertaken at specific times to minimise disruptions to users. Construction activities undertaken outside these hours will be managed in consultation with Council.

For the purposes of construction, periodic public access and temporary closure of Yarraman Road at the construction location may be required. It is expected this will be required for periods throughout construction to prevent public interaction with heavy plant, crane operations and road tie-in works. Local traffic access will be maintained wherever possible, with alternative access for road users available via Ridgeland Road and Wybong Road.

Contractor construction compounds will be located within the work area and accessed from Yarraman Road South of Wybong Creek in consultation with Council. Temporary access points from Yarraman Road, generally shown in Figure 1.3, will provide access to unsealed gravel hardstands, temporary office and equipment laydown areas and construction work areas. These temporary accesses will allow for the crossing of Yarraman Road with plant and equipment.

A construction water supply pipeline (~125mm) may be required from nearby dams to the work area. Water will also be sourced via truck from nearby Mangoola owned dams connected to site via public roads.

Rural fencing removal and augmentation will be completed as required. Redundant communications services spanning Wybong Creek will be removed.



FIGURE 1.3 – ANTICIPATED TEMPORARY ACCESS POINTS FROM YARRAMAN ROAD

The design of the Yarraman Road Portion Upgrade is supported by a Level 2 Road Safety Audit undertaken by an independent, qualified road safety auditor (separate to the design consultancy) accredited by Transport for NSW to undertake the level of road audit required. The constructed portion of the Yarraman Road Portion Upgrade will be supported by a Level 4 Road Safety Audit to include day and night time conditions prior to opening of the upgraded section of Yarraman Road to traffic.



OPTIONS

s.138 Roads Act 1993 Approval

Council may decide to:

1. approve the delegation to the Acting General Manager to issue consent for the works under Section 138 *Roads Act 1993* generally in accordance with the conditions recommended by staff and outlined in the “Special Conditions” attached to the report;
2. request modification to the conditions; or
3. refuse the delegation.

CONCLUSION

Council has obligations under the Road Closure and Works Deed entered into with Mangoola Coal Operations Pty Limited. It is recommended that Council approves the delegation to the Acting General Manager to issue consent for the works under Section 138 *Roads Act 1993* generally in accordance with the conditions recommended by staff and outlined in the “Special Conditions” attached to the report

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 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. The detour available for traffic during periods of temporary closure of Yarraman Road will be via Ridglands Road. This will add additional travel time for road users travelling to the west of the Shire.

FINANCIAL IMPLICATIONS

Mangoola must, at its cost, carry out and complete the Yarraman Road Portion Upgrade in accordance with the provisions of the Road Closure and Works Deed and in accordance with the detailed design plans approved by Council.

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

Council is required to purchase the land for road purposes, from the affected landowners as per the confidential report to the 24 January 2023 Ordinary Council Meeting.

2. Financial Implications – Operational

Once completed, Council will be responsible for the ongoing maintenance of the works. Operational costs are expected to decrease due to the new road asset including a flood free crossing which will reduce the need to remove debris and make safe each time Wybong Creek floods.

The associated fees will cover staff time to inspect and accept the works as a Council road asset.

POLICY IMPLICATIONS

Not applicable.



STATUTORY IMPLICATIONS

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

LEGAL IMPLICATIONS

As the roads authority for Yarraman Road, Council 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

Works are required to comply with the appropriate Standards, particularly Austroads and Transport for NSW guidelines “Traffic Control at Work Sites” traffic management guidelines. Flood events could delay construction.

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, the Mangoola Consultative Committee, variable message boards and Council’s website. Directly affected landowners will be notified by Mangoola.

Schedule of Details

1. The Works	The works are the works within the Road Reserve of Yarraman Road.
2. The Site	Yarraman Road for a length of road 1.5km south of the intersection of Wybong Post Office Road
3. Estimated Cost of the Works	Bond to be based on 10% of the cost of works
4. Estimated Council Costs	<div>Plan Approval \$6,600.00 exc. GST</div> <div>Construction Observation</div> <div>Traffic Control Plans \$35,958.00 exc. GST</div> <div>Final Acceptance (WAE review etc.) \$4,865.70 exc. GST</div> <div>Total \$47,423.70 exc. GST</div>
5. Defects Liability Period	12 Months from Practical Completion
6. Consent Holder's Representative	<div>Name: Grant Harrison</div> <div>Position: Project Manager– Glencore</div> <div>Mobile Phone: 0427 124 071</div> <div>Email: grant.harrison@glencore.com.au</div>
7. Council's Representative	<div>Name: Kellie Scholes</div> <div>Position: Manager Roads, Drainage and Technical Services</div> <div>Mobile Phone: 0407 252 142</div> <div>Office Phone: (02) 6549 3756</div> <div>Email: kellie.scholes@muswellbrook.nsw.gov.au</div>

Special Conditions

1. This s.138 Roads Act 1993 Consent is not valid until the bond as outlined in the Schedule of Details has been forwarded to Council as a Bank Guarantee or cash, the relevant fees have been paid and all relevant Consent conditions have been complied with. The works must be undertaken in accordance with the Mangoola Road Closure and Works Deed dated 18 November 2021.
2. Prior to commencement of work Council must acquire all land necessary in order to construct the Yarraman Road Portion Upgrade including any temporary areas required during construction.
3. The Consent Holder must design and construct the Yarraman Road Portion Upgrade and Bridge in accordance with the Austroad Guide to Road Design, Austroad Guide to Bridge Technology, Bridge Design Standards where applicable and any other applicable standards to MSC satisfaction. The Consent Holder is to provide Council with written certification by an independent expert, acceptable to Council, that the Yarraman Road Upgrade Portion including the Bridge structure has been designed and built to all applicable standards.
4. Construction of the road and road related assets is to be undertaken in accordance with Aus-Spec specifications, with the exception of flexible pavement base and subbase. For flexible pavement and sub-base RMS 3051-Granular Base and Sub Base materials with a minimum edition 6 is the specification to be applied.
5. A Construction Traffic Management Plan (CTMP), including a Vehicle Movement Plan, is to be developed in consultation with Council. The CTMP is to be developed to specifically address each stage of construction and the management of traffic on Yarraman Road. The Consent Holder is to discuss details of Traffic Management, including construction traffic volumes, staging, timing and Traffic Guidance Schemes with Council's Technical Officer – Works Quality, prior to and during the construction. The information is to be provided and accepted by Council prior to commencement of construction and during the period of construction.
6. All works impacting public roads will require a Traffic Guidance Scheme (TGS). All TGS plans are to be developed as per TfNSW "Traffic Control at Worksites Conditions" and are to be accepted by Council prior to use. Any changes to the TGSs will require submission to Council prior to the implementation of the changes.
7. A dilapidation report which records the condition of the road pavement, drainage structures and other road related infrastructure must be compiled in consultation with Council's Manager Roads Drainage & Technical Services for Yarraman Road from the intersection of Wybong Road to the Work Site. On Practical Completion of the Project, the dilapidation report must be undertaken, and all defects identified. Any defects will be rectified to the pre-work conditions or better at full cost to the consent holder in accordance with clause 14 of General Conditions of the approval covered under "Restoration Fees". Any defects identified by Council during the construction period are also to be rectified by the

Consent Holder.

8. A schedule of works will be provided to Council in the form of a Gantt chart detailing individual key work activities associated with the overall work project and completed work stages. Specifically, where the work impacts Council's road reserve. This is to be updated every 4 weeks and made available to Council. A liaison meeting should be scheduled as required.
9. All access for construction traffic, both heavy and light vehicles, is to be via Yarraman Road from the Wybong Road intersection unless otherwise agreed with Council.
10. Construction traffic is not to operate on Wybong Road, (Ridgelands if use is approved by Council) and Yarraman Road during the school bus times. School bus times are to be confirmed by the applicant in consultation with the relevant bus companies and documented in the CTMP.
11. The proposed location and design of the access for the contractor's site office is to be provided to Council for approval prior to construction.
12. The constructed Yarraman Road Portion Upgrade is to be supported by a Level 4 Road Safety Audit to include day and night-time conditions prior to opening to traffic.
13. Prior to commencement of any construction activity, all proposed temporary construction and permanent accesses are to be located, designed and constructed to meet the minimum requirements of Muswellbrook Shire Council's Rural Property Access Drawing 0041/1 Revision A dated 16/07/2012. The location of accesses shall be determined in consultation with Council and to Council's satisfaction and acceptance.
14. All constructed temporary accesses are to be removed and decommissioned upon completion of construction and boundary fencing reinstated and all areas of disturbances within the road reserve are to be re-established to Aus-Spec standards including top soiling, grass seeding, reshaping of table drains and scour protection where required to Council's satisfaction.
15. The Consent Holder is to advise Council's Technical Officer, Works on 0418 110 010 ten (10) days prior to commencing work to confirm inspections.
16. The Consent Holder is to advise directly affected residents and property owners of the Program of Works that may affect accesses etc. at least a week in advance, and incorporate reasonable access needs for those properties. The consent Holder is to advise the general public of the Works by variable message board in the local area of Works.
17. The occupation of the Road should be undertaken in a safe manner, with adequate dust control.
18. The Consent Holder must ensure that mud and dust from the Works is not carried onto the Road. It is recommended that a device (from the Soil Management book) be used to remove such materials prior to entering the roads.

- 19.** The Consent holder shall check for other services, have these services located and is responsible for any damage to services and Council infrastructure. Dial before you dig 1100.
- 20.** 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. The Consent Holder is required to apply such measures as outlined in the Review of Environmental Factors for the Works, the Fisheries Permit and the Controlled Activity Permit.
- 21.** The Consent Holder must appoint a suitably qualified independent consulting engineer to perform Project Verifier services, being a person who:
- Is independent of the Consent Holder, any consultant involved in preparation of the Design Documents, the contractor engaged by the Consent Holder to carry-out the works;
 - Is a Chartered Engineer registered with the Institute of Engineers Australia;
 - Is familiar with and experienced in using RMS's QA specifications and
 - Holds appropriate professional indemnity insurance.
- 22.** The Project Verifier is required:
- To provide a project and verification plan for Council approval prior to commencement of construction works;
 - To provide certification that all finding/ non conformances of Road Safety Audits have been satisfactorily addressed and closed out prior to their acceptance by Council;
 - Construction Certificate to verify that the works comply with the Project documents; and
 - Final Verification Certificate certifying that all design, construction, inspection, repairs, maintenance and monitoring by the contractor has been undertaken in accordance with the approved design.
- 23.** The consent holder must provide the following documents at the completion of the project for Council's consideration to determine Practical Completion:
- Works as Executed Plans;
 - Supporting quality documents including hold point documentation;
 - Completed Asset Data Sheet; and
 - Level 4 Road Safety Audit and Close outs,
 - Written certification by an independent expert acceptable to MSC that the Bridge over Wybong Creek has been constructed to all applicable standards and the detailed design plans prepared and accepted by Council.
- 24.** Fencing of the road reserve is to be undertaken to TfNSW standards and undertaken in consultation with Council. Any property accesses are to meet the minimum requirements of Muswellbrook Shire Council's Rural Property Access

Drawing 0041/1 Revision A dated 16/07/2012.

- 25.** Council as the road authority reserves the right to automatically suspend or decrease the construction activity in the event of heavy or prolonged rain affecting public roads. Construction traffic movements are not permitted on public roads when fog conditions prevail, and sight distances are compromised.
- 26.** Council as roads authority reserves the right to reconsider and review the special conditions relating to the movement of construction vehicles on public roads.



9.3. Property and Place

9.3.1. NSW Land and Housing Corporation - Lots Dedication

Attachments:

1. Department of Planning and Environment Correspondence 20220802 [9.3.1.1 - 1 page]
2. Deposited Plan 632175 [9.3.1.2 - 1 page]
3. Title search Lot 51 D P 632175 [9.3.1.3 - 2 pages]
4. Title search 52632175 [9.3.1.4 - 1 page]
5. Title search 53632175 [9.3.1.5 - 1 page]

Responsible Officer: Derek Finnigan - Acting General Manager

Author: Matt 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: 5.1.4 - Maintain and continually improve community infrastructure across the Shire.

PURPOSE

To seek Council's approval of Lots Dedication from the NSW Land and Housing Corporation for drainage purposes.

OFFICER'S RECOMMENDATION

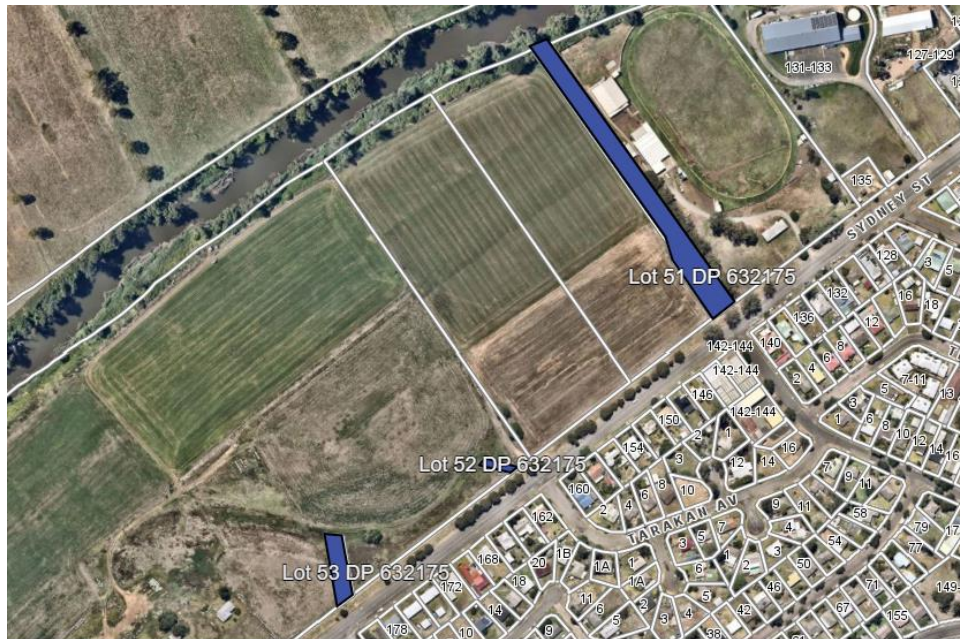
Council:

1. Accepts the dedication of land Lots 51, 52 and 53 in DP632175 for drainage purposes;
2. Classifies the land as Operational land in accordance with the Local Government Act 1993 Part 2 Division 1;
3. Authorises the Acting General Manager to sign documents associated with the transfer of the land; and
4. Authorises Council's seal to be affixed in accordance with the regulations to the transfer documents as required.

Moved: _____ **Seconded:** _____

BACKGROUND

Drainage on Lot 51, 52 and 53 on DP 632175 was established when the neighbouring housing commission subdivision was constructed, and provides drainage to the Hunter River. When the subdivision was registered, the drainage pipes and infrastructure assets were intended to be handed over to Council, however, this was never formalised. The lots are located on Sydney Street, Muswellbrook, to the west of the Greyhound Stadium, and are depicted below:



CONSULTATION

Works - Parks have been consulted regarding the ongoing cost implications for maintaining the larger Lot 51.

REPORT

The NSW Land and Housing Corporation intends to dedicate and transfer ownership of properties - Lots 51, 52 and 53 in DP632175 to Council in accordance with the original intended drainage purpose and are seeking Council's approval.

Attached to this report include the correspondence from NSW Department of Planning and Environment, Deposited Plan, and Title Searches.

It is recommended that Council accepts the transfer of ownership for drainage purposes.

OPTIONS

Council may accept dedication and transfer of the land, or reject the transfer of the land.

CONCLUSION

It is recommended that Council accepts dedication of land Lots 51, 52 and 53 in DP632175 for drainage purposes.

SOCIAL IMPLICATIONS

Provision of community infrastructure for residential development.

FINANCIAL IMPLICATIONS

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. Financial Implications – Capital

NSW Land and Housing Corporation intends to transfer the ownership of land at no cost to Council.



2. Financial Implications – Operational

Ongoing operational costs for the maintenance of Lot 51 to 'rough cut' standard is expected to be approximately \$3,000 per annum. Lots 52 and 53 are expected to attract no additional operational costs as they sit within existing private blocks.

POLICY IMPLICATIONS

Nil known.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

'5.1.2 Maintain and continually improve asset management', *Muswellbrook Shire 2022 - 2023 Operational Plan*

RISK MANAGEMENT IMPLICATIONS

Ownership will provide Council with greater autonomy of community drainage infrastructure.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Nil known.

Department of Planning and Environment

Our ref: FF:M/11079

2 August 2022

Attn: Alisa Evans
Muswellbrook Shire Council
P O Box 122
Muswellbrook NSW 2333

Email: alias.evans@muswellbrook.nsw.gov.au

Dear Sir/Madam

Re: Dedication of land - lots 51, 52 and 53 in DP632175 for drainage purposes

We refer to our recent discussion regarding the land at lots 51, 52 and 53 in DP632175 (**“the Properties”**).

We advise that the Properties are currently titled to “New South Wales Land and Housing Corporation” (**“LAHC”**) with notation on the DP632175 stating that lots 51, 52 and 53 are to be resumed for drainage purposes. Attached is a copy of the title searches and plan for your reference.

As discussed, Council’s records indicated that Council has infrastructure on those properties for drainage purposes. We have also been informed that the land titles for the Properties should have been issued in the name of Muswellbrook Shire Council when the plan of subdivision was registered. However, for some reason this did not happen, and the Properties remain in the name of LAHC.

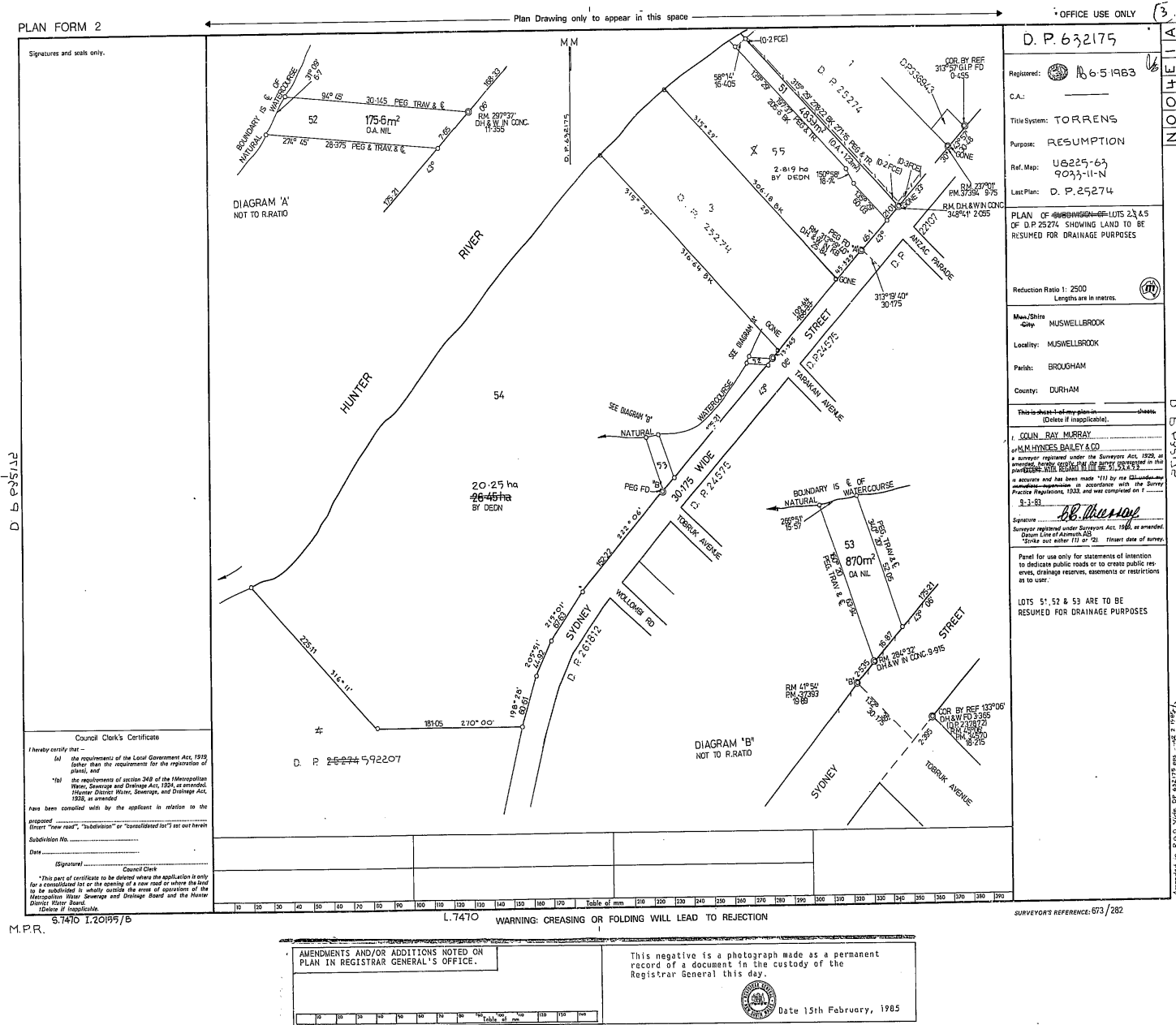
LAHC intends to dedicate and transfer ownership of the Properties to Council in accordance with the original intended purpose and we are seeking agreement from Council. Please provide written confirmation to us regarding the proposed dedication of the Properties including details of the contact person from Council and the relevant process involved.

We await for your response.

Yours sincerely,



Michelle Rouse
Director, Capital Transaction
Land and Housing Corporation
Department of Planning and Environment
Ph: 0413 278 982
E: michelle.rouse@fac.nsw.gov.au





Order number: 74405591
Your Reference: curryBGZ3A
24/05/22 09:18



NSW LRS - Title Search

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 51/632175

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
24/5/2022	9:18 AM	1	10/10/2003

LAND

LOT 51 IN DEPOSITED PLAN 632175
AT MUSWELLBROOK
LOCAL GOVERNMENT AREA MUSWELLBROOK
PARISH OF BROUGHAM COUNTY OF DURHAM
TITLE DIAGRAM DP632175

FIRST SCHEDULE

NEW SOUTH WALES LAND AND HOUSING CORPORATION

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G52796 LAND EXCLUDES MINERALS

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 24/5/2022

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 52/632175

SEARCH DATE	TIME	EDITION NO	DATE
3/8/2022	6:13 PM	1	10/10/2003

LAND

LOT 52 IN DEPOSITED PLAN 632175
AT MUSWELLBROOK
LOCAL GOVERNMENT AREA MUSWELLBROOK
PARISH OF BROUGHAM COUNTY OF DURHAM
TITLE DIAGRAM DP632175

FIRST SCHEDULE

NEW SOUTH WALES LAND AND HOUSING CORPORATION

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G52796 LAND EXCLUDES MINERALS

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

dda0267010

PRINTED ON 3/8/2022

Obtained from NSW LRS on 03 August 2022 06:13 PM AEST

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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 53/632175

SEARCH DATE	TIME	EDITION NO	DATE
3/8/2022	6:13 PM	1	10/10/2003

LAND

LOT 53 IN DEPOSITED PLAN 632175
AT MUSWELLBROOK
LOCAL GOVERNMENT AREA MUSWELLBROOK
PARISH OF BROUGHAM COUNTY OF DURHAM
TITLE DIAGRAM DP632175

FIRST SCHEDULE

NEW SOUTH WALES LAND AND HOUSING CORPORATION

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G52796 LAND EXCLUDES MINERALS

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

dda0267010

PRINTED ON 3/8/2022

Obtained from NSW LRS on 03 August 2022 06:13 PM AEST

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**9.3.2. Denman District Heritage Village - Timbers from Williams Bridge**

Attachments:	Nil
Responsible Officer:	Matthew Lysaught - Director Property & Place
Author:	Paul Chandler (Recreation & Property 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:	1.4.1 - Complete current infrastructure projects and identify future opportunities for the Shire. 1.2.4.4 - Construct the Denman and District Heritage Village.

PURPOSE

To inform Council that the timbers from the old Williams Bridge, Martindale are likely not suitable for use at the Denman District Heritage Village due to testing positive for arsenic and lead.

OFFICER'S RECOMMENDATION

Council notes the information contained in this report.

Moved: _____ **Seconded:** _____

REPORT

In preparation for the timber work for the Denman Heritage Village, including the undercover entrance and area, timbers recovered from Williams Bridge, Martindale, were tested by an occupational hygienist, Trinitas Group, before commencing work. Unfortunately, the samples tested returned positive for both arsenic and lead.

The occupational hygienist has advised that to use the timbers a Remedial Action Plan (RAP) would be required, and the work would need to be done in an enclosed area from public and workers. It is also likely that the use of the timbers would require ongoing maintenance.

The contractor considers that the health and safety risk to workers and public, and the costs with ongoing management, mean the use of these timbers is unfortunately not viable. Staff have since considered alternatives, including kiln dried hardwood being a mixture of Spotted Gum and Blackbutt with a dressed finish or recycled Ironbark with a brushed finish. The cost provided for both options is \$31,479.36 excluding GST.

Funding options for this variation are being considered for inclusion in the 2022-23 March Budget Review.



9.3.3. Major Projects Status Report

Attachments:	1. Major Projects Status Report 20230322 [9.3.3.1 - 3 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Matt 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 the 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 as at 22 March 2023.

Each iteration of the report is reviewed to improve the communication of status updates against Council's Delivery Program and 2022 – 2023 Operational Plan.

The spreadsheet is a working document with new projects added and updated as details are confirmed.

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)	GL Number	BUDGET ESTIMATE	FY BUDGET ALLOCATION	WORKS INSURANCE	PLANNED START	PLANNED COMPLETION	START	COMPLETION	STATUS AS AT 22 MARCH 2023
MULTIPLE YEAR PROJECTS											
2019 Special Rate Variation											
TBA	Stormwater Drainage Projects	C	3540.1404.504	\$300,000	\$615,188	TBA					This funding is currently not formally 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.
Olympic Park											
2019-2020-0417	Olympic Park Amenities and Grandstand	D & C	3710.7824.504	\$8,150,000	\$2,248,033	Existing Cover to \$2M	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. Funding for Stage 2 Grandstand \$5.5m confirmed and awaiting Funding Agreement. The Olympic Park Development Advisory Committee is meeting monthly. Event management plan being arranged to address outstanding planning issues.
2021-2022-0520	Olympic Park Field Improvements	D	3710.1405.504	\$1,500,000	\$990,316	Existing Cover to \$2M	Jul-22	Dec-24	Jul-22		2022-23 Operational Plan Action:1.4.1.1 Commence Olympic Park field improvements. Draft drainage and irrigation designs have been completed. Council to give consideration to request alignment of multiple grant funding sources for Olympic Park Projects from funding bodies. Preliminary discussion has been held with NSW Sport regarding funding alignment and the Development Advisory Committee has supported funding alignment.
TBA	Olympic Park Projects	D	3710.1405.504	TBD	\$171,301	Existing Cover to \$2M	Jul-22				Design for Olympic Park Funds to be allocated for investigation and design of other precinct stages including precinct landscape design.
Regional Entertainment and Conference Centre											
2020-2021-0463	Regional Entertainment and Conference Centre - ENABLING WORKS	D & C	3690.5433.504	TBD	TBD	TBA	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. Development Application is being prepared for demolition of Bridge Street buildings to be lodged following concept design of pocket park being endorsed by Council.
2020-2021-0463	Regional Entertainment and Conference Centre	D & C	3690.5433.504	TBD	\$6,208,018	TBA	Oct-21	Dec-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 2022 to address planning issues raised for resubmission. The Regional Entertainment Centre Development Advisory Committee are meeting monthly. They have considered a preliminary proposal on the location of the Regional Entertainment in the centre of the CBD town block. Staff have commenced discussions with the architect regarding changes in design and reloidgement of the development application.
Other											
TBA	Civic Precinct (Town Square)	D & C	3690.5498.504	\$14,500,000	\$3,404,981	Council insured	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. Funding of \$10.5m confirmed awaiting Funding Agreement. Development Application is being prepared for Demolition of Bridge Street buildings to be lodged following concept design of pocket park being endorsed by Council.
2021-2022-0500	Denman Heritage Village	D & C	3590.4222.504	\$1,830,871	\$1,809,525	Existing Cover to \$2M	Sep-21	Jul-23	Sep-21		Deed for Heritage Items executed. Design and Construction tender awarded. D. Steel has been erected and roofing and insulation are currently underway, to be completed in three weeks. Timbers from William Bridge, Martindale have tested positive to arsenic and lead and not suitable for use. Alternate options costed at \$35,000.
2019-2020-0404	Hunter Beach	D & C	3920.5904.504	\$3,173,029	\$3,128,232	Contractor insured	Jul-22	Feb-22	Aug-22		Works have commenced on site and are progressing well and completion expected early April 2023.
2020-2021-0443	MSC Depot Construction	D & C	3910.5939.504	\$200,000	\$200,000	Council insured	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 been 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 reported to December 2022 Ordinary Council Meeting. Resources for Regions Round 9 funding announced of \$4.8M.
2020-2021-0452	Muswellbrook Animal Shelter	C	3910.5887.504	\$3,191,041	\$1,206,134	Council Insured	Feb-21	Mar-23	May-21		Building works materially complete. The Community Garden design has been accepted by stakeholders. Detail design for Hunter River stormwater discharge is complete and assessment approval received. Construction of drainage work progressing well.
2019-2020-0413	Muswellbrook Indoor Sport Centre	D & C	3910.5844.504	\$1,242,452	\$1,205,944	Existing Cover to \$2M	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. Call for Tenders for a detailed design early 2023 and concurrent land acquisition with Crown Land. RFQ for Principal Design Consultant with Procurement to be finalised.
2020-2021-0448	Tertiary Education Centre - Stage 2 (Donald Horne Building) incl. Upper Hunter Innovation Hub and Weidmann Café	D & C	3690.5438.504	\$6,930,061	\$580,613	Council insured	Jul-19	Oct-23	Jul-19		Donald Horne Building nearing completion. 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 process underway.
FUTURE FUND											
	Loxton House										Design with future tenants being refined for development application modification.
TBA	Marketplace Asset Renewal (incl. Lift)	D & C	3690.5540.504	\$331,194	\$331,194	Existing Cover to \$2M	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.
N/A	Renewal of Existing Assets	D & C	3690.5421.504	\$326,805	\$326,805	Existing Cover to \$2M	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. Future significant works include the relocation of Blue Flame restaurant to the Donald Horne Building.
PLANNING, COMMUNITY AND CORPORATE SERVICES											
N/A	General Building Renewal Programme	C	3910.5819.504	\$250,000	\$250,000	Existing Cover to \$2M	Oct-22	Jun-23			Report endorsed September 2022 Ordinary Council Meeting. Request for Quote are out and activation of some projects contingent on grant funding will now commence.
TBA	General Design Programme	D	3910.5855.504	\$49,452	\$37,656	Existing Cover to \$2M	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	Reactivation of Campbells Corner Retail for Muswellbrook	D & C	TBA	\$974,686			Jan-23	Jul-24			Resources for Regions Round 9 funding announced of \$974,686. Development Application (DA) has been lodged.
TBA	Outdoor Pool Plant Upgrades	D	3700.5453.504	\$150,000	\$150,000	Existing Cover to \$2M	Sep-21	Mar-22	Sep-21	Mar-22	Tender Package completed. Tender subject to capital funding.
TBA	CBD Stage 7 (Town Centre)	D & C	3690.5479.504	\$1,685,796	\$1,630,345	Existing Cover to \$2M	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. Reallocation of Resources for Regions Round 7, \$2,850,318. Includes Public Domain Works, Loxton House Refurbishment, Hill St Construction, Part Bridge Street Footpath, Bridge Street Median, Marketplace Public Car Park, and Marketplace laneway. Loxton House Development Application (DA) modification package being finalised. Architectural plans being modified to suit changes to occupy a commercial real estate tenant in Loxton House and returning tenants.
2021-2022-0509	Denman Children Centre	D & C	3920.5658.504	\$1,229,714	\$1,229,714	Existing Cover to \$2M	Jun-18	Aug-23	Mar-21		Council auspicing 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. Contracts for detailed design awarded. Building design being amended in line with flood risk assessment, the main impact is the requirement for an entry ramp into the new building. Civil design being finalised to facilitate S68 Permit. Construct-only tender documentation drafted for review with tender to be advertised in coming weeks.
TBA	Denman Netball Courts	D & C	3710.7825.504	\$311,451	\$311,451	Existing Cover to \$2M	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 early 2023. Tenders close 3rd March. Tenders closed with 1 submission. Tender to be assessed by panel for recommendation to Council.
TBA	Denman Recreation Reserve Works	D & C	TBA	\$2,249,301			Jan-23	Apr-24			Resources for Regions Round 9 funding announced of \$2,249,301.
2019-2020-0406	Muswellbrook Aquatic Centre Upgrade	C	3700.5442.504	\$6,500,000	\$1,515,153	Contractor insured	Mar-20	Mar-21	Mar-20	Aug-22	Aquatic Centre officially opened Saturday 17 September 2022. Incomplete works being undertaken and defects being addressed. Negotiation meeting to advise Councils position in response to Renascant's Offer for Deed of Settlement underway.
2020-2021-0481	Karoola Park Plan of Management	I	3710.5532.504	\$30,000	\$30,000	Existing Cover to \$2M	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	3710.7831.504	\$480,000	\$480,000	TBA	Jan-23	Jun-23			Tenders to be called for design and construct contract early 2023. Tender being prepared.
TBA	Kayuga Rural Fire Station	D & C	3860.5415.504	\$650,000	\$591,293	Existing Cover to \$2M	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 Ordinary Council Meeting subject to funding.

	Lighting for Weeraman and Highbrook										Recently awarded grant with details to be finalised.
TBA	Major Landcare Projects	I, D & C	3920.5617.504	\$171,286	\$171,286	Existing Cover to \$2M	Sep-22	Jun-23			Report endorsed September 2022 Ordinary Council Meeting.
TBA	Denman Indoor Sports Centre Upgrade	C	3910.5949.504	\$151,200	\$140,969	Existing Cover to \$2M	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	3910.5950.504	\$148,050	\$120,493	Existing Cover to \$2M	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 Maco Project)	C	3920.5946.504	\$237,500	\$140,238	Existing Cover to \$2M	Oct-21	Jun-22		Mar-23	Track connected to Olympic Park Bridge and complete.
N/A	General Recreation Programme	C	3710.5293.504	\$150,000	\$150,000	Existing Cover to \$2M	Sep-22	Jun-23	Sep-22		Report endorsed September 2022 Ordinary Council Meeting. Request for Quote are out and activation of some projects contingent on grant funding can now commence. General Recreation projects are underway. Guttering at Highbrook is complete, CCTV has been awarded. Recreation Needs Study Draft nearing finalisation. Denman Tennis Courts Lighting Quotes recieved and awarded.
N/A	Landscaping and Tree Management Programme	C	3710.5311.504	\$90,000	\$90,000	Existing Cover to \$2M	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	3710.5494.504	\$90,000	\$90,000	Existing Cover to \$2M	Oct-22	Feb-23	Jan-23		Applications have closed and will be reported January 2023 Council meeting. Successful applicants have been advised and invoices being paid.
N/A	Cemetery General Programme	C	3722.5297.504	\$90,000	\$90,000	Existing Cover to \$2M	Jul-22	Sep-22			First stage of concrete path works complete. Stage 2 awaiting quotations.
N/A	Sport and Recreation Small Capital Grants	C	3710.5482.504	\$25,000	\$25,000	Existing Cover to \$2M	Oct-22	Feb-23			Applications closed and reported January 2023 Council meeting. Letters advising sucessful applicants have been sent, awaiting acceptance from clubs.
ROADS AND DRAINAGE											
TBA	Bridges Renewal Program	I	3530.4131.504	\$95,000	\$42,281	Existing Cover to \$2M	Aug-21	Jun-23	Jul-22	Mar-23	This project is complete. 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 programmed works have included geotechnical testing and assessment of the abutments, and monitoring of the movement of the bearings. The geotechnical testing and assessment have been completed and a report issued. The baseline system has been installed to monitor the bridge movement.
TBA	Bell Street Bridge	I	Not assigned		\$679,000	Existing Cover to \$2M					Council was successful in receiving funding for the 'betterment' component to repair abutments of Muscle Creek Bridge on Bell St Muswellbrook which have been damaged in the recent natural disaster events. Additional funding for an amount of \$168,000 to complete the project is currently being sought through the Natural Disaster Relief Funding sources.
TBA	CPTIGS - Bus Shelter Program	I and D	3500.2781.504	\$343,527	\$343,527	Existing Cover to \$2M	Mar-22	Jun-23	Aug-22		An in-kind source of funding for the upgrade of the Bus Stop in Tindale St has been provided through development in the street. Tender documents have been prepared for the design and installation of the shelters and are currently being advertised. Tenders close 31 March.
TBA	Drainage Devices Program	I	3540.4065.504	\$150,000	\$150,000	Existing Cover to \$2M	Feb-22	Jun-22			Program and concept design reported to Council.
TBA	Footpath & Cycleway Renewals	C	3500.4072.504	\$150,000	\$150,000	Existing Cover to \$2M	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. Work on this program will continue in 2023.
TBA	Heavy Patching Programme	C	3500.4035.504	\$500,000	\$500,000	Existing Cover to \$2M	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	3560.4065.504	\$150,000	\$150,000	Existing Cover to \$2M	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	3985.5870.504	\$1,680,000	\$1,680,000	Contractor/ Council insured	Oct-21	Jun-23	Mar-22		The plant replacement programme priorities were endorsed by Council at the March 2022 Ordinary Council Meeting. The truck has been ordered for the Waste Management Facility, the Motor Grader was reported to the September Ordinary Council meeting, and the new tractor tender reported to the November 2022 Ordinary Council Meeting. These items of plant have been ordered and Council is awaiting delivery.
TBA	Merton Street Drainage for Denman	C	TBA		\$1,412,582	Council & Contractor insured	Jul-23	Oct-24			Resources for Regions Round 9 funding announced \$1,412,582. The design was endorsed by Council at the October 2022 meeting. The estimated cost to construct based on this design is \$2,589,582. Council has applied for additional funding under the Disaster Recovery Fund R1. Council has applied for additional funding under the Disaster Recovery Fund R1. Once the sources of funding to supplement the R4R R9 funding are confirmed this project will be reported to Council. Tender Documents are being prepared, tender.
TBA	New Footpath & Cycleway	C	3500.4073.504	\$250,000	\$250,000	Existing Cover to \$2M	Feb-23	Jun-23			Prioritised program reported to Council for endorsement July 2022 with footpath priorities Maitland St and Turtle St Denman. Work has commenced to link the path to the new Signals at Thompson St. A grant application was submitted to the Active Transport program for the Turtle St footpath project. Work on this project will be put on hold until confirmation on the success of this application has been provided by Transport for NSW.
TBA	Purchase of vehicles	I	3900.5660.504	\$342,558	\$342,558	Council & Contractor insured	Jul-22	Jun-23	Jul-22		Light fleet programme prepared. Difficulty sourcing vehicles as per requirements and long delays in delivery of vehicles.
2022-2023-0555	Regional Road Renewal Programme	C	3502.4135.504	\$614,000	\$614,000	Council & Contractor insured	Nov-22	Apr-23			Design for the rehabilitation of a section of Bylong Valley Way 5.9km to 6.6km has been prepared. A tender for the construction was advertised and Tenders received. Work will be programmed pending Council acceptance of Tender. This matter will be reported to the March meeting of Council.
TBA	Oakleigh Bridge Replacement	C	3530.4434.504	\$543,988	\$543,588	Council & Contractor insured	Dec-22	Apr-23	Dec-22	Mar-23	The Tender was awarded at the November 2022 meeting of Council. The works are 95% complete.
	Resources for Regions - Round 5			\$8,542,556	\$8,143,687						
TBA	Edderton Road Safety Upgrade	C	3500.4257.504	\$2,508,232	\$2,427,544	Council & Contractor insured	Nov-20	Apr-22	Feb-21	Dec-21	Construction is complete.
TBA	Thompson St signalisation	D	3500.4277.504	\$2,100,845	\$2,825,395	Council & Contractor insured	Feb-22	Jan-23	May-22		Works on this project have suspended due to Contractual issues. Final asphaltting was undertaken late January. The contractor demobilised from the site in late January. A post construction inspection has occurred and defects and outstanding works identified. The electrical works have not been completed so the commissioning of the lights can not occur until these works are undertaken. Council staff are preparing options for delivery of the project and commissioning of the lights failing the contractors return to the site.
TBA	UHSC - Murulla St causeway	I	3500.4282.504	\$1,192,578		Council & Contractor insured					This is an Upper Hunter Shire Council project. Murulla Street is located in Murrurundi. This project has not commenced.
TBA	Wilkinson St Bridge	C	3530.5888.504	2740901	1023357	Council & Contractor insured	44166	44682	44494	44986	Project is complete.
	Resources for Regions - Round 6			\$1,108,627	\$1,108,627						
TBA	Ridgeland Road	C	3500.4303.504	\$388,385		Council & Contractor insured	Oct-22	Jan-23	Oct-22	Dec-22	The works are now complete. Council is currently aquiting this grant.
TBA	Heavy Patching Programme	C	3500.4306.504	\$66,352		Council & Contractor insured	Aug-21	Mar-22	Aug-21	Oct-21	Project Complete. Council is currently aquiting this grant.
TBA	Nandowra / Dartbrook Rd	D&C	3500.4421.504	\$403,732		Council & Contractor insured					This is an Upper Hunter Shire Council project. Project is complete.
TBA	Bylong Valley Way	D&C	3500.4422.504	\$250,158		Council & Contractor insured	Jul-21	Jun-22	Jul-21	Aug-21	Project Complete.
	Resources for Regions - Round 7										
2022-2023-0548	Carpark Renewal Program - Hill St Laneway drainage upgrade	C	3500.4593.504		\$493,461	Existing Cover to \$2M	Feb-23	Jun-23	Feb-23		Construction of the Council Carpark off Hill St Muswellbrook commenced 20 March 2023. The works will involve earthworks to reduce the grades within the carpark where possible, construction of retaining walls, new kerb and gutter and improved access from pedestrians and vehicles. In addition Council are investigating the installation of an EV charging station within the carpark.
2022-2023-0552	Hill St Road Reconstruction	C	3500.4590.504	\$600,000	\$600,000	Council & Contractor insured	Apr-23	Aug-23			Tenders for the construction have been finalised and reported to the February meeting of Council. The accepted contractor is currently undertaking project preliminaries and will establish on site early April.
TBA	Road Resealing Program	C	3500.4030.504	\$892,655	\$892,655	Existing Cover to \$2M	Dec-22	Apr-23	Sep-22	Mar-23	Road Sealing Program is complete.
TBA	Roads to Recovery Programme	I	3500.2068.504	\$577,898	\$577,898	TBA	Jan-22	Dec-22			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.
2021-2022-0494	Rosebrook Bridge Replacement	C	3530.4429.504	\$1,633,500	\$1,633,500	TBA	Jan-23	Jun-23	Jul-22		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 is complete. The submitted program has construction on site commencing site establishment 20 March 2023 and completion July 2023. The existing bridge will be removed 27 March 2023.
TBA	Rural Roads Regravelling	C	3500.4055.504	\$300,628	\$300,628	Existing Cover to \$2M	Aug-22	Jun-23	Aug-22	Mar-23	The annual program is now complete.
TBA	Safety Audit Ridgeland Road	I	3500.4270.504	\$47,272	\$47,272	Council insured					Works completed.
TBA	Safety Device Renewal	C	3590.4145.504	\$135,000	\$135,000	Existing Cover to \$2M	Jan-23	Jun-23	Oct-22		A prioritised program was endorsed by Council at the July 2022 Ordinary Council meeting. This program is ongoing. Safety fencing was installed in Rutherford Road and Guardrail replacement is programmed for Carl st Muswellbrook and pending availability of funding Sandy Creek road.
TBA	Sandy Creek Rd Curve Improvements	C	3500.2066.504	\$246,506	\$246,506	Contractor insured	Jun-21	Dec-21	Jun-21	Sep-21	Works completed. This grant is being aquitted.
	Victoria Street	I		\$721,433	\$721,433		Oct-23	Dec-23			Grant funding accepted from Fixing Local Roads Round 4.

TBA	Widden Valley Rd pavement rehabilitation	C	3500.4424.504	\$553,397	\$553,397	Existing Cover to \$2M	Aug-21	Oct-21	Aug-21	Jun-22	Works completed.
	Wybong Road - Betterment	I			\$1,633,500						Council was successful in receiving funding for the 'betterment' component to widen and improve Wybong Road in three (3) nominated sections at the western end, which have been damaged in the recent natural disaster events. Additional funding for an amount of \$1,045,000 to complete the project is currently being sought through the Natural Disaster Relief Funding sources.
TBA	Yarrawa Rd (Fixing Local Roads)	I	3500.2780.504	\$4,931,278	\$4,931,278	Council & Contractor Insured	September	Jun-22	Oct-21	Nov-22	This project is complete. The Grant is currently being aquited.
SEWER CAPITAL BUDGET											
TBA	Access and Security Improvements	D&C	6340.4475.504	\$155,000	\$155,000	TBA	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. SPS- 5 fencing was completed and handed over to the operations team.
TBA	Mains Renewal And Replacement	I,D&C	6310.4340.504	\$589,431	\$589,431	TBA	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	6310.4493.504	\$1,800,000	\$1,800,000	Existing Cover to \$2M	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. Tender documents are under review and tender is likely to be floated in March 2023.
TBA	Sewer Operational Contingency	I,D&C	6340.4494.504	\$150,000	\$150,000	Existing Cover to \$2M	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. UPS upgrade at the RWTW, replacement of pump at MSPS10, purchase of butterfly valve wafers (100mm, 150mm, 200 mm) and spare valve for RWTW. Upgraded variable speed drive for the decanter in the bio-reactor - Denman Sewer Treatment. Purchased two sets of pre-filter screens for the odour control systems at MSPS 4 and MSPS 5. Purchased two spare valve wafers for the RWTW as part of the critical spares inventory. Upgraded UPS for the RWTW server. Chlorine storage Level transmitter upgrade works at the RWTW. Replaced Denman decanter shower reuse pump. Replacement of proximity sensor at the RWTW dewatering sludge press. Upgrade to Denman Bio Reactor Aeration Infrastructure.
TBA	System Plant Asset Renewals	I, D & C	6340.4488.504	\$650,000	\$650,000	Existing Cover to \$2M	Jul-22	Jun-23	Jul-22		The construction of a septage receiveal facility at the Muswellbrook recycled water treatment works is completed. Denman Sewer treatment plant dewatering/sludging 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 is design and in in process of procurement and fabrication, project completion is by June 2023. Denman Sewer Treatment plant Aerator required replacement, the contract for which is awarded in November 2022 and in process of fabrication. Likely completion including testing commisioning is by June 2023.
TBA	Transportation System Improvements	I, D & C	6340.4485.504	\$81,939	\$81,939	Existing Cover to \$2M	Jan-23	Feb-23			Project valve installation to cater for emergency break of recycle water main from dam in ARTC corridor (near railway line) was completed in start Feb2023. Also valve, mainhole and collapsed sewer was completed in 39
WATER CAPITAL BUDGET											
N/R	Asbestos Removal, Earth Work and Security	C	5310.4575.504	\$155,000	\$155,000	Existing Cover to \$2M	Jul-22	Jun-23	Jul-22		Funding is used to carry out earthwork asbestos removal for water main projects. The projects include Bligh Street East earth removal, Turanville, Forbes and Lorne Streets. Bligh Street works are completed.
TBA	Denman to Sandy Hollow Pipeline	D & C		\$28,473,519				Jul-24			Funding Deed executed. Landaquisition, preparation of tender documentation and review of enviromental factors are in process. Geo technical investigation contract was awarded and will be completed by End of March.
TBA	Mains Renewal And Replacement	I, D & C	5320.4340.504	\$748,278	\$748,278	Council & Contractor Insured	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 were completed in September2022. Bligh Street West/ East water main replacement were completed comleted in Dec 2022 for completion. Design and investigation ongoing for Flanders Avenue and Bligh Lane. Execution is likely to start by Mid Jan2023
TBA	Replacement of Water Meters	C	5320.4376.504	\$78,000	\$78,000	Council Insured	Jul-22	Jun-23	Jul-22		Ongoing ageing water meter replacement programme.
TBA	System Plant Asset Renewals	I, D & C	5340.4400.504	\$891,376	\$700,000	Council & Contractor Insured	Jul-22	Jun-23			The funds were utilised for paying off additional electricity cost. Follwing projects were/ are beig undertaken. 1. Bligh Street upgrade work- completed Dec2022. 2. GLE Denman sandy hollow pipe line design and investigations. 3. polymer dosing system design and instillation at muswellbrook water treatment plant. 4. design and study o muswellbrook water treat,ment plant capacity and design upgrades.total budget spent till todote for this programme is \$550,000. A critical spare mono pump was purchased for the lime dosing plant at MBK WTP.
TBA	Upgrade Fluoride Dosing System	I, D & C	5310.4577.504	\$346,461	\$346,461	TBA	Oct-22	Jun-23	Jul-22	Sep-23	Tender Submissions were received and reviewed. A report will be presented to Council in the April Ordinary Council Meeting. The project is expected to extend into Q1 FY 2023-2024.
TBA	Vehicle Replacement	C	5330.4370.504	\$100,000	\$100,000	Existing Cover to \$2M	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	5330.4378.504	\$117,394	\$117,394	Existing Cover to \$2M	Jul-22	Jun-23	Jul-22		Programme being prepared.
TBA	Water Operations Contingency Project	I	5340.4406.504	\$117,686	\$117,686	Existing Cover to \$2M	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 replace 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. Denman River Pump required a new motor and refurbishment after flood damage. A spare transfer pump was purchased for polymer dosing at the MBK WTP. Replacement of a critical differential pressure transmitters was purchased for MBK WTP. Damaged UPS was replaced for the Ford Street Raw water pumping station, MBK Water Treatment. Critical spares were purchase for the clarifier de-sludging valves. A platform was fabricated for access to the Denman Raw Water Screen when river levels impeded access to clean the Denman River Screens during heavy rain events. A new isolation valve was installed for the clarifier sludge drain line into evaporation pond 1 at MBK WTP. Replaced the lime dosing lines in the MBK WTP. Funded the Denman River Intake Assessment Report for the Betterment Infrastructure Grant Application.
TBA	Water Stop Valve Replacement Programme	I, D & C	5320.4379.504	\$285,627	\$250,000	Existing Cover to \$2M	Oct-22	Jun-23			The funds will be utilised for water main and valves replacement projects in Bligh Street east and Flanders Avenue, the project was completed in Dec2022.
WASTE											
TBA	Waste & Recycling Centre Leachate Dam	D	3653.4530.504	\$498,212	\$498,212	Existing Cover to \$2M	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 received late March '23. Test pits dug late January determined rock can be ripped to design depth. Preparing for DA lodgement and Tendering, pending funding availability.
TBA	FOGO Infrastructure	I		N/A		TBA					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. DA 2021/58 submitted to March Council meeting for decision. Expression of Interest for FOGO processing were called and review committee report is being prepared for April Council meeting.



9.4. Corporate Services

9.4.1. Sponsorship - Muswellbrook Business Awards 2023

Attachments:	1. Muswellbrook Chamber of Commerce 2023 Business Awards Sponsorship Request [9.4.1.1 - 1 page]
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Responsible Officer: Derek Finnigan - Acting General Manager

Author: Michelle Sandell-Hay (Governance Officer)

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

For Councillors to consider a request for sponsorship from the Muswellbrook Chamber of Commerce and Industry for the 2023 Muswellbrook Business Awards.

OFFICER'S RECOMMENDATION

Council approves the request from the Muswellbrook Chamber of Commerce and Industry for sponsorship of \$2,750 for the 2023 Muswellbrook Business Awards.

Moved: _____ **Seconded:** _____

BACKGROUND

Council has a history of providing sponsorship to support the Muswellbrook Business Awards.

REPORT

Council has received a request from the Muswellbrook Chamber of Commerce and Industry to support the 2023 Muswellbrook Business Awards to be held on Friday 2 June, 2023 as a major sponsor. The Business Awards have been held for over 20 years to recognise excellent service provided by businesses within the community.

OPTIONS

Council has a number of options available:

1. approve the sponsorship request of \$2,750;
2. decline the sponsorship request; or
3. approve an alternate amount.

CONCLUSION

It is recommended that Council sponsors the event.



SOCIAL IMPLICATIONS

The Muswellbrook Business Awards have positive social implications for the community by increasing visitor numbers to the region and encouraging participation in community events.

FINANCIAL IMPLICATIONS

The Sundry Contributions and Donations budget currently has \$13,000. \$5,000 has been committed to Round 1 of 2022-23 Community Grants project, which Council has approved.

Approving sponsorship for the 2023 Muswellbrook Business Awards would leave \$5,250 for Round 2 of 2022-23 Community Grants.

POLICY IMPLICATIONS

The request is consistent with Council's sponsorship and donations policy.

STATUTORY IMPLICATIONS

No known statutory implications.

LEGAL IMPLICATIONS

No known legal implications.

OPERATIONAL PLAN IMPLICATIONS

The Officer's Recommendation is consistent with Delivery Program Action: Maintain existing and develop new tourism events and promotions with associated funding.

RISK MANAGEMENT IMPLICATIONS

No known implications.

WASTE MANAGEMENT IMPLICATIONS

No known implications.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

No known implications.



MUSWELLBROOK CHAMBER
OF COMMERCE AND
INDUSTRY INC

PO Box 683, Muswellbrook NSW 2333

Phone :0438 517 311

Email: info@muswellbrookchamber.com.au

7 March 2023

Mr Derek Finnigan
Muswellbrook Shire Council
Campbell's Corner
MUSWELLBROOK NSW 2333

Dear Derek

I am writing to you as a long standing sponsor of the Muswellbrook Business Awards, seeking your sponsorship again this year.

Our awards will be presented on Friday 2 June, 2023, at the Muswellbrook RSL, with a gala dinner and entertainment.

Muswellbrook Chamber of Commerce has been staging the Business Awards now for over 20 years and we feel it is a highlight of the year. We usually have around 25-30 finalists, with around 200 attending the presentation evening.

We have 3 independent judges and entries are judged on both their written application and a face-to-face interview at their business premises. The entries will again be lodged on-line which enables the judges to access the entries once they are lodged, and it is easier for the business to fill out the on-line form. Applications will open next week.

We are looking for \$2,750.00 in sponsorship as a major sponsor of the event.

Your prompt response to this request would be greatly appreciated so that we can include your name and logo in all promotion of the 2023 Muswellbrook Business Awards.

Yours sincerely

Lorraine Skinner
Treasurer



9.4.2. DRAFT Policy on Policy Making MSC25E for Public Exhibition

Attachments:	1. DRAFT Policy on Policy Making MSC25E [9.4.2.1 - 7 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Madeleine St John (Business Improvement Officer)
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:	6.2.5 - Implement a comprehensive and targeted business improvement program. 6.2.5.2 - Review the policy management framework.

PURPOSE

To seek endorsement from Council to place the attached *DRAFT Policy on Policy Making MSC25E* (the Policy) on public exhibition.

OFFICER'S RECOMMENDATION

1. Council endorses the *DRAFT Policy on Policy Making* for placement on public exhibition via Council's website for a period of 28 days; and
2. A further report be submitted to Council for consideration of submissions received during the exhibition period, prior to adoption of the Policy.

Moved: _____ **Seconded:** _____

BACKGROUND

The *DRAFT Policy on Policy Making MSC25E* (the Policy) was originally developed in 2018 to support Council's Policy Framework, however records indicate that it was not submitted to Council for public exhibition or adoption. Therefore, the Policy is a new policy that has been redrafted in line with the review of Council's Policy Management Framework.

CONSULTATION

Manex

Manager Governance

Business Improvement Officer(s)

REPORT

The Policy describes Muswellbrook Shire Council's objectives and principles for policy development and review to ensure high quality, consistent policy documents that comply with legislative requirements, ensure document control, reduce risk and which are readily accessible and understood by Council Officers and the community.

The Policy applies to all Councillors, Council Staff and the development, authorisation, management, and review of all Council policies.



OPTIONS

Council may:

1. Resolve to endorse the *DRAFT Policy on Policy Making* for public exhibition via Council's website for a period of 28 days; or
2. Request amendments to the *DRAFT Policy on Policy Making* prior to public exhibition.

CONCLUSION

It is recommended that Council endorses the Policy (attached) for Public Exhibition.

SOCIAL IMPLICATIONS

Nil known.

FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

This Policy was developed in line with the review of Council's Policy Management Framework.

STATUTORY IMPLICATIONS

Local Government Act 1993

Government Information (Public Access) Act 2009

Privacy and Personal Information Protection Act 1998

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

6.2.5.2 - Review the policy management framework.

RISK MANAGEMENT IMPLICATIONS

This policy mitigates the potential risk of Council policies not meeting statutory requirements and/or supporting operational objectives.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Public exhibition via Council's website will provide the Community with an opportunity to provide feedback via submissions made during the public exhibition period.



**muswellbrook
shire council**

DRAFT Policy on Policy Making

MSC25E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	4 years	Review due date:	
Department:	Governance		
Document Owner:	Manager Governance		
Community Strategic Plan Goal	6. Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		

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Table of Contents

1.	Policy Objective	3
2.	Risks being addressed	3
3.	Scope	3
4.	Definitions	3
5.	Policy Statement	4
	5.1 New policy development	4
	5.2 Policy adoption	4
	5.3 Policy review	5
	5.4 Consultation and communication	5
	5.5 Enforcement	5
6.	Roles, Responsibilities and Delegations	5
7.	Dispute Resolution	7
8.	Related Documents	7
	8.1 Legislation and Guidelines	7
	8.2 Policies and Procedures	7
	8.3 Other Supporting Documents	7
	Version history	7

1. Policy Objective

This policy describes Muswellbrook Shire Council's objectives and principles for policy development and review to ensure high quality, consistent policy documents that comply with legislative requirements, ensure document control, reduce risk and which are readily accessible and understood by Council Officers and the community.

2. Risks being addressed

This policy mitigates the potential risk of Council Policies not meeting statutory and organisational requirements.

3. Scope

This policy applies to all Councillors, Council Staff and the development, authorisation, management, and review of all policies in Muswellbrook Shire Council.

4. Definitions

Term	Definition
Council	Muswellbrook Shire Council
Council Official	Includes Councillors, members of staff of a Council, administrators, Council committee members and delegates of Council
External Policy	A formal statement of the Elected Council's position covering the principles of its decision making in serving the community and implementing Council's statutory responsibilities. These policies may have a direct impact on the community, Councillors, an individual or a business
Internal Policy	These policies guide how Council operates and do not have a direct impact on the community, Councillors, an individual or a business.
Policies	External and Internal Policies. Policies guide and determine decisions. Policies do not contain procedural information for implementing the policy. Where required, internal procedural information is outlined in a related 'procedure' document. The term 'policy' may also include specific Plans and Codes (e.g. Code of Conduct, Code of Meeting Practice and Privacy Management Plan).
Procedures	A set of instructions for the implementation of Policies
Guidelines	Complementary supporting information, advice or recommended best practice, and may allow some discretion or leeway in its interpretation, implementation or use.
EDRMS	Council's Electronic Document Records Management System
Manex	Council's Executive Management Team

5. Policy Statement

5.1 New policy development

The main purpose of formulating a policy is to establish broad directions to guide Council's decisions, activities, ensure compliance with statutory requirements and support operational objectives. A policy may be developed in response to current or anticipated circumstances and risks. In general terms, policies express Council's position on a particular issue or subject.

Policies that may have a direct impact on the community, Councillors, an individual or a business are classified as an External Policy. Policies that do not have a direct impact on the community, Councillors, an individual or a business are classified as an Internal Policy.

5.2 Policy adoption

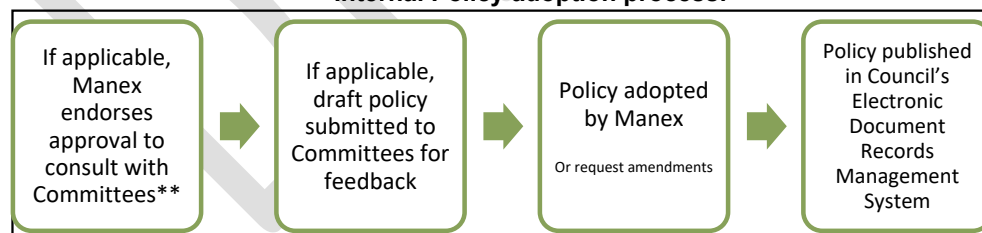
When a new policy is developed or amended, it is approved as below:

External Policy adoption process:



* Public exhibition is for a minimum of 28 days, unless otherwise legislated, via Council's website and in hardcopy at Council's Administration Centre and Library branches.

Internal Policy adoption process:



** Committees include Work Health & Safety Committee and Staff Consultative Committee

5.3 Policy review

Policy reviews are conducted as needed by organisational or legislative needs. All policies are reviewed at least once every four years unless otherwise legislated.

Administrative changes (updating position titles, departments, Related Documents, hyperlinks and re-formatting) are made without re-adoption. All changes are recorded in the Version History table of the policy to ensure a clear audit trail and the policy is republished on Council's website and EDRMS.

All other policy changes require re-adoption of the policy.

When it is determined that a policy is no longer necessary it will be recommended for rescission. External policies are rescinded by Council and internal policies are rescinded by Manex.

5.4 Consultation and communication

As per Council's *Community Participation Plan*, external draft policies are publicly exhibited on Council's website for a minimum of 28 days, unless otherwise legislated, and available in hardcopy at Council's Administration Centre and Library branches.

Public exhibition gives the community an opportunity to provide feedback on the draft policy via a submission. Submissions are accepted until the close of business of the last day of public exhibition and are managed according to Council's *Privacy Management Plan*.

All external adopted policies are available for public viewing on Council's Policy Register:

<https://www.muswellbrook.nsw.gov.au/policies/>

5.5 Enforcement

Clause 3.1(b) of Council's *Model Code of Conduct* provides that Council Officials must not conduct themselves in a manner that is contrary to statutory requirements or Council's administrative requirements or policies. A breach of a policy may also constitute a breach of Council's Code of Conduct.

6. Roles, Responsibilities and Delegations

Roles	Responsibilities
Business Improvement Officer	<ul style="list-style-type: none"> • Implementation of this policy • Development of appropriate templates for policies • Maintain a Policy Register with all policies and their review dates, document owners and adoption details • Maintain the Policy folder in Council's EDRMS • Facilitate policy reviews with document owners • Coordinate project teams for policy reviews as required • Draft Manex and Council reports relating to policies • Coordinate the Public Exhibition of policies • Ensure the Policies Register on Council's website reflects current external policies • Communicate adopted policies to Council employees
Document Owner	<ul style="list-style-type: none"> • Review policy in line with legislative and organisational timeframes and requirements • Ensure policy is updated to current legislation as required • Include Business Improvement Officer in policy review process • Complete business reports to Manex and Council
Manex	<ul style="list-style-type: none"> • Review and provide feedback on external and internal policies • Endorse external policies to be submitted to Council for consideration for adoption • Adopt internal policies • Rescind internal policies and endorse external policies to be recommended for rescission by Council

	<ul style="list-style-type: none"> Advise on new policies required to be developed
Staff Consultative Committee	<ul style="list-style-type: none"> Where applicable, review policies and provide feedback to Manex
Work, Health & Safety Committee	<ul style="list-style-type: none"> Where applicable, review policies and provide feedback to Manex
Councillors	<ul style="list-style-type: none"> Review external policies Endorse public exhibition of draft policies Consider community submissions Adopt external policies Rescind external policies where required Identify new policies required
Digital Media Officer	<ul style="list-style-type: none"> Publish draft policies on Council's website for public exhibition Publish adopted policies on Council's website Update policy documents on Council's website when required
Council's Administration Centre	<ul style="list-style-type: none"> Publicly exhibit external policies at Council's Administration Centre during the exhibition period
Muswellbrook and Denman Libraries	<ul style="list-style-type: none"> Publicly exhibit external policies at the library branches during the exhibition period
Community	<ul style="list-style-type: none"> Provide feedback on policies via submissions
Council Staff	<ul style="list-style-type: none"> Adhere to Council's policies Where applicable provide feedback on policies Assist with reviews as part of project team as required

7. Dispute Resolution

The General Manager is the interpreter of this policy.

8. Related Documents

8.1 Legislation and Guidelines

Local Government Act 1993

Government Information (Public Access) Act 2009

Privacy and Personal Information Protection Act 1998

8.2 Policies and Procedures

Procedure on Policy and Procedure Making (pending)

Model Code of Conduct (Doc ID: 1436817)

Model Code of Conduct Procedures (Doc id: 429616)

Privacy Management Plan (Doc ID: 433422)

8.3 Other Supporting Documents

N/A

Version history

Version No.	Date changed	Modified by	Amendments made



9.4.3. DRAFT Privacy Management Plan MSC037E and DRAFT Data Breach Policy MSC038E for Public Exhibition

Attachments:	1. DRAFT Privacy Management Plan MSC037E [9.4.3.1 - 42 pages]
	2. DRAFT Data Breach Policy MSC038E [9.4.3.2 - 7 pages]
	3. Privacy and Personal Information Protection Amendment Act 2022 (NS W) [9.4.3.3 - 19 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Alexandra Hathway (Corporate Lawyer), Madeleine St John (Business Improvement Officer), Chloe Wuiske (Business Improvement Officer)
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:	6.2.5 - Implement a comprehensive and targeted business improvement program.

PURPOSE

To seek endorsement from Council to place the attached *DRAFT Privacy Management Plan MSC037E* and the *DRAFT Data Breach Policy MSC038E* on public exhibition.

OFFICER'S RECOMMENDATION

1. Council endorses the *DRAFT Privacy Management Plan MSC037E* and the *DRAFT Data Breach Policy MSC038E* for placement on public exhibition via Council's website for a period of 28 days; and
2. A further report be submitted to Council for consideration once the exhibition period has been completed.

Moved: _____ **Seconded:** _____

BACKGROUND

Council's *Privacy Management Plan* (The Plan) sets out how Muswellbrook Shire Council upholds the principles and requirements of the *Privacy and Personal Information Protection Act 1998* (PPIPA) (The Act), the *Health Records and Information Privacy Act 2002* (HRIPA), any other relevant legislation or Code of Practice made by the Attorney-General in addition to directions issued by the New South Wales (NSW) Privacy Information Commission.

The Plan was developed in accordance with Section 33 of the PPIPA which requires all councils in NSW to prepare a Privacy Management Plan (the Plan) to address (changes marked in green text):

- i. compliance by Council with the requirements of the PPIPA and HRIPA;
- ii. the dissemination of those policies and practices to persons within the Council;
- iii. the procedures that Council proposes for internal review of privacy complaints;



- iv. on and from 28 November 2023, the procedures and practices of Council to ensure compliance with the obligations and responsibilities set out in Part 6A of the PPIPA for the mandatory notification of data breach scheme; and
- v. such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by Council.

From 28 November 2023, the NSW mandatory data breach scheme will take effect with the *Privacy and Personal Information Protection Amendment Act 2022 (NSW)* (the Amending Act) (Attachment 3).

Under the mandatory data breach scheme public agencies must notify affected individuals and the Privacy Commissioner when a data breach is likely to result in serious harm to an individual whose personal information has been compromised.

In addition, the Amending Act requires Council to prepare and publish a data breach policy and establish and maintain an internal register for eligible data breaches.

The purpose of the amended *DRAFT Privacy Management Plan* and the *DRAFT Data Breach Policy* is to show Muswellbrook Shire Council's compliance with the amendments to the Act.

CONSULTATION

Corporate Lawyer

Business Improvement Officer(s)

Manex

REPORT

The *DRAFT Privacy Management Plan* (Attachment 1) was previously adopted by Council in 2013. The Plan has been reviewed by Council Officers and amended to ensure Council's compliance with the obligations and responsibilities set out in Part 6A of the PPIPA for the mandatory notification of data breach scheme. Typographical amendments and Council position title updates were also completed as part of the review. Amendments are shown in attachment 1 in underlined coloured text.

The *DRAFT Data Breach Policy* (Attachment 2) is a new policy that has been developed in preparation for the legislative changes due to take effect from 28 November 2023.

OPTIONS

Council may:

1. Resolve to endorse the *DRAFT Privacy Management Plan* and the *DRAFT Data Breach Policy* for public exhibition via Council's website for a period of 28 days; or
2. Request amendments to the *DRAFT Privacy Management Plan* and the *DRAFT Data Breach Policy* and a further report be submitted to Council for consideration.

CONCLUSION

It is recommended that Council endorses the attached *DRAFT Privacy Management Plan* and the *DRAFT Data Breach Policy* for public exhibition.

SOCIAL IMPLICATIONS

Nil known.



FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

The Policy was developed in anticipation of the legislative changes due to occur on 28 November 2023, which requires Council to prepare and publish a data breach policy.

STATUTORY IMPLICATIONS

Privacy and Personal Information Protection Amendment Act 2022 (NSW)

Privacy and Personal Information Protection Act 1998 (NSW)

Local Government Act 1993

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

6.2.5.2 - Review the policy management framework.

RISK MANAGEMENT IMPLICATIONS

This policy mitigates the potential risk of Council not meeting statutory requirements.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Public exhibition via Council's website will provide the Community with an opportunity to make submissions.



DRAFT Privacy Management Plan

MSC037E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	4 years	Review due date:	
Department:	Office of the General Manager – Legal		
Document Owner:	Public Officer		
Community Strategic Plan Goal	6. Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		

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Table of Contents

Part 1 - Introduction	3
Part 2 - Public Registers	6
Part 3 - The Information Protection Principles	9
Part 4 - The Health Privacy Principles	24 ²³
Part 6 - Internal Review and Complaints.....	30 ²⁹
Part 7 - Mandatory Notification of Data Breach.....	32 ³¹
Part 8 - Other Relevant Matters	35 ³⁴
Version History.....	36 ³⁵
Appendices	37 ³⁶

Part 1 - Introduction

This Privacy Management Plan sets out how the Muswellbrook Shire Council (Council) upholds the principles and requirements of the *Privacy and Personal Information Protection Act 1998* (PPIPA), the *Health Records and Information Privacy Act 2002* (HRIPA), any other relevant legislation or Code of Practice made by the Attorney-General in addition to directions issued by the New South Wales (NSW) Privacy Information Commission.

This plan has been developed in accordance with Section 33 of the PPIPA which requires all councils in NSW to prepare a Privacy Management Plan (the Plan) to address:

- i. compliance by Council with the requirements of the PPIPA and HRIPA;
- ii. the dissemination of those policies and practices to persons within the Council;
- iii. the procedures that Council proposes for internal review of privacy complaints;
- iv. [on and from 16 November 2023, the procedures and practices of Council to ensure compliance with the obligations and responsibilities set out in Part 6A of the PPIPA for the mandatory notification of data breach scheme; and](#)
- iv-v. such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by Council.

Under PPIPA, there are 12 Information Protection Principles which describe the manner in which NSW government agencies must handle personal information. The principles cover the collection, storage, use and disclosure of personal information along with access to personal information.

Under HRIPA, there are also 15 Health Privacy Principles which describe the manner in which NSW government agencies must handle health information. The Health Privacy Principles include all the Information Protection Principles with the addition of Identifiers & Anonymity and Transferrals & Linkages that specifically relate to health information only.

The Attorney General has amended these principles specifically for local government, the Privacy Code of Practice for Local Government (the Code) details the changes made. The Code enables local government to fulfil its statutory duties and functions under the *Local Government Act 1993* (the Act) in a manner that seeks to comply with the PPIPA and the HRIPA.

This plan should be read in conjunction with the Code of Practice for Local Government, Information Protection Principles and the Health Privacy Principles.

Where the Council has the benefit of an exemption from the Information Protection Principles, it will nevertheless describe procedures for compliance in this Plan. By doing so Council is not to be bound in a manner other than that prescribed by the Code.

Council staff collects, uses and stores a broad range of information, which a significant part of that information is personal. This Plan applies specifically to personal information including health information defined under section 6 of the HRIPA.

What is Personal Information and Health Information.

“Personal Information” under section 4 of the PPIPA is defined as information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

“Health Information” under section 6 of the HRIPA is defined as Personal information that is information or an opinion about the physical, mental health or disability of person. Express wishes about the future provision of health services; a health service provided or to be provided, or any other personal information collected to provide or in providing a health service.

What is not Personal or Health Information

Personal information does not include information about an individual that is contained in a publicly available publication. Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIPA. Council considers the following to be publicly available:

- i. an advertisement containing personal information in a local, city or national newspaper;
- ii. personal information on the internet;
- iii. books or magazines that are printed and distributed broadly to the general public;
- iv. Council Business papers that are not confidential under Section 10A(2) of the *Local Government Act 1993* (Local Government Act); and
- v. Personal information that may be a part of a display on view to the general public.

Information published in this way ceases to be covered by the PPIPA. However, Council's decision to publish in this way must be in accordance with PPIPA.

Application of this Privacy Management Plan

The PPIPA and this Plan apply, wherever practicable, to:

- i. councillors;
- ii. council employees;
- iii. consultants and contractors of the Council;
- iv. council owned businesses; and
- v. council committees- (including committees established under section 355 of the *Local Government Act 1993*).

Personal and Health Information held by Council:

Council collects a range of personal and health information as part of its core business functions. The information and activities listed below is indicative of [how and why Council collects personal and health information](#) the main kinds of personal information and health information managed by the Council:-

- i. recruitment material.
- ii. leave and payroll data.
- iii. personal contact information.
- iv. performance management plans.
- v. disciplinary matters.
- vi. pecuniary interest returns.
- vii. wages and salary entitlements.
- viii. rates records.
- ix. Development Application and objections.
- x. personal contact information.
- xi. complaints and disciplinary matters.
- xii. pecuniary interest returns. entitlements to fees, expenses and facilities.

Applications for Access to Information not held in a Public Register.

Council is bound by the provisions of the *Government Information (Public Access) Act 2009* (GIPA) that all applications for information should be made under this legislation. There are four ways in which government information is released, they are as follows;

i. Open access information

Council releases certain categories of information on ~~our~~Council's website as a normal procedure; this is known as Open Access Information. Open Access Information includes Council's policies, planning documents and agendas and minutes as well as many other categories of information.

ii. Proactive release

Council releases as much information other than Open Access as possible to the public free of charge predominately on ~~our~~Council's website and various Council owned locations.

iii. Informal release of information

Members of the public may contact ~~us~~Council and ask for information. This is known as an informal request.

iv. Formal access application for release of information

If information cannot be accessed through any of the above ways, members of the public may submit an access application.

It should be noted that Section 14 subsection 3 of the GIPA allows government agencies to consider protection principles under the PPIPA and the HRIPA.

Unsolicited Information

Where an individual, a group or committee, not established by Council, gives unsolicited personal information, then that information should still be treated in accordance with this Plan, the Code and the PPIPA or HRIPA.

Note; *That for the purposes of section 10 of the HRIPA, the Council is not considered to have "collected" health information if the receipt of the information by the Council is unsolicited. Section 4(5) of the PPIPA also provides that personal information is not "collected" by Council if it is unsolicited.*

Part 2 - Public Registers

A distinction needs to be drawn between public registers within the meaning of Part 6 of the PPIPA and non public registers. A non public register is a register, although it is not a publicly accessible register for the purposes of the PPIPA or HRIPA. A Government agency responsible for keeping a public register must not disclose any personal information kept in the register unless the agency is satisfied that it is to be used for a purpose relating to the purpose of the register or the Local Government Act under which the register is kept.

Disclosure in relation to public registers must comply with Part 6 of the PPIPA and the Code. Personal information cannot be accessed by a person about another person unless the personal information is contained in a public register. Where personal information is contained in a public register, then Part 6 of the PPIPA applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the Information and Health Privacy Principles and the Privacy Code of Practice for Local Government where it includes personal information that is not published.

Public Registers

Section 57 of the PPIPA requires very stringent controls over the disclosure of personal information contained in a public register. Section 57 provides broadly that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Local Government Act under which the register is kept.

Section 57 (2) requires Council to comply to ensure that any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration, attached as appendix A, as to the proposed use of that information.

Purposes of Public Registers under the Local Government Act*

Section 53 - Land Register – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

Section 113 - Records of Approvals – The primary purpose is to identify all approvals granted under the Local Government Area (LGA).

Section 450A - Register of Pecuniary Interests – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

Section 602 - Rates Record - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is “a purpose relating to the purpose of the register”.

Purposes of Public Registers under the Environmental Planning and Assessment Act*

Section 100 – Register of consents and approvals – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

Section 149G – Record of building certificates – The primary purpose is to identify all building certificates.

Purposes of Public Registers under the Protection of the Environment (Operations) Act*

Section 308 – Public register of licences held – The primary purpose is to identify all licences granted under the Act.

Purposes of the Public Register under the Impounding Act*

Section 30 & 31 – Record of impounding – The primary purpose is to identify any impounding action by Council.

*These registers are purely indicative, Council may or may not, by virtue of its own practice hold other Public Registers, to which the PPIPA and the HRIPA apply.

Applications for Suppression in Relation to a Public Register

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than Section 739 of the Local Government Act.

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under Section 58 of the PPIPA to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIPA. When in doubt, Council will err in favour of suppression.

| (“Well-being” is defined in the Macquarie Dictionary as “the good or satisfactory condition of existence; welfare”.)

Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information may still be used for council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. The Council may require supporting documentation where appropriate.

Effect on Section 6 of the Government Information (Public Access) (GIPA)

Section 57 of the PPIPA prevails over clause 1 (3) of Schedule 1 of the *Government Information (Public Access) Regulation 2009* (GIPA Regulation) to the extent of any inconsistency. Therefore:

- i. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.
- ii. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
 - a) if it is allowed under section 57(1) of the PPIPA; and
 - b) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

Part 3 - The Information Protection Principles

Each of the following organisations or groups will be required to comply with this Plan, any applicable Privacy Code of Practice and the PPIPA:

- i. Council owned businesses;
- ii. Council consultants;
- iii. Private contractors; and
- iv. Council committees.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with Section 18 to the use of the information for another purpose.

Information Protection Principles 1 - 4 (Collection)

1. Collection of personal information for lawful purposes

- (1) A public sector agency must not collect personal information unless:
 - (a) the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and
 - (b) the collection of the information is reasonably necessary for that purpose.
- (2) A public sector agency must not collect personal information by any unlawful means.

Council Policy

Council collects personal information for a range of different activities and functions legislated under the *Local Government Act*. Examples which Council collects personal information for, although not limited to are;

- i. enquiries from the public;
- ii. complaints handling;
- iii. recruitment;
- iv. return to work programs;
- v. rating purposes; and
- vi. other core business such as regulatory functions or development matters.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information is bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

In order to ensure compliance with Information Protection Principles, internet contact forms, rates notices, various application forms, or written requests by which personal information is collected by Council; will be referred to the Council's Public Officer prior to adoption or use.

The Public Officer will also provide advice on:

- i. whether the personal information is collected for a lawful purpose;
- ii. if that lawful purpose is directly related to a function of Council; and
- iii. whether or not the collection of that personal information is reasonably necessary for the specified purpose.

2. Collection of personal information directly from the individual

A public sector agency must, in collecting personal information, collect the information directly

from the individual to whom the information relates unless:

- i. the individual has authorised collection of the information from someone else, or
- ii. in the case of information relating to a person who is under the age of 16 years the information has been provided by a parent or guardian of the person.

Council Policy

The compilation or referral of registers and rolls are the major means by which the Council collects personal information. For example, the information the Council receives from the Land Titles Office.

Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections, certifications or applications in respect of tree preservation orders.

Council regards all information concerning its customers and employees as information protected by the PPIPA or the HRIPA. Council will therefore collect all personal information, where possible, directly from its customers or employee except as provided in section 9 of the PPIPA, under other statutory exemptions or Code of Practice. Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

3. Requirements when collecting personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- i. the fact that the information is being collected;
- ii. the purposes for which the information is being collected;
- iii. the intended recipients of the information;
- iv. whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided;
- v. the existence of any right of access to, and correction of, the information; and
- vi. the name and address of the agency that is collecting the information and the agency that is to hold the information.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

Council Policy

Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

In relation to privacy notifications that are to be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections; anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, or otherwise by letter. A common example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property is transferred from one owner to the next. Appendix B and Appendix C contain samples Privacy Notification Form that could be used for pre and post collection of personal information.

Privacy collection notice template

Muswellbrook Shire Council ("Council") is collecting your personal information in accordance with NSW privacy legislation in order to ... [describe the purpose of collection, in keeping with an authorised function of Council, e.g. provide a service, fulfil our functions as consent authority, etc.]. Any personal information you provide to us will be used and disclosed for this purpose, or a directly related purpose, unless you consent to another use or disclosure, in emergencies or as otherwise required or authorised by law. Your personal information will only be accessed by authorised staff of Council and ... [list any other persons or entities the information is usually disclosed to, such as agency A, contractor B, etc.]. Your personal information will not be given to any other person or agency unless it is authorised by law, or you provide your consent.

Providing us with your personal information is/is not required by law. However, if you do not provide the information, we will not be able to ... [describe the main consequence, e.g. process your application, respond to your complaint, etc.]. Council's Privacy Management Plan contains information about how you can access and seek correction of your personal information, how to submit a complaint about a breach of your privacy and how we will deal with such a complaint.

Should you wish to access or correct your personal information, please make a written request to Council by:

Post: PO Box 122, Muswellbrook NSW 2333

Email: council@muswellbrook.nsw.gov.au

[OPTIONAL PARAGRAPH – cloud storage] When storing your personal information electronically, Council may disclose your personal information to overseas recipients due to its cloud computing arrangements. Our 'cloud' servers are located in [names of countries] and Council is reasonably satisfied that these countries have similar privacy protections to those under Australian law.

4. Other requirements relating to collection of personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- i. the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete; and
- ii. the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Council Policy

Council will seek to ensure that no personal information is collected which is not directly relevant to its proper functions. Council collects personal information through the various forms that customers complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by the Public Officer or other suitable persons. Should Council have any residual doubts, the opinion of the Officer of the Privacy Commissioner will be sought.

Council may use public place video surveillance in accordance with the provisions of the Work Place Surveillance Act.

Statutory Exemptions for Information Protection Principles 1 - 4

Compliance with Information Protection Principles is also subject to certain exemptions under the PPIPA. If one of these exemptions applies, Council need not comply.

The relevant statutory exemptions follow:

- i. Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.
- ii. Section 23(3) permits non-compliance with Information Protection Principle 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.
- iii. Section 24(4) of the PPIPA permits non-compliance with Information Protection Principles 2 and 3 if:
 - (a) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
 - (b) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.
- iv. Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 and 3 where the agency is lawfully authorised or required not to comply with the principle.
- v. Section 25(b) of the PPIPA permits non-compliance with Information Protection Principles 2 and 3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.
- vi. Section 26(1) of the PPIPA permits non-compliance with Information Protection Principles 2 and 3 if compliance would prejudice the interests of the individual concerned.
- vii. Where Council cannot collect personal information directly from the person, it will ensure one of the following:

~~viii.~~a. Council has obtained authority from the person under section 9(a) of the PPIPA.

- | ~~ix.b.~~ The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from the Land Titles Office.)
- | ~~x.c.~~ The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
- | ~~xi.d.~~ The collection of personal information indirectly where one of the above exemptions applies.
- | ~~xii.e.~~ The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.
- | ~~xiii.~~ ~~The only other exception to the above is in the case where Council is given unsolicited information.~~
- | ~~xiv.viii.~~ Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Information Protection Principle 5 (Storage)

5. Retention and security of personal information

A public sector agency that holds personal information must ensure:

- ~~iii-i.~~ that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used;
- ~~iv-ii.~~ that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information;
- ~~v-iii.~~ that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse; and
- ~~vi-iv.~~ that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

Council Policy

Council may comply with this principle by using any or all of the following or similar documents:

- i. General Retention and Disposal Authority for Local Government Records (GA39);
- ii. The Council's [Policy R22/2—Records Management \(Staff\)Policy MSC07E](#);
- iii. Council's [Policy C51/1—Computer & IT UseInformation Technology Policy MSC30I](#); and
- iv. Council's [Model](#) Code of Conduct.

Council holds all personal information on a range of different electronic data management systems, which are password protected and subject to the terms and conditions stated in the policy documents mentioned above. The disposal of personal information will be administered by Council Officials in accordance with the General Retention and Disposal Authority (GA39).

Information Protection Principles 6 – 8 (Access & Accuracy)

6. Information about personal information held by agencies

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- ~~vii-i.~~ whether the agency holds personal information;
- ~~viii-ii.~~ whether the agency holds personal information relating to that person;
- ~~ix-iii.~~ if the agency holds personal information relating to that person:
- ~~x-iv.~~ the nature of that information;
- ~~xi-v.~~ the main purposes for which the information is used; and
- ~~xii-vi.~~ that person's entitlement to gain access to the information.

Council Policy

Section 13 of the PPIPA requires Council to take reasonable steps to enable a person to determine whether Council holds personal information [of](#) an individual. If any information about a person, upon request is held by Council the individual will be advised of the nature of information, the main purposes for which it is held, and that person's entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment. Depending on the circumstances of the information requested, the person seeking their personal information can be provided access.

Any person may make an application for Council to determine if any Council records contain your personal information this form is attached as Appendix D.

Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA. However use of the GIPA is to be a last resort. The applicant has the right to insist on being dealt with under PPIPA with the appropriate application form, attached as appendix E.

Information Protection Principle 6 is modified by the Investigative Code to permit non-compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

7. Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

Council Policy

Section 14 of the PPIPA requires a Council, at the request of any person, to give access to that person to personal information held about them.

Compliance with Information Protection Principle 7 does not allow disclosure of information about other people. If access to information that relates to a third party is sought, the application must be made under the GIPA provisions unless Information Protection Principles 11 and 12 or the Public Register provisions apply.

Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the Public Officer, who will make a determination.

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Public Officer, who will deal with the application.

8. Alteration of personal information

- (1) A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:
 - (a) is accurate; and
 - (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.
- (2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
- (3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.

Council Policy

Section 15 of the PPIPA allows a person to make an application to Council to amend personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose. Council may, if it deems necessary, take reasonable steps to verify the person's identity~~fy~~ making the application, which could involve a statutory declaration in order to make the changes requested.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the ~~Coordinator Human Resources Services Manager~~ in the first instance and treated in accordance with the "Grievance and Complaint Handling Procedures" as per the current Local Government Award.

The Council's application form for alteration under Information Privacy Principle 8 is attached as Appendix F.

Statutory Exemptions for Information Protection Principles 6 – 8

Compliance with Information Protection Principles is also subject to certain exemptions under the PPIPA. If one of these exemptions applies, Council need not comply.

- i. Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 6, 7 and 8 where Council is lawfully authorised or required not to comply with the principle concerned.
- ii. Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 6, 7 and 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Information Protection Principles 9 – 10 (Use)

9. Agency must check accuracy of personal information before use

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

Council Policy

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use. Information will be checked against other government agency databases or by direct verification with the individual, whose information is required.

For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.

10. Limits on use of personal information

A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- i. the individual to whom the information relates has consented to the use of the information for that other purpose; or
- ii. the other purpose for which the information directly relates to the purpose for which the information was collected; or
- iii. the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

The Privacy Code of Practice for Local Government

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- iv. where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or
- v. where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

Explanatory Note

Council may use personal information obtained for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under Section 602 of the Local Government Act may also be used to:

- i. notify neighbours of a proposed development;
- ii. evaluate a road opening; or
- iii. evaluate a tree preservation order.

Council Policy

Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.

Statutory Exemptions for Information Protection Principles 9 – 10

Compliance with Information Protection Principle 10 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

- i. Section 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue.
- ii. Section 24 (4) of the PPIPA permits non-compliance with Information Protection Principle 10 if:

- (a) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
 - (b) if the use is reasonably necessary in order to enable the Council to exercise its complaint handling or investigative functions.
- iii. Section 25 (a) of the PPIPA permits non-compliance with the Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.
 - iv. Section 25 (b) of the PPIPA permits non-compliance with section Information Protection Principle 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.
 - v. Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Department of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

Information Protection Principles 11 – 12 (Disclosure)

11. Limits on disclosure of personal information

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
 - (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure; or
 - (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body; or
 - (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- (2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle in the circumstances described below:

- 1. Council may disclose personal information to public sector agencies or public utilities on condition that:
 - (i) the agency has approached Council in writing;
 - (ii) Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency; and
 - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency’s function/s.

2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
3. Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

Council Policy

Council will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected. Where the Council has no reason to believe that the individual concerned would object to the disclosure, the information would be provided.

Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information. "Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

Council may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

Public Registers

Section 18 of PPIPA does not apply to the information held on Public Registers. Instead refer to Part 2 of this Plan.

12. Special restrictions on disclosure of personal information

1. A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
2. A public sector agency that holds personal information must not disclose the information to any person or body that is in a jurisdiction outside New South Wales unless:
 - (a) a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction, or
 - (b) the disclosure is permitted under a privacy code of practice.
3. For the purposes of subsection (2), a relevant privacy law means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.
4. The Privacy Commissioner is, within the year following the commencement of this section, to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales.
5. Subsection (2) does not apply:
 - (a) until after the first anniversary of the commencement of this section; or
 - (b) until a code referred to in subsection (4) is made, whichever is the later.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle in the circumstances described below:

For the purposes of Section 19(2) only, where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

Council Policy

Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.

Public Registers

Section 19 of PPIPA does not apply to the information held on Public Registers. Instead refer to Part 2 of this Plan.

Statutory Exemptions Information Protection Principles 11 – 12

Compliance with Information Protection Principle 12 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

- i. Section 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *A Law enforcement purpose means* a breach of the criminal law and criminal law enforcement. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.
- ii. Section 23(5)(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.
- iii. Section 23(5)(c) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.
- iv. Section 23(5)(d)(i) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.
- v. Section 23(5)(d)(ii) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.
- vi. Section 23(7) of the PPIPA permits non-compliance with Information Protection Principle 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

- vii. Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 11 if:
 - (a) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
 - (b) if the disclosure is to an investigative agency.
- viii. Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.
- ix. Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 12 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.
- x. Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.
- xi. Section 28(2) permits non-compliance with Information Protection Principle 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an authorised person to another authorised person. “Authorised person” means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.
- xii. Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg. the Department of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

Part 4 - The Health Privacy Principles

Under the provisions of the *Health Records and Information Privacy Act 2002* (HRIPA) Council has a legal obligation in how it must collect, hold, use and disclose health information.

Health information includes personal information that is an opinion about the physical or mental health or a disability of an individual. Health information also includes personal information that is information or an opinion about:

- i. a health service provided, or to be provided, to an individual;
- ii. an individual's express wishes about the future provision of health services to him or her;
- iii. other personal information collected in connection with the donation of human tissue; or
- iv. genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

In the same way as the Information Privacy Principles which have been outlined above, the provisions of the HRIPA allow for Health Privacy Principles. The meaning, intent and application of these principles are required when handling health information.

The Health Information Principles and the Information Privacy Principles are very similar with some principles overlapping in areas. There are some notable differences as the Local Government Privacy Code of Practice does not allow for exemptions to the Health Information Principles.

For this reason Council will in accordance with the relevant Information Privacy Principle apply those principles when using, storing and destroying health information. Unless an Information Privacy Principle including all exemptions departs from a Health Privacy Principle.

All health records received, created, used and stored in the day-to-day operation will be located on Council's Electronic Data Management System (EDMS). Health information access is restricted to the Human [ServicesResources](#) Section; by restricting access to these specific files, Council can confidentially fulfil its obligations under the HRIPA.

Health Privacy Principles Covered Under the Information Privacy Principles.

Health Privacy Principle 1 - 4 (Collection)

1. Lawful

Only collect health information for a lawful purpose that is directly related to the agency or organisation's activities and necessary for that purpose.

2. Relevant

Ensure the health information is relevant, accurate, not excessive, up-to-date and that the collection does not unreasonably intrude into the personal affairs of a person.

3. Direct

Only collect health information directly from a person concerned, unless it is unreasonable or impracticable to do so. See the handbook on Health Privacy for an explanation of “unreasonable” and “impracticable”.

Visit www.privacy.nsw.gov.au

4. Open

Inform a person as to why you are collecting health information, what you will do with it, and who else may see it. Tell the person how they can view and correct their health information and any consequences that will occur if they decide not to provide their information to you. If you collect health information about a person from a third party you must still take reasonable steps to notify the person that this has occurred.

Council Policy

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1).

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. Council will also tell the individual how they can see and correct the health information.

If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 4).

Health Privacy Principle 5 (Storage)

5. Secure

Ensure the health information is stored securely, not kept any longer than necessary, and disposed of appropriately. Health information should be protected from unauthorised access, use or disclosure. (Note: private sector organisations should also refer to section 25 of the HRIPA for further provisions relating to retention).

Council Policy

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

Health Privacy Principle 6 - 9 (Access & Accuracy)

6. Transport

Explain to the person what health information is being stored, the reasons it is being used and any rights they have to access it.

7. Accessible

Allow a person to access their health information without unreasonable delay or expense. (Note: private sector organisations should also refer to sections 26-32 of the HRIPA for further provisions relating to access).

8. Correct

Allow a person to update, correct or amend their personal information where necessary.

Note: *Private sector organisations should also refer to sections 33-37 of the HRIPA for further provisions relating to amendments.*

9. Accurate

Ensure that the health information is relevant and accurate before using it.

Council Policy

Council will provide details about what health information Council currently holds about an individual, along with information about why Council is storing that information. The person to which the information relates will be given sufficient rights of access to the records held by Council (HPP 6). Council will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary (HPP 8), and will make sure that the health information being used is relevant and accurate before use (HPP 9).

Health Privacy Principle 10 (Use)

10. Limited

Only use health information for the purpose for which it was collected or for a directly related purpose, which a person would expect. Otherwise, you would generally need their consent to use the health information for a secondary purpose.

Council policy

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent (HPP 10).

Health Privacy Principle 11 (Disclosure)

11. Limited

Only disclose health information for the purpose for which it was collected, or for a directly related purpose that a person would expect. Otherwise, you would generally need their consent. (Note: see HPP 10).

Council Policy

Council will only disclose health information under the following circumstances:

- i. With the consent of the individual to whom the information relates; or
- ii. For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- iii. If an exemption applies (HPP 11).

Health Privacy Principle 12 - 13 (Identifiers & Anonymity)

12. Not identified

Only identify people by using unique identifiers if it is reasonably necessary to carry out your functions efficiently.

Council Policy

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

13. Anonymous

Give the person the option of receiving services from you anonymously, where this is lawful and practicable.

Council Policy

Council will provide health services anonymously where it is lawful and practical (HPP 13).

Health Privacy Principle 14 - 15 (Transferrals & Linkage)

14. Controlled

Only transfer health information outside New South Wales in accordance with HPP 14.

Council Policy

Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

15. Authorised

Only use health records linkage systems if the person has provided or expressed their consent.

Council Policy

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

Part 5 - Implementation of the Privacy Management Plan

Training Seminars/Induction

Councillors, Council staff and members of Council committees should be acquainted with the general provisions of the PPIPA, and in particular, the Twelve (12) Information and fifteen (15) Health Privacy Principles, the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice. Staff undertakes a general induction within 2 months of commencement, in which, information management is incorporated.

Responsibilities of the Privacy Contact Officer

The Public Officer will be assigned the role of the Privacy Contact Officer unless the General Manager directs otherwise.

In order to ensure compliance with PPIPA, the Privacy Contact Officer will review all contracts and agreements with consultants and other contractors, rates notices, various application forms, and other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

The Privacy Contact Officer will also provide opinions within Council as to:

- (i) Whether the personal information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's Corporate Lawyer or Council's legal services panel.

The Privacy Contact Officer may assign designated officers as "Privacy Resource Officers" within the larger departments of Council. In this manner the Council may ensure that the information protection principles are more broadly understood and that individual departments have a greater focus on the information protection principles and are directly applied to Council's day to day functions.

Distribution of information to the public

Council may prepare its own literature such as pamphlets on the PPIPA, HRIPA or it may obtain and distribute copies of literature available from the Office of the Privacy Commissioner NSW.

Accessibility

This Plan will be available to all Council staff, eCouncillors and members of the public via Council's website at the following address:

<https://www.muswellbrook.nsw.gov.au/policies/>

This Plan may also be provided to persons by way of email upon request.

Part 6 - Internal Review and Complaints.

Under section 53 of the PPIPA a person (the applicant) who is aggrieved by the conduct of Council is entitled to a review of that conduct. An application for internal review is to be made within 6 months of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitably qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within 60 days of the lodgement, the applicant is entitled to seek external review.

The Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and Council is required to consider any relevant material submitted by the Privacy Commissioner. The Council must provide the Privacy Commissioner with a draft of the Council's internal review report to enable the Privacy Commissioner to make a submission.

The Council must notify the applicant of the outcome of the review within 14 days of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

[Under section 45 of the PPIPA a person \(the applicant\) who is aggrieved by the conduct of Council may submit a complaint to the Privacy Commissioner directly about the alleged violation of, or interference with, the privacy of the applicant.](#)

[Contact details for the Information and Privacy Commission NSW are as follows:](#)

[Website: https://www.ipc.nsw.gov.au/](https://www.ipc.nsw.gov.au/)

[Email: ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

[Phone: 1800 472 679](tel:1800472679)

[Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000](#)

[Postal: GPO Box 7011, Sydney NSW 2001](#)

What happens after an Internal Review?

If the complainant remains unsatisfied, the individual may appeal to the [NSW Civil and Administrative Tribunal](#) which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an Information Protection Principle or a Health Privacy Principle.

[Contact details for the NSW Civil and Administrative Tribunal are as follows:](#)

[Website: http://www.ncat.nsw.gov.au/](http://www.ncat.nsw.gov.au/)

[Phone: 1300 006 228](tel:1300006228)

[Visit/post: Level 9, John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000](#)

[Other ways to resolve privacy concerns](#)

The Council welcomes the opportunity to discuss any privacy issues you may have. You are encouraged to try to resolve privacy issues with the Council informally before lodging an internal review.

You can raise your concerns with the Council by contacting the Privacy Contact Officer.

Please keep in mind that you have **six months** from when you first became aware of the potential breach to seek an internal review. This six month time frame continues to apply even if attempts are being made to resolve privacy concerns informally. Please consider this time frame when deciding whether to make a formal request for internal review or continue with informal resolution.

Part 7 - Mandatory Notification of Data Breach

On and from 16 November 2023, this Part 7 of the Plan will take effect.

Under section 59E of the PPIPA, if a Council eOfficer is aware that there are reasonable grounds to suspect there may have been an eligible data breach of the Council, the Council eOfficer must report the data breach to the General Manager.

If the General Manager receives a Council eOfficer report regarding a suspected eligible data breach of the Council, the General Manager must:

- (i) immediately make all reasonable efforts to contain the data breach, and
- (ii) within 30 days after the Council eOfficer becoming aware of the suspected eligible data breach carry out an assessment of whether the data breach is, or there are reasonable grounds to believe the data breach is, an eligible data breach (an assessment). Such assessment must be carried out in an expeditious way but is subject to an extension approved under section 59K of the PPIPA.

Section 59D of the PPIPA defines an eligible data breach to mean:

- (i) there is unauthorised access to, or unauthorised disclosure of, personal information held by a public sector agency and a reasonable person would conclude that the access or disclosure of the information would be likely to result in serious harm to an individual to whom the information relates, or
- (ii) personal information held by a public sector agency is lost in circumstances where:
 - (a) unauthorised access to, or unauthorised disclosure of, the information is likely to occur, and
 - (b) if the unauthorised access to, or unauthorised disclosure of, the information were to occur, a reasonable person would conclude that the access or disclosure would be likely to result in serious harm to an individual to whom the information relates.
- (iii) An individual specified in subsection (1)(a) or (1)(b)(ii) is an affected individual.

To avoid doubt, an eligible data breach may include the following—

- (i) a data breach that occurs within a public sector agency,
- (ii) a data breach that occurs between public sector agencies,
- (iii) a data breach that occurs by an external person or entity accessing data held by a public sector agency without authorisation.

Assessments of suspected eligible data breach

During an assessment of a suspected eligible data breach, the General Manager must make all reasonable attempts to mitigate the harm done by the suspected breach.

The General Manager will determine the assessing officer in accordance with section 59G of the PPIPA.

Without limitation the assessor may consider the following when carrying out the assessment:

- (i) -the types of personal information involved in the breach,
- (ii) the sensitivity of the personal information involved in the breach,
- (iii) whether the personal information is or was protected by security measures,
- (iv) the persons to whom the unauthorised access to, or unauthorised disclosure of, the personal information involved in the breach was, or could be, made or given,
- (v) the likelihood the persons specified in paragraph (iv)—
 - (a) have or had the intention of causing harm, or
 - (b) could or did circumvent security measures protecting the information.

- (vi) the nature of the harm that has occurred or may occur,
- (vii) other matters specified in guidelines issued by the Privacy Commissioner about whether the disclosure is likely to result in serious harm to an individual to whom the personal information relates.

The Privacy Commissioner is entitled to make directions and recommendation in relation to suspected eligible data breaches of the Council. The Privacy Commissioner may also investigate, monitor, audit, report and access Council premises to observe system, policies and procedures as they relate to suspected eligible data breaches.

Notification of eligible data breach to Privacy Commissioner

The General Manager must in the approved form, immediately notify the Privacy Commissioner of the eligible data breach.

Notification of eligible data breach to certain individuals

Under section 59N, as soon as practicable after the General Manager decides an eligible data breach occurred, the General Manager must, to the extent that it is reasonably practicable, take the steps that are reasonable in the circumstances to notify in accordance with section 59O:

- (i) each individual to whom the personal information the subject of the breach relates, or
- (ii) each affected individual.

However, if the General Manager is unable to notify, or if it is not reasonably practicable for the General Manager to notify, any or all of the individuals the General Manager must: publish a notification under section 59P and take reasonable steps to publicise the notification.

Collecting, using and disclosing information for notification

Council is not required to comply with an information protection principle, a Health Privacy Principle, a privacy code of practice or a health privacy code of practice in relation to the use, collection or disclosure of relevant personal information if information is being collected, used or disclosed by Council subject to an eligible data breach and only if it is reasonably ~~reasonably~~ necessary for the purpose of Council confirming the name and contact details of a notifiable individual or whether a notifiable individual is deceased.

Another public sector agency may disclose relevant personal information to Council if subject to an eligible data breach.

Exemptions from certain requirements for an eligible data breach

Council is exempt from certain requirements for an eligible data breach, including:

- (i) under section 59S, notification to certain individuals, if the head of another public sector agency involved in the same breach undertakes to notify the eligible data breach under Division 3 Subdivision 3;
- (ii) under section 59T, if the General Manager reasonably believes notification of the eligible data breach under Subdivision 3 would be likely to prejudice an investigation that could lead to prosecution, proceedings before a court of tribunal or another matter prescribed by the regulations;
- (iii) under subsection 59U(a), the Council takes action to mitigate harm done by the breach, action is taken before the access to or disclosure of the information results in serious harm to an individual and access or disclosure would not be likely to result in serious harm to an individual;
- (iv) under subsection 59U, the Council takes action to mitigate harm done by the breach,

action is taken before unauthorised access or disclosure and because of the action taken there is no unauthorised access or disclosure;

- (v) under section 59V, if compliance with Subdivision 3 would be inconsistent with a secrecy provision;
- (vi) under section 59W, if the General Manager reasonably believes complying with Subdivision 3 would create a serious risk or harm to an individual's health or safety; and
- (vii) under section 59X, if the General Manager reasonably believes compliance with Subdivision 3 would worsen the Council's cyber security or lead to further data breaches.

Part 8 - Other Relevant Matters

Contact details of Public Officer and Privacy Contact Officer
Council's Public Officer and Privacy Contact Officer may be contacted as follows:

Attention: Public Officer/Privacy Contact Officer
Email: council@muswellbrook.nsw.gov.au
Telephone: (02) 6549 3700

Data Breach Policy

Separate from this Plan, the Council has a Data Breach Policy MSC038E that will commence on and from 16 November 2023 that sets out the Council's procedures for managing a data breach, including the considerations around notifying those persons whose privacy may be affected by the breach.

Contracts with consultants and other private contractors

It is necessary to have specific provisions to protect the Council in any dealings with private contractors.

Confidentiality

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attaches to personal information to whom that information relates. An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

Misuse of personal information

Section 664 of the *Local Government Act 1993* makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion on a case-by-case basis.

Regular review of the collection, storage and use of personal information

The information practices relating to the collection, storage and use of personal information will be reviewed by the Council ~~every~~ from time-to-time ensuring compliance with current standards. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

Regular Review of Privacy Management Plan

~~Once the information practices are reviewed from time to time, the~~ The Privacy Management Plan will ~~also be reviewed to ensure that the Plan is up to date at least once every 4 years or as required in accordance with legislative changes.~~

Further Information

For assistance in understanding the processes under the PPIPA and HRIPA, please contact the Council on 6549 3700 or visit www.muswellbrook.nsw.gov.au alternately the Information and Privacy

Commission can assist on 1800 472 679 or www.ipc.nsw.gov.au.

REVIEW-Version History:

This section identifies authors who reviewed the Policy and the date that it became effective.

<u>Version No.</u>	<u>Date changed</u>	<u>Modified by</u>	<u>Amendments/Previous adoption details</u>
<u>1</u>	<u>12/10/2009</u>		<u>Adopted by Council, minute number 254</u>
<u>2</u>	<u>8/7/2013</u>		<u>Adopted by Council, minute number 21</u>
<u>3</u>	<u>09/03/2023</u>	<u>Corporate Lawyer</u>	<u>Legislative update to ensure Council's compliance with the obligations and responsibilities set out in Part 6A of the PPIPA for the mandatory notification of data breach scheme. Typographical amendments and Council position title updates.</u>

	<i>Current</i>	<i>Previous</i>	<i>Prior</i>	<i>Prior</i>
<i>Minute-No:</i>		<u>254</u> 21	<u>254</u>	
<i>Meeting-Date:</i>		<u>8/07/2013</u> 12/10/2009	<u>12/10/2009</u>	
<i>Review-Date:</i>				
<i>Rescind-Date:</i>				

Appendix D – Application to Determine Whether Council Hold Personal and Health Information.

Personal information held by the Council

I, ⁽¹⁾ _____ (1) insert full name
 of ⁽²⁾ _____ (2) insert address
 Hereby request the General Manager of ⁽³⁾ _____ (3) insert name of Council

 provide the following:

- Does the Council hold personal information about me? ☐ Yes ☐ No
- If so, what is the nature of that information? _____

- What is the main purpose for holding the information? _____

- Am I entitled to access the information? ☐ Yes ☐ No

My address for response to this application is:

_____ State: _____ Post Code: _____

Note to applicants

Council **will not** record your address or any other contact details that you provide for any other purpose other than to respond to your application.

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA). There is a separate application form to gain access.

The Council may refuse to process this application in part or in whole if:

- there is an exemption to section 13 of the PPIPA; or
- a Code of Practice may restrict the operation of section 14.

Enquiries concerning this matter can be addressed to:

Appendix E – Application for Access to Applicants Personal and Health Information.

Personal information held by the Council

I, ⁽¹⁾ _____ (1) insert full name
 of ⁽²⁾ _____ (2) insert address
 Hereby request that the ⁽³⁾ _____ (3) insert name of Council

Provide me with:

- ☐ (a) access to all personal information held concerning myself; or
☐ (b) access to the following personal information only (LIST INFORMATION REQUIRED BELOW):

My address for response to this application is:

_____ State: _____ Post Code: _____

Note to applicants

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA).

You are entitled to have access without excessive delay or cost.

Council may refuse to process your application in part, or in whole, if:

- the correct amount of fees has not been paid;
- there is an exemption to section 14 of the PPIPA; or
- a Code of Practice may restrict disclosure.

Enquiries concerning this matter can be addressed to:

Appendix F – Application for alteration of Applicants Personal and Health Information.

Personal information held by the Council

I, ⁽¹⁾ _____ (1) insert full name
 of ⁽²⁾ _____ (2) insert address
 Hereby request that the ⁽³⁾ _____ (3) insert name of Council

alter personal information regarding myself in the following manner:

- I propose the following changes: _____
- The reasons for the changes are as follows: _____
- The documentary bases for those changes is as shown on the attached documents

Note to Applicants :

You have a right to request appropriate amendments are made (whether by way of corrections, deletions or additions) to ensure that the personal information held by the Council:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up-to-date, complete and not misleading.

If Council is not prepared to amend the personal information in accordance with a request by you, Council must take such steps as are reasonable to attach to the information in such a manner as is capable of being read with the information, any statement provided by you.

If your personal information is amended, you are entitled under the Privacy and Personal Information Protection Act 1998 (PPIPA), if it is reasonably practicable, to the have recipients of that information notified of the amendments made by Council.

Council may refuse to process your application in part, or in whole, if:

- there is an exemption to section 15 of the PPIPA; or
- a Code of Practice may restrict alteration.

Enquiries concerning this matter can be addressed to: _____



DRAFT Data Breach Policy

MSC038E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	Every 4 years or in accordance with legislative changes.	Review due date:	
Department:	Office of the General Manager - Legal		
Document Owner:	Public Officer		
Community Strategic Plan Goal	6. Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		
Delivery Program activity	6.2.1 Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves		

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Table of Contents

1. Policy Objective	3
2. Risks being addressed	3
3. Scope	3
4. Policy Statement.....	3
4.1 What is an eligible data breach?	5
4.2 Eligible data breach response process	5
4.3 Eligible data breach incident register	6
5. Delegations.....	6
6. Legislation	7
7. Associated Council Documentation.....	7
8. Version History	7

1. Policy Objective

In accordance with the *Privacy and Personal Information Protection Amendment Act 2022* (NSW) (the Amending Act) from 28 November 2023, the NSW mandatory data breach scheme will take effect under the *Privacy and Personal Information Protection Act 1998* (NSW) (the Act).

Under the mandatory data breach scheme public agencies must notify affected individuals and the Privacy Commissioner when a data breach is likely to result in serious harm to an individual whose personal information has been compromised.

In addition, the Amending Act requires Council to prepare and publish a data breach policy and establish and maintain an internal register for eligible data breaches.

The purpose of this policy is to facilitate Muswellbrook Shire Council's (Council) compliance with the amendments to the Act.

2. Risks being addressed

Council views the responsible handling of personal information to be a key cornerstone of sound corporate governance. Council is committed to full compliance with the obligations contained in the Act.

3. Scope

The scope of this policy applies to all data held by Council in either a paper based or electronic format and is applicable to all employees (including Councillors, contractors, students, volunteers and agency personnel) as well as external organisations and contractors who have been granted access to Council's infrastructure, services and data.

4. Policy Statement

Council governs the Muswellbrook Shire local government area by carrying out a variety of activities, functions and services to meet local community needs.

Council's functions are to be exercised by the following general principles prescribed in the *Local Government Act 1993* (NSW) (LG Act),:

- a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- g) Councils should work with others to secure appropriate services for local community needs.
- h) Councils should act fairly, ethically and without bias in the interests of the local community.

- i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

Council provides activities, functions and services including, but not limited to:

- arts and cultural programs;
- economic development;
- capital works and maintenance of Council assets and infrastructure (e.g. roads, footpaths, drainage, public spaces & community facilities);
- community health services;
- children and family services;
- customer service, governance and administration;
- local laws enforcement & regulation;
- waste & recycling management;
- management of parks, gardens, sportsgrounds and recreational spaces;
- financial planning, budgets, valuations, rates and credit control;
- environmental planning, stewardship and management programs;
- statutory planning and building regulation;
- community support and development;
- IT infrastructure;
- animal management;
- business and trade development;
- media, marketing and communications; and,
- strategic land use planning and heritage.

Depending on the circumstances and nature of your interaction with Council, the personal information Council typically collects includes, but is not limited to the following:

- name;
- address (residential, postal and/or email);
- telephone number (work, home or mobile);
- date of birth;
- signature;
- motor vehicle registration number; and/or,
- photograph and/or video footage.

Council must comply with the notification requirements relevant to an eligible data breach, as failure to do so may render Council liable for significant penalties.

4.1 What is an eligible data breach?

An eligible data breach is where:

- (i) there is unauthorised access to, or unauthorised disclosure of, personal information held by a public sector agency and a reasonable person would conclude that the access or disclosure of the information would be likely to result in serious harm to an individual to whom the information relates, or
- (ii) personal information held by a public sector agency is lost in circumstances where:
 - (a) unauthorised access to, or unauthorised disclosure of, the information is likely to occur, and
 - (b) if the unauthorised access to, or unauthorised disclosure of, the information were to occur, a reasonable person would conclude that the access or disclosure would be likely to result in serious harm to an individual to whom the information relates.

To avoid doubt, an eligible data breach may include the following:

- (i) a data breach that occurs within a public sector agency;
- (ii) a data breach that occurs between public sector agencies;
- (iii) a data breach that occurs by an external person or entity accessing, without authorisation, data held by a public sector agency.

4.2 Eligible data breach response process

Contain

If a Council officer is aware that there are reasonable grounds to suspect there may have been an eligible data breach of the Council, the Council officer will report the data breach to the General Manager.

If the General Manager receives a Council officer report regarding a suspected eligible data breach of the Council, the General Manager will immediately make all reasonable efforts to contain the data breach (this may involve coordinating with the other members or staff to ensure necessary steps/measures are put in place).

Assess

The General Manager, or assessing officer as determined by the General Manager in accordance with section 59G of the Act, will, within 30 days after the reporting Council officer first became aware of the suspected eligible data breach, carry out an assessment of whether the data breach is, or there are reasonable grounds to believe the data breach is, an eligible data breach (an assessment).

Such assessment must be carried out in an expeditious way but is subject to an extension approved under section 59K of the Act.

During an assessment of a suspected eligible data breach, the General Manager will make all reasonable attempts to mitigate the harm done by the suspected breach.

Without limitation the assessor may consider the following when carrying out the assessment:

- (i) the types of personal information involved in the breach,
- (ii) the sensitivity of the personal information involved in the breach,
- (iii) whether the personal information is or was protected by security measures,
- (iv) the persons to whom the unauthorised access to, or unauthorised disclosure of, the personal information involved in the breach was, or could be, made or given,
- (v) the likelihood the persons specified in paragraph (iv)—

- (a) have or had the intention of causing harm, or
- (b) could or did circumvent security measures protecting the information,
- (vi) the nature of the harm that has occurred or may occur,
- (vii) other matters specified in guidelines issued by the Privacy Commissioner about whether the disclosure is likely to result in serious harm to an individual to whom the personal information relates.

Notify

The General Manager must in the approved form, immediately notify the Privacy Commissioner of the eligible data breach.

Subject to an exception in the Act, as soon as practicable after the General Manager decides an eligible data breach occurred, the General Manager will, to the extent that it is reasonably practicable, take the steps that are reasonable in the circumstances to notify in accordance with section 59O:

- (i) each individual to whom the personal information the subject of the breach relates, or
- (ii) each affected individual.

If the individuals affected are not known or can't be identified, then Council will publicise the notification more broadly.

Council's media/communications department will be notified in order to prepare a media statement if appropriate in relation to the data breach.

Review

After the incident has been assessed and notification has taken place, Council's Public Officer should carry out a review within 14 days to identify any actions required to prevent further breaches to be tabled at a meeting of MANEX covering:

- (i) Recommended changes to system and physical security;
- (ii) Recommended changes to any Council policies or procedures;
- (iii) Revision or changes recommended to staff training or education.

4.3 Eligible data breach incident register

The General Manager will establish and maintain an internal register for eligible data breaches. The register will include details of the following, where practicable, for all eligible data breaches:

- (i) who was notified of the breach,
- (ii) when the breach was notified,
- (iii) the type of breach,
- (iv) details of steps taken by the public sector agency to mitigate harm done by the breach,
- (v) details of the actions taken to prevent future breaches, and
- (vi) the estimated cost of the breach.

5. Delegations

Council's Public Officer is to review and make any necessary amendments to this Policy every 4 years or otherwise in accordance with any changes to the legislation.

6. Legislation

Privacy and Personal Information Protection Act 1998 (NSW)

Privacy and Personal Information Protection Regulation 2019 (NSW)

Local Government Act 1993 (NSW)

Local Government (General) Regulation 2021 (NSW)

Government Information (Public Access) Act 2009 (NSW)

7. Associated Council Documentation

Privacy Management Plan

Privacy Statement

Model Code of Conduct

8. Version History

This section identifies authors who reviewed the Policy and the date that it became effective.

Version No.	Date changed	Modified by	Amendments/Previous adoption details



New South Wales

Privacy and Personal Information Protection Amendment Act 2022 No 74

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1	Amendment of Privacy and Personal Information Protection Act 1998 No 133
	3
Schedule 2	Amendment of other Acts
	18



New South Wales

Privacy and Personal Information Protection Amendment Act 2022 No 74

Act No 74, 2022

An Act to amend the *Privacy and Personal Information Protection Act 1998* to introduce a mandatory notification of data breach scheme; to extend the Act's application to State owned corporations that are not subject to the *Privacy Act 1988* of the Commonwealth; and for other purposes. [Assented to 28 November 2022]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Privacy and Personal Information Protection Amendment Act 2022*.

2 Commencement

This Act commences on the first anniversary of the date of assent.

Schedule 1 Amendment of Privacy and Personal Information Protection Act 1998 No 133

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

affected individual, for Part 6A—see section 59D(2).

approved form, for Part 6A—see section 59A.

assessment, for Part 6A—see section 59E(2)(b).

assessor, for Part 6A—see section 59G(1).

eligible data breach, for Part 6A—see section 59D(1).

head, for Part 6A—see section 59A.

health privacy code of practice, for Part 6A—see section 59A.

Health Privacy Principle, for Part 6A—see section 59A.

held, in relation to personal information—

(a) for Part 6A—see section 59C, or

(b) otherwise—see section 4(4).

mandatory notification of data breach scheme means the scheme under Part 6A for assessing and notifying data breaches.

[2] Section 3(1), definition of “public sector agency”

Insert after paragraph (f)—

(f1) a State owned corporation that is not subject to the *Privacy Act 1988* of the Commonwealth,

[3] Section 3(1), definition of “public sector agency”

Omit “paragraph (a)–(f)” from paragraph (g)(i). Insert instead “paragraph (a)–(f1)”.

[4] Section 3(1), definition of “public sector agency”

Omit “but does not include a State owned corporation.”.

[5] Section 4 Definition of “personal information”

Omit “For the purposes of this Act, personal” from section 4(4). Insert instead “Personal”.

[6] Section 33 Preparation and implementation of privacy management plans

Omit “prepare and implement a privacy management plan within 12 months of the commencement of this section” from section 33(1).

Insert instead “have and implement a privacy management plan”.

[7] Section 33(2)(c1)

Insert after section 33(2)(c)—

(c1) the procedures and practices used by the agency to ensure compliance with the obligations and responsibilities set out in Part 6A for the mandatory notification of data breach scheme,

[8] Section 36 General functions

Omit “and privacy codes of practice,” from section 36(2)(d). Insert instead—

, privacy codes of practice and the mandatory notification of data breach scheme,

[9] Section 36(2)(e)

Omit “implementing privacy management plans in accordance with section 33,”.

Insert instead—

implementing—

- (i) privacy management plans under section 33, and
- (ii) data breach policies under section 59ZD,

[10] Section 36(2)(m)

Insert after section 36(2)(l)—

- (m) to investigate, monitor, audit and report on a public sector agency’s compliance with Part 6A, including the agency’s data handling systems, policies and practices.

[11] Part 6A

Insert after Part 6—

Part 6A Mandatory notification of data breaches

Division 1 Preliminary

59A Definitions

In this Part—

affected individual—see section 59D(2).

approved form means a form approved under section 59ZH.

assessment—see section 59E(2)(b).

assessor—see section 59G(1).

eligible data breach—see section 59D(1).

head, of a public sector agency, means—

- (a) for a Public Service agency—the person who is the head of the Public Service agency within the meaning of the *Government Sector Employment Act 2013*, or
- (b) otherwise—the person who is the chief executive officer, however described, of the agency or otherwise responsible for the agency’s day to day management.

health privacy code of practice has the same meaning as in the *Health Records and Information Privacy Act 2002*.

Health Privacy Principle has the same meaning as in the *Health Records and Information Privacy Act 2002* and a reference in this Part to a Health Privacy Principle by number is a reference to the clause of Schedule 1 of that Act with that number.

held, in relation to personal information—see section 59C.

59B Personal information includes health information

In this Part, ***personal information*** includes health information within the meaning of the *Health Records and Information Privacy Act 2002*.

59C Meaning of information “held” by public sector agency for Part

For the purposes of this Part, personal information is *held* by a public sector agency if—

- (a) the agency is in possession or control of the information, or
- (b) the information is contained in a State record in respect of which the agency is responsible under the *State Records Act 1998*.

59D Meaning of eligible data breach and affected individual

- (1) For the purposes of this Part, an *eligible data breach* means—
 - (a) there is unauthorised access to, or unauthorised disclosure of, personal information held by a public sector agency and a reasonable person would conclude that the access or disclosure of the information would be likely to result in serious harm to an individual to whom the information relates, or
 - (b) personal information held by a public sector agency is lost in circumstances where—
 - (i) unauthorised access to, or unauthorised disclosure of, the information is likely to occur, and
 - (ii) if the unauthorised access to, or unauthorised disclosure of, the information were to occur, a reasonable person would conclude that the access or disclosure would be likely to result in serious harm to an individual to whom the information relates.
- (2) An individual specified in subsection (1)(a) or (1)(b)(ii) is an *affected individual*.
- (3) To avoid doubt, an eligible data breach may include the following—
 - (a) a data breach that occurs within a public sector agency,
 - (b) a data breach that occurs between public sector agencies,
 - (c) a data breach that occurs by an external person or entity accessing data held by a public sector agency without authorisation.

Division 2 Assessment of data breaches

59E Requirements for public sector agency

- (1) This section applies if an officer or employee of a public sector agency is aware that there are reasonable grounds to suspect there may have been an eligible data breach of the agency.
- (2) The officer or employee must report the data breach to the head of the public sector agency and the head of the agency must—
 - (a) immediately make all reasonable efforts to contain the data breach, and
 - (b) within 30 days after the officer or employee of the agency becomes aware as mentioned in subsection (1)—carry out an assessment of whether the data breach is, or there are reasonable grounds to believe the data breach is, an eligible data breach (an *assessment*).
- (3) An assessment must be carried out in an expeditious way.
- (4) Subsection (2)(b) is subject to an extension approved under section 59K.

59F Mitigation of harm

During an assessment, the head of the public sector agency the subject of the suspected breach must make all reasonable attempts to mitigate the harm done by the suspected breach.

59G Assessors

- (1) The head of a public sector agency may direct one or more persons to carry out the assessment (each an *assessor*).
- (2) An assessor may be—
 - (a) an officer or employee of the agency the subject of the data breach, or
 - (b) an officer or employee of another public sector agency acting on behalf of the public sector agency the subject of the data breach, or
 - (c) a person acting on behalf of the public sector agency the subject of the data breach, or a person employed by that person.

Example for paragraph (c)—

An individual employed by a third party to carry out the assessment for the public sector agency the subject of the data breach.

- (3) However, a person who the head of the agency reasonably suspects was involved in an action or omission that led to the breach is not permitted to be an assessor.
- (4) An assessor must take all reasonable steps to ensure the assessment is completed within 30 days after the officer or employee of the agency becomes aware under section 59E(1).
- (5) In this section—
employee includes an individual engaged by the public sector agency under a contract.

59H Assessment of data breach—factors for consideration

Without limiting the factors that may be considered by the assessor carrying out the assessment, the assessor may consider the following—

- (a) the types of personal information involved in the breach,
- (b) the sensitivity of the personal information involved in the breach,
- (c) whether the personal information is or was protected by security measures,
- (d) the persons to whom the unauthorised access to, or unauthorised disclosure of, the personal information involved in the breach was, or could be, made or given,
- (e) the likelihood the persons specified in paragraph (d)—
 - (i) have or had the intention of causing harm, or
 - (ii) could or did circumvent security measures protecting the information,
- (f) the nature of the harm that has occurred or may occur,
- (g) other matters specified in guidelines issued by the Privacy Commissioner about whether the disclosure is likely to result in serious harm to an individual to whom the personal information relates.

59I Guidelines about process for assessing data breach

An assessor must have regard to the guidelines, prepared by the Privacy Commissioner, about the process for carrying out an assessment.

Note— See section 59ZI in relation to guidelines made under this Part.

59J Decision about data breach

- (1) Following an assessment, the assessor must advise the head of the public sector agency whether the assessment found—
 - (a) the data breach is an eligible data breach, or
 - (b) there are reasonable grounds to believe the data breach is an eligible data breach.
- (2) After receiving the assessor's advice, the head of the agency must decide whether—
 - (a) the data breach is an eligible data breach, or
 - (b) there are reasonable grounds to believe the data breach is an eligible data breach.

59K Extension of assessment period by head of public sector agency

- (1) If the head of a public sector agency is satisfied an assessment cannot reasonably be conducted within 30 days, the head of the agency may approve an extension of the period to conduct the assessment.
- (2) The extension may be approved for an amount of time reasonably required for the assessment to be conducted (an *extension period*).
- (3) If an extension is approved, the head of the agency must, within the 30-day period referred to in section 59E(2)—
 - (a) start the assessment, and
 - (b) give written notice to the Privacy Commissioner—
 - (i) that the assessment has started, and
 - (ii) that the head of the agency has approved an extension of the period for the assessment, and
 - (iii) specifying the extension period.
- (4) If the assessment is not conducted within the extension period, the head of the agency must, before the end of the extension period, give written notice to the Privacy Commissioner—
 - (a) that the assessment is ongoing, and
 - (b) that the head of the agency has approved a new extension period for the assessment, and
 - (c) specifying the new extension period.
- (5) The Privacy Commissioner may ask the head of the agency for further information about the progress of the assessment.

Division 3 Notification of data breaches to Privacy Commissioner

Subdivision 1 Application

59L Application of Division

- (1) This Division applies if the head of the public sector agency decides under Division 2 that an eligible data breach occurred.
- (2) For the purposes of subsection (1), an eligible data breach is taken to have occurred if the head of the agency decides under Division 2 there are reasonable grounds to believe the data breach is an eligible data breach.

Subdivision 2 Immediate notification to Privacy Commissioner

59M Public sector agencies must immediately notify eligible data breach

- (1) The head of a public sector agency must, in the approved form, immediately notify the Privacy Commissioner of the eligible data breach.
- (2) The approved form must request the following information be provided in relation to the eligible data breach—
 - (a) the information specified in section 59O, other than the information specified in section 59O(e),
 - (b) a description of the personal information that was the subject of the breach,
 - (c) whether the head of the agency is reporting on behalf of other agencies involved in the same breach,
 - (d) if the head of the agency is reporting on behalf of other agencies involved in the same breach—the details of the other agencies,
 - (e) whether the breach is a cyber incident,
 - (f) if the breach is a cyber incident—details of the cyber incident,
 - (g) the estimated cost of the breach to the agency,
 - (h) the total number, or estimated total number, of individuals—
 - (i) affected or likely to be affected by the breach, and
 - (ii) notified of the breach,
 - (i) whether the individuals notified under section 59N(1) have been advised of the complaints and internal review procedures under the Act.
- (3) The information requested by the approved form must be completed unless it is not reasonably practicable for the information to be provided.

Subdivision 3 Notification of eligible data breach

59N Public sector agencies must notify certain individuals

- (1) As soon as practicable after the head of a public sector agency decides an eligible data breach occurred, the head of the agency must, to the extent that it is reasonably practicable, take the steps that are reasonable in the circumstances to notify—
 - (a) each individual to whom the personal information the subject of the breach relates, or
 - (b) each affected individual.

- (2) However, if the head of the agency is unable to notify, or if it is not reasonably practicable for the head of the agency to notify, any or all of the individuals specified in subsection (1), the head of the agency must—
 - (a) publish a notification under section 59P, and
 - (b) take reasonable steps to publicise the notification.

59O Information to be notified to certain individuals

A notification given under section 59N(1) must, if it is reasonably practicable for the information to be provided, include the following information in relation to each eligible data breach—

- (a) the date the breach occurred,
- (b) a description of the breach,
- (c) how the breach occurred,
- (d) the type of breach that occurred,

Examples of a type of eligible data breach—

- 1 unauthorised disclosure
- 2 unauthorised access
- 3 loss of information
- (e) the personal information that was the subject of the breach,
- (f) the amount of time the personal information was disclosed for,
- (g) actions that have been taken or are planned to ensure the personal information is secure, or to control or mitigate the harm done to the individual,
- (h) recommendations about the steps the individual should take in response to the eligible data breach,
- (i) information about—
 - (i) the making of privacy related complaints under Part 4, Division 3, and
 - (ii) internal reviews of certain conduct of public sector agencies under Part 5,
- (j) the name of the public sector agency the subject of the breach,
- (k) if more than 1 public sector agency was the subject of the breach—the name of each other agency,
- (l) contact details for—
 - (i) the agency the subject of the breach, or
 - (ii) a person nominated by the agency for the individual to contact about the breach.

59P Public notification

- (1) This section applies if—
 - (a) a notification is required to be given under section 59N(2), or
 - (b) the head of an agency decides to give a notification under this section.
- (2) The head of a public sector agency must keep a register that is available on the public sector agency's website (a *public notification register*).
- (3) The notification must, if it is reasonably practicable for the information to be provided—

- (a) be published on the public notification register for at least 12 months after the date the notification is published, and
 - (b) include the information specified in section 59O, except to the extent the information—
 - (i) contains personal information, or
 - (ii) would prejudice the agency's functions.
 - (4) As soon as practicable after the notification is published, the agency must provide the Privacy Commissioner with information about how to access the notification on the public notification register.
 - (5) The Privacy Commissioner must publish on the Privacy Commissioner's website information about how to access the notification for at least 12 months after the date the notification is published.
- Example of information about how to access a notification—** A link to the website on which the notification is published.

Subdivision 4 Other matters for notification

59Q Further information to be provided to the Privacy Commissioner

- (1) The head of a public sector agency must, in the approved form, notify the Privacy Commissioner of the information that was not given to the Privacy Commissioner as part of the immediate notification under section 59M.
- (2) The further information must be given—
 - (a) following notification under section 59N(1) or (2), or
 - (b) if an exemption under Division 4 applies—following the head of the agency determining that an exemption applies.

59R Collecting, using and disclosing information for notification

- (1) A public sector agency the subject of an eligible data breach may do the following—
 - (a) use relevant personal information,
 - (b) collect relevant personal information from another public sector agency,
 - (c) disclose relevant personal information to another public sector agency.
- (2) Also, a public sector agency may disclose relevant personal information to a public sector agency the subject of an eligible data breach.
- (3) Information may be collected, used or disclosed under this section only if it is reasonably necessary for the purpose of confirming—
 - (a) the name and contact details of a notifiable individual, or
 - (b) whether a notifiable individual is deceased.
- (4) A public sector agency is not required to comply with an information protection principle, a Health Privacy Principle, a privacy code of practice or a health privacy code of practice in relation to the use, collection or disclosure of relevant personal information in accordance with subsection (1) or (2).
- (5) In this section, a reference to an eligible data breach extends to a suspected breach within the meaning of section 59Y(1), if the Privacy Commissioner makes a recommendation under the section.
- (6) This section applies despite any other provision of this Act.

(7) In this section—

identifier means an identifier, not being an identifier that consists only of the individual's name, which is usually, but need not be, a number, that is—

- (a) assigned to an individual in conjunction with or in relation to the individual's personal information by an organisation for the purpose of uniquely identifying that individual, whether or not it is subsequently used other than in conjunction with or in relation to personal information, or
- (b) adopted, used or disclosed in conjunction with or in relation to the individual's personal information by an organisation for the purpose of uniquely identifying the individual.

notifiable individual—

- (a) means an individual specified in section 59N(1), and
- (b) includes a notifiable individual within the meaning of section 59Y.

relevant personal information means the following—

- (a) the name of an individual,
- (b) the contact details of the individual,
- (c) the date of birth of the individual,
- (d) an identifier for the individual,
- (e) if the individual is deceased—the date of death of the individual.

Division 4 Exemptions from certain requirements for an eligible data breach

59S Exemption for eligible data breaches of multiple public sector agencies

- (1) This section applies if—
 - (a) the access, disclosure or loss that constituted an eligible data breach of the public sector agency is a breach of at least 1 other public sector agency, and
 - (b) an assessment has been carried out for each of the public sector agencies involved in the breach under Division 2, and
 - (c) the heads of each of the public sector agencies involved in the breach have notified the Privacy Commissioner under section 59M.
- (2) The head of a public sector agency is exempt from Division 3, Subdivision 3 if the head of another public sector agency involved in the same breach undertakes to notify the eligible data breach under the Subdivision.

59T Exemption relating to ongoing investigations and certain proceedings

The head of a public sector agency is exempt from Division 3, Subdivision 3 to the extent that the head of the agency reasonably believes notification of the eligible data breach under the Subdivision would be likely to prejudice—

- (a) an investigation that could lead to the prosecution of an offence, or
- (b) proceedings before a court or a tribunal, or
- (c) another matter prescribed by the regulations for the purposes of this section.

59U Exemption if public sector agency has taken certain action

The head of a public sector agency is exempt from Division 3, Subdivision 3 if—

- (a) for an eligible data breach involving unauthorised access to, or disclosure of, personal information held by the agency—
 - (i) the agency the subject of the breach takes action to mitigate the harm done by the breach, and
 - (ii) the action is taken before the access to or disclosure of information results in serious harm to an individual, and
 - (iii) because of the action taken, a reasonable person would conclude that the access or disclosure would not be likely to result in serious harm to an individual, or
- (b) for an eligible data breach involving the loss of personal information held by the agency—
 - (i) the agency the subject of the breach takes action to mitigate the loss, and
 - (ii) the action is taken before there is unauthorised access to, or unauthorised disclosure of, the information, and
 - (iii) because of the action taken, there is no unauthorised access to, or unauthorised disclosure of, the information.

59V Exemption if inconsistent with secrecy provisions

- (1) If compliance with Division 3, Subdivision 3 by the head of a public sector agency would be inconsistent with a secrecy provision, the head of the agency is exempt from Division 3, Subdivision 3 to the extent of the inconsistency.
- (2) In this section—
secrecy provision means a provision—
 - (a) of an Act or statutory rule, other than this Act, and
 - (b) that prohibits or regulates the use or disclosure of information.

59W Exemption if serious risk of harm to health and safety

- (1) The head of a public sector agency may decide to exempt the agency from Division 3, Subdivision 3 for an eligible data breach to the extent that the head of the agency reasonably believes notification would create a serious risk of harm to an individual's health or safety.
- (2) In making a decision under subsection (1), the head of the agency—
 - (a) must consider the extent to which the harm of notifying the breach is greater than the harm of not notifying the breach, and
 - (b) must consider the currency of the information relied on in assessing the serious risk of harm to an individual, and
 - (c) must not search data held by the agency, or require or permit the search of data held by the agency, that was not affected by the breach, to assess the impact of notification, unless the head of the agency knows, or reasonably believes, there is information in the data relevant to whether an exemption under this section applies.
- (3) The head of the agency must have regard to the guidelines, prepared by the Privacy Commissioner, in making a decision to exempt the agency under this section.

- (4) The exemption may be—
 - (a) permanent, or
 - (b) for a specified period, or
 - (c) until the happening of a particular thing.
- (5) The head of the agency must, by written notice given to the Privacy Commissioner, notify the Privacy Commissioner—
 - (a) that the exemption under this section is relied on, and
 - (b) the details about whether the exemption is permanent or temporary, and
 - (c) if the exemption is temporary—of the specified or expected time the exemption is to be relied on.

59X Exemption for compromised cyber security

- (1) The head of a public sector agency may decide to exempt the agency from Division 3, Subdivision 3 for an eligible data breach if the head of the agency reasonably believes notification would—
 - (a) worsen the agency's cyber security, or
 - (b) lead to further data breaches.
- (2) The head of the agency must have regard to the guidelines, prepared by the Privacy Commissioner, in making a decision to exempt the agency under this section.
- (3) The head of the agency must, by written notice given to the Privacy Commissioner, notify the Privacy Commissioner—
 - (a) that the exemption under this section is relied on, and
 - (b) when the exemption is expected to end, and
 - (c) of the way in which the agency will review the exemption.
- (4) The head of the agency must—
 - (a) review the use of the exemption each month, and
 - (b) provide an update to the Privacy Commissioner on the review of the exemption.
- (5) The exemption applies only for the period of time the head of the agency reasonably believes the notification would—
 - (a) worsen the agency's cyber security, or
 - (b) lead to further data breaches.

Division 5 Powers of Privacy Commissioner

59Y Privacy Commissioner may make directions and recommendations

- (1) This section applies if there are reasonable grounds for the Privacy Commissioner to believe there has been an eligible data breach of a public sector agency (a *suspected breach*).
- (2) The Privacy Commissioner may, by written notice given to the head of the public sector agency, direct the head of the agency to—
 - (a) prepare a statement that includes the following—
 - (i) the name and contact details of the agency,
 - (ii) a description of the suspected breach,

- (iii) the kind of information involved in the suspected breach,
 - (iv) recommendations about the steps a notifiable individual should take in response to the breach,
 - (v) information, specified by the Privacy Commissioner, that relates to the suspected breach, and
- (b) give a copy of the statement to the Privacy Commissioner.
- (3) The Privacy Commissioner may recommend the head of the public sector agency notify notifiable individuals under section 59N(1), or publish a notification under section 59N(2), as if the suspected breach were an eligible data breach.
Note— See section 59R in relation to the collection, use and disclosure of information by public sector agencies for the purpose of confirming particular details of a notifiable individual.
- (4) Before making a direction or recommendation, the Privacy Commissioner must invite the head of the agency to make a submission to the Privacy Commissioner within a specified period.
- (5) In deciding whether to make a direction or recommendation, the Privacy Commissioner must have regard to the following—
 - (a) advice, if any, given to the Privacy Commissioner by a law enforcement agency,
 - (b) a submission, if any, made by the head of the agency within the period specified by the Privacy Commissioner in response to the invitation under subsection (4),
 - (c) other matters the Privacy Commissioner considers relevant.
- (6) Subsection (5)(a) does not limit the advice to which the Privacy Commissioner may have regard.
- (7) If the Privacy Commissioner is aware there are reasonable grounds to believe the access, disclosure or loss that constituted the suspected breach involved 1 or more other public sector agencies, a direction may also require the statement specified in subsection (2)(a) to include the name and contact details of the other agencies.
- (8) In this section—
notifiable individual means a person who, if the suspected breach were an eligible data breach—
 - (a) would be notified under section 59N(1), or
 - (b) may be notified by operation of section 59N(2).

59Z Investigation and monitoring

Without limiting sections 38 and 39, the Privacy Commissioner may investigate, monitor, audit and report on the exercise of a function of 1 or more public sector agencies, including the systems, policies and practices of an agency, that relate to this Part.

59ZA Access to premises to observe systems, policies and procedures

- (1) The Privacy Commissioner may, by written notice given to the head of a public sector agency, direct the head of the agency to provide access to premises occupied or used by the agency on the day and at the time stated in the notice for the purpose of monitoring and reporting on the agency's compliance with this Part.

- (2) The head of the agency must comply with the notice.
- (3) If the Privacy Commissioner gives a direction under subsection (1), the Privacy Commissioner may—
 - (a) enter the premises on the day and at the time stated in the notice, and
 - (b) observe a demonstration of the agency's data handling systems, policies and procedures, and
 - (c) inspect the following—
 - (i) a document that is part of the agency's data handling policies and procedures,
 - (ii) another document shown to the Privacy Commissioner by the agency.
- (4) The head of the agency or an officer or employee of the agency is not required to comply with an information protection principle, a Health Privacy Principle, a privacy code of practice or a health privacy code of practice if the head of the agency, officer or employee produces a document for inspection by the Privacy Commissioner under this section.
- (5) In this section—
premises does not include residential premises.

59ZB Reports

The Privacy Commissioner may make a written report in relation to a function of the Privacy Commissioner under this Part.

59ZC Process applying before publication of particular reports

- (1) This section applies if the Privacy Commissioner considers there are grounds for making an adverse comment in a report about—
 - (a) a person, or
 - (b) a public sector agency, or
 - (c) both a person and a public sector agency.
- (2) As far as it is practicable before making an adverse comment in a report, the Privacy Commissioner must—
 - (a) inform the person or the head of the public sector agency, or both, of the substance of the grounds for the adverse comment, and
 - (b) if the grounds for adverse comment are about a person employed or engaged by a public sector agency—inform the public sector agency that employs or engages the person, and
 - (c) give the person or the head of the agency informed the opportunity to make a submission to the Privacy Commissioner.
- (3) The Privacy Commissioner may do the following—
 - (a) publish the report,
 - (b) give a copy of the report to the Minister,
 - (c) give a copy of the report to the head of the agency.
- (4) Before publishing a report that makes an adverse comment about a public sector agency, the Privacy Commissioner must—
 - (a) inform the Minister responsible for the agency that the Privacy Commissioner proposes to publish the report, and

- (b) if requested by the Minister—consult the Minister.

Division 6 Other requirements for public sector agencies

59ZD Public sector agency to publish data breach policy

- (1) The head of a public sector agency must prepare and publish a data breach policy.
- (2) The policy must be publicly available.

59ZE Eligible data breach incident register

- (1) The head of a public sector agency must establish and maintain an internal register for eligible data breaches.
- (2) The register must include details of the following, where practicable, for all eligible data breaches—
 - (a) who was notified of the breach,
 - (b) when the breach was notified,
 - (c) the type of breach,
 - (d) details of steps taken by the public sector agency to mitigate harm done by the breach,
 - (e) details of the actions taken to prevent future breaches,
 - (f) the estimated cost of the breach.

Division 7 Miscellaneous

59ZF Exemption for Privacy Commissioner from certain principles

- (1) The Information and Privacy Commission is not required to comply with the information protection principles under section 9, 13, 14 or 17 or Health Privacy Principle 3, 6, 7 or 10 in relation to information disclosed by Cyber Security NSW to the Information and Privacy Commission for the purposes of this Part.
- (2) The Information and Privacy Commission is not required to comply with the information protection principles under section 18 or 19 or Health Privacy Principle 11 if the information is disclosed to Cyber Security NSW to enable Cyber Security NSW to exercise its functions.

59ZG Exemption for Cyber Security NSW from certain principles

- (1) Cyber Security NSW is not required to comply with the information protection principles under section 9, 13, 14 or 17 or Health Privacy Principle 3, 6, 7 or 10 in relation to information disclosed by the Information and Privacy Commission to Cyber Security NSW for the purposes of this Part.
- (2) Cyber Security NSW is not required to comply with the information protection principles under section 18 or 19 or Health Privacy Principle 11 if the information is disclosed to the Information and Privacy Commission to enable the Privacy Commissioner to exercise the Privacy Commissioner's functions under this Part.

59ZH Approval of forms

- (1) The Privacy Commissioner may approve forms for use under this Part.

- (2) The approved forms must be published on the Information and Privacy Commission's website.

59ZI Privacy Commissioner may make guidelines

- (1) The Privacy Commissioner may make guidelines for the purpose of exercising the Privacy Commissioner's functions under this Part.
- (2) Without limiting subsection (1), the Privacy Commissioner may make guidelines about the following—
 - (a) whether access, disclosure or loss that occurs as a result of a data breach would be likely, or would not be likely, to result in serious harm to an individual,
 - (b) deciding whether to exempt a public sector agency for the following—
 - (i) reasons relating to serious risk of harm to health or safety,
 - (ii) cyber security reasons.
- (3) The Privacy Commissioner must consult with the Minister responsible for this Act before publishing guidelines.
- (4) Guidelines must be published on the Information and Privacy Commission's website.

59ZJ Delegation by head of public sector agency

For the purposes of this Part, the head of a public sector agency may delegate the exercise of a function of the head of the agency, other than this power of delegation, to—

- (a) a person employed in or by the public sector agency, or
- (b) a person of a class prescribed by the regulations.

[12] Schedule 4 Savings, transitional and other provisions

Insert at the end of Schedule 4, with appropriate clause numbering—

Provisions consequent on enactment of Privacy and Personal Information Protection Amendment Act 2022

- (1) If an officer or employee of a public sector agency becomes aware, after the commencement of Part 6A, that there may be reasonable grounds to suspect there may have been an eligible data breach of the agency before the commencement of the Part, section 59E applies to the officer or employee in relation to the breach as if the breach had occurred after the commencement of the Part.
- (2) Sections 8–11 do not apply in relation to personal information collected by a relevant public sector agency before the commencement of the amending Act, Schedule 1[2].
- (3) To avoid doubt, Part 5 does not apply to the conduct of a relevant public sector agency that occurred before the commencement of the amending Act, Schedule 1[2].
- (4) In this clause—

amending Act means the *Privacy and Personal Information Protection Amendment Act 2022*.

relevant public sector agency means a public sector agency that is a State owned corporation that is not subject to the *Privacy Act 1988* of the Commonwealth.

Schedule 2 Amendment of other Acts

2.1 Fines Act 1996 No 99

Section 117C Unlawful disclosure of personal information

Omit the section.

2.2 Government Information (Public Access) Act 2009 No 52

[1] Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure

Insert in Schedule 1, with appropriate clause numbering—

Information relating to cyber security and data breaches under the Privacy and Personal Information Protection Act 1998

It is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in a document prepared for the assessment of an eligible data breach under the *Privacy and Personal Information Protection Act 1998*, Part 6A, if the information could worsen a public sector agency's cyber security or lead to further data breaches.

[2] Schedule 2 Excluded information of particular agencies

Omit the matter relating to the office of the Privacy Commissioner from clause 2.

Insert instead—

The office of Privacy Commissioner—review, complaint handling, investigative, auditing, monitoring and reporting functions.

[Second reading speech made in—

Legislative Assembly on 9 November 2022

Legislative Council on 16 November 2022]

**9.4.4. Monthly Financial Report - February 2023**

Attachments:	1. Monthly Report - February 2023 [9.4.4.1 - 13 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Mandy Fitzgerald (Senior Financial Accountant)
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

To provide Council with an overview of the monthly financial performance of Council's General, Water, Sewer and Future Funds and to identify and explain any material variances against Council's approved budget for the month ending 28 February 2023.

OFFICER'S RECOMMENDATION

Council notes the Financial Reports for the month ending 28 February 2023.

Moved: _____ **Seconded:** _____

REPORT

Please refer to the attachment for the February 2023 details of:

- Monthly & YTD operating performance by Fund.
- Project Spend.
- Details of Current Loans.
- Reserve Balances.
- Outstanding Debtor Balances.

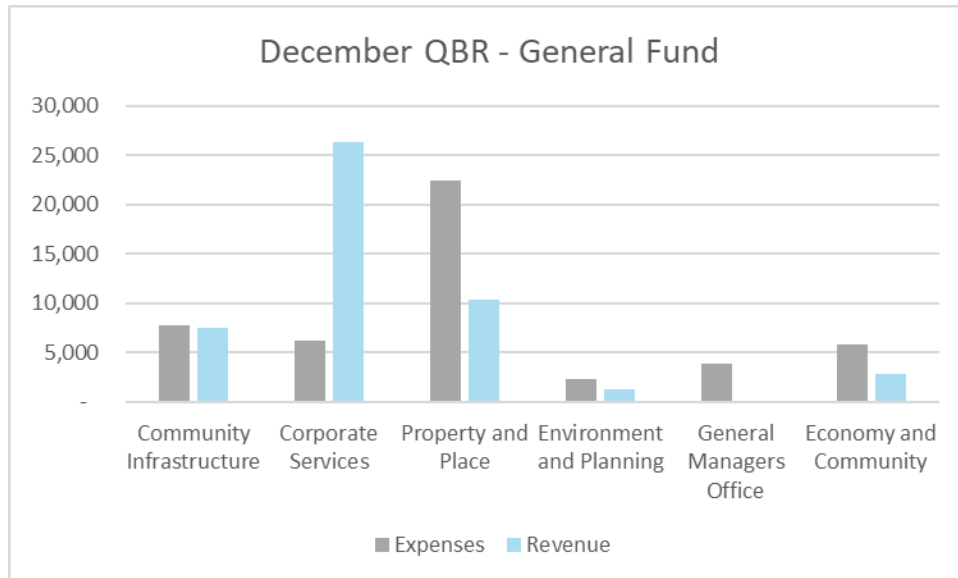
Overview

Rising electricity costs and other impacts of inflation continue to put significant pressure on Council's Budget and its capacity to deliver services. As stated in the September and December Quarterly Budget Reviews, management have taken steps to identify offsets for these rising costs. In addition to specific cuts, Management have also implemented measures including: a freeze on all non-essential recruitment, limiting overtime to only urgent, essential activities, a restriction on non-essential training and conferences, postponement of non-essential projects and purchases, and limiting discretionary spending where practicable.

Council Officers are proactively seeking to identify savings across the organisation and ensuring prudent fiscal management.



General Fund

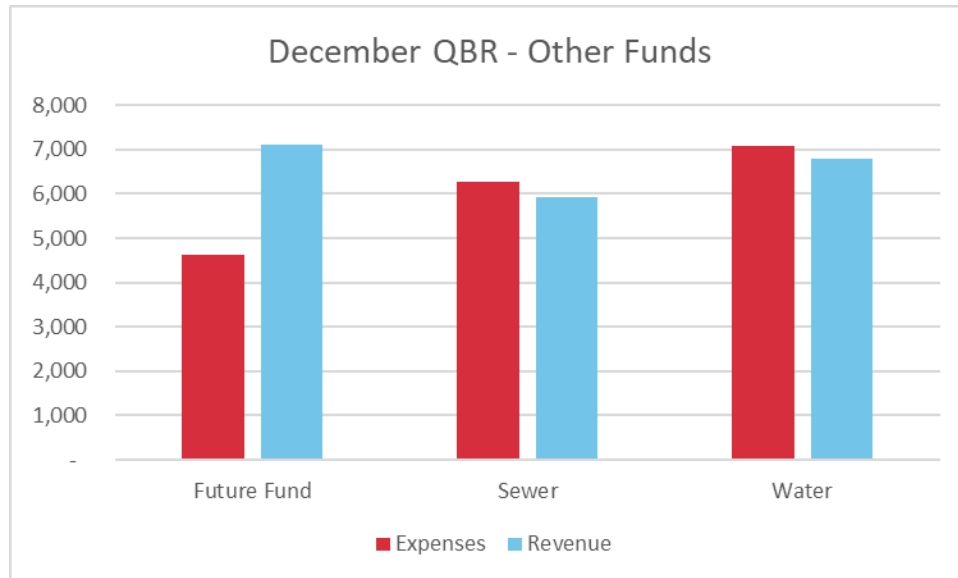


- **Revenue:**

- Mixed Waste Fees, which show current actuals of \$1.05M (55%) against the adjusted December Quarterly budget of \$1.91M. This will continue to be monitored and updated accordingly in the March Quarterly Budget Review.
- Aquatic Centre income shows current actuals of \$365k (52%) against the adjusted December budget of \$691k. The Aquatic Centre Manager is currently developing and implementing strategies to increase income. The impact of this will be ascertained over the coming months but it's likely there will be a structural shortfall in the Aquatic Centre revenue for the foreseeable future. Any adjustments to be made will be as part of the March Quarterly Budget Review process.
- Investment Interest is currently showing a favourable result.

- **Expenses:**

- Electricity costs have increased dramatically across all areas of Council and projections indicate an unfavourable impact of over \$1M for 22/23. This is due to the combined effect of major increases in pricing plus significant increases in electricity consumption at the new Aquatic Centre facilities. Council staff are exploring practical avenues to improve energy efficiency across the organisation as well as identify offsets in other areas.
- Legal expenses YTD actuals are \$426k. The Legal Budget was increased by \$725k in the December Quarterly Budget Review process and offsets have been identified.

**Water Fund**

- User Charges show an unfavourable variance. The second water billing account was sent out in February. Budgets will be adjusted accordingly after the third water bill has been calculated in May 2023.
- Water Mains and Water Treatment costs are trending high and will continue to be monitored.

Sewer

- User Charges are showing an unfavourable result due to a delay in the commissioning of the Trade Waste Septage Receiving services. The budget was reduced as part of the December Quarterly Budget Review and will continue to be monitored.
- Sewer Treatment chemical and maintenance costs are trending high.

Future Fund

- Overall, Future Fund expenses are trending high against the YTD projections. Materials and Contracts budgets (74%) continue to be monitored.
- Other Costs show an unfavourable variance for the YTD due to the recognition of the full-year insurance and rates expenses at the beginning of the financial year.

Capital Projects

Projects will be continually monitored to prevent unnecessary carryovers at year end and expected grant funding to be reviewed to ensure monies are received in a timely manner.

Muswellbrook Shire Council

Financial Report - February 2023



Council Consolidated

Account Group	Monthly Actuals	Monthly Budget	Monthly Var	Mth Var %	YTD Actuals	YTD Budget	YTD Var	YTD % Spend vs Budget	Full-Year Budget	December Review Budget	YTD as % of FY Budget	Variance Commentary (By material exception)
	Monthly				YTD				Full Year			
Revenue												
Rates and Charges	\$293,372	\$2,566,304	(\$2,272,932)	-89%	\$30,414,377	\$20,530,433	\$9,883,944	48%	\$30,795,649	\$30,795,649	99%	Most of the Rates Revenue is levied and recognised at the start of the year. Due to this, a favourable year-to-date result will show for much of the year. * Rates & Charges are at 99% of the FY Budget * Overall revenue is at 76% of the FY Budget.
User Charges and Fees	\$2,441,949	\$1,709,436	\$732,513	43%	\$12,001,108	\$13,675,486	(\$1,674,378)	-12%	\$20,513,229	\$20,918,216	57%	
Interest and Investments Revenues	\$108,801	\$42,533	\$66,268	156%	\$709,881	\$340,262	\$369,619	109%	\$510,393	\$987,159	72%	
Other Revenues	\$231,310	\$213,864	\$17,446	8%	\$1,895,514	\$1,710,912	\$184,602	11%	\$2,566,369	\$2,685,856	71%	See individual funds for commentary specific to that fund
Operating Grants and Contributions	\$1,434,570	\$607,749	\$826,821	136%	\$4,120,512	\$4,861,991	(\$741,479)	-15%	\$7,292,987	\$8,869,435	46%	
Internal Revenue	\$295,371	\$343,687	(\$48,316)	-14%	\$2,482,968	\$2,749,499	(\$266,531)	-10%	\$4,124,249	\$4,011,276	62%	
Total Revenue	\$4,805,373	\$5,483,573	(\$678,200)	-12%	\$51,624,360	\$43,868,583	\$7,755,777	18%	\$65,802,874	\$68,267,589	76%	
Expenses												
Wages and Salaries	\$1,200,171	\$1,399,321	\$199,150	14%	\$10,096,954	\$11,194,571	\$1,097,617	10%	\$16,791,856	\$16,093,245	63%	Other costs are at 60% against FY budget. Rates and Insurances are paid at the start of the year. Higher Electricity charges are also included in this area.
Materials and Contracts	\$1,353,907	\$1,609,922	\$256,015	16%	\$12,073,471	\$12,879,379	\$805,908	6%	\$19,319,068	\$21,955,313	55%	
Other Costs	\$211,257	\$449,602	\$238,345	53%	\$4,039,484	\$3,596,814	(\$442,670)	-12%	\$5,395,222	\$6,747,897	60%	
Borrowing Costs	\$180,895	\$185,607	\$4,712	3%	\$1,186,154	\$1,484,857	\$298,703	20%	\$2,227,285	\$2,268,286	52%	See individual funds for commentary specific to that fund
Overheads	\$321,028	\$379,510	\$58,482	15%	\$2,568,222	\$3,036,079	\$467,857	15%	\$4,554,118	\$4,554,118	56%	
Depreciation	\$808,389	\$1,266,708	\$458,319	36%	\$9,402,174	\$10,133,666	\$731,492	7%	\$15,200,499	\$14,796,142	64%	
Total Expenses	\$4,075,647	\$5,290,671	\$1,215,024	23%	\$39,366,459	\$42,325,365	\$2,958,906	7%	\$63,488,048	\$66,415,000	59%	
Result	\$729,726	\$192,902	\$536,824		\$12,257,901	\$1,543,218	\$10,714,683		\$2,314,827	\$1,852,589		

Muswellbrook Shire Council

Financial Report - February 2023



General Fund												
Account Group	Monthly Actuals	Monthly Budget	Monthly Var	Mth Var %	YTD Actuals	YTD Budget	YTD Var	YTD % Spend vs FY Budget	Full-Year Budget	December Review Budget	YTD as % of FY Budget	Variance Commentary (By material exception)
	Monthly				YTD				Full Year			
Revenue												
Rates and Charges	(\$1,250)	\$1,964,382	(\$1,965,632)	-100%	\$23,335,436	\$15,715,057	\$7,620,379	48%	\$23,572,585	\$23,572,585	99%	Revenue commentary will focus on material exceptions and concerns * Most of the Rates Revenue is levied and recognised at the start of the year. As a result, a favourable year-to-date result will show for much of the year. * Investment Interest is showing a favourable variance.
User Charges and Fees	\$478,866	\$693,038	(\$214,172)	-31%	\$4,710,647	\$5,544,302	(\$833,655)	-15%	\$8,316,453	\$9,022,693	52%	
Interest and Investments Revenues	\$79,582	\$28,352	\$51,230	181%	\$527,961	\$226,816	\$301,145	133%	\$340,223	\$711,989	74%	
Other Revenues	\$231,310	\$213,864	\$17,446	8%	\$1,895,514	\$1,710,912	\$184,602	11%	\$2,566,369	\$2,685,856	71%	
Operating Grants and Contributions	\$1,434,570	\$601,572	\$832,998	138%	\$4,041,181	\$4,812,579	(\$771,398)	-16%	\$7,218,869	\$8,795,317	46%	
Internal Revenue	\$295,371	\$312,449	(\$17,078)	-5%	\$2,362,968	\$2,499,591	(\$136,623)	-5%	\$3,749,386	\$3,636,413	65%	
Total Revenue	\$2,518,449	\$3,813,657	(\$1,295,208)	-34%	\$36,873,707	\$30,509,256	\$6,364,451	21%	\$45,763,884	\$48,424,852	76%	
Expenses												
Wages and Salaries	\$1,010,768	\$1,196,667	\$185,899	16%	\$8,670,692	\$9,573,337	\$902,645	9%	\$14,360,006	\$13,725,795	63%	Wages and Salaries and Materials and Contracts are on track against budget from a YTD perspective. * Other Costs show 59% with the recognition of full-year insurance premium and rates costs at the start of the year and high Electricity costs. Legal Expenses budget was increased by \$725k in the December Quarterly Budget Review.
Materials and Contracts	\$1,033,324	\$1,224,712	\$191,388	16%	\$8,931,883	\$9,797,694	\$865,811	9%	\$14,696,540	\$17,560,892	51%	
Other Costs	\$59,518	\$303,270	\$243,752	80%	\$2,656,951	\$2,426,157	(\$230,794)	-10%	\$3,639,235	\$4,467,192	59%	
Borrowing Costs	\$7,635	\$40,666	\$33,031	81%	\$77,500	\$325,327	\$247,827	76%	\$487,990	\$487,990	16%	
Overheads	\$134,251	\$192,732	\$58,481	30%	\$1,074,006	\$1,541,855	\$467,849	30%	\$2,312,783	\$2,312,783	46%	
Depreciation	\$757,203	\$855,611	\$98,408	12%	\$6,485,852	\$6,844,887	\$359,035	5%	\$10,267,330	\$9,870,200	66%	
Total Expenses	\$3,002,699	\$3,813,657	\$810,958	21%	\$27,896,884	\$30,509,256	\$2,612,372	9%	\$45,763,884	\$48,424,851	58%	
Result	(\$484,250)	(\$0)	(\$484,250)		\$8,976,823	(\$0)	\$8,976,823		(\$0)	\$0		

Muswellbrook Shire Council

Financial Report - February 2023



Water Fund												
Account Group	Monthly Actuals	Monthly Budget	Monthly Var	Mth Var %	YTD Actuals	YTD Budget	YTD Var	YTD % Spend vs FY Budget	Full-Year Budget	December Review Budget	YTD as % of FY Budget	Variance Commentary (By material exception)
	Monthly				YTD				Full Year			
Revenue												
Rates and Charges	\$0	\$157,663	(\$157,663)	-100%	\$1,896,325	\$1,261,304	\$635,021	50%	\$1,891,956	\$1,891,956	100%	* Rates Revenue is levied and recognised at the start of the year. As a result, a favourable year-to-date result will show for much of the year.
User Charges and Fees	\$1,217,927	\$368,246	\$849,681	231%	\$2,163,306	\$2,945,966	(\$782,660)	-27%	\$4,418,950	\$4,430,950	49%	* User Charges and Fees show an unfavourable variance against YTD Budget due to the levying and recognition of this revenue in line with the billing periods throughout the year. Bill 2 has now been raised. When the final bill for 2022/23 is calculated in May, a further analysis of the water consumption will be completed.
Interest and Investments Revenues	\$20,655	\$9,919	\$10,736	108%	\$124,423	\$79,356	\$45,067	57%	\$119,033	\$189,033	66%	
Other Revenues	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Operating Grants and Contributions	\$0	\$3,127	(\$3,127)	-100%	\$39,461	\$25,017	\$14,444	58%	\$37,526	\$37,526	105%	
Internal Revenue	\$0	\$20,939	(\$20,939)	-100%	\$0	\$167,509	(\$167,509)	-100%	\$251,263	\$251,263	0%	
Total Revenue	\$1,238,582	\$559,894	\$678,688	121%	\$4,223,515	\$4,479,152	(\$255,637)	-6%	\$6,718,728	\$6,800,728	62%	
Expenses												
Wages and Salaries	\$98,840	\$110,366	\$11,526	10%	\$764,348	\$882,924	\$118,576	13%	\$1,324,386	\$1,299,986	59%	
Materials and Contracts	\$110,660	\$161,839	\$51,179	32%	\$1,498,122	\$1,294,714	(\$203,408)	-16%	\$1,942,071	\$2,042,418	73%	Overall costs on track against YTD projections at 63%.
Other Costs	\$42,001	\$30,512	(\$11,489)	-38%	\$262,578	\$244,098	(\$18,480)	-8%	\$366,147	\$553,213	47%	* All cost categories are at or below expected levels for YTD except Materials and Contracts, due to higher Water Main and Water Treatment expenses.
Borrowing Costs	\$0	\$7,122	\$7,122	100%	\$21,338	\$56,978	\$35,640	63%	\$85,467	\$85,467	25%	
Overheads	\$86,445	\$86,446	\$1	0%	\$691,560	\$691,565	\$5	0%	\$1,037,348	\$1,037,348	67%	
Depreciation	\$0	\$163,609	\$163,609	100%	\$1,192,929	\$1,308,873	\$115,944	9%	\$1,963,310	\$2,058,037	58%	
Total Expenses	\$337,946	\$559,894	\$221,948	40%	\$4,430,875	\$4,479,152	\$48,277	1%	\$6,718,728	\$7,076,468	63%	
Result	\$900,636	(\$0)	\$900,636		(\$207,360)	(\$0)	(\$207,360)		(\$0)	(\$275,740)		

Muswellbrook Shire Council

Financial Report - February 2023



Sewer Fund												
Account Group	Monthly Actuals	Monthly Budget	Monthly Var	Mth Var %	YTD Actuals	YTD Budget	YTD Var	YTD % Spend vs FY Budget	Full-Year Budget	December Review Budget	YTD as % of FY Budget	Variance Commentary (By material exception)
	Monthly				YTD				Full Year			
Revenue												
Rates and Charges	\$294,622	\$444,259	(\$149,637)	-34%	\$5,182,616	\$3,554,072	\$1,628,544	46%	\$5,331,108	\$5,331,108	97%	* Rates Revenue is levied and recognised at the start of the year. As a result, a favourable year-to-date result will show for much of the year. * User Charges and Fees show an unfavourable variance against YTD Budget due to the levying and recognition of this revenue in line with the billing periods throughout the year.
User Charges and Fees	\$53,959	\$48,065	\$5,894	12%	\$294,796	\$384,518	(\$89,722)	-23%	\$576,776	\$476,776	62%	
Interest and Investments Revenues	\$8,564	\$4,261	\$4,303	101%	\$57,497	\$34,091	\$23,406	69%	\$51,136	\$86,136	67%	
Other Revenues	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Operating Grants and Contributions	\$0	\$3,049	(\$3,049)	-100%	\$39,870	\$24,395	\$15,475	63%	\$36,593	\$36,593	109%	
Internal Revenue	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Total Revenue	\$357,145	\$499,634	(\$142,489)	-29%	\$5,574,779	\$3,997,075	\$1,577,704	39%	\$5,995,613	\$5,930,613	94%	
Expenses												
Wages and Salaries	\$52,666	\$72,138	\$19,472	27%	\$501,810	\$577,105	\$75,295	13%	\$865,658	\$825,658	61%	Overall costs are below YTD projections at 60%. * Other Costs show recognition of full-year insurance premium costs at the start of the year and high Electricity costs.
Materials and Contracts	\$67,357	\$90,153	\$22,796	25%	\$669,674	\$721,220	\$51,546	7%	\$1,081,830	\$1,043,898	64%	
Other Costs	\$39,879	\$37,612	(\$2,267)	-6%	\$409,691	\$300,896	(\$108,795)	-36%	\$451,344	\$752,728	54%	
Borrowing Costs	\$22,157	\$58,395	\$36,238	62%	\$412,626	\$467,162	\$54,536	12%	\$700,742	\$700,742	59%	
Overheads	\$59,008	\$59,008	\$0	0%	\$472,064	\$472,066	\$2	0%	\$708,099	\$708,099	67%	
Depreciation	\$0	\$182,328	\$182,328	100%	\$1,313,902	\$1,458,627	\$144,725	10%	\$2,187,940	\$2,253,666	58%	
Total Expenses	\$241,067	\$499,634	\$258,567	52%	\$3,779,767	\$3,997,075	\$217,308	5%	\$5,995,613	\$6,284,791	60%	
Result	\$116,078	(\$0)	\$116,078		\$1,795,012	(\$0)	\$1,795,012		(\$0)	(\$354,178)		

Muswellbrook Shire Council

Financial Report - February 2023



Future Fund												
Account Group	Monthly Actuals	Monthly Budget	Monthly Var	Mth Var %	YTD Actuals	YTD Budget	YTD Var	YTD % Spend vs FY Budget	Full-Year Budget	December Review Budget	YTD as % of FY Budget	Variance Commentary (By material exception)
	Monthly				YTD				Full Year			
Revenue												
Rates and Charges	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
User Charges and Fees	\$691,197	\$600,087	\$91,110	15%	\$4,832,359	\$4,800,700	\$31,659	1%	\$7,201,050	\$6,987,797	69%	
Interest and Investments Revenues	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Other Revenues	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Operating Grants and Contributions	\$0	\$0	\$0	0%	\$0	\$0	\$0	0%	\$0	\$0	0%	
Internal Revenue	\$0	\$10,300	(\$10,300)	-100%	\$120,000	\$82,400	\$37,600	46%	\$123,600	\$123,600	97%	
Total Revenue	\$691,197	\$610,387	\$80,810	13%	\$4,952,359	\$4,883,100	\$69,259	1%	\$7,324,650	\$7,111,397	70%	
Expenses												
Wages and Salaries	\$37,897	\$20,151	(\$17,746)	-88%	\$160,104	\$161,204	\$1,100	1%	\$241,807	\$241,807	66%	Overall costs are trending high against YTD projections - with costs at 70% against FY budget. *Materials and Contracts YTD figure is trending high and will continue to be monitored. * Other Costs show an unfavourable variance against YTD budget due to the recognition of full-year insurance premium and rates costs at the start of the year and high electricity expenses.
Materials and Contracts	\$142,566	\$133,219	(\$9,347)	-7%	\$973,792	\$1,065,751	\$91,959	9%	\$1,598,627	\$1,308,105	74%	
Other Costs	\$69,859	\$78,208	\$8,349	11%	\$710,264	\$625,664	(\$84,600)	-14%	\$938,496	\$974,764	73%	
Borrowing Costs	\$151,103	\$79,424	(\$71,679)	-90%	\$674,690	\$635,391	(\$39,299)	-6%	\$953,086	\$994,087	68%	
Overheads	\$41,324	\$41,324	\$0	0%	\$330,592	\$330,593	\$1	0%	\$495,889	\$495,889	67%	
Depreciation	\$51,186	\$65,160	\$13,974	21%	\$409,491	\$521,279	\$111,788	21%	\$781,919	\$614,239	67%	
Total Expenses	\$493,935	\$417,485	(\$76,450)	-18%	\$3,258,933	\$3,339,882	\$80,949	2%	\$5,009,823	\$4,628,890	70%	
Result	\$197,262	\$192,902	\$4,360		\$1,693,426	\$1,543,218	\$150,208		\$2,314,827	\$2,482,507		

Muswellbrook Shire Council

Financial Report - February 2023

Capital Costs (Incl. Loan Repayments & excl. Revenue)



	YTD Actuals	Carry Overs	Total Budget	September Review Budaet	December Review Budaet	YTD % Spend	Over Budget	Comments
General Fund Projects								
Planning, Community and Corporate Services Projects								
Adventure Playground - Wollombi Road	18,393	480,000	480,000	480,000	480,000	4%		
Aquatic Centres program	41,857	-	110,000	110,000	110,000	38%		
Art Acquisitions	1,200	-	70,000	71,200	71,200	2%		
Buildings New and Replacement	55,724	1,009,696	1,562,566	1,562,566	1,612,566	3%		
Bushfire Assets	20,520	591,239	591,239	591,239	591,239	3%		
Capital Works Contingency	-	-	100,000	100,000	-	0%		
CBD Stage 7 (Town Centre)	1,991,000	1,000,345	1,630,345	1,630,345	2,330,345	85%		
Civic Precinct (Town Square)	1,170,888	2,762,782	3,404,981	3,404,981	3,404,981	34%		
Contribution to Future Fund	-	-	880,000	880,000	880,000	0%		
COVID 19	60,587	-	121,711	121,711	121,711	50%		
Denman Childrens Centre - Expansion	75,431	521,402	521,402	521,402	521,402	14%		
Denman Heritage Village	443,660	876,394	1,809,525	1,809,525	1,809,525	25%		
Denman Netball Courts	21,375	206,286	311,451	311,451	311,451	7%		
Future Fund Contribution	-	-	1,120,000	1,120,000	972,869	0%		
General Design Program	16,150	25,707	25,707	25,707	25,707	63%		
General Projects - Loans	-	-	149,999	149,999	-	0%		
Hunter Beach	1,813,978	3,128,232	3,128,232	3,128,232	3,128,232	58%		
Information Technology Strategy	48,191	-	200,000	200,000	200,000	24%		
Investigation and Design - Aquatic Centre	117,067	151,553	151,553	151,553	151,553	77%		
Karoola Park Citizens Walk Pathway	12,778	30,000	30,000	30,000	30,000	43%		
Library Books General Capital Purchases	48,634	25,225	83,725	83,725	83,725	58%		
Library Subsidy Projects	16,261	65,649	65,649	65,649	65,649	25%		
Local Priority Grant	25,496	51,240	62,240	62,240	62,240	41%		
Major Landcare Projects	77,526	46,286	171,286	171,286	171,286	45%		
Mbk and Dnm Indoor Sports Centre Upgrades	-	261,462	261,462	261,462	261,462	0%		
MSC Depot	40,614	-	200,000	200,000	200,000	20%		
Muscle Creek Nature Trail and Revegetation	138,393	140,238	140,238	140,238	140,238	99%		
Olympic Park Project	213,572	2,909,650	3,409,650	3,409,650	3,409,650	6%		
Performance and Convention Centre	56,696	5,581,007	6,208,018	6,208,018	6,208,018	1%		
Companion Animal Impounding Facility	597,251	1,206,134	1,206,134	1,206,134	1,206,134	50%		
Recreation Capital Works	236,543	364,834	859,834	859,834	809,834	29%		
Renewable Energy Target Works	-	-	250,000	250,000	250,000	0%		
STEM Equipment Replacement	-	-	-	-	102,500	0%		
Sport and Rereation Small Capital Grants	-	-	25,000	25,000	25,000	0%		
Total Planning, Community and Corporate Services	7,359,785	21,435,361	29,341,947	29,343,147	29,748,517	25%		

Muswellbrook Shire Council

Financial Report - February 2023

Capital Costs (Incl. Loan Repayments & excl. Revenue)



	YTD Actuals	Carry Overs	Total Budget	September Review Budget	December Review Budget	YTD % Spend	Over Budget	Comments
Roads and Drainage Projects								
Bridge St Footpath	31,912	-	64,304	64,304	64,304	50%		
Bridges Renewal program	4,910	42,281	42,281	42,281	42,281	12%		
Carpark Renewal program	-	93,143	93,143	93,143	-	0%		
CPTIGS - Bus Shelter	5,668	48,400	278,400	251,040	316,167	2%		
Drainage	-	300,000	615,188	615,188	615,188	0%		
Drainage Devices program	-	-	150,000	150,000	-	0%		
Drainage Channel - Lorne Street	810,485	711,573	711,573	711,573	811,573	100%		
Flood Warning Systems	-	-	50,000	50,000	50,000	0%		
Footpath and Cycleway Renewal program	27,733	-	150,000	150,000	150,000	18%		
Heavy Patching program	383,750	-	500,000	500,000	500,000	77%		
Kerb and Gutter Replacement program	153,138	-	150,000	150,000	150,000	102%	(3,138)	Review overhead allocation.
Kirk and Peberdy Bridges	-	-	80,322	80,322	80,322	0%		
Large Plant Items	72,755	1,170,000	1,680,000	1,680,000	1,680,000	4%		
Leachate Dam	7,185	482,980	482,980	482,980	482,980	1%		
LED Fire Danger Warning Signs (BSBR)	46,731	152,304	152,304	152,304	152,304	31%		
LISF - Roads Infrastructure Backlog	278,309	-	371,478	371,478	371,478	75%		
Natural Disaster - ARGN 987	292,639	-	-	410,891	410,891	71%		
Natural Disaster Event - Baerami Creek Causeway	20	-	-	689,674	689,674	0%		
New Footpath and Cycleway program	61,212	-	250,000	250,000	250,000	24%		
Oakleigh Bridge Replacement (BSBR)	343,269	543,988	543,988	543,988	543,988	63%		
Purchase of Vehicles	197,930	92,558	342,558	342,558	342,558	58%		
Rainbow Creek Bridge	358	-	-	-	294,906	0%		
Regional Road Renewal program	108,029	-	307,000	307,000	614,000	18%		
Resources for Regions - Round 5	2,752,994	2,425,459	2,425,459	2,425,459	3,127,101	88%		
Resources for Regions - Round 6	534,092	521,282	521,282	521,282	521,282	102%	(12,810)	Review expense allocations.
Resources for Regions- Round 7	7,690	-	-	-	1,643,461	0%		
Road Resealing program	709,274	92,655	892,655	892,655	892,655	79%		
Roads Capital Contingency	-	-	100,000	100,000	-	0%		
Roads to Recovery Program	-	-	577,898	577,898	577,898	0%		
Road Safety Program-School Zone	180,735	213,498	213,498	213,498	213,498	85%		
Rosebrook Bridge	70,044	1,543,391	1,543,391	1,543,391	1,543,391	5%		
Rural Road Regravelling Program	291,191	-	329,628	300,628	300,628	97%		
Safety Device Renewal program	-	73,120	193,120	193,120	193,120	0%		
Sandy Creek Road Curve Improvement	-	167,484	167,484	167,484	167,484	0%		
Transport Vehicles	71,777	52,258	152,258	152,258	152,258	47%		
Urban Road Renewal Program	-	-	372,000	372,000	-	0%		
Widden Creek Bank	274,249	223,569	223,569	274,249	274,249	100%		
Widden Creek Stabilisation Works	67,109	-	-	-	-	0%		Budget is included as part of the March Quarterly Budget Review
Widden Valley Road Pavement Rehab	-	7,211	7,211	7,211	7,211	0%		
Wilkinson Bridge	72,755	-	109,398	109,398	109,398	67%		
Yarrawa Road (Fixing Local Roads)	697,507	1,027,801	1,027,801	1,055,161	1,055,161	66%		
Total Roads and Drainage	8,555,450	9,984,955	15,872,171	16,994,416	19,391,409	54%	(15,948)	
Total General Fund	15,915,235	31,420,316	45,214,118	46,337,563	49,139,926	35%	(15,948)	

Muswellbrook Shire Council

Financial Report - February 2023

Capital Costs (Incl. Loan Repayments & excl. Revenue)



	YTD Actuals	Carry Overs	Total Budget	September Review Budaet	December Review Budaet	YTD % Spend	Over Budget	Comments
Future Fund Projects								
Donald Horne Building	103,019	-	150,000	150,000	208,834	49%		
Marketplace	2,988,571	-	3,768,747	3,768,747	3,562,782	84%		
Renewal of Existing Assets/New Acquisitions	295,160	-	657,999	657,999	657,999	45%		
Throsby ACT	346,666	-	520,000	520,000	520,000	67%		
Town Education Centre 2	573,009	580,613	580,613	580,613	580,613	99%		
Upgrade of Loxton House	276,410	-	275,000	275,000	875,000	32%		
Total Future Fund	4,582,835	580,613	5,952,359	5,952,359	6,405,228	77%		
Sewer Fund								
Access & Security Improvements RWTW	136,877	100,466	155,466	155,466	155,466	88%		
Mains Renewal and Replacement	63,932	-	589,431	300,979	300,979	21%		
Operations Contingency Project	72,019	-	150,000	150,000	150,000	48%		
Solar Array	33,191	-	1,800,000	1,800,000	1,800,000	2%		
System Plant Asset Renewals	281,775	-	650,000	650,000	650,000	43%		
Transportation System Improvement	40,111	81,939	81,939	81,939	81,939	49%		
Loan - Sewer RWTW	397,499	-	651,553	651,553	651,553	61%		
Skellatar Main	45,384	-	91,957	91,957	91,957	49%		
Total Sewer Fund	1,070,788	182,405	4,170,346	3,881,894	3,881,894	26%		

Muswellbrook Shire Council

Financial Report - February 2023

Capital Costs (Incl. Loan Repayments & excl. Revenue)



	YTD Actuals	Carry Overs	Total Budget	September Review Budget	December Review Budget	YTD % Spend	Over Budget	Comments
Water Fund								
Asbestos, Earthworks, Security	155,964	-	155,000	155,000	155,000	101%	(964)	Review expense allocations.
Mains Renewal and Replacement	753,591	448,278	748,278	748,278	748,278	101%	(5,313)	Review expense allocations.
Operations Contingency Project	104,414	-	117,686	117,686	117,686	89%		
Replacement of Water Meters program	28,746	-	65,000	65,000	65,000	44%		
Sandy Hollow Augmentation	12,288	-	25,427	25,427	25,427	48%		
South Muswellbrook Reservoir	164,600	-	350,197	350,197	350,197	47%		
System Plant Asset Renewals	485,722	191,376	891,376	791,376	791,376	61%		
Upgrade Fluoride Dosing System WTP	39,658	346,461	346,461	346,461	346,461	11%		
Vehicle-Equipment Replacement	-	78,684	78,684	78,684	78,684	0%		
Water Stop Valve Replacement	87,590	35,627	285,627	205,014	205,014	43%		
Total Water Fund	1,840,549	1,100,426	3,063,736	2,883,123	2,883,123	60%	(6,277)	
Consolidated Total	23,409,407	33,283,760	58,400,559	59,054,939	62,310,171	40%	(22,225)	

Details of Current Council Loans



Balance at 30/06/2021	Payment Type	2019/20 Repayments	2020/21 Repayments	2021/22 Repayments	2022/23 Repayments	2023/24 Repayments	2024/25 Repayments	2025/26 Repayments	2026/27 Repayments	2027/28 Repayments	2028/29 Repayments	2029/30 Repayments	2030/31 Repayments
Water Fund													
\$1,007,297	Principal	\$310,206	\$330,160	\$351,400	\$375,624	\$280,273	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Interest	\$87,745	\$67,791	\$46,551	\$23,815	\$4,977	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total	\$397,951	\$397,951	\$397,951	\$399,439	\$285,250	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sewer Fund													
\$15,619,999	Principal	\$642,256	\$677,873	\$710,385	\$743,509	\$778,430	\$816,997	\$856,300	\$780,502	\$815,416	\$850,535	\$886,347	\$922,883
	Interest	\$761,835	\$726,218	\$693,706	\$660,582	\$625,661	\$587,094	\$549,281	\$509,827	\$474,913	\$439,794	\$403,982	\$367,446
	Total	\$1,404,091	\$1,404,091	\$1,404,091	\$1,404,091	\$1,404,091	\$1,404,091	\$1,405,581	\$1,290,329	\$1,290,329	\$1,290,329	\$1,290,329	\$1,290,329
General Fund													
\$7,033,329	Principal	\$592,931	\$614,941	\$715,625	\$747,212	\$589,049	\$398,903	\$411,895	\$425,955	\$440,494	\$455,537	\$471,112	\$400,583
	Interest	\$226,943	\$245,540	\$233,183	\$201,596	\$160,992	\$145,179	\$147,540	\$133,362	\$118,758	\$103,536	\$87,667	\$59,397
	Total	\$819,874	\$860,481	\$948,808	\$948,808	\$750,041	\$544,083	\$559,435	\$559,318	\$559,252	\$559,073	\$558,780	\$459,980
Future Fund													
\$45,600,163	Principal	\$4,822,070	\$5,116,650	\$5,447,178	\$4,270,338	\$3,546,155	\$3,608,444	\$3,699,073	\$3,788,145	\$2,781,513	\$2,095,246	\$1,306,313	\$1,010,380
	Interest	\$1,196,886	\$964,183	\$839,494	\$994,087	\$999,404	\$955,814	\$892,420	\$798,502	\$442,438	\$380,663	\$336,230	\$270,629
	Total	\$6,018,956	\$6,080,833	\$6,286,672	\$5,264,425	\$4,545,559	\$4,564,258	\$4,591,493	\$4,586,647	\$3,223,952	\$2,475,910	\$1,642,544	\$1,281,009
\$69,260,789		\$8,640,872	\$8,743,355	\$9,037,522	\$8,016,763	\$6,984,940	\$6,512,431	\$6,556,509	\$6,436,294	\$5,073,533	\$4,325,312	\$3,491,652	\$3,031,318
Purpose	Original Amount	Interest Rate	Balance at 1/7/2022	2022/23 Principal Repayments	2022/23 Interest Repayments	2022/23 Total Payments	Year of Final Payment	Notes (If any)					
Water - South Muswellbrook Reservoir	\$1,100,000	6.03%	\$91,947	\$91,947	\$1,109	\$93,056	2022/23						
Water - Sandy Hollow Augmentation	\$300,000	6.09%	\$25,427	\$25,426	\$325	\$25,751	2022/23						
Water - South Muswellbrook Reservoir	\$3,200,000	6.61%	\$538,522	\$258,250	\$22,382	\$280,632	2023/24						
Sewer - Mains and Pump Stations	\$1,300,000	6.50%	\$406,758	\$91,957	\$21,805	\$113,762	2025/26						
General - Widden Bridge	\$1,750,000	6.00%	\$1,159,354	\$80,322	\$65,744	\$146,066	2034/35						
General - Smiths Bridge	\$1,573,967	4.28%	\$1,180,412	\$64,304	\$48,194	\$112,498	2024/25						
General - Roads Infrastructure Backlog	\$3,000,000	5.90%	\$573,423	\$371,478	\$33,832	\$405,310	2023/24	LIFS interest rate subsidy applies					
General - Olympic Park Bridge	\$1,785,000	1.45%	\$1,641,582	\$109,398	\$23,093	\$132,491	2025/26						
Future Fund	\$3,300,000	1.60%	\$2,970,000	\$165,000	\$46,310	\$211,310	2024/25						
Future Fund - Seven Hills, Campbell's Corner	\$7,980,502	4.35%	\$7,980,502	\$672,758	\$339,944	\$1,012,702	2026/27						
Future Fund - Muswellbrook Marketplace	\$13,276,500	1.20%	\$12,200,896	\$625,546	\$143,216	\$768,762	2023/24						
Future Fund - Muswellbrook Marketplace	\$5,000,000	3.43%	\$739,277	\$739,277	\$12,582	\$751,859	2022/23						
Future Fund - Muswellbrook Marketplace	\$12,500,000	2.34%	\$9,285,643	\$1,338,923	\$209,160	\$1,548,083	2024/25						
Future Fund - Donald Horne building	\$2,500,000	4.80%	\$2,500,000	\$208,834	\$117,534	\$326,368	2026/27						
Sewer - Sewer Treatment Plant	\$7,000,000	4.49%	\$6,074,062	\$263,628	\$267,344	\$530,972	2038/39						
Sewer - Sewer Treatment Plant	\$10,000,000	4.50%	\$8,428,794	\$387,925	\$371,432	\$759,357	2037/38						
Covid 19	\$2,000,000	1.77%	\$1,762,933	\$121,711	\$30,732	\$152,443	2022/23	Loan to be reported to the March 2023 Council meeting for refinancing.					
Throsby ACT	\$7,800,000	1.86%	\$6,976,667	\$520,000	\$125,341	\$645,341	2025/26						
TOTAL	\$85,365,969		\$64,536,199	\$6,136,684	\$1,880,079	\$8,016,763							

Reserves

		2022/2023 Original Budget		Carryovers	September 2022 Review		December 2022 Review		Projected Balance 30 June 2023
		Transfer to	Transfer From	Transfer From	Transfer to	Transfer From	Transfer to	Transfer From	
	\$'000's								
Externally Restricted									
General Fund									
Developer Contributions	1,299			(242)					1,057
Domestic Waste	881								881
Unexpended Grants (G)	4,098			(3,419)					679
Unexpended Loan	1,684			(1,684)					-
VPAs	3,725			(2,256)					1,469
General Fund Total	11,687			(7,601)					4,086
Water Fund									
Developer Contributions	7,671								7,671
Water	5,092			(1,100)					3,992
Water Fund Total	12,763			(1,100)					11,663
Sewer Fund									
Developer Contributions	3,520		(1,800)						1,720
Sewer	1,475			(182)	-				1,293
Sewer Fund Total	4,995		(1,800)	(182)	-				3,013
Externally Restricted Total	29,445		(1,800)	(8,883)	-				18,762

Reserves

		2022/2023 Original Budget		Carryovers	September 2022 Review		December 2022 Review		Projected
\$'000's	Balance as at 1 July 2022	Transfer to	Transfer From	Transfer From	Transfer to	Transfer From	Transfer to	Transfer From	Balance 30 June 2023
Internally Restricted									
Future Fund									
Future Fund	1,118								1,118
Future Fund Total	1,118								1,118
General Fund									
Asset Replacement	2,497			(417)					2,080
Carryover Works	2,917			(2,717)					200
Deposits, Retentions and Bonds	4,450								4,450
Drainage	143								143
Economic Development	1,910		(1,196)						714
Employee Leave Entitlements	1,132								1,132
Financial Assistance Grant	3,115		(3,115)						-
Insurances	33								33
Mine Affected Roads	2,353								2,353
Natural Disaster - Flood	1,000								1,000
Other	286			(114)					172
Other Legal	1,050								1,050
Plant Replacement	2,404		(350)	(793)					1,261
Projects							430		430
Renewable Energy							113		113
Risk Management	78								78
SRV	1,578			(820)					758
Stormwater	1,030								1,030
Waste Management	6,525	1,251		(1,125)					6,651
General Fund Total	32,501	1,251	(4,661)	(5,986)			543		23,648
Internally Restricted Total	33,619	1,251	(4,661)	(5,986)			543		24,766
Unrestricted									
General Fund									
Unrestricted	24								24
General Fund Total	24								24
Unrestricted Total	24								24
Total	63,088	1,251	(6,461)	(14,869)	-		543		43,552



Debtor Balances as at 28 February 2023

Account	120 days	90 days	60 days	30 days	Current	Balance
Waste Depot Charges	\$38,967	\$4,101	\$9,615	\$113,859	\$148,842	\$315,383
Inspection Fees	\$12,507	\$0	\$0	\$5,297	\$432	\$18,236
Sam Adams College Rent	\$0	\$0	\$0	\$0	\$41	\$41
Council Properties - Future Fund *	\$225,141	\$1,311	\$0	\$243	\$222,098	\$448,793
Council Properties - Marketplace *	\$424,959	\$17,301	\$189,828	\$226,443	\$137,358	\$616,233
Council Properties - Education Fund	\$0	\$0	\$0	\$12,175	\$19,774	\$31,949
Recreation	\$78	\$0	\$74	\$0	\$18,128	\$18,280
Sundries**	\$418,702	\$143,392	\$101,048	\$406,372	\$1,969,102	\$3,038,615
Water Tanker Sales	\$15,868	\$11,080	\$18,107	\$12,701	\$1,181	\$58,937
Trade Waste Charges	\$684	\$0	\$0	\$0	\$0	\$684
Muswellbrook Sewer	\$172,100	\$40,464	\$32,920	\$23,785	\$24,458	\$293,727
GST Tax Debtor	\$0	\$0	\$0	\$0	\$224	\$224
TOTAL	\$1,309,005	\$217,649	\$351,591	\$800,875	\$2,541,636	\$4,841,103

* Balances include rent deferrals due to COVID, and other commercial receivables currently with debt recovery/legal services.

** Includes \$1.54M in Grants and VPA funding and \$1.28M for a Bond.

**9.4.5. Report on Investments held as at 28 February 2023**

Attachments:	<ol style="list-style-type: none">1. Portfolio Valuation Report - 28 February 2023 [9.4.5.1 - 5 pages]2. Trading Limit Report - 28 February 2023 [9.4.5.2 - 8 pages]
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Responsible Officer: Derek Finnigan - Acting General Manager

Author: Mandy Fitzgerald (Senior Financial Accountant)

Community Plan Issue: 6 - *Community Leadership*

Community Plan Goal: 24.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.

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

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

OFFICER'S RECOMMENDATION

Council notes Council's Investments as at 28 February 2023.

Moved: _____ **Seconded:** _____

REPORT

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

Funds invested under Section 625 of the Local Government Act, as at 28 February 2023 are shown in the attachments.

COMMENT:

As at 28 February 2023, Council held \$69.46M in cash and investments with a weighted running yield of 3.46% for the month.

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

	Fixed Interest Security	ISIN	Face Value Original	Bond Factor	Face Value Current	Capital Price	Accrued Interest Price	Market Value	% Total Value	Running Yield	Weighted Running Yield
At Call Deposit											
	Westpac Bus Prem At Call		8,217,753.78	1.00000000	8,217,753.78	100.000	0.000	8,217,753.78	11.75%	0.34%	
	Westpac Muswellbrook Trading Acct At Call		100,000.00	1.00000000	100,000.00	100.000	0.000	100,000.00	0.14%	0.34%	
			8,317,753.78		8,317,753.78			8,317,753.78	11.89%		0.34%
Fixed Rate Bond											
	BENAU 1.7 06 Sep 2024 Fixed	AU3CB0266377	2,500,000.00	1.00000000	2,500,000.00	95.405	0.822	2,405,675.00	3.44%	1.68%	
	NTTC 1.1 15 Dec 2025 - Issued 31 August 2021 - Muswellbrook Council Fixed		2,000,000.00	1.00000000	2,000,000.00	100.000	0.226	2,004,520.00	2.87%	1.10%	
	NTTC 1.1 15 Dec 2025 - Issued 6 September 2021 - Muswellbrook Council Fixed		1,500,000.00	1.00000000	1,500,000.00	100.000	0.226	1,503,390.00	2.15%	1.10%	
	SunBank 1.85 30 Jul 2024 Fixed	AU3CB0265403	2,000,000.00	1.00000000	2,000,000.00	95.914	0.148	1,921,240.00	2.75%	1.80%	
			8,000,000.00		8,000,000.00			7,834,825.00	11.20%		1.46%
Floating Rate Note											
	Auswide 1.05 17 Mar 2023 FRN	AU3FN0053567	2,000,000.00	1.00000000	2,000,000.00	100.011	0.827	2,016,760.00	2.88%	4.25%	
	Auswide 0.6 22 Mar 2024 FRN	AU3FN0059317	1,500,000.00	1.00000000	1,500,000.00	99.834	0.710	1,508,160.00	2.16%	3.81%	
	Auswide 1.5 07 Nov 2025 FRN	AU3FN0073037	1,000,000.00	1.00000000	1,000,000.00	100.433	0.281	1,007,140.00	1.44%	4.88%	
	BOQ 1.03 18 Jul 2024 FRN	AU3FN0049094	1,000,000.00	1.00000000	1,000,000.00	100.326	0.489	1,008,150.00	1.44%	4.34%	
	BOQ 1.1 30 Oct 2024 FRN	AU3FN0051272	500,000.00	1.00000000	500,000.00	100.393	0.356	503,745.00	0.72%	4.48%	
	MACQ 0.48 09 Dec 2025 FRN	AU3FN0057709	3,000,000.00	1.00000000	3,000,000.00	99.039	0.801	2,995,200.00	4.28%	3.61%	
	MYS 0.65 16 Jun 2025 FRN	AU3FN0061024	3,000,000.00	1.00000000	3,000,000.00	99.002	0.778	2,993,400.00	4.28%	3.84%	
	NAB 0.93 26 Sep 2023 FRN	AU3FN0044996	2,000,000.00	1.00000000	2,000,000.00	100.321	0.709	2,020,600.00	2.89%	4.20%	
	NPBS 1.12 04 Feb 2025 FRN	AU3FN0052627	5,500,000.00	1.00000000	5,500,000.00	99.974	0.270	5,513,420.00	7.88%	4.48%	
	Qld Police 0.75 22 Mar 2024 FRN	AU3FN0059416	1,500,000.00	1.00000000	1,500,000.00	99.855	0.738	1,508,895.00	2.16%	3.96%	
	Qld Police 1.75 06 Dec 2025 FRN	AU3FN0073979	2,000,000.00	1.00000000	2,000,000.00	100.452	1.109	2,031,220.00	2.90%	4.82%	
	UBS Aust 0.87 30 Jul 2025 FRN	AU3FN0055307	1,650,000.00	1.00000000	1,650,000.00	100.062	0.338	1,656,600.00	2.37%	4.19%	
			24,650,000.00		24,650,000.00			24,763,290.00	35.41%		4.20%
Term Deposit											

Fixed Interest Security	ISIN	Face Value Original	Bond Factor	Face Value Current	Capital Price	Accrued Interest Price	Market Value	% Total Value	Running Yield	Weighted Running Yield
AMP 4.2 15 Jun 2023 365DAY TD		4,000,000.00	1.00000000	4,000,000.00	100.000	2.969	4,118,750.68	5.89%	4.20%	
AMP 4.45 21 Jul 2023 365DAY TD		1,250,000.00	1.00000000	1,250,000.00	100.000	2.707	1,283,832.19	1.84%	4.45%	
AMP 4.55 30 Nov 2023 365DAY TD		1,000,000.00	1.00000000	1,000,000.00	100.000	1.122	1,011,219.18	1.45%	4.55%	
AUBANK 4.2 01 Aug 2023 386DAY TD		5,000,000.00	1.00000000	5,000,000.00	100.000	2.670	5,133,479.45	7.34%	4.20%	
BOQ 4 21 Jul 2023 365DAY TD		1,250,000.00	1.00000000	1,250,000.00	100.000	2.433	1,280,410.96	1.83%	4.00%	
BVIC 4.6 11 Oct 2023 273DAY TD		2,000,000.00	1.00000000	2,000,000.00	100.000	0.605	2,012,098.64	2.88%	4.60%	
BVIC 4.65 11 Jan 2024 365DAY TD		4,000,000.00	1.00000000	4,000,000.00	100.000	0.612	4,024,460.28	5.75%	4.65%	
BBA 4.5 12 Jul 2023 182DAY TD		2,000,000.00	1.00000000	2,000,000.00	100.000	0.592	2,011,835.62	2.88%	4.50%	
JUDO 4.25 10 Jan 2024 457DAY TD		4,000,000.00	1.00000000	4,000,000.00	100.000	1.642	4,065,671.24	5.81%	4.25%	
NAB 4.05 13 Sep 2023 365DAY TD		4,000,000.00	1.00000000	4,000,000.00	100.000	1.864	4,074,564.40	5.83%	4.05%	
		28,500,000.00		28,500,000.00			29,016,322.64	41.49%		4.31%
Fixed Interest Total		69,467,753.78		69,467,753.78			69,932,191.42	100.00%		3.46%

Section 2: FI Portfolio Valuation With Associated Latest Deal Information

Fixed Interest Security	ISIN	Latest FI Deal Settlement Date	WAL / Maturity Date Interim	Face Value Original	Bond Factor	Face Value Current	Capital Price	Accrued Interest Price	Market Value	% Total Value	Latest FI Deal Code	Notes of Latest FI Deal
At Call Deposit												
Westpac Bus Prem At Call		28 Feb 2023	31 Dec 3020	8,217,753.78	1.00000000	8,217,753.78	100.000	0.000	8,217,753.78	11.75%	LC164090	
Westpac Muswellbrook Trading Acct At Call		31 Oct 2018	31 Dec 3020	100,000.00	1.00000000	100,000.00	100.000	0.000	100,000.00	0.14%	LC64506	
				8,317,753.78		8,317,753.78			8,317,753.78	11.89%		
Fixed Rate Bond												
BENAU 1.7 06 Sep 2024 Fixed	AU3CB0266377	9 Jun 2020	6 Sep 2024	2,500,000.00	1.00000000	2,500,000.00	95.405	0.822	2,405,675.00	3.44%	LC88979	
NTTC 1.1 15 Dec 2025 - Issued 31 August 2021 - Muswellbrook Council Fixed		31 Aug 2021	15 Dec 2025	2,000,000.00	1.00000000	2,000,000.00	100.000	0.226	2,004,520.00	2.87%	LC111825	
NTTC 1.1 15 Dec 2025 - Issued 6 September 2021 - Muswellbrook Council Fixed		6 Sep 2021	15 Dec 2025	1,500,000.00	1.00000000	1,500,000.00	100.000	0.226	1,503,390.00	2.15%	LC112238	
SunBank 1.85 30 Jul 2024 Fixed	AU3CB0265403	29 Sep 2021	30 Jul 2024	2,000,000.00	1.00000000	2,000,000.00	95.914	0.148	1,921,240.00	2.75%	LC112956	
				8,000,000.00		8,000,000.00			7,834,825.00	11.20%		
Floating Rate Note												
Auswide 1.05 17 Mar 2023 FRN	AU3FN0053567	17 Mar 2020	17 Mar 2023	2,000,000.00	1.00000000	2,000,000.00	100.011	0.827	2,016,760.00	2.88%	LC84611	
Auswide 0.6 22 Mar 2024 FRN	AU3FN0059317	22 Mar 2021	22 Mar 2024	1,500,000.00	1.00000000	1,500,000.00	99.834	0.710	1,508,160.00	2.16%	LC103798	
Auswide 1.5 07 Nov 2025 FRN	AU3FN0073037	7 Nov 2022	7 Nov 2025	1,000,000.00	1.00000000	1,000,000.00	100.433	0.281	1,007,140.00	1.44%	LC156236	
BOQ 1.03 18 Jul 2024 FRN	AU3FN0049094	18 Jul 2019	18 Jul 2024	1,000,000.00	1.00000000	1,000,000.00	100.326	0.489	1,008,150.00	1.44%	LC74377	
BOQ 1.1 30 Oct 2024 FRN	AU3FN0051272	2 Jun 2020	30 Oct 2024	500,000.00	1.00000000	500,000.00	100.393	0.356	503,745.00	0.72%	LX88585	
MACQ 0.48 09 Dec 2025 FRN	AU3FN0057709	8 Mar 2021	9 Dec 2025	3,000,000.00	1.00000000	3,000,000.00	99.039	0.801	2,995,200.00	4.28%	LC103387	
MYS 0.65 16 Jun 2025 FRN	AU3FN0061024	16 Jun 2021	16 Jun 2025	3,000,000.00	1.00000000	3,000,000.00	99.002	0.778	2,993,400.00	4.28%	LC107737	
NAB 0.93 26 Sep 2023 FRN	AU3FN0044996	18 Mar 2020	26 Sep 2023	2,000,000.00	1.00000000	2,000,000.00	100.321	0.709	2,020,600.00	2.89%	LX84919	
NPBS 1.12 04 Feb 2025 FRN	AU3FN0052627	12 Oct 2022	4 Feb 2025	5,500,000.00	1.00000000	5,500,000.00	99.974	0.270	5,513,420.00	7.88%	LC155163	
Qld Police 0.75 22 Mar 2024 FRN	AU3FN0059416	22 Mar 2021	22 Mar 2024	1,500,000.00	1.00000000	1,500,000.00	99.855	0.738	1,508,895.00	2.16%	LC103942	
Qld Police 1.75 06 Dec 2025 FRN	AU3FN0073979	6 Dec 2022	6 Dec 2025	2,000,000.00	1.00000000	2,000,000.00	100.452	1.109	2,031,220.00	2.90%	LC157907	
UBS Aust 0.87 30 Jul 2025 FRN	AU3FN0055307	10 Mar 2021	30 Jul 2025	1,650,000.00	1.00000000	1,650,000.00	100.062	0.338	1,656,600.00	2.37%	LC103504	
				24,650,000.00		24,650,000.00			24,763,290.00	35.41%		
Term Deposit												
AMP 4.2 15 Jun 2023 365DAY TD		15 Jun 2022	15 Jun 2023	4,000,000.00	1.00000000	4,000,000.00	100.000	2.969	4,118,750.68	5.89%	LC145780	
AMP 4.45 21 Jul 2023 365DAY TD		21 Jul 2022	21 Jul 2023	1,250,000.00	1.00000000	1,250,000.00	100.000	2.707	1,283,832.19	1.84%	LC147777	
AMP 4.55 30 Nov 2023 365DAY TD		30 Nov 2022	30 Nov 2023	1,000,000.00	1.00000000	1,000,000.00	100.000	1.122	1,011,219.18	1.45%	LC158134	
AUBANK 4.2 01 Aug 2023 386DAY TD		11 Jul 2022	1 Aug 2023	5,000,000.00	1.00000000	5,000,000.00	100.000	2.670	5,133,479.45	7.34%	LC147411	
BOQ 4 21 Jul 2023 365DAY TD		21 Jul 2022	21 Jul 2023	1,250,000.00	1.00000000	1,250,000.00	100.000	2.433	1,280,410.96	1.83%	LX147775	
BVIC 4.6 11 Oct 2023 273DAY TD		11 Jan 2023	11 Oct 2023	2,000,000.00	1.00000000	2,000,000.00	100.000	0.605	2,012,098.64	2.88%	LC159958	
BVIC 4.65 11 Jan 2024 365DAY TD		11 Jan 2023	11 Jan 2024	4,000,000.00	1.00000000	4,000,000.00	100.000	0.612	4,024,460.28	5.75%	LC159887	
BBA 4.5 12 Jul 2023 182DAY TD		11 Jan 2023	12 Jul 2023	2,000,000.00	1.00000000	2,000,000.00	100.000	0.592	2,011,835.62	2.88%	LC159977	
JUDO 4.25 10 Jan 2024 457DAY TD		10 Oct 2022	10 Jan 2024	4,000,000.00	1.00000000	4,000,000.00	100.000	1.642	4,065,671.24	5.81%	LC155160	

Fixed Interest Security	ISIN	Latest FI Deal Settlement Date	WAL / Maturity Date Interim	Face Value Original	Bond Factor	Face Value Current	Capital Price	Accrued Interest Price	Market Value	% Total Value	Latest FI Deal Code	Notes of Latest FI Deal
NAB 4.05 13 Sep 2023 365DAY TD		13 Sep 2022	13 Sep 2023	4,000,000.00	1.00000000	4,000,000.00	100.000	1.864	4,074,564.40	5.83%	LX153816	
				28,500,000.00		28,500,000.00			29,016,322.64	41.49%		
Fixed Interest Total				69,467,753.78		69,467,753.78			69,932,191.42	100.00%		

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Report Code: TBSBP100EXT-01.17
Report Description: Portfolio Valuation As At Date
Parameters:
Term Deposit Interest Included
Cash Excluded
Settlement Date-Based Balances

1 Issuer Trading Limits

Issuer	Issuer Rating Group (Long Term)	Issuer Parent	Already Traded (with Issuer Group) Face Value Notional	Limit For Book or Entity	Trading Limit	Trading Limit Type	Trading Limit Value	Trading Limit Used (%)	Trading Limit Available (%)	Trading Limit Available (Value)	Trading Limit Exceeded (%)	Trading Limit Exceeded (\$)
AMP Bank Ltd	BBB+ to BBB-		6,250,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	90.00	10.00	696,775	0.00	0
ANZ Banking Group Ltd	AA+ to AA-		0.00	Book	30.00	% of 69,467,753.78	20,840,326.13	0.00	100.00	20,840,326	0.00	0
Australian Unity Bank	BBB+ to BBB-		5,000,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	72.00	28.00	1,946,775	0.00	0
Auswide Bank Limited	BBB+ to BBB-		4,500,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	65.00	35.00	2,446,775	0.00	0
Bank of Melbourne	AA+ to AA-	Westpac Banking Corporation Ltd	8,317,753.78	Book	30.00	% of 69,467,753.78	20,840,326.13	40.00	60.00	12,522,572	0.00	0
Bank of Queensland Ltd	A+ to A-		2,750,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	40.00	60.00	4,196,775	0.00	0
BankSA	AA+ to AA-	Westpac Banking Corporation Ltd	8,317,753.78	Book	30.00	% of 69,467,753.78	20,840,326.13	40.00	60.00	12,522,572	0.00	0
BankVic	BBB+ to BBB-		6,000,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	86.00	14.00	946,775	0.00	0
BankWest Ltd	AA+ to AA-	Commonwealth Bank of Australia Ltd	0.00	Book	30.00	% of 69,467,753.78	20,840,326.13	0.00	100.00	20,840,326	0.00	0
Bendigo & Adelaide Bank Ltd	A+ to A-		2,500,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	36.00	64.00	4,446,775	0.00	0
Beyond Bank Australia Ltd	BBB+ to BBB-		2,000,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	29.00	71.00	4,946,775	0.00	0
Commonwealth Bank of Australia Ltd	AA+ to AA-		0.00	Book	30.00	% of 69,467,753.78	20,840,326.13	0.00	100.00	20,840,326	0.00	0
Credit Suisse Sydney	BBB+ to BBB-		0.00	Book	20.00	% of 69,467,753.78	13,893,550.76	0.00	100.00	13,893,551	0.00	0
Credit Union Australia Ltd t/as Great Southern Bank	BBB+ to BBB-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
Greater Bank Ltd	BBB+ to BBB-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
Heritage Bank Ltd	BBB+ to BBB-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
ING Bank Australia Limited	A+ to A-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
Investec Bank Australia Limited	A+ to A-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
Judo Bank	BBB+ to BBB-		4,000,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	58.00	42.00	2,946,775	0.00	0
Macquarie Bank	A+ to A-		3,000,000.00	Book	20.00	% of 69,467,753.78	13,893,550.76	22.00	78.00	10,893,551	0.00	0
Members Banking Group Limited t/as RACQ Bank	BBB+ to BBB-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
Members Equity Bank Ltd	A+ to A-	Bank of Queensland Ltd	2,750,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	40.00	60.00	4,196,775	0.00	0
MyState Bank Ltd	BBB+ to BBB-		3,000,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	43.00	57.00	3,946,775	0.00	0
National Australia Bank Ltd	AA+ to AA-		6,000,000.00	Book	30.00	% of 69,467,753.78	20,840,326.13	29.00	71.00	14,840,326	0.00	0
Newcastle Permanent Building Society Ltd	BBB+ to BBB-		5,500,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	79.00	21.00	1,446,775	0.00	0
Northern Territory Treasury Corporation	AA+ to AA-		3,500,000.00	Book	30.00	% of 69,467,753.78	20,840,326.13	17.00	83.00	17,340,326	0.00	0
NSW Treasury Corporation	AA+ to AA-		0.00	Book	100.00	% of 69,467,753.78	69,467,753.78	0.00	100.00	69,467,754	0.00	0
P&N Bank Ltd	BBB+ to BBB-		0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
QPCU LTD t/a QBANK	BBB+ to BBB-		3,500,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	50.00	50.00	3,446,775	0.00	0
Rabobank Australia Ltd	A+ to A-		0.00	Book	20.00	% of 69,467,753.78	13,893,550.76	0.00	100.00	13,893,551	0.00	0

1 Issuer Trading Limits

Issuer	Issuer Rating Group (Long Term)	Issuer Parent	Already Traded (with Issuer Group) Face Value Notional	Limit For Book or Entity	Trading Limit	Trading Limit Type	Trading Limit Value	Trading Limit Used (%)	Trading Limit Available (%)	Trading Limit Available (Value)	Trading Limit Exceeded (%)	Trading Limit Exceeded (\$)
Rabobank Nederland Australia Branch	A+ to A-		0.00	Book	20.00	% of 69,467,753.78	13,893,550.76	0.00	100.00	13,893,551	0.00	0
Royal Bank of Scotland	A+ to A-		0.00	Book	5.00	% of 69,467,753.78	3,473,387.69	0.00	100.00	3,473,388	0.00	0
Rural Bank Ltd	A+ to A-	Bendigo & Adelaide Bank Ltd	2,500,000.00	Book	10.00	% of 69,467,753.78	6,946,775.38	36.00	64.00	4,446,775	0.00	0
St George Bank Limited	AA+ to AA-	Westpac Banking Corporation Ltd	8,317,753.78	Book	30.00	% of 69,467,753.78	20,840,326.13	40.00	60.00	12,522,572	0.00	0
Suncorp-Metway Ltd	A+ to A-		2,000,000.00	Book	20.00	% of 69,467,753.78	13,893,550.76	14.00	86.00	11,893,551	0.00	0
UBS Australia Ltd	AA+ to AA-		1,650,000.00	Book	20.00	% of 69,467,753.78	13,893,550.76	12.00	88.00	12,243,551	0.00	0
Westpac Banking Corporation Ltd	AA+ to AA-		8,317,753.78	Book	30.00	% of 69,467,753.78	20,840,326.13	40.00	60.00	12,522,572	0.00	0
			99,671,015.12				482,800,888.77			383,129,866		0
			(Excluding Parent Group Duplicates)	69,467,753.78								

2 Security Rating Group Trading Limits

Security Rating Group	Already Traded Face Value Notional	Limit For Book or Trading Entity	Trading Limit	Trading Limit Type	Trading Limit Value	Trading Limit Used (%)	Trading Limit Available (%)	Trading Limit Available (Value)	Trading Limit Exceeded (%)	Trading Limit Exceeded (\$)
AAA	0.00	Book	100.00	% of 69,467,753.78	69,467,753.78	0.00	100.00	69,467,754	0.00	0
AA+ to AA-	3,500,000.00	Book	100.00	% of 69,467,753.78	69,467,753.78	5.00	95.00	65,967,754	0.00	0
A+ to A-	10,650,000.00	Book	70.00	% of 69,467,753.78	48,627,427.65	22.00	78.00	37,977,428	0.00	0
A1+	14,317,753.78	Book	100.00	% of 69,467,753.78	69,467,753.78	21.00	79.00	55,150,000	0.00	0
A1	0.00	Book	100.00	% of 69,467,753.78	69,467,753.78	0.00	100.00	69,467,754	0.00	0
A2	22,500,000.00	Book	70.00	% of 69,467,753.78	48,627,427.65	46.00	54.00	26,127,428	0.00	0
A3	4,000,000.00	Book	60.00	% of 69,467,753.78	41,680,652.27	10.00	90.00	37,680,652	0.00	0
BBB+ to BBB-	14,500,000.00	Book	60.00	% of 69,467,753.78	41,680,652.27	35.00	65.00	27,180,652	0.00	0
	69,467,753.78				458,487,174.95			389,019,422		0

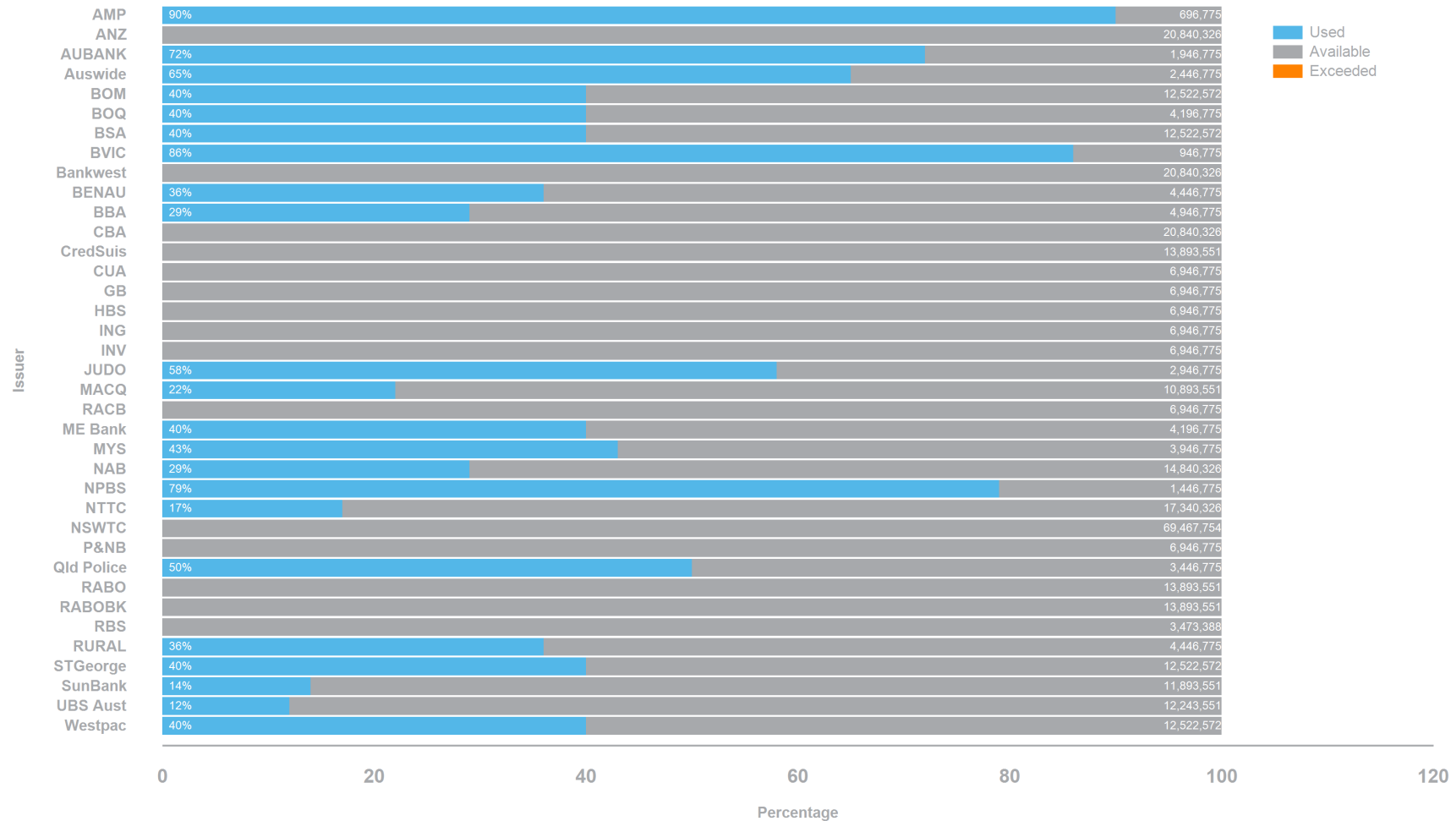
Notes

1. In instances where long securities have a term remaining which is less than 365 days, the issuer's short term rating is used instead of the security's (presumably long term) rating.

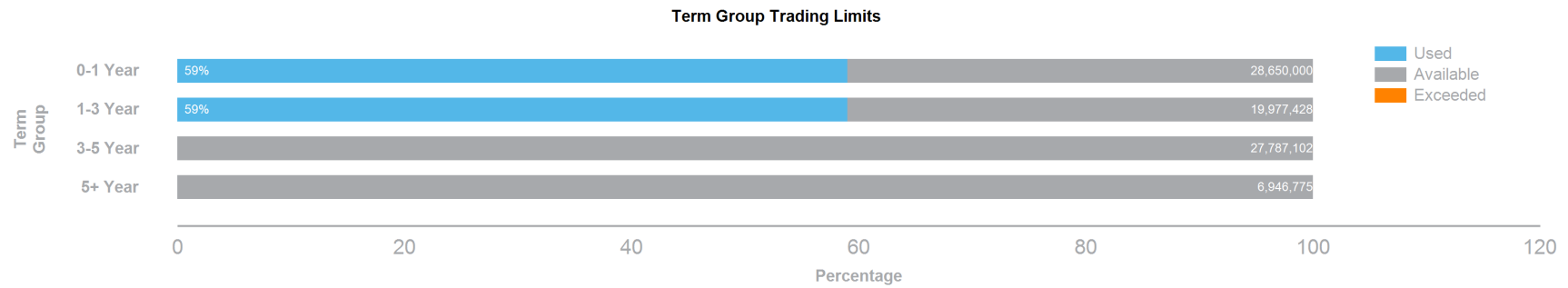
3 Term Group Trading Limits

Term Group	Already Traded Face Value Notional	Limit For Book or Trading Entity	Trading Limit	Trading Limit Type	Trading Limit Value	Trading Limit Used (%)	Trading Limit Available (%)	Trading Limit Available (Value)	Trading Limit Exceeded (%)	Trading Limit Exceeded (\$)
0-1 Year	40,817,753.78	Book	100.00	% of 69,467,753.78	69,467,753.78	59.00	41.00	28,650,000	0.00	0
1-3 Year	28,650,000.00	Book	70.00	% of 69,467,753.78	48,627,427.65	59.00	41.00	19,977,428	0.00	0
3-5 Year	0.00	Book	40.00	% of 69,467,753.78	27,787,101.51	0.00	100.00	27,787,102	0.00	0
5+ Year	0.00	Book	10.00	% of 69,467,753.78	6,946,775.38	0.00	100.00	6,946,775	0.00	0
	69,467,753.78				152,829,058.32			83,361,305		0

Issuer Trading Limits







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Report Code: TBSBP125EXT-00.16
Report Description: Trading Limit Performance As At Date
Parameters:
As At/Scenario Date: 28 February 2023
Balance Date: 6 March 2023 (but 28 Feb 2023 used instead)
Trading Entity: Muswellbrook Shire Council
Trading Book: Muswellbrook Shire Council
Report Mode: BalOnly
Using Face Value
Trading Entity and Book Limits
Effects of Parent/Child Issuers Not Ignored



9.4.6. Report on Council Grant Funding and Community Engagement

Attachments:	Nil
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Ivan Skaines (Grants and Community Engagement Officer)
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

To advise Council of recent grant applications submitted, grant funding recently announced or to be announced shortly, and of upcoming grant opportunities. In addition, to provide updates on Council's other grants and community engagement activities.

OFFICER'S RECOMMENDATION

1. Council notes the information contained in this report.
2. The focus of Council's application under the NSW Growing Regional Economies Fund be the implementation of the Wollombi Road Residential Precinct Masterplan with the required co-contribution of at least 25% of the total grant amount sourced from Council's nominal funding allocation of \$577,898 under Phase 4 of the Local Roads and Community Infrastructure Program.

Moved: _____ **Seconded:** _____

BACKGROUND

Council has been successful in obtaining grants which have been decided via competitive applications and, in addition, Council has continued to receive grant allocations from both State and Federal government sources for which Council is required to nominate appropriate projects for funding.

CONSULTATION

Grant applications are aligned to projects identified by the Muswellbrook Shire 2022-2026 Delivery Program and prepared in consultation with the Mayor, Council's senior managers and key staff in relevant sections. Councillors are regularly consulted regarding grant applications via the Grants Advisory Committee.

REPORT

Grant applications recently submitted

- The NSW Government has opened the Waste and Sustainable Materials Strategy 2041 (WASM) **Litter Prevention Grants Program** for councils, community groups and other



key stakeholders to deliver litter prevention projects and develop strategic plans to address litter in their local environments. Up to \$10 million in funding is available in 3 streams from 2022 to 2027, and Council is intending to apply for funding under **Stream 2: strategic development and capacity building**.

- **Create NSW Multi-Year Funding** supports independent arts and cultural organisations and Local Government Authorities to deliver, develop and present multiple arts and cultural activities over a 4-year period. Council has applied for funding **to improve options for programming via conservation of the existing collection and the Muswellbrook Regional Arts Centre's artistic program, which will cultivate social engagement in arts and culture through the delivery of relevant and diverse exhibitions and public programs**. All applicants will be notified of the outcome of their Expressions of Interest (EOIs) no later than May 2023 and all successful EOIs will be invited to make a full application to Stage 2 around June 2023.

Upcoming Grant and Funding Opportunities

- Under the \$70 million **Community Assets Program**, Council can apply for funding to repair parks, playgrounds, walkways, places of cultural heritage, and other community assets including libraries, pedestrian bridges and community-based pre-schools damaged by the floods in February and June 2022. The program is jointly funded by the Federal and New South Wales Governments under the Disaster Recovery Funding Arrangements (DRFA). Council is in Pool C and has a notional funding allocation of \$1 million based on the assessed impact on community infrastructure in our LGA and the Grants Review Committee has endorsed the following recommendation: Council seeks funding for **the re-location of the playground in Karoola Park, Muswellbrook and associated shared paths, along with the repair, restoration or betterment of paths across the Shire which have been impacted/affected by the severe weather and flood events in February and June 2022** (declared as AGRN 1012 and/or AGRN 1025). **Applications close 27 March 2023**.
- The **Local Government Waste Solutions Fund Round 1** will encourage a transition to a circular economy through supporting innovative waste and recycling solutions designed in collaboration with partners to achieve impactful projects with long-term outcomes. Eligible projects must contribute to achieving at least one of the priorities and targets identified in the NSW Government's Waste and Sustainable Materials (WaSM) Strategy 2041 and the NSW Plastics Action Plan. Local Government Waste Solutions projects can be delivered by an individual or collaboration of local councils and all projects must be completed by June 2027. A project delivered by an individual council has a maximum funding limit of \$200,000. **Applications close 31 March 2023**.
- Applications for **Arts Upper Hunter's Country Arts Support Program close 3 April 2023** for projects to be completed by the end of 2023. Muswellbrook Library has previously been the recipient of this grant program for a mural produced by Les Elvin and is applying for funding to engage a local artist to provide digital artwork for a mural for the windows of the children's area.
- The \$175 million **Growing Regional Economies Fund** is part of the NSW Government's \$3.3 billion Regional Growth Fund and is designed to deliver economic growth and productivity across regional NSW. The Fund will support projects that have a strong alignment with the Regional Economic Development Strategies (REDS) and increase infrastructure investment and economic activity within regional NSW's Functional Economic Regions (FERs). It will facilitate the delivery of the NSW Government's 20-year Economic Vision for Regional NSW by co-funding transformational projects that enable economic growth and prosperity in regional communities (including enabling infrastructure that will support investment in regional



housing projects to meet demand generated by growth in employment and economic activity). The focus of Council's application could be **the implementation of the Wollombi Road Residential Precinct Masterplan** with the required co-contribution of at least 25% of the total grant amount sourced from Council's nominal funding allocation of \$577,898 under Phase 4 of the Local Roads and Community Infrastructure Program (meaning Council could apply for grant funding of \$2,311,592). **Expressions of Interest close 23 May 2023.**

- Expressions of interest are now open for site hosts under the **Drive Electric NSW EV Fast Charging Site Host Program**. The program is especially interested in receiving expressions of interest for sites identified as optimal zones on the NSW EV fast charging master plan map but are also accepting expressions of interest for sites which are not in one of the identified optimal zones. **Expressions of interest for site hosts will close 30 June 2023.**

Grant funding recently announced

- Council has received **\$721,433 for road pavement repair in Victoria Street, Muswellbrook, from Carl Street to Dolahenty Street**, under the **NSW Fixing Local Roads** program.
- Council has been successful in obtaining grant funding of **\$100,000 under the 2022-23 Floodplain Management Program** for the **implementation of the Muscle Creek flood warning system** and is providing a contribution of \$50,000 towards the project.
- Council has received funding of **\$970,000 for resilience works at Karoola Park, including improvements to the stormwater channel** under the **Essential Community Sport Assets Program**, a NSW Government program under the \$207 million Community Local Infrastructure Recovery Package. ECSAP is a key recovery measure of the Sport Infrastructure Recovery Fund to help communities assess, repair, reconstruct and build flood resilience into sport facilities enabling normal activities to return sooner.
- Council's application for funding under the **Regional Roads and Transport Recovery Package** for **\$6.4 million for the betterment of Wybong Road (pavement upgrade)** was successful. The project was priority number 1 of our 3 applications. Council's application for funding for **\$679,000 for the betterment of Bell Street Bridge (scour protection and embankment works)** Muswellbrook was also successful. The project was priority number 2 of our 3 applications. Transport for NSW has also received funding of \$7.1 million under this program for the betterment of MR209 Denman Road (an enhanced pavement to provide greater resilience to flood inundation and upgrading drainage infrastructure).
- Our proposal for **Stage 2 - Denman Drainage Strategy Project valued at \$1,177,000** (the construction of new piped stormwater drainage in Palace Street, Denman to build long term sustainability and resilience within the urban area of the town against future natural disaster events) has been recommended by the NSW Reconstruction Authority Executive Panel for inclusion in the NSW Application to the **Disaster Ready Fund Round 1 2023-24.**

Unsuccessful applications

- **Round Two of the NSW Social Cohesion Grants** focuses on new and innovative activities that promote and enhance volunteerism. Council's unsuccessful application was for funding to **promote Muswellbrook Shire as a place to work, live, invest and visit and to encourage volunteers at our Visitor Information Centre(s).**
- Council has been unsuccessful in our application for funding under the **2022/23 Places to Play Grant Program** for the **construction of a new Pocket Park in Bridge Street,**



Muswellbrook. The Department of Planning and Environment received a total of 53 submissions, of which 13 were allocated grant funding.

- Council's application for funding under the **Regional Roads and Transport Recovery Package** for the **betterment of Kayuga Road, Kayuga** was unsuccessful. The project was priority number 3 of our 3 applications.

Muswellbrook Shire Council Grants Portal

The report for data from August 2022 to February 2023 for Council's grant finding portal at <https://muswellbrook.grantguru.com.au/> is listed in the table below:

Indicator	Feb	Jan	Dec	Nov	Oct	Sep	Aug
Total unique portal visitors ^[1]	60	27	44	40	97	43	59
Number of page views ^[2]	182	108	128	165	250	134	242
Total cumulative registrations to the portal (via the sign-up form) ^[3]	87	84	83	82	81	79	76
Grant alerts sent per month to registered users	716	564	485	784	680	630	653

^[1] A visitor is someone who has viewed your portal, but may or may not be registered - the same person is not double counted.

^[2] Page views are the total number of a visitor's 'clicks' within your portal, and includes viewing grant information. Repeated views of a single page are counted.

^[3] Registrations are people that have registered to your portal via the signup form and are still active.

Community interaction with the grant finding portal is generally positive. The number of registered users is continuing to increase.

CONCLUSION

Council notes recent grant applications submitted, grant funding recently announced or to be announced shortly, upcoming grant opportunities and other grants and community engagement activities.

SOCIAL IMPLICATIONS

Applications for funding submitted by Council address priority issues in the community.

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

Council will need to maintain any assets for which funding is obtained according to Policy A40-1 - Asset Management Policy.

STATUTORY IMPLICATIONS

Council's grant applications align with the goals identified in the Muswellbrook Shire 2022-2032 Community Strategic Plan and with a range of Federal, State and regional strategies



and plans.

LEGAL IMPLICATIONS

Where grant applications are successful, Council will be required to enter into a grant agreement with the funding body.

OPERATIONAL PLAN IMPLICATIONS

The projects funded by these grants are in line with the Muswellbrook Shire 2022-2032 Community Strategic Plan and the Muswellbrook Shire 2022-2026 Delivery Program.

RISK MANAGEMENT IMPLICATIONS

Council is required to identify risks and associated risk management strategies for each project in preparing the grant application.

WASTE MANAGEMENT IMPLICATIONS

Nil.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

All grant funding announcements contained in this report are no longer under embargo.



9.5. Community and Economy

9.5.1. Library Policy for Children and Young Persons MSC33E for Adoption

Attachments:

1. DRAFT Library Childrens and Young Person Policy Draft MSC33E [9.5.1.1 - 6 pages]
2. Policy L1 2 Children and Young People Library [9.5.1.2 - 4 pages]

Responsible Officer:

Shaelee Welchman - Director - Community & Economy

Author:

Lauren Allan (Head Librarian), Chloe Wuiske (Business Improvement Officer), Madeleine St John (Business Improvement Officer)

Community Plan Issue:

- 2 - *Social Equity and Inclusion*
6 - *Community Leadership*

Community Plan Goal:

An inclusive and interconnected community where everyone enjoys full participation.
Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.

Community Plan Strategy:

- 2.6.1 - Engage with young people in the Shire to better inform projects and programs for youth and children.
6.2.5 - Implement a comprehensive and targeted business improvement program.
2.6.1.3 - Develop a cross Council Child Safe Action Plan in response to Child Safe Standards
6.2.5.2 - Review the policy management framework.

PURPOSE

To present the Library Policy for Children and Young Persons MSC33E to Council for adoption following public exhibition.

OFFICER'S RECOMMENDATION

Council ADOPTS the Library Policy for Children and Young Persons as provided in the report.

Moved: _____ **Seconded:** _____

BACKGROUND

Muswellbrook Shire Libraries is committed to serving the information and recreation needs of young people. The Library strives to provide a welcoming environment and provides targeted resources and programs to meet the needs of young people. The *Library Policy for Children and Young Persons* (the Policy) (attachment 1) provides guidance on the management and provision of services to children and young people within Muswellbrook and Denman library



branches and during community outreach programming by library staff.

The *Library Policy for Children and Young People* (attachment 2) was last adopted in 2015 and was due for review.

A review of the existing *Library Policy for Children and Young Persons* has been completed to align it with current legislation and requirements. The updated policy reflects recommendations from the Child Safe Principles provided by the NSW Commission for Children and Young People.

The policy template has been updated and the name of the policy has been amended to *Library Policy for Children and Young Persons*.

CONSULTATION

Head Librarian

Manager Community Services

Manex

REPORT

The Policy was endorsed by Council for public exhibition at the 28 February 2023 Ordinary Council Meeting and was placed on public exhibition via Council's website and libraries from 25 January 2023 to 22 February 2023. No submissions were received during the public exhibition period.

OPTIONS

Council may:

1. Resolve to adopt the Policy.
2. Request further amendments to the Policy and undertake a further round of public exhibition.

It is recommended that option 1 be pursued.

CONCLUSION

It is recommended that Council adopts the *Library Policy for Children and Young Persons*.

SOCIAL IMPLICATIONS

Libraries can provide an important role for children and young person's developing social skills.

FINANCIAL IMPLICATIONS

Nil known.

POLICY IMPLICATIONS

This policy was reviewed in line with Council's Policy Management Framework.

STATUTORY IMPLICATIONS

Legislation relating to the *DRAFT Library Policy for Children and Young Persons* includes:

- Library Act 1939.
- Library Regulation 2018 (NSW).



- Classification (Publications, Films and Computer Games) Act 1995 (Cth).
- Children and Young Persons (Care and Protection) Act 1998.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

2.6.1.3 - Develop a cross Council Child Safe Action Plan in response to Child Safe Standards.

6.2.5.2 - Review the policy management framework.

RISK MANAGEMENT IMPLICATIONS

Public risk may be reduced through the implementation of the Library Policy for Children and Young Persons.

WASTE MANAGEMENT IMPLICATIONS

Nil known.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

The Policy was placed on public exhibition via Council's website and libraries from 25 January 2023 to 22 February 2023.



**muswellbrook
shire council**

Library Policy for Children and Young Persons

MSC33E

Authorisation Details

Authorised by:		Internal/External:	External
Date:		Minute No:	
Review timeframe:	4 years	Review due date:	
Department:	Community and Economy		
Document Owner:	Head Librarian		

Details History

Version No.	Date changed	Modified by	Amendments made
V.1	Original		Adopted by Council 9/02/2015, Minute No. 20. Doc id 534132
V.2	21/11/2022	Head Librarian	Updates to current Legislation Additional reporting information Policy name changed from L1/2 to MSC33E.

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Table of Contents

Policy Objective.....	3
Scope	3
Definitions.....	3
Policy Statement	3
1.0 Service Statement	3
2.0 Parental Responsibility Statement.....	4
Legislation	6
References	6
Dispute Resolution	6

Policy Objective

Muswellbrook Shire Libraries provide a wide range of services to young people. This policy provides guidance on the management and provision of services to children and young people in our libraries.

Scope

This policy applies to all users of the Muswellbrook Shire Libraries.

Definitions

<i>Muswellbrook Shire Libraries or "the Library"</i>	Refers to all branches of the library service including Muswellbrook and Denman and any outreach services.
<i>Child</i>	As per the <i>Children and Young Persons (Care and Protection) Act 1998</i> , this means a person under the age of 16 years.
<i>Unattended child</i>	A child using public library resources and facilities unsupervised by a parent or carer. A child left unattended in a Public Library may be classed as a child or young person at risk of harm under section 23 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> and may be reported to an appropriate authority.
<i>Parent or Carer</i>	Includes the legal guardian of the child and a responsible person over the age of 16 years who has been delegated responsibility for the child by the parent or legal guardian.

Policy Statement

1.0 Service Statement

Muswellbrook Shire Libraries is committed to serving the information and recreation needs of young people. The Library strives to provide a welcoming environment and provides targeted resources and programs to meet the needs of young people.

The Muswellbrook Shire Libraries services to young people include:

- Fiction, non-fiction and recreational books
- Magazines
- Computer games for in-library use (subject to observing copyright)
- CDs
- DVDs
- Computer and internet access
- Assistance from staff in accessing collections and information
- Homework help
- eBooks and eResources including streaming services
- Literacy programs
- School Holiday Programs
- Space for activities or study

2.0 Parental Responsibility Statement

2.1 Access to resources in a Library's General Collection

The Muswellbrook Shire Libraries' general collection may contain publications that have been classified 'Unrestricted', and films and computer games classified 'G (General)', 'PG (Parental Guidance)' or 'M (Mature)', in accordance with the Classification (Publications, Films and Computer Games) Act 1995 (NSW). This material is available to all library users, including young people, without restriction. The library has no censorship role in its choice of the library resources that form the collection.

While Library staff guide and assist young people in finding and accessing resources appropriate to particular interests and inquiries, Parents/guardians are responsible for ensuring that their child's selection and use of materials in the general collection accords with any restrictions the family may wish to set. Muswellbrook Shire Libraries encourages parents/guardians to consult with their child to develop clear rules regarding access to resources that accord with the family's personal values and beliefs.

2.2 Access to restricted materials classified as MA or R

Resources classified 'MA' may only be borrowed by persons under 15 years with the permission of their parent/guardian. Members under the age of 18 years are not permitted to borrow items with an 'R' rating.

2.3 Unattended children

For the purposes of this policy, children under the age of 13 must be supervised by a parent or carer.

Unsupervised children can be at risk in any public place, including public libraries. Muswellbrook Shire Libraries staff do not supervise children in the library, and there is a risk that unattended children may leave the library at any time, hurt themselves, or be approached by strangers. In addition, libraries do not have the facilities to attend to children who are sick, injured or hungry.

Children left unattended in a public library may be classed as a child or young person at risk of harm under s23 of the *Children and Young Persons (Care and Protection) Act 1998* and may be reported as such to the Director-General of the Department Family and Community Services. Parents who leave a child unattended in a public library are exposing their child to potential harm and may be committing an offence under section 228 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

Young people left alone in a library can become distressed, bored or disruptive. Young people who disturb other library users may be removed from the library under clause 17 of the *Library Regulation 2018 (NSW)*.

2.4 Children at risk

Our aim is to produce a safe, enjoyable experience for all children who attend the Library. Library staff cannot supervise children whilst carrying out work responsibilities and are unable to provide the necessary degree of supervision desirable for young children. This responsibility remains the responsibility of the Parent or Carer.

If library staff consider children are at risk because they have been left in the library for a long period of time, they have been observed being left unattended at the library on a regular basis, or, they remain at the library at closing time, the following procedure will be followed:

- Parents/carers will be contacted in person or by telephone.
- If the staff are unable to contact the parents/carers after 15 minutes, then the staff will contact the Police, or another appropriate authority to come and collect the child.
- Staff must then submit an incident report and notify the Head Librarian.

Children must not be left alone with a staff member and staff will not drive the child home.

Parents/care providers who contravene this policy and leave children unattended on more than one occasion will be issued a letter from the Head Librarian accompanied by a copy of this policy.

2.5 Access to electronic resources

Muswellbrook Shire Libraries are an accredited eSmart Library service and are committed to guiding the smart, safe, and responsible use of digital technology and support wellbeing outcomes for all members of our community. The Library requires membership or proof of identification for any user of technologies within the Library branches.

Library staff are available to assist young people in the use of the Internet, and to recommend websites on particular subjects, however parents/guardians are solely responsible for their children's use of the Internet and access to the libraries' eResources.

2.6 Child Safe Principles

The *NSW Commission for Children and Young People* promote child-safe policies and practices by encouraging organisations to become more child safe. The Muswellbrook Shire Libraries is guided by the *Child Safe Principles* and *Children and Young Persons (Care and Protection) Act 1998* when identifying and reporting risks.

Muswellbrook Shire Libraries strives to recognise and abide by child safe principles in our policy and interactions with Children within our facilities. All staff working within the Muswellbrook Shire Libraries currently have a Working With Children Check.

Legislation

Library Act 1939

Library Regulation 2018 (NSW)

Classification (Publications, Films and Computer Games) Act 1995 (Cth)

Children and Young Persons (Care and Protection) Act 1998

References

Muswellbrook Shire Libraries *Library Membership Policy*

Dispute Resolution

Any complaints are to be firstly directed to the Head Librarian. If the customer remains unsatisfied, they may write to the General Manager.



muswellbrook shire council

LIBRARY POLICY FOR CHILDREN AND YOUNG PEOPLE

Policy No. L1/2

Authorisation Details:

Authorised by:	Council
Minute No:	20
Date:	9 February 2015
Review timeframe:	June 2016
Department:	Corporate & Community Services
Document Owner:	Manager, Community & Cultural Services

Review History:

Version No.	Date changed	Modified by	Amendments made

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Library Policy for Young People

L1/2

POLICY OBJECTIVES

Upper Hunter Regional Library, Denman and Muswellbrook branches, provide a wide range of services to young people.

This policy provides guidance on the management and provision of services to children and young people in our libraries.

POLICY STATEMENT

Children and Young people are core public library clients in their own right, and are potentially the future adult users and supporter of public libraries. Upper Hunter Regional Library (Denman and Muswellbrook Branches) are committed to serving the information and recreation needs of children and young people.

Denman and Muswellbrook Branches strive to provide a welcoming environment, and provide targeted resources and programs to meet the needs of young people including;

- Fiction, non-fiction and recreational books
- Magazines
- Computer games for in-library use
- CD's
- Videos and DVD's
- Computer and internet access
- Assistance from staff in accessing collections and information
- Homework help
- EBooks
- Internet training
- Storytime
- Space and activities for study and connectivity

LEGISLATION

NSW public libraries operate under the Library Act 1939 and the library Regulation 2005 Clause 14 of the Library Regulation 2005 which defines the proper use of a library and, by extension, the scope of library services.

It is council's responsibility to ensure that all staff have current approval to work with children and young people through Working with Children checks on a biannual basis.

PROCEDURE

1. Parental responsibility statements

The following part to this policy defines the responsibilities of parents/guardians with regard to their child's use of Denman and Muswellbrook libraries, including access to resources and unattended children.

1.1 Access to library resources

The Denman and Muswellbrook branches of Upper Hunter Regional Library contain publications that have been classified 'Unrestricted' and films and computer games that have been classified 'G' (General), 'PG' (Parental Guidance) or 'M' (Mature) in accordance with the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*. This material is available to all persons, including young people without restriction.

Parents/guardians are responsible for ensuring that their child's selection and use of materials in the Denman and Muswellbrook Libraries general collection accords with any restrictions the family may wish to set. Upper Hunter Regional Library encourages parents/guardians to consult with their child to develop clear rules regarding access to resources that accord with the family's personal values and beliefs.

Denman and Muswellbrook branches promote and support young people's access to information, including electronic information through its Internet facilities. Library staff are available to assist young people in the use of the Internet, and to recommend websites on particular subjects. A number of appropriate websites have been selected for inclusion in the libraries electronic collection as a 'white list'.

Parents and guardians are responsible for their child's use of the Internet, in line with the Upper Hunter Library Internet policy.

1.2 Unattended children

For the purposes of this policy, children under the age of **13** must be supervised by a parent/guardian.

Unsupervised children can be at risk in any public place, including public libraries. Denman and Muswellbrook library staff do not supervise children in the library, and there is a risk that unattended children may leave the library at any time, hurt themselves, or be approached by strangers. In addition, libraries do not have the facilities to attend to children who are sick, injured or hungry.

Children left unattended in a public library may be classed as a child or young person at risk of harm under s23 of the *Children and Young*

Persons (Care and Protection) Act 1998 and may be reported as such to the Director-General of the Department Family and Community Services. Parents who leave a child unattended in a public library are exposing their child to potential harm, and may be committing an offence.

Young people left alone in a library can become distressed, bored or disruptive. Young people who disturb other library users may be removed from the library under clause 17 of the *Library Regulation 2005*.

Author

The Manager of Community and Cultural Services - with the guidance of the NSW State Library template for Library Policies relating to Young People.

Date November, 2014



9.5.2. ANZAC Day Ceremonies - Partnerships

Attachments:	<ol style="list-style-type: none">1. ANZAC Day Council re ANZAC day road closure 2023 Muswellbrook RSL Sub Branch [9.5.2.1 - 1 page]2. ANZAC Day 2023 Significant changes Denman RSL Sub Branch [9.5.2.2 - 1 page]
Responsible Officer:	Matthew Lysaught - Director Property & Place Shaelee Welchman - Director - Community & Economy
Author:	Kim Manwarring (Manager Community Services), Matthew Lysaught (Director Property & Place)
Community Plan Issue:	2 - Social Equity and Inclusion
Community Plan Goal:	An inclusive and interconnected community where everyone enjoys full participation.
Community Plan Strategy:	<ol style="list-style-type: none">4.3.1 - Develop and implement a program of Shire events to engage more locals and attract more visitors4.3.1.1 - Council works in partnership with community groups to deliver a minimum of six events a year.

PURPOSE

To provide Council with an overview of partnerships with the Returned Services League (RSL) Clubs to commemorate ANZAC Day

OFFICER'S RECOMMENDATION

Council:

1. Supports the 2023 ANZAC Day commemorative services in partnership with the Muswellbrook and Denman RSL Sub-Branched;
2. Supports future ANZAC Day commemorative services in partnership with the Muswellbrook and Denman RSL Sub-Branched;
3. Allocates expenditure of \$20,000 from its 2022/2023 operational budget to support the 2023 ANZAC Day commemorative services.

Moved: _____ **Seconded:** _____

BACKGROUND

In 2021 Council partnered with Muswellbrook RSL Sub-Branch to deliver a COVID safe Dawn Service and ANZAC Day March and Commemorative Service at Olympic Park. In 2022, the two ceremonies returned to the Cenotaph, and Council assisted with traffic control management, set up and pack down of seating.

In previous years, a limited level of assistance has been provided to the Denman RSL in the provision of road barriers, and tables and chairs.

CONSULTATION

Muswellbrook RSL Sub-Branch President – Mr Tim Seymor and Denman RSL Sub-Branch Secretary – Mr John Cox, Acting General Manager, Director of Property & Place, Technical



Officer – Recreation & Property, Works Coordinator, Works Supervisor, Technical Officer - Traffic & Roads, and Community Services Officer – Engagement.

REPORT

ANZAC Day, commemorated annually on 25 April, is one of Australia's most important days of national remembrance. It marks the anniversary of the first military action fought by Australian and New Zealand forces during the First World War.

Australians honour ANZAC Day usually in two forms, commemorative services held at dawn, and later in the day servicemen and service women meet and march together. Increasingly local communities have been showing their respect for both ceremonies by attending and observing this national occasion.

Council has been working with the Muswellbrook RSL Sub-Branch in the set up and pack down of equipment for both services and, further to this, at the request of the Sub-Branch, Council provides assistance in the closure of the highway for both the dawn and march commemorative services.

Council has also met with the Denman RSL Sub-Branch representatives and will provide assistance in the setup of equipment and, further to this, Council has received a letter from the Sub-Branch to provide assistance in the closure of surrounding roads for the morning commemorative service

Council has a 2022-23 budget allocation of \$6,153, however previous experience is that there is a shortfall of approximately \$7,000 in the provision of event services, and particularly in the provision of traffic control services. The inclusion of additional road closures in Denman brings the cost estimate to approximately \$20,000.

OPTIONS

1. Council could resolve to support the 2023 ANZAC Day commemorative events in partnership with the Muswellbrook and Denman RSL Sub-Branches.
2. Council could resolve not to support the 2023 ANZAC Day commemorative events in partnership with the Muswellbrook and Denman RSL Sub-Branches.

CONCLUSION

Support for ANZAC Day commemorative services is an important national occasion that is growing in need of support due to the ageing demographic of our service people. Council traditionally provides a strong level of financial and practical support, and considers it to be an honour that Council is able to support our veterans in the remembrance of their service to our country.

SOCIAL IMPLICATIONS

It is important to remember ANZAC Day and similar remembrance days by acknowledging the important contribution service people have made to our country. These significant days of commemoration keep the history alive for future generations.

FINANCIAL IMPLICATIONS

The estimated cost of both commemorative services is \$20,000; this estimate includes wages, equipment, permits, audio specialist and photographer.



Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

Financial Implications – Capital

Nil

Financial Implications – Operational

- Ledger Number 1070.0458.001 has an allocation of \$5,066 for ANZAC Day wages
- Ledger Number 1070.0458.500 has an allocation of \$1,087 for ANZAC Day materials
- Ledger Number 0051.0100.500 - CBD Cleaning - can accommodate the estimated shortfall of \$13,847.

POLICY IMPLICATIONS

Nil.

STATUTORY IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

OPERATIONAL PLAN IMPLICATIONS

Support for this activity is in line with the current operational plan actions.

RISK MANAGEMENT IMPLICATIONS

Muswellbrook RSL Sub-Branch and Denman RSL Sub Branch complete event risk assessments. Muswellbrook Shire Council will complete the respective operational risk assessments.

WASTE MANAGEMENT IMPLICATIONS

Nil.

COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

Council's Communications Team will organise corresponding media releases and social media posts to inform the community about commemorative ANZAC Day services in Denman and Muswellbrook.



Returned and Services League of Australia

New South Wales Branch Incorporated

"The Price of Liberty is Eternal Vigilance".

Muswellbrook RSL Sub-Branch, PO Box 350, Muswellbrook NSW 2333

Reference: L23001

17 Feb 2023
The General Manager
Mr Derek Finnegan
PO Box 122
Muswellbrook NSW 2333

RE ANZAC DAY 2023 – CLOSURE OF NEW ENGLAND HIGHWAY

Dear Mr Finnegan,

Re 2023 ANZAC Day commemorations. Muswellbrook RSL Sub-branch requests the following road closures.

- New England Highway be closed from 0515 hrs on the morning of the 25th April, 2023 until 0630 hrs on the 25th April 2023 for the Dawn Service.
- New England Highway be closed again from 0930 hrs and cease at 1230 hrs for the ANZAC march and main service.
- Market St Muswellbrook be closed from 0900 hrs to allow people marshalling for the march to do so in a safe manner.

In previous years, the New England Highway has not been closed for the dawn service. This has posed potential risk to the members of the public who attend with traffic, often heavy vehicles, continuing to traverse the New England Highway, prior to, during and after the service.

If the New England Highway were to be closed from 0515 hrs to 0630 hrs, this would allow for safe conduct of the dawn service. Members of the public would be protected from traffic as they arrive and leave the service. It is respectfully requested that favourable consideration be given to the proposed closure of the New England Highway from 0515 hrs & 0930 hrs and Market St from 0900 hrs on 25 April 2023.

Yours Sincerely,

Tim Seymour
President

President: Tim Seymour

Secretary: Robin Metcalfe

Treasurer: William Tyers

Phone: (02) 6541 1002

Email: muswellbrookrslsub@bigpond.com

Web: <https://muswellbrook-rsl-sub-branch.com.au>



Denman RSL Sub-Branch

The Price of Liberty is Eternal Vigilance

Muswellbrook Shire Council
Traffic Committee
Muswellbrook 2333

21 February 2023

Dear Ms Williams,

The Denman RSL Sub-Branch would like to make the following arrangements for Anzac Day march, 2023, from 1130 hrs to 1300 hrs.

The closure of:-

- **Palace Street south of the Crinoline intersection to Ogilvie Street,**
- **Ogilvie Street from Palace Street west to Paxton Street,**
- **Paxton Street from Ogilvie Street north to Crinoline Street,**
- **Isobel Street RSL car park entrance east to Paxton Street;**

We would like Council staff to erect & disassemble the signage according to the Traffic Management Plan.

We would appreciate Council's preparation & use of the Traffic Control Plan.

The March will begin from corner of Palace & Ogilvie Streets, once the Muswellbrook band arrives and assembles.

The March will follow the traditional route south along Palace Street to Ogilvie Street thence west to Paxton St, thence to the Memorial in the Park at the corner of Isobel Street and Paxton Street then at the memorial for the RSL service.

We will have permission from NSW Police Force to conduct the March and public assembly in due course, and we will forward to Council the insurance certificate of currency & an outline of the day's programme.

.

Please contact the undersigned on 0429 307 965 if you require more information.

Regards,

J.J.Cox

John Cox (Hon. Secretary)

PRESIDENT P. BANKS 6547 2109

**DENMAN SUB BRANCH, PO BOX 180 DENMAN
2328.**

**9.5.3. Aboriginal Cultural Inclusion Committee - Terms of Reference**

Attachments:	1. Aboriginal Cultural Inclusion Committee - Terms of Reference 2022 [9.5.3.1 - 5 pages]
Responsible Officer:	Shaelee Welchman - Director - Community & Economy
Author:	Kim Manwarring – Manager Community Services
Community Plan Issue:	2 - Social Equity and Inclusion
Community Plan Goal:	An inclusive and interconnected community where everyone enjoys full participation.
Community Plan Strategy:	2.5.1 - Raise awareness of the local Aboriginal Community and an appreciation of their traditions and culture.

PURPOSE

To provide Councillors with information regarding a request for Council to reconsider the Aboriginal Cultural Inclusion Committee Terms of Reference.

OFFICER'S RECOMMENDATION

Council revises the Aboriginal Cultural Inclusion Committee Terms of Reference to create an additional Aboriginal Community Member position, bringing the total to 5.

Moved: _____ **Seconded:** _____

BACKGROUND

At the 27 September 2022 Ordinary Council Meeting, Council adopted the attached Terms of Reference and accepted a change of name at the 22 November 2022 Ordinary Council Meeting to include 'Aboriginal' in its title.

Council's resolution at the 27 September 2022 Ordinary Council Meeting was:

9.5.1 Aboriginal Reconciliation Committee – Terms of Reference**Disclosure of Interest**

Cr D. Douglas declared a pecuniary interest in this item. Cr Douglas advised that she represents the Wanaruah Local Aboriginal Land Council on the Committee.

At 6:34pm Cr Douglas left the Meeting and therefore took no part in discussion or voting on this item.

86 **RESOLVED** on the motion of Cr B. Woodruff and Cr L. Dunn that:

Council endorses the Aboriginal Reconciliation Committee Terms of Reference.

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

Against: Nil.

At 6:35pm Cr Douglas returned to Council Chambers and resumed her chair at the meeting table.

Council's resolution at the 22 November 2022 Ordinary Council Meeting was:



9.5.3 Committee Name Change – Aboriginal Reconciliation Committee

Disclosure of Interest

Cr D. Douglas – Declared a pecuniary interest in this item. Cr Douglas advised Council that she is employed by the Land Council and sits on the Committee as the CEO of the Wanaruah Local Aboriginal Land Council.

At 6:53pm Cr D. Douglas left the Meeting Room and therefore took no part in discussion or voting on this item

165 **RESOLVED** on the motion of Cr R. Scholes and Cr M. Bowditch that:

Council renames the Aboriginal Reconciliation Committee the Aboriginal Cultural Inclusion Committee.

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

Against: Nil.

At 6:54pm Cr D. Douglas returned to the Meeting Room and resumed her chair at the meeting table.

An expression of interest was held in January/February 2023, inviting Aboriginal Community Members to express their interest in being a part of the Aboriginal Cultural Inclusion Committee for the 4 Aboriginal Community Member positions. Applicants were provided with the Terms of Reference and, as a result, 13 Aboriginal Community Members have expressed an interest in being a part of the committee.

As a part of the process, applicants have been invited to complete an application form identifying what skills and experience they would bring to the Committee. Contained within the form, applicants are asked to identify if they are nominating as an Aboriginal Community Member or as a representative of a group and/or organisation.

CONSULTATION

Mayor Reynolds, Acting General Manager, Director Economy & Community, Community Partnerships Officer, and community stakeholders.

REPORT

Following the expression of interest process, Council received feedback from members of the community. On 16 March 2023, the Mayor, Acting General Manager, Executive Assistant to the Office of the Mayor & GM, and the Manager Community Services met with the group to discuss the committee membership.

The feedback requested that Council amend the membership of the Aboriginal Cultural Inclusion Committee to include other indigenous corporations as automatic member organisation of the committee due to the increase in indigenous corporations in the area that are of similar structure.

The Wanaruah Local Aboriginal Land Council and Hunter Valley Aboriginal Corporation are historic members of the Aboriginal Reconciliation Committee. Four Aboriginal Community Member positions were established to give other corporations, groups or individuals the opportunity to nominate to be members of the committee.

Thirteen nominations were received from the expression of interest process for the community members positions. As a result of the great interest in joining the committee, Council can consider increasing the number of community member positions on the committee to accommodate greater representation from the community but keep committee



numbers manageable.

OPTIONS

Council could decide to increase or not increase the community membership positions on the Aboriginal Cultural Inclusion Committee.

CONCLUSION

The basis of the membership of the Aboriginal Cultural Inclusion Committee was formed from the previous Aboriginal Reconciliation Committee invite list that was historically created based on the recognised Aboriginal Groups that were active in the Community at the time of its establishment. The Hunter Valley Aboriginal Corporation has been active and supportive members of the local Reconciliation process and has been particularly identified as being a signatory to the current Muswellbrook Shire Council Document of Reconciliation.

To ensure that all groups or organisations have access to membership of the Aboriginal Cultural Inclusion Committee, the Hunter Valley Aboriginal Housing Corporation can be invited to indicate if they are interested in being a member of the Committee and subsequently make application. All applications for membership will be considered by Council.

SOCIAL IMPLICATIONS

Two-way communication with local Aboriginal and Torres Strait Islander communities is essential in developing effective and trustworthy relationships.

FINANCIAL IMPLICATIONS

Ongoing Operational and Maintenance Costs Implications Associated with Capital Project

1. *Financial Implications – Capital*

Nil

2. *Financial Implications – Operational*

Nil

POLICY IMPLICATIONS

Nil.

STATUTORY IMPLICATIONS

Nil known.

LEGAL IMPLICATIONS

Nil known.

OPERATIONAL PLAN IMPLICATIONS

Consulting with the Aboriginal Community meets the current operational plan actions.

RISK MANAGEMENT IMPLICATIONS

Nil known.

WASTE MANAGEMENT IMPLICATIONS

Nil known.



COMMUNITY CONSULTATION/MEDIA IMPLICATIONS

If the Terms of Reference is revised it will be made available to all applicants for consideration with their application for membership.

ABORIGINAL CULTURAL INCLUSION COMMITTEE

TERMS OF REFERENCE

27 SEPTEMBER 2022



Table of Contents

PURPOSE AND OBJECTIVE	3
REPORTS TO	3
AUTHORITY AND DELEGATION	3
SCOPE	3
MEMBERSHIP	3
MEETINGS	4
CHAIRPERSON	4
ESCALATION	4
QUORUM REQUIREMENTS	4
APOLOGIES	4
AD HOC INVITEES	4
CONFIDENTIALITY	4
CONFLICTS OF INTEREST	4
ENGAGEMENT WITH THE MEDIA	5
AMENDMENT	5

PURPOSE AND OBJECTIVE

An inclusive and interconnected community, where everyone enjoys participation

The objective is to enhance relationships and engage with the local Aboriginal and Torres Strait Islander Communities

REPORTS TO

Council

AUTHORITY AND DELEGATION

The Committee does not possess any delegation or decision-making authority either from the General Manager or Council. The Committee may make recommendations to Council in relevant to its purpose and scope.

SCOPE

- To encourage reconciliation between the Aboriginal and Torres Strait Islander communities and the wider community in Muswellbrook Shire;
- To consult with the Aboriginal Community on issues that are relevant to Councils Strategic Plan;
- To increase awareness of the full history of the local area;
- To provide appropriate support for projects which encourage self determination;
- To pursue activities which enhance the preservation and awareness of Aboriginal customs and cultural heritage;
- To promote the contribution that the Aboriginal and Torres Strait Islander cultures make in the wider community;
- To encourage solutions to meet needs within the Aboriginal and Torres Strait Islander communities;
- To act as link for Government Departments and Council to seek the views of Aboriginal and Torres Strait Islander community members;
- To work with Council to encourage equitable access to Council and its services.
- Provide cultural input and feedback on Council Projects and matter where required
- Increase participation and opportunities for local Aboriginal people through agreed partnerships

MEMBERSHIP

Name	Organisational Role	Role
Cr Reynolds	Mayor	Member
Cr Bowditch	Councillor	Member
Cr Scholes	Councillor	Member
Representative Nominated by the Organisation	Wanaruah Local Aboriginal Land Council	Member
Representative Nominated by the Organisation	Hunter Valley Aboriginal Corporation	Member
To be determined	Aboriginal Community Member	Member
To be determined	Aboriginal Community Member	Member
To be determined	Aboriginal Community Member	Member
To be determined	Aboriginal Community Member	Member

The Committee will be constituted by not less than three Councillors elected by the Council.

The Committee will be supported by the following Muswellbrook Shire Council positions:

Organisational Role	Role
Community Partnerships Officer	Officer
Community Services Manager	Officer

MEETINGS

Meetings will follow the Model Code of Meeting Practice.

The Committee shall meet at such times and at such places as it may determine frequency. Agenda items are to be provided to Councils Community Partnerships Officer the week prior to the meeting, a summary of issues, actions and decisions of each meeting of the Committee will be recorded and an action log will be developed and tabled at each meeting. Meetings can be held in person, by telephone or by video conference.

CHAIRPERSON

The Chair is to be nominated by the membership and a rotating Chair is acceptable. The Committee will be provided administration support from Muswellbrook Shire Council. Presenters will be invited as required.

ESCALATION

Issues requiring escalation are to be raised in writing to the General Manager for resolution and / or decision by Council.

QUORUM REQUIREMENTS

A minimum of four Aboriginal and/or Torres Strait Islander members must be in attendance for a meeting to be proceed.

The Committee is expected to make decisions by consensus but if voting becomes necessary then the details of the vote are to be recorded in the minutes. Each member of the Committee is entitled to one vote only. In the case of an equality of votes on any issue the Chair will have the casting vote.

APOLOGIES

Members of the Committee shall make an apology via the Chair to attend a meeting if the member is unable to attend. If members do not attend three consecutive meetings without an apology their membership will be reviewed by the Committee.

AD HOC INVITEES

As required, members of the Committee may request attendance of other stakeholders or subject matter experts.

The member requesting attendance of an invitee must advise the Committee Chair prior to the next scheduled meeting, so that the appropriate items can be added to the agenda.

Attendance by non-member attendees will be by invitation by the Committee Chair.

CONFIDENTIALITY

Discussions that occur within the Committee are to be kept confidential. If there are key messages to be communicated outside of the Committee a communiqué will be developed and endorsed by the Committee.

CONFLICTS OF INTEREST

- Members will provide declarations in relation to any conflicts of interest that would preclude them from considering specific issues within a meeting
- Members must declare these conflicts of interest at the start of each meeting or before discussion of the relevant agenda item or topic
- Details of any conflicts of interest will be recorded in the minutes

ENGAGEMENT WITH THE MEDIA

Only the Mayor and General Manager of Muswellbrook Shire Council; and Committee Chair will be permitted to comment to the media on behalf of the Committee, unless otherwise agreed by the Committee.

AMENDMENT

At least once every 4 years the Committee will review this Terms of Reference and make recommendation on any changes to Council for its determination.

Authorisation Details:

Authorised by:	Council
Minute No:	86
Date:	27/09/2022
Review timeframe:	1/08/2026
Department:	Community & Economy
Document Owner:	Manager – Community Services

Review History:

Version No.	Date Changed	Modified By	Amendments Made



9.5.4. Community Services

Attachments:	Nil
Responsible Officer:	Shaelee Welchman - Director - Community & Economy
Author:	Kim Manwarring (Manager Community Services)
Community Plan Issue:	6 - Community Leadership
Community Plan Goal:	24.1 - Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.
Community Plan Strategy:	24.1.2 - Appropriate matters are reported to Council in a timely manner in accordance with the Financial Control and Reporting Policy.

PURPOSE

To provide an update on activities in the Community Services section.

OFFICER'S RECOMMENDATION

The information contained in this report be noted.

Moved: _____ **Seconded:** _____

REPORT

MUSWELLBROOK SHIRE LIBRARIES – MUSWELLBROOK AND DENMAN

The Muswellbrook and Denman Branches were attended by **1,799 customers** during February.

- **Increasing and maintaining library memberships**
Muswellbrook and Denman libraries registered **28 new members**.
- **Providing opportunities that increase community literacy, both physical and digital**

Home Library:

The Muswellbrook Shire Libraries currently delivers personally selected books, DVDs and Audio books to homebound customers each fortnight. During the month of February this service conducted **2 delivery** and delivered **338 items**.

Online Engagement:

Over the past month the library has had **5,819** post views on Facebook. Throughout the month the library promoted our current new and recommended items, upcoming events and exhibits.

Collections:

During February the library added **299 new items** to the physical collections Over the month the library loaned **5,361 physical items** and there have been **226 eAudio loans**,



128 eBook Loans and 121 Digital magazine loans.

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

Program Type		
Type	No. of Programs	Attendance
Literacy and lifelong learning	14	90
Informed and connected citizens	3	29
Digital Inclusion	1	1
Personal Development & Wellbeing	7	77
Stronger and more creative communities	9	60
Economic and workforce development	0	0
TOTAL	34	257

Children and Young Adult Programs

The library recommenced all regular children's events including Story Time, Baby Rhyme Time, LEGO Club and STEM Story Time. These sessions were attended by **97 children**.

The Library awarded a certificate and book prize to one of our 1000 Books Before School program participants who has achieved their first 100 books. This program continues to encourage local children to read each day and build core literacy skills within the Muswellbrook Shire and is free to participants.

Adults Programs:

The library hosted a series of special events to celebrate the Seniors Festival including a well attended in conversation event featuring Author Nigel Marsh, mindful painting and seniors craft session. All regular adult events including Book Club, Brain Training, Coffee & Craft, Tech help and Home Library recommenced. The Muswellbrook Library also provides weekly activity sessions each Friday with visiting disability support organisations with activities such as gaming, LEGO and colouring.

PARTNERSHIPS & ENGAGEMENT

Preparations are underway for Easter Family Fun Day, **8 April, 10-2pm**, Highbrook Park Muswellbrook.

The BBQ will be provided by Muswellbrook Extreme Youth this year along with **amusement activities** including Nerf Games with Inflatable Bunkers, Wipeout Obstacle Course, Bunny Jumping Castle (Toddlers), Inflatable Basketball Shoot Game, 9 Hole Family Mini Putt Putt golf.

Organised activities will include Carrot Toss, Bunny Hop Sack Races and lolly guessing



competition on entry and special guest appearance of the **Easter Bunny** and an **Easter Egg Hunt**.

MUSWELLBROOK REGIONAL ARTS CENTRE

The **2023 Muswellbrook Art Prize** held on the 25 February was well supported by the community, congratulations to the winner of the \$50 000 Painting Prize – Tippy Ngintja Goodwin, 'Antara' 2022; \$10 000 Works on Paper – Allie Webb, 'Giant Crab' 2022; and \$10 000 Ceramics Prize – Casey Chen, 'Big Robot 5' 2022.

Council received more than 740 entries for the **2023 Muswellbrook Art Prize** and we were honoured to have Suzanne Cotter, Director of the Contemporary Art Australia to adjudicate the Art Prize. This is an acquisition prize and winning pieces of art will be incorporated into the Muswellbrook Collection.

The Art Station and the **People's Studio** continue to grow and attract people to the Gallery. **The Art Station** is designed for children and their carers and runs the third Saturday of the month, this month the group will be creating prints inspired by the Muswellbrook Art Prize 2023 Works on Paper Winner, Allie Webb and her linocut print 'Giant Crab'

MUSWELLBROOK FITNESS & AQUATIC CENTRE – MUSWELLBROOK & DENMAN

Learn to Swim Program enrolments are now at 250 participants, enrolments are now open for intensive swimming program that will be delivered next school holiday, Aqua Aerobics participants has increased to 40 participants per week.



10. Minutes of Committee Meetings

10.1. Minutes of the Grants Review Committee Meeting - 8/03/2023

Attachments:	1. Minutes - Grants Review Committee - 8/03/2023 [10.1.1 - 2 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	{authors-name-with-position}
Community Plan Issue:	6 - <i>Community Leadership</i>
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

To inform Council of a meeting of the Grants Review Committee meeting held on 8 March, 2023.

OFFICER'S RECOMMENDATION

Council ENDORSES the minutes for the Grants Review Committee meeting held on 8 March, 2023.

Moved: _____ **Seconded:** _____

REPORT

The Governance Officer reports that the Grants Review Committee met on 8 March, 2023. The minutes of the meeting are attached for the information of the Councillors.

**MINUTES OF THE GRANTS REVIEW COMMITTEE MEETING OF THE
MUSWELLBROOK SHIRE COUNCIL HELD VIA TEAMS/THE LOXTON ROOM,
ADMINISTRATION CENTRE, 60-82 BRIDGE STREET, MUSWELLBROOK ON
WEDNESDAY, WEDNESDAY 8 MARCH 2023 COMMENCING AT 4.35PM.**

PRESENT: Cr S. Reynolds (Chair), Cr L. Dunn and Cr R. Scholes.

IN ATTENDANCE: Cr A. Barry, Cr J. Lecky, Cr D. Marshall, Cr B. Woodruff, Mr D. Finnigan (Acting General Manager), Ms S. Welchman (Director - Community & Economy), Mr M. Lysaught (Director - Property & Place), Ms K. Scholes (Manager - Roads, Drainage & Technical Services), Mr I. Skaines (Grants & Community Engagement Advisor), Mr J. Hogan (Financial Controller), Mr P. Chandler (Technical Officer - Recreation & Property) and Ms K. Randall (Team Leader – Administration)

1 Acknowledgement to Country

The Acknowledgement of Country was read by Cr Reynolds.

2 Apologies

RECOMMENDED on the motion of Cr L. Dunn and Cr R. Scholes that:

The apologies for inability to attend the meeting submitted by Cr D. Douglas be
ACCEPTED.

3 Confirmation of Minutes of Previous Meeting

RECOMMENDED on the motion of Cr L. Dunn and Cr R. Scholes that:

The Minutes of the Grants Review Committee Meeting held on 7 February 2023, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Nil

5 Business Arising

Mr Skaines discussed upcoming grant opportunities as well as two grants received since writing his report.

- \$970k received through Essential Community Sports access program for the channel at Karoola Park;
- Regional funding for Wybong Road and Bell Street Bridge under the Road and Transport Recover Package. \$6.4k was allocated for Wybong Road and \$6.79k for Bell Street Bridge.

Mrs Scholes spoke about the \$760k funding to rehabilitate Victoria Street which only covers certain things and the need to find additional funding for the remainder of the works.



6 Business

6.1 Report on Council Grant Funding and Community Engagement

RECOMMENDED on the motion of Cr L. Dunn and Cr R. Scholes that:

1. Council seeks funding under the Community Assets Program, for the re-location of the playground in Karoola Park, Muswellbrook and associated car park and shared paths, along with the repair, restoration or betterment of paths across the Shire which have been impacted/affected by the severe weather and flood events in February and June 2022 (declared as AGRN 1012 and/or AGRN 1025)
2. Council seeks funding under the Litter Prevention Grants Program to undertake an organisation-wide review of our current practices and develop a strategy to address litter across the Shire.

8 Date of Next Meeting

Next Meeting Date - TBC

9 Closure

The meeting was declared closed at 4.58pm

.....
Mr D. Finnigan
Acting General Manager

.....
Cr S. Reynolds
Chairperson



10.2. Minutes of the Regional Entertainment Centre Development Committee Meetings - 22/02/2023 & 13/03/2023

Attachments:	<ol style="list-style-type: none">1. Minutes - Regional Entertainment Centre Development Committee Meeting - 22/02/2023 [10.2.1 - 2 pages]2. Minutes - Regional Entertainment Centre Development Committee Meeting - 13/03/2023 [10.2.2 - 2 pages]3. Town Centre Plan - REC Relocated - Preliminary [10.2.3 - 1 page]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Matthew Lysaught (Director Property & Place)
Community Plan Issue:	6 - <i>Community Leadership</i>
Community Plan Goal:	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	4.2.1 - Progress a Regional Entertainment and Conference Centre.

PURPOSE

To inform Council of the following meetings:

1. Regional Entertainment Centre Development Advisory Committee Meeting held on 22 February 2023.
2. Regional Entertainment Centre Development Advisory Committee Meeting held on 13 March 2023.

OFFICER'S RECOMMENDATION

The minutes for the following meetings be NOTED and ADOPTED:

1. Regional Entertainment Centre Development Advisory Committee Meeting held on 22 February 2023
2. Regional Entertainment Centre Development Advisory Committee Meeting held on 13 March 2023.

Moved: _____ **Seconded:** _____

REPORT

The Director – Property and Place reports that the following meetings were held:

1. Regional Entertainment Centre Development Advisory Committee Meeting held on 22 February 2023
2. Regional Entertainment Centre Development Advisory Committee Meeting held on 13 March 2023.

The Minutes of these meetings are attached for the information of the councillors.

The substantial items considered by the Regional Entertainment Centre Development



Advisory Committee over these two meetings included the Town Centre Plan and Regional Entertainment Centre Location, and positions for Independent Community Representatives on the Committee.

Town Centre Plan and Regional Entertainment Centre Location

At the Regional Entertainment Centre Development Advisory Committee held Wednesday, 14 December 2022 it was recommended that a report be provided to the Committee on the Town Centre review of constructability, programming, and budget.

As part of this review, preliminary considerations included relocating the Regional Entertainment Centre within the Town Centre and this was reported to the Regional Entertainment Centre Development Advisory Committee meeting held 22 February 2023.

Marked up on the attached 'Town Centre Plan – REC Relocated - Preliminary' are proposed changes to the Town Centre Plan and the location of the Regional Entertainment Centre.

A consideration is for the Regional Entertainment Centre is to be located instead on the Town Green (civic park) in the centre of the block next to the Muswellbrook Library. The current nominated location of the Regional Entertainment Centre is alternatively proposed to be a large car park possibly including caravan parking behind the streetscape screened by parks, landscaping, and potentially new commercial/retail buildings.

Potential advantages of relocating the Regional Entertainment Centre in the centre of the CBD block include:

1. Positioning the Regional Entertainment Centre next to buildings, the library, Tertiary Education Centre, and Donald Horne Building, that have some height and intensity of development to reduce the visual impact in height and scale of the proposed Regional Entertainment Centre.
2. Further, using the fall of the land at this proposed location reduces the building height from Bridge Street opposed to the height of the Regional Entertainment Centre from Brook Street.
3. The opportunity for the development to face Bridge Street similar to the heritage buildings Loxton House, Weidmann Cottage, Uniting Church, and the new Donald Horne Building, and Muswellbrook Library may create a more active and consistent main street frontage.
4. The potential for a strong pedestrian link between the Muswellbrook Marketplace and Town Centre as established in the adopted Muswellbrook Town Centre Strategy is strengthened.
5. Removing the immediate constraint on a resolution of Possum Gully for the Regional Entertainment Centre development to progress in assessment.

Also shown in the attached plan includes considerations for final lot boundaries providing among other things a traffic corridor along the railway line which may facilitate construction of the different stages of the Town Centre.

Independent Community Representatives on the Committee

Please note the Committee has recommended that Council seek further Expressions of Interest for Independent Community representatives. The submissions received were of a high quality but there was consider a risk that some representatives may be perceived as representing a community stakeholder rather than as an independent member.



**MINUTES OF THE REGIONAL ENTERTAINMENT CENTRE DEVELOPMENT ADVISORY
COMMITTEE MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD VIA
TEAMS/THE LOXTON ROOM, ADMINISTRATION CENTRE, 60-82 BRIDGE STREET,
MUSWELLBROOK ON 22 FEBRUARY 2023 COMMENCING AT 5.30PM.**

PRESENT: Cr L. Dunn (Chair), Cr J. Lecky, Cr R. Scholes, Mr S. Delforce
(MATS), Mr A. French-Northam (UHCM), Ms V. French (MUHE).

IN ATTENDANCE: Mr D. Finnigan (Acting General Manager), Mr M. Lysaught (Director -
Property & Place), Ms K. Randall

1 Acknowledgement to Country

The Acknowledgement of Country was read by Cr Dunn.

2 Apologies

RECOMMENDED on the motion of Cr R. Scholes and Mr S. Delforce that:

The apologies for inability to attend the meeting submitted by Ms S. Welchman and
Mr D. Fernandes be ACCEPTED.

3 Confirmation of Minutes of Previous Meeting

RECOMMENDED on the motion of Cr R. Scholes and Mr S. Delforce that:

The Minutes of the Regional Entertainment Centre Development Advisory
Committee Meetings held on 22 February 2023, a copy of which has been distributed
to all members, be taken as read and confirmed as a true record.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Nil

5 Business Arising

Nil

6 Business

6.1 Confirmation of Committee Membership

Mr Lysaught advised that minutes were reported to Council and Council adopted
minutes and membership.

Mr Lysaught also provided an update on the two independent members for the
Committee. These people have been contacted and will provide a short summary
each of what they will add to committee. It is hoped that there will be an opportunity
for these submissions will be available at the next Committee meeting and for the
Committee to make a recommendation to Council at the March Council Meeting.

Mr S. Delforce raised that the previous minutes stated that Cr L. Dunn was appointed
Chair of the Committee.

The Committee was advised that the ARTC were hoping to have representative at
the next Committee meeting.

RECOMMENDED on the motion of Mr S. Delforce and Cr R. Scholes that:



The information contained in this report be noted.

6.2 Town Centre Plan and Regional Entertainment Centre Location

Town Centre Plan and Regional Entertainment Centre – Proposed Staging - Preliminary

RECOMMENDED on the motion of Mr S. Delforce and Cr R. Scholes that:

1. The information contained in this report be noted; and
2. Recommend that the potential location of the Regional Entertainment Centre next to the Muswellbrook Library be investigated.

7 Member Updates

Nil

8 Date of Next Meeting

13 March 2023 - 5.30pm

22 March 2023

9 Closure

The meeting was declared closed at 5.51pm.

Mr D. Finnigan
Acting General Manager

Cr J. Lecky
Chairperson

MINUTES OF THE REGIONAL ENTERTAINMENT CENTRE DEVELOPMENT ADVISORY COMMITTEE MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD VIA TEAMS/THE LOXTON ROOM, ADMINISTRATION CENTRE, 60-82 BRIDGE STREET, MUSWELLBROOK ON 13 MARCH 2023 COMMENCING AT 5.32PM.

PRESENT: Cr. S. Reynolds, Cr L. Dunn, Cr J. Lecky, Cr R. Scholes and Mr S. Delforce (MATS).

IN ATTENDANCE: Mr D. Finnigan (Acting General Manager), Mr M. Lysaught (Director - Property & Place), Mr D. Fernandes (Project Manager - Property & Building Services), Ms K. Scholes (Manager - Roads, Drainage & Technical Services)

1 Acknowledgement of Country

The acknowledgement of Country was read by Cr Reynolds.

2 Apologies

RECOMMENDED on the motion of Cr R. Scholes and Cr L. Dunn that:

The apologies for inability to attend the meeting submitted by Ms V. French and Mr A. French-Northam be ACCEPTED.

3 Confirmation of Minutes of Previous Meeting

RECOMMENDED on the motion of Cr R. Scholes and Cr J. Lecky that:

The Minutes of the Regional Entertainment Centre Development Advisory Committee Meeting held on 22 February 2023, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Nil

5 Business Arising

Pocket Park Concept

Mrs Scholes presented the brief/concept to the Committee to potentially developing part of the Regional Entertainment Centre Precinct (essentially the land between the ANZ bank and the Uniting Church) as a Pocket Park to provide a public meeting space through the Muswellbrook town centre.

6 Business

Nil

7 Adjournment into Closed Committee

RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the provisions outlined in Section 17 below.



8 Closed Committee

RECOMMENDED on the motion of Cr R. Scholes and Cr L. Dunn that:

The positions for independent community representatives for the Regional Entertainment Centre Development Advisory Committee be re-advertised.

9 Resumption of Open Meeting

RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:

The meeting return to Open Committee

10 Date of Next Meeting

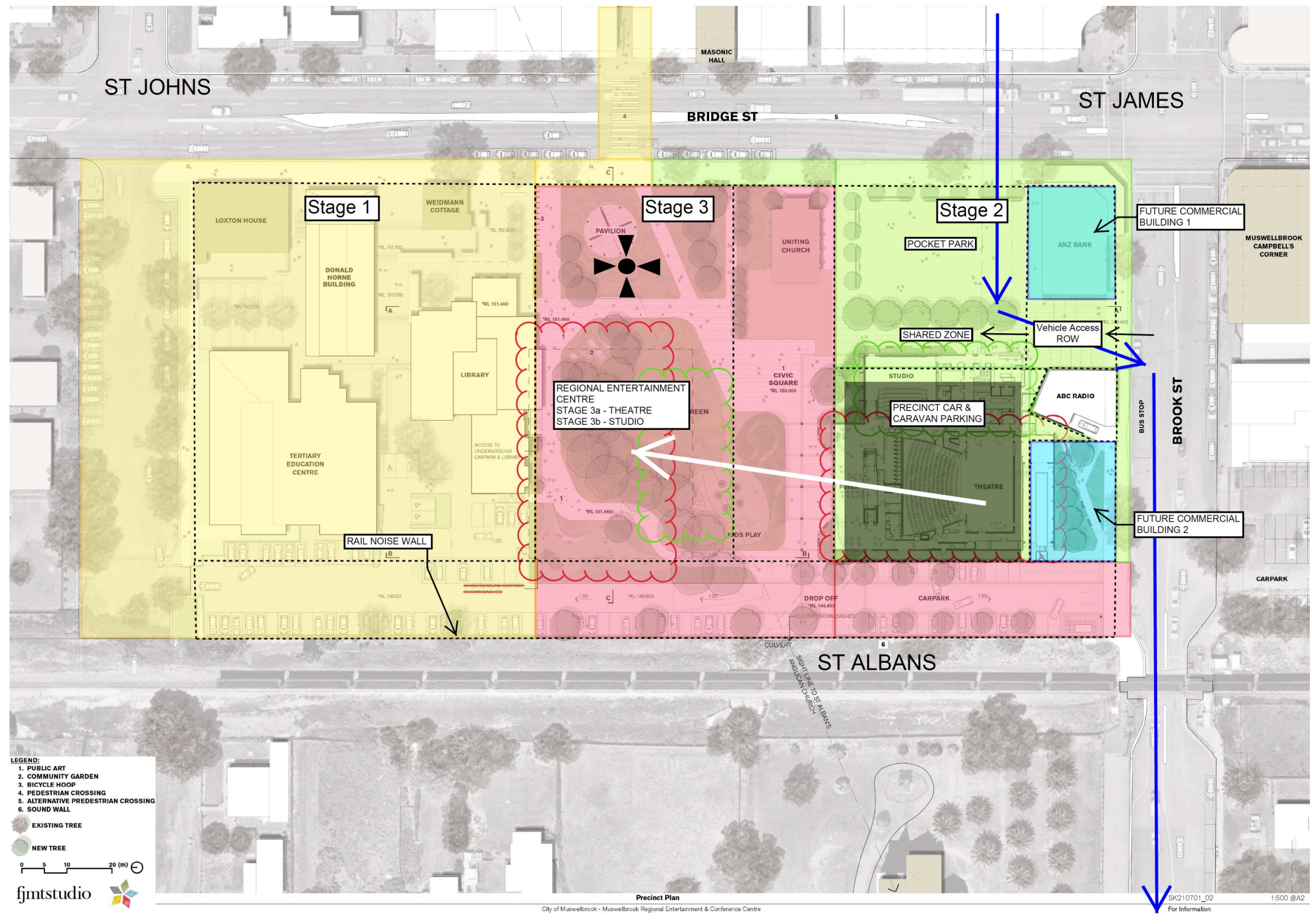
To be advised.

11 Closure

The meeting was declared closed at 6.45PM.

.....
Mr D. Finnigan
Acting General Manager

.....
Cr S. Reynolds
Chairperson





10.3. Minutes of the State Significant Development Committee Meeting - 13/03/2023

Attachments:	1. Minutes - State Significant Development - 13/03/2023 [10.3.1 - 2 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Theresa Folpp (Development Compliance Officer)
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

To inform Council of a meeting of the State Significant Development Committee meeting held on 13 March, 2023.

OFFICER'S RECOMMENDATION

The minutes for the State Significant Development Committee meeting held on 13 March, 2023 be NOTED.

Moved: _____ **Seconded:** _____

REPORT

The Development Compliance Officer reports that the State Significant Development Committee met on 13 March, 2023.

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

**MINUTES OF THE STATE SIGNIFICANT DEVELOPMENT COMMITTEE MEETING OF
THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE LOXTON ROOM,
ADMINISTRATION CENTRE, 60-82 BRIDGE STREET, MUSWELLBROOK ON
MONDAY 13 MARCH 2023 COMMENCING AT 4.00PM**

PRESENT: Cr S. Reynolds (Chair), Cr J. Lecky (VC), Cr R. Scholes and
Cr B. Woodruff.

IN ATTENDANCE: Cr D. Marshall (VC), Mr D. Finnigan (Acting General Manager),
Ms S. Pope (Director – Planning & Environment), Mrs S. Welchman
(Director - Community & Economy (VC)), Ms T. Folpp (Development
Compliance Officer), Ms A. Hathway (Corporate Lawyer) and Mrs M
Sandell-Hay (Governance Officer), Mr G. Tischljar and Mr N. Rose
(Firm Power).

1 Acknowledgement to Country

The Acknowledgement of Country was read by Cr S. Reynolds.

2 Apologies

RESOLVED on the motion of Cr B. Woodruff and Cr R. Scholes that:

1. Authority be given for Cr Lecky to attend the Council Meeting via video link.
2. The apologies for inability to attend the meeting submitted by Cr G. McNeill be
ACCEPTED and the necessary Leave of Absence be GRANTED.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

3 Confirmation of Minutes of Previous Meeting

RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:

The Minutes of the State Significant Development Committee Meeting held on
16th January 2023, a copy of which has been distributed to all members, be taken as
read and confirmed as a true record.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Nil

5 Business Arising

Nil



6 Business

6.1 Muswellbrook Battery (BESS) revised Planning Agreement General Terms

A report was submitted to the Committee to consider the revised draft general terms of Firm Power's Benefit Sharing Offer / Planning Agreement for the Muswellbrook Battery Energy Storage System (Muswellbrook BESS) (SSD-29704663) and to obtain feedback on the principles for the proposed Community and Economic Development Fund and the revised Planning Agreement Policy.

Mr G. Tischljar and Mr N. Rose provided a brief overview of the proposed project.

Mr N. Rose requested that Council consider initial contributions be directed toward upgrades of the Northview Estate Play Space.

RESOLVED on the motion of Cr S. Reynolds and Cr B. Woodruff that:

This matter be deferred for consideration at the March Council Meeting due to the Committee not having the relevant delegations to determine the proposal.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

Mr G. Tischljar and Mr N. Rose left the meeting at 4.34pm

6.2 State Significant Development - Activities Summary

A report was submitted to the Committee providing an update on current works being undertaken by Council Officers in relation to State Significant Development (SSD) and Energy Generation projects in the shire.

RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:

The information contained in the report be noted.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

8 Date of Next Meeting

12 April 2023

9 Closure

The meeting was declared closed at 4.47pm.

.....
Mr D. Finnigan
Acting General Manager

.....
Cr S. Reynolds
Chairperson

**10.4. Minutes of the Local Traffic Committee Meeting - 14/03/2023**

Attachments:	1. 20230314 Local Traffic Committee 14 March 2023 Minutes [10.4.1 - 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

To inform Council of a meeting of the Local Traffic Committee held on 14 March 2023

OFFICER'S RECOMMENDATION

The minutes of the Local Traffic Committee meeting held on 14 March 2023 be received and the recommendations contained therein be ADOPTED.

Moved: _____ **Seconded:** _____

REPORT

The Roads Status Officer reports that the Local Traffic Committee met on 14 March 2023.

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

COMMENT

A budget is required to cover the cost of traffic control for both the Muswellbrook and Denman marches and ceremonies.

\$6,000 is available from 2022-23 Budget GL1070.0458 however a further amount of \$14,000 needs to be sourced and will be subject to a further report to Council on this matter.

MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD VIA TEAMS/THE LOXTON ROOM, ADMINISTRATION CENTRE, 60-82 BRIDGE STREET, MUSWELLBROOK ON TUESDAY 14 MARCH, 2023 COMMENCING AT 1.40PM.

PRESENT: Cr M. Bowditch (Chair), Cr D. Marshall, Mr M. Kelly,
Ms B. Haverboek, Mrs K. Scholes.

IN ATTENDANCE: Mrs I. Williams

1 Acknowledgement to Country

The Acknowledgement of Country was read by Cr Bowditch.

2 Apologies

RECOMMENDED on the motion of Cr D. Marshall and Kellie Scholes that:

The apologies for inability to attend the meeting submitted by Snr Const. A. Sweeney be ACCEPTED.

3 Confirmation of Minutes of Previous Meeting

RECOMMENDED on the motion of Cr D. Marshall and Mr M. Kelly that:

The Minutes of the Local Traffic Committee Meeting held on **14 February, 2023** and the Extra-Ordinary Local Traffic Committee meeting held on **21 February, 2023** a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Mrs K. Scholes - Declared an insignificant non-pecuniary interest in Item 6.3. Mrs Scholes advised the Committee that she lives in Brentwood Street near the shop. Mrs Scholes did not participate in any discussion or voting in the matter

5 Business Arising

Market Street Lane Width

The Committee was advised that an investigation into Market Street lane widths had commenced and that a report would be submitted to the committee before June 2023.

6 Business

6.1 Road Closures to Conduct the ANZAC Day Ceremony and March in Muswellbrook and Denman

RECOMMENDED that:

Council uses its delegated authority to approve the following road closures on Tuesday 25 April, 2023:

Muswellbrook

1. The New England Highway between Sydney and Hill Streets from approximately 5:15 a.m. to 6:30 a.m. and approximately 9:30 a.m. to 12:30 p.m. subject to Transport for NSW approval;



2. Market Street between Carl & Bridge Streets from 5:00 a.m. to 12:30pm (intermittent closure to accommodate the 2 services) and
3. William Street between Market & Sowerby Streets from 5:00am 12:30pm (intermittent closure to accommodate the 2 services)

Denman

4. Palace Street from Crinoline to Ogilvie Streets (11:00 a.m. to 1:00 p.m.)
5. Ogilvie Street from Palace to Paxton Streets (11:00 a.m. to 1:00 p.m.)
6. Paxton Street from Ogilvie to Crinoline Streets (11:00 a.m. to 1:00 p.m.)
7. Isobel Street (12:00 p.m. to 1:00 p.m.)

Subject to an ROL (Road Occupancy Licence) approval from TfNSW for the closure and detour of the New England Highway, Traffic Control personnel having the appropriate TfNSW approved qualifications, the provision of the RSL public liability insurance cover for a minimum of \$20,000,000 for the event and the National Heavy Vehicle Regulator to be advised of the road closures.

VOTE: Unanimous Support (no Police Vote provided)

6.2 Road Closures to Conduct the Denman Antique Truck Parade and Street Fair Saturday 22 April 2023

RECOMMENDED that:

Council uses its delegated authority to approve the closure of Ogilvie Street, Denman, between Palace and Paxton Streets, on Saturday 22 April 2023 from 7:00 a.m. to 4.00 p.m. under the following conditions:

- Road users must be advised of the road closure prior to the event (variable message boards and/or notification in the local paper, etc);
- Traffic management plan (prepared by suitably qualified personnel) to include traffic guidance scheme, parking and access arrangements to the event;
- A letterbox drop must be undertaken to the affected residents;
- All emergency services must be advised of the road closure and provisions made for access through the site if required;
- All traffic control personnel to have the appropriate TfNSW approved qualifications;
- The event is to be covered by public liability insurance for a minimum of \$20 million coverage;
- NSW Police are to be advised of the event and provisions for any counter terrorism threat to be followed if required;
- All vehicles in the parade must provide proof they are registered to legally drive on public roads;
- All vehicles in the parade must be marshalled in the regrouping area prior to the commencement of the parade;
- The event organisers are responsible for the above notification matters.

VOTE: Unanimous Support (no Police Vote provided)



6.3 Parking Restrictions Brentwood Street

Disclosure of Interest

Mrs Scholes declared an insignificant non-pecuniary interest in this item. Mrs Scholes advised the Committee that she owns a house in close proximity to the premises identified in the report. Mrs Scholes took no part in discussion or voting on this item.

RECOMMENDED that:

The matter be deferred to the next meeting of the committee to make further investigations.

VOTE: Unanimous Support (no Police Vote provided)

6.4 School Bus Zone Signage Martindale Road

RECOMMENDED that:

1. Council uses its delegated authority to install "School Bus Zone 6:30am to 9:00am and 3:00pm to 4:30pm School Days" signage at the bus interchange located at the intersection of Martindale Road and Bureen Road.
2. Council seek the written approval of the adjoining landowner for the installation of the signs where it affects his property.

VOTE: Unanimous Support (no Police Vote provided)

7 Closed Committee

Nil

8 Date of Next Meeting

11 April, 2023

9 Closure

The meeting was declared closed at 2.16pm.

.....
Cr M. Bowditch

CHAIR



10.5. Minutes of the Olympic Park Precinct Development Advisory Committee Meeting - 14/03/2023

Attachments:	1. Minutes - Olympic Park Precinct Development Advisory Committee - 14/03/2023 [10.5.1 - 2 pages]
Responsible Officer:	Derek Finnigan - Acting General Manager
Author:	Paul Chandler (Recreation & Property Officer)
Community Plan Issue:	6 - <i>Community Leadership</i>
Community Plan Goal:	Effective and efficient infrastructure that is appropriate to the needs of our community.
Community Plan Strategy:	5.1.1 - Review, develop and maintain liveable town and village precincts.

PURPOSE

To inform Council of a meeting of the Olympic Park Precinct Development Advisory Committee held on 14 March 2023.

OFFICER'S RECOMMENDATION

Council ADOPTS the Minutes of the Olympic Park Precinct Development Advisory Committee held on 14 March 2023.

Moved: _____ **Seconded:** _____

REPORT

Council's Technical Officer – Recreation & Property reports that the Olympic Park Precinct Development Advisory Committee met on 14 March 2023.

The Minutes of the meeting are attached for the information of Councillors, including recommendations on the Independent Members to be appointed to the Committee.

MINUTES OF THE OLYMPIC PARK PRECINCT DEVELOPMENT ADVISORY COMMITTEE MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD VIA TEAMS/THE LOXTON ROOM, ADMINISTRATION CENTRE, 60-82 BRIDGE STREET, MUSWELLBROOK ON 14 MARCH 2023 COMMENCING AT 5.35pm.

PRESENT: Cr A. Barry (Chair), Mr D. Finnigan (Acting General Manager), Mr M. Lysaught (Director - Property & Place), Mr P. Chandler (Technical Officer - Recreation & Property), Mr J. Marco (Muswellbrook Junior Rugby League), Mr G. Mather (Muswellbrook Senior Rugby League), Ms P. King (Olympic Park Tennis Club), Mr M. Jeans (Muswellbrook Amateur RSL Swimming Club).

IN ATTENDANCE: Ms. K Randall (Team Leader - Administration)

1 Acknowledgement to Country

The Acknowledgement of Country was read by Cr Barry

2 Apologies

RECOMMENDED on the motion of Cr A. Barry and Mr M. Jeans that:

The apologies for inability to attend the meeting submitted by Cr G. McNeill be ACCEPTED.

3 Confirmation of Minutes of Previous Meeting

RECOMMENDED on the motion of Mr M. Jeans and Mr J. Marco that:

The Minutes of the Olympic Park Precinct Development Advisory Committee Meeting held on 15 February 2023, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

4 Disclosure of Any Pecuniary and Non-Pecuniary Interests

Nil

5 Business Arising

Nil

6 Business

6.1 Questions raised by Committee Members

A report was submitted to the Committee providing information on questions raised at the previous meeting.

RESOLVED on the motion of Cr A. Barry and Mr M. Jeans that:

The information contained in the report be noted.



8 Closed Committee

RESOLVED on the motion of Cr A. Barry and Mr M. Jeans that:

Committee adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the provisions outlined in Section 17 below.

8.1 Olympic Park Precinct Development Committee - Independent Members

RECOMMENDED on the motion of Cr A. Barry and Mr M. Jeans that:

The committee received 3 submissions tendered for independent panel members. A vote was undertaken and the two successful submissions were Russell Hartin and Troy Martin.

10 Date of Next Meeting

11 April, 2023

11 Closure

The meeting was declared closed at 6.08pm.

.....
Mr D. Finnigan
Acting General Manager

.....
Cr A. Barry
Chairperson



11. Notices of Motion

Nil

12. Councillors Reports

13. Written Questions

13.1. Rock'n the Brook VIP Marquee Invitees

Attachments: Nil

Responsible Officer: Shaelee Welchman - Director - Community & Economy

Cr Jeff Drayton has asked the following question at the Council meeting on 28 February 2023, as follows:

Will there be a list of people who were invited into the marquee, people who have accepted it?

MOTION

The information be received and noted.

Moved: _____ **Seconded:** _____

RESPONSE BY GROUP MANAGER

In response to the question from Cr Drayton at the Council meeting on 28 February 2023, the list of sponsors and companies who were invited to attend the VIP marquee at the Rock'n the Brook on 4 March 2023 is listed below – **refer table 1**.

The purpose of the VIP marquee was to provide a space to thank sponsors for their contribution to the event and give an opportunity for Council and Councillors to build relationships with industry and government to advocate for the economic and social objectives of the Shire.

Event sponsors were provided with a wristband for beverages, other guest were able to purchase beverages within the VIP area and a small number of platters were provided in accordance with liquor licensing requirements.

Table 1 – list of VIP invitees Rock'n the Brook 4 March 2023

Tickets allocated	Company	Status
2	2NM	Company
2	ABC Radio	Company
10	AGL	Sponsor
4	ARTC	Company



Tickets allocated	Company	Status
12	Bengalla	Sponsor
18	BHP	Sponsor
2	Business Hunter	Company
2	Committee for the Hunter	Company
6	Coolmore	Sponsor
2	Daniel Forder Fundraiser	Individual
2	Deputy Premier	Government
4	Destination Sydney Surrounds North	Government
4	Federal Member Hunter	Government
2	Hunter Alliance	Company
2	Hunter JO	Government
2	Hunter River Times	Company
6	Mach Energy	Sponsor
10	Malabar	Sponsor
4	Mining NSW	Company
6	Muswellbrook Chamber of Commerce and Industry	Company
6	Muswellbrook Coal	Sponsor
4	Muswellbrook Police	Government
2	Muswellbrook Shire Council	Government
24	Muswellbrook Shire Councillors	Government
2	Newcastle Herald	Company
2	Power FM	Company
2	Regional NSW	Government
4	Singleton Shire	Government
5	State Member for Upper Hunter	Government
4	University of Newcastle	Institution
4	Upper Hunter Shire	Government
2	Westpac Helicopter	Company
2	Where there's a Will	Company
165	TOTAL	

Of the 165 invitees, 105 invitations were accepted.



14. Questions for Next Meeting

15. Adjournment into Closed Council

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, business of a kind referred to in Section 10A(2) of the Act should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

16. Closed Council

RECOMMENDATION

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

Moved: _____ **Seconded:** _____

16.1. Contract 2022-2023-0555 - Tender Assessment Bylong Valley Way Ch 5.9km

This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

16.2. Contract 2017-2018-0303 - Negotiation of Recycling Collection Pricing for Remainder of Contract Term

This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.



16.3. Contract 2019-2020-0404 - Hunter Beach Final Works - Contract Extension

This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

16.4. Execution of Refinancing \$1.64M General Fund Loan

This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

17. Resumption of Open Council

18. Closure

Date of Next Meeting: 27 April, 2023